

On our Moral Responsibility for Past Violations

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1 Introduction

Who is morally responsible for the politically motivated actions of Eugene de Kock and co.? Who shares in the evil embodied by 'Prime Evil'¹? How far do blame and the obligation to make amends extend beyond those who directly bloodied their hands in the service of the white South African state: to other members of the security forces? the political leaders and policy makers at the time? National Party supporters? 'ordinary white citizens' who voted for and/or benefited (materially) under successive apartheid governments? their children who continue to benefit from unearned past privileges? These are some of the important questions highlighted by the work of the South African Truth and Reconciliation Commission (TRC)².

In this article I want to respond by arguing that moral responsibility for the gross violations of human rights exposed by the TRC does indeed extend, in varying degrees, to—at least—those whites who voted for apartheid governments *and* their children today. I also want to defend the thesis that the acknowledgement of this shared responsibility is a crucial building block on the road to reconciliation in post-apartheid South Africa.

In this process I hope to clarify some of the confusion that characterises debates on these matters, such as the equation of the notion of 'shared moral responsibility' with the problematic imposition of 'collective guilt'. This clarification will help me to make sense of my own sense of responsibility—as an ordinary, young, white, Afrikaans-speaking South African—for past human rights violations committed by apartheid state agents³. This argument is furthermore intended as a

¹ Nickname for and media image of Col. Eugene de Kock, former commander of the notorious Vlakplaas security police hit squad.

² For more detail on the origins, objectives, structure and work of this commission, see the TRC Report.

³ For a narrative, autobiographical exploration of these issues see Verwoerd (1997).

challenge to the widespread, troubling tendency captured in the words of the South African political satirist Pieter-Dirk Uys:

'You are responsible,' the commission will thunder. That's us, the people, the 'you'. And they're probably right. And yet, how can we whites be guilty of anything if we were all anti-apartheid? I haven't met anyone lately who had anything to do with those years of oppression. The white policeman says he fought the system secretly. The black teacher insists he subverted the bad policies with a smile. The Indian doctor swears he sewed up broken terrorists with love. The coloured journalist admits to quoting banned words with guts Of course they did. After all we were all in the Struggle!⁴

I find this reluctance on the side of many to share the load of responsibility understandable, though deeply problematic. The portrayal of the TRC process in the mass media, and to some extent the TRC itself, contributed to this 'I-did-not-have-anything-to-do-with-apartheid oppression' syndrome. Robbins argues that all too often the public presentation of the perpetrator of 'gross violations of human rights' conformed to the Hollywood notion of white South African policemen, portrayed as 'evil-looking Nazis with thick Afrikaans accents'⁵. The outcome of this focus on the outrageous—such as Western Cape Security Branch policeman, Jeffrey Benzien, demonstrating his notorious 'wet bag' method of torture to the Amnesty Committee—has undermined the ability of ordinary, law-abiding South Africans to see themselves as 'represented' by those who the TRC defined as perpetrators.

Another source of the tendency to deny responsibility is to be found in discussion of responsibility in the context of past gross human rights violations; typically, this conjures up images of a Nuremberg type Tribunal, raising threatening questions such as who are the guilty, who should be punished, and how severely? Answers to these questions tend to be heavily influenced by the criteria employed in the criminal justice system, namely the reliable establishment of an individual actor's direct causal relation to the harm under consideration and the presence of criminal intent.

However, these questions and answers make it too easy for many people to deny responsibility. When causal connections are not clearly visible or indirect and when it seems plausible to claim 'but I didn't know', it becomes rather tempting to see only clean hands—except of course for the few 'bad apples'/'rotten eggs' like

⁴ Writing about his 'Truth Omissions' play in which he attacks the hypocrisy of guilty parties before the TRC, *Sunday Times Metro* March 3, 1996:9.

⁵ *Cape Times* 6 August 1997.

the De Kocks and Benziens of this world⁶. My concern about this denial of responsibility is captured in a parable told by an African participant at a TRC public meeting on Reconciliation:

There were two boys living opposite each other. John stole a bicycle from Tom and then after a year John came to Tom and said: 'Tom, I stole your bicycle and what I need now is reconciliation'. Then Tom looked at John and said: 'Where is my bicycle?' He said: 'No, I am not talking about your bicycle now, I am talking about reconciliation'⁷.

The point is that without a sincere acknowledgement of responsibility, 'reconciliation' becomes a dirty word. If responsibility for wrongs is not taken, a request for forgiveness becomes an insult added to the victim's injury. If John clearly acknowledged that it was wrong to steal Tom's bicycle and that he, John, was the thief, and that he was sorry about what he did, and if John furthermore coupled this making of moral amends with a clear commitment to making practical amends – in this case involving at least returning the stolen bicycle – only then would it have been appropriate for Tom to forgive, and for the two boys to reconcile⁸. In the context of the TRC process a widespread denial of any obligation to make amends becomes particularly problematic since the granting of amnesty to direct perpetrators removes victims/survivors' right to seek redress through the courts. Those who had already suffered so much under apartheid had to swallow the bitter pill of hated former security policemen such as Benziens, Hechter, and Cronje receiving immunity from criminal and civil prosecution. These security policemen claimed in public that they did what they did so that ordinary white South Africans could sleep peacefully at night and enjoy their privileges during the day (Krog 1998). However, the typical response from these white South Africans today is to wash their hands in shocked innocence, or to withdraw, again, behind a cloak of convenient forgetfulness.

What makes the scapegoating of these agents (and the general absence of whites from TRC activities) so harmful to the reconciliation process is that we are not merely dealing with the stealing of bicycles. To quote the above-mentioned participant again:

⁶ See contributions by Pumla Gobodo and Chief Mabizela in Verwoerd and Mabizela (2000).

⁷ Transcript of TRC public meeting, UCT, 24 January 1997, p 41.

⁸ For a detailed discussion of the 'promise and pitfalls of apologies', see Govier and Verwoerd (2001).

Now we are talking about the survivors of apartheid. Our brothers and sisters have passed away, and now one will come and say 'I killed your brother. What I need now is reconciliation'. The problem is now it is not a bicycle, it's a person who died, and it's impossible now that that person will come back.

To support my claim that the load of moral responsibility should be spread widely to include (at least)⁹ white NP supporters during the apartheid era and their off-spring today—for the sake of our shared present and future with all South Africans—I shall (2) clarify the notion of 'moral responsibility', (3) challenge the typical excuse of ignorance offered to deny responsibility, (4) highlight the multi-layered causal connections underlying actions of the modern state, and (5) look at the communicative aspects of actions to emphasise why it is important, contrary to proverbial wisdom, to 'cry over spilt milk'. In conclusion, (6) I respond briefly to the broader question of the shared responsibility of beneficiaries of the system of apartheid.

2 Moral responsibility

A useful point of departure is Jaspers' attempt to differentiate German guilt after the crimes of the Nazi era (in Morris (ed.) 1971:40-53; Zvie Bar-On 1984-5:102-109). Jaspers, a prominent German philosopher who had himself lived through Fascism and had been banned from teaching by the Nazis, distinguishes between criminal, political, moral and metaphysical guilt¹⁰. *Criminal guilt* applies only to those

⁹ To simplify matters I will be concentrating on the wrongs and responsibilities of white South Africans who have been (and to some extent continue to be), structurally speaking, the obvious beneficiaries of a racially exclusive system like Apartheid, and who are most clearly linked to the agents/representatives of this system. I am aware that not only whites supported and benefited from apartheid (e.g. some who participated in the 'homelands system' and the Tricameral Parliament), that responsibility for those politically motivated violations committed by all parties to past conflicts extends beyond 'whites only' (cf. Uys quoted in Introduction). Addressing the complications arising from these extensions of shared responsibility requires a much longer article or three.

¹⁰ Jaspers (1971:46f) defines 'metaphysical guilt' as the 'the lack of absolute solidarity with the human being as such', a guilt shared by every fallible human being, with jurisdiction in the hands of God alone. However since its reach is too vague and too wide for my present purposes I am leaving this kind of guilt aside for the moment.

Germans (and others) who were directly involved in the planning, preparation or enactment of the Final Solution. This kind of guilt, claims Jaspers, should be determined and punished through the criminal justice system¹¹. However, the fact that criminal guilt only applies to a relatively small number of direct participants, does not free the rest from all guilt. It actually means that 'the nature of our real guilt only appears the more clearly' (Jaspers 1971:40).

In Jaspers' view *political guilt* applies to all citizens of a modern state like Germany engaged in a war of aggression. German nationals are collectively liable for the crimes committed in the name of the Reich and must accept punishment in the form of reparations for the victims of the war, with the costs distributed indirectly through the tax system. A similar point is made by M. Walzer in his reflection on the democratic responsibilities of citizens of a state engaged in an aggressive war: '... citizenship is a common destiny, and no one, not even its opponents ... can escape the effects¹² of a bad regime, an ambitious or fanatic leadership, or an overreaching nationalism' (1977:297).

However, acceptance of *political guilt* does not necessarily imply *moral guilt* and, therefore, moral responsibility. Political liability is indirect and impersonal (Zvie Bar-On 1984/1985:107), because, although citizens might accept their common destiny, 'they can sometimes do so with a good conscience, for the acceptance says nothing about their individual responsibility. The distribution of costs is not the distribution of guilt' (Walzer 1977:297). This distinction between individual moral responsibility and shared political liability is also emphasised by Jaspers: 'The sense of political liability lets no man dodge ... yet this liability as such leaves the soul untouched' (1971:41). Let us, therefore, move closer to the heart of the matter and consider Jaspers' notion of *moral guilt*:

The question of the individual analysing himself is what we call the moral one The morally guilty are those who are capable of penance, the ones who knew, or could know, and yet walked in ways which self analysis

¹¹ I largely agree with Jaspers on this point, though the TRC process raised fundamental questions about the need to reform or even transform the criminal justice system to bring it closer to the ideal of restorative justice. See Verwoerd (1999) for a more detailed discussion of the complex issues surrounding (criminal) justice and the TRC.

¹² In other words, those who supported their state's engagement in a war of aggression, share responsibility for the war and its consequences, while the shared political responsibility of those citizens who opposed the actions of their state—like Walzer, a prominent left-wing political theorist, who was a vocal opponent of US involvement in the Vietnam War – is limited to the consequences of the war.

reveals to them as culpable error—whether conveniently closing their eyes to events, or permitting themselves to be intoxicated, seduced or bought with personal advantages, or obeying from fear (1971:41f).

S.J. Massey (in Kritz 1995:208) clarifies moral guilt further when he states that attributions of moral responsibility for actions or failure to act arise in contexts where we want to know to what extent the actor is morally blameworthy or morally obliged to make amends¹³. This kind of inquiry considers both the causal relationship of the actor to the harm concerned and such factors as the actor's knowledge and ability to control his/her conduct. Assignment of moral responsibility implies that 'the actor must answer or account for his conduct and that he is properly blameworthy when he should and could have acted differently' (Massey in Kritz 1995:208)¹⁴.

Though this kind of inquiry is to some extent similar to the process of determining legal responsibility, it is important to emphasise that attributing moral responsibility is a matter of degree. In this sense moral responsibility can be contrasted with the 'all-or-nothing' decisions, which characterise judgements in a court of law whereby guilt must be established 'beyond all reasonable doubt' and the stringent requirements of due process must be met. This difference is of particular importance where the complicated contribution of individual action to collective action (e.g. of a ruling elite in a political system) is under consideration¹⁵. I am, therefore, restricting myself in this case to questions of moral answerability instead of legal culpability.

In applying the above distinctions to white apartheid South Africa it appears to be relatively easy, on the one hand, to exonerate those who merely voted for

¹³ Though there is a tendency to equate questions about moral responsibility with questions about (legal) culpability, it is important to note that (moral) responsibility is not only concerned with blame and guilt, but also with when it is right to praise people for their actions, or to feel proud about our own actions (Glover 1970:1). Further differences: legal culpability in civil law suits (e.g. law of tort) does not necessarily imply moral condemnation as is typically the case with criminal guilt. And criminal legal guilt is not always a sign of immoral, wrong behaviour, e.g. Gandhi, Martin Luther King, most anti-apartheid activists' breaking of certain racist laws (Levinson 1973:48-9).

¹⁴ See also Glover (1970:19) and Hart (1968).

¹⁵ See the rejection by Levinson (1973) and Massey (in Kritz 1995:210) of the legalistic approach taken by the International Military Tribunal at Nuremberg, which regarded less than substantial participation in certain activities as equivalent to no contribution at all.

successive NP governments from criminal guilt. They are, per definition, not likely candidates if the new government were to decide on a Nuremberg type trial of those who committed war crimes during the recent internal war between the apartheid state and the liberation movements¹⁶. It is also relatively straightforward, on the other hand, to conclude that the white electorate in general is politically guilty¹⁷.

The applicability of *moral guilt* is more complicated. In the first place, because the determination of moral guilt is, according to Jaspers, up to the individual and her/his conscience alone, though, 'we are free to talk with one another, in so far as we are in communication, and morally to help each other to achieve clarity' (1971:41). There is wisdom in Jaspers' advocacy of the suspension of 'moral sentence on the other', as far as this kind of guilt is concerned, but I think he goes too far. Of course one must start with self-judgement and be humble and exercise great caution when 'passing sentence' on other people, given the capacity for evil in every human being. The point is, however, that when we judge ourselves,

we necessarily judge other people with whom we share a common life. And how is it possible to criticize and blame our leaders, as we sometimes must do, without involving their enthusiastic followers? Though responsibility is always personal and particular, moral life is always collective in character (Walzer 1977:298).

¹⁶ Cf. Miller (1990; 1991) for a defense of the notion of an 'internal war' between mainly the ANC and the South African state.

¹⁷ I realise that the situation in South Africa (say from the start of armed resistance in 1960 until the unbanning of the ANC and other organisations in 1990) is not as 'black and white' (morally speaking) as the case of Nazi Germany. Cf. Simpson's (1986) evaluation of the situation in Northern Ireland, which illustrates the complexities of an internal, civil war (with victims from both sides having to live together, no clear victor) vs. external wars. See also Kinghorn's (1994) arguments why apartheid was not (to the same extent) genocidal as Nazism. I believe the above mentioned notion of political guilt is still applicable to white South Africans, though those who sincerely attempted to distinguish between apartheid and 'separate development', who justified their actions as the defense of hard won rights to self-determination from British imperialism, who fought what they believed was a 'holy war' against the 'total onslaught' of the SACP/ANC Alliance, will probably not agree. We who had the right to vote, who were privileged members of a racially exclusive modern state are, at least, politically, liable for the rather ambitious leadership, the 'overreaching nationalism' (Walzer), and the unjust war (Miller (1990; 1991); Lacey (1986); Walzer (1977) of the pre-1994 National Party regime.

Secondly, marking out moral guilt is a more taxing task since it requires one to attend carefully to the moral defences of those who appear to be blameworthy. Before I challenge some of these defences typically offered by white South Africans in connection with past human rights violations, it is necessary to introduce a few further distinctions.

3 Evaluating excuses

In the first place there is the distinction by Walzer and Austin between a *justification* and an *excuse*. They argue that though these two moral defences might seem to be similar, there is a crucial distinction at stake: 'an excuse is typically an admission of fault ... a justification is typically a denial of fault and an assertion of innocence' (Walzer 1974:170). In the latter case 'we accept responsibility but deny that it was bad', for example, 'I killed him in the exercise of my right to defend myself' or 'I was provoked', whereas in the case of excuses 'we admit that it was bad but don't accept full, or even any, responsibility' (Austin 1979:176). For example, 'I'm terribly sorry I hurt you, but it was an accident, I didn't mean to' or 'they forced me to do it'.

These examples emphasise that within each kind of moral defence, within each type of answer to the question 'Why did you do it?' (Lucas 1993:4), further distinctions can be made between different kinds of justification and different kinds of excuse. For the purposes of this article I restrict myself to the standard, Aristotelian classification of excuses under the headings of ignorance and compulsion, which can be applied to acts of commission and acts of omission¹⁸.

It is furthermore important to stress that the classification of excuses only prepares the ground for the difficult task of judging the quality of a specific moral defence. In other words, one must still decide whether a specific excuse is a 'good excuse', or only a 'poor excuse' and, therefore, whether the accused person(s) should carry no, or diminished, or full responsibility. In this regard I find it useful to distinguish between 'mitigating excuses' (diminished responsibility and limited blame) and 'exculpatory excuses' (no blame, no responsibility) (Moody-Adams 1994:293). Under certain circumstances the claim of ignorance, for example, can be a mitigating excuse, while a similar type of claim by another person in another context might count as an exculpatory excuse.

To make this kind of moral judgement is therefore not an easy task. Glover emphasises that there is, in the case of any particular plea, 'not a morally neutral test by which we could tell whether it is a justification or whether it is an excuse'

¹⁸ See Aristotle *Nicomachean Ethics* (1110a10-1111b1); Lucas (1993:1-12); Glover (1970:57-63).

(1970:55)¹⁹. There is 'range of toughness and leniency', in deciding, for example, what counts as negligence in the case of a claim of ignorance or 'how much my doing what I should must be to my own disadvantage before it becomes unreasonable to require me to do it' (1970:61).

These theoretical distinctions allow us to deal with some of the typical excuses forwarded by white South Africans. A common response amongst white South Africans when faced with testimonies by victims before the TRC, or revelations about a chain of shallow graves across the country containing the remains of activists who were tortured and killed, has been 'but I didn't know'—as someone put it, 'I feel as I've been caught for a sucker'. As far as this claim of ignorance is concerned I want to begin by acknowledging impediments to moral criticism and responsible agency. I acknowledge in particular the powerful blinding and binding effects of cultural and societal conditioning.

I accept the fact that apartheid-society and (Afrikaner) culture shaped, for example, my own identity and limited awareness about past human rights violations by state security forces. At a general level there is clearly a link between culture, society and individual agency—to be human is to be cultured' (Kluckhohn in Moody-Adams 1994:291). And in this regard I find that Z. Bauman's 'sociological theory of morality'—which addresses the 'social nature of evil ... the social reproduction of immoral behaviour' in the light of the Holocaust experience (1989)—helps to explain how it is possible for many people to claim (with relative sincerity) 'I didn't know'. I also realise that in my evaluation of this type of excuse I must bear in mind that it is never easy to come to an awareness which might complicate one's membership of, for example, a privileged white, male, middle class elite. In this regard Kwame Anthony Appiah refers to an all too human 'cognitive incapacity', a reluctance to face up to facts, 'to give up beliefs which play a part in justifying the special advantages we gain from our positions in the social order' (1992:20). Not surprisingly he uses (many) white South Africans' continuing racism during the long years of apartheid as a good example of this notion of ideology as

¹⁹ For example a pacifist might say of a man who fought in the Second World War that his action was wrong, but was excusable in view of the threat of Nazism, while a non-pacifist might say that to fight in such a war needs no excuse since it can be justified (Glover 1970:55). In the case of South Africa there are also those from the previous regime (e.g. former President P.W. Botha, architect of the 'total onslaught' ideology, or white, Afrikaner right-wing groupings) who are still trying to *justify* everything they did. In footnote 16 I mention some of the reasons why I reject these justifications. Compare also the international consensus in the human rights community that certain gross violations such as torture can never be justified.

false consciousness (Appiah 1992:20-22)²⁰.

This acknowledgement of impediments to moral criticism and responsible agency may, however, be taken too far. The fact that it is difficult to recognise injustices in one's own society does not mean this recognition is impossible – as illustrated by people like Beyers Naudé and Bram Fischer. More generally, M.M. Moody-Adams argues against an 'inability thesis' which gives cultural impediments too much influence and is bound up with claims about diminished responsibility. This thesis 'dangerously ignores the common, and culpable, tendency simply to affect ignorance of the possibility that some cultural practice might be morally flawed' (Moody-Adams 1994:298). She thus wants to give Aquinas' challenging notion of 'affected ignorance'²¹ its due, i.e. 'choosing not to know what one can and should know' (Moody-Adams 1994:296). She concedes that *affected ignorance* is a complex phenomenon, but, according to her, 'it sometimes simply involves refusing to consider whether some practice in which one participates might be wrong'. Examples would be the belated, limited moral criticism of the practice of slavery in the USA by those who benefited from this institution, or a common tendency to avoid acknowledging our human fallibility, such as the university administrator who refuses to investigate charges of wrongdoing because his colleague could not possibly be guilty of, say, sexual harassment. The point Moody-Adams wants to underscore is that 'affected ignorance is a common accompaniment of wrongdoing', that it illuminates the 'banality of wrongdoing'²² by challenging a 'self-deceptive complacency about the potential each individual human being has to support and engage in morally culpable conduct' (299).

A similar kind of challenge is posed by J.N. Shklar's notion of 'passive injustice' (1990:40). With this notion she draws our attention to the moral significance of indifference. Passive injustice means, according to her, that unjust persons are not only those committing unjust acts, but also those who 'shut their eyes to the injustice that prevails in their midst', those who ignore the claims of victims of

²⁰ See also Lotter (1993a:41-70) on the challenges posed to the identification of injustice in many radically unjust societies, and Crocker (1991:162) on the disadvantages of being an insider, such as being too close to get your community's values and practices into focus requisite for ethical assessment and being inhibited by 'debts' of loyalties, favours, promises owed to members of the group(s) to which one belongs.

²¹ Cf. Aquinas *Summa Theologiae* (1-2.6,8).

²² Moody-Adams believes that Hanna Arendt's insights about the 'banality of evil'—the terrifying 'normality' of people like Eichmann, the ability of ordinary citizens to commit evil, to make even terrible evil part of the 'routine' of their lives—can be employed to illuminate some features of human wrongdoing (1994:298, note 19).

injustice, those who are 'morally deaf and dissociated' (42,48f)—for example, 'when we do not report crimes...when we tolerate political corruption, and when we silently accept laws that we regard as unjust, unwise or cruel' (6)²³. And Jaspers, too, is quite convinced that passivity, acts of omission in the face of evil, place 'upon the individual a moral guilt Blindness for the misfortune of others, lack of imagination of the heart, inner indifference toward the witnessed evil—that is moral guilt' (1971:45).

As far as the widespread claim of ignorance amongst white South Africans today is concerned, the preceding discussion leads me to the conclusion that, generally speaking, ignorance induced through the workings of apartheid-society does not count as an exculpatory excuse. It provides, at best, a mitigating excuse²⁴. I say at best, because the crucial point is that the (sincere) expression of regret *ex post facto* is actually a precondition for this claim of ignorance to count at all as an excuse²⁵. That is, if I by accident hurt someone, the fact that I afterwards did not feel sorry, did not feel any remorse or even regret, implies that I would have been quite happy to bring the hurt about. It is therefore reasonable to conclude that if I had foreseen it, I would have acted exactly as I did. This action certainly would not have been 'an accident'. Hence, my not being subsequently sorry can make me answerable for the unintended consequences of my previous action. My not regretting now makes me to have been responsible then (Lucas 1993:276-277).

Or, as a variation on the parable of the bicycle at the beginning of this paper, and assuming that John represents the typical white security branch policeman, imagine a typical NP supporter, Piet, meeting Tom and saying: 'Hi Tom, I've seen you on TV talking about John torturing and killing your brother. It was very interesting, because I never knew our police did those kind of things Well, nice meeting you, good bye'? Is not the least one would expect for Piet to acknowledge

²³ Shklar is primarily interested in the contribution of passive citizens to the sum of iniquity in a constitutional democracy like the United States. Even though Apartheid S.A. certainly was not a constitutional democracy (cf. Lotter a/b 1993), I find it useful to employ her ideas to illuminate the moral responsibility of 'ordinary white South Africans'.

²⁴ This type of conclusion, based on the notions of affected ignorance and passive injustice, can, of course, also be applied to a few other people in a few other countries. Whether this implication amounts to a problematic 'normalization' (watering down) of wrongdoing in South Africa—especially if one accepts the international condemnation of apartheid as an exceptional 'crime against humanity'—is a question which I don't discuss at this stage. Cf. the critics of Arendt's notion of the 'banality of evil' (Moody-Adams 1994:298).

²⁵ See Aristotle *Nicomachean Ethics* (1110b19-24).

the suffering that Tom and his family have gone through, that what happened was wrong, to say something like, 'I was shocked when I heard your testimony (amongst the many others), I didn't know this was happening. I deeply regret that a member of my community did this to you ...'? And if these words of regret are the end of the story for Piet, I am sure that Tom, like many survivors before the TRC, would ask: 'Are you really sorry? What about my brother's wife and children, who are barely surviving without a breadwinner in the house?'

I will return later to the issue of shared responsibility for John's actions raised by this variation on the parable. At this stage my main concern is to show the limited and qualified moral defence offered by a claim of ignorance. To say 'but I didn't know' is not an easy way out, this claim does not remove all moral blame, nor the moral obligation to make amends²⁶.

This brings me to a brief discussion of the less common²⁷, second type of excuse based on 'compulsion'. Here the issue is not ignorance but fear—'I knew what was happening to activists, but I was too afraid to protest/intervene'. In his evaluation of Shklar's notion of 'passive injustice', H.P.P. Lotter wonders whether she does not oversimplify the issue as the injustice of not assisting those who could be helped, is a function 'not simply of the needs of the victims we notice and the possibility of helping them, but also of the costs and the risks that would be involved in rendering assistance to those victims' (Murphy 1991:444 in Lotter 1993b:131).

In this regard I want to refer to the 'two lessons' which, according to Bauman, are contained in the Holocaust 'for the whole of humanity'. The first lesson is:

the facility with which most people, put into a situation that does not contain a good choice, or renders such a good choice very costly, argue themselves away from the issue of moral duty (or fail to argue themselves towards it), adopting instead the precepts of rational interest and self-preservation. In a system where rationality and ethics point in opposite directions, humanity is the main loser (Bauman 1989:206)

The second lesson confirms the fact that the presence of risks and threats do not count as exculpatory excuses:

²⁶ Questions surrounding the making of amends, such as the nature of sincere apology, different kinds of restitution and reparation etc., are addressed elsewhere. See Govier and Verwoerd (2001) (forthcoming); Shriver (1995).

²⁷ Less common as far as ordinary citizens are concerned, though it is quite common for soldiers and members of the police force to claim 'we had to follow orders'.

... putting self-preservation above moral duty is in no way predetermined, inevitable and inescapable. One can be pressed to do it, but one cannot be forced to do it, and *thus one cannot really shift the responsibility for doing it on to those who exerted the pressure*. It does not matter how many people chose moral duty over the rationality of self-preservation—what does matter is that some did The testimony of the few who did resist shatters the authority of the logic of self-preservation. It shows it for what it is in the end—a choice (Bauman 1989:207, e.a.).

A similar position is taken by Jaspers. He acknowledges that 'impotence excuses, no moral law demands a spectacular death ... [but] impotent submission always left a margin of activity which, though not without risk, could still be cautiously effective' (1971:45). In his discussion of the moral responsibilities of citizens in the face of U.S. aggression during the War in Vietnam, Walzer adopts the following principle from Gray's philosophical memoir of World War II: 'The greater the possibility of free action in the communal sphere, the greater the degree of guilt for evil deeds done in the name of everyone' (in Walzer 1977:298). In his application of this 'the more one can do, the more one has to do' principle, Walzer emphasises the particular responsibilities generated by a war situation: 'When the issue is war, the obligation is stronger, for it is not a question of doing good, but of preventing serious harm, and harm that will be done in the name of my own political community—hence, in some sense, in my own name' (1977:301).

Thus my conclusion as far as an excuse appealing to 'compulsion' is concerned is again that we are dealing with a mitigating and not an exculpatory excuse. Somebody might feel that this conclusion still comes too easily. He/she might want to argue that I am being too harsh and unreasonable, that individual supporters of NP governments cannot fairly be held responsible for gross human rights violations, committed by agents of the State like Benzien and De Kock, and resulting from laws, policies and strategies over which they had very little direct influence.

4 'But I did not do it ...'—collective guilt and shared responsibility revisited

My response to the above-mentioned criticism would be to challenge a too easy 'apartheid'/separation between individual and collective moral responsibility. It is important to notice, in the first place, that Jaspers himself qualifies his apparently clear-cut distinction between collective, but impersonal, political guilt and individual, personal moral guilt. On the one hand, he wants to maintain this distinction to escape the pitfalls of crude, indiscriminate collective judgement, of 'tribal thinking'. History is full of examples, as we saw again recently in Bosnia and Rwanda, where the

'barbarism of war has seized whole populations and delivered them to pillage, rape and sale into slavery' (1971:49)²⁸. He warns, on the other hand, that 'our dissection of the guilt concepts can be turned into a trick, for getting rid of guilt' (1971:48). He then goes on to formulate the element of truth in 'collective thinking' as follows:

There is a sort of collective moral guilt in a people's way of life which I share as an individual, and from which grow political realities ... the way of life effects political events, and the resulting political conditions in turn place their imprint on the way of life ... these conditions are part of us even if we oppose them. *This is why there can be no radical separation of moral and political guilt* (1971:49-50, e.a.).

Many people, especially those with a legal frame of mind, will still find this 'element of truth' rather troublesome as far as the assignment of individual responsibility is concerned. After all, 'as with criminal responsibility, a group member is morally responsible only if there are present both an *actus reus* (criminal act), primarily in the form of the member's contribution to achieving the group's objective, and certain *mens rea* (criminal intent), primarily in the form of knowledge' (about the group's objectives) (Massey 1995:209).

It is difficult, but not impossible, to establish an individual white NP supporter's causal relation to the gross human rights violations committed by security agents of the apartheid state. When we deal with an individual who made a small contribution—say through his voting or affected ignorance and other acts of omission—the case for the exculpation of individual guilt does appear to be strong. However, Massey's work on difficult 'assistance-in-prosecution' cases (in the context of the enforcement of certain provisions in U.S. Immigration Law) opens up interesting possibilities for thinking about the diffused causal responsibility of individual NP supporters. Massey applies Parfit's moral theory in which the latter explicitly takes account of the way that the contributions of many individuals can combine to produce substantial harm (or benefit) (Massey in Kritz 1995:211). Parfit's important conclusion is based on an expanded notion of the 'relevant effects' in terms of which a specific act might be judged: 'A particular act is wrong because of its effects, even though the individual act on an individual level is seemingly insignificant, because the relevant effects include both the effects of the particular act as well as the effects of the set of acts to which the particular act belongs' (in Massey 1995:212). This theory offers the possibility to maintain the connection between moral and causal responsibility, even in the case of a (relatively) small contribution to, for example, the manifold harms of the apartheid system, such as the systematic

²⁸ See also Levinson (1973), Zvie Bar-on (1984-5) in this regard.

torturing of political activists confirmed by the TRC²⁹.

R. Aronson's metaphor of a 'spiral of responsibility' (1990) helps to explain further an individual citizen's responsibility for actions produced elsewhere in the complex division of labour which makes the functioning of the modern nation-state possible and in which the individual participates. 'The many-layered spiral of co-operation of the modern South African state moves outward from those at home who perform and command to those, even overseas, who profit or acquiesce or even turn away' (1990:76). He also suggests that as 'millions of "good Germans"' and the rest of German society are 'part of the web of institutional functioning, ideological support, and political complicity' which made the Holocaust possible, there is 'another vast web of complicity today [which] supports apartheid' (1990:65).

This 'spiral of cooperation' or 'vast web of complicity' is illustrated, to a large extent, by the testimony of major Craig M. Williamson before the TRC:

Our weapons, ammunition, uniforms, vehicles, radios and other equipment were all developed and provided by industry. Our finances and banking were done by bankers who even gave us covert credit cards for covert operations. Our Chaplains prayed for our victory and our universities educated us in war. Our propaganda was carried by the media and our political masters were voted back into power time after time with ever increasing majorities. It is therefore not only the task of the members of the Security Forces to examine themselves and their deeds. It is for every member of the society we served to do so³⁰.

Contrary to Massey, Aronson states explicitly that the purpose of his *description* of the specific roles by all those who may be regarded as 'active or passive participants' is not the *ascription* of legal guilt, nor to lay the moral stigma of apartheid before the door of all who are to blame. He does not want to 'invoke guilt about the past but rather action in the present'. The question he wants to pose by describing the 'spiral of responsibility' is 'what shall be done by those who share in the evil'? The goal is 'to build bridges towards the dominant whites, to lay the basis for future reconciliation' (1990:75f).

²⁹ Parfit labels as the 'Second Mistake in Moral Mathematics' the claim: 'If some act is right or wrong *because of its effects*, the only relevant effects are the effects of this particular act' (Massey in Kritz 1995:212 note 257) (e.i.o.). (Giving this principle a 'mathematical' connotation might give the unfortunate impression that moral judgements are of a precise, quantitative nature.)

³⁰ TRC Military Forces hearing, Cape Town, Oct. 1997.

I support this shift from (legal) guilt to a creative concern about responsibility and reconciliation, although I think Aronson does not go far enough. He helps us to think about the complex causality underlying actions by state agents and to be cautious about the ascription of moral responsibility becoming a counter-productive blaming and stigmatising. However, he still seems to concentrate too much on the causal dimension of responsibility. This brings me to the work of J.R. Lucas (1993).

5 Crying over spilt milk?

Lucas warns against an exclusive consequentialist focus on actions as causes. Lucas' notion of actions as causes and communications can be used, I believe, to undermine a too narrow assimilation of moral to causal responsibility. Lucas covers familiar ground when he affirms that though the causal face of actions—the fact that actions bring about results—must be taken seriously, one must not forget that actions also manifest reasons, they communicate what the agent had in mind/intended when he/she acted. When he draws our attention to the 'non-privative' logic of reasons, he helps to direct us through the more unfamiliar territory of collective guilt, he provides one with a grip on the diffuse logic of shared responsibility.

Very briefly, the different steps in his argument for, at least, the conceptual possibility of collective responsibility seem to be the following: the first step is that reasons are 'not privative in the way that material objects are. My having a reason does not exclude you having it too, and one of the prime purposes of communication is to bring it about that we share reasons' (1993:75, 57-74). The second step is 'that since reasons are inherently shareable, actions, which are the implementations of reasons, are shareable too'. The third step is 'if we, ye, and they can be said to do something, we, ye, and they can be asked why they did it, and be required to account for what was done' (1993:75).

These conceptual links do not mean, Lucas is quick to add, that the limits to collective responsibility can be easily determined. For example, he asks, 'can young Germans today be held responsible for the atrocities of the Nazis, all of them committed long before they were born ... was Britain ever really responsible for the Amritsar massacre?' (1993:77). Lucas accepts that in these cases the ascription of responsibility is probably unjust. On the other hand, the absolute denial of responsibility is also problematic. It is insensitive to the meaning, the logic of the concept 'responsibility'. The vital point is that 'responsibility is not a concept belonging to the natural sciences ... (it) is not just a physical concept subject to the standard physical constraints of locality and temporal antecedence, but is, rather, concerned with the significance of actions and their interpretation, where it is perfect-

ly possible for the meaning to be altered *ex post facto*' (Lucas 1993:77,277)³¹.

The importance of this for my focus on the moral responsibility of (at least) NP supporters *and their children* becomes clear when Lucas illustrates this 'non-physical' logic of responsibility as follows:

As we enter into the inheritance of our predecessors, we undertake some responsibility for what they did in the process of producing those good things we now enjoy. We cannot eat the fruits of their labours and wash our hands of the stains of their toil. At the very least we take on some civil liability to make reparation for what was done in the course of producing these benefits. But often our responsibility goes further than that. We identify with our forebears, and make their values our own. In so far as we take pride in what our predecessors have done ... we identify also with the bad things they have done, and make their misdeeds our misdeeds for which we must answer ... (1993:77).

This kind of (moral) answering for deeds to which one might be indirectly connected, both in terms of causality and motivation, is important for the sake of the victims (and the descendants) of those misdeeds and injustices. For, contrary to proverbial wisdom, it might be worth crying over spilt milk³². This is obviously the case where I am clearly causally responsible for the spilling, if the crying conveys to

³¹ Lucas refers to this as an example of 'Cambridge change', i.e. where a subsequent event alters the antecedent state of affairs (1993:77, 93, 276-77).

³² It is important to clarify misunderstandings that might arise from my use of this metaphor. Expressions such as 'what is the use of crying over spilt milk', 'it is water under the bridge' or 'moenie ou koeie uit die sloot grawe nie' (don't dig old cows out of the ditch) have been used by opponents of the TRC process to indicate their preference for focusing on the future instead of the past. The politics and ethics of memory and forgetting is another huge topic beyond the scope of this article (see Verwoerd in Villa-Vicencio and Verwoerd, 2000). In this article I re-interpret the expression 'crying over spilt milk' as a metaphor to explain why even young white South Africans born after 1994 have a certain obligation to respond with moral sensitivity to past wrongs committed by people to whom they are connected in various ways. I do *not* imply that gross violations such as killing and torture can be equated with the spilling of milk. I furthermore do not suggest that 'crying' should necessarily be taken literally, nor that sincere expressions of remorse or regret are sufficient ways to accept shared moral responsibility. On the importance of *practical amends*, see Govier and Verwoerd (2001), and on the process of reconciliation in general, see Verwoerd in Verwoerd and Mabizela (2000).

oneself and to others (especially the victims) the message that the spilling was not intentional, is not part of one's autobiographical record one would be proud to recite (cf. Lucas 1993:37). 'The crying does not get the milk back into the churn, but does alter the significance of the event' (Lucas 1993:37). The crying takes the victims' tears, their sense of injustice, very seriously. Thus it might contribute to the overcoming of what has been experienced as an insult, even though the injury cannot be made good in many cases (Lucas 1993:37).

This healing potential of visible moral sensitivity to the victims' suffering remains relevant, it seems to me, even if the milk was spilled by members of the group(s) to which one belongs. Their hands might have caused the spilling, but the meaning of this event is not only in their minds. The wasted milk part of their story is also part of my history. To some extent they are co-writers of my autobiography. And if I recite these shared parts without any tears, without any signs of sorrow, I am saying implicitly that I actually approve of what they did. Thus, not only am I adding another insult to the victims, (and their descendants') injuries, I am allowing the sins of the spillers to be (legitimately) visited upon their second and third and fourth generations—for 'just as my not being subsequently sorry can make me responsible for the unintended consequences of my previous action, so I may become responsible for the previous wrongs of my society' (Lucas 1993:277).

As far as the shared responsibility of descendants of white NP supporters under the apartheid system is concerned, B. Lennon (1995) takes us beyond Lucas' emphasis on the logic of the *concept* responsibility to a more explicit notion of shared responsibility based on a shared collective/group *identity*. He distinguishes the association of *responsibility* with (legal) guilt from a meaning of responsibility that has more to do with *duty*. He applies this latter meaning to German people after World War II and to British as well as Irish people in Northern Ireland. He argues that because of the wrongs committed by members of the group to which someone belongs, that person has a particular duty to be concerned about the welfare of the group that has been wronged. So, for example, a young German today bears no guilt for the Holocaust, but that does not relieve him/her—in contrast to a young Australian—from all responsibility to be concerned about the welfare of Jewish people *because of the Holocaust*. Similarly, most Irish people are not guilty of the atrocities committed by the IRA and have explicitly rejected the violence. 'But the IRA are part of the Irish people, just as the Nazis were part of the German people [therefore] the Irish play a special role in seeking the welfare of British people as a result' (1995:116f).

In terms of the parable of the bicycle this means that if I—as a young, white, Afrikaans-speaking South African, whose family is closely associated with apartheid NP governments—meet the child of Tom's brother today, and say to him, 'I need reconciliation now'—without acknowledging what a white, male, Afrikaans-speaking

South African policeman did to his father, in my name—it is highly likely that his justified response will be: *'What about my father?'* The fundamental point is: the past will not be past until I have at least distanced myself from what was done in my name and made some contribution to help victims and their descendants to overcome the consequences of those past wrongs. In other words, unless I accept my shared responsibility for at least rectifying the consequences of past violations committed in my name, that painful past will continue to haunt my relationships with those related to the violated.

Those who still see no basis for this answering for misdeeds for which I am not directly, causally responsible, who want to reject this sharing of responsibility, who prefer to think of themselves as solitary authors of their own biographies, might want to bear in mind that shared responsibility is not necessarily just a heavy burden to shoulder. It might produce substantial benefits. The sharing of responsibility,

not only flows from our being associated together in a community, but helps to create a sense of community. It is by taking pride in the deeds of my predecessors that I identify with them, and come to have an identity which makes sense of who I am. I cannot properly say who I am unless I can also say who we are. The alternative is alienation (Lucas 1993:80).

Of course, the identification is more complicated and painful when the misdeeds of predecessors are at stake. On the one hand, I am owning up to their actions, I am accepting responsibility for 'our' deeds, I am not denying my involvement with them. On the other hand, I am disowning these actions, I am acknowledging that the reasons they acted on then are reasons I no longer can endorse now. I am expressing regret (on our behalf) and am embarking on some form of reparation. I am confessing, in a sense, our misdeeds. Therefore those who rightly condemn those misdeeds need no longer be estranged from me now—if they accept my apology (Lucas 1993:10).

In other words, acknowledging shared responsibility can be quite liberating (Jaspers 1971:50). This acknowledgement could be liberating for victims, since their humanity and sense of injustice is recognised. And this acceptance of shared responsibility can contribute to the transformation of my own identity towards a deeper sense of community – as an Afrikaner and as a South African—and, therefore, a richer sense of who I am.

6 Concluding remarks

There is, of course, a danger that a conception of shared responsibility might be too general, thus dulling in some a 'sense of real responsibility that leads to effective

action. What is the general responsibility of all becomes the responsibility of nobody in particular' (Lucas 1993:38). This pervasive notion of guilt can also become a temptation to 'wallow with everybody else in a ritual beating of the collective breast, generally feeling bad about things without actually doing anything to make anything better' (Lucas 1993:38).

In this paper I have tried to steer a course between the two extremes: of moral overburdening, of ascribing too much responsibility, on the one hand, and of moral escapism, of attributing too little responsibility, on the other hand. In this process I've become even more aware that 'moral accounting is difficult and imprecise' (Walzer 1977:303). I also agree with Aronson that the clarification and creative acceptance of shared responsibility for past violations remains an important, unfinished part of the reconciliation process³³.

Let me conclude with some comments on a crucial, unfinished part of my reflection on shared responsibility for past violations. I have concentrated on shared responsibility for past deeds committed in my name by agents of the apartheid regime. However, apartheid itself was a gross human rights violation, a crime against humanity³⁴. To return to the parable of the bicycle: if I as a privileged, white South African was to meet the son of Tom, he would be justified in asking not only about his uncle who was killed by the security police. If I express an interest in reconciliation, he might well ask '*... and what about my bad health, because we never had enough food to eat, and what about the hours I had to walk to my rundown school and back because there wasn't even enough money to buy me a bicycle, what about my children today who still don't have enough food, nor any bicycles...?*' As a white South African, I benefited greatly in terms of access to land, housing, education, health care, business opportunities etc. under this system of systematic racial discrimination. And my children continue to benefit from my past privileges. What is our moral responsibility *as beneficiaries* of apartheid?

As was the case with my narrower focus on the shared responsibility of former NP supporters (and their children), it is again crucial to clarify the moral weight of being an apartheid beneficiary. Even though the system of apartheid has rightly been declared as a crime against humanity, this does not mean that those who

³³ See Shriver's (1995) moral and empirical claims about the importance of moral judgement with regard to a conflict-ridden past. He argues that this kind of 'moral truth' is a necessary condition for the achievement of forgiveness in politics, for former enemies to be able to constructively live together in one society. Other conditions are forbearance/restraint from revenge, empathy for the humanity of former enemies, and a commitment to the reconstruction of (civil) relationships (1993). See also Kritz (1995).

³⁴ See TRC Report, vol. 1, ch. 4, appendix.

have and continue to benefit from this massive crime are criminals. If being a beneficiary of apartheid implies being branded as a buddy of Benzien, de Kock and their cohorts, then this label indeed becomes an overwhelming, unfair burden. It is therefore important to emphasise that being a beneficiary is not the outcome of individual choice, nor intentional action. It is the product of *group* privilege. Even those whites who opposed apartheid are beneficiaries, because they were also members of a group that was systematically, unjustly privileged in terms of access to land, capital and so on.

Perhaps we need to develop a different language of 'responsibility' to prevent understandable resistance among ordinary, law-abiding whites, especially among the post-1990 generation, to being criminalized for benefits they had little control over. Perhaps we could speak of our '*response-ability*' as beneficiaries, for what we do have control over is how we respond to the past. We have a choice about what we do with our benefits in response to the ongoing suffering of the previously disadvantaged. Beneficiaries cannot change the facts about systematic past privileging, but we can diminish the destructive impact of past disadvantages on the present and the future. Most beneficiaries are not 'responsible' in the dominant, legal sense of intentionally causing disadvantages. But if we as beneficiaries continue blindly as if we are only individuals, with no obligations arising from past benefits associated with group membership, we are adding insult to the injuries of the disadvantaged and their children.

In this regard I am haunted by an image used by Archbishop Tutu in his Foreword to the TRC Report. '[T]he greatest sadness we have encountered in the Commission', he wrote, 'has been the reluctance of white leaders to urge their followers to respond to the remarkable generosity of spirit shown by the victims. This reluctance, indeed this hostility, to the Commission has been like spitting in the face of victims'³⁵.

This deeply disturbing lament highlights the weighty '*response-ability*' of former followers and/or beneficiaries: our *response* to past violations and privileging has the *ability* to harm or to heal, to cause or prevent further violations, to humiliate or to humanise.

But what does this shared *response-ability* mean in practice? Laurie Nathan's submission to the TRC is highly instructive in this regard:

[The shared responsibility of the white community] could take many forms, establishing or funding memorials like those which commemorate the holocaust in Nazi Germany, funding bursaries for Black students or basic facilities for pupils, providing medical supplies to amputee hospitals in

³⁵ TRC Report, vol. 1, ch.1.

Mozambique and Angola, church actions such as fasts and others, training in respect for human rights and multi-cultural diversity for teachers and pupils. These are only some examples. These and other actions are forms of reparation but it's critical that they are undertaken, not as charity, but in partnership with Black communities

Let me say in closing that Whites who interpret this argument to mean that they should become passive and sycophantic have misunderstood the nature of the challenge. The challenge is to become self-critical not uncritical, to acquire some humility, not be submissive, to become empathetic, not paternalistic. The challenge has nothing to do with self-flagellation or wallowing in guilt, it has everything to do with accepting responsibility ...³⁶.

On 16 December 2000, the annual Day of Reconciliation, a number of white South Africans have taken up this challenge and started the *Home for All Initiative*³⁷. This initiative commenced with a signature campaign in support of a *Declaration of Commitment*. This declaration clearly acknowledges the different shared responsibilities of those who supported apartheid—through acts of commission and/or omission—and those who were and continue to be beneficiaries. Deep regret for the suffering caused by apartheid is openly expressed, and the declaration commits the signatories to a range of actions, including the establishment of a Reconciliation and Development Fund, searching for opportunities for whites to use their skills, expertise and resources in practical efforts to promote capacity-building and development in the poorest sectors of society, while other activities and programmes will be educational and commemorative in nature.

Despite its limitations I strongly support this initiative, for I deeply believe that without

a creative acceptance of shared responsibility by former NP supporters and beneficiaries, post-apartheid South Africa will never truly become a *home* for all her sons and daughters (Luthuli 1962:206 e.a.).

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³⁶ Dr. Laurie Nathan, Director of the Centre for Conflict Resolution, former Chairperson of the End Conscription Campaign, transcript of Special Submission Event on Conscription, Cape Town, 23 July 1997.

³⁷ For more detail on this initiative, see www.homeforall.org.za

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