

# Evaluation of the 2005 Ex-Combatants' Dialogues

by

**Bryant Greenbaum**



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**Bryant Greenbaum** is a Canadian lawyer who specializes in human rights law. He also has international experience in victim empowerment programming having worked with survivors of violent crime in Canada and South Africa. He currently resides in South Africa, where he is a consultant for CSVSR and the National Institute for Crime Prevention and the Reintegration of Offenders (NICRO).

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### **Abstract**

In 2004, CSVV's Ex-Combatants Reintegration and Restorative Justice Project successfully piloted eleven victim/ex-combatant dialogues that focused on past political violence in South Africa. The Project continued in 2005 with a revised focus on achieving community benefits and sustainability. Victim/victim discourses, ex-combatant/ex-combatant discourses, and dialogues on intergenerational conflicts and disappearance cases were undertaken in 2005. Furthermore, during this second pilot year some of the ex-combatants and survivors were trained as apprentice facilitators and thereafter directly assisted in dialogue preparations and in facilitating mediations. This report assesses whether the dialogues undertaken in the second year of the pilot ultimately assisted with the Project's key goals of community reconciliation and ex-combatant reintegration. It concludes that the dialogues were indeed beneficial as they taught individuals and communities new mediation and negotiation skills. In addition, with regard to promoting ex-combatant reintegration and victim empowerment, the Project also proved successful in terms of the valuable skills development of the apprentice facilitators.

### **1. Introduction**

In 2002 the Centre for the Study of Violence and Reconciliation (CSVV) initiated the *Ex-Combatants Reintegration and Restorative Justice Project* (hereinafter referred to as the "Project") and research was conducted with amnesty applicants and survivors who participated in the Truth and Reconciliation Commission (TRC) process.<sup>1</sup> This research confirmed that individuals and communities required further dialogue to assist them with justice, healing and reconciliation as the TRC did not sufficiently address these issues. Based on these research findings, in 2004, the Project set out to test the feasibility of facilitating restorative justice dialogues/mediations between ex-combatants and survivors of human rights abuses. In total, eleven cases were chosen for dialogue/mediation in the first year of the pilot. A subsequent evaluation confirmed that the process was beneficial in providing new information to some survivors and providing survivors with the opportunity to confront the ex-combatants.<sup>2</sup> Furthermore, the ex-combatants generally felt that the process allowed them to express remorse, explain how they came to commit the abuses and to show their commitment to rebuilding their communities.

Due to the positive feedback received in the first year of the pilot, the Project decided to

proceed with a further group of case studies in 2005 focusing on the broader issues of community benefits and sustainability. The previous year's victim/ex-combatant dialogue model was therefore expanded to include victim/victim discourses, ex-combatant/ex-combatant discourses, and dialogues surrounding intergenerational conflicts and disappearance cases. The decision to broaden the range of dialogues was undertaken in order to better address issues arising out of past violence in townships, informal settlements and in rural areas where individuals previously in conflict with each other continue to reside in the same community.

This report will evaluate the second year of the Project, in which a further set of dialogues were facilitated by CSV, and it will examine if the cases undertaken promoted healing, reconciliation and the reintegration of ex-combatants within a community framework.

## **2. Methodology and Limitations**

A qualitative methodology was used for this evaluation report. Information for the report was obtained through the author's attendance at a number of the dialogue sessions, at preparation and debriefing sessions, and at workshops<sup>3</sup> that were arranged to assist in the evaluation of the project. Furthermore, interviews were conducted by the author and CSV staff with dialogue participants, dialogue facilitators and government stakeholders. An open-ended questionnaire was completed by employees of the Eastern Cape's Department of Safety and Liaison and participants in CSV's mediation training programme. In addition, the author reviewed internal CSV documents, including facilitators' reports, intern case studies and CSV dialogue protocols and forms.<sup>4</sup> Finally, a literature review was undertaken to ascertain comparative theoretical and ethical norms and standards for dialogue initiatives in post-conflict societies.

Several limitations existed in terms of the author's evaluation of the effectiveness of the Project. These limitations include: the limited number of cases that were involved in the second year of the pilot; the absence of white ex-combatants or any persons from the state security apparatuses participating in the dialogues; and, the fact that dialogue cases were limited to certain geographical areas, namely the Western Cape, Eastern Cape and Gauteng. Finally, as the author is an English speaking Canadian national, certain cultural and linguistic limitations existed as a majority of the dialogue participants spoke Xhosa or Afrikaans as their first language. Nevertheless, all internal CSV documents were in English and English was the language used for all communications between mediators, stakeholders, partners and CSV staff.

## **3. International Perspective and South African Background**

Numerous countries in post-conflict situations – including Ireland,<sup>5</sup> Nicaragua,<sup>6</sup> and East Timor<sup>7</sup> - have implemented victim/ex-combatant dialogues to assist with community healing and reconciliation. Dialogue programmes are important interventions for societies in transition as they help facilitate the basic elements of transitional justice, which include "efforts to understand and clarify both the structures of violence and the fate of victims; efforts to reform institutions so as to neutralize the causes which might have contributed to the violence; and finally, efforts to repair victims."<sup>8</sup>

International experience also confirms that the above-noted elements of transitional justice can be addressed long after a political transfer of power. As R Teitel notes "transitional redress is often long deferred" and "the passage of time can facilitate the establishing of the fact of past wrongs, as there is a greater political distance from the predecessor regime."<sup>9</sup> Accordingly, dialogue initiatives can take advantage of this significant passage of time and thereby assist with community reconciliation and healing.

In South Africa, with a peaceful transition underway, the time is ripe for dialogue initiatives in order to further the transitional justice needs of society. Unfortunately, the TRC did not adequately deal with community reconciliation and healing. This is despite the fact that it held 80 community hearings throughout the country. These were known as the Gross Violations of Human Rights Committee Hearings. While these hearings provided a forum for some individuals to tell their stories in public spaces before community leaders, religious figures and fellow citizens, significant weaknesses existed with this process. H van der Merwe, an observer of the community hearings, points out that the Commission "spread itself very thinly, trying to cover as many communities as possible"; the Commission "spent very little time in a community before holding a hearing"; the Commission "had minimal contact with the community after the hearing was completed"; the Commission provided an opportunity to testify in public to "less than ten percent of victims who made statements"; the Commission's suggestions for dialogue "were generally not followed through"; and finally, the Commission "focused largely on black-white divisions ... [when] ... most of the violence experienced by members of black communities was at the hands of other blacks."<sup>10</sup>

While the TRC was constrained by political and temporal realities, it is suggested that dialogue initiatives today are extremely relevant and viable. This is especially so when considering the issue of "*black on black violence*"<sup>11</sup> and the perception of many black and coloured South Africans that this violence was masterminded by the white security establishment via the illusive "*Third Force*". With this in mind, and with the necessary passage of time, many black and coloured communities are now more open to reconciliation and dialogue as they feel that the violence they experienced was manipulated by state apparatuses and not the direct result of criminal motives, personal malice or ethnic differences. To place this "*black on black violence*" in perspective the following points are noteworthy:

- Firstly, "*black on black violence*" during apartheid was often communal in nature. Examples of this communal violence included the following occurrences: incidences of public "*necklacing*"<sup>12</sup> of informers and individuals who refused to partake in employment "*stay-aways*" and municipal "*rent boycotts*"; incidences of "*repossessions*" by liberation armies who car-jacked individuals and looted businesses to obtain funds for the liberation armies; and incidences where local township Self Defense Units (SDUs) forcibly rounded up men in their communities to take part in vigilante violence.
- Secondly, communal violence increased significantly in the early 1990s with over 14 000 people killed and many more thousands injured<sup>13</sup> due to the political hostility that was overtly or covertly condoned by black political parties against rival black parties. These parties were the African National Congress (ANC), the

Inkatha Freedom Party (IFP) and the Pan African Congress (PAC).

- Thirdly, communal violence was also inextricably linked to the former homeland armies and the former homeland local governance structures that were comprised of local black personnel.<sup>14</sup>

#### **4. Case Studies**

Prior to evaluating the dialogues undertaken by the Project in 2005, it is significant to recognize the difficulties inherent in community conflicts in South Africa. As noted by M Anstey, a South African dispute-resolution expert, often in community disputes in South Africa: "... it is not clear who the parties are that should be involved"; "there is no track record of negotiation or mutual problem solving to fall back on"; "parties often do not give each other legitimacy - even arguing that to negotiate would ascribe acceptance of the existence of the other party"; and, "leaders may arise who have not been formally elected, operate under no constitutions and have no clear mandating or report back structures".<sup>15</sup> In addition, power imbalances are not neutralized by formal institutions – such as courts, administrative tribunals or state security officials - and instead are left to discretionary, loosely regulated, community dispute forums to resolve.

Organizations that facilitate mediation or dialogues where there is community tension face a difficult task whether or not the community conflict stems from incidences of past political violence. Regardless, as the following case-studies demonstrate, much can be accomplished if the above limitations are acknowledged prior to engagement and if trust is slowly built-up between the parties over an extended period of time and in an incremental manner.

##### **4.1 Dialogue One - *Inter-generational reconciliation and African customs***

In this dialogue, the participants were an elderly black widow and her teenage grandchild, and an elderly black man who was accused of participating in the vigilante burning death of the widow's husband. The incident took place in the Western Cape in the mid 1980s. The victim was burned to death outside his home after he was accused of being part of a United Democratic Front (UDF) aligned mob that murdered a local counsellor from the black local government structures earlier that day. The victim was a well known UDF supporter at the time. Although the accused man confirmed his attendance at the victim's burning he stated that he was helpless to intervene as he would have risked his own life if he tried to prevent the murder. It was common at the time for "community patrols" to go from house to house collecting men to take part in vigilante violence and men who refused to participate were labeled traitors and dealt with accordingly.

All of the participants in this dialogue claimed to be victims; the widow lost her husband in a violent traumatic episode and was therefore left with this painful memory; the grandchild lost the guidance and support of her grandfather; and the accused was subject to UDF threats, had his house burnt down, his car taken away, his family broken-up and his mother, who remained in the community, was subject to harassment.

The dialogue facilitator, a black male, was an independent contractor, who was trained by

CSV. He was an ANC member and therefore aligned to the UDF during apartheid. He felt strongly that if this matter was dealt with successfully then other cases, some with broader community divisions, could eventually be brought to the attention of CSV for future dialogue and reconciliation. The facilitator asserted that this particular community is a "hotspot" as a number of prominent individuals from this area were assassinated and there has never been any resolution to these cases. The facilitator felt that dialogues are desperately needed in this community for bridge building and development, and members of the community are interested in the outcome of this case to determine whether such dialogue is indeed useful.

From a procedural and training viewpoint, the preparation stages of this dialogue were undertaken with the assistance of two apprentice facilitators who were trained by CSV in the 2005 pilot year. This case highlights the benefits of bringing local community members into the dialogue process so that they can be empowered to coordinate and facilitate further dialogues in their communities. It is also noteworthy, on a practical level, that this matter was referred to CSV by the Western Cape Khulumani Support Group, an NGO that advocates and counsels victims of gross human rights violations, thereby demonstrating the importance of partnerships or linkages within the victim support sector.

#### *4.1.1 Inter-generational reconciliation*

Little is known about the incident in question and no amnesty application was ever filed in respect of this incident although the widow did receive a reparation payment from the TRC. The widow's children and grandchildren have asked their mother about the accused as he was rumored to be involved in township violence during the struggle and his name currently "strikes fear in people." Furthermore, the accused was a family friend of the victim and a distant relative of the murdered husband.

The widow participated in the dialogue in order to find out more about the accuser's story and to report back to her children and grandchildren. She had concerns that her children and grandchildren may want revenge rather than dialogue as the accused recently returned to the community after being absent for about 17 years. Although the widow was hopeful that the information she obtained at the dialogue would pacify and comfort her children and grandchildren, there was still anger and ambivalence about this attempted reconciliation on the part of the successor generation. More specifically, one daughter who undertook to attend the dialogue withdrew her participation shortly before the meeting and the granddaughter that did attend was not satisfied with the answers of the accused. Furthermore, this granddaughter exhibited displaced anger concerning the poverty that her family currently faces believing that this is the result of the murder of the grandfather who was an important income earner and a respected member of the community.

CSV is still engaged with this matter and the programme will continue to assist the participants in 2006.

#### *4.1.2 Lessons learned*

This dialogue highlighted the potential benefits and drawbacks of using ex-combatants as apprentice facilitators. As mentioned, this case was undertaken with the assistance of two apprentice facilitators that were trained by CSV. Although both apprentices were

empowered by the training and grateful for the new skills they acquired (including computer literacy, office administration and mediation preparation and facilitation) there was a concern expressed by one apprentice that CSVR involved him in the process for his investigative capabilities only, as he had a foothold in the community and was therefore able to ascertain the whereabouts of the accused. These vulnerabilities were exposed during a follow-up interview when he stated: "if I am going to go there and find someone I have to go there and facilitate, at the end I am getting nothing, you as a mediator will just benefit out of my job."

The above comment is troubling as CSVR must not only build trust with the dialogue participants, but with trainee apprentices too if they hope to further their mediation work within communities and within the ex-combatant community in particular. In this regard, it is important to note that ex-combatants are extremely vulnerable - emotionally, socio-economically and politically<sup>16</sup> - and CSVR must therefore ensure trainees' monetary and emotional well-being when they participate in the project. At times, due to their sensitivities, this may involve 'over-reaching' attempts to pacify their concerns and their dire economic realities. With this in mind, the apprentices' concerns should be regarded equally as important as those of the participants if CSVR hopes to have a sustainable impact with these dialogues.

A further issue that needs to be acknowledged is that of inter-generational dialogue. This is significant as successor generations can feel aggrieved and threatened by past political violence even though they were not alive when the incident occurred. In addition, the anger that surfaced in the grandchild when discussing the past violence can be displaced and interpreted as a cause of current problems such as poverty, community divisions and lack of opportunity.

Finally, this dialogue also demonstrated the importance of acknowledging African cultural norms when discussing past political violence. In this regard, the deceased victim was an important ancestral linkage for the grandchildren and this missing generational figure must be acknowledged through dialogue, and perhaps African cleansing rituals, if true healing and reconciliation is to occur.

#### **4.2 Dialogue Two - *Institutionalized discrimination and reconciliation; political affiliation and educational opportunities***

In this dialogue, the participants were a black male school principal who was threatened with a gun by a black male student who was barred from attending the only school in the area by the same principal. This incident took place in the Western Cape in the mid 1990s. The principal was ANC aligned while the student was a PAC supporter who had just returned from the Eastern Cape where he was involved with APLA military activities.

This case demonstrates the need to address past institutionalized discrimination by way of dialogue. The participants' reactions suggest that individuals who were denied opportunities, solely on the basis of political affiliation or "struggle politics", and thereafter reacted violently, need a forum to explain their past actions and thereafter reconcile with the community. The student in this case considered the withholding of educational opportunities as an egregious denial of his basic human rights and an unnecessary socio-economic handicap that affects his current earning potential and personal development.

Alternatively, the principal was threatened with a gun and chased throughout the school grounds in a traumatic violent episode.

The facilitator, a black woman, was an independent contractor who was trained by CSVR. She was not aligned to any political party and was therefore perceived as neutral.

#### ***4.2.1 Institutionalized discrimination and reconciliation***

There was reluctance on the part of the principal to acknowledge the deprivations he exacted on the student by blocking his educational pursuits. In this regard, the principal objected to opening up the dialogue to wider community participation and he denied the fact that political affiliation or struggle politics were a consideration for refusing to admit the student. Furthermore, the principal attended the dialogue alone without a support person even though his wife was scheduled to attend, thereby isolating himself from any criticism or condemnation from his peers.

The dialogue ended without an adequate explanation being provided by the principal as to why the student was barred from the school. This was a glaring omission as the student attended the dialogue with his mother and grandmother and these participants were not provided with a broader understanding of the issues at hand and why a black authority figure did not assist a black youth in a time of need. Despite the foregoing, the student indicated that he would like to continue with the dialogue process as he believes that many teachers at the school still fear him due to this prior confrontation and he would like to improve his reputation in the community.

#### ***4.2.2 Lessons learned***

This dialogue demonstrates the ambivalence that can result when confronting past institutionalized discrimination, especially when the deprivation was inflicted by a member of the same racial group. More specifically, the black principal who was threatened was referred to as the victim in the dialogue while the black student who was denied educational opportunities was referred to as the offender. Also, the principal refused greater community participation, despite the fact that some of the teachers at the school sympathized with the student. CSVR must therefore spend more time preparing parties and the communities for dialogues when institutional discrimination is involved. In addition, community education should be provided by CSVR so that the effects of such treatment can be addressed and those denied services or opportunities can be provided a forum to explain the challenges they currently face.

#### ***4.3 Dialogue Three - Resource reconciliation: the hidden community conflict***

This dialogue, which involved a former coloured Self Defense Unit (SDU) in the Western Cape, was structured into four separate meetings and two inter-dispersed CSVR interventions so as to slowly build up the participants' trust, co-operation and dialogue skills. The participants originally approached CSVR with a compact interpersonal issue but it became apparent that broader community divisions existed, which centered on resource allocation and entitlements (namely, military pensions and the control of community projects) and this in turn was the real source of conflict in the community. The community dynamics were further obfuscated by provincial political alliances and the involvement of

another NGO that was engaging the community at the same time as CSVR thereby causing a perceived duplication of processes.

The facilitator, a black male, was an independent contractor who was trained by CSVR. He was ANC aligned and since all of the participants were also ANC supporters, it appeared that his political affiliation would not affect his impartiality. Despite this apparent neutrality, one participant did note that "sometimes it's best to have a very neutral mediator, even a person that's not even from here, you know ... if you have a person that's familiar with the politics ... his focus as a mediator becomes political driven."

### **Meeting One - Learning dialogue skills**

The initial meeting involved a victim, who was intentionally set alight and burned, because rumors were circulating in his community that he was assisting the state security branch, and an offender, who was the victim's SDU commander and who ordered and took part in the attempted murder. This incident took place in the Western Cape in the late 1980s. The commander approached CSVR because he wanted to discuss the incident and tell the victim that he could not conclusively verify that the victim was in fact an informer but due to the SDU code of conduct, the commander was required to order and carry out the attempted murder. The victim did not lay a charge in this matter and the offender did not apply for amnesty at the TRC so the incident was not reviewed by the Commission. At the end of this meeting both participants agreed that rumors surrounding informants continue to destabilize their community and as such, they wished to participate in a public peace building process.

### **Meeting Two - Encouraging community reconciliation**

In the initial meeting, the participants agreed to engage their community by publicly discussing their reconciliation efforts. Accordingly, a second meeting was facilitated by CSVR to recount the participants' reconciliation journey. The participants invited certain community leaders as well as their parents to attend this meeting. At the end of the dialogue the participants and the attendees agreed upon the following:

- Individuals who were implicated as informers should be forgiven for the sake of peace;
- The attendees experienced hardship during the struggle for providing sustenance, protection and shelter to those actively involved in the SDU, and in particular relatives who supported the unit felt aggrieved;
- The present government has not assisted them in reconciliation efforts;
- Individuals that were not directly involved in the SDU, and thus in the struggle for freedom, are now benefiting from the present government;
- There is a desire to participate further in the CSVR dialogue Project and to obtain feedback and updates accordingly;
- The attendees were interested in finding out more about skills development, counseling and memorialisation opportunities;
- The issue of rumors and threats must be addressed with some urgency;
- CSVR should facilitate dialogue between new parties and engage in other dialogues, separate from the present matter.

### **Intervention One - Red Dust Movie**

The community was invited to a screening of the movie [\*Red Dust\*](#) after which participants attended CSVR offices for a facilitated discussion about the film. *Red Dust* is a fictional

account of the TRC process based on the Gillian Slovo book of the same name, and it focuses on the story of an informer who broke under state security torture and identified a co-member of his liberation army, thereby condemning the man to death.

The community involved in this dialogue was similarly infiltrated by state security agents during the liberation struggle and many members were forced under torture to provide the government with information. The issue of informers is still a sensitive one for this community and the movie sparked constructive dialogue on the subject. For example, the participants acknowledged that the SDU code of conduct, which stipulated that if a member broke under torture he was obligated to notify the affected combatant(s) upon release, was difficult to adhere to.

### **Meeting Three - Others join the path to reconciliation**

This dialogue came about after one of the participants who took part in the Red Dust screening approached CSVR. The dialogue involved an SDU member who was accused of informing on a co-member in a court appearance. The other dialogue participant was the SDU member who was incarcerated for many years due to the alleged court testimony. It remains unclear whether the co-member was in fact identified in court and if the identification came about due to torture or undue emotional duress inflicted upon him by state security personnel. The incident took place in the Western Cape in the late 1980s and many rumors are still surfacing about the incident. This has resulted in continuous threats against the participant for which he desired counseling. The rumors that were being spread included speculations that he was paid money for identifying the co-member in court and that he did not visit the co-member in prison after informing on him due to his guilt. At the end of the dialogue the participants agreed that CSVR should assist them in obtaining court records to gain greater clarity on what transpired in the court proceedings. Also the participants noted that a coordinated reconciliation effort for their community would be beneficial and that is why they were taking part in the dialogue.

### **Meeting Four- Confronting the key issues involved in the community conflict**

During the previous meetings and interventions the various participants and attendees noted that there was one specific interpersonal conflict in the community that needed to be addressed if future peace-building and reconciliation initiatives are to be successful. The conflict involved two camps, led by two former SDU commanders, and the source of this clash could be traced back to the old SDU structure and membership.

In the 1980s and 1990s the SDU unit in this community was comprised of student activists that were involved in covert operations to make the townships ungovernable and in public protests whereby state security forces were confronted in violent street battles. All of these activities were undertaken by the SDU in loosely defined associations with various liberation organizations. Due to this unclear affiliation arrangement some members had contact with larger liberation organizations on official and unofficial levels and it was often ambiguous who was a formal member of the SDU and who assisted informally. As a result, issues are still arising today as to each community member's specific involvement in the struggle and his/her entitlements in the new dispensation. In addition, state security informants had infiltrated the community in an effort to destabilize social relations and many SDU members that were arrested were purposely released back into the community with tainted names under this state security disinformation campaign.

Presently, the community where the ex-combatants live is severely impoverished and gang infested. Many SDU members were too young to receive special military pensions from the government for their efforts in the liberation struggle and currently have no secure source of income. In addition, many SDU members forfeited schooling and other skills development opportunities during the liberation struggle and this has affected their assimilation into the new South African army upon demobilization. Although many received a one time TRC payment as victims of torture and gross human rights abuses they are still very impoverished.

As mentioned above, the community is now divided due to the competing agendas of the two former SDU commanders. These agendas center on the following issues: access to military pensions; verification of SDU membership and the benefits that this status provides; accounting for the misappropriation of struggle funds; control over community development projects; and, social control over the community by correctly or incorrectly classifying persons as informers.

CSVr did manage to obtain the cooperation of both commanders and both camps in the preparation stage, and a dialogue meeting was subsequently arranged despite two impediments. Firstly, prior to the meeting one party asserted that he "would not reconcile with informers" and secondly, one commander did not attend the actual dialogue meeting although other members of his camp took part. Nevertheless, at the dialogue the following benchmarks were achieved: the parties acknowledged that arrests of SDU members were not solely due to informants but also due to the reckless behaviour of members; a large group of community members attended the meeting and acted cordially and peacefully; and, the parties returned to the dialogue table after initially threatening to walk out of the meeting. At the end of the dialogue it was agreed that although the parties and camps would not reconcile with each other, they would not interfere with community projects initiated by opposing camps/commanders. Unfortunately, this promise was not abided by after the meeting as threats, blockages and rumors continue up to the present time. Although this may be a cause for concern, it must be positively noted that the parties did engage in dialogue for the first time and the immediate retrenchment of prior positions may be a natural reaction to giving up ground acceded to in a community forum.

### **Intervention Two - Memorialisation (ongoing)**

At a prior meeting, community members suggested initiating a memorialisation project as a means of community development and reconciliation. CSVr therefore undertook to facilitate discussions and some members of the community actively took part in the process suggesting various concepts including monuments, archives and youth educational programmes. The memorialisation discussions are ongoing and CSVr is trying to empower the community to forge ahead with the project. Although this is a positive initiative, the following weaknesses should be noted. Firstly, another large and influential NGO is currently facilitating memorialisation and dialogue projects in the same community and, although the organizations are communicating with each other, there are co-ordination concerns. Secondly, issues of dependency have been raised by CSVr staff as the community members lack self direction and look to CSVr for basic administration and programme concepts. Thirdly, CSVr would jeopardize its perceived neutrality if it conducts future dialogues, as it was originally called upon to facilitate discourse between community members and it is now taking on the role of project advisor. This is despite the fact that the community is deeply fractured into two competing camps and there is no

common agreement on how these camps will work together on the memorial project. Fourthly, there is a concern that the parties may be using the memorialisation vehicle and CSVR's overt support for this initiative as leverage in the community when addressing some of the conflicts that remain unresolved.

Conversely, there are benefits to a memorization initiative and CSVR sees this endeavor as a possible exit strategy whereby the community is empowered, community cohesion occurs when discussing project goals and outcomes and finally, mutual cooperation, dialogue and respect are reinforced.

#### *4.3.1 Resource reconciliation*

In impoverished communities access to resources and development opportunities are often the source of conflict. When resources are at stake other issues may be used to obfuscate the battle over access and control of development projects as the parties do not want to seem greedy, materialistic or power hungry. These 'other' issues are employed to hide the real interests of the parties, which usually focus on material dispensations and improvements in their individual standards of living. When resources and access to opportunities are the underlying reason for conflict, power brokers are essential as their authoritative voice can be used to split the pie. Unfortunately, due to the specific peculiarities of this case and the absence of an institutional power broker due to provincial political squabbling, the community conflict must be dealt with via dialogue. CSVR staff and the dialogue mediator assigned to this case recognize that communication skills take time to develop and they must be carefully cultivated. Therefore it was logical to slowly introduce dialogue skills by way of discourse around the interpersonal issues of the informants before moving on to the bigger issues of community upliftment and how the community will benefit from these initiatives.

#### *4.3.2 Lessons learned*

The participants in this dialogue put forth the following constructive criticism of CSVR's role in the dialogue process:

- There is a need for more "role-players";
- "There should be more legal things that bound the mediation even if it is just CSVR that is doing it ... at this present time the mediation is being misused";
- "I should think if the person should give a document of agreement that he agrees to stop it [i.e. threats and blockages] and that document can be used later at a state justice level";
- CSVR should ensure that only the "necessary parties" sit in on dialogue meetings;
- There is a need for a "neutral mediator, even a person that's not even from here."

For the most part, the criticisms speak to a critical issue: namely, the need to enforce agreements made at the dialogue table. The suggestions put forth by participants tangentially involve power brokers. In the case at hand, with an absence of authoritative political representatives to persuade the parties to abide by their agreements, CSVR must rely on a facilitator that has persuasive influence. This influence can come about not only by way of coercive power but also by moral authority, the institutional credibility of CSVR due to its long-standing ex-combatant work and finally by way of disbursements of

resources and access to opportunities. With this in mind, perhaps CSVR should engage in partnerships with counseling service providers, trauma centers, skills development agencies and other role players and use its influence with these partners as leverage to induce compliance. This can be accomplished in an upfront and ethical manner whereby CSVR ensures that service providers are included in the process in a manner that rewards reconciliatory behaviour. This can be done through CSVR referrals, through joint collaborations and through assisting with publication and publicity of reconciliation projects.

#### **4.4 Dialogue Four - *Victim to Victim Reconciliation and Ex-combatant Reintegration***

Four ex-combatants from the Western Cape approached CSVR for assistance in contacting various individuals in the former Transkei homeland to determine if face to face meetings could be arranged. These individuals supported the ex-combatants while they were stationed in the Transkei for military operations. The ex-combatants wanted to meet with these individuals in order to discuss their roles in the liberation struggle in the late 1980s and early 1990s as they felt that this would assist them with moving on with their lives and their reintegration into society. This dialogue was unique in that many of the contacted individuals suffered personal losses during the struggle, yet they also sympathized with the ex-combatants and considered the ex-combatants to be direct victims of this past political violence. Accordingly, the author has classified this dialogue as a victim/victim reconciliation.

CSVr contracted a facilitator based in the Eastern Cape to investigate the matter, locate the individuals that the ex-combatants wanted to meet and to arrange appointments. Upon completion of these tasks, the ex-combatants, accompanied by CSVR staff, traveled from the Western Cape to the Transkei to attend the pre-arranged meetings. In addition to these meetings, the ex-combatants visited former places of conflict and the graves of fallen comrades.

During the excursion, the ex-combatants met the following supporters: individuals who suffered personal losses when they assisted the ex-combatants by providing them with refuge; liberation leaders who trained and instructed ex-combatants at military camps; families who lost relatives in the fighting between the ANC/PAC/Transkei Defense Force (TDF); and political leaders who assisted the ex-combatants. In all of these meetings the ex-combatants identified themselves as victims. This occurred for the following reasons: all of the individuals that they met in the Transkei identified the ex-combatants as fellow victims; the ex-combatants were indoctrinated at a young age into a military culture and this was exemplified during the trip when they partook in marches, rituals, slogans, chants and songs; the ex-combatants were ill-treated in the liberation training camps and did not have proper amenities or food supplies; the ex-combatants sacrificed educational opportunities to assist in the struggle for liberation; some of the ex-combatants were seriously injured in liberation activities often revealing their battle scars; and the ex-combatants said they were fighting for a non-racial society and were forced to make negative life-altering sacrifices as freedom fighters.

CSVr is still engaged with this matter and the programme will continue to assist the participants in 2006.

#### *4.4.1 Victim to Victim Reconciliation*

The dialogues that took place in the Transkei demonstrated the cathartic effect of victim/victim discourse and its practical fact-finding benefits. While the participants felt that the TRC was not helpful in dealing with individual and community reconciliation and ex-combatant reintegration, the parties confirmed that these dialogues helped them address the trauma of past political violence as they could delve into pertinent issues without time constraints and thereby obtain a holistic understanding of the causes and nature of the political violence. In this regard, the wife of one of the deceased victims noted that the assailants involved in her husband's death were not dealt with appropriately at the TRC as they were granted amnesty after telling "blue lies". She then went on to describe the TRC process as one designed for perpetrators not victims even though she did obtain monetary reparations from the TRC.

#### *4.4.2 Lessons learned*

Firstly, this dialogue confirmed that the political affiliation of the facilitator is of paramount importance to the participants involved in victim/victim dialogues. The ex-combatants discussed sensitive information with numerous partisan individuals during the trip and they had concerns that the facilitators did not properly disclose their opposing political alliances before these discussions took place. The ex-combatants suggested that the Transkei participants would have been more guarded and circumspect if they were aware of the political divide between the facilitators and themselves. Therefore, in the future, in light of the special intimacy and connectedness of victim/victim dialogues, CSVR should ensure that there is a common political affiliation held by all persons involved in victim/victim dialogues.

Secondly, in trying to fully understand the dynamics of the ANC/PAC/TDF disturbances in the Transkei CSVR attempted to arrange face to face meetings with political leaders from all these parties. Unfortunately, the leaders refused to meet the ex-combatants and take part in the reconciliation effort due to conflicting party allegiances and the ex-combatants were extremely disappointed by this turn of events. This refusal occurred even though requests were made well in advance and adequate explanations were provided about the Project goals and objectives. This demonstrates the need to temper participants' excitement with current political realities and to ensure expectations are not set too high. Goals for victim/victim dialogue should be well within reach and ex-combatants should be prepared for setbacks and blockages especially when trying to engage in discourse with incumbent political representatives.

Thirdly, a political leader informed the ex-combatants that future reconciliation efforts in the Transkei will always be hampered by the possibility of criminal prosecution. In this regard, the leader confirmed that he was in possession of information that could assist a family with the location of a deceased victim, and he desperately wanted to assist, but he was unwilling to do so as it could have resulted in possible criminal sanctions for the offender who he was aligned with. The only solution that he could provide was to "leave the bones at the gate" and that was clearly unsatisfactory. There are many unresolved disappearance cases in the Transkei and CSVR should therefore formulate a policy to deal with these cases.

#### **4.5 Dialogue Five - *Inter-racial reconciliation and creative partnerships***

In the 2005 pilot year, this was the only dialogue in which a white participant was involved. The dialogue concerned a white male civilian who was permanently disabled in the Eastern Cape in the early 1990s as a result of a gunfire attack by unknown assailants upon a group of innocent bystanders in a public space. A senior black male representative of a well-known liberation army agreed to participate in the dialogue, even though he was not directly involved in the incident in question, as he felt morally responsible, having previously encouraged violent attacks against white unarmed civilians during the apartheid era.

The facilitator was a white woman who had suffered her own personal losses as a result of black liberation violence directed towards white civilians during apartheid and this was beneficial in building the participants' trust in the dialogue process. In addition, through her reconciliation work she had a prior relationship with the black representative and this assisted in obtaining his participation as well. The facilitator attended CSVV mediation training and was capacitated to oversee this sensitive dialogue with the aid of CSVV guidance and instruction.

Another unique aspect of this mediation was the involvement of strategic partners. The incident was first brought to the attention of the University of Cape Town Psychology Department by a relative of the disabled party. After being notified of the matter, the Department contacted the facilitator and CSVV and subsequently a formal strategic partnership between the three parties was entered into.

##### **4.5.1 *Inter-Racial Reconciliation***

This case demonstrates that bridges can be built between individuals from different racial backgrounds, although questions remain as to the wider inter-community reconciliation benefits.

In 1997 the disabled party advised the Gross Violations of Human Rights Committee Hearings that if the perpetrators were identified they should not obtain amnesty and they should be incarcerated. Subsequently, the injured party changed his position and participated in the 2005 dialogue session despite being informed that the representative did not have direct knowledge of the incident in question and despite the position taken by the representative in the past, that white civilians were legitimate targets in the liberation struggle. In addition, during the dialogues, the disabled party confirmed that he forgave the unidentified offenders and wished to pursue reconciliation rather than prosecution.

The injured party also noted that he is contemplating contacting other victims to explain the dialogue project and his reconciliation journey; that he would like to take part in the CSVV facilitator training programme to assist in future reconciliation projects. Furthermore the victim stated he was better informed of the suffering people went through during apartheid because of the TRC.

##### **4.5.2 *Lessons learned***

Firstly, this dialogue highlighted the potential benefits and drawbacks of undertaking

community interventions by way of strategic partnerships. The benefits can include: shared resources; shared expertise or technical skills such as trauma knowledge; and the use of a partner's institutional legitimacy/reputation in the eyes of participants and communities. The drawbacks can include difficulties in ensuring consistency and standardization of procedures and roles; difficulties in obtaining agreements from all partners, which may slow or hamper reconciliation progress; and alignment of participants with one partner for strategic or emotional purposes leaving other participants in a vulnerable position. Some of these drawbacks can be neutralized by entering into prior agreements that clearly define roles, timelines, cost implications and procedures.

Secondly, this dialogue confirmed that the successful resolution of one inter-personal dialogue may not translate into wider community reconciliation or bridge-building. There are a number of reasons why this may occur, such as: the disabled party noted that people in his community may not welcome reconciliation and in fact may resent his dialogue efforts; it was not clear how the disabled party would explain his dialogue efforts to third parties in light of the confidentiality and anonymity provisions agreed upon; and, the disabled party was committed to finding out the identity of the offenders and this personal objective may override his future reconciliation goals, especially if they are in conflict.

Thirdly, this dialogue proved that facilitators can be trained in a relatively short time period of time (being two weeks) and can undertake dialogues if properly supervised and supported. In addition, it can be helpful to have an interested facilitator as opposed to a completely impartial facilitator. In the case at hand the facilitator's special influence on both participants, one as a fellow victim and the other as a colleague, was an important ingredient in bringing the interested parties to the table and encouraging them to work with each other in the future.

#### **4.6 Dialogue Six – *Disappearance Cases and Group Support***

In 2005 the Project worked closely with other initiatives in the CSV [\*Transition and Reconciliation Programme\*](#) including [\*the South African Disappearance Project\*](#). CSV's Disappearance Project began in 1999 and has grown to include psychological support, investigative research, healing rituals and advocacy campaigns. In addition, the Disappearance Project has built a close working relationship with the *Missing Persons Task Team* of the National Prosecuting Authority (NPA) to assist in overcoming obstacles that have previously hindered investigations and exhumations.

In 2005 the Project attempted to use dialogue interventions in three disappearance cases. It is common for suspicions and rumors to envelop entire communities following a disappearance and dialogue programmes can assist with stabilizing these negative influences. Unfortunately, the dialogues in these three cases did not directly assist communities as a whole in dealing with the trauma associated with disappearances due to the participants' personal blockages. A variety of reasons accounted for this, including: problems locating offenders as they absconded from previously known locations; problems in one case of obtaining the offender's cooperation as he feared both the reactions of the victim's family and the possibility of criminal prosecution; and finally, problems in another case where the victim's cooperation was not forthcoming due to a fear that further investigations could threaten her safety.

Despite the foregoing, preliminary contacts with individuals did encourage these participants to confront their personal issues, so these dialogues were still valuable. During a Group Disappearances Workshop which took place in Cape Town in October 2005 it was confirmed that relatives of the disappeared often face unique personal challenges including inter-generational trauma, trauma relating to exhumations and difficulties coming to terms with their loss in light of traditional African funeral practices in which spirits are not at peace until a proper burial is carried out. Dialogue can assist individuals overcoming these difficulties.

### **Disappearance Dialogue One**

This case involved a 1996 disappearance in Gauteng and was referred for dialogue by CSVR's Disappearance Project's support group programme. The mother of the deceased was seeking a fuller understanding of the circumstances surrounding the death of her son. The son's body was located after the Disappearance Project conducted an investigation into the matter. The case has historical roots connecting it to the SDU/IFP violence in the early 1990s as the suspected offenders were involved in widespread unrest during this period. The suspected offenders are still feared in the community due to their past SDU involvement and this has hampered investigations and dialogue. More specifically, as noted by the facilitator, the two informants who originally identified the offenders were "ducking and diving" despite giving the initial impression of full co-operation as it was clear that they feared the suspected offenders. The facilitator tried to get other former members of SDU involved to encourage the informants and the offenders to co-operate but he was unsuccessful in this regard.

The dialogue process was cut short due to the mother's "fear, anxiety and trauma" and concerns about her safety and that of her family's. The mother reached a "panic mode" when CSVR investigations became more widespread in the community, as she worried about her security situation. It was noted that on two separate occasions, after CSVR visits, the neighbors inquired whether CSVR staff were the police. Although she desperately wanted process to go on, the mother was too concerned about possible repercussions.

The facilitator was not aware of the mother's fears when she was first engaged to participate in the dialogue and it has since been suggested that disappearance dialogues should only go forward when offenders initiate the process. This will prevent the potential harassment of victims by ensuring the offenders' cooperation. It was also noted in this case that CSVR's neutrality was likely jeopardized when it started the process as an investigator for the victim's family and then proceeded to become a dialogue facilitator between both parties.

### **Disappearance Dialogue Two**

This case involved a liberation combatant that was killed by two white policemen in KwaZulu Natal in the 1980s. The offenders appeared at the TRC and were granted amnesty after providing general information about the incident. The victim's sister approached CSVR for dialogue by way of the CSVR Disappearance Project's support group programme. She wanted to know the exact spot where the killing took place so that her family could perform an African burial ritual that involves fetching the spirit of the deceased and bringing it back home. The family attorney at the TRC did not deal with this issue and instead was accused of "dragging his feet." CSVR is currently trying to locate the offenders so that the sister can engage in dialogue with them. This case highlights the significance of African customary burial traditions and the difficulty of locating offenders

of gross human rights violations.

### **Disappearance Dialogue Three**

This case involves an ex-combatant that was forced to eliminate a friend and fellow freedom fighter while in exile after the friend was accused of being a traitor by the high command. The ex-combatant currently resides in the Western Cape and he has not informed CSVR of the victim's identity nor has he approached the family of the victim, whom he regularly comes into contact with, as he is worried about their reaction and possible prosecution. Regardless, he has confirmed to CSVR that he would like to tell the family where the body is and he would like closure in this matter. The ex-combatant stated that when he sees the victim's family he lies about the whereabouts of their son telling them they were separated after they went into exile together and that their son went to a different military camp where he was subsequently killed in battle. The ex-combatant is evasive and would prefer to tell the family half-truths in order to lessen their trauma as the murder was violent. The offender is currently receiving counseling.

The investigation and dialogue preparation is being conducted by a black male facilitator who is an independent contractor as well as an apprentice trainer that has received dialogue training from CSVR. The apprentice is an ex-combatant who went into exile and his background is extremely helpful as he has first hand knowledge about the structures of exile military camps.

#### ***4.6.1 Disappearances***

Obstacles generally encountered in dialogue processes may be compounded when disappearances are involved. On a personal level many issues come to the fore in such cases. For example, the reluctance of offenders to provide particulars due to possible criminal prosecutions; the possibility that offenders may react violently when tightly held secrets are uncovered; and finally, the difficult task of locating offenders. Despite the foregoing, organizations like CSVR should not shy away from disappearance related dialogue work. In this regard, it is important to note that the participants in these cases approached CSVR requesting facilitation and if circumstances had been different and they proved successful, community healing could have resulted.

#### ***4.6.2 Lessons learned***

The following lessons were learned from the 2005 disappearance cases for which CSVR attempted to pursue dialogues:

- Disappearance dialogues require an understanding of African cultural norms and practices;
- A clearer distinction must be made between the roles and purposes of disappearance investigation work, which is undertaken on behalf of victims, and disappearance dialogue work, which is undertaken on behalf of victims and offenders, if impartiality with participants is to be maintained;
- Witness protection and victim protection programmes may need to be incorporated into the dialogue processes;
- Third party partners and mental health care providers must be capacitated to deal with the special nuances involved in disappearance cases;

- Lists of disappeared persons and those allegedly responsible from the ANC, PAC, IFP should be obtained.
- A collaborative relationship must be pursued with the National Prosecuting Authority. This issue is discussed in greater detail in [section 5](#).

## 5. Support of Criminal Justice Role-Players

In the first year of CSVR's pilot project, all of the offenders involved had applied for amnesty from the TRC, thus the issue of possible criminal persecution was not a pressing concern. Conversely, the second year of the project saw many cases in which the perpetrators had not applied for amnesty. As such, these offenders risked criminal prosecution if they divulged sensitive information during the dialogue sessions. To date, due to confidentiality agreements and the decisions of the participant victims not to pursue criminal charges, the incidents have not come to the attention of the National Prosecuting Authority (NPA). Regardless CSVR is aware that in the future victims may decide to report matters to the authorities even if they sign agreements to the contrary. Accordingly, CSVR must engage with key stakeholders in the criminal justice system in order to ensure that this programme meets the needs of its participants and operates in an ethical manner.

Should the NPA become engaged with a CSVR dialogue case in the future, it is important to realize that various restorative justice mechanisms currently exist within the criminal justice system, including plea bargaining and mediation provisions. In particular, section 52(1) of South Africa's Correctional Services Act 111 of 1998 prescribes that when community corrections are ordered a court or correctional officer may stipulate that the offender ... "participates in mediation between victim and offender or in family group conferencing". CSVR must therefore advocate for the enhanced implementation or use of these provisions when proceeding with these dialogues.

In fact, President Mbeki has acknowledged the important role of the criminal justice system in resolving conflicts of the past. Mbeki stated the following, at the Joint Sittings of Both Houses of Parliament, on 15 April 2003, following the release of the final TRC report:

... we cannot resolve this matter by setting up yet another amnesty process ... We have therefore left this matter in the hands of the National Directorate of Public Prosecutions, for it to pursue any cases that, as is normal practice, it believes deserve prosecution and can be prosecuted. This work is continuing. However, as part of this process and in the national interest, the National Directorate of Public Prosecutions, working with our intelligence agencies, will leave its doors open for those who are prepared to divulge information at their disposal and to co-operate in unearthing the truth, *for them to enter into arrangements that are standard in the normal execution of justice, and which are accommodated in our legislation* [Emphasis added].

The NPA recently released a draft document setting out guidelines for post-TRC prosecutions. In determining whether or not to prosecute, the NPA must consider whether the offender's act had a political objective (in that it was directed at a political opponent or state property or personnel); whether the act was committed on behalf of an organization; whether the act was not for personal gain or for personal malice; and on a restorative justice level, whether the offender assists with locating the remains and/or assists with restitution

and reconciliation. Also the guidelines require that a victim's opinions must be taken into consideration in deciding whether or not to prosecute.

Notwithstanding the proposed guidelines and the statutory mediation provisions referred to above, the success of the prospective roll-out of CSVR's dialogue programme will ultimately depend upon individual role players within the criminal justice system, such as prosecutors in the NPA, magistrates, officials in the Department of Correctional Services and in the provincial Departments of Safety and Security. Institutional support is important, but it more critical that individual employees within these institutions know, understand and support the philosophy of restorative justice programmes and the potential impact that such programmes have on individuals, their families and communities.

Recent studies indicate that these role-players understand and in fact support restorative justice methods, which is vital in terms of the dialogue project gaining inroads institutionally. In a 2005 study of South African Correctional Services officers' perceptions of restorative justice<sup>17</sup> it was revealed that the use of restorative justice mechanisms was generally supported. More specifically, the correctional officers surveyed showed "an overall positive support for victim-offender mediation (71.8%)" as they favored the rehabilitative intervention of offenders being "afforded the opportunity to apologize face-to-face to those they have harmed (75.6%) ..."

Following a CSVR-led restorative justice training programme for officials in the Eastern Cape Department of Safety and Liaison in October 2005, participants acknowledged the importance of this training "in terms of crime prevention facilitation, as restorative justice principles assist to manage and resolve conflicts in communities and reconcile the victims and perpetrators."<sup>18</sup> As well, it was strongly suggested that ex-combatants be trained as mediators as many of them are idolized as "role models" in their communities and this "standing" should be used in order to assist with crime prevention and peace-building in communities. There was a perception among Safety and Liaison staff that "utilizing [ex-combatants] for mediations would make a big difference" as this would increase their self-worth and provide them with legitimate income.

In terms of individual magistrates' and prosecutors' views of restorative justice, a 2002 study indicated overall positive results as the "majority of respondents regarded restorative justice as an appropriate sentencing option."<sup>19</sup> When asked about the possible outcomes of restorative justice "most respondents agreed that restorative justice could contribute to community healing (83%); that it could make the offender aware of the harm caused to the victim (81%); that it holds the offender accountable for his or her behaviour (77%); that it involves community members in the criminal justice process (73%); and that it contributes to the offender accepting responsibility to set things right (70%). Considering that these are all key principles and objectives of restorative justice, the fact that a majority of prosecutors and magistrates agree that these are likely outcomes, is encouraging."<sup>20</sup> This is also encouraging for the dialogue Project, as justice officials would seemingly be receptive to facilitated discourse between ex-combatants and their community members.

## **6. The Way Forward: Recommendations**

The second year of CSVR's dialogue Project demonstrated that a wide range of dialogue

interventions can be helpful and confirmed that there is a need for third party facilitation of community conflict arising out of past political violence. The wide range of cases undertaken by CSVR during this year – including an inter-generational conflict, an institutional discrimination case, an inter-racial dialogue, a resource based conflict, victim to victim meetings and disappearance cases – proves the versatility of dialogues and their universal application.

Despite the wide applicability of dialogues CSVR must also make a strategic decision on how to proceed with this Project and how their limited resources and expertise should be utilized. In this regard, CSVR must decide if it should continue to deal with a variety of reconciliation issues, as in the past, or if it should concentrate on specific issues or specific communities thereby maximizing potential dialogue benefits. There are many communities, still affected by past human rights abuses, that would benefit from a comprehensive dialogue initiative and many focused subject areas that require specific attention such as disappearance cases and informer cases. Alternatively, CSVR could focus their efforts on assisting law enforcement, correctional services and/or the prosecuting authority with cases currently under investigation, prosecution or under parole/pardon reviews.

Whatever future direction the Project takes it will be on solid footing as the dialogues pursued in this pilot year proved beneficial for the following reasons:

- The dialogues taught individuals and communities new discourse skills that they can employ to deal with existing and future conflicts rather than resorting to violence, intimidation or threats (see [section 4.3](#)).
- The apprentice facilitators, who were both ex-combatants and survivors, were empowered with mediation training and new knowledge, skills and expertise (see sections [4.1.2](#) and [4.5.2](#)). In addition, these facilitators can now assist with dialogues in their own communities, under the guidance of CSVR staff, thereby making the programme sustainable and increasing coverage throughout South Africa.
- Partnerships were formed with an important academic institution (University of Cape Town: Psychology Department), a survivor group (Western Cape Khulumani Support Group) and other non-governmental organizations. These entities were keen to advance the dialogue programme to address weaknesses in the criminal justice system as they relate to restorative justice practices (see sections [4.1](#) and [4.5.2](#)).
- Government stakeholders were consulted and recognized the importance of dialogues in dealing with past human rights violations. In this regard, a working relationship was formed by CSVR with officials in the Justice and Security Cluster and discussions on strategic initiatives are ongoing (see [section 5](#)).

Despite the above mentioned benefits, improvements can be made to the existing Project framework and the following recommendations are put forth to improve the Project:

- i. Ex-combatants clearly benefit from mediation training and they are also well-suited to assist in reconciliation efforts. With this in mind, CSVR should canvass the possibility of having its mediation training programme approved by the South

African Qualifications Authority so that ex-combatants can leave the programme with tangible, transferable skills that are recognized throughout South Africa.

- ii. CSVR should engage with legal aid clinics, at universities or in public offices, to determine whether specialized services for ex-combatants can be provided, which would be aligned with the dialogue project's goals. More specifically, ex-combatants involved in the dialogue project would benefit from legal services that address their particular needs, which include: assistance with pardons; assistance with military pensions; assistance with disability issues; and most importantly ensuring that their interests are looked into prior to the dialogue sessions. The interests in question include: reviewing consent and confidentiality forms; providing ex-combatants with information on plea bargaining, sentencing frameworks and criminal justice programmes; and ensuring they understand the role of restorative justice within the criminal law framework.
- iii. This Project places special emphasis on the needs of communities and therefore ex-combatants' and victims' needs may be compromised if they are in conflict with the communities' needs. Accordingly, CSVR should ensure that all individual participants sign informed consent forms when they begin their involvement with the programme; that a referral system is put in place to direct participants to counselors and mental health specialists; that psychological assessments are completed before and after participation in the programme; that memorandums of understanding are signed with all key partners; that all participants and apprentice facilitators receive and are made aware of clearly defined stipends for any expenses they incur due to their involvement in the programme; that written case screening protocols are in place and are reviewed by CSVR staff before undertaking to assist with a case; that other forms of dialogue (such as video recordings, tape recordings and written letters) are canvassed before moving on to face to face meetings; and, if there are suspicions that a participant or apprentice facilitator has been subject to torture or severe gross human rights violations, special contingencies should be made for mental health interventions and support.
- iv. A policy should be developed for dealing with participants who did not apply for amnesty at the TRC and for whom prosecutions could result if they were to participate in dialogue. This would entail engaging with the relevant criminal justice stakeholders.

**Notes:**

<sup>1</sup> T Abrahamsen and H van der Merwe *Reconciliation Through Amnesty? Amnesty Applicants' View of the South African Truth and Reconciliation Commission* Center for the Study of Violence and Reconciliation (2004) and S Phakathi and H van der Merwe *The Impact of the TRC's Amnesty Process on Survivors of Human Rights Violations* Center for the Study of Violence and Reconciliation (2005), forthcoming in A Chapman and H van der Merwe, eds., *Truth and Reconciliation. Did the TRC Deliver?*

<sup>2</sup> C Ramirez Barat and H van der Merwe *Seeking Reconciliation and Reintegration: Assessment of a Pilot Restorative Justice Mediation Project* Center for the Study of

Violence and Reconciliation (2005).

<sup>3</sup> CSVr Advanced Survivor-Perpetrator Dialogue Training, 22-24 March 2005, Cape Town; CSVr Restorative Justice Workshop for Eastern Cape Department of Safety and Liaison Personnel, 5-9 September 2005, Cape Town; CSVr and Khulumani Support Group Disappearances Workshop 25-26 October 2005, Cape Town; CSVr Mediators' Workshop and Review of Cases 17-18 November 2005, Cape Town.

<sup>4</sup> Various documents were reviewed including Richard Records' case study for dialogues in [section 4.3](#).

<sup>5</sup> See J de Vries and J de Paor 'Healing and Reconciliation in the L.I.V.E. Program in Ireland' in Vol. 30, No. 3 *Peace and Change* (2005). This article examines the Glencree Centre for Reconciliation's Let's Involve the Victims' Experience programme.

<sup>6</sup> See Centro de Estudios Internacionales *Dealing with Conflict and Violence in Post-War Nicaragua: Ex-Soldiers as Peace Promoters* (1997). This report reviews the national network of Peace Promoters Programme.

<sup>7</sup> See N Roht-Arriaza 'Reparations Decisions and Dilemmas' Vol.27 *Hastings Int'l & Comp L Rev* (2004) at 157, which reviews the Commission for Reception, Truth and Reconciliations community reconciliation process in East Timor.

<sup>8</sup> P de Greiff 'Reparation Efforts in International Perspective: What Compensation Contributes to the Achievement of Imperfect Justice' in E Doxtrader and C Villa-Vicencio *To Repair the Irreparable: Reparation and Reconstruction in South Africa* (2004) at 347.

<sup>9</sup> R Teitel *Transitional Justice* (2000) at 138.

<sup>10</sup> H van der Merwe 'National and Community Reconciliation: Competing Agendas in the South African Truth and Reconciliation Commission' in N Biggar *Burying the Past: Making Peace and Doing Justice After Civil Conflict* (2003) at 101-124.

<sup>11</sup> The categorization of violence by way of racial descriptions is fraught with controversy. Despite the foregoing, the communities that took part in the programme identified themselves by race. This is a clearly a consequence of South Africa's apartheid history.

<sup>12</sup> *Necklacing* is the practice of burning accused informants or non-participating strikers with paraffin while a tire was placed around their necks. P Gabodo-Madikizela confirms that "between 1984 and 1989 some 450 people" were necklaced, sometimes while onlookers "sang and clapped." This type of activity was encouraged by community leaders such as Winnie Mandela who, on 13 April 1986, at a public rally in Krugersdorp, shouted "together, hand in hand, with our boxes of matches and our necklaces, we shall liberate this country". See P Gabodo-Madikizela 'The Rupture of Necklace Murders: A need for Psychological and Broader Strategies of Reparation' in E Doxtrader and C Villa-Vicencio *To Repair the Irreparable: Reparation and Reconstruction in South Africa* (2004) at 256. Also, for details of the Winnie Mandela speech, see F Bridgland *Katiza's Journey: Beneath*

*the Surface of South Africa's Shame* (1997) at 19.

<sup>13</sup> [Truth and Reconciliation Commission of South Africa Report](#) Volume 6 sec 4 at 579.

<sup>14</sup> *The homelands* were a creation of the apartheid government whereby self governing ethnic territories were formed to keep the black population isolated and economically dependent on the greater Republic of South Africa. These territories were not recognized by the international community. Also see G Wood and G Mills 'The Present and Future Role of the Transkei Defense Force in a Changing South Africa' Vol. 11, No. 2 [*Rhodes University*] *Journal of Contemporary African Studies* (1992) for a description of the former Transkei homeland military structure.

<sup>15</sup> M Anstey *Managing Change Negotiating Conflict* (1999) at 228.

<sup>16</sup> S Gear 'Trials of transition: the case of ex-combatants' in *Victimology in South Africa* (2005) at 271-279.

<sup>17</sup> C Cilliers et al 'Correctional Officers' Perceptions of Restorative Justice' in 18(1) *Acta Criminologica* (2005) at 40.

<sup>18</sup> Participant's Questionnaire, Restorative Justice Training October 9<sup>th</sup> to 14<sup>th</sup> 2005: CSV and the Eastern Cape Department of Safety and Security.

<sup>19</sup> B Naude and J Prinsloo 'Magistrates' and Prosecutors' Views of Restorative Justice' in T Maepa *Beyond Retribution; Prospects for Restorative Justice in South Africa* ISS Monograph Series No. 111 (2005) at 65.

<sup>20</sup> *Ibid* at 57.

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