

HISTORICAL NOTES

CHALLENGING ENTRENCHED POSITIONS

South Africa: Confidence, the BTWC and Learning from the Past

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The *HISTORICAL NOTES* working paper series contains passages from an ongoing, wide-ranging research project into the history of chemical and biological warfare whose story starts out with the question when our ancestors began manipulating poison. The research project focusses less on the discussion of individual incidents than on identifying and characterising social, cultural, political and scientific trends that helped to shape narratives of chemical and biological weapon use and the control of such warfare through human and civilisational evolution. It also aims to critically review our present-day (re-)construction and understanding of past events.

Being research in progress, the working papers do not necessarily reflect future conclusions. As part of the overall effort, new sources of information may be found. Or work on other parts of the project may lead to new insights or uncover trends and linkages between historical trends. As a result, certain sections may require revision.

From this perspective, questions, comments or criticism on the *HISTORICAL NOTES* are welcomed and encouraged.

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Introduction

Transparency and truth-telling are widely assumed to be necessary to enable and foster state accountability. They have also been accepted as a requisite for reconciliation, confidence and trust. The extent to which truth serves as a catalyst for any of these aims, however, needs careful consideration. This chapter evaluates the role of truth, using the case of South Africa's former chemical and biological weapons (CBW) programme. Our central contention is that while transparency and truth-telling are important in interpreting the past, informing the present, as well as envisioning the future, assumptions that a positive correlation exists between truth-reconciliation as well as transparency-confidence entail oversimplifications. This is because fostering confidence can be independent of truth-telling and transparency, as exemplified by the case of South Africa's former CBW programme.

This chapter discusses how transparency and truth-telling have figured in securing confidence nationally and internationally. Our assessment is that fact-sharing, truth-telling and transparency about the apartheid-era chemical and biological warfare programme were not the key ingredients leading to confidence regarding South Africa's commitment to the Biological and Toxins Weapons Convention (BTWC). To illuminate this position, we evaluate the roles of truth in: (1) the Truth and Reconciliation Commission (TRC) of South Africa, and (2) South Africa's transparency (or lack thereof) in the BTWC. We begin by briefly describing the activities of South Africa's CBW programme and the questions that linger about it. This serves as an entry to unpacking the roles of truth and confidence, both welcomed and unwelcomed roles.

In terms of the underpinning methodology, this chapter revisits a study conducted by two of the authors, Brian Rappert and Chandré Gould, on the place of transparency, confidence-building measures and confidence in South Africa as well as the BTWC.¹ That study drew on dozens of one-to-one interviews as well as focus groups with civil servants, professional organisations, non-governmental organisations (NGOs) and others. A recurring theme of those discussions was the acceptability of a lack of transparency. The elaboration of the justifications for limits to transparency given below is used to reconsider how confidence is formed and maintained.

Project Coast

The South African Defence Force (SADF) established a top-secret CBW programme code-named 'Project Coast' that operated between 1981 and 1995.² Its primary aims were to develop a defensive capability for the SADF and weaponise chemical agents for crowd control, specifically during protests, and for the targeted assassinations of political activists in and outside of South Africa. The history and motives of this CBW programme, as far as it can be understood, have been covered in several publications.³

While the CBW programme in South Africa can be considered to have been small in scale compared to other biological weapons (BW) programmes⁴ and the full technical capabilities of the BW elements of the programme remain unclear, this programme had significant potential and impact in the pre-democratic South Africa. The activities of Project Coast, for example, included the development of delivery mechanisms for anthrax, cholera and cyanide and organophosphates to assassinate enemies of South Africa. There were also failed efforts to develop an anti-fertility vaccine, intended for black women, as a means of population control.

The activities of the programme covertly occurred through 'front' companies Roodeplaat Research Laboratories (RRL) and Delta G Scientific. Several scientific and military experts locally and internationally were involved in its activities. Some of those who participated in Project Coast knew the intentions, in part or full, of the programme, while others claimed to be unaware of the programme's aims and outcomes.

It is understood that Dr Wouter Basson (Project Officer between 1981 and 1992) travelled to at least 24 countries to source information and resources for Project Coast.⁵ The engagement of the international community was arguably pivotal to the sustainability and progress of the programme. This means the revelation of the truth would not only have implications for the national community of experts, but also for the international community. Through Project Coast, South Africa contravened its commitments under the BTWC, which it ratified in 1975. Despite this, as we will elaborate on below, the international community has not held South Africa accountable for the programme. It has been 27 years since Project Coast ceased all operations, yet no one was convicted for their role in the programme or for any human rights abuses that may have resulted from it.

The South African CBW programme today, while subject to multiple investigations and revelations nationally and internationally remains insufficiently understood by many in South Africa and abroad. It is still unclear how many people in and around South Africa were affected and impacted by its CBW activities. The victims remain unknown and

forgotten. The nature and extent of the programme remains unclear. The many unknowns about Project Coast and the associated impunity continues to evoke apathy and ‘fear of the unknown,’ which impede the process of using the lessons that can be drawn from the South African CBW programme to ensure that BW programmes like Project Coast do not occur again in the future.

The next section focuses on the reception of Project Coast, and how national and international communities have engaged with the truth (or lack thereof) about the South Africa’s former CBW programme.

The Reception of Project Coast: Past and Present

Project Coast, the TRC and Role of Truth

As part of South Africa’s transition from the apartheid regime, the TRC was set up by the government of national unity in 1995 based on the Promotion of National Unity and Reconciliation Act. The TRC investigated gross human rights violations that had occurred between 1960 and 1993. It was a quasi-legal process set up to unravel past violations, facilitate forgiveness and grant amnesty, where appropriate, to perpetrators. The Project Coast TRC hearings commenced in 1998, and through the commission, the activities of this programme were exposed publicly for the first time.

The details of Project Coast at the TRC were often difficult for the public, and those investigating it to interpret because of the complexity of the programme and the incoherence between documentation and witness testimony. Two pertinent challenges to this investigation were: first, some of those who were involved were not aware of all the activities of Project Coast, therefore could not provide substantive accounts. Second, key military personnel refused to testify fully before the commission.

Despite such challenges, South Africa’s TRC has been hailed as successful and exemplary when compared to similar truth commissions.⁶ From an international perspective, specifically seen through Western eyes, the TRC was a turning point towards a new and unified South Africa. The commission’s neutral position drew praise and offered a legitimate (read: diplomatically acceptable) path to democracy.

Internationally, the TRC appears to have played a necessary role of (re-)legitimising South Africa as a member of the international community. However, this rosy view of the TRC is not unanimously shared in South Africa since many questions remain unanswered and very few perpetrators have been held accountable. For instance, granting amnesty to

perpetrators of abuses remains contentious in South Africa as the perpetrators continued their lives and professional careers, while victims have had to deal with trauma and the harms resulting from their violation. The appropriateness of the trade-offs at the heart of the TRC, i.e., truth for impunity,⁷ is not universally accepted. The perceptions of the importance or reconciliatory role of the TRC are different for ‘victims’ and perpetrators; or older generations vs the ‘born-free’ (South Africans born after the democratisation of the country).

The TRC prioritised ‘truth-telling’ as a pathway to reconciliation. A causal relationship between truth and reconciliation is often taken for granted, which is essential in the process of transitional justice towards democracy.⁶ This causal relationship assumes that truth undergirds reconciliation. The extent to which truth was/is a conduit to reconciliation is difficult to determine though. This is so, not least, because not all truths are acceptable. Some truths are unfavourable, and an exchange of collective memory for forgetting, might be easier and preferred. One might argue that reconciliation and transitional justice have been achieved in South Africa, despite the persisting unknowns.

Accountability and the Place of Evidence

Toward informing the consideration of how investigative powers might fit within a future BW verification framework, this sub-section briefly reviews the criminal and professional investigations into members of Project Coast. This is done, in part, to examine how information collected for one purpose was (or was not) compatible for serving another one. The overall situation is one of complexity. The highly negotiated and mediated status of individual investigations of Project Coast both enabled and delimited subsequent formal investigations.

Formal inquiries into allegations of wrongdoing associated with the programme began in the mid-1990s. The Office for Serious Economic Offences and the Parliament's Standing Committee on Public Accounts considered issues of fraud raised by scientists involved in the programme. The Transvaal Attorney General (later the National Prosecuting Authority) examined allegations of murder, torture, conspiracy and intimidation by Basson and other military personnel. Perhaps most consequential in terms of informing subsequent investigations, the South African Narcotics Bureau conducted a sting operation against Basson in early 1997. The operation eventually led to the home of one of his associates. At this location, it found two blue sealed steel trunks. These and other trunks subsequently identified contained drugs as well as hundreds of sensitive and classified documents about Project Coast. These documents included files about individual activities undertaken as well as the financial arrangements of the elaborate set of commercial front companies used to disguise the programme.

Most notably, the trunks contained the 'Verkope' (or Sales) List. Compiled in 1989 by the head of research at RRL, André Immelman, the list consisted of a table with columns for delivery dates, quantities and prices. The items comprised chemicals, typically with their 'applicators': the pesticide aldicarb in chocolate and orange juice, beer contaminated with the insecticide thallium acetate, and whisky laced with the herbicide Paraquat. Handwritten initials were also apparent on the Verkope List. Immelman claimed these indicated the members of the military and police who were given the items for covert operations against identified enemies of the state. The Verkope List would serve as a central piece of evidence in subsequent hearings and trials, but never constituted sufficient evidence of a crime having been committed.

The TRC began its inquiry into Project Coast in 1997 after receiving applications for amnesty from some of the Project's scientists. As an investigation of the past, the TRC was characterised by various types of contestations over what should and should not be disclosed. Here we note just a few.⁸

One, in relation to its overall remit, the proceedings of the TRC could only investigate activities associated with gross human rights violations. This meant the investigation into Project Coast has to focus on documentable injury or rights abuses, even though the research document suggested that scientists were intent on seeking means to harm opponents that would be undetectable. It also meant that projects that failed, such as that which sought to develop an anti-fertility vaccine for black women intended to be administered without their knowledge, fell into a grey area for the TRC.

Two, only a few Project Coast scientists willingly came forward; many more refused to testify or arguably only did so unwillingly. This partialness (combined with the 'need to know' restrictions placed on disclosure during the time of the programme) meant that the emerging story suffered from incoherence, which in turn helped cast doubt on the veracity of and the motivations for witness testimonies.

Three, the hearings into Project Coast ran until the last day on which the commission was legally mandated to hold public hearings. The hearing was thus vulnerable to legal challenges and delays. Wouter Basson approached the Cape Town high court to have his subpoena from the TRC set aside, arguing that he had a right to silence and not to incriminate himself, especially since it was clear that charges were going to be brought against him by the state. While he lost the case, and had to appear before the TRC, he and his lawyer engaged a raft of delaying tactics to prevent him from providing any answers of substance at the hearing. On the latter, it is noteworthy that the TRC hearings started with a trio of

government officials making representations about the possible dangers posed by the TRC's hearings and the need to limit what evidence was publicly aired. Cited reasons included the proliferation of details relevant for CBW and the subsequent consequences this would have for the 'good faith'⁹ being placed on the fledging post-apartheid government by the international community. An uncited but arguably prevalent fear was that something 'unknown' would be revealed, since what the new South African government understood about the programme at the time was only that which they had been told by those that directed it.

For these and many other reasons, if the investigation of Project Coast had ended with the TRC, then much about the programme would have remained sequestered away. Other investigations into Project Coast did continue. Starting in October of 1999, Wouter Basson faced 67 fraud, drugs, and murder charges directly or indirectly related to his time as Project Officer.¹⁰ However, as an assessment of specific allegations of criminal wrongdoing, the trial was not an examination of Project Coast as such. Lasting over 30 months, with some 150 witnesses called to the stand and with thousands of pages of documents provided, the trial did bring to wider attention many details of the programme. At the same time, the sheer quantity of (often contradictory) information stood against comprehending what had taken place.

Concerns about deception complicated what could confidently be concluded from the trial. Witnesses called in support of the prosecution were regularly challenged by the defence and ultimately the judge (Willie Hartenberg) regarding their motivations. All who testified against Basson, and who were themselves implicated in the crimes, did so with the understanding that they would be immune from prosecution provided their testimony was truthful. Furthermore, in his defence, Basson would testify to how he misled numerous individuals – notably the programmes' own managers, foreign intelligence services, and those within the South African national security apparatus – about Project Coast to ensure its clandestine status.¹¹ Through these kinds of arguments, Basson advanced himself as the authoritative source for understanding what had 'really' taken place in a CBW programme likened to an international espionage novel. By the time judge Hartenberg delivered his verdict in April 2002 acquitting Basson on all remaining charges, what had taken place as part of the programme had been the subject of considerable efforts to mobilise memories and documents toward both producing knowledge and ignorance about the past.

The trial was not the end of the road for Basson. In 2013, a professional inquiry by the Health Professions Council of South Africa (HPCSA) found him guilty of unprofessional and unethical conduct. This finding related to activities he undertook when acting as a

military doctor associated with his time as Project Officer, namely producing a large-scale amount of illegal psychoactive substances, weaponising tear gas for use against Angolan government soldiers, providing disorienting chemicals for over-the-border kidnappings to the SADF operatives, and making cyanide suicide capsules available to members of the Defence Force.¹²

Against the range of disturbing allegations made about Project Coast, the charges brought by the HPCSA were unlikely to be considered among the most serious by many. These charges were selected by the Council based on Basson's previous admissions in court as part of his criminal trial. As a result, within the HPCSA proceedings, the central facts of the matter could be taken as given, with the focus turning to what professional sanction should follow. The HPCSA ruling remains the only case of a formal professional or criminal ruling against someone involved in Project Coast. However, the matter has never reached conclusion as Basson's legal team questioned the objectivity of the peer-adjudicators in court, and the matter has not since been addressed by the HPCSA. This means that despite the finding against Basson, no sanction was imposed, and he remains able to practice medicine in South Africa.

South Africa, CBMs and the Meaning of Confidence

The BTWC Confidence-Building Measures (CBMs) were instituted as a means for state parties to declare activities relevant to the BTWC. In past statements by state parties to the BTWC, CBMs have repeatedly been portrayed as enhancing transparency. Transparency and truth-telling have been portrayed as pre-conditions for building trust and confidence at national and international levels, and the integrity of the CBM process relies on these pre-conditions. While CBMs do not verify compliance or non-compliance with the BTWC, they are routinely held as beneficial for international diplomacy.

These contentions are the official rationales for and reasoning associated with CBMs. However, as argued in greater detail elsewhere by two of this chapter's authors,¹³ the experience with South Africa's CBM declarations raises basic questions:

- What does confidence mean in the context of the BTWC?
- Is confidence predicated upon CBM declarations, discussion of those declarations in BTWC meetings, or on other factors outside of the BTWC?

To elaborate, Form F of the CBMs call for the 'Declaration of past activities in offensive and/or defensive biological research and development programmes'. South Africa completed CBM Form F in 1994 and updated its submission in 1995. The 1995 CBM stated:

South Africa had no offensive biological research and development programmes in the past.¹⁴

In contrast to what might be expected given the stated aims of the CBMs, the dubious status of this declaration has received little, if any, attention within the proceedings of the BTWC in the last 27 years. Nor have questionable declarations related to some other past offensive programmes.¹⁵ Nor has the failure to consider such issues figured within the formal proceeding of the BTWC itself.¹⁶

Appreciating how this situation has transpired offers a way into understanding the in-practice meaning of confidence. In an attempt to do so, in 2013-14, Rappert and Gould undertook a series of interviews with civil servants, diplomats, NGOs and others who had actively contributed to discussions in previous years regarding the ongoing reforms of CBMs. Our purpose was to understand the conditions in place that turned certain topics – such as the failure of South Africa to declare an official programme under Form F – into non-issues within international diplomacy.

As interviewees conveyed to us, the work of civil servants and diplomats is characterised by demands and circumstances that often limit the scope for action. That includes, for instance, that officials need to negotiate their positions on matters (such as CBMs) with those in other ministries with different concerns and priorities.

In relation to the South African CBM specifically, interviewees cited a range of considerations bearing on why the proceedings of the BTWC failed to comment on South Africa's declarations under Form F. These included:

- the contested status of whether Project Coast amounted to an 'offensive' programme,
- the calculation that nothing was to be gained from raising the issue,
- the perception that Project Coast was not remarkable in the context of apartheid atrocities,
- the manner in which past international deliberations on South Africa were held between small groups of nations, and
- the existence of higher diplomatic purposes for not voicing doubt about South Africa's Form F declaration.

The lack of discussion about the South African CBM was regarded as just one example of how concerns about the factual status of CBMs more generally were not raised within the BTWC. Prominent reasons given for not raising challenging issues cited by

interviewees included the limited remit within the BTWC for examining CBMs in recent years, the manner in which states rarely openly voiced concerns about other states (whether inside or outside their regional grouping) for fear of the consequences of doing so, and the absence of national capacity to analyse CBMs.

The delimited manner states parties questioned CBMs follows on from and has follow-on implications for how states and others interact in general within this convention. As interviewees contended, individuals or groups that wish to raise contentious or challenging matters in the BTWC faced difficult binds. To do so would single them out in a manner that others might well not welcome, but to not raise challenging matters likewise makes oneself and the matters at hand less relevant. While various diplomatic considerations might constrain state officials, much the same could be said of those in civil society that have participated in BTWC meetings. While those from civil society are perhaps freer to point out the 'non-issues' and bypasses of international diplomacy, doing so risks making them appear 'oppositional', a role that could reduce their influence and diminish their funding prospects.

Such constraints and conditions on what can be done within the BTWC were identified as bearing on the ability of state parties to decide and solve problems. For instance, the narrow circulation of materials and ideas creates disparities in who knows what, which means people/states are deferred to as being able to lead initiatives. This can mean others feel disempowered. More generally, inter-group dynamics can reinforce existing groupings and coalitions. As a result of the wider points in this paragraph and the previous one, it is hardly surprising interviewees had low expectations for the quality of CBMs, low expectations for what can be achieved through CBMs, and felt completing them amounted to a form of ritualism.

In mapping such considerations, we contended that the potential for CBMs to serve their central aim of promoting confidence is constrained (and enabled) by the inter-state, inter-group, and inter-personal dynamics in the BTWC. We characterised these dynamics as imbued with forms of 'defensive reasoning'. Defensive reasoning entails using covert attributions of motives, scapegoating, the treatment of one's own views as obvious and valid, and unsupported evaluations. The end result is the potential reproduction of invalid assessments and inferences that decrease possibilities for changing thinking and behaviour.

The previous paragraphs led to an ironic tension: the lack of transparency was often taken by those interviewed as a requirement for maintaining confidence. As such there was no direct relationship perceived between a lack of information disclosure/deliberation and a

lack of confidence in the treaty. And yet, in the longer term, the incentives and disincentives associated with defensive reasoning were also regarded as having significant negative consequences that could or have undermined the international prohibition of BW.

An important implication followed from these arguments: absent attention to what may and may not become issues in the BTWC, attempts to enhance confidence through greater participation in CBMs in and of themselves are likely to be of limited potential. Without addressing why some matters become 'non-issues' within international diplomacy, greater participation in CBMs might cause more matters to be sealed off from consideration. Greater demands for disclosure where defensive reasoning is pervasive can generate further attempts at suppression. Rather than simply re-doubling efforts then, it is necessary to question what action should be undertaken to truly build confidence.

From CBMs to Confidence

Despite not being transparent in its CBM Form F in relation to Project Coast, South Africa arguably has not lost the confidence and trust of other countries in the context of the BTWC. This suggests that other factors besides transparency and truth-telling are important for securing confidence.

The practice of equating CBM engagement with confidence arguably has been commonplace in recent times within the BTWC. This presumption expresses itself through attention to fostering greater participation in filing CBM forms. In the discussion of confidence building, it is common to hear that transparency is the basis for or fundamental to confidence. For instance, consider this statement:

To be able to regulate the behaviour of states and assess regime effectiveness, actors must have information about the activities they want to regulate. Transparency about and the willingness to explain the biological activities performed in a given country are of utmost importance in increasing confidence in their peaceful nature and preventing suspicion, hostility and aggression among states.¹⁷

According to this view, there is a direct relationship between a lack of transparency, or information sharing, and a lack of confidence. Again, the case of South Africa calls such contentions into doubt. Thus, simply expending more energy on CBMs as a way of instilling confidence might ultimately prove counter-productive. Instead of more of the same, alternative types of discussion need to be nurtured. These discussions should question what is meant by "confidence", what type of confidence is needed today, and how it can

be cultivated in the current international environment (one characterised by division and the waning of multi-lateral diplomacy).¹⁸

We have been here before. Drawing a direct relationship between transparency and confidence has been subject to critique in the past. For instance, in a mid-1990s report for the Canadian Non-proliferation, Arms Control, and Disarmament Division in the Ministry of Foreign Affairs and Trade, James Macintosh argued that discussions then frequently conflated CBMs with confidence.¹⁹ He argued that CBMs were only one possible operational measure of confidence and so should not be mistaken for it. Focusing on the former might help improve the political atmosphere for international relations, but the gains are likely to be modest and temporary unless the underlining factors that foster a lack of confidence are addressed. As part of this, he contended that enhancing transparency is not the ultimate objective for arms control and disarmament. More information need not lead to a better understanding or less suspicion. It could indeed increase misunderstanding and suspicion.

In place of a focus on filling in CBMs, Macintosh argued that confidence entails a 'comprehensive process of exploring, negotiating, and then implementing tailored measures, including those that promote interaction, information exchange and constraint.'²⁰ The goal is transformation: restructuring relations, improving cooperation, shifting dispositions, and changing security expectations. Greater participation in CBMs might follow from such transformations, but this should not be taken as the end goal of them.

Within the BTWC, suggestions for significant change have occasionally been advanced. South Africa itself has argued that CBMs have 'limited utility nationally and in terms of the building of confidence among states parties...The purpose and use of the whole system need to be analysed and revised for states parties to consider fulfilment of the obligation.'²¹ Indeed, it has been argued that the focus on CBMs distracts from a broader more meaningful discussion about confidence that can only take place in the context of a discussion about how to verify compliance with the treaty.

It follows from Macintosh's thought that the investigation of purpose needs to go far beyond CBMs themselves to instead ask more fundamental questions about how confidence can be achieved in the prohibition of BW. Essential to achieving such transformation in confidence for Macintosh were seven supporting conditions:

- (1) "security management fatigue" or the perception there have been too many years of stand-off
- (2) unease and dissatisfaction with status quo security policies;

- (3) concern about the domestic costs of maintaining the status quo;
- (4) a group of experts (an epistemic community) that would wish to explore confidence building;
- (5) a new generation of more flexible and sophisticated policymakers;
- (6) a forum for discussion and interaction; and
- (7) perhaps, a "leap of faith" initiative by at least one key senior policy maker capable of crossing a key emotional and conceptual threshold.²²

Whether all conditions could hold within a future BTWC is an open question. The previous section would suggest another important condition is redressing the conditions that foster defensive reasoning and routines in the interactions associated with the BTWC.

Requirements for a Future BTWC Verification Regime

How then to foster new possibilities and actions that could help improve confidence? In this volume, the future of the prohibition against BW is being considered in relation to verification. The previous analysis offers several entry points into thinking through the shape of verification measures. Take Macintosh's supporting conditions. Regarding (4), many states parties' experts, members of civil society, and others have worked to find ways of building confidence, but primarily through amendments and changes to the current CBM regime. This discussion needs to be expanded to allow for other, perhaps new forms in which confidence can be promoted and sustained.

Macintosh's sixth requirement, for a forum for discussion and interaction, could in theory be met within or outside the formal meetings of the BTWC. The argument of the previous sub-section referred to several limitations associated with using the formal structure provided by the BTWC. Within any discussions would be a commitment to address the dysfunctional inter-state, inter-group, and inter-personal dynamics noted above. That would mean promoting different types of inquiry. Producing environments more conducive to contemplating change and taking necessary actions is demanding because it means confronting and overcoming ingrained attitudes. One litmus test is whether any such forum can address difficult matters - such as the reasons for South Africa's failure to declare an offensive programme - or whether they would be ignored (and the ignoring of them ignored). The real question seems to be which body, institution and individuals would have both the credibility and capacity to convene these kinds of engagements.

The very factors that explain why issues are not being addressed within the BTWC might actually provide another set of possibilities. Overcoming the conservatism and suspicion

of change that is well-entrenched is a challenge in the BTWC context, but possible measures that might help overcome such inertia may include:

- Promoting accessibility of CBMs, so long as their greater accessibility does not mean that states limit what they disclose.
- Consideration of whether and why the South African (and others) case merits attention in the context of the Convention.
- Re-examination of the objectives and purposes of CBMs as originally expressed in 1986.
- Reducing the tendency to make speculative attributions about the reasoning of those that raise criticism and questions within the BTWC, as well as increasing the advocating of positions combined with inquiry and public reflection.
- Lowering the barriers to airing concerns; with particular reference to regional groupings. For example, this could be done by creating a forum or fora in which issues about the content of CBMs can be raised in a non-confrontational or accusatory manner. Ideally, this would allow for reflection on errors and reactions. Such a forum would require a credible convener.
- An increased willingness to admit a lack of awareness, uncertainty, and unknowns.
- Creating a climate in which candour is not penalised or seen as a weakness or admission of failure or even guilt, though this will take time and need to consider differing cultural and political norms.
- Expanding the range of subjects open for discussion at BTWC meetings and allowing space for new issues to emerge.
- Increasing the number of inclusive, informal consultations and discussions outside of the BTWC. These should be 'safe spaces' that could be facilitated by inter-government and/or non-government organisations. They should allow for substantial discussion even about contentious issues.

Without a curtailment of anti-learning practices noted in previous sections, however, attempts to establish alternative fora or novel initiatives to help develop an understanding of what is required, or negotiate what needs doing or implementing, could turn counter-productive. In its own way, the TRC signals the potential for divided parties to establish a collective path for moving ahead. The aforementioned limitations of the TRC to engender reconciliation and confidence, or trust across groups in South Africa also signal the demands of overcoming divides.

The current fractured geopolitical environment in which trust and the conditions for trust building are limited does not bode well for the prospects of building alternative spaces for interaction in relation to the prohibition of BW. It is in such times that leadership and initiative are most required.

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- ⁹ A. Minty, Testimony of at the TRC Hearing into Chemical and Biological Warfare Cape Town, 8 June 1998.
- ¹⁰ For a detailed examination of the points in this paragraph, see M. Burger and C. Gould, *Secrets and Lies* (Cape Town: Zebra, 2002).
- ¹¹ M. Burger, *Trial Report - 31 July* (Pretoria: ISS, 2001).
- ¹² Health Professions Council of South Africa, *Professional Conduct Committee Concerning Dr W Basson* 18 December (Pretoria: HPCSA, 2013).
- ¹³ B. Rappert and C. Gould, *Dis-eases of Secrecy: Tracing History, Memory and Justice* (Johannesburg: Jacana, 2017).
- ¹⁴ Republic of South Africa, *Confidence Building Measure Form 'F'*. (Pretoria: South Africa, 1995): 64.
- ¹⁵ An oblique reference to the issues of the declaration of past programmes was made in a 2011 working paper: Norway, Switzerland and New Zealand, *Confidence Building Measure BWC/CONF.VII/WP.2* 1 November 2011. On page 3, it stated: There is very little public information on how individual States Parties use the CBM returns once they have accessed them. There is one significant exception to this: one State Party produces, through statutory requirement, a public compliance report that not only provides an assessment of its own adherence to arms control, non-proliferation and disarmament agreements, but also an assessment of the adherence of other States to their obligations. These reports state that CBMs are central to the compliance assessments made, and they regularly note whether certain States Parties have yet to submit a CBM return, that some only do so intermittently, and that while some States do submit returns these have either not declared past offensive programmes or current biological research and development activities.
- ¹⁶ As opposed to the failure to adopt a legally-binding protocol that might include verification measures, which has been repeatedly noted.
- ¹⁷ Iris Hunger and Nicolas Isla. 'Confidence-building Needs Transparency: An Analysis of the BTWC's Confidence-building Measures', *Disarmament Forum* 3(2006).
- ¹⁸ As expressed in United Kingdom. Confidence-building Measures: Next Steps to Enable Fuller Participation - Submitted by the United Kingdom of Great Britain and Northern Ireland BWC/MSP/2013/MX/WP.3 29 July 2013.

- ¹⁹ James Macintosh, *Confidence building in the Arms Control Process: A Transformative View* Arms Control and Disarmament Studies, No. 2 (Ottawa: Canadian Non-proliferation, Arms Control, and Disarmament Division: 1996).
- ²⁰ *ibid.*: vii.
- ²¹ South Africa, *Implementation of the BTWC in South Africa* BWC/MSP/2013/MX/WP.10 7 August 2013.
- ²² Adopted from James Macintosh, *Confidence building in the Arms Control Process: A Transformative View* Arms Control and Disarmament Studies, No. 2 (Ottawa: Canadian Non-proliferation, Arms Control, and Disarmament Division: 1996): vii.