ALL ABOARD THE TRUTH BANDWAGON: AN EXAMINATION OF OUR FASCINATION WITH TRUTH COMMISSIONS

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ABSTRACT The increasing use and popularity of the truth commission coincides with an increasing interest in the study of transitional justice in general. Authors, politicians, and peace practitioners alike are all interested in learning how we can help societies wracked by gross human rights abuses and reconcile with their pasts with the ultimate goal of preventing future atrocities. Given the relative newness of the truth commission as a transitional justice option, there is much to study. One area of study that lacks attention rests with the idea itself: Why has the truth commission gone from a non-existent transitional justice mechanism to an accepted one so quickly? This paper opens discussion on this issue by examining possible reasons truth commissions have become so popular.

KEY WORDS:
Truth Commission, Transitional Justice, Reconciliation

RESUMEN La popularidad de las comisiones de la verdad coincide con un interés por el estudio de la justicia transicional en general. Autores, políticos y activistas por la paz están todos interesados en aprender cómo se puede ayudar a las sociedades devastadas por graves violaciones a los derechos humanos a reconciliarse con su pasado con el propósito final de prevenir futuras atrocidades. Sin embargo no se ha indagado acerca de las razones por las cuales las comisiones de la verdad han sido aceptadas tan rápidamente como mecanismo de justicia transicional. Este trabajo examina posibles razones del porqué dichas comisiones se han vuelto tan populares.

PALABRAS CLAVE:
Comisiones de la verdad, justicia transicional, reconciliación.

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If yu no no sai yu de g yu fo no usai yu commo… You must be certain of from where you come even if you are uncertain of where you will go.

Krio proverb popular in pre-war Freetown, Sierra Leone (Pham, 2005: xxi)

Introduction

During Liberia's Fall 2005 presidential election campaign, candidate Ellen Johnson-Sirleaf made clear that she was not interested in pushing for a war crimes court. Upon winning the election and taking office, she announced the creation of the Liberian Truth Commission. She remarked that she saw trials as "secondary" and stated: "In my own life I have come to believe that when the truth is told, humanity is redeemed from the cowardice claws of violence" (BBC, 2/12/2006). A year later, in November 2006, imprisoned leaders of Colombia's right-wing militias began calling for a truth commission in order to confess their actions in Colombia's brutal civil war. A statement signed by the paramilitary leaders reads: "We understand and accept that a fundamental part of the Justice and Peace Law lies in the confession of the truth of what occurred in the recent history of our national tragedy" (*International Herald Tribune,* 11/23/2006). These anecdotes are representative of a recent trend in international politics. Freeman (2006: 11) writes: "Despite its Orwellian name, the truth commission has become a preferred fixture of international law and politics alongside international and hybrid criminal tribunals".

Over thirty countries around the globe have implemented truth commissions since 1982 (see figure 1), and calls for new commissions have been raised in numerous others. As Kelsall (2005: 362) explains, "Demands for the

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truth, and for commissions to investigate it, are becoming the norm in societies emerging from periods of violent conflict or authoritarian rule". In a similar vein, author Ameh (2006: 105) argues in support of Ghana's decision to implement a truth commission: "A TRC is not a panacea for all the problems encountered in a transitional democracy, but it offers a better solution and hope than the alternatives available". The case has even been made for the creation of a Permanent International Truth Commission (Scharf, 1997). Just three decades ago, the truth commission was not even on the international radar screen, much less touted as a better alternative to criminal justice proceedings, or seen as a norm in the transition to democracy.

The increasing use and popularity of the truth commission coincides with an increasing interest in the study of transitional justice in general. Authors, politicians, and peace practitioners alike are all interested in learning how we can help societies wracked by gross human rights abuses reconcile with their pasts. Ultimately, transitional justice offers hope of preventing future atrocity. The study of truth commissions –and of transitional justice and reconciliation in general– is in its infancy. Given the excitement of the promise that truth commissions hold, it is unsurprising that this area of study continues to grow exponentially. Yet, there is still so much we do not know. As Kritz writes:

> Although logic, visceral reactions and anecdotal evidence suggest that these bodies –when properly structured, staffed and financed and when understood to be part of an integrated and carefully tailored package– make valuable contribution to a society's reckoning with large-scale, systemic abuses and to laying a foundation for needed reforms, a distance of less than two decades since the first of these commissions is not enough to determine their long-term impact (2003: 43).

Kritz is among many authors who have pointed out limitations in the study of truth commissions. Roper and Barria (2007: 20) write, "… most of the research in this area has focused on the consequences rather than the causes of truth commissions". Much of the information we do have on truth commissions rely on "… normative conviction and anecdotal evidence" (Brahm, 2007). Mendeloff (2004: 356) argues that "Claims about the peace-promoting effects of formal truth-telling mechanisms rest far more on faith than on sound logic or empirical evidence" and that truth-telling advocates often overstate the significance of such mechanisms. Defenders of truth-telling, he writes, claim that it is too soon to judge the effectiveness of truth-telling. In response, he asks: "If it is too soon to pass judgment on truth-telling, why is it almost universally endorsed as an effective and important peace building tool?" (Mendeloff, 2004: 375).

There are other areas of study on truth commissions that lack an honest examination. One of these rests with the idea itself: Why has the truth commission so quickly gone from a non-existent transitional justice mechanism to a commonality? This paper seeks to open discussion on this issue. It is important to critically examine the reasons behind our fascination, optimism, and increasing promotion of the truth commission alongside continued study of their impact and effects on societies. I do so by offering an initial list of possible explanations followed by a brief analysis.

It may be that truth commissions are implemented for *negative* reasons –that is, because they are better than doing nothing at all, or because they assuage a sense of guilt over the failure to actively prevent the atrocities in the first place–. Conversely, truth commissions might be implemented for positive reasons, because they are in effect a product of increasing returns in the growing interest in utilizing transitional justice strategies. Or, they may be implemented because they legitimately work. I work under the assumption that even if implemented for the wrong reasons, truth commissions may make valuable contributions, and that even if implemented for the right reasons, they can have detrimental effects. In any case, scholars and statesmen alike continue to jump on the truth commission bandwagon. It is my hope that engaging in a discussion that seeks to understand the reason why the truth commission has become so popular can actually contribute to more appropriate use of truth commissions, and more realistic analyses of their success.

The "better than nothing" explanation

It is commonly accepted, particularly within the legal community, that the truth commission is the softer option to criminal proceedings (Kritz, 2003). The trial, with its emphasis on retribution, prosecution and justice, is perhaps the best recognized mechanism for dealing with past abuse. The benefits of prosecution include: enhancing the prospects for solidifying the rule of law, educating citizens about the wrongs of the past, identifying victims for compensation, punishing those responsible, deterring future violations, and healing societal wounds (Landsman, 1996). "It has been argued that society cannot forgive what it cannot punish. If that argument is correct, the first real step to restoring social harmony comes with prosecution" (Landsman, 1996: 84). Dancy and Poe (2006: 4) argue that this viewpoint is mostly projected by lawyers and scholars versed in international law. In addition to holding perpetrators accountable, trials are sometimes also seen as a key foundation for future adherence to the rule of law. Thus, authors have argued that trials contribute to the solidification of democracy (McAdams, 1997; Orentlicher, 1991). Yet, it is not always possible to implement trials.

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In many transitions the prior regime retains a substantial degree of influence, "The abusive forces of the past often continue to wield some measure of political authority and military or police power" (Freeman, 2006: 9). In such cases, the likelihood of domestic prosecutions is greatly lowered because the former leadership can effectively prevent formal charges from being brought against them. If the new leadership does take such action, they risk putting a fragile new democracy at risk. A United Nations, UN, publication on truth commissions states:

> While truth commissions do not replace the need for prosecutions, they do offer some form of accounting for the past, and have thus been of particular interest in situations where prosecutions for massive crimes are impossible –or unlikely– owing to either a lack of capacity of the judicial system or a *de facto* or *de jure* amnesty (2006).

Huntington (1991) suggests that one of the key questions of an incoming government is whether they will acquiesce to public demands for accountability and risk upsetting a tenuous balance of power with the prior authoritarian regime, or succumb to the demands of that prior regime and initiate amnesties, or do nothing at all. Brahm (2007: 29) notes that balance of forces at the time of transition "... is frequently implicated as the most important variable in explaining where truth commissions is likely to emerge". This explanation is based on the notion that the truth commission is possible when punitive options such as domestic or international tribunals are not.

Another reason trials may not be a reasonable transitional justice solution is because societies in transition often lack the institutional legal capacity necessary to function according to international standards, and trials perceived as unfair may end up causing more harm than good. A judicial system that is not functioning up to par may simply be incapable of handling hundreds or thousands of trials fairly and in a timely manner, as the Rwandan situation has clearly exposed. The administration of justice, including the police, prosecutors, and judges, are weak and often corrupt (Freeman, 2006). Furthermore, the monetary cost of doing so is likely to be more than a struggling new democracy can afford (Freeman, 2006).

Determining whom to try –and whom not to try– can also lead to strong societal divisions. A last potential hurdle for countries enacting trials in transition are legal constraints such as diplomatic immunity and the sticky question of trying individuals for acts considered legal under the previous regime, or "retroactive justice" (Kaminski *et al*., 2006). Germany faced this dilemma in post-unification trials that attempted to hold border guards accountable for shooting citizens attempting to cross from East to West (Teitel, 2000).

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Truth commissions "… have become popular because of their ability to fit nicely within the environment in transitional regimes", write Dancy and Poe (2006). Scholars have suggested that truth commissions offer a politically acceptable alternative when trials are not viable, and amnesties are not acceptable to the public. In other words, the truth commission is less desirable to the public than trials, yet is acceptable to an outgoing regime that seeks to protect itself from prosecution, and still satisfies public demand for some type of reckoning with the past.

The "after fact" explanation

In this age of interest in upholding human rights ideals, catastrophes like Rwanda, Srebrenica, and Darfur deal a blow to the credibility of these principles. Keating writes:

> Peace building is in effect an enormous experiment in social engineering an experiment that involves transplanting Western models of social, political, and economic organization into war-shattered states in order to control civil conflict: in other words, pacification through political and economic liberalization (2003: 172).

He argues that one source of pressure on governments and organizations to intervene in civil conflicts emanates from the emotional reactions of citizens, "… who when confronted with images of suffering in the media turn to their governments and demand that some action be taken to help those suffering, and to remove these horrific images from their television screens and newspapers" (Keating, 2003: 176).

Certainly truth commissions are not the only option available to deal with the past. Nor does the international community necessarily prefer truth commissions over trials. Yet, supporting the implementation of any kind of transitional justice gives the opportunity for the international community to contribute to societal rebuilding in countries where they harbor a moral guilt over not having contributed to crisis prevention. Lanegran (2005: 113) argues that the manipulation of memory is a "… potent tool in the powerful actor's arsenal. As a result, the official memory of past atrocities that the truth-seeking institutions sanction should be regarded cautiously as a product of a process shaped by the power balance among political actors". The powerful, she argues, seek to interpret the past to suit contemporary goals, and "both altruistic and selfish motives" play a role in the response to gross human rights atrocities (Lanegran, 2005: 115).

As an example, take the United States, which has been highly supportive of many of the truth commissions that have taken place in Latin America. In most of these countries, the U.S. was directly involved in bringing the authoritarian regimes under investigation by the truth commissions to power. In 1992,

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the U.S. State Department pledged one million U.S. dollars to support the El Salvador Truth Commission, and promised to provide information on cases the Commission investigated. "We are supporting this work", affirms the U.S. State Department Bulletin –*U.S. State Department Dispatch Magazine,* 1992–. The following year, Secretary of State Madeleine K. Albright said, "The Truth Commission in El Salvador has completed its healing work" and the Office of the Assistant Secretary/Spokesman in Washington, D.C. announced the creation of a panel "... to examine the implications of the UN-sponsored El Salvador Truth Commission report for the conduct of U.S. foreign policy and the operations of the Department of State" (*U.S. State Department Bulletin* #25, 1993). I am not so cynical as to suggest that U.S. support and participation in El Salvador's Truth Commission or the participation of a number of Western nations and international organizations in general are solely driven by guilty consciences. However, such fiscal, logistical, and rhetorical support cannot be wholly separated from the circumstances under which human rights crises were created and allowed to escalate.

In terms of monetary cost, it makes economical sense to pledge support for truth commissions over trials or international tribunals. The cost of various truth commissions has run from less than $500,000 in Chad to $35 million in South Africa (Hayner, 2001). South Africa's Commission had the largest staff of any truth commission, with over two hundred individuals at various stages (Hayner, 2001). The budget for the International Tribunal for the Former Yugoslavia, ICTY, in The Hague for 2006 and 2007 alone is over $275 million. The total cost of this endeavor, which has just entered its fourteenth year, is just under one and a quarter billion dollars[1].

The "transitional justice bandwagon" explanation

The African term "*ubuntu*" became popularized during the South African Truth and Reconciliation Commission, TRC. The term represents the African concept of humaneness, or the sense of an inclusive community where all are valued. The term appeared in South Africa's interim constitution, calling for "... a need for understanding but not for vengeance, a need for reparation but not for retaliation, a need for *ubuntu* but not for victimization" (Kiss, 2000: 81). The understanding that restoration is necessary after violence is not a new concept. The idea of transitional justice can be found in cultures all over the world, from the Japanese to the Maori, from the Judeo-Christian tradition to African ones (Kiss, 2000).

1 *ICTY Regular Budget.* Available at: http://www.un.org/icty/glance-e/index.htm

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During the time of the Roman Empire there is evidence that the Athenians implemented both retributive measures and measures of restitution during two democratic restorations; one took place in 411 BCE, the other in 403 BCE (Elster, 2004). Similarly, the French restorations of democracy that took place in 1814 and 1815 are characterized by the enactments of broad-sweeping amnesties, restitution of property, and vast purges in public administration (Elster, 2004).

Despite this historical interest in transitional justice, it has only been in the last twenty or so years that the field has exploded as a topic of study. Most often, Nuremburg –and to a lesser extent the Tokyo trial–, is pointed to as the pivotal modern example of transitional justice. Kritz writes,

> The judgments of the International Military Tribunal and the subsequent trials at Nuremberg established basic principles regarding command responsibility, the defense of "just following orders" and other points that influence the debate over accountability in new transitions fifty years later (2003: 23).

Freeman explains how the post-World War II environment set the stage for the emergence of transitional justice:

> The field of transitional justice arose as a result of many global developments, including the events and aftermath of the Second World War –which saw major war crimes trials, massive reparation programs, and widespread purges– as well as transitions out of war in places ranging from El Salvador to the former Yugoslavia to Sierra Leone. The development of transitional justice was also prompted by transitions –or returns– to democracy in Southern Europe in the 1970s, Latin America in the 1980s, and Africa, Asia, and Central and Eastern Europe in the 1990s and beyond (Freeman, 2006: 5).

Kritz (2003) also lists a number of contemporary standards related to transitional justice efforts including the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Civil and Political Rights, Basic Principles on the Independence of the Judiciary, and the Basic Principles for the Treatment of Prisoners in 1990, to name only a few.

One survey, limited to English and German language literature found approximately one hundred and fifty books, chapters or articles published on the topic of transitional justice between 1970 and 1989. In the decade that followed, there were more than one thousand publications on various aspects of transitional justice –a 13-fold increase (Kritz, 2003)–. Since 2001, there have been an average of nearly three truth commissions established every year (Freeman, 2006). Many within the "justice cascade", a global network that is part activist and part epistemic community, have become enthusiastic proponents of the truth commission model (Brahm, 2007: 17). Within the field of transitional jus-

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tice, the truth commission has emerged as a leading contender for transitional justice mechanism of choice. Or, as Dancy and Poe (2006: 1) more amusingly describe it: "If we analogize policy options as items on a restaurant menu, then commissions of inquiry have become the dinner special for decision-makers dining in countries of transition".

The South African, TRC, is often pointed to as the key factor for this. Roper and Barria (2007: 3) find that after South Africa's TRC, the idea of a truth commission effectively became internationalized. Freeman (2006: 24) writes: "Everything then changed with South Africa's TRC, the first truth commission with a truly international, as opposed to local or regional impact… –South Africa's TRC– not only brought the power of public hearings to global attention but also demonstrated that a commission could be victim-centered and public at the same time". In addition, Freeman notes that since the TRC, truth commissions have benefited from increasingly robust mandates and resources.

Another factor that played a key role in raising the status of the truth commission has been the increasing support from international organizations. In the 1990s, NGOs such as Human Rights Watch, HRW, began to back transitional justice efforts around the globe. For example, in 1994, HRW made accountability the *centerpiece* of their human rights efforts:

> When it comes to crimes against humanity, governments have an effective obligation to investigate, prosecute and punish them, to disclose to the victims and to society all that can be known about them, and to grant the victims moral and material reparations. If effective punishment is not possible, governments nonetheless are bound to promote an official account; to allow and encourage efforts by civil society to document and publicize the violations; and to purge the armed and security forces of those elements who have participated in or tolerated such abuses (*HRW World Report*, 1994).

A decade later, the language HRW uses is considerably stronger. In 2004, the annual HRW report states:

> In the last few years, opposition to this nascent system of international justice has intensified and today the landscape is less hospitable to the types of advances that took place in the 1990s. In this context, those supporting efforts to hold the world's worst abusers to account need to take a hard look at recent experiences to chart the path forward. The victims who suffer these crimes, their families, and the people in whose names such crimes are committed deserve nothing less. In so doing, it is necessary to emphasize that although international justice mechanisms provide imperfect remedies, they are a vitally necessary alternative to impunity (*HRW World Report,* 2004).

The United Nations has also become a strong advocate of transitional justice. In 2006, the Office of the United Nations High Commissioner for Hu-

man Rights released a series called "Rule of Law Tools for Post Conflict States" which includes a handbook specifically designated to helping states design and implement truth commissions. The book states, "The United Nations and other international actors, working together with local activists and officials, are well placed to provide the kind of assistance that will be needed for such commissions to be effective". Brahm (2006: 2) argues that the "United Nations has also come to support the idea of a truth commission and has worked to incorporate one into virtually every subsequent peace agreement it has been involved in since the early 1990s".

Mendeloff (2004: 355) succinctly summarizes the growth of the transitional justice field when he writes: "Over the past decade a general consensus has emerged on the need for states and societies to address past crimes and misdeeds in the aftermath of war and violent conflict". And when Hayner (2001) notes that "It is certain more countries will be turning to official truth-seeking in the coming years", she captures the reality of truth commissions as the centerpiece of the push for transitional justice. In effect, a "transitional justice industry" is being developed. This not only means that truth commissions are increasingly studied, but also that a self-perpetuating chain of events is in motion resulting in the increasing promotion of and demand for truth commissions.

"They work" explanation

Though newest on the list of transitional justice choices, the truth commission has quickly surpassed a number of other options as a mechanism of choice. In some ways, it has been promoted as a mechanism that can overcome the pitfalls of the trial. Advocates of truth commissions propose that it offers a third way between trials and forgetting (Tutu, 1999). As previously discussed, advocates also point out that trials are ineffective in response to gross human rights violations such as genocide or wide-spread state sponsored abuse, but that truth commissions specifically aim to incorporate all members of society. It is suggested that the ability to tell their story has a cathartic effect on victims. Furthermore, truth commissions are not restricted by judicial rules and because they have no prosecutorial powers, victims are not subject to cross-examinations.

Truth commissions often have the explicit goal of placing human rights abuses into a historical context. That is, they attempt to help society understand how this could have happened. In many cases, a key component of the human rights abuse was denial on the part of the prior regime to admit complacency; the dissemination of final truth commission reports are an attempt to set the record straight. Claims made in support of truth commissions can

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be divided into several categories: 1) has a deterrent effect; 2) contribution to reconciliation, 3) promotes individual psychological healing; 4) contribution to democratization[2]. I examine each of these briefly[3].

Deterrence

Truth commissions exist, write Rotberg and Thompson (2000: 6) because societies are "... unwilling to forgive and forget, refusing to move on without confronting the repression of its precursor generation". Landsman (1996: 88) writes: "The record a truth commission can develop is the most powerful tool available to inoculate a society against dictatorial methods". Although there is little evidence to support that truth commissions actually prevent future violence, they are thought to have a deterrent effect by demonstrating that crimes have consequences. Furthermore, the mandates of most truth commissions require an in depth evaluation into the circumstances that allowed a rights-abusing system to emerge and retain power. As Brahm (2007: 19) writes: "By focusing on the underlying causes of conflict and human rights abuses such as rules and practices rather than on individual perpetrators, restorative approaches like truth commissions may be better able than trials to facilitate needed political and cultural change...". This implicitly suggests that knowing how violence occurred will allow for the prevention of the reoccurrence of violence in the future.

Writing about the Argentinean truth commission, Robben (2005: 131) explains that the military had "... a head start in the politics of memory by obliterating the bodies of the assassinated disappeared, thus attempting to confine the traces of their repression purely to the discursive domain". The truth commission offered victims, their families, and society as a whole the chance to confront and to challenge the dominant narrative. Even though individuals indicted by truth commission testimony rarely face prosecution, "the revelations harm their image and they may suffer social stigma" (Brahm, 2007: 27).

Psychological healing

One of the major claims that truth commission supporters make is that the act of truth-telling provides victims with a cathartic or therapeutic experience (Hayner, 2001). "Echoing the assumptions of psychotherapy, religious confession, and journalistic muckraking, truth commissions presume that telling and hearing truth is healing" (Minow, 1998: 61). When individuals share their

2 Mendeloff (2004) divides the benefits of truth-telling –as opposed to commissions– into similar categories.

3 I want to make clear that these claims are highly contested. This discussion on their ascribed benefits is meant to contribute to the main question this paper attempts to answer, namely, why truth commissions are so popular.

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experiences, "… the trauma story is transformed through testimony from a telling about shame and humiliation to a portrayal of dignity and virtue, regaining lost selves and lost worlds" (Minow, 1998: 66). In addition to the benefits of giving testimony, Minow (1998) explains that official acknowledgement is thought to help individuals heal. Quinn (2003: 9) writes: "There is a strong and causal relationship between acknowledgement and forgiveness, social trust, democracy, and reconciliation". As an example of how this can work, Kaminski *et al*. (2006: 299) cite that a truth commission could help Serbs "… acknowledge that their leaders' representatives perpetrated on their behalf. A commission that tells the story in a comprehensive way, investigating the motives and producing a broad account of what happened, will help heal ethnic divisions better than one focused on assigning responsibility to particular acts".

The act of truth-telling itself in front of a truth commission differs drastically from that which occurs at a trial. Whereas trials are perpetrator focused, truth commissions are instruments of victim-centered justice. Trials are often inattentive to the needs of individual victims because procedural justice is different from substantive justice, "Alone, systems of laws do not address what society means by giving each his due". Substantive justice, on the other hand, "… is about the actual definition of harms awarded legal recognition (…). Even if injuries are legally cognizable, a disjuncture exists between the sorts of satisfaction promised by formal and substantive justice" (Rosenblum, 2002: 81-2). Because formal justice focuses on procedure, it is not directed at the victim but at society and the defendant.

While trials do address the needs of victims by giving them the ability to tell their story on the stand, psychologists have pointed out that they do so in a controlled manner and in an often hostile environment (Herman, 1992; Rosenblum, 2002). Conversely, truth commissions treat testimony not as "arguments or claims in a court of law" but as personal or narrative truth (Kiss, 2000: 74). This fact has led commissions to invent new practices and norms such as:

> … norms of respectful listening, which allow people to tell their stories without interruption; rituals of acknowledgement and respect –such as the practice, in stark contrast to that in courtrooms, of commissioners rising when witnesses enter to give evidence–; and the provision of support services by psychologists and social workers (Kiss, 2000: 73).

The idea that testifying can actually provide a sense of catharsis is highly contested. Yet, singular examples where this appears to have happened reinforce the belief that it is possible. For example, the following quotation appears on the back of every published volume of the Guatemalan Truth Commission report, *Guatemala: Memory of Silence*:

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> A witness showed us the remains of one of the victim's bones. He had these remains wrapped in plastic in a string bag: 'It hurts so much to carry them... it's like carrying death... I'm not going to bury them yet... I do so want him to rest, and to rest myself, too. But I can't, not yet... this is the evidence for my testimony... I'm not going to bury them yet, I want a piece of paper that will say to me "they killed him... he had committed no crime, he was innocent...", and then we will rest (Chapman and Ball, 2001: 12).

Reconciliation

While the term "reconciliation" is undeniably vague and often ill-defined, many authors nonetheless claim that there is an important relationship between truth commissions and national reconciliation. Chile, in 1991, was the first to include the term "reconciliation" in the title of its commission, signifying an emerging understanding of the role that such investigations were meant to play. Once South Africa followed suit in 1995 a precedent was set. After South Africa, eight more countries have included the word "reconciliation" in the title of their commissions. A number of countries have tried to integrate the goal of reconciliation directly into their work. For example, in South Africa, the TRC created a Register of Reconciliation for people to write their reactions even if they were not victims themselves, or did not seek amnesty.

> The TRC steers the victims toward reconciliation; it officially describes the register as affording "members of the public a chance to express their regret at failing to prevent human rights violations and to declare their commitment to reconciliation" (Minow, 1998: 75).

In general, truth commissions specifically aim to incorporate all members of society. This has been done in a number of ways, through detailed news coverage, the distribution of the final report, and through official encouragement of discussion, debate, and analysis. Additionally, the format of truth commissions make them better positioned than trials to affect a greater number of individuals. For example, despite its extended existence and substantial budget, the ICTY has initiated ninety indictments/proceedings. Compare this to truth commission investigations, which regularly take testimony from several thousand individuals and often include a substantial amount of this testimony in their final reports.

Democracy

One of the more recent topics of interest for those who work on transitional justice is an inquiry into the relationship between various transitional justice mechanisms and the consolidation of democracy. Transitional justice mechanisms are seen to play a critical role in facilitating the transition to de-

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mocracy. Supporters of transitional justice contend that, "… the seriousness with which these states act upon the crimes and abuses of their former leaders today will go a long way toward winning popular credibility tomorrow and instilling confidence in democratic norms and values" (McAdams, 1997: x). De Brito *et al.* (2001: 1) call the decision of how to deal with the legacies of the past "… one of the most important political and ethical questions that societies face during a transition from authoritarian or totalitarian to democratic rule". Newly democratic governments implement transitional justice mechanisms to demonstrate a clear break with the past by restoring the moral order of a damaged society and indicate their resolve to adhere to democratic humanitarian standards (McAdams, 1997). Authors who have done research on transitional justice implemented in post-transition societies find that the responses of new leaders and governments to questions about the past are "… directly relevant to the quality and sustainability of democracy" (McAdams, 1997: xv).

There is also evidence to suggest that the truth commission is beneficial to the democratization process. There are a number of ways that truth commissions are thought to contribute to establishing quality democracies. In demonstrating a willingness to deal with the past, truth commissions can help establish a new pattern of human rights. In addition, the truth commission attends to individuals by both individualizing criminality and acknowledging individual suffering and may also help with judicial reform (Brahm, 2005). Furthermore, as previously discussed, truth commissions are often presumed to contribute to societal reconciliation, which according to Dugard (1997: 286) "… is essential for the building of a new nation".

While there is not a whole lot of empirical evidence to support that a positive relationship exists between the establishment of truth commissions and democratic success, authors are increasingly attempting to explore this. Brahm (2005) has produced one of the first –and only– analyses of the impact of truth commissions on both democracy and human rights. While his quantitative analysis found that truth commissions had little impact or no impact on democratization efforts and were actually negatively related to measures of human rights, several authors who have examined the South Africa case have made tentative claims that truth commissions did have an impact in these areas. Rodio (2007) looks specifically at how education policy demonstrates support for democratization and did find that the TRC did have an impact. Brahm (2005) provides an overview of the purported benefits authors have claimed truth commissions have in the creation of a human rights culture. These include institutional reforms and educational benefits. The release of truth commission reports also provide a roadmap for future protection of human rights by identifying institutional sources of past crimes and offering ideas about how

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to prevent future abuses through things like judicial reform, and changes within the police and military structure (Brahm, 2005).

Discussion

It is difficult to know which of these explanations is more appropriate for helping us understand why the truth commission has gained such popularity, both in practice and rhetorically in such a relatively short period of time. Yet, it is certain that the implications for the continued use of truth commissions differ depending on which explanation is accurate. There is an important difference between countries implementing truth commissions because they offer real promise for reconciliation or democratization, versus their being implemented on the advice of an international community attempting to ease a guilty conscience. If truth commissions are only utilized when trials are politically impossible, this sets up an entirely different set of expectations for truth commissions than if they are seen as truly able to deter future violence or contribute to societal healing. Similarly, there is a risk of truth commissions losing their potential benefits if they are only implemented as concessions to the international community. If truth commissions are actually a fall-back solution for the failure to prevent atrocities, there is a real danger that what was once a carefully chosen response to a unique demand for transitional justice will –or already has– become a one-size-fits all model, unable to appropriately deal with the diverse needs of particular societies. If there is no domestic demand and/or truth commissions are not adequately adapted to match these needs, they cannot serve their intended purpose.

On the other hand, if truth commissions are being implemented because they *work*, we need to produce evidence to that effect. Dancy and Poe (2006: 7) point out that, "Driven perhaps by difficulties in collecting cross-national data, or by the dearth of previous theoretical work on the subject, studies –on truth commissions– have veered toward case-study approaches". Without such evidence, countries can choose truth commissions on unsubstantiated assumptions and if they under perform in terms of providing reconciliation, or psychological healing, this can have extremely detrimental effects on a society.

Finally, if the reason truth commissions are being implemented stems largely from a wider trend and interest in utilizing multiple transitional justice strategies, this, too, has important implications. Only a few studies have sought to study the effect of multiple transitional justice strategies, despite the fact that countries are increasingly being encouraged to utilize as many transitional mechanisms as possible.

Dealing with the past is increasingly understood as a necessary component of democratic and post-conflict transitions and truth commissions are

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particularly encouraged by the international community. We must evaluate why truth commissions are being implemented with such frequency in addition to evaluating whether they indeed meet the heavy demands that accompany that specific nations' transition out of years, or even decades, of atrocious human rights abuses.

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