Along the Road to Reconciliation:  
The Challenges Facing the Truth  
Commissions of El Salvador and Guatemala

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I. THE THEORETICAL ROLE OF TRUTH COMMISSIONS IN ACHIEVING RECONCILIATION

Reconciliation is increasingly recognized as a necessary part of national reconstruction and building sustainable peace in countries recovering from intense internal conflict or repression. Reconciliation is a broad, challenging concept. Different interpretations of reconciliation as comprised of clarifying the truth, forgetting the past, acknowledgment of the victims, pardons and amnesties, trust, justice, and forgiveness are all debated in the political science field. As a mechanism for reconciliation, truth commissions also constitute an emerging phenomenon. They are increasingly utilized in conflict-torn countries seeking reconciliation. Over twenty truth commissions have been established around the world since 1973. Sierra Leone, Panama, and Serbia & Montenegro are some of the recent additions to this growing community of states climbing on the “truth for reconciliation” bandwagon.

Like reconciliation, “establishing the truth” can be an elusive goal. It is questionable if positing one national historical “truth” is fair or feasible. By some interpretations, truth and reconciliation are critiqued as contradictory rather than complementary goals. Yet, truth commissions and reconciliation are recognized increasingly internationally as being linked together. In what ways do the ideal of truth and the method of truth commissions promise to promote reconciliation? Does the work of these truth commissions really facilitate reconciliation in torn and divided post-conflict societies?

This paper seeks to explore truth commissions’ relationships to reconciliation both in theory and in two of the more recent cases of civil conflict in Central America. The internationally-praised “model” commissions of El Salvador and Guatemala provide lessons of how to structure
truth commissions in order to give reconciliation the most hope. These are lessons that are relevant to recently mandated truth commissions above and to the many that will follow. The paper will first lay out the complex concept of reconciliation and its principle components. Next, it will identify the ways in which these reconciliation ideals are reflected in and pursued by post-conflict truth commissions. It then will analyze this connection, recognizing the positive potentials and realistic limitations that truth commission work has to promote reconciliation. From there the paper will turn to a comparative analysis of the set-up, experience, and consequences of the Salvadoran and Guatemalan truth commissions in light of the ideal process and ultimate objective of reconciliation.

Reconciliation: Definitions and Interpretations

As the violence of a period of protracted internal conflict or repression subsides and signs of the authority’s new commitment to peace emerge – often through a peace accord between former political enemies – the country recognizes its aching need for healing. Healing within itself and across lines of tension is necessary in order to live side by side in peace, confidence, and mutual trust and to march forward together as contributing members of a cooperative society. This need they feel and call for is that of reconciliation. It can be a personally, morally, or politically motivated desire depending on the position of a person or group to the conflict and peace process. Given the potentially explosive issues and sensitivities that mine the road to trust, reconciliation implies immense challenges and lofty, yet necessary, ideals. Even the meaning and interpretation of this elusive concept – reconciliation – is debated within academic circles of outsiders and between members of these very societies and government institutions that are trying to understand the best way to seek it.
By some interpretations, reconciliation is seen as a goal within itself, an end, a state of mutual trust and peaceful coexistence. Marc Forget illustrates this interpretation when he explains, “Reconciliation can be viewed as one pole on a continuum that has hostility as its other pole.”¹ In the essay, “Truth Commissions, Transitional Justice, and Civil Society,” David A. Crocker cites at least three meanings of reconciliation, classifying them into “thinner” and “thicker” interpretations.² “Thinner” signifies a more realistic interpretation of reconciliation, while “thicker” is more idealist. At the base level, a “thinner” reconciliation can mean “simple coexistence” – the opposing sides agree to follow the law instead of killing each other.³ This first definition seems to be a compromise of mutual concessions – the concession of giving up violence. The two warring ideological and political poles of both El Salvador and Guatemala first needed to adhere to this mutual renouncement of violence to initiate the peace process. However, one cannot expect to further the healing and rebuilding process significantly by only achieving this minimal version of reconciliation. Societies need to aim for more advanced criteria whenever possible.

Moving a step up from this minimal conception of reconciliation, Crocker sets out a second interpretation of reconciliation: former enemies must live together nonviolently and respect each other as fellow citizens, even though they may continue to disagree.⁴ Mark Osiel identifies this level of reconciliation with the term ‘liberal social solidarity.’⁵ In this form of reconciliation, the different sides are able to engage in peaceful dialogue, sharing and listening to each other’s views patiently and earnestly. They uncover common concerns and then work collectively towards a compromise on public policy matters.

According to Crocker, the deepest and most advanced form of reconciliation is an ideal to which countries with real, collective intentions for building democratic institutions, participatory
civil society, legitimate governance, and lasting peace aspire. This “thicker” form of reconciliation can be either a “shared comprehensive vision, mutual healing and restoration, or mutual forgiveness.” Crocker names these three possibilities for signaling such ideal reconciliation, as it may appear in different forms depending on the circumstances of the conflict, actors, and cultures involved. A shared comprehensive vision – consensus on the past and future – may be possible when complete mutual forgiveness is not. While a shared, comprehensive vision demonstrates a positive, empowering mindset, its boundaries are ambiguous. With so many varying actors and opposing interests, it is difficult to know when to declare that society has reached a point such as “mutual healing and restoration.”

More than a goal, reconciliation is also a process, a means by which society can build trust and seek to live together peacefully and cooperatively. In his essay, “Changing Forms of Coexistence,” Louis Kreisberg defines reconciliation as the process of developing a mutual, conciliatory accommodation between formerly antagonistic groups. Marc Forget speaks of reconciliation as a process of transformation, “a difficult but tremendously powerful process that has the ability to transform individuals, communities, and whole societies.” In order to achieve reconciliation after devastating, divisive civil conflict, there needs to be gradual, long-term healing towards mutual agreement of facts of the past, tolerance for one another across previous lines of tension, and mutual commitment to pursue justice and prevent escalation of violence in the future. David Crocker lists many possible measures that aim to deal with the past actively: trials and punishment, truth commissions, international criminal tribunals, social shaming and lustration, public apology to victims, memorials, reburial of victims, compensation and reparations for the families of the victims, historical writing, and amnesty. National governments, parties to the former conflict, civil society, individual leaders, and the international
community are all viable actors in the post-conflict period. They explore, initiate, and drive different programs or actions that hope to facilitate reconciliation.

The broad concept of reconciliation may also be distinguished by two different spheres in which it operates: the macro-level and the micro-level. Macro-level reconciliation is often synonymous with “national” or “political” reconciliation between groups of people, parties, institutions, or nations, while micro-reconciliation refers to individual, local relationships between, for example, victim and perpetrator. A distinction is important because the experience of and the methods used for these two categories of reconciliation can differ significantly. The extent to which people can feel reconciled and the extent to which reconciliation may be possible at these two different levels often vary. One criminal trial that successfully punishes a certain perpetrator may advance individual reconciliation for the family of the one direct victim, but it may not advance a sense of national reconciliation very far until isolated convictions become a national movement against impunity. Similarly, memorials erected in memory of the victims or official, public apologies coming from the responsible authorities can be important moves for national reconciliation that help people (re)build trust among each other and with their governmental institutions. However, any single victim of a human rights violation may argue that such steps, although helpful for national reconciliation, still do not assist his/her struggle to feel reconciled with his/her own perpetrator. For many victims, micro-level reconciliation may plainly be psychologically impossible. More hope may exist for national reconciliation in the long term, provided that the country continues to actively engage in reconciliation efforts.

Reconciliation begins with society’s commitment to remember the past instead of forget it. Remembering can be painful, especially for victims who feel alone, isolated, and helpless in their grief and fear. People may feel inclined to push these memories of trauma or violence away
from one’s consciousness and disassociate them from one’s past. The government and parties guilty of committing atrocities look for quick options to forget the unpleasant past and to “move on,” allowing a return to the status quo. However, Bishop Nigel Biggar outlines three clear reasons why a policy of forgetting, a reaction all too common by governments of internal conflict-torn states, is not just, practical, or preventative:

First, some may be able to forget; but not, I think, the victims. Second, if government does not attend to the victims and their injuries, then it fails in one of its most basic political duties...protecting and upholding victims of injury...And Third, grievances without redress tend to fester...infect[ing] future generations with an indiscriminate hatred of the perpetrators and their descendants – and also with an endemic mistrust of the state.13

Forgetting the past in this way would be submission to the power of the same institutions and individuals who engineered and committed such injustice. It permits legacies of secrecy and denial and allows cycles of violence to continue without consequence. The guilty parties often pursue a “reconciliation” that serves their own political agenda, promoting the idea of pardons and amnesties as signs of forgiveness. They will push forgiveness between victims and perpetrators prematurely in order to claim “reconciliation,” and, thus, favor among constituents. This, no doubt, is false reconciliation. In order for national reconciliation, all sectors of society must agree that they feel reconciled. However, an agenda of amnesties for perpetrators, disingenuous apologies, scarce cooperation to find the truth, and no attention to the victims’ post-conflict needs for justice leaves the victims behind. In order to feel truly reconciled, victims and their families often need a very different agenda: prosecution and punishment.14 Collective exercises in memory provide these victims with the hope of recognition and empowerment. The active participation of authority figures in initiatives for the exposure of the truth, acknowledgment of the victims of abuse, and the pursuit of justice for the resurrection of the victims are essential in order to aspire to their eventual goal of reconciliation.
Reconciliation requires three essential components: full knowledge of the truth of the past, acknowledgement of the victims’ suffering, and justice for the victims and for society as a whole. Guilty parties must demonstrate genuine regret for and change from the past in order to gain or regain trust. Victims need opportunities to win back their dignity and their humanity, evidence that society recognizes their value, and new confidence to face their past and reconcile with the very individuals that caused them harm. Achieving trust and stability between individuals and among communities contributes to a stronger statewide reconciliation movement.

Carol A. Prager reminds us of the realistic limitations of any one initiative due to the painstaking, long-term nature of true reconciliation: “that fact that reconciliation is not terminated by the conclusions of war crimes trials or truth and reconciliation commissions must be faced. Reconciliation is never achieved once and for all, but occurs with alternate bouts of forward movement and the stasis of anger and grieving.”15 Thus, it is crucial not to set one’s expectations of truth commissions (or any other single measure) too high and risk disillusionment, but neither should one dismiss the positive value and the contributions it can have as an initial step in a series of efforts towards reconciliation.

**FIRST COMPONENT OF RECONCILIATION: Establishing the Truth**

_To seek the truth, to know the truth, to tell the truth –
for those who have endured the dark times of repression or conflict
this is the first requirement, a vital, existential need._

- Geneviève Jacques

Seeking and establishing the truth about atrocities committed during prolonged internal conflicts is not only essential to reconciliation, but is the first step that must be taken before other vital parts of reconciliation will be able to follow. This need for truth in order for reconciliation
presents certain challenges of pursuing an ideal so ambiguous and obscure. There is not one truth to be found. Many different truths exist within a country of diverse realities. There are different kinds of truth as well and some are more easily arrived at or explained than others. The two most prominently recognized branches are “forensic truth” (or factual truth) — the acts committed by whom, to whom, and when — and “emotional truth” — an understanding of psychological and physical impact of such fear and violence on the victims and their communities. Another type of truth relevant here to reconciliation, includes plausible interpretations of the causes of the original conflict and escalating violence and an analysis of the historical, social, political, and cultural context of the conflict.

Establishing the truth is an intricate process more accurately described as clarifying history based on a wide range of perspectives rather than finding the “one” truth. To ‘find the truth’ sounds like an absolute, terminable project, whereas clarifying history based on many truthful narratives is an endeavor than never has a definitive end.

Developing an official authoritative account of a contested past, and especially doing so in an objective and careful manner consistent with strict standards of historical and social science research, requires far more than accumulating anecdotal evidence to support widely held beliefs about what has happened and who is responsible.

By establishing or clarifying the truth of the past, the corrupt, systemized practice of secrecy, deceit, and denial is exposed and undermined. Once the implicated institutions or guilty individuals are revealed, they are newly vulnerable to pressure from civil society, constituents, and the international community to apologize and reform. If those implicated in atrocities can demonstrate genuine remorse and reform, as determined by the victims themselves, they will be able to begin to (re)gain the public’s trust — a pivotal piece of reconciliation. As Christian Tomuschat affirms,

...no government is entitled to hide the truth about its own involvement in a conflict, or the involvement of a predecessor regime. Only on the basis of the full truth can a people learn from the past and immunize itself against the danger of falling into the same trap as before.
Publicizing and educating a fuller, truer, impartial history prevents recurrence of tragedy. A historical narrative that consults those who have been traditionally marginalized and integrates their memory into a revised representation of a country’s history is more respectful of the distinct cultures within that country. At the same time, it seeks to unify the state under a fully participatory exercise of writing history. Jacques explains the importance of constructing a shared historical memory that lifts up the victim’s humanity out of the shadows of secrecy.

Awareness of and a sense of joint responsibility for how history has unfolded can come about only through the gradual construction of a “shared memory” which does not try to conceal either the victims or the guilty, the crimes or the acts of courage. Only in this way can a process of genuine reconciliation become possible, founded on recognition of each by the other.

Constructing a state’s national memory that includes, shares, and upholds the value of the varied experiences of its citizens, allows each person equal recognition. Leveling the power relationship between the victims and the guilty is the objective here; it helps to facilitate cross-sector communication and mutual cooperation in the future.

If a tradition of keeping the truth public and accessible is planted and continues to be supported, society will become more open and trusting and reconciliation of the past may be possible. Truth should not solely be upheld because of its healing potential, but because – more importantly – it is a basic human right. Michelle Parlevliet supports this with evidence from the UN’s recognition of the right to truth:

Internationally, a ‘right to truth’ is now recognized for both societies and individuals. For the former, it is considered essential to avoid the repetition of crimes in the future. For the latter, it is part of an effective remedy for violations. This right is included in a set of principles prepared for the United Nations with a view to combating impunity.

Establishing the truth is critical to reconciliation because it helps the families and communities mourn the loss of their loved ones with a better understanding of the circumstances and broader context of their deaths. A lack of answers prevents those left behind from entering into an effective, vital grieving process. To many indigenous peoples, including the Maya who
suffered most of the 45,000 disappearances during the Guatemalan civil war, it is an offense and outrage not to be able to carry out essential rites of mourning.²³ The final report of Guatemala’s truth commission, the Commission on Historical Clarification explains:

For all cultures and religions in Guatemala, it is practically inconceivable that the dead not be given a dignified burial; this assaults everyone’s values and dignity...The CHC has concluded that the existence of clandestine and hidden cemeteries, as well as the anxiety suffered by many Guatemalans as a result of not knowing what happened to their relatives, remains an open wound in the country. They are a permanent reminder of the acts of violence that denied the dignity of their loved ones.²⁴

In the midst of such confidence in truth’s virtues vis-à-vis reconciliation, this optimism should not purport a direct causal relationship between ‘truth revealed’ and ‘reconciliation achieved.’ Tuomas Forsberg cautions against idealistic slogans such as “Truth is a road to reconciliation”²⁵ because there is no certainty that the revelation of truth leads directly to healing and rebuilding a shattered past.²⁶ Establishing the truth does not necessarily bring about reconciliation because there are a host of outside factors at play. The immediate watershed effect of the truth-revealed on reconciliation depends on the reaction of various sectors of society (government, civil society, public, etc.) and whether or not they are spurred to act. If such truths are ignored, the positive effects of truth-telling on reconciliation will likely be negligent. If the truth is effectively recognized, sparking a movement for remembrance and restorative justice, and if the government does not block retributive justice in the courts for the victims, the truth could lead directly and swiftly to valuable levels of reconciliation.

SECOND COMPONENT TO RECONCILIATION:

Acknowledgement of the Wrongdoings Against the Victims

Once a more complete unbiased truth of the past atrocities has been revealed society must acknowledge its value as the truth. Acknowledging is distinct from just knowing because it
requires an added element of action. Acknowledging the truth implies actively recognizing the truth to oneself, being able to volunteer this truth aloud to the public and to the victim, and feeling affected by this truth. Acknowledging information once conscious of it is the opposite of choosing to ignore it. Trudy Govier describes acknowledgement as “a necessary condition of willingness to make restitution and commit to positive change.”

Following devastating internal conflict that either divided the country or rose out of existing divisions, it is important that the government and guilty parties extend gestures of acknowledgment to the victims. The gestures might include official apologies, reparations including compensation and social services, and enactment of systemic reforms that address injustice at the root of conflict. “Ignoring history leads to collective amnesia, which is not only unhealthy for the body politic but essentially an illusion: an unresolved past will inevitably return to haunt citizens,” warns Jeremy Sarkin. Victims are silenced, socially marginalized, and brought down to a sub-human level by horrible offenses to their pride. However, acknowledgement of the victims and the brutal crimes committed against them means recognizing the dignity of the victims once again. Genuine attention in this way helps restore this essential human dignity and facilitates their personal healing. It provides initial empowerment for the victims. Victims need some base level of confidence in order to seek out reconciliation with their perpetrators. On the perpetrator side, official acknowledgment of the victims and the crimes they perpetrated discourages denial. It pushes guilty parties to see the cruel reality of their acts and to face their long-avoided moral conscience. Many combatants or officials never want their children to get involved in the same gruesome violence. Recognizing that his/her acts were wrong may lead them to guard against them in the future. Once this hope in and commitment to change is engendered in all sectors of the population that participated in or
were affected by the former conflict, reconciliation for the sake of future generations may indeed be possible.

**THIRD COMPONENT TO RECONCILIATION:**

**Restorative and Punitive Justice for the Victimized**

The process of reconciliation must include justice: accountability for perpetrators and the righting of wrongs committed against innocent civilians. “The ultimate goal of justice is...to make peace – by repairing damage, protecting victims, and reforming criminals – both apart from, and also through, retributive punishment,”\(^2^9\) according to Bishop Nigel Biggar. People of traumatized societies, like those of El Salvador and Guatemala, yearn for a sense that justice has been done following tremendous violations of human rights, especially committed by governmental authority. They ache for a definitive resolution. Geneviève Jacques explains, “the victims need public recognition of the wrongs they have suffered and need to see those responsible identified, named, and held to account.”

Punishing the guilty has the potential to bring a clear sense of relief and resolution – a sense that justice has been done – to the victims, families, and general public. After suffering direct damage or the death of a loved one, it is common to want retribution. The goal is that victims and families who feel a need to inflict revenge may do so peacefully through the court system, rather than resorting to one’s own devices. Instead of committing another wrong in response, the wrong is righted. Court convictions of those responsible for disappearances and torture can be rehabilitating and give a sense of protection to the families and friends of the victims.\(^3^0\) Other punitive measures could include removal from office or public service or obligation of financial compensation to the victims or families. Agents of such punitive methods of justice argue that
the convicted “got what they deserved” — social stigma, moral humiliation, and restrictions of freedom. They are troubled by the perpetrator’s lack of feeling and sympathy in his/her exertion of power over the victim. Punishment can potentially relieve family of the victim’s emotional pain because it finally reverses the power relationship. The conviction functions to exert power over the perpetrator and deny him/her sympathy. Just as the victim and his/her loved ones were consequently held captive psychologically, emotionally, and physically by the violence inflicted upon him/her, the perpetrator must be held captive, bound to his own actions, and denied freedom and human dignity. The victim’s power and sympathy from the authority and society are restored.

Effective justice comes in other forms besides the above retributive criminal trial method. Favoring a more constructive restorative justice, Bishop Biggar argues, “Justice is primarily not about the punishment of the perpetrator, but about the vindication of the victims, both direct and indirect.”

Minow writes about the reparative value of restorative justice that it is essential for national reconciliation of different sectors of society:

Restorative justice emphasizes the humanity of both offenders and victims. It seeks to repair social connections and peace rather than retribution against the offenders. Building connections and enhancing communications between perpetrators and those victimized, and forging ties across the community, takes precedence over punishment or law enforcement.

These aims of restorative justice reflect a practical view about human psychology. They are unlike retributive approaches, which require inflicting suffering of another in order to raise one’s self up, but may reinforce anger. In contrast, reparative approaches instead aim to help victims move beyond anger, a sense of powerlessness, and destructive desire for revenge. Restorative justice specifically seeks to stop a cycle of violence, while empowering the victimized. Typical restorative justice measures include the exhumation, return, and reburial of relatives’ remains, the opportunity to tell their stories of suffering publicly, and compensation or reparations to
victims and families. It is important that when speaking about reconciliation and justice, punitive court trials are not the only mechanism seen as pursuing justice. Any method used that raises up the dignity of the victims after having been dehumanized by the offender or holds the perpetrators accountable to their wrongful acts, furthers the ideal of justice.

Given the above explanation of reconciliation as both a goal to which conflicting parties should aspire and a process, encompassing three vital ideals of truth, acknowledgment, and justice, it’s now pertinent to explore truth commissions’ potentials for demonstrating and promoting these goals of reconciliation. While some truth commissions have earned respect as model commissions investigating the past, there are no binding rules of structure. Each of the more than twenty truth commissions established around the world since 1973 is unique.33 Truth commissions in general, however, have the same overarching goal of airing the truth of the past in order to facilitate societal and individual-level healing and reconciliation in the future. A truth commission can be more or less nurturing of reconciliation, partly depending on its specific context, structure, and mandates. Still, truth commissions have great potential to make significant progress towards ideals of truth, acknowledgement, and restorative justice.

**Truth Commissions as Agents of Reconciliation**

*Truth telling is delicado (delicate), as the saying goes in Guatemala, as it means making judgments about what is and what is not important about the past and the future.*

- Jennifer Schrimer34

Priscilla Hayner, author of * Unspeakable Truths: Confronting State Terror and Atrocity*, supports the turn toward truth commissions as official bodies that facilitate safe, truth testimony
and seek to unearth the truth lying silently under the terrible secrets of the past. As Audrey Chapman and Patrick Ball clarify, “the importance of truth commissions might be described as acknowledging the truth rather than finding the truth.” Establishing an ample, genuine history of the citizens of the country is an indispensable key to reconciliation. The people must first understand fully from what painful memories the country needs to heal and with whom it needs to reconcile.

Truth commissions are temporary, non-judicial investigatory bodies that are usually formed during political transition or reform and after cessation of violent internal conflict. During such periods of tenuous peace, uncertainty with how to deal with the past, and insecurity of the future, truth commissions emerge as mechanisms to provide some clarity, direction, and goals. They focus on the past, identifying patterns of abuse and human rights violations over a specific segment of history. Commissioners sift through evidence and documents and gather personal testimonies from different sides of the conflict and regions of the country. Truth commissions delve thoroughly into the details of the tactics used, acts committed, detention center locations, and perpetrator identities. They can investigate a wide range and large number of cases. They discern overall patterns, institutional context, and general causes and consequences of atrocities. Truth commissions have no jurisdiction to officially judge and claim the guilt of those identified as perpetrators and usually lack the power of subpoena. However, they look at the broader responsibility of certain negative social and economic forces and at the root causes of state political polarization and discrimination. They identify dangerous political, social, or cultural patterns of exploitation, corruption, and violence. Finally, at the end of their term truth commissions submit a report that reveals their findings and makes conclusions and recommendations. The reality is that the commissions have the awesome responsibility writing
or re-writing history. As Chapman and Ball explain, “the documentation and interpretation of truth is more complex and ambiguous than many analysts and proponents of truth commissions assume. Social, technical, and methodological constraints, as well as epistemological limitations of what can be known, all affect a commission’s ability to produce an authoritative account.”

Sarkin highlights, “Even though there cannot be one final “objective truth” it is critical that the version of ‘the truth’ arrived at by the commission embraces the experience of all.”

The idealism required and the intention to foster reconciliation is inherent in the truth commissions. The principle components of reconciliation – truth, acknowledgement, accountability, and justice – appear clearly below in what Priscilla Hayner outlines as the four main purposes for all truth commissions:

(1) to clarify and acknowledge the truth;
(2) to contribute to justice and accountability;
(3) to outline institutional responsibility and recommended reforms; and
(4) to promote reconciliation and reduce tensions resulting from past violence.

The extent to which a truth commission is successful according to these objectives can depend on certain aspects of the truth commission itself and on independent factors like national political context, social climate, and international pressure. Truth commissions do not operate in a vacuum and, therefore, they will inevitably face political limitations. However, considering the legacy of impunity or corruption in the judicial systems of the majority of these countries, truth commissions may have the most hope of any official reconciliation initiative to contribute to individual and national reconciliation.

Truth-telling is both a personal and collective experience. It is an experience with both individual and communal/national goals, challenges, pain, relief, and necessity. However, truth is a demand made firstly for the benefit of the victims. Victims, their families, and witnesses feel a need, on the one hand, to tell and to be heard, but are afraid to be exposed. Truth
commissions secure a safe space for truth-telling. As Bishop Biggar explains, "The discovery of the truth also helps the victim to understand her suffering...and suffering that we can comprehend is usually easier to bear." Truth-telling is a worthy tool of empowerment because victims break out of their cage of silence. They challenge the fear that has kept them isolated and finally talk out the pain. They can finally be true to themselves and express what they really feel. As Jacques explains, power of truth-telling comes from breaking out of silence, isolation, and shame imposed by those who have wounded them.

Truth-telling also has the very practical function of clarifying history. From witness and victim testimonies come immense quantities of valuable details from the horrors that have remained very vivid in their memories. With an abundant amount of stories, together they reveal patterns, trends, and various statistical estimates dealing with the violence. They help the country's people and the international community better understand the nature of the conflict and responsibilities for violence. Furthermore, these many stories together paint a grander historical narrative that honors the memory of these long-silenced victims and survivors. Jacques quotes from Paul Ricoeur's *Temps et récit (Time and Narrative)*, "There are crimes which must not be forgotten, victims whose suffering cries out not so much to be avenged as to be told." Being able to tell the truth does not mean that their pain and anxiety will vanish, but it does mean that their stories do not go unnoticed; they become part of the shared, national memory.

**TRUTH-TELLING: Humanizing the Victims**

In her book, *Between Vengeance and Forgiveness*, Martha Minow affirms her belief in truth commissions' comparative potential to contribute to reconciliation due to their power to aid societal healing: "When the societal goals include restoring dignity to victims offering a basis for
individual healing, and also promoting reconciliation across a divided nation, a truth commission again may be as or more powerful than prosecutions.” One of the three commissioners on the United Nations-led Commission on the Truth for El Salvador, Thomas Buergenthal, reported in his assessment of the experience that

many of the people who came to talk to the Commission to tell what happened to them or their relatives and friends had not done so before. For some, ten years or more had gone by in silence and pent-up anger. Finally, someone listened to them, and there would be a record of what they had endured. They came by the thousands, still afraid and not a little skeptical, and they talked, many for the first time. One could not listen to them without recognizing that the mere act of telling what had happened was a healing emotional release, and that they were more interested in recounting their story and being heard than in retribution. It is as if they felt some shame that they had not dared to speak out before and, now that they had done so, they could go home and focus on the future less encumbered by the past.45

Jacques makes two important points. The first is that “People turn to memory in the search for elements to help them to situate themselves in the present and to project themselves into the future.”46 Accordingly, she then states that “Everyone’s memory is selective. Each of us builds on an interpretation of what he or she remembers.”47 If people identify themselves based on the horrifying, dehumanizing experiences of human rights abuses and atrocities that dominate their memories, they will feel of degraded status and begin to dismiss their essential human worth. These victims suffer the psychosocial problems of negative self-image, hopelessness, and fear of the violence recurring in their memories that perpetuate pain even further. John Paul Lederach addresses these issues in the passage below, explaining that reconciliation involves coming to terms with the reality of one’s past and reconsidering one’s own identity vis-à-vis society.

Reconciliation ... orients its energy toward understanding the deeper psychological and subjective aspects of people’s experiences, not just in connection to their recent past but often based on generation of pain, loss, and suffering. Reconciliation requires that people not only decide what to do about particular issues, but also address and reconsider their understanding of self, community, and enemy.48
This deeply personal reprocessing of identity and reconciling with the “other(s)” is relevant to all sides of the conflict. For victims, it is significant that their defining image of themselves does not remain a restrictive “victim” identity with the help of an individual reconciliation process.

Kimberly A. Maynard identifies in her essay, “Rebuilding Community: Psychosocial Healing, Reintegration, and Reconciliation at the Grassroots Level,” five phases of psychosocial recovery for societies that are rebuilding after internal conflict. She lists:

1) Establishing safety
2) Communalization (the act of sharing traumatic experiences, perceptions, resulting emotions, etc. in a safe environment) and Bereavement
3) Rebuilding trust and the capacity to trust
4) Reestablishing personal and social morality
5) Reintegrating and restoring democratic discourse.

Given these guidelines for reconciliation, truth commissions are an appropriate model. Truth commissions aim to provide a safe space where the fear-dominated, victimized, and hidden members of society can reappear and unload the trauma they have been carrying on their backs. By listening to these victims and validating their experiences as nothing less than inhumane, the commission helps to humanize the desperate and degraded. Rehabilitating the confidence and security of individuals, as the truth commission does one at a time, is essential. These individual members of society are the building blocks of greater communities on which the possibility for reconciliation hinges.

One occasionally controversial issue of truth commission proceedings is the potentially painful emotional and psychological personal impact of truth-telling. If one learns the true story of a loved one’s death or torture, including the identity of the one responsible for their agony, the emotional burden can be intense. Individuals’ reactions to the experience of truth-telling vary greatly. Re-hashing the painful memories forces some people to slide back into wrenching nightmares, flashbacks, depression, and posttraumatic stress disorder. Given this, some critics of
truth commissions believe that it is better to “leave the past behind than reopen old wounds.”

When the sense of resolve is founded on high expectations for the consequences to the victimizer(s), and the victimizer(s) is neither prosecuted, suspended from his political position, nor even mentioned in the truth commission report, justice ignored means no resolution and yet another defeat for the victim or witness. Still, the simple opportunity to speak and be heard can be a cathartic experience for many victims. Truth commissions, not trials, are official bodies that finally give primary attention to the victims. The overall consensus is that truth commissions offer significant psychological reward long-term and do much more good than harm for the victimized and for society at large.

THE ROLE OF TRUTH COMMISSIONS IN ACHIEVING JUSTICE

Some criticize the usage of truth commissions because of the commission’s inability to establish legal responsibility and, thus, take a soft approach to justice. Truth and reconciliation commissions have been referred to as a “second-best alternative” to punitive trials. However, such a sweeping assessment lacks insight into the context in which each truth commission is created. It assumes that punitive court trials are the best route to justice. This criticism of truth commissions as merely a “second-best” method of pursuing justice, behind criminal trials, is unwarranted.

In the vast majority of truth commission cases, trials have not even been a realistic option for pursuing justice and reconciliation. If the national judicial system is inefficient, corrupt, or not reliably independent of political pressuring, the “justice” that results could be even more problematic. Trials against perpetrators will be too infrequent and isolated in order to benefit a national-level sentiment toward reconciliation, or will result in disappointing negative or soft
verdicts. Most of the time, however, a weak judiciary system fails to call perpetrators to court. In other cases, laws or the threat of new amnesty laws impedes or precludes prosecution. Thus, a truth commission becomes the only unbiased official body that can investigate and contribute to accountability by assigning responsibility to individuals or institutions. Truth commissions may also emerge as the favored avenue for establishing accountability when legal prosecution poses the risk of further dividing society or disrupting a fragile democracy by provoking remerging polarization of the country and ensuing uprising.\textsuperscript{51}

Even though truth commissions cannot label these criminals with official judicial convictions and punishments, the criminals named or the institutions incriminated in the report are still held to some level of accountability. If perpetrator identities are publicly known, the people can hold them accountable for their guilt through the nonviolent retribution of public shaming, insults, and refusing them service. In order to maximize truth commissions’ contribution to accountability, the identities of the perpetrators need to be accessible to the public. A list of the perpetrators’ names in the final report, as in the Salvadoran case, is potentially the most significant conclusion that a commission can print. Naming names immediately to build a base level of accountability is especially critical when the politically-charged and manipulated judicial system has no hope of producing just verdicts, much less of prosecuting the perpetrators.

It is not fair to criticize truth commissions based on the goals of punitive trials because their functions and outcomes are fundamentally designed to be different and complementary. Truth commissions were not created to legally convict and sentence perpetrators. “Truth commissions are meant to function as moral panels, not legal courts,”\textsuperscript{52} according to José Zalaquett, a prominent international rights advocate and former member of the Chilean truth and reconciliation commission. If truth commissions attempted to assign punishment, they would be
overstepping their legal bounds and breaking the rule of law. Additionally, during the period of
delicate peace and sensitive political moves that follow cessation of violence, the fact that truth
commissions do not have the power to punish actually makes them less objectionable than trials
in the eyes of the military and government institutions. These damaged societies and countries
need every pro-reconciliation initiative and healing opportunity to reconstruct their lives,
relationships, and trust.

**MAJOR ELEMENTS OF TRUTH COMMISSION STRENGTH**

Truth commissions are examples of a *restorative justice* initiative. Many commend truth and
reconciliation commissions for having advanced beyond penal, retributive justice to restorative
justice. In allowing perpetrators, victims, their families, and witnesses to testify, truth
commissions are uniquely rehabilitative to all sides, promoting the value of concern and respect
for all those who demonstrate genuine mercy. Sarkin notes the power of restorative justice
achieved in truth commission work: "[truth commissions] satisfy the retribution impulse by
dispensing punishment...The naming of perpetrators and the exposure of their violations
constitutes punishment through public stigma, shaming, and humiliation."  

Timing and length of operation outlined in each commission’s mandate can assist or hinder a
more thorough and widespread collection of information and a more credible and fair
representation of the past. Generally, the more time given for the investigation, the more
witnesses reached and/or the more quality time devoted to each witness, the more revealing and
convincing the truth established, and the greater the prospects are for reconciliation. It is
advisable to begin work when momentum for peace and optimism is fresh. However, charging
ahead prematurely - before the previous authority’s influence in politics have waned or when
victims' wounds are too recent and fears too real - can increase the commission's politicization and decrease public confidence and participation. If traces of violence from the conflict are still occurring, physical safety concerns could ward off traveling truth-testifiers. As Sarkin points out, "the extent to which a truth and reconciliation commission process is established by the new order, in cooperation with those who were vanquished, plays an important part in determining whether such a process can assist in national reconciliation."55 Commission mandate time limitations range from only a few months to as much as several years.

The amount of funding that a truth commission receives – from its national government, international funds, and foreign governments – can affect the efficacy of the commission as well, by limiting or allowing for a large staff on the job, for example. In addition, certain powers specified in a commission's mandate, like those of subpoena or search and seizure, can allow commissions to bring previously secret, incriminating information to the surface. This disrupts traditions of deceit and denial of illegitimate activity on the part of the authorities. Possession or exclusion of such powers can alter the depth of truth that is revealed and the level of accountability the commission is able to impose on guilty parties.

Sponsorship and leadership involving diverse actors can legitimate a truth commission in the eyes of the victimized public and international community. All truth commissions are officially-sanctioned bodies and many of them are jointly-sanctioned via peace accords signed by both the government and the opposition. This is significant in setting the tone for reconciliation. The establishment of a truth and reconciliation commission that would expose their crimes is certainly not in their political interest. The fact that the government (along with the former opposition party in some cases) mandates such a commission demonstrates a change in political behavior: a commitment to societal healing and reconciliation. They are often pushed by human
rights workers advocating for the victims' rights and by the international community concerned about guaranteeing a reconciliation that will better ensure the country's stability. Even the step of coming together as former political enemies to explore the creation of a truth commission, dialoguing and discussing the goals and mandates of such a commission, and finally committing to its establishment in an officially-signed mutual agreement fosters communication, cooperation, and trust. The commissioners are chosen specifically in each context to be able to exercise unbiased leadership and, thus, lend legitimacy and public confidence to the commission's work. Due to the fact that both Guatemala and El Salvador were substantially politically-polarized, the majority of the commissioners were foreigners appointed by the UN. In the Guatemalan case, only one out of three commissioners was a Guatemalan national, while in El Salvador only foreigners served as the three commissioners. Public opinion of truth commissioners undoubtedly influences the public's approval of the entire truth commission initiative. The public's attitude toward the truth commission and its report clearly affect their ensuing ownership of post-commission reconciliation programs and whether its general attitude toward reconciliation is optimistic or skeptical.

Publicity, widespread publication, and high readership of the concluding report affect how widely the truth comes to be known and how well reconciliation can take hold as a movement in the country. Jacques highlights their educational contribution in exposing the fact of massive or systemic human rights violations, condemning such immoral abuses, and identifying the preconditions that led to such atrocity. The conclusions of the report are an especially important contribution to the potential for reconciliation. The recommendations and reforms asserted in this section can be a simple set of guidelines for preventing recurrence of injustice or an ambitious recipe for a just society and responsible government. Their strength, particularly, can
indicate the pressure on government political parties and civil society to implement these measures. Truth commissions, however, can only go so far as to state these ground-breaking ideas and make their case of why they are essential for sustainable peace and reconciliation. In the end, long term benefits of the truth commissions depend significantly on the follow-up: the extent to which the recommendations and reforms are implemented by subsequent governments and pursued by civil society.
II. THE REALITIES OF WORKING TOWARDS RECONCILIATION:
THE TRUTH COMMISSIONS OF EL SALVADOR AND GUATEMALA

Truth Commissions are often formed in war-torn societies where reconciliation is the ultimate goal. As described in the previous section, truth commissions theoretically aim to (1) air the truth of the past in their final reports; (2) promote acknowledgement of that unequivocal truth and the suffering caused; (3) empower the victims through the truth-telling experience; and, (4) guarantee imminent measures of restorative justice in their final recommendations. The question is whether or not these goals are realistic in practice.

There have been more than twenty truth commissions established in the past three decades of varying scope, intent, and notability. None of these commissions has succeeded in bringing about a “thicker” degree of national reconciliation. Should this signal to the world that the objectives of truth commissions are simply too grandiose? Are they inherently destined to fail? For any truth commission there are variable elements that might affect its success towards promoting reconciliation: those of internal structure and organization of the commission, and those of external pressures acting on the commission or on the commission’s public political space. In establishing a truth commission, there are many decisions that must be made regarding its structure, composition, powers, and expectations. Truth commissions purport to be promising vis-à-vis reconciliation, but their consequent results have fallen short of the desired end. What accounts for the disparity between the ideal and reality of their success? Is it due to the fact that these truth commissions are designed wrong for their specific contexts, or are inherently flawed? Are truth commissions a worthy part of the “road to reconciliation?”
There are five truth commissions¹ most commonly and internationally recognized for their relative success (according to the purposes set out in the mandates) and for important lessons provided in their experiences: the commissions of Argentina (active 1983-4), Chile (1990-1), El Salvador (1992-3), South Africa (1995-8), and Guatemala (1997-9). The contexts of the atrocities investigated in these five countries vary considerably, therefore, the truth commissions charged with their inquiry and analysis differed in composition, mandated powers, strengths, specific challenges, and end objectives. In El Salvador and Guatemala, the systematic extermination of the civilian population by the Armed Forces resulted in massive human and material loss. El Salvador’s death toll numbered 75,000 in a country with a population of only about 6 million. Guatemala suffered 200,000 deaths in a country of about 12 million and more than 400 villages burned off the map. These situations of protracted civil conflict were very different from the targeted repression, torture, and disappearance of individuals, identified as politically left-leaning by the military regime in Chile and Argentina. Here, the repression was clearly one-sided, perpetrated by a military dictatorship against innocent, defenseless citizens. The dirty wars of Chile and Argentina resulted in more than 3,000 disappearances and between 50,000 and 200,000 victims of illegal detention and torture in Chile⁵⁸ and between 10,000 and 30,000 people arrested, interrogated, tortured, and killed in Argentina.⁵⁹ The circumstances of the South African Truth and Reconciliation Commission that confronted the overt, institutionalized racism, oppression, and political marginalization of a forty-five year-old Apartheid system present still another contrasting case with an innumerable number of victims of human rights violations. All of these truth commission experiences can teach valuable lessons about how best to engineer a commission for the best prospects for reconciliation. They also

¹ "Judged by their size, the impact they had on their respective political transitions, and the national and international attention they received." Hayner, 32.
exemplify the limited degree to which a truth commission can control or steer the course of national reconciliation.

The balance of this paper explores the truth commissions of El Salvador and Guatemala as potential facilitators of national reconciliation. There are three reasons that these two cases prove worthy of analysis in the context of the above questions. Firstly, El Salvador and Guatemala are severe conflict cases of political polarization, massive human cost, and societal break-down. At the conclusion of their civil conflicts, they were in desperate need of healing and reconciliation at the societal and political levels. Both countries became good tests for truth commissions’ potentials and power to initiate and further national reconciliation. Secondly, the Salvadoran and Guatemalan truth commissions are two of the five most recent, prominent truth commissions listed above. Accordingly, they were designed with the knowledge of valuable lessons from previous truth commissions. Thirdly, the experiences of the Salvadoran and Guatemalan truth commissions may provide lessons regarding structure and external politics for future commissions emerging from similar contexts.

It is true that each tragic case of atrocities for which a truth commission has been established occurs in a context unique to that place and time. Still, the contexts, experience, and challenges of these two truth commissions, may be the two most relevant commissions to present-day truth commission initiatives in Sierra Leone, Bosnia, and Rwanda. Truth commissions in El Salvador and Guatemala were established as part of a comprehensive peace process, as in the case of Sierra Leone, in order to heal a deeply polarized polity and social fabric torn by protracted civil conflict, like those in the Balkans and in the Lakes region of central Africa.

The two Central American cases of El Salvador and Guatemala provide an interesting comparative study. In these cases, truth commissions were established during peace accord
negotiations and in the context of parallel political, military, and social conflict. In both countries, the conservative-right government utilized the national army and paramilitary forces to fight a counterinsurgency campaign, framed in the context of the Cold War, against leftist guerillas and a perceived popular base. In both cases a civilian population found themselves caught in the middle and fell victim to the severest brutality. A permeating culture of violence, distrust, and fear made the issue of national reconciliation a central issue during peace accord negotiation, an essential goal for post-accord measures, and an overwhelming future challenge. The Salvadoran and Guatemalan truth commissions were created in order to help foster reconciliation between political enemies of war and between the powerless victims and their power-holding perpetrators. Facing the truth of the past would hopefully help the country to look inside itself and examine its problems, reconcile with itself, and commit to new human rights standards for the future. The crucial reports of the Salvadoran and Guatemalan truth commissions were released to the public and to the parties of the peace accords twelve and seven years ago, respectively. Before progressing to an evaluation of the consequent effectiveness of these truth commissions and their reports towards reconciliation, this paper will provide a brief historical overview of the conflict and establishment of a truth commission in each country.

**The Case of Civil Conflict in El Salvador**

El Salvador has been plagued since colonial control by severe inequity in land distribution and access to economic resources. Rigid economic inequality spurred leftist guerrillas to organize and begin uprising in the late 1970s against the political and economic system that benefited and protected the economic interests of the landed elite. By 1980, the government had
launched a full, strategic counter-insurgency campaign against the Farabundo Martí National Liberation Front (FMLN). Backed firmly by the US government who contributed over six billion dollars of military and economic aid to the Salvadoran government and armed forces, the Salvadoran military was able to continue their fight against the Soviet- and Cuban-backed guerillas for twelve years until peace was finally negotiated between the warring parties with the assistance of a UN mediator. Over 75,000 people, mostly civilians, were killed and over 1 million (including over 300,000 refugees) were displaced. The Chapultepec Peace Accords of January 1992 ended the civil conflict and began a long process of societal and institutional reconstruction.

One of the accords reached between the Salvadoran government and the FMLN in the series of agreements leading up to the final Chapultepec signing provided for an official truth commission that would bolster the post-conflict national reconciliation process. The April 27, 1991 Mexico Peace Agreement's "Provisions Creating the Commission on Truth" (named for the site of the negotiations) outlined the motivations for, functions, and powers of a truth commission to be run by the United Nations. The proposed truth commission would investigate "serious acts of violence which have occurred since 1980 and whose impact on society urgently requires that the public should know the truth." By acknowledging the silenced victims and disclosing the reality of the violations of human rights during internal conflict, the truth commission would ultimately seek to foster mutual understanding and consensus and, eventually, trust between all sides involved. The parties clearly stated their two goals for the Commission to promote national reconciliation and to uncover the factual truth of the nature, causes, and societal impact of the violence during the conflict:

The Commission shall take into account:
The fact that both parties explicitly supported the truth commission as a reconciliation initiative and agreed to its freedom to investigate a wide variety of serious crimes was significant gesture of mutual commitment that boosted the legitimacy of each party and the credibility of the truth commission even before its work had begun.

On July 15, 1992, several months after the signing of the Chapultepec Peace Accords, the actual Comisión de la Verdad para El Salvador (Commission of the Truth for El Salvador) was formally established and began its enormous and weighty task with only a six-month period in which to conduct its investigations. The Salvadoran Truth Commission (hereafter TC) was unique because it was the first to investigate a certain country’s civil conflict while being sponsored, paid for, and staffed by the United Nations. The commission was made of three commissioners and a staff of 20-30 lawyers at any one time: lawyers, sociologists, forensic anthropologists, and social workers from Latin America, Europe and the United States. It was charged to investigate the entire twelve year civil war period, but possessed no juridical powers or powers of subpoena, search, or seizure. The commission was to produce a report detailing the conclusions reached in their pursuit of “the complete truth.” In the report they were to include recommendations for reforms and reconciliation initiatives that would be binding to the parties. As the commission quickly found, the fresh wounds of the horrors of El Salvador’s civil war, the distrust that perpetuated beyond the proclaimed peace of 1992, and the sharply polarized organization of society and politics, governed by the power to instigate fear, would critically challenge the possibility of both of the Truth Commission’s goals.
The Case of Civil Conflict in Guatemala

Like El Salvador, Guatemala was embroiled in a long, costly, internal conflict that was, at least, partially rooted in the economic exploitation and economic injustice of a feudal-like system. Authoritarian leaders had ruled Guatemala and protected the economic interest of the landed elite and foreign land-owners until Guatemala finally elected its first democratic civilian leader, José Arevalo, to office in 1944. From 1944-1954, Guatemala enjoyed ten years of democratic rule that brought land redistribution and significant economic, political, and social reform to the colonial-modeled systems of old. However these reforms were unpopular among the Guatemalan economic elite and foreign corporation landholders such as the American-owned United Fruit.

In March of 1954, the Guatemalan military, backed by the CIA, overthrew the democratic Jacobo Arbenz government in a coup that ended Guatemala's popular "revolution." The following leaders re-instated rigid authoritarian-esque economic policy, revoking and reversing Arevalo and Arbenz reforms, while holding elections that would qualify Guatemala as a democracy in name. Opposition to the government's policy rose with leftist guerilla insurgent groups that first organized during the early 1960s. The guerrillas were all but crushed by a military counter-insurgency reaction in the 1960s. The Guatemalan government, as well as the US government in 1954, had framed the "threat" as a communist one, in the context of the Cold War.2

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2 In reality, these first "guerrillas" who organized the insurgency in the 1960s and reorganized in the 1970s were ex-military soldiers or officers who had defected from the Armed Forces. The Guatemalan military has a history of factions; these men constituted one such faction that broke from the military once it became disillusioned by the corruption in the institution.
The guerrillas regained strength again by the mid 1970s, this time with critical support from mobilized indigenous Mayans, determined to fight against the systematic racism, marginalization, and poverty they suffered. The Maya make up over half of Guatemala’s population. The bloodiest, most gruesome years of the war came in the early 1980s under General Romeo Lucas García and General Efraín Ríos Montt, the notorious conceiver of the scorched-earth campaigns in indigenous Mayan villages. The anti-guerilla counterinsurgency took on a distinctly racist tone towards the end of the 70s and after. Massacres, disappearances, rapes, and tortures of indigenous people were strategically carried out in order to “break the popular base of the leftist guerrillas,” or, perhaps more accurately, terrorize the indigenous population back into fearful subordination within the traditional system that benefited the rich and exploited the poor, rural Maya. Peace talks began in the form of a national dialogue in 1987 after a return to civilian rule two years earlier. In the early 1990s the “Oslo process” succeeded in producing a slow series of peace agreements between the Guatemalan government and Unidad Revolucionaria Nacional Guatemalteca (URNG) guerrillas, mediated by the UN’s Jean Arnault. The long peace negotiation process finally culminated in official end to the civil conflict on December 29, 1996 with the Agreement for a Firm and Lasting Peace. The human loss of the thirty-six year war was devastating: 200,000 deaths and disappearances, tens of thousands of refugees, and a million internally displaced people in a country with only 12 million people.

The establishment of Guatemala’s truth commission was, like El Salvador’s, negotiated between the parties to the peace agreements as part of the accords. On June 23, 1994 the URNG and the Guatemalan government created the “Agreement on the establishment of the Commission to clarify past human rights violations and acts of violence that have caused the Guatemalan population to suffer.” This truth commission was given the official name la
Comisión para el Esclarecimiento Histórico (the Historical Clarification Commission, hereafter CEH). The 1994 agreement clearly states the CEH’s primary purpose: “To clarify with all objectivity, equity and impartiality the human rights violations and acts of violence that have caused the Guatemalan population to suffer, connected with the armed conflict.”

Towards the ideal of reconciliation, the truth commission is established on the basis of the Guatemalans’ “right to know the whole truth” and with the expectation that it will promote a “culture of harmony and mutual respect.” The parties express their “wish to open as soon as possible a new chapter in Guatemala’s history which...will...help lay the bases for peaceful coexistence and respect for human rights among Guatemalans.”

Despite their different political interests, the Parties compromised in order to form this truth commission. From the beginning, the URNG supported the idea of a truth commission and finally convinced the government to negotiate. The government decided that it would be beneficial because they realized it was important for the country to perceive them each as working towards bringing peace, stability, and reconciliation.

It remains to be seen later in the paper what the outcome was of this CEH.

According to this agreement, the commission was to draw up a report that contained their findings and factual, objective conclusions regarding the events and the factors (both internal and external) that led to their occurrence. The recommendations to be made by the commission must “encourage peace and national harmony in Guatemala” and must include specific “measures to preserve the memory of the victims, to foster a culture of mutual respect,” and strengthen human rights observance and democracy. This mandate included elements that are clearly identified with national reconciliation. The CEH’s mandate, negotiated between the two parties to the conflict, was considered weak, as the government surely made its existence conditional on very limited powers and a restrictive time frame. However, its resulting conclusions were striking and
its effects were surprisingly powerful. As Audrey Chapman and Patrick Ball declared, “the CEH model proved to produce a more complete, consistent, and coherent report than any other commission to date.”72 The following will analyze how well this seemingly restricted Guatemalan Historical Clarification Commission and the similarly mandated Salvadoran Commission on Truth were able to cope with such daunting missions and the overarching end-goal of fostering national reconciliation.

Pursuing the Truth, Acknowledgement, and Justice of Reconciliation through Truth Commissions in El Salvador and Guatemala

A truth commission’s success is hard to measure because “success” is so subjective and relative when the objectives – harmony, peace, trust, reconciliation, etc – are also ambiguous. The five prominent truth commissions mentioned above won their status as relatively successful when measured against other commissions’ attempts to satisfy the priorities, purposes, and goals articulated in their mandates. The Argentine, Chilean, Salvadoran, South African, and Guatemalan commissions have also received considerable international attention, often due to the direct involvement of prominent international figures or substantial economic and/or administrative support from the United Nations or foreign countries.

Rather than evaluate the success of the Salvadoran and Guatemalan truth commissions – a seemingly impossible task - this paper seeks to analyze the two truth commissions’ realized and potential connections to reconciliation as a process and as a goal. In what ways have the Salvadoran and Guatemalan truth commissions contributed to national reconciliation and why have they not been able to achieve more? To what extent have the TC and CEH been catalysts for reconciliation?
National reconciliation requires that the truth of the past be known and recognized; that the responsible parties publicly acknowledge their guilt, their role, the wrongness of committing such atrocities against their victims, and regret for their actions; and that justice, according to the needs of the victims, be served with restorative, reparative measures and with punitive, deterrent juridical action. As explained in the theoretical section, truth commissions have the potential to contribute to reconciliation in any and each of these directions. The remainder of the paper will be dedicated to analyzing the consequences of the TC’s and CEH’s specific compositions, mandates, conclusions, recommendations, and report dissemination vis-à-vis the ideals of truth, acknowledgment, and justice for reconciliation.

The Composition of the Truth Commissions

The composition of the commission itself is fundamental to the truth outcome. The commissioners are the truth managers and the staff are truth excavators. The managers decide where to dig; the excavators are responsible for the manner in which they dig. Hopefully, they dig patiently, carefully, and with attention to detail so that certain pieces of the puzzle are not left hidden or extracted too brashly, sustaining them damage. The skills and sensitivities of those who work with the various actors in the history to be clarified greatly affect the commission’s success, the nature of the truth revealed, and the way the commission is perceived by the various actors and the public as a whole. The goal is that the commission wins trust and commands respect and authority so that its conclusions will be accepted and affirmed by all as the newly expanded history (historical narrative) of the conflict years. It is crucial that this new, fuller truth can be accepted by all. In order for reconciliation, the people must agree on the past to be able to
work cooperatively together towards the future. These commission members have the potential to write or rewrite the chapter of the conflict in the history books for the generations to come.

The credibility of the commission determines the persuasive strength of the truth revealed. The power of the truth revealed affects what the people, government, civil society, and political parties do in response. The potential that a truth commission has to help facilitate trust, to acknowledge the victims, and to establish personal or institutional responsibility and justice is great. To have this effect, it must first be recognized as a legitimate, impartial, and respectable body by all parties to the conflict and by the general public.

Naming an impartial commission in the eyes of the country can be difficult as no person is completely neutral. Their life experiences shape their frame of mind, priorities, sympathies, and interpretations of history. The political and social climate in the country at the time of the truth commission creation greatly affects what composition will be acceptable. In El Salvador where the peace accords officially ending the war were signed only months before the truth commission began its work, the wounds were painfully fresh, the country was still extremely polarized, and identities were politicized according to party affiliation or ideological tendency. Neutrality did not exist. It was impossible to find any notable Salvadoran person or public figure who could lead the commission, never mind an entire Salvadoran commission and staff. Any Salvadoran suggested would have been rejected by either the government or FMLN for having political sways or vested interests in a certain outcome. The solution was to construct a commission of internationals whose distance from the situation contributed to their relative objectivity. The Salvadoran TC’s composition was novel in that it was the first to be made completely of foreign nationals. The UN Secretary General appointed the three commissioners, Belisario Betancur (ex-President of Colombia), Thomas Beurgenthal (ex-President of the Inter-American Court),
and Reinaldo Figueredo (Ex-Minister of Foreign Relations for Venezuela) who were then approved by both of the parties to the agreement on the commission establishment. They were accepted by the government, FMLN, and the public as an external, independent authority because they had no association with internal Salvadoran political entities.

The TC’s impartiality provided it with the minimal required legitimacy it needed to conduct its search for the truth. Its international composition, rather than Salvadoran, meant that the credibility of the truth is produced would at least be considered, rather than immediately disregarded. However, their foreignness made Salvadoran people skeptical of their ability to empathize. Salvadorans were hesitant to trust the Commission’s outsiders, and were reticent and reluctant to come forward, especially at the beginning. Indeed, “commissioners and staff could not fully comprehend the nuances of the locality – knowledge that national would have had to their advantage.”

Beurgenthal highlights the “general mistrust” of the TC on the part of the majority of the Salvadoran population. Gaining Salvadorans’ trust presented one of the most difficult challenges. In order to encourage people to come forward to give their truth-testimony, the TC maintained an “Open Door” policy in which anyone could walk in to one of the four offices stationed around the country at any time to tell their story. They did not need to make an appointment or call ahead. Additionally, the TC advertised in the newspapers and on the radio, seeking to gain a more visible, prominent presence and legitimacy in the eyes of the public. In the first two or three months – nearly half of their six-month investigation period – the TC was able to gather very little information of value. As Beurgenthal explains,

It should not be forgotten that the average Salvadoran had no reason to assume that the Commission would in fact carry out an honest and serious investigation. There had been many so-called “investigations” in the past, principally domestic ones, and they produced little information and even less truth. More often than not, they were publicity stunts staged by the Salvadoran government, frequently as a result of U.S. pressure and timed so as to anticipate some action by the U.S. Congress. Given this experience, Salvadorans certainly had no reason to trust yet another commission, or three foreigners about whom they knew little.
This shows that despite the efforts that the TC made to open up to the Salvadoran people, the commission’s international make-up still impeded people’s trust of the Commission’s motives. Consequently, also negatively affected were the extent of primary information it could gather for its report and the cathartic effects of truth-telling that could have meanwhile benefited many who were still suffering.

If a commission cannot get people to come forward to tell their stories in substantial numbers, it cannot be sure that the testimonies collected are representative of the country and of the historical truth. If a truth commission cannot complete its first, fundamental goal of establishing the truth, it cannot call the entire country’s attention to the basic, sinister realities of the conflict – what violence has been committed, to what extent it has been perpetuated, and who is responsible. If no impressive truth report stirs the country upon release, it will not spur or pressure the acknowledgement of crimes and their victims. In countries with corrupt judiciaries, such as El Salvador and Guatemala, the justice system will not consequently be called to reform in order to accommodate trials of human rights abuse. Even if cases are filed, most likely there will never be enough political force to compel those cases to be brought to trial and to convict the defendant perpetrators. A movement for justice is dependent on a previously established, accepted, and grounded truth. This one example shows how a complete, credible truth is absolutely essential for any true reconciliation movement to succeed.

A few months into the period of investigations there was an important shift in willingness to participate in the TC and give truth-testimony. The Salvadoran Ad-Hoc commission, created to review the human rights records of the officers in the military and recommend dismissal or demotion of members guilty of violations, came out with an incriminating final report in October of 1992. It called for the dismissal of over one-hundred officers, including the Minister and
Deputy Minister of Defense and the Chief of General Staff due to egregious breaches of human rights. The effect was to win confidence in the work of such commissions at the same time as it diminished the power of the military institution. It was the Salvadoran people’s fear of the military’s power and their impunity that had discouraged many from coming to tell their stories.

The very governmental institutions and the individuals responsible for many of the most egregious acts of violence in El Salvador remained in place and in power, which explains the fear of the vast majority of individuals who appeared before the commission.

Once the Ad-Hoc commission’s report struck a huge blow to the prestige of the military institution, people felt empowered to add their own truth to the growing pool of personal truths that would help shape the collective, national historical truth. At that point, in contrast to just a few months before, the international composition of the TC proved to be a critical reason that the Salvadoran people could trust the independent motives of the TC’s investigation. Gradually, more and more victims and survivors, in addition to a few perpetrators, started coming forward to give testimony, affecting a greater cathartic influence on Salvadoran society.

The Ad Hoc Commission had proven to the country at large that the power and control of the government and the military was beginning to weaken, and that things were changing in El Salvador. Therefore, many more ordinary citizens also came forward to provide evidence, still very fearful, but now with greater confidence in the integrity of the process.

As will be elaborated on further, the quality of truth established by the TC turned out to be impressive relative to that of other truth commission investigations around the world. The potential for reconciliation was allowed, first, by the airing of the truth and the disproving of false rumors and systematic lies. The international composition of the Salvadoran TC was an asset to building trust and gaining legitimacy from the Salvadoran public, despite the fact that this trust was slow in coming. In the beginning it appeared that the international composition of the TC was the crippling obstacle to gaining trust and access to the Salvadoran’s stories. However, once the release of the Ad Hoc Commission report assuaged people’s fear of military
power and built their confidence in these commissions’ punitive effect, they began going to the TC in increasing numbers. Therefore, it is more accurate to say that it was mistrust of the TC outsiders compounded by the people’s deep fear of the consequences of truth-testifying that prevented progress during the first few months. While the nonnational composition of the TC was an intrinsic aspect that affected the quality of truth produced, the people’s fear of the military was an external pressure, rather than an internal weakness, which restricted (for a time) the progress of the TC towards reconciliation.

Guatemala found itself in similar, although perhaps not as extreme, circumstances to those in El Salvador when the CEH began its work. The country was divided and broken from suffering civil conflict over the previous few decades. When the Parties to the CEH creation agreement were writing the mandate, they wanted the commission to be made of Guatemalans. Guatemalans should be the ones investigating their own past and presenting the truth of their recent history to the rest of their people. As Christian Tomuschat, chair commissioner for the CEH, explained, “one would...expect that the task of dealing with a criminal past would be entrusted to citizens of the country concerned.” However, in order to guard the CEH from charges of bias, the Parties decided to include an impartial international presence to provide “balance” and legitimacy to the CEH. As a result, the Guatemalan CEH was unique in its mixed-nationality composition: one international figure appointed by the UN Secretary-General, a Guatemalan “of irreproachable conduct,” and a Guatemalan academic. Christian Tomuschat was designated as Commission coordinator on Feb 8, 1997 and, in turn, appointed Otilia Lux de Cotí and Alfredo Balsells as the Guatemalan commissioners.
The Guatemalan CEH's mixed composition was successfully objective. The variety in nationalities, discipline backgrounds, investigation approaches, and truth interpretations brought many complementing perspectives and strengths to the table. In turn, the truth that was established was not only impressively comprehensive, but was a landmark in the international experience of truth commissions. Striking, daring, yet carefully methodical truth commission reports, such as the CEH Memoria del silencio (Memory of Silence), have the most potential to compel official acknowledgment of the crimes committed and innocent victims wronged and to empower victims and civil society to pressure the government for redress and concrete reform.

It is important whether commissioners choose a social science or legalistic approach to truth-finding. Commissioners with legal backgrounds will draw up legal definitions of what constitutes a violation of domestic law, international human rights law, and international humanitarian law and then compare cases from the investigations, in search of those that qualify as violations. Social scientists, in contrast, tend to ask the hows and the whys. One possible implication is that during testimonies, "statement-takers" of a more legalistic approach would be more interested in facts surrounding the circumstances of violent incidents and more focused on identifying the gravest of crimes. Social scientists would pay careful attention to the story progression, the manner in which the individual tells the story, and the personal emotions that come through. Social scientist 'statement-takers' and report writers may come across as more sympathetic to the horror of the human experience.

A commission composed of professionals from different backgrounds - lawyers vs. social scientists - has the potential to cause conflict of priorities and perspectives. However, in Guatemala the mix of orientations among commissioners (two lawyers and one social scientist) and approximately 200 staff provided a most dynamic interchange. Through the variety of
intellectual strengths, a more comprehensive interpretation of Guatemala’s recent past was possible. For example, the CEH employed quantitative analysis to prove that genocide had occurred in Guatemala. It showed that in several crucial regions rates of indigenous people killed by the state were five to eight times greater than rates among non-indigenous people.”

Conversely, the report’s historical examination of the root causes of the conflict and the systemic injustice that perpetuated it was a qualitative, social science-oriented analysis. As a result, the truth that the CEH presented in its report was uniquely striking, comprehensive, and profound. It is, in the words of Greg Grandin, an “impassioned search for the meaning of Guatemala’s violence” and a “damning narrative that indicts not just the nation’s ruling elite, but its culture and history as well.” The CEH report was a departure from the Salvadoran (and the Chilean and Argentine) TC’s juridical-style conclusions about human rights violations committed, which concentrated on the who and what. The Guatemalan report presented plenty of scientific statistical evidence, but also branched out, daring to answer the complex question of “why?”

The why – the racism, economic exploitation, and political exclusion of the vast majority of the country - was a part of the truth that was taboo; it had never been uttered aloud by any official body before. However, these systemic grievances were a fundamental source of distrust of much of the population towards the government and, therefore, an obstacle to reconciliation. By exposing and addressing these larger problems the government became accountable to fix them. Civil society could also be more vocal and active in fighting these problems from their angle. Of course real change in systemic patterns or structure must be set as long term goals because revealing and recognizing their detrimental effects is only the first step. However, it is an essential step for reconciliation at any deeper level.

The Structure and Mandates of the Truth Commissions
SCOPE & TIME

The parties to the Peace Accords who created the TC recognized the need to narrow the mandated scope of the investigations in order to focus the commission’s attention on that which would be the most effective towards the TC’s goals. Investigating all of the human rights violations that occurred during the twelve years of intense civil conflict in El Salvador would have been humanly impossible. The mandate specified that the TC was to examine “serious acts of violence” committed after 1980, and which “outraged Salvadoran society and/or international opinion,” or exemplified a “systematic pattern of violence or ill-treatment.” However, time limitations did not allow for an adequate investigation of the infamous death squads. The CEH found it did not have the time, nor the appropriate investigative jurisdiction, to delve deeply enough into information about the death squads. More time and expertise would have been required to understand death squads in order to prevent resurgence: their clandestine nature of action, members’ hidden identities, intricate connections to the State and Intelligence Services, and covert financing (including from Salvadoran exiles living in Miami).

The CEH faced a similar, potential dilemma of a broad, nondescript mandate. Their objective was to “clarify...the human rights violations and acts of violence that have caused the

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Between 1980 and 1991, human rights violations were committed in a systematic and organized manner by groups acting as death squads. The members of such groups usually wore civilian clothing, were heavily armed, operated clandestinely and hid their affiliation and identity. They abducted members of the civilian population and of rebel groups. They tortured their hostages, were responsible for their disappearance and usually executed them.

The death squads, in which members of State structures were actively involved or to which they turned a blind eye, gained such control that they ceased to be an isolated or marginal phenomenon and became an instrument of terror used systematically for the physical elimination of political opponents. Many of the civilian and military authorities in power during the 1980s participated in, encouraged and tolerated the activities of these groups.
Guatemalan population to suffer..." The fact that the drafters of the mandate articulated the CEH’s task as clarifying the human rights violations, implied all violations. It was, of course, not possible to investigate a time span of 36 years in six months’ time. The Guatemalan CEH looked, therefore, to the examples of how the Salvadoran and Chilean commissions, faced with similarly vague or broad mandates, had reduced the overwhelming workload to a more feasible goal. The commissioners decided that priority must be given to attacks on life and individual dignity, especially extrajudicial executions, forced disappearances, and sexual crimes. These violations were considered to be most serious; they would draw more of the country’s attention to the gravity of the violence and had more of a chance to stir up a national and international acknowledgment and reaction of denunciation of the abuse.

In addition to that of scope, a crucial variable that exerted its influence on the degree of truth that was established by these commissions was the variable of time. The very little time given to the TC and CEH for establishing the historical truth of the conflicts required them to focus the investigations by narrowing their scope. The limited time in their respective mandates served also as an obstacle to both the completeness and the detail of the truth told in each commission’s concluding reports. The TC was given only six months — and took eight — to investigate twelve years of civil conflict. The CEH originally was given six months, with a possible six-month extension — and had to take eighteen months — to cover 36 years. Both the TC and the CEH were commanded to begin work immediately upon the signing of the respective final peace agreements that put the entire series of accords in action. However, for both commissions, immediately starting the count down of the time it had to complete its mandate was impractical because of the immense logistical set-up and preparation required before it could start its actual
work. This pre-investigation organization took the TC six months and the CEH seven months, alone.

The drafters of the mandate were naïve to think that the CEH work could start right away. The logistics of securing office space, both centrally and throughout the country in rural departments (provinces), of collecting and organizing resources, and of hiring personnel would prove to take significant time. Finding the commission’s staff — a conglomeration of people with specific training in law, social work, anthropology, and statistics, as well as personal integrity, strength, and sensitive character — was a chore in itself. After being identified, the staff was put through a one-month introductory course that included an historical background to Guatemala, as well as mental preparation and training. The Guatemalan CEH was delayed further because, not having been allotted any funding, it had to launch a fundraising campaign during this entire set-up and preparation period. Soliciting aid from other countries and international organizations was essential in order to get on its feet, but was costly in time. The CEH finally began the investigative process in September of 1997, eight months after the signing of the final Peace Agreement and nearly two years after its initial establishment in the series of peace accords.

The manner in which the CEH conducted its work during the investigations was marked by the short period of mandated operational time. Adhering to the mandate was important to maintain legitimacy with the Parties and with the public. As explained above, this pressure caused the CEH to restrict the cases that it dealt with, focusing on the most severe violations of human rights. Even more importantly, the lack of time altered the fundamental interaction and truth-telling experience of the victims and survivors of la violencia with disappointing consequences for reconciliation. The commission needed to be able to reach a large number of people and to take down the basic facts of the atrocities committed in order to compile statistical
evidence to release with the report. In its six months of investigations, the commission was able to conduct 7,200 interviews. However, group interviews were common, especially in rural, mostly indigenous areas where a translator was necessary. Group interviews would sometimes be conducted with fifteen people and one solitary interviewer. "Time allowed for little more than the cataloguing of the violations prioritized by the [CEH]." The insufficient time to collect this data meant that truth-testimony often turned into a collection of descriptive facts, neglecting the person, his or her real pain, and his or her multifaceted human identity. The truth commission focused on the identity of the person as, primarily, the category they took on in the context of the war: the victim, the widow, the perpetrator. Listening as a healing opportunity and empowerment of the victim or survivor seems to have been considered the ideal, rather than the general practice in the CEH’s interviewing experience, due to the lack of time. The hurried tone of the investigations cut short the listening elements of the truth testimony. It cut out time for sympathy with the individual victims, crucial to their healing process and to capitalizing on the potential of truth-telling experiences to further reconciliation at this individual level. Professor Anita Isaacs tells the story of a person she interviewed about his experiences with the CEH. He was in the middle of telling his story when the statement-taker interrupted and explained that he did not need to hear the rest because he had already heard far worse. Surely there were other statement-takers working with the CEH that expressed more sensitivity and respect for the potentially cathartic experience of truth-telling. However, this anecdote encapsulates the problem of rushing a truth commission through its work to the unfortunate extent that commissioners and staff change their approach to the truth finding and truth testimony experience. More time given to the CEH to carry out investigations in a manner more conducive
to victim healing and with more attention to reinforcing survivor dignity would have resulted in
greater success building confidence for reconciliation.

The rapidity with which the CEH had to move through much of the country did not allow for
the commission to develop relationships with communities in order to genuinely help heal and
reconcile these people with their past. Trust, such a key element in fruitful truth-telling, and
confidence in the unknown investigators did not grow because there was little time to establish a
relationship. Thus, besides the CEH’s minimal direct effect on the healing of those who testified
and reconciliation at the individual level, the lack of trust in the commission investigators –
“statement-takers” as they are often called – on the part of the truth-tellers affected the quality
and depth of information and details given in testimonies.

The extremely limiting mandated time frame lost the CEH many opportunities to help
individual and micro-level reconciliation in truth-telling participant communities. In terms of
national or macro-level reconciliation, Commissioner Tomuschat seemed to support the idea that
while an expanded, more than a year-long period of operation mandated in the CEH would have
been beneficial, a significantly extended period of time could have had negative
consequences: “A bureaucratic exercise extending over more than five years would eventually
end in general boredom,” rather than societal engagement in reconciliation initiatives. Despite
these less than encouraging nuances of the CEH truth investigations, some propose that the CEH
should still be praised for overcoming time frame limitations and managing to get the necessary
and relevant facts from the communities visited. Though fact-extraction from these
communities seems to have been substantial enough to make important, critical, progressive
conclusions in the CEH’s final report, it has not helped foster reconciliation for those from whom
the facts were taken.
A longer period of investigation would have recognized the victims more appropriately and substantially, according to the goal of societal reconciliation. A longer truth-telling period tailored to the victims' needs, rather than the commission's problematic mandate, would have been more likely to make known the victims' criteria for reconciliation – probably the most comprehensive and profound in demands – and move the whole of society towards their enactment. The speed at which the CEH had to work contributed to society's detached relationship to the commission, the lack of awareness of and investment in its purposes, and the consequently negligible effect of the CEH on public life since the presentation of its report.

The limited time frame also directly affected the truth that the Salvadoran TC could produce in a number of ways. Firstly, the situation of rushed, superficial truth-telling interactions described above in the Guatemalan case also presented itself in El Salvador. The TC's contact with communities was transitory and usually resulted in a shallow level of healing. Furthermore, the TC's communication with communities was not structured to include follow-up closure activities, such as therapeutic or educational workshops on citizen mobilization, political participation, human rights and the justice system, etc. At a minimum, the CEH had a secondary research team of Guatemalan historians who conducted public meetings and workshops to discuss policy with the villagers or townspeople. Secondly, the lack of time not only weakened the TC or CEH's experience with each community, but limited their overall access to rural areas. This impaired the representativeness of the truth established. By leaving out certain territories or provinces from truth testimony investigations or scantily passing through, those voices are not represented in the truth report. During the three years it worked, the REMHI project in Guatemala was able to penetrate much deeper and more broadly over the entire country than the CEH was able to accomplish in its six months of investigations. El
Salvador set up four decentralized offices, but this small network was not sufficiently penetrating into rural provinces. Accessibility was further impeded by the threat of violence still lingering in these areas during the beginning of the TC’s operations. Launching into the TC mission immediately after the end of the conflict, as mandated, was premature timing. The Salvadoran people were deterred from testifying to the truth commission not only because they were paranoid about the political risk, but because they feared for physical safety, especially if they had to travel far to reach a TC office.

Finally, the lack of time also curbed the number and extent of the “illustrative” cases included in the body of the TC report. These cases were chosen to receive special, detailed attention for either their international prominence or for their paradigmatic qualities, documenting a certain pattern or policy of violence. The commission compiled a list of exemplary cases which it deemed deserving of distinct recognition in the report, but later had to cut many from that list due to the impending deadline. The TC did not have enough time to acquire evidence on all of these important cases before the six-month investigative period expired. The result was that it could only present thirty-two emblematic cases in the final TC report, compared to the eighty paradigmatic cases described in the CEH report. Pouring nearly all of its attention into the investigation of these key cases, several of whose circumstances were left without adequate clarification, meant that the report did not address the majority of victims’ cases told in their truth-testimonies. The problem was that pieces of history that the TC had judged as vital for the country’s understanding of its past had to be left out of the truth commission report. A momentous document that was supposed to embody the complete truth of El Salvador’s recent conflict past failed to be complete. A truth commission must ensure that it represents all of the voices of the country in order for them to feel heard, acknowledged,
and, eventually, reconciled. National reconciliation requires a common sentiment of reconciliation across all sectors and regions of the recovering country.

The unrealistically short operation time mandated to the TC and the CEH clearly impeded the completeness and representative quality of the truth they drew from their contact with communities. The TC's and CEH's grueling six-month schedules of investigations did not allow them time to tend to the healing and reconciliation of the very same victims they interviewed. The undermining of the truth established and the lack of proper attention given to the healing of the victims was not simply an unfortunate consequence of the Parties’ ignorance of an appropriate length of time to mandate. Sadly, it was the calculated intention of certain interested Parties who established the commissions to give the TC and CEH insufficient time to do their work. Some Parties to the Accords feared a national movement that would unearth incriminating evidence of their guilt if the truth commissions were allowed to complete their jobs thoroughly. They were afraid that ground-breaking truth revealed would attract too much attention and would undermine their own institutions’ legitimacy and power. In this way, the government and guerillas in both El Salvador and Guatemala agreed to the bare minimum of a truth commission and purposely designed it to have only a minimal effect on the public. Thomas Beurgenthal, one of the TC commissioners, sheds light on this disappointing reality when he laments that the time given “was not sufficient time to do justice to all the terrible injustices committed by both sides to the conflict in El Salvador, but that was not the objective of the Parties.”¹⁰⁷ Rather than genuinely wanting to do justice to the victims of the conflict, the tone of the mandate reveals how they wanted to reach closure quickly. They wanted to come to a swift resolution of this past and move on to a future in which this problem had disappeared. They cared to “[focus] on some
of the most egregious acts” only as much as was required to clear up misconceptions of the past. They did not want the past to come back to haunt them: “they wanted a set of recommendations to help ensure that the past would not repeat itself.”

The pure lack of time to carry out its mission to the fullest was an intrinsic weakness in each of the truth commissions. Created with the time frames already limited, these truth commissions were destined to be undermined. However, the truth commissions, themselves, can not be faulted for these shortcomings. The strengths of the TC and CEH were purposely undercut by external forces: the politically interested Parties that crafted the TC and CEH mandates in order to limit the truth produced and to prevent reconciliation initiatives that would empower the third party victims and de-legitimize the government.

INVESTIGATIVE POWERS

Both the TC and CEH were established to be definitively independent of the juridical realm. The Salvadoran commission mandate in the April 1991 Mexico Agreements set these boundaries, asserting that the TC was not to “prevent the normal investigation of any situation or case ... nor the application of the relevant legal provisions to any act that is contrary to law.” The CEH mandate explicitly states that its “work, recommendations and report...shall [not] have any judicial aim or effect.” Although some wished that the truth commissions had been allowed more direct effect on impunity in the two countries, the logistical separation of the TC and CEH from any judicial processes made them more acceptable to the conservative government, economic elite, and military powers – and therefore possible. The Salvadoran and Guatemalan society had to take what it could get. Unfortunately, what they got were bodies with very little investigative clout.
Both the TC and the CEH were created with the handicap of no legal powers of subpoena, search, or seizure. Without the power to lawfully require the appearance of certain individuals before the commission, the means to compel the surrender of evidence, or the right to search any premises where relevant archives could be stored or hidden,\textsuperscript{112} the amount of incriminating information to which they could gain access on their own was considerably reduced. They had to rely on voluntary information of truth-testimonies and on the responsiveness of the government, ministry of defense, FMLN or URNG, media sources, and civil society to specific requests. The investigation process became a test of others' cooperation.

**DISPARITY IN COOPERATION FROM THE PARTIES**

El Salvador and Guatemala were split along very similar political and social lines regarding willingness to cooperate with, and provide support to, their respective truth commissions. The civilian governments of both countries, led by presidents Cristiani and Arzú who claimed to support efforts toward reconciliation, avoided handing over any information that the TC and CEH requested that could be used to demonstrate government implication in or complacency towards atrocities. During the first month of the CEH's investigative work, September 1997, the Commission tested out the government's readiness to cooperate with a trial run. The Agreement on the Commission's establishment had specified that the Parties would undertake their responsibility to "collaborate with the Commission in all matters" for the fulfillment of its mandate\textsuperscript{113} This trial run also checked the government's compliance with the accord. This government cooperation test requested from the President detailed information of four different disappearance cases spanning the entire investigative period. When the commission had received no response, Guatemala President Arzú explained that he had passed the request along
to the Minister of Defense where it had ‘gotten lost.’ The Minister of Defense later “found” it and passed it to the Minister for Internal Affairs and the Head of Police, none of whom could find any evidence of substance. The only documentation that the CEH received back as nominal “effort” of a search for evidence was a few pages from the police files – a letter sent to the victims employers asking if their employees had, in fact, disappeared. There was no behavior that showed desire to understand the true story of their disappearances. What it did demonstrate was how well the military still controlled the President. It showed that the executive, the armed forces, and the civilian police institutions were undeniably still linked together in a (coercive) network of hidden secrets and covering for each other. All requests for information were required to filter through a central path at the Ministry of Defense. Commissioner Beurgenthal reflects on the Commission’s same challenge to break through the impenetrable wall of denial and impunity that the Salvadoran military had built around its institution.

All of them, moreover, seemed to have great faith in the ability of the system to cover up, protect them, and to punish those who talked. As one officer put it, “most officers knew who had done what, but we also knew that none of us would tell on them, and that if we did, we would be dead.”

In Guatemala, direct dealings with the military did not have this delay and hesitation in response, as in the above situation with El Salvador. The military’s response was straight-faced denial that any operational records from the decades being investigated existed in the military archives. Of course, the CEH knew that in reality the military had kept meticulous account of this information ever since the institution was established. TC requests for service records or personnel files of military officers were declined with the explanatory excuse that such files “had been destroyed, could not be found, or were incomplete.” Access to the Guatemalan secret services files and to the Salvadoran security services records was impossible.
While investigating the specific cases that the Salvadoran TC planned to use as illustrative in its report, it requested personal interviews with alleged perpetrators and others who might have held key information. Interviews were the only source of primary data, as public hearings broke the mandate requirement that the TC and CEH proceedings be carried out confidentially.\textsuperscript{119}

Thomas Beurgenthal describes below the results of those efforts:

Most civilians, former FMLN combatants, and military personnel presented themselves at the Commission after being summoned by it... Of course, it is one thing for individuals to appear for questioning; it is quite another for them to tell the truth or, for that matter, to provide information...Initially it appeared that none of the military officers we interviewed, whether or not they were implicated in any of the cases under investigation, would provide any useful information. For the most part, they lied, when responding to our questions. Many of them made it quite clear, either by the manner in which they spoke or by their body language, that their careers or their lives were at risk if they told the truth...It was obvious to us that the military had built a defensive wall to protect itself.\textsuperscript{120}

The military provided the commission with false cooperation, agreeing to meet with the commission but answering with shameless, transparent lies. The officers believed that, as members of the military institution, they were above the truth. This behavior significantly curtailed the TC’s access to rich, valuable information that would have amplified the truth established and avoided inconvenient, time-consuming waiting periods and the investigation of secondary routes to the same sought information. For the sake of the commission’s objectives, it was at least positive that the FMLN and other civilians were tolerant of the TC’s request for informational interviews.

The guerrilla groups of both El Salvador and Guatemala were more responsive than the militaries, though the FMLN’s reaction was comparatively more guarded than that of the URNG. Although the FMLN showed up for their interviews as well, they were not terribly open and obliging in turning over requested information that contained names and deployment assignments of various field commanders.\textsuperscript{121} They were specifically reticent about turning over
certain facts that would help the commission determine identities of those responsible for ordering or permitting certain violations of human rights. In Guatemala, the CEH found the URNG and other former combatant guerillas more cooperative. In contrast to the formalities and unresponsiveness of the military officers in meetings at the Salvadoran Ministry of Defense, the meetings with the guerillas were more dynamic, mutually organized, and numerous. Some questions put forth were never clearly answered. However, whereas no one from the military once recognized the wrong of what they had perpetrated, the URNG openly acknowledged its fault. The URNG also more readily complied with the terms of the accords in cooperating with CEH requests of information.

This disparity between the government and military’s willingness to cooperate and that of the URNG reflects the fact that the military knew it was at a disadvantage and attempted to obstruct this truth. The effect was to begin to polarize opinion of the CEH along political party and ideological lines: the military and the conservatives were against, while the leftists were supportive. As will be discussed further on in this paper, the military later claimed that the report was biased, infiltrated with “leftist” agenda. Reconciliation with truth commissions, acknowledgement of the victims, and pursuit of justice became “leftist.” On the other hand, the political right purported a “reconciliation” of pardoning perpetrators, forgetting the pain of the past, and “moving on” in order to maintain the systemic injustice that affords them power.

The reality in Guatemala and El Salvador during the work of the TC and CEH, and when the countries were supposedly under democratic governance, was that the Parties to the peace accords did not comply with their own pledged cooperation with the Truth Commissions. Furthermore, the CEH’s failure to gain access to governmental archives, which should belong to the public domain, illustrates the tight, manipulative, forcible grip held by the Minister of
 Defense and the Secret Services *(Estado Mayor Presidencial)* on the civilian leaders. With no legal repercussions possible, the Truth Commissions were effectively bare in the face of the military’s power to answer the TC or CEH’s calls or questions with unabashed lies. Given this reality, it is indisputable that the TC and CEH should have had stronger investigative powers that would have been threatening to the military institutions, and which could have frightened or compelled the military to hand over sources vital to disclosing the truth of the past. The weak mandates regarding investigative powers granted to the TC and CEH let the military keep the vast majority of their lies secret and receive no penalty for doing so. The Truth Commissions’ lack of compulsory powers thus perpetuated the legacy of impunity for the military in El Salvador and Guatemala. There can be no doubt that in both countries the military’s grip was upon the government when it spoke for “its” interests in negotiating for weak investigative powers in the Salvadoran and Guatemalan Truth Commission mandates.

**COOPERATION FROM CIVIL SOCIETY**

TC staff and commissioners interviewed employees of NGOs, church leaders, media representatives, and community leaders. The TC collected 2,000 testimonies relating to 7,000 victims in its own truth-finding work, while secondary sources provided information on 20,000 more victims from the conflict years. Despite having courageously assisted the population during the years of the conflict, the level of involvement of local Salvadoran human rights organizations in the post-conflict period and the quality of their help to supplement the work of the TC was disappointing. As truth commissioner Beurgenthal explained,

> The gradual perversion of governmental authority by the military, with the willing or unwitting collaboration of civilian authorities, and the military’s total immunity for its acts, however criminal, was the cancer that invaded the fabric
of Salvadoran civil society and eroded its ability to protect itself against this evil disease.\textsuperscript{128}

International NGOs that had monitored and prepared human rights reports on general patterns or specific cases did provide helpful information to orient, at least, the outsider commission to the real situation inside the country (even though they could not be included in the report).

In contrast to Salvadoran civil society’s very limited level of cooperation and participation in the UN truth commission’s work, Guatemalan civil society was constantly involved. Guatemalan NGOs and community organizations maintained active communication with the CEH, giving the commission feedback, connecting the CEH to communities with whom they already had long-term relationships, helping with technical and logistical assistance, and supplementing the CEH work with their own records and case investigations. Much of the CEH’s success is owed to the contacts and dedicated work of civil society, emerging in the 1980s and taking on an active role in Guatemalan public life through the 1990s and today.

The CEH was fortunate to have outside assistance and support from three particularly notable civil society sources. They provided the CEH with invaluable information that jump-started their own process and which the CEH could include in its report. Teams of forensic anthropologists in Guatemala, including the Guatemalan Forensic Anthropology Team (now Foundation: E/FAFG) which had been working since 1991, provided methodical, scientific evidence regarding the nature of deaths and massacres that they had collected from exhumations of mass graves that disproved military denials of responsibility.\textsuperscript{129} They have continued their work and as of March 2004, have exhumed 335 clandestine graves with a total of 1,600 individual cases.\textsuperscript{130} They have continued to exhume despite death threats over the years because they believe in their responsibility to help uncover the truth of violence, case by case, and preserve and record...
evidence for future justice in the courts. The resolution that the exhumations bring to the families as they recover their loved ones is a sense of restorative justice.

A second source of information came from a coalition of human rights groups who worked with the AAAS (American Association for the Advancement of Science) – the group that trained the EAFG – to construct a database of violations that held record of some 37,000 killings by the time the CEH began work.\textsuperscript{131} The AAAS provided the CEH with technical assistance and help in the post-publication dissemination of its report as well. It maintains the principal website for the CEH report, offering online access to versions of the report in English and Spanish. Additionally, they sell a complete volume set in Spanish on CD-ROM at a modest price.

The Archdiocese of Guatemala provided a third outside source of rich information for the CEH.\textsuperscript{132} At the time of the 1994 peace agreement to create the CEH, the Archdiocese of Guatemala concerned about various limiting aspects of the CEH’s mandate, began the Recovery of Historical Memory Project (Recuperación de la Memoria Histórica, REMHI).\textsuperscript{133} It was essentially an unofficial truth commission. In this way, REMHI was not restricted to an unrealistically short investigation period, was not prohibited from naming names of perpetrators in its final report, and could afford to take the time to reach more extensively and deeply into certain rural villages of Guatemala, with whom the CEH never had contact. Pooling all of these databases plus the information that CEH was able to collect over its year-long investigation period was what made it possible for the CEH to make a scientific estimation of the number of people killed in Guatemalan conflict: 200,000.\textsuperscript{134} The REMHI project and report was directly responsible for helping ensure that the CEH’s explanation and characterization of the truth of Guatemala’s civil conflict was comprehensive and powerful. Implicit is its responsibility to
achieve eventually some level of reconciliation as a long-term consequence of both truth commission reports.

**INTERNATIONAL FUNDING SOURCES**

The CEH had another source of external advantage that was fundamental not only to the success it had in producing the truth, but to the Commission's existence: international funding. Without funding, a truth commission cannot do any of its work toward truth and reconciliation. International sources were responsible for financing the vast majority of the CEH's work because the Guatemalan government had decided it was not its national or political priority to fund its country's own truth commission. The facts that the government did not consider it their responsibility to fund the CEH and the mandate did not specify a way in which to acquire funding could have been detrimental. MINUGUA (the UN Verification Mission in Guatemala) was generous to donate enough to provide for an Executive Secretary, a typist, a driver with a car, and three little office rooms to start off its mission.\(^{135}\) However, the Guatemalan CEH was not a UN endeavor.

The CEH launched a private campaign to raise enough money to sustain a commission of sufficient staff, resources, supplies, and transportation that would penetrate deeply into the country. The Commission needed the necessary financial support to conduct a concentrated investigation into 36 years of civil conflict within a mandated one-year period. Its appeal was swiftly answered by the governments of the Scandinavian countries, the United States, and Canada.\(^{136}\) A few other nations signed on to help to a lesser degree after this initial wave of principal commitment, though no Latin American countries (besides Guatemala itself) were to be counted among this final list of contributors.\(^{137}\) It took months to persuade the Guatemalan
government that it was essential to the country’s own interests, to contribute financially to their own truth commission. In the end, the commissioners were able to raise $9.5 million dollars to fund the complex, multifaceted project. Compared to the funds available to commissions in the past, this was an extensive amount. However, considering the sheer length of the conflict period, the immense death toll and scope of suffering throughout the country, and the convoluted conflict dynamics that the commission had to investigate, the $9.5 million was by no means an ample amount of funds. In the end it provided for the necessities, but during the process the level and sources of funds fluctuated, at times threatening financial collapse.

El Salvador, on the other hand, received what appears to be significantly less money for its truth commission: $2 million. Compared to other truth commissions, this was still an advantageous amount of funds. El Salvador was a smaller country than Guatemala, in every sense. But the main advantage was the added element of security to their funding: the Salvadoran Commission on the Truth was a UN initiative with a reliable UN pledge of financial backing. Energy and time was not wasted fundraising or worrying about how to keep the organization running, as in the CEH experience. United Nations sponsorship of the TC benefited the consistency and degree to which the Salvadoran commission was able to investigate grave human rights violations committed during la Guerra sucia. Still, one wonders if the donors were selling the TC short by funding only a minimalist, six-month investigation of 12 years of civil conflict. On balance, financially involving the international community in the Salvadoran and Guatemalan post-conflict truth and reconciliation efforts was crucial to their investigation success and proved to be instrumental later in receiving international and national-level recognition, legitimacy, praise, and leverage for national reforms.
OPERATIONAL CHALLENGES: Setting the Basis for Accusation of Bias

With time, the two commissions gained trust from the public and began to receive overflowing numbers of victims and witnesses to human rights crimes who wanted to tell their stories. But the process was inevitably missing the essential other side of the conflict’s story: the perspective of the perpetrators and commanders of these atrocities. Obviously, perpetrators do not have the same inclination to speak out as do the victims (as long as their personal safety is not threatened). Moreover, perpetrators in El Salvador and Guatemala had no incentive of amnesty to bring them to talk, as in the South African commission. As a consequence, the numbers of perpetrators who gave testimony was extremely low compared to the numbers of victims who came forward. Of those who did come forward to the CEH, many did not even feel deep remorse for their acts. Some felt like they had been unjustly dealt with by their superiors in the security forces. They complained of not having received certain promised rewards. To them, going forward to the CEH was a way of putting pressure on those individuals.

Unfortunately, the military would use this imbalance in testifiers to claim bias in the entire report.

Similarly, the fact that the CEH did not have a comparable amount of evidence and information from the earlier pre-1977 period as it had for the later period made this a ‘discrepancy’ and ‘problematic inconsistency’ that the military later targeted as evidence of bias in the CEH report. Few people came forward to speak about that earlier period because the repression had been so successful in defeating organized political and opposition groups that the few who survived had dispersed and ceased to be politically active. Since the CEH often gained access to victims through organized political and community groups, little information came from those who were not involved. Even more important was the fact that during the
earlier period very few human rights groups existed to document the atrocities.\textsuperscript{145} It was the significantly more developed civil society of the 1980s that was indispensable in monitoring and documenting valuable information that the commission used to understand the extent of the crimes and patterns of atrocities conducted throughout the later period.\textsuperscript{146} Thus, the CEH had to compensate for its lack of statistics on the pre-1977 period when it estimated the total death toll from the conflict. The lack of data from before 1977 explains why the report’s analysis of the conflict is weighted more towards the latter years. This emphasis is one feature that has allowed the military to claim that the report was biased and under represented their perspective – the ideological clash interpretation of the war. However, this imbalance of data sources did not change the essential story told by the CEH\textsuperscript{147} – that of economic injustice and racist policy that is essential to tell in order to address these ills. This is the story that is necessary in order to help heal the pain perpetuated from the past through the present and, eventually, feel the resolution, peace, and, eventually, reconciliation with society and the government.

\textbf{Report Conclusions to the Salvadoran and Guatemalan Truth Commissions}

On March 15, 1993 and on February 25, 1999, the Salvadoran and Guatemalan truth commissions, respectively, presented their final reports to their countries and to the entire world. After months of grueling professional work and deep emotional challenges, the TC and the CEH had opportunities to tell the truth of what they had found about the recent conflicts of their respective countries. Despite external pressures and intrinsic weaknesses of their mandates, these truth commissions were able to produce poignant, impartial, extensive accounts of what really had happened in these warfare-torn countries and how. The CEH went even further to debunk why the conflict had surged.
The Salvadoran Truth Commission Report, *From Madness to Hope*, came out with astonishing conclusions. During its six months of investigations, it had collected 22,000 denunciations of severe human rights violations, mostly of extra-judicial executions, forced disappearances, and torture. An overwhelming proportion of the crimes were committed by the armed and security forces, state-sponsored paramilitary groups, or death squads. Only 5% of the violations were perpetrated by the FMLN.

Over 60 percent of all complaints concerned extrajudicial executions, over 25 percent concerned enforced disappearances, and over 20 percent included complaints of torture. Those giving testimony attributed almost 85 percent of cases to agents of the State, paramilitary groups allied to them, and the death squads. Armed forces personnel were accused in almost 60 percent of complaints, members of the security forces in approximately 25 percent, members of military escorts and civil defense units in approximately 20 percent, and members of the death squads in more than 10 percent of cases. The complaints registered accused FMLN in approximately 5 percent of cases.

One element of the Salvadoran TC success is the broad variety of severe human right violations it was able to document. The report delves into the factual details and the human story of specific cases, leaving the reader or listener shivering. Though the report only cites 33 principle cases, the cases were agreed to be widely representative of the systematic, violent tactics used during the conflict to insinuate power through fear. “The Salvadoran Truth Commission’s mandate was broadly worded, allowing it to investigate what it deemed were ‘serious acts of violence.’” During the negotiations each side to the conflict wrote out a list of specific atrocities it wanted the TC to investigate. However, the parties could not agree on how to merge their lists into a final version for the mandate. Thus, they left it considerably open to interpretation. In this way, the TC enjoyed a small degree of flexibility and ability to insert its own judgment as to the priorities of the historical investigation. They avoided being rigidly controlled by the parties to the mandate as was the experience in Guatemala. The commissioners
later agreed that investigating extra-judicial executions, forced disappearances, and torture\textsuperscript{152} constituted a priority.

**NAMING NAMES: Fighting Impunity with the Salvadoran Truth Report**

One of the unique strengths of the Salvadoran TC report was that it dared to name perpetrators. It is one of only two truth commissions\textsuperscript{153} that can be admired for such firmness and courage. “Approximately eighty individuals were named for either planning, committing, or covering up human rights violations. Those who were named included roughly a dozen members of the FMLN as well as several civilians, but the vast majority were members of the armed forces or security forces.”\textsuperscript{154} Surprisingly, the military had originally asked the TC to identify the problematic, corrupt, individuals inside the institution. It believed that the Truth Commission had been created weak enough that it would be able to ascertain only minimal incriminating evidence to identify a few token, low-ranked individuals. The military’s principle motive was to preserve its prestigious, honorable image. Therefore, it strategically decided that it would blame military brutality on a handful of culpable members, while maintaining the institution as guiltless. The TC final report conclusions were, however, damning for the military as an entire institution. Over forty of those named were *senior members* of the military, judiciary, and armed opposition,\textsuperscript{155} which demonstrated the need to go beyond purging a few “bad apple” individuals to reform the military institution.

Even where guilty parties were not directly penalized with dismissal, the blow to personal reputation and to institutional prestige was appreciable... The unprecedented act of identifying those who had only been rumored to be involved with the Salvadoran death squads, like the trial of soldiers implicated in the November 1989 murder of six Jesuits, their housekeeper, and her daughter, has opened another breach in the wall of impunity... The truth commission took “[a] step towards justice – the truth, but not punishment.”\textsuperscript{156}
Naming names was an important punitive, although not legal, measure. Due to the fact that it had no judicial powers to legally convict and punish perpetrators, naming their names in the report in an undeniable, factual declaration of responsibility was the most it could do to contribute to stopping impunity. Publicly naming names would amount to a punishment of moral castigation. In addition to establishing the truth of the violence, the mandate stated that the TC would “clarify and put an end to any indication of impunity on the part of officers of the armed forces, particularly in cases where respect for human rights is jeopardized.” The TC saw impunity as an obstruction of justice that would prevent healing of the victims and jeopardize reconciliation, one of the explicitly stated purposes of the Commission in its mandate. In this way, the TC courageously sought to address the problem of impunity in a way that was never done before and to help pave the way to reconciliation.

The commissioners never once questioned naming those perpetrators for whom they had built up overwhelming or substantial evidence from a variety of sources. The truth commission report, *Madness to Hope*, justified its reasoning: “Not to name names would be to reinforce the very impunity to which the Parties instructed the Commission to put an end.” They assumed it was a part of their fundamental duty to establish the factual truth surrounding the crimes committed and the nature of the violence of the country’s bloody 12-year civil conflict. A truth commissioner, Thomas Beurgenthal, explained, “In our view, national reconciliation would be harmed rather than helped by a Commission report that told only part of the truth.”

The naming of names of perpetrators was extremely controversial. The Salvadoran Truth Commission was aware of opposing opinions held by prominent figures such as José Zalaquett, a commissioner on Chile’s National Commission for Truth and Reconciliation. Chile’s Commission had chosen not to name names of perpetrators they had identified. Zalaquett
explained in the Chilean Truth and Reconciliation Commission report that, “To name culprits who had not defended themselves and were not obliged to do so would have been the moral equivalent to convicting someone without due process.”159 In response to such arguments that would disapprove of a so-called over-stepping of truth commissions’ juridical bounds, it should be emphasized that “…the publication of names represents a de facto rather than a de jure pronouncement of guilt.”160 In defense of the decision to name names, the TC was never presumptuous in this role. The commission knew many thousands of names, but reduced it to a small pool of the most sin-drenched high command officials of the government and military. In order to evaluate the extent of their evidence, the TC set up three categories of proof: overwhelming evidence, substantial evidence, and sufficient evidence.161 Any person named in the report had to belong to either the overwhelming or substantial evidence groups.162 The Commission’s policy was to give any individual to be named an opportunity to rebut the charges and let their story be heard by the commission prior to the publication of the name in the report.163 When the TC summoned individuals it suspected were guilty of or involved in particular human rights violations for which they already had much evidence, the commissioner or staff member to interview them would inform them of why they had been asked to come before the commission, and give them the opportunity to ask questions or respond with any statements they wished.164 They were never given the names of their accusers or any information that could reveal the identity of these witnesses.4 165

Both Beurgenthal of the Salvadoran Commission and Zalaquett from the Chilean Commission had strong, yet opposing, points of view regarding naming perpetrators in the report. A truth commission’s decision must, therefore, be based on which option will best

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4 This was done in order to ensure the safety of the accusers and witnesses. The TC’s mandate explicitly stated that all procedures were to be conducted confidentially. The country was unfortunately not yet rid of violence and the commission took care to protect the identities of their informants.
support and stimulate reconciliation. The context of the truth commission in Chile was different from that of the Salvadoran Commission, and, subsequently, the nature of each of their reconciliation processes has differed as well. Thus, the contrasting methods of either inclusion or omission of perpetrator names seemed the more or less appropriate given the distinct contexts in Chile and El Salvador. The intention in both cases was the same: to trigger a reconciliation process. Salvadoran Commissioner Beurgenthal explains:

...We believed that our mandate required us to name names and...in our judgment this action would promote rather then impede national reconciliation in El Salvador...How that story is told is less important than that it be told truthfully. Hence, whether the names of the perpetrators are revealed, whether trials are held, sanctions imposed, compensation awarded, or amnesties granted, these are all considerations that may well depend upon the nature of the conflict, the national character of the country, the political realities, and compromises that produced the end of the conflict. But if the basic truth about the past is suppressed, it will prove very difficult to achieve national reconciliation.

Naming names is a very context-specific decision. Whether reconciliation is best served by revealing individual or institutional responsibility depends on the political realities and social/cultural context and causes of the conflict.

Guatemala’s CEH was not granted the option of “individualizing” responsibility – in other words, naming names of perpetrators. The inability to name names seems at first glance like a disadvantage, especially considering the TC’s persuasive reasoning for including the names of perpetrators. However, perhaps this is not the case considering that the strategy of the TC and CEH reports towards healing and reconciliation differed. The TC report was very legalistic in style, reflecting the belief that justice, including punitive versions, is necessary for reconciliation. Morally denouncing human rights violations will finally empower the victims and raise their dignity above that of the perpetrators. By examining a few individual cases in depth and revealing names of key perpetrators, the report sought to condemn the acts committed. By focusing on the acts, more latitude was given to society to reject such behavior and learn to
reconcile with the people. In contrast, it was critical for the Guatemalan Commission to establish the macro-truth: to make clear the guilt of the institutions that were infiltrated with racist and supremacist attitudes and perpetuating the violence and injustice that caused such suffering in Guatemala. Achieving a substantial level of national reconciliation would never have promise in Guatemala unless the system and governmental institutions were made culpable and underwent major overhaul reform.

The macro-level truth of the CEH looks at the root causes, the suffering of the indigenous people under racist war policy, the brutality and culpability of the government and military forces, and the guerrillas’ failure to protect the civilian population. This macro-truth is also demonstrated in both the TC and the CEH with statistics and a comparative approach.¹⁶⁷ Such macro-truth is most attuned to furthering national-level reconciliation, rather than micro-level, individual reconciliation between particular victims and perpetrators or former enemies, for which it has only limitedly potential.

**THE GUATEMALAN CEH: Daring, Comprehensive Analysis of Root Causes**

In the words of Christian Tomuschat, “The handing over of the report was a glorious moment in the life of the Guatemalan nation.”¹⁶⁸ The CEH report, *Memoria del Silencio* (Memory of Silence), is a profound, unequivocal clarification of Guatemala’s history. It explained the historical progression of violence, provided statistics on the patterns, locations, and extent of violence, and gave a few victims the chance to have their story finally recognized and included in Guatemala’s national history. The CEH’s declaration of the commission of genocide meant that it was “breakthrough human rights documentation.” The CEH may, however, be most remarkable for its daring analysis of the structural and systemic causes of the war. This was
daring because no official body had ever spoken publicly and openly condemning the “official policy of racism and social exclusion.”\textsuperscript{169}

The report’s tremendous strength comes from its simple unity of premise: that the origin of the conflict and the overwhelming majority of violent acts were the responsibility of the Guatemalan state.\textsuperscript{170}

The CEH report asserts startling, undeniable qualitative and quantitative statistical conclusions of responsibility.

During the armed confrontation, the State’s idea of the “internal enemy,” intrinsic to the National Security Doctrine, became increasingly inclusive. At the same time, this doctrine became the raison d’être of Army and State policies for several decades. Through its investigation, the CEH discovered one of the most devastating effects of this policy: state forces and related paramilitary groups were responsible for 93\% of the violations documented by the CEH, including 92\% of the arbitrary executions and 91\% of forced disappearances. Victims included men, women, and children of all social strata: workers, professionals, church members, politicians, peasants, students, and academics; in ethnic terms, the vast majority were Mayans.

Among the cases registered by the CEH, insurgent actions produced 3\% of the human rights violations and acts of violence perpetrated against men, women, and children, including 5\% of the arbitrary executions and 2\% of forced disappearances.\textsuperscript{171}

The three-volume, 3000-page report contains four thematic parts. The first seventy-one pages of the report cover the administration, legal mandate, and technical functioning.\textsuperscript{172} The historical context of the conflict is explained over the next one-hundred-fifty pages of volume one.\textsuperscript{173} Volume two covers the perpetrator analysis for the first half and analysis of specific violations for the last half. Volume three continues on in its entirety to analyze specific violations.\textsuperscript{174} Eighty of the total 8,000 testimonies of violations heard by the CEH were included in the report as illustrative cases.

The mandate explained that the CEH would investigate the years of the conflict from the beginning of the armed conflict in the early 1960s. Since the government was one of the negotiators of the terms of the CEH’s mandate, it is not surprising that the timing of the period of inquiry was limited in order that it would do the government and military the least harm. By
choosing the early 1960s as the beginning of the investigation period, the conservative
government and military intended to frame the guerilla insurgents as the instigators of the
conflict\textsuperscript{175} – an ideological war between threatening leftist/communist guerillas and the
government authority. If the mandate had instead set the beginning of the period of inquiry at
the landmark military coup of 1954, the coup would have appropriately been seen as a cause of
the conflict. Including the 1950s would have portrayed the insurgent’s campaign as a legitimate
response to the military’s violent coup and the repossession of peasant land after implementation
of Arbenz’s critical land distribution reform. Beginning the investigation period in the 1970s or
later would have highlighted Mayan victimization and would have characterized it as a conflict
about poverty, marginalization, and racism. This would have incriminated the military and
weakened the military’s case of the conflict as a Cold War conflict. The military then justified
the launching of their counterinsurgency on the basis that they were protecting the population
from a threatening communist menace.

Despite this subtle and sly attempt by the government (backed by the military) to curb the
full truth arrived at by the CEH and tailor it to their interests, the Commission bravely declared
the military’s simplistic ideological explanation for the conflict was untrue and deceiving.

\textit{It is not possible to present simple explanations that situate the armed conflict as
a manifestation of the Cold War confrontation between the East and the
West...If the most visible actors of the conflict were the military and the
insurgency, the historical investigation realized by the CEH provides evidence
of the responsibility and participation, in different forms, of segments of the
economic elite, political parties, and diverse sectors of civil society.... In this
sense, any reduction to the logic of two actors is not only insufficient, but
misleading.}\textsuperscript{176}

The sources of the conflict lay much deeper: economic exploitation, racism, and political
marginalization. The reasoning for the military’s vicious counterinsurgency did not lie as
shallow as simply protecting the country from a communist, outside threat. The CEH exposed
the truth of agency: it was the military and the government protecting the Guatemalan economic
elite who were culpable. The military was on a deadly campaign to defend the pillars of the existing system — exploitation and discrimination — to guarantee that the elite could continue benefiting from this way of life. The military went on a mission to eradicate those elements of society that it presumed were “restless” from their position of disadvantage and would pose a threat to the elite’s comfort. Identifying such internal causes and agents of the war was not only stated specifically in the commission’s mandate as one of its purposes; revealing the overwhelming responsibility and the cold logic of the military and government in attacking its own civilians make lies, cover-ups, and denials no longer feasible or beneficial for an individual’s or institution’s prestige. The hope is that the old lies would be de-legitimized, this more truthful, complete perspective of responsibility would be accepted throughout as “the truth,” and that this truth-uncovering process would be humiliating enough to give incentive to the guilty parties to apologize. The CEH sought repudiation of the military and corrupt governmental institutions.

**Truth Commission Recommendations Towards Reconciliation**

The recommendations made at the end of the TC and CEH reports were of major importance. They outlined the impartial truth commissions’ respective visions for healing, prevention of conflict recurrence, and national reconciliation for El Salvador and Guatemala. El Salvador’s case was the first negotiated truth commission in which the Parties were bound to the implementation of the recommendations. A provision of the Mexico Agreements explained that the two parties, the FMLN and the Government, must cooperate with the TC and carry out its recommendations. This binding nature of the recommendations was critical for
communicating to the entire country an initial willingness to work for change in the future with former enemies. If the recommendations were then carried out or pursued in good faith, such a progression would exemplify and reinforce the ideal of reconciliation throughout society. In contrast, a failure to uphold and prioritize the TC recommendations after pledging to do so, would greatly undermine confidence in the potential for reconciliation. It would slow motivation to work for the ideal and reverse society's optimism. This would be a betrayal of the Parties' own words and stated policy, further eroding the trust the people looked to restore in the government and relevant parties.

If opposing parties recognize a real potential for reconciliation and have concrete measures through which to make progress together, yet let the moment pass them by and allow the momentum to whither, they send the message that reconciliation and society healing is not important. The danger is that society may never face another opportunity so timely, direct, and promising to demonstrate reconciliation and, thus, build momentum for reconciliation among society.

In a direct effort to promote national reconciliation, the TC dedicated a certain section of its proposed recommendations to initiatives addressing victims' need for dignity, acknowledgement, and justice. To provide material compensation, a fund was to be created for the victims and families of victims of the violence.\textsuperscript{178} It specifically required that at least 1% of all international aid sent to the country of El Salvador be earmarked for the fund.\textsuperscript{179} For moral compensation, the commission recommended three important gestures: (1) "The construction of a national monument bearing the names of all the victims of the conflict;" (2) official and public recognition of the victims and crimes committed against them; and (3) "the institution of a national holiday in memory of the victims of the conflict and to serve as a symbol of national
reconciliation.” Finally, a special “Forum for Truth and Reconciliation,” which would monitor compliance with the recommendations, was recommended to be created by the newly, peace accord-created National Commission for the Consolidation of Peace (COPAZ). It is interesting to note that this last recommendation was situated in the “Steps Toward National Reconciliation” section of the recommendations document. Such a placement implies the recognition that reconciliation would be contingent upon the implementation of the recommended reforms and initiatives in all of the areas included: military reform and demilitarization, creation of a civilian police, dismissal of violators, judicial reform, respect of human rights, and steps toward national reconciliation. The TC sought to address the problem of impunity with the dismissal of all of the officers named in the Ad Hoc commission’s report and in the TC’s report. Likewise, all civilian government officials implicated in the unjust violence or cover-up were to be dismissed. Anyone who was implicated in such violence was disallowed to hold public office for ten years and prohibited from defense or security positions for life. Additionally, in order to ensure that no corrupt legacies of the past perpetuated impunity in the courts, it called for the removal of all of the Supreme Court justices who had failed to investigate abuses. The report also emphasized the ratification of any international human rights treaties that it had yet to enforce. Interestingly, the report did not recommend prosecution of the perpetrators that it named in the report because it recognized that the justice system would not be able to provide a fair trial. The judiciary was corrupt, ill-equipped, and vulnerable to political pressure and threats. Most of the content of the TC recommendations cited the already comprehensive reforms of the peace accords and reiterated the importance of their implementation. The TC had few ways it could think of improving those reforms already signed, except for the key recommendations that spoke specifically to the issue of reconciliation. Thus,
although El Salvador’s TC recommendations were binding, they did not seem as extensive or
ground-breaking as the eighty-four recommendation included in the CEH report.

The Historical Clarification Commission concluded their report, *Memoria del Silencio*
(Memory of Silence) with a comprehensive, impressive list of eighty-four recommendations to
the Parties. They were organized by theme: preservation of the memory of the victims;
reparatory measures (including the exhumations of clandestine graves); fostering a culture of
mutual respect and observance of human rights; strengthening the democratic process (legislative
measures, military reform, civilian police and security forces); measures to promote peace and
national harmony (especially the recognition of indigenous rights); and creation of a body to
promote and monitor the implementation of the recommendations. The CEH directed the
President to express, in the name of the State of Guatemala, public apologies to the nation for the
violence wrought on the people and to assume responsibility for such acts. As the Salvadoran
TC had done, the CEH called for purging the armed forces of its human rights violators. The
CEH additionally called for the dissolution of the *Estado Mayor Presidential y Vicepresidential*,
Guatemala’s secret services, implicated in many of the most egregious and massive-scale
atrocities. Of high importance, the CEH called for the criminals of human rights abuses to be
brought to justice through the courts.

The third section of the chapter of recommendations on “Reparatory measures” began, “The
CEH considers that truth, justice, reparation and forgiveness are the bases of the process of
consolidation of peace and national reconciliation.” It was critical that the CEH recognize that
these recommendations were specifically intended to “dignify the victims.” In this way, it did
not leave room for any interested parties, like the government, to deny that the central focus of
reconciliation should be *on the victims*, rather than on former combatants or actors of the
conflict. In the introduction to this section, the CEH charged the Guatemalan State with “design[ing] and promot[ing] a policy of reparation for the victims and their relatives. There could be no mistake that the government must engage in real reconciliation – direct contact with or actions implemented specifically for the victims. Purporting a policy of reconciliation through amnesties given to perpetrators and speeches about forgiveness and “moving on” would not help society heal and reconcile. The CEH clearly acknowledged this in its report and recommendations. Unlike the recommendations in the Salvadoran TC report, these were not binding. However, the final recommendation of the CEH for the establishment of a State and civil society-combined body to hold both groups mutually responsible for the implementation of the recommendations would hopefully help monitor this progress. The “Foundation for Peace and Harmony,” (Fundación de la Paz y el Acuerdo) as it would be called, was to be created no more than sixty days following the publication of the CEH report through a legislative measure brought to Congress by the Commission on Human Rights.

Reactions to the Truth Commission Reports:
The Test of Agreement and Acceptance

The TC and CEH reports by themselves were an accomplishment. However, it was the subsequent reaction of the country to the reports that was pivotal. The government’s and the military’s reactions to the TC and the CEH would signal to the general population their genuine intention to change the ways of old or maintain sinister “business as usual.” Subsequent responses from the population or community organizations would reflect how and if the report had reached the public, whether victims were encouraged by the report’s acknowledgement of the truth, and the public’s overall confidence in the possibility for reconciliation.
The immediate reactions of different sectors of society to a truth commission report foretells what short-term potential there may be to reconcile different versions of the past within one nation. Closure of the pain of the past, which virtually all people want, depends on whether or not agreement on the past can be reached.

**Immediate Reactions to the TC Report**

The March 15, 1993 publication of the Truth Commission Report, *From Madness to Hope*, sparked major political controversy. Commissioners claim that the truth-finding/telling efforts followed by the Commission report had a cathartic effect on the victimized population. Human rights groups praised the exposing of names. The FMLN fully supported the report, while the Supreme Court, the executive branch, and the Salvadoran armed forces denounced the report. The armed forces condemned the report as "unfair, incomplete, illegal, unethical, partial, and disrespectful." On March 18th, in Salvadoran President Cristiani's public address in response to the report, he called for erasing, eliminating, and forgetting everything of the past, rather than upholding the truth established and emphasizing the importance of further efforts to seek redress. Eight days after the release of the TC report, General Ponce contended bitterly that it intended to "defile the honor and dignity of the armed forces and convince the public that the military had systematically violated human rights." On March 26, the Supreme Court of El Salvador criticized the Truth Commission's recommendation to remove such corrupt, political pressure-prone judges as "extreme and tendentious." Sadly, media coverage of the presentation and content of the TC report was very limited at the national level due to strict press censorship. Internationally, the TC report attracted limited, short term coverage.
Five full days after the presentation of the report, President Alfredo Cristiani called for a blanket amnesty for all individuals charged with serious acts of violence. His response was in direct reaction to naming names of perpetrators – exposing military members, governmental officials, guerrillas, and civilians and condemning the military and governmental institutions to which the majority belonged. While the government had previously supported identifying the military and civilian institutions’ “rotten apples,” it now reacted in extreme defiance. Although the President emphasized the need to forgive, the victimized population and human rights groups took this as an insulting gesture that played to the desires of the military instead of, firstly, recognizing the victims and admitting to the wrongs done against them. “Political concerns under the guise of ‘reconciliation’ ... were given greater importance than the rights of the victims and society’s need to address the past.”

The measure was rushed through the Guatemalan legislature to be put into action, further undermining the victimized people’s trust, polarizing the country, and the entire process of reconciliation, which the government claimed to support. Such an across-the-board amnesty was a crippling rebuff that injured victims’ dignity and their hope for justice.

In reflection of this turn-of-events, many wonder if the TC should have anticipated such a reaction from the government, pressured by the military, and, thus, not tried to push anything that could backfire. It is ironic that part of TC’s mission was to address the immense problem of impunity in El Salvador, but yet its unintended effect was its implementation. Still, the amnesty did not nullify the TC’s work or negatively affect the report itself. Whether or not the names of perpetrators had been included in the report, impunity would have won out at that time in El Salvador. Even without the amnesty it is unlikely that a few, if any, individuals would have (1) been brought to trial in Salvadoran courts, and (2) convicted there with an appropriate punishing
sentence. The effect was to release a few individuals already convicted while morally stigmatizing many more individuals that represented entire institutions.

Immediate Reactions to the CEH Report

As in the case of El Salvador, Guatemalan society’s various reactions to the February 25, 1999 presentation of the CEH report would set the tone for the post-Commission process of acknowledgment, healing, and justice-seeking. “The success of the CEH rests...uniquely on the reception and impact of the report because it was the Guatemalan commission’s only product.” The reactions would identify real or false commitment to reconciliation and acceptance of the nation’s essential needs. Even more, the degree of congruence between public and government reactions would determine Guatemalans’ own personal degree of hope for national reconciliation.

The CEH report “far exceeded the expectations of civil society,” which was especially excited about the Commission’s conclusion that genocide had occurred and its pointed encouragement of trials with the urgent reform of the judiciary. Unfortunately, reactions from civilian government officials were mixed. The Arzú government did not accept the CEH report.

Immediately following the presentation, Raquel Zelaya, the secretary of peace, remarked that the commission’s work was commendable, yet reminded listeners that “those responsible for the massacres will not be brought to justice.” Roberto Robles, head of Guatemala’s official tourist institute grumbled that such a negative portrayal of Guatemala would cause more “damage than
reconciliation.”200 The Minister of Defense, General Héctor Barrios, responded to the report that day by noting that the report was “a partial truth, since its version of history is nothing more than the point of view of the commission.”201 This slight of the commission’s credibility would reappear later in a more pointed criticism of the CEH and “its truth.”

President Arzú’s government finally responded publicly to the report on March 16th, 1999 in a newspaper advertisement.202 In this written address of the CEH report, President Arzú, in effect, excused the State of Guatemala for not having any responsibility to implement further reforms. He denied even the need to acknowledge the victims and crimes against them in a formal apology, explaining that on December 29th, 1998, the second anniversary of the signing of the final Peace Agreement, he had already expressed some amount of regret.203 This was clearly, strategically timed before the release of the CEH report in order to “count” and so that any apology following the report would not appear to be an endorsement of and submittal to the report’s conclusions.

Arzú, who had been garlanded the world over for the part he claimed in the peace process, seriously set back the cause of reconciliation through his actions. The clear rejection of the report, the creation of an ‘us and them’ reaction and the simple churlishness of his behavior derailed serious comment on its findings and set the tone for future discussion.204

Four months after the publication of the CEH report, on June 30th, 1999, President Arzú declared that that the report was wrong in proclaiming that genocide had occurred in Guatemala.205 However, there’s no denying that massacres, disappearance, and forced displacement of hundreds of thousands of indigenous Maya due to a systemized, targeting government and military policy constituted genocide. The Arzú government’s negative responses amounted to a rejection of the entire idea of the CEH report, leading to a most-significant re-polarization of the country – this time not around the issue of the conflict, but around the issue of the truth of the
past and reconciliation. Although it is disappointing to receive such a caustic reaction from the State about the official truth commission’s work, a negative response was predictable.

Media coverage surrounding the release of the CEH report was active and intensive nationally and internationally. Prominent opinion columnists in national newspapers such as Prensa Libre and Siglo Veintiuno offered differing opinions that cut exactly along the lines of political persuasion. Conservatives like Fernando Linares charged that the report was biased, “an ideological instrument of the Left.”²⁰⁶ A comment by Alfredo Klatsmítt demonstrated his wary doubts that the report would be able to heal people and reconcile society: that it would “open wounds in the memory of a people tormented by both sides.”²⁰⁷ Disappointingly, the report did not create a lively debate for very long. But the fact that interest in the report, shown through coverage in the media, subsided relatively soon is not altogether surprising. The fear that the military still perpetuated and the secrecy surrounding circles of political dissent or government criticism demonstrate the personal risk involved in carrying on a public dialogue (via the press) that upheld the incriminating CEH conclusions of, primarily, the military. Only a few months after the presentation of the CEH report, the country elected Portillo, of Efraín Ríos Montt’s FRG party, into presidential office.

The Ultimate Test: Compliance with Recommendations

And Implementation of Reforms

**EL SALVADOR: LIMITED PROGRESS**

The TC recommendations were binding. However, binding obligation does not mean that implementation has been smooth or complete. The UN was slow and not insistent enough to
push for compliance with the TC recommendations as it gradually turned its attentions elsewhere. Thus, the implementation of the recommendations has largely been left up to the Parties and El Salvador’s very weak civil society. The FMLN had advocated for the truth commission during the negotiations, but retreated somewhat, to the level of the government’s compliance, once the Commission report was finalized and the recommendations were out on the table.\textsuperscript{208}

Despite the fact that eleven years have passed since the TC report was presented to the public, only a few of the recommendations have actually been implemented. The Salvadoran government has been much more reluctant to implement punitive measures of administrative sanctions or bans on individuals named in the report, and measures specifically for national reconciliation, than to carry out structural and institutional reforms.\textsuperscript{209}

\textbf{Implementation of Reparative Measures: El Salvador}

The report required the public apology to the victims for the crimes done to them, but there has been no such move. Even two years after the Salvadoran Truth Commission report was released, the new Defense Minister, General Humberto Corado, denied fault and reason for concession to the victimized Salvadoran population: “The armed forces have nothing to apologize for, since their conduct was consistent with the principles of a war in which a clandestine enemy attacks regular military patrols.”\textsuperscript{210} Margaret Popkin notes that “an official acknowledgement of past wrongdoing by state agents is unlikely to come from the same government responsible for many of those violations while it remains in power.”\textsuperscript{211} Though three presidents and three elections have passed since the release of the TC report, the party in
power has not changed since the beginning of the conflict in 1980. Each one of these presidents was an ARENA party member, the party implicated in massive-scale abusive war policy.

Families have not been compensated through any reparations program. Salvadoran NGOs have called for the government to provide medical assistance and to investigate disappearances from the conflict but action has yet to be seen.212

An important recent development honoring the memory and dignity of the victims of the Salvadoran civil conflict is the recently constructed Monument to Memory and Truth in the Parque Cuscatlán in the capital, San Salvador.213 Inaugurated in 2003, it is an 85-meter wall of black granite engraved with the names of more than 25,000 innocent girls, boys, women, and men victims. The inscription reads: “A space for hope, where we can continue dreaming and build a more just, human and equitable society.”214 Unfortunately, the government did not take it upon itself to build the national monument, as the TC recommendations had obliged it to do. Instead, it was the Comité Pro Monumento de las Víctimas Civiles de violaciones de Derechos Humanos (Committee in favor of the Monument to the Civilian Victims of Human Rights Violations), a conglomeration of twelve Salvadoran NGOs, that initiated the project and financed the building of the monument.215

**Implementation of Punishment and Justice Initiatives: El Salvador**

There has been some progress in the purging of the corrupt rights abusers in the military and public service who appeared on both the TC’s list of perpetrators and on the Ad Hoc’s list of recommended individuals for dismissal.216 These officers appeared first on the list of the Ad Hoc Commission and, thus, the Ad Hoc Commission, rather than the TC, is primarily credited for applying pressure to the institution for their removal.
While the Truth Commission was at work, the Ad Hoc Commission, charged with conducting investigations deep inside the military, came out with its report and a sweeping call to purge 103 officers from the institution. By the time the Truth Commission report was released, several perpetrators it named already appeared on the Ad Hoc Commission’s list. However, the Truth Commission report was crucial in increasing the pressure on President Cristiani to confront the military regarding the remaining fifteen high command officers from the Ad Hoc’s list and finally dismiss them. President Cristiani informed the United Nations in July of 1993 that every individual named in the Ad Hoc report would be removed by the end of 1993, including infamous figures like Generals Ponce, Zepeda, Rubio, and Vargas who had already resigned or been dismissed.

Despite the initial encouraging removal of these generals from the military, many of the perpetrators named in *From Madness to Hope* have retained high-level governmental positions. The legislature failed to follow the Truth Commission’s recommendation to draft into law a ten-year ban from any public or political position for individuals found responsible in its conclusions for egregious breaches of human rights. Consequently, soon after losing their military positions for participating in the murders of several civilian mayors, Joaquin Villalobos became leader of the Partido Democrata and Ana Guadalupe Martinez secured her seat as Vice President of the Legislative Assembly. In the same way, former defense minister, General Ponce, was appointed head of the Administración Nacional de Telecomunicaciones, and Mauricio Gutierrez won nomination to the OAS Inter-American Judicial Committee. The fact that these gross offenders were handed replacement positions by a government that purported to pursue reconciliation, directly undermined the meaning of reconciliation. The truth commission’s intended punishment – removal from the military institution – was not allowed to
be a manifestation of justice. Instead, it was merely a temporary inconvenience before the
government found new, equally lucrative and prominent, positions for them. For victims in wait
of reparations, social services, and basic recognition, this propping up of their perpetrators by a
government that claimed to be pro-reconciliation was another slap of injustice.

In addition to the troubling reappearance of old military faces wearing new hats of
responsibility, the removal of civilian officials from their positions has been slow-moving. In
fact, it was a more sluggish process than retiring corrupt officers from the military.\textsuperscript{223} Mauricio
Gutierrez Castro, identified as having purposely obstructed justice in the El Mozote case,
remained President of the Supreme Court until July of 1994.\textsuperscript{224}

Impunity remains a severe obstruction to justice in El Salvador. There has not been one
conviction of an accused perpetrator. Cases for the murders of Monsignor Oscar Arnulfo
Romero y Galdámez\textsuperscript{5}, Ignacio Ellacuría, Armando López Qunitana, Joaquín López y López,
Segundo Montes Mozo, Ignacio Martín Baró and Juan Ramón Moreno Pardo, and Elba Julia
Ramos and Celina Maricet Ramos have been left without resolution or punishment of
perpetrators. A coalition of NGOs together filed a case against high-ranking military and
civilian officers accused of ordering the infamous 1989 murder of the six Jesuit priests\textsuperscript{6} with
their housekeeper and her daughter.\textsuperscript{225} In 2001, the third Magistrate’s Court of San Salvador
dismissed all charges against them.\textsuperscript{226} While impunity continues inside the country, a case in the
United States brought by three Salvadoran torture victims against two generals of the Salvadoran
military has brought flickers of hope to those in El Salvador.\textsuperscript{227} The US court ruled in favor of

\textsuperscript{5} Violence against opponents by agents of the State, Death Squad Assassinations, Illustrative case #1. “Cases and

\textsuperscript{6} Violence against opponents by agents of the State, Illustrative case #1. “Cases and Patterns of Violence,” Death
Squad Assassinations. \textit{From Madness to Hope: the 12-year war in El Salvador: Report of the Commission on the
the Salvadoran victims and fined the defendants, all residents of the US, a punitive compensation for the crimes and pain they had inflicted.\textsuperscript{228}

Unlike the active civil society of Guatemala, the lack of visible, vocal demand for justice from the civil society sector in El Salvador has failed to put pressure on the government. Salvadoran human rights groups severely lack technical resources and, therefore, the technical capacity that helps organize and mobilize people, create a stronger network of NGOs, and ultimately let demands be heard.\textsuperscript{229}

**GUATEMALA: FALSE PROGRESS**

During his campaign for the presidency, Alonso Portillo of the FRG (Ríos Montt's infamous party) declared that he would make his best effort to carry out the recommendations of the CEH,\textsuperscript{230} a surprising departure from the usual party line. Later, when he won in 1999, he appointed Otilia Lux de Cotí, one of the CEH's three commission members, to his cabinet.\textsuperscript{231} During his inauguration speech he stated publicly that he supported the CEH report and affirmed his commitment to carry out its recommendations.\textsuperscript{232} Although his early rhetoric and apparent willingness to work with 'the other sides' were important, auspicious gestures, Portillo paid minimal attention to implementing the CEH recommendations during his actual full term. Although others felt encouraged that Otilia Lux de Cotí could serve as a watchdog from her cabinet position to monitor the implementation of CEH recommendations,\textsuperscript{233} she was not able to put pressure on the President and administration as hoped.

*Implementation of Reparative Measures: Guatemala*
The Foundation for Peace and Harmony was never created according to the recommended procedure in the CEH. Instead, President Portillo bypassed the legislative approval process in 2001 to announce the establishment of the Commission for Peace and Harmony, as an executive body. Its purpose and responsibilities were supposedly the same as that of the proposed Foundation for Peace and Harmony, except for an essential element. This "commission" was an executive-created body, rather than legislative-created one, which meant that the Congress had no power to check or monitor this new commission's progress or efficacy. With no budgetary provision provided it and a weakened mandate compared to that originally proposed for the recommendations follow-up body in the CEH, the Commission for Peace and Harmony has functionally remained an empty commission that exists in name only. Former truth commissioner, Alfredo Ballsels has dismissed the commission as "a meaningless appendix to the already penniless Peace Secretariat." Nearly all human rights organizations have also rejected this commission's creation. Its existence perpetuates the government's façade as one that cares about the CEH and reconciliation. As long as this false commission remains nominally in place, its mere existence will preclude a truly effective commission from being created for the implementation of the CEH recommendations towards reconciliation.

During his presidency, Portillo did fulfill the symbolic recommendation for reconciliation that specified creating a national holiday for remembrance of the victims. It is called the 'Day of Dignity for victims.' This measure for national reconciliation presents virtually no political risk; it does not involve the president or politicians having to confess their own partial or substantial fault for the fact that there are so many victims.

Portillo also sought and accepted pardon for the Guatemalan State regarding the conflict's human rights violations for which is was directly or indirectly responsible. However, the
manner in which this “apology” sought forgiveness from the victimized and immediately assumed it, before they had a say in this process, demonstrates disingenuous motives. Thus, it is clearly a political move, part of the “forgive and forget” approach that lets politicians write off real, painful, complicated, but necessary truth-exposing, victim remembrance, and justice initiatives.

To this day there has been no move whatsoever on the establishment of a reparations program for the victims and victims’ families. During the last several years, a National Congress led by former dictator Ríos Montt has ensured that the legislature would not propose any such financial fund or social program. The government claims that there is no money for a reparations program, yet it lets the rich elite enjoy their extremely low income tax rate of seven percent or less per year.

Luckily there seems to be some progress in the governments’ direct, complementary involvement in the nation-wide campaign to exhume the remains of conflict victims from clandestine graves. Guatemala has three principal NGOs that conduct exhumations and the government has begun to develop its own forensic team to act in support of the NGOs’ work. This step is a favorable sign, provided that the government-sponsored team remains independent of party interests and focused on victims’ social, psychological, and legal needs.\textsuperscript{239}

\textbf{Implementation of Punishment and Justice Initiatives: Guatemala}

The December 1996 “Law for National Reconciliation” ironically granted amnesty from crimes committed during the conflict, except for crimes of genocide, forced disappearance, and torture. It was critical, then, that the CEH proved that genocide had been committed in Guatemala. It provided hope that those responsible could still be tried. Unfortunately, however,
there have been no legal consequences for the genocide committed.\textsuperscript{240} As a signatory of the Genocide Convention of 1948, the State of Guatemala is required to prosecute cases of genocide against responsible persons inside their state territory.\textsuperscript{241} The Guatemalan judicial system remains weak. At the time of the CEH publication, only one proceeding was pending.\textsuperscript{242} This was the case of the horrifying 1982 massacre at Las Dos Erres, where nearly 300 people had been killed, mostly women and children. The proceedings have never been completed; however President Portillo offered $1.8 million dollars in compensation to the families in a ceremony of apology in December of 2001.\textsuperscript{243}

Civil society has pushed public prosecutor’s office to take up several cases. On May 3rd 2000, forty-eight survivors of massacres in the Baja Verapaz and Quiché departments filed a complaint against the former President Romeo Lucas García, his brother Benedicto Lucas García, and Luis René Mendoza Palomo, the former Chief Commander of the Army and former Minister of Defense.\textsuperscript{244} Human rights organizations and families of the victims, rather than the State, have pushed forward the trials of the 1990 extrajudicial execution of Myrna Mack and of Bishop Juan José Gerardi in 1998.\textsuperscript{245} The military officers accused of the crimes were convicted but now are pending appeals.\textsuperscript{246}

Due to Guatemala’s weak justice system, legal proceedings outside of the country have provided the most hope. The Spanish \textit{Audencia Nacional} on March 27th, 2000 against former head of State Ríos Montt. (Nobel Prize Winner) When Rigoberta Menchú submitted the factual evidence of the ineffectiveness of the Guatemalan judicial system, the Spanish judge felt motivated to start an investigation.

The recommendations that address reform of the Guatemalan army constitute nearly twenty percent\textsuperscript{247} of the eighty-four included in the CEH report, making it a pivotal issue for
implementation progress. As mentioned above, the eradication of the presidential military staff — *Estado Mayor Presidencial* — was critical as it would get rid of one of the major sources of human rights violations in Guatemala. President Portillo had begun the process of dismembering this military body when a few months later he suddenly decided against it. He was, no doubt, pressured to do so “as a hostage to the militarized past.”

**Dissemination of the Commissions’ Truth**

It is clear that civil society can have a substantial effect in pushing along the reconciliation process outlined by a truth commission report. Civil society and the truth can have an intimate, reciprocal relationship of building each other’s legitimacy: once the official truth is out, civil society can use this information to teach and organize people under the banner of truth and towards the recommendations in the truth report. Using the official truth will empower civil society, strengthen the organizations, and, in turn, further the campaign to implement the truth commission’s recommendations for reconciliation. It is essential that the truth not only be established by the truth commission, but that it reaches the people and civil society. Therefore, distribution of the truth commission report and dissemination of the truth uncovered by the commission can significantly affect the implementation — whether by the government or by civil society — of the recommendations on which reconciliation hinges. Successful, wide dissemination of the truth and of the commission’s report, will help the people learn about and learn from them. It builds people’s sense of ownership of this truth. It makes them feel invested in the vision of the recommendations. Wide distribution as well as targeted allocation is optimal in order to execute broad education and guarantee that the centers. It is especially those public
centers of assembly (community groups, human rights organizations, universities, houses of worship, etc.) that must obtain first-hand access to this information and use it to promote the rights of the citizens and beneficial change.

The CEH developed a public dissemination strategy for the truth it revealed in its report. Forty-two thousand copies of the CEH’s recommendations and conclusions in Spanish and English were distributed on the first day. In addition, the full text version was placed on the internet immediately. Upon its publication, the final report was distributed in its entirety to the press, universities, and libraries. The following Sunday, major newspapers printed supplements and important excerpts from the report. A week after its presentation, the report had its own permanent website site with its link publicized on other websites and in newspapers.

Five months later in July, 1999, the first five complete volumes were published; the seven supplemental annex volumes were published three months later in October. Rather than use a private sector publisher as did the South African TRC, the CEH used a public sector publisher, UN Office of Project Services (UNOPS), which has widened and facilitated the circulation of the report’s findings. UNOPS has been very generous in facilitating the report’s educational effect. It has given away tens of thousands of summary versions, donated hundreds of the complete volumes of the report to schools, libraries, and NGOs, and funded, along with AAAS, the making of a CD ROM copy of the entire Memoria del Silencio report.

Unfortunately, the Salvadoran Truth Commission did not have an elaborate plan of distribution of its report like the Guatemalan CEH. National media coverage of the Truth Commission and of the truth it established was very sparse due to strict censorship. News of the Salvadoran truth commission was said to have reached many international sites better than it was
reported inside the country. Copies of the report were given immediately to both Parties of the Peace accord and truth commission negotiations. The report itself was published in Spanish and in English and was distributed very limitedly. Access to the report was moderate – through human rights organizations or public institutions. The report is not required reading in their schools, especially as history is not studied to any great degree in the Salvadoran school system. The Guatemalan school systems do not include their CEH report in the school curriculum, either. This is one clear way that the State could, if it wanted to, emphasize truth and orient children at an early age in the direction of reconciliation.

**Conclusion: Six Benefits of Truth Commissions in El Salvador and Guatemala**

Societies that are trying to overcome the pain, division, and distrust of conflict understand that reconciliation cannot be a short-term goal. Indeed, there is a “road to reconciliation.” Reconciliation is a process, a long road along which to travel. Truth commissions are easily criticized for a weakness in not being able to bring about reconciliation. However, one must tame one’s expectations of any reconciliation initiative because “reconciliation” is broadly defined and ambiguous as a concrete goal. Expecting or even hoping that a truth commission will cause reconciliation is an expectation that is bound to be unmet. It is not realistic to hope that a truth commission, or any one measure enacted for reconciliation, will necessarily bring about reconciliation. While truth commissions are not necessarily the “road to reconciliation” they are an important vehicle for making progress on this road. Truth commissions certainly have positive effects towards reconciliation. Without a thorough, broadly-scoped investigation and airing of the truth, a society that has kept painful secrets of abuse hidden inside the archives...
of the military and inside the heavy hearts of the victimized people will be burdened by its past as it struggles to march forward.

Truth commissions are not perfect. Nor are the political, social, and situational contexts in which they are established ideal. The cases of the Salvadoran and Guatemalan Truth Commissions are by no means exceptions. Much of the political power of government perpetrators remained intact in both countries, severely limiting the extent of the truth commissions’ progress toward reconciliation. Nevertheless, the value of their truth-telling and truth-revealing capacities and their recommending authority towards the goal of reconciliation is real.

Truth and the Truth Commissions have had an impact on reconciliation in El Salvador and Guatemala in many different ways. Firstly, they have broken the silence that before was impenetrable. Stemming from the Peace Accords which negotiated for the future, they began a dialogue about the past. Victims told personal accounts of violence and suffering aloud for the first time, reclaiming their voices. They spoke of an inherent need to tell their story, a need that was suppressed for so long. Destructive secrets, legacies of denial, and direct lies of the “authorities” were finally disproved. The victimized were empowered while the perpetrators’ prestige was newly threatened. The truth upheld meant victims’ dignity resurrected. Truth commissions begin the sharing and communication that, if it takes root, will continue in and between communities, beyond the truth commissions’ time to empower people further. A growing Guatemalan civil society comes from empowered people speaking up, organizing, and mobilizing for justice at long last.

Secondly, the TC and CEH began the process of leveling government-to-people power relationships that may make way for cooperation and trust. The truth commission work has
revealed the strategies and criminalities of the past to such a degree that the institutions that previously governed from above by fear are fully exposed and vulnerable in a way they never have been before. Human Rights groups in El Salvador and the whole of Guatemalan civil society are holding the government and guerilla Parties accountable to the TC and CEH recommendations. Reconciliation requires the building up of trust across bitter or painful divisions. Trust of the people is beginning to be a necessary element for legitimacy to govern in both countries. Recently in the November of 2003 presidential election, the country of Guatemala rejected FRG candidate Efrían Ríos Montt, the dictator who directed the military to a strategy of massacres and scorched earth campaigns during the bloodiest conflict years.

Thirdly, the Guatemalan CEH put pressure on the government to acknowledge the victims and crimes through apology and compensation. Although Arzú’s reaction to this demand was cold, the following President already showed improvement on his predecessor. Although questionably sincere at first, President Portillo made public apologies and an appeal for pardon. Even if Portillo was not able to make much progress implementing the recommendations of the CEH as he claimed he would do, he recognized the actions and reforms recommended in the report as the right ones to follow to reach reconciliation. His official support of the CEH and its recommendations showed his backing of the specific interpretation of “reconciliation” policy as one that favored remembrance of the victims and seeking justice, rather than forgiving and forgetting.

As a fourth area of impact toward reconciliation, in both El Salvador and Guatemala, the Truth Commissions were responsible for initiating visible and tangible reconciliation measures for the people. The Monument of Memory and Truth now stands erect in a central park in the Salvadoran capital, displaying the names of 25,000 victims of the conflict for all to see.
Guatemala now commemorates February 25th, the anniversary of the presentation of the CEH report, as a national holiday – the Day of Dignity for victims. Salvadorans celebrate an annual ‘Festival of Truth’ each March in the capital on the anniversary of the Commission on the Truth’s report public publication. In Guatemala, the government’s forensic anthropology team has begun to work alongside three well-experienced forensic anthropology NGOs who steadily continue to exhume the remains of conflict victims from clandestine graves. They work to record concrete evidence of the crimes committed, hopefully for future trials, and provide a vital sense of resolution and reconciling for the families of the victims exhumed.

Fifth, the TC and CEH have made important contributions to the need for justice in order to completely reconcile. Despite the fact that reparations programs have not yet been implemented, the commissions took the important step to identify that financial compensation and social services were imperative components of *restorative justice* for the victims and their families. Dismissal of the human rights offenders from military and governmental public service was, although not through the courts, a concrete form of punishment. The naming of perpetrators in the context of egregious, illustrative abuses in the Salvadoran Truth Commission constituted significant *moral punishment* and rejection of impunity. The CEH commission determined that genocide had been committed, paving the way for a possible indictment of Ríos Montt or General Lucas García (in addition to significant military officers during their administrations) for crimes against humanity in an international criminal court. Moreover, perpetrators of genocide were exempt from the 1996 Law of National Reconciliation, meaning that upon reforms and improved independence of the judiciary, trials could convict these abusers at home in Guatemala. Finally, the evidence collected by the Salvadoran TC and the Guatemalan CEH can be utilized in criminal court cases against perpetrators now and in the future.
Finally, the Guatemalan Commission for Historical Clarification and the Commission on the Truth for El Salvador have clarified the history of these countries’ recent pasts. They have consolidated and analyzed the causes, aspects, and outcomes of that painful history and obligated the country to face these facts and real experiences, rather than forget about them. National reconciliation is only as strong as the nation’s weakest link: the victims. The TC and CEH demonstrate this emphasis on the victims through the value they placed on the victims’ testimonies in order to shape a deeper account of history. In response to this truth, the TC and CEH recommendations, made by impartial, legitimate authorities, identified what the country should work towards — reconciliation — and articulated specific measures to get there. Purposefully, these are challenging, comprehensive, even idealistic goals. Considering that reconciliation is a long process, these ambitious recommendations were not solely written for the short term. Conscious of the longevity of the process, the TC and CEH recommendations each give a framework to follow far into the future and by which to objectively assess the course of progress towards the ultimate goal: national reconciliation.

3 Ibid, 108.
8 Forget, 132.
11 Ibid, 93.
12 Ibid, 95.
16 Crocker, “Reckoning with Past Wrongs,” 44.
18 Chapman and Ball, 4.
22 Ibid, 19.
23 Ibid, 19.
25 Forsberg, 74. This was the motto for the South African Truth and Reconciliation Commission in 1995-2000.
26 Ibid, 74.
29 Ibid, 17.
31 Biggar, 7.
35 Chapman, and Ball, 3.
37 Chapman and Ball, 4.
38 Sarkin, 803.
39 Hayner, 24-31.
40 Ibid, 16.
41 Ibid, 18.
42 Biggar, 9.
43 Ibid, 16.
44 Jacques, 16.
46 Jacobs, 28.
52 As cited in Hayner, 128.
54 Sarkin, 801.
55 Ibid, 803.
56 Tomuschat, 236.
57 Jacques, 22.
59 Ibid, 33.
61 Ibid.
62 Ibid.
64 Beurgenthal, 296.
72 Chapman and Ball, 33.
73 Sarkin, 808.
74 Beurgenthal, 303.
75 Ibid, 301.
76 Ibid, 302.
77 Ibid, 303-4.
78 Ibid, 304.
79 Ibid, 301.
80 Ibid, 304.
81 Tomuschat, 238.
83 Tomuschat, 241.
84 Chapman and Ball, 17.
86 Ibid, 17.
87 Ibid, 28.
89 Ibid, 397.
90 Ibid, 392.
92 Ibid, 657.
95 Tomuschat, 239.
96 Ibid, 239.
97 Ibid, 240.
98 Chapman and Ball, 24.
99 Seils, 36.
100 Ibid, 36.
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Jefa de Investigación de la Oficina de Enlace de los departamentos de Zacapa, Chiquimula, El Progreso e Izabal, Comisión para el Esclarecimiento Histórico

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