

Unofficial Truth Projects

by Louis Bickford¹

Part I: Introduction

This paper examines non-governmental initiatives that, like official truth commissions, are premised on the idea that by elucidating the truth concerning past human rights abuse and atrocity, societies can build more just, stable, and democratic futures.

These efforts share certain characteristics among themselves, but they are also very diverse.

Their most important attributes, for the purposes of this paper, are

- (1) that they are geared towards revealing the truth about crimes committed in the past as a component of a broader strategy of accountability and justice;
- (2) that in their effort to do so, they self-consciously or coincidentally resemble official truth commissions that have been created in countries as different as Chile, Morocco, South Africa, Sierra Leone, and East Timor;

- (3) these particular efforts are rooted in civil society—hosted and driven by human rights NGOs, victim groups, universities, and other societal organizations—and are not primarily state-based efforts.

With these characteristics in mind, I refer to this loose category of transitional justice strategies as *Unofficial Truth Projects* (UTPs).

Based on these characteristics, the paper compares UTPs to official truth commissions. This is a comparison that many of these initiatives themselves call attention to, either explicitly or implicitly. For example, the non-governmental Brazilian Nunca Mais project, in its “lofty goals”, “merits comparison with other truth commissions”², and the Greensboro Truth and Reconciliation Commission borrows its name directly from its official counterparts. In fact, these efforts have, in many cases, been strongly influenced by the proliferation of truth commissions around the world in the past decades.³ To date, there have been dozens of truth commissions around the world.

The conclusion of this comparison is that each type of effort—UTPs, on the one hand, and state-based or quasi-governmental truth commissions on the

1 Thanks to ICTJ Research Interns Cristina Barbaglia, Ariana Hellerman, Reyko Huang, Daniel Joyce, Katherine Mack, Amy Sodaro, to ICTJ consultant Kirsten McConnachie, and to a number of my colleagues, including Priscilla Hayner, Eduardo Gonzalez, Graeme Simpson, and Vasuki Nesiiah, all of whom made significant contributions to or comments on various drafts of this paper. In spite of this assistance, I alone am responsible for the contents of the article.

2 Joan Dassin, p. xv.

3 See NGOs “Truth Commissions and NGOs: The Essential Relationship” (ICTJ Occasional Paper, April 2004)

other—have certain strengths. Neither approach is inherently superior. Official truth commissions, on the one hand, given the right conditions, are more likely to establish a society-wide dialogue about the past than unofficial truth projects are able to do. On the other hand, UTPs have advantages in terms of community-level truth-telling. Moreover, in some contexts, official truth commissions are not feasible because of political constraints, ineffective or politically compromised, or human rights activists and their allies in government choose not to create them. In these contexts UTPs may represent viable alternative strategies and can be seen as more legitimate interlocutors for the task of confronting the past.

Historically, UTPs have emerged for a variety of reasons. By analyzing and evaluating a broad range of UTPs, this paper examines the contribution these initiatives can make to truth-telling in transitional societies. By comparing these efforts to official truth commissions, the paper seeks to draw lessons about the contributions to transitional justice more broadly that these initiatives make, to reflect on their non-state status, and to provide scholars and practitioners with some general conclusions about the strengths and weaknesses of UTPs. In this sense, the paper is also intended to be of concrete utility for democratizers and human rights activists who are considering or already involved in developing UTP strategies and would benefit from learning about comparable experiences

There are abundant examples of these kinds of efforts, although this paper refers only to a small number of case-studies, chosen to demonstrate and learn from the diversity within this category. It should also be acknowledged that most of the efforts discussed here do not necessarily call themselves by this exact name. Nonetheless, the idea does capture a social reality that is currently under-explored.

Transitional Justice and Truth-Telling

Over the past three decades, a concentrated effort to confront the legacies of past human rights abuse and atrocity has emerged in numerous diverse national contexts as a central strategy for bringing stability and peace and for deepening democracy. Building on a tradition of legal and moral accountability at least as old as the Nuremberg trials (1945-1946),⁴ human rights activists and their allies have sought mechanisms for dealing with past human rights violations, war crimes, and crimes against humanity in order to build new, democratic societies⁵.

The evolution of truth-telling about the past is a key element of the history of accountability in the late 20th and early 21st centuries. For example, blue-ribbon truth commissions in Chile and South Africa have revealed for all to see that terrible things took place in earlier periods. These and other truth commissions limit the possibility of denial or trivialization of victims' experiences. They transform what is often widely-known about violent past events—common knowledge—into official acknowledgment. Official recognition is important both for its symbolic value and for its practical effects, such as in the naming of beneficiaries of state-mandated reparations programs. In most cases, truth commissions have also been closely connected to other transitional strategies such as prosecuting past violators of human rights or war criminals, or initiating meaningful institutional reform.

Official Truth Commissions and Unofficial Truth Projects

In the least few decades, truth commissions have emerged as a definable category of institution.⁶ Although the earlier investigative commissions,

4 Transitional justice can trace its roots even farther back. Consider Jan Elster's discussion of similar efforts in ancient Athens, in particular in the reconciliation treaty of 402 B.C. ... see Jon Elster, "Coming to terms with the past. A framework for the study of Justice in the transition to democracy," *Arch. European Sociology*, (1998), vol.39, pp.7-48.

5 For a fuller definition of Transitional Justice, please see my chapter, "Transitional Justice" in *The Encyclopedia of Genocide and Crimes Against Humanity* (Macmillan Reference USA, 2004), vol. 3, pp. 1045-1047

6 See Priscilla Hayner's early article, "Fifteen Truth Commissions—1974 to 1994: A Comparative Study," *Human Rights Quarterly*, v. 16, no. 4, November 1994, pp. 597-655; and Harvard Law School, "Truth Commissions: a Comparative Assessment," an Interdisciplinary Discussion Held at Harvard Law School in May 1996, organized by the Human Rights Program, Harvard Law School and the World Peace Foundation.

such as Uganda's 1974 Commission of Inquiry into Disappearances, fit the definition, the most internationally significant truth commissions began in 1984 with the Argentine National Commission on the Disappearance⁷ of Persons (CONADEP), and the Chilean Truth and Reconciliation Commission (1991), followed by commissions in Guatemala, and, perhaps most famously, South Africa, to name only a few⁸. At the time of this writing, there are a number of truth commissions that have recently finished their work (e.g. Ghana⁹, East Timor¹⁰, Morocco¹¹, Peru¹², and Sierra Leone¹³), are currently in operation (e.g. Liberia and Paraguay) or are under discussion (e.g. Fiji, Indonesia, and Kenya). As official truth commissions have become more defined, they have tended to share the following characteristics¹⁴. With only a few exceptions, the following characteristics also define the unofficial truth projects examined in this article:

Part of transitional justice strategy. Truth commissions, and many UTPs, are usually seen as a key component in a transition from dictatorship, civil conflict, or authoritarian rule, and are set up during transitional periods.¹⁵ They are therefore usually seen as one component of establishing a new democratic dispensation and drawing a line between past and future¹⁶. As the agreement establishing the Guatemalan Historical Clarification Commission

puts it, the goal is "to open as soon as possible a new chapter in Guatemala's history which, being the culmination of a lengthy process of negotiation, will put an end to the armed conflict and help lay the bases for peaceful coexistence and respect for human rights among Guatemalans"¹⁷.

As one component of an overall transitional justice strategy, truth commissions often take place at the same time as—and often directly interacting with—other approaches to dealing with the past such as criminal trials or reparations programs. For example, a number of truth commissions, including the Argentine and Peruvian commissions, have involved a direct relationship between the commission's work and the prosecuting authorities. Reparations packages have frequently been designed as a direct result of the work of a truth commission.

Focus on human rights or violations of humanitarian law. Both truth commissions and the UTPs examined here have focused on a small subset of all conceivable forms of abuse, usually committed by the state¹⁸, namely crimes against humanity, genocide, and violations of political and civil rights (including extra-judicial killings for political motivations, disappearances, unlawful detention, and torture). Truth commissions have tended not to focus, for example, on corruption,

7 See Joanna Quinn "Constraints: The Un-Doing of the Ugandan Truth Commission", *Human Rights Quarterly*, 26.2, May 2004, 401-427.

8 Others are described in some detail in Priscilla Hayner, *Unspeakable Truths: Facing the Challenge of Truth Commissions*, New York: Routledge, 2001.

9 The Final Report of the Ghana National Reconciliation Commission was released on October 12, 2004.

10 The Final Report of the Commission for Reception, Truth and Reconciliation in East Timor is due by July 7, 2005.

11 See Mark Freeman and Veerle Ogenhaffen (November 2005), "Transitional Justice in Morocco: A Progress Report" (ICTJ Briefing Note).

12 The Final Report of the Peruvian Truth and Reconciliation Commission was released on August 28, 2003.

13 The Final Report of the Sierra Leone Truth and Reconciliation Commission was released on October 27, 2004.

14 For a similar and complementary classification scheme, see Mark Freeman, Priscilla B. Hayner, "Truth-Telling." *In Reconciliation after violent conflict: a handbook*, David Bloomfield, Eds. Stockholm: International Institute for Democracy and Electoral Assistance, 2003.

15 See literature on democratic transition, including J. Linz and A. Stepan, *Problems of Democratic Transition and Consolidation*, Baltimore: The Johns Hopkins University Press, 1996, and S. Huntington, *The Third Wave: Democratization in the Late Twentieth Century*, University of Oklahoma Press, 1991.

16 For example, in South Africa, the truth commission was established in a period that could be seen as "a historic bridge between the past of a deeply divided society characterized by strife, conflict, untold suffering and injustice, and a future founded on the recognition of human rights, democracy and peaceful co-existence for all South Africans, irrespective of colour, race, class, belief or sex" (Promotion of National Unity and Reconciliation Act, No. 34 of 1995, Office of the President, South Africa, p. 3).

17 See http://www.c-r.org/accord/guat/accord2/hist_cla.shtml or <http://www.guatemala-embassy.org/peaceaccordsclarification.php>

18 It is important to note that truth commissions have also examined abuses committed by non-state agents. Peru, which not only examined guerrilla groups as non-state actors but actually attributed the majority of cases of abuse to them, is probably the best example of this. Other commissions have also examined the role of multinational corporations and foreign governments.

economic crimes, or other misconduct of previous regimes and have sometimes been criticized for not confronting a larger system of abuse in a given country.¹⁹ Commissions have varied in terms of the crimes and abuses on which they have focused. For example, the mandate of the Chilean Truth and Reconciliation Commission (1991) included investigations into political disappearances, executions, kidnappings and torture leading to death, yet torture survivors were not treated as victims.²⁰

An emphasis on the value of knowing the truth. As institutions focusing on past human rights abuses, commissions and UTPs have prioritized the importance of knowing the truth and breaking a cycle of lies or half-truths. **In one well-known formulation, truth commissions can “narrow the range of permissible lies.”**²¹ In the words of the El Salvador mandate, “The Commission shall [investigate] serious acts of violence ... whose impact on society urgently demands that the public should know the truth.” The importance of knowing the truth is often emphasized by using metaphors of the health of the body politic in the mandates, empowering legislation, and publicity materials of truth commissions. As Jose Zalaquett says in his well-known introduction to the Final Report of the Chilean Truth and Reconciliation Commission, “Those who worked to produce this report became keenly aware of the cleansing power of the truth. Interviewing thousands of relatives of victims and other witnesses nationwide was a necessarily rigorous method. But, as the interviewers soon discovered, it was at the same time a means to heal the wounds, one by one, and thus to contribute to the building of a lasting peace”²³

Focus on recent past. Since truth commissions are seen as a “new start”, part of an integrated transitional

strategy, they tend to focus not on on-going human rights abuses but rather on crimes that occurred during a specific period in the past, usually in the recent past. Moreover, temporal boundaries are usually established to mark a precise time frame and to include characteristics that define the period. The Argentine commission, established in 1884, focused on “el proceso”, a period of authoritarian rule from 1976-1983. The South Africa TRC, set up in 1995, examined 1960-1994. The Sierra Leone truth commission examined the phase of conflict from 1991 through the signing of a peace agreement in 1999. Establishing these temporal boundaries demarcating a specific period in the recent past has also been a characteristic of many of the UTPs discussed in this paper.

Focus on systemic and on-going patterns of abuse and on how these patterns were established, reinforced, tolerated, or hidden. Although there have been countless commissions of inquiry around the world, truth commissions, and many of the UTPs examined here, explore a range of events and situations that occurred during an on-going and definable period of repression or conflict. **In such an examination, one of the essential questions being examined involves understanding the reasons for patterns of abuse.** As the legislation for the Nigerian truth commission (known as the Oputa Panel) puts it, the purpose of the panel is “to determine whether such abuses or violations were the product of deliberate state policy or the policy of any of its organs or institutions or individual or their office or whether they were the acts of any political organization, liberation movement or other group or individual”.²⁴

Listen to victims’ voices. Truth Commissions have privileged the voices, testimonies, oral histories, or

19 See M. Mamdani, *Citizen and Subject*, Princeton: Princeton University Press, 1996.

20 This was later remedied by a second truth commission, the so-called Valech Commission, or the The National Commission on Political Imprisonment and Torture (2004)

21 Ignatieff, Michael. 1996. “Articles of Faith.” Index on Censorship 5:110-22.

22 *From Madness to Hope: the 12-year war in El Salvador: Report of the Commission on the Truth for El Salvador, 1993* (available on-line at www.usip.org/library)

23 José Zalaquett, “Introduction to the English Edition”, *Report of the Chilean National Commission on Truth and Reconciliation* (Notre Dame, Indiana: University of Notre Dame Press, 1993), Volume I.

24 See <http://www.usip.org/library/truth.html#nigeria> to learn more about the history of the Nigerian Truth Commission

stories of victims.²⁵ This is one of the characteristics that distinguish commissions from criminal trials, which focus on the culpability of perpetrators and elicit testimony from victims that is relevant to criminal guilt. For UTPs—as for many truth commissions—hearing and recording the voices, the stories, the oral histories of victims is often their most important characteristic. Often they are created on the assumption that victims have not been adequately heard. The most visible way for truth commissions to “hear” victims is through public hearings, where a small selection of victims are invited to tell their stories in a public forum, often in front of television cameras. Additionally, commissions may interview victims to collect information on human rights violations, or provide opportunities for victims to share their experiences in public forums. The South African TRC, for example, heard or read reports from over 21,000 victims of apartheid-era abuses.

Temporary duration. Truth commissions have been set up for temporary periods and are not on-going or permanent institutions. They are given a specific mandate concerning specific crimes or abuses that took place during a defined period. Although they can sometimes receive extensions on their period of operation, these are also finite. The Sierra Leonean TRC was initially given a one-year mandate, which was extended for six months, allowing it to continue until early 2004. The South African TRC was in operation from 1995-1998.

Submit final report. Truth commissions—and some UTPs; especially those that model themselves on official truth commissions—usually submit a final report that seeks to draw lessons from an analysis of the past and to make recommendations for the future. These reports vary in content, emphasis, and length. The Argentine CONADEP report was a few hundred pages long, written in narrative format by an

accomplished writer, and was highly accessible to the public; in fact, it became a bestseller. The Peruvian report, by contrast, is a magisterial, densely written eight-volume set.

Officially sanctioned by the state or other official party. Finally, truth commissions are “official”: they are established by the government—usually a new government that wants to differentiate itself from what has gone before—and they have state power behind them. This is the characteristic that most obviously distinguishes them from UTPs. In Peru, the transitional government of President Valentín Paniagua formed the Commission in June 2001. The Sierra Leonean TRC was endorsed by President Ahmad Tejan Kabbah and MPs in 2000. As with the truth commission in East Timor, Sierra Leone’s TRC is an independent body but receives much administrative support from the UN. East Timor’s Commission for Reception, Truth and Reconciliation (CAVR) was originally mandated by the UN Transitional Administration for East Timor (UNTAET) in 2002.

That truth commissions are “official” is an important element of their definition for the purpose of this paper. Being official might mean that commissions have strong or weak powers²⁶, but it usually means at the least that commissions have at least some power to declare that they are working in the realm of “official” history.²⁷ It also means that they sometimes have substantial resources at their disposal. These and additional considerations will be further explored in the conclusion.

Defining Unofficial Truth Projects

The human rights movement, throughout its history, has been dedicated to documenting and publicizing human rights abuses. In one sense, there is nothing new about “unofficial truth-telling”, especially when

25 Only two truth commissions (South Africa and East Timor) have included a major focus on perpetrators. These commissions establish programs specifically targeted at eliciting perpetrator confessions and involve them in public testimony. Other truth commissions have included occasional perpetrator testimony. But all commissions, including South Africa and East Timor, have emphasized the experiences of the victims as told by the victims themselves.

26 Some truth commissions have had the power of subpoena. In Nigeria, for example, Justice Chukwudifu Oputa requested that enabling legislation be enacted to clarify the commission’s status and powers; it was provided with the power of subpoena as a result.

27 Whether or not a truth commission’s work constitutes the official history is a complicated question. See Deborah Posel and Graeme Simpson (eds.), *Commissioning the Past: Understanding South Africa’s Truth and Reconciliation Commission*, Johannesburg: University of the Witwatersrand Press, 2002

NGOs and grassroots victims' associations explore and publicize details about what has happened in the past. In some ways, that is what the human rights movement has been doing all along.²⁸

However, the advent of official truth commissions as an accepted form of telling official truths about the past is fairly new. This trend has had a symbiotic relationship with civil society. As is now well-known, truth commissions require civil society support and cooperation in order to be effective²⁹. Truth commissions have also influenced the ways in which human rights groups and others seek to deal with the legacies of the past.

In parallel with official truth telling exercises has been a proliferation of coordinated efforts by civil society actors that seem to replicate the goals, and often the form and content, of formal truth commissions³⁰. Some of these efforts—such as the Ardoyne, REMHI, and Serpaj-Uruguay efforts described in this paper, for example—seem to mimic truth commissions, especially in their production of a final report. Others, like Greensboro, have public hearings and many of the trappings of an official commission. Any one of these commission-like efforts seems to share most of the attributes listed above, as is represented on the table on page 6. In other words, while none of these efforts are officially sanctioned by the state, they all have some or all of the characteristics described above.

Using those same attributes as benchmarks, this paper examines two types of UTPs: first, Commission-like efforts that often share the most attributes with official truth commissions. Even though they may not

have similar bureaucratic structures to commissions (e.g. they may not have “commissioners”), they are comparable in a number of ways, and represent the majority of case-studies examined here.

A second and related type of UTP examined here are projects within documentation centers or other existing NGOs. These are projects within existing organizations that emphasize confronting the legacy of past human rights abuses by revealing the truth. These smaller projects share many attributes with truth commissions. One of the ways that they are notably different than the efforts described above, however, is that they often are found in contexts (Bosnia, Cambodia, Iraq, Serbia and Montenegro) where there is the anticipation of a future trial or the possibility of a future truth commission, or both, and tend to be what I call “precursors” below.

There are numerous other forms of unofficial truth projects, of course³¹. Art, theater, poetry, or literature projects that focus on the past; the creation of memorials; or staged, NGO- or university-based “mock trials” are just a few examples, though this paper will not explore them in detail.

Relationships between official and unofficial truth-telling

Finally, UTPs can have three primary types of relationships with official truth projects. First, they can be replacements for truth commissions. In some settings, like Brazil and Uruguay in 1984 and 1985 or Northern Ireland in 1998, there was no official truth commission and it may seem unlikely, for differing reasons, that there will be one. Therefore, civil society

28 Good accounts of the international human rights movement can be found in W. Korey, NGOs and the Universal Declaration of Human Rights, London: St. Martin's Press, 1998; and M. E. Keck and K. Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics*, Ithaca: Cornell University Press, 1998.

29 See “Truth Commissions and NGOs: The Essential Relationship,” ICTJ Occasional Paper, April, 2004. Also see H. van der Merwe, P. Dewhirst, B. Hamber, “Non-Governmental Associations and the Truth and Reconciliation Commission: An Impact Assessment,” *Politikon* 26:1 (1999).

30 Priscilla Hayner explores what she calls “semi-official and unofficial inquiries” in the 1990s, referring to examples in Honduras, Northern Ireland, and in Rwanda (in the period before the genocide). The Rwanda example is particularly pertinent, as it involved NGOs from the United States, Canada, France, and Burkina Faso in exploring past violence and producing a report. (Priscilla Hayner, *Unspeakable Truths*, pp. 19-20.

31 See Bilbija, Ksenija, Jo Ellen Fair, Cynthia E. Milton, and Leigh A. Payne (eds), *The Art of Truth-Telling about Authoritarian Rule* (Madison, Wisconsin: University of Wisconsin Press, 2005)³² Videti str. 26. (Dokumentacioni centar Kambodže), i str. 29. (Fond za humanitarno pravo).

actors see a need or a demand for such an effort but calculate that one will not be undertaken by the state. Similarly, they may not trust state actors to carry out the procedure even if it were politically possible. In some cases, they may be opposed to a truth commission.³²

A second possibility is that a UTP is a precursor to an official truth commission, either by specific design or because of contingent and unanticipated developments. Of the cases mentioned here, this is most explicit in the Iraq History Project, whose mandate is specifically to pave the way for a formal truth commission (or, as a second-best option, to serve as a replacement for one, if it is never possible to create one Iraq). This category also describes unofficial truth projects that form one component of a larger agenda at a single NGO. For example, leaders of documentation projects in Cambodia and Iraq described in this paper have mentioned that they may be precursors to future truth commissions or other transitional justice initiatives such as war crimes tribunals. To the degree that classic human rights documentation centers (e.g. the Vicaria de la Solidaridad in Chile³³) have developed precursor strategies, these have often focused on collecting documents for future criminal procedures³⁴. Documentation centers that see themselves as precursors to truth commissions may be both a new phenomenon (given that truth commissions themselves are fairly new) and might have different program-related and institutional priorities.

A third possibility is that a UTP and an official truth commission are complementary initiatives. Being complementary does not necessarily suggest that the relationship between a UTP and an official truth commission is always friendly. They may disagree or be competitive with each other. Complementary initiatives are when UTPs and official truth commissions work in symbiotic ways to get to multiple truths about the past. The best example of this discussed

here is the Proyecto de Recuperación de la Memoria Histórica (Recovery of Historical Memory Project/ REMHI) project in Guatemala complemented the work of the (official) Comisión de Esclarecimiento Histórica (Commission for Historical Clarification/ CEH) in significant ways, as detailed below. Due to the work of REMHI, the CEH was able to incorporate large amounts of important data that might otherwise have gone unrecorded.

In the following section, the paper explores nine case-studies, roughly in chronological order and summarized in the table on p. 10

Part II-Case-Studies

The case-studies examined here have sought to reveal the truth about past abuses or atrocity and relied to a great degree on the stories of victims, though these stories were obtained in different ways. The first seven commission-like efforts are listed in roughly chronological order depending on when the UTP was established. The following two are documentation centers that have prioritized unofficial truth projects.

(A) **Brazil: Nunca Mais**

Brasil: Nunca Mais (Brazil: Never Again) was a truth-telling effort aimed at revealing and providing irrefutable evidence of the systematic torture enacted by the Brazilian state over a two-decade period.³⁵

Background

In the early 1960s, the socialist movement sweeping Latin America began to grow amongst the population and government of Brazil. In April of 1964, the Brazilian military staged a coup and continued to rule in a succession of administrations until 1985. During this period, thousands of Brazilians were tortured and disappeared on political grounds. As a result of a period between 1974 and 1979 known as *distensão*, marked by a gradual relaxation of authoritarian rule,

32 See p 26 (DC-Cam) and p. 29 (HLC) below.

33 See Keck and Sikkink.

34 Arguably, the Uruguan effort saw itself as a precursor for future criminal proceedings, and did not self-identify as a "truth-telling" effort in the same way that other efforts have done ...i.e. finding truth as an end in itself.

35 See L. Weschler, *A Miracle, A Universe: Settling Accounts with Torturers*, (Pantheon Books, 1990)

in March 1979, President Figueiredo issued a blanket amnesty for all political acts committed between 1964 and 1979, which allowed the release of many political prisoners, but also prevented any further investigation of state-sponsored violations of human rights. The reciprocal amnesty implied that leftist guerrillas and political dissenters had committed atrocities equivalent to those of the military. The military was allowed its justification of the repression of internal dissidents without opposition.

Brasil: Nunca Mais as an unofficial truth project

Ironically, the amnesty that seemed to preclude accountability actually provided the means for a thorough unofficial investigation. Under the pretext of preparing cases for review under the new amnesty law, lawyers could gain access to the court transcripts of every case brought before the military courts from 1964-1979. Initially, the lawyers involved in the project photocopied only the small number of cases they were able to check out. It soon became clear that the archives were not monitored closely and *Brasil: Nunca Mais* participants managed to copy the entire archive of military cases – more than a million pages – over a period of a few years. The copied archives then formed the basis of a 2,700 page investigative report, *Brasil: Nunca Mais*. This effort is best understood as a replacement for a truth commission.

A small ring of lawyers was involved in the covert operation, so that the files could not be traced back to any specific individuals. Others employed to help photocopy the files around the clock had no idea of the significance of their actions because of the secrecy involved. The photocopies were transferred to concealed locations and a microfilm copy was sent outside Brazil to ensure complete security of the information. There was no advance publicity for the report, no marketing, and the only author credited was Cardinal Arns, the Archdiocese of Sao Paulo.³⁶

The majority of the project was funded by the World Council of Churches.

The archive was initially collated as a 6,946 page, 12-volume series of data. Two professional journalists made a more concise and accessible report in a more digestible format. Project leader, Jaime Wright, was then responsible for “de-adjectivizing” the journalists’ text to convey a sense of objectivity and neutrality.³⁷ The time period covered by the project also relates to the desire to appear objective. The end date of 15 March, 1979, the date of Figueiredo’s inauguration, was chosen in part “so that the work could proceed with a degree of historical detachment from the political repression being studied.”³⁸ The release of the book was delayed until after March 1985 (when the first civilian President since 1964 would be inaugurated). The book began appearing in bookstores across the nation on July 15, 1985, by which time an English translation was ready for publication in the US. With copies of the microfilm secure in Geneva, there was nothing the government could do to quash the release of *Brasil: Nunca Mais*.

Brazil: *Nunca Mais* proved conclusively that torture was an essential part of the military justice system and that judicial authorities were clearly aware of the use of torture to extract confessions. It remained on the national bestseller list for 25 weeks and even appeared in a popular Brazilian soap opera.³⁹ The project contained a list of 444 torturers that were named in the military courts, but not included in the original publication because of the volatile political climate. This list though, was eventually released. Some, though not all, of those named were removed from public offices, blocked from promotion or demoted.⁴⁰ In 1995, the democratic Brazilian government began a reparations program for the families of the 135 disappeared⁴¹.

This effort is best understood as a replacement for a truth commission, since an official truth commis-

36 The only other identified participant in *Brasil: Nunca Mais*, was Dr. Jaime Wright, a protestant minister whose brother disappeared during the military regime.

37 Weschler, L. *A Miracle, A Universe: Settling Accounts with Torturers*. New York: Pantheon Books, 1990. p. 57.

38 Torture in Brazil (English translation of *Brasil: Nunca Mais*. UT Press: Austin, 1998. p. 4—special ILAS edition.

39 Coonan, 20 *FDMILJ* 512 at 525 - milli

40 Weschler, L. *A Miracle, A Universe: Settling Accounts With Torturers*. New York: Pantheon Books, 1990. p.76.

41 The estimated liability of the government is 4 billion reais (\$1.5 billion). *The Economist*, *Resurrecting the right to history* (November 27, 2004).

sion was unlikely at that time. Observers continue to debate the effects of *Brasil: Nunca Mais*. **The project has not succeeded in compelling official acknowledgement of the abuses. Torturers have never been held directly accountable for their crimes.** In 2001, a Brazilian NGO, *Tortura Nunca Mas*, presented the *Brasil: Nunca Mais* list of named torturers before the United Nations Committee Against Torture; they had convened to investigate 23 alleged cases of torture within the Brazilian military. The Brazilian government promised to investigate the matter, but no official action was taken, even after the list was refined to name only those who continue to hold high positions of state office. Amnesty International recently reported that torture by state officials remains ‘an essential tool of policing’ in the Brazilian criminal justice system. Amnesty has also described Brazil as ‘a telling case study of how total impunity for human rights violations under military rule has led to a culture of impunity...to the extent that it threatens the very rule of law.’⁴²

(B) Uruguay: SERPAJ

In 1981 a branch of the Peace and Justice Service (SERPAJ) was founded in Uruguay. Shut down by the military rulers, SERPAJ’s offices finally reopened in 1985.⁴³ **Realizing that the new civilian government in 1985 had no intention of investigating past events or prosecuting those responsible, SERPAJ began its own inquiry that led to a rigorous (non-governmental) investigation and the publication of *Uruguay, Nunca Mas!***

Background

During the military regime in Uruguay between 1973-1985, three to four hundred thousand Uruguayans, ten percent of the population, were forced into exile. Of those who remained in Uruguay, one in fifty was interrogated by the security services, and one in five hundred sentenced to long-term imprisonment. Prison was a particularly unpleasant experience in

Uruguay due to the unique emphasis on psychological torture. In comparison to other military regimes in South America, there were not many cases of mass murder or disappearance. Instead, the military intended to make them mentally disappear. They enlisted the help of sociologists and psychologists to develop and implement the prison routine that would cause prisoners most psychological harm.⁴⁴

Civilian rule was re-established after elections in 1985, but many who had been in high political positions under the military regime continued at the highest levels in the new civilian government. Referring to instability in neighboring Argentina and Chile, the new government argued that the best way to return to a peaceful and stable nation was by forgetting the past.⁴⁵ Despite widespread fear, people began to bring civil cases against their torturers. In response, the Uruguayan Parliament passed the Expiry Act of 1986, exempting from punishment all military and police personnel responsible for human rights violations committed prior to 1 March 1985 if they were politically motivated or committed in fulfillment of orders. Despite fears of a military resurgence, many in Uruguay were not ready to put the matter to rest.

The SERPAJ effort: an unofficial truth project

SERPAJ, an NGO, recognized that the state would not undertake either trials or perpetrators or any form of official truth-telling such as the National Commission on the Disappeared (CONADEP) in Argentina. Frustrated by the lack of cooperation from the government, SERPAJ undertook a truth-telling effort on its own, aimed explicitly at telling the world about what happened in their country “loud and clear” and producing information to support criminal trials of the perpetrators.

The Introduction to the report states:

42 Amnesty International, “They Treat Us Like Animals”: Torture and ill-treatment in Brazil. Dehumanization and impunity within the criminal justice system, (London: AI, 2001), AMR 19/022/2001; Amnesty International, ‘Crime Without Punishment: Impunity in Latin America’, (London: AI, 1996), AMR 01/08/96

43 L. Bickford, Human Rights Archives and Research on Historical Memory: Argentina, Chile and Uruguay, 1/1/00 LARW 160182

44 Weschler, Lawrence, *A Miracle, A Universe*, The University of Chicago Press: Chicago, Ill, 1998.

45 Barahona de Brito.

“Our motives .. must be the same as those that moved our neighbors in Argentina and Brazil o publish similar books ... in Argentina, the investigations were carried out with government support; in Brazil they were carried out with the support of the Church. But in Uruguay ... SERPAJ (Servicio Paz y Justicia) took on the job”⁴⁶

SERPAJ was staffed by a team of lawyers, doctors and human rights activists and financed by a number of international NGOs, foundations, and church-based organizations.⁴⁷ Without the open support of the government or access to military records, SERPAJ had to work with records as they became available. However, the effort was not concentrated on comprehensively identifying and naming all those involved but instead listed names of human rights violators. Fourteen interviewers were enlisted to locate and talk to individuals prosecuted between 1972 and 1985. Of those located, very few declined to be interviewed and a total of 313 political prisoners were finally able to tell their stories. Names of offenders were only published where there was corroborating evidence of criminal conduct.

In March 1989, the SERPAJ report, Uruguay: *Nunca Más* was published. The report included a combination of contextual history, hundreds of interviews with victims, and statistical data. Like the similarly structured, but official, report of the CONADEP, and the Brazilian effort (described above), Uruguay: *Nunca Mas* was an enormous bestseller.

As with official truth commissions, the writers of the Uruguayan report state their intention to present their findings as objectively as possible: “We have tried to seem as little partisan as possible: Our purpose is to present facts as we find them, not emotional arguments, so that while there are pages that may well move readers, we have wanted to avoid the slippery ground of sensationalism and horror.”⁴⁸

Similarly, they claim to have accomplished an objective accounting of truth: “we pretend no conclusions; instead we provide data and statistics—information that speaks for itself and allows readers to come to their own conclusions”⁴⁹

The Uruguayan government made no response to SERPAJ report. In 2000, President Jorge Batlle Ibáñez announced a commitment to investigating disappearances between 1973 and 1985. A Peace Commission was established to this end.⁵⁰ While perpetrators are still protected under the amnesty law of 1986, the efforts to locate the disappeared have been able to establish that several of the victims died in custody as a result of torture.

(C) Guatemala: REMHI⁴⁵

The Proyecto de Recuperación de la Memoria Histórica (Recovery of Historical Memory Project, or REMHI) was an effort led by the Catholic Church to compile vast numbers of testimonies of victims of Guatemala’s vicious war. This is a clear example of a complement to a formal truth commission.

Background

Between 1954 and 1999, civil war raged in Guatemala between state forces and militant guerilla groups, including the Guatemalan National Revolutionary Union (URNG). During the 36-year period of war, at least 440 villages were destroyed, one million Guatemalans were internally displaced or fled across the border and more than 100,000 people were killed or disappeared. 90% of these acts were committed by the state in the name of national security. Indigenous and peasant populations were particularly targeted.⁴⁶

UN assistance contributed to a comprehensive agreement on human rights and the creation of a

46 SERPAJ, *Nunca Mas!* P. vii.

47 Servicio Paz y Justicia Uruguay, *Uruguay: Nuncce Mas*, (Temple University Press, 1992), xiii.

48 Uruguay: *Nunca Mas*. p. 323.

49 P. 315.

50 See Amnesty International, Uruguay, at <http://web.amnesty.org/web/ar2002.nsf/amr/uruguay!Open> [Accessed 18th December 2002]

45 R. Cabrera, ‘Should We Remember? Recovering Historical Memory in Guatemala, chapter 3 in B. Hamber (ed), *Past Imperfect: Dealing With the Past in Northern Ireland and Societies in Transition*, (INCORE: 1998).

46 M. Ballengee, ‘The Critical Role of Non-Governmental Organizations in Transitional Justice: A Case Study of Guatemala, (2000) 4 U.C.L.A. J.I.L.L.F.A 477.

truth commission, the Comisión de Esclarecimiento Histórica (Commission for Historical Clarification [CEH]), through the Accord of Oslo of 23 June 1994. The CEH was mandated to investigate human rights abuses from the preceding 36 years. Since both the guerrillas and the Guatemalan government were represented in the peace agreements, the UN-sponsored truth commission was a compromise “to clarify with objectivity, equity and impartiality.”⁴⁷ The CEH had no powers of subpoena, search or seizure; it could not use evidence gathered towards criminal prosecutions, and it was only granted six months to investigate more than three decades of human rights violations and acts of violence connected with the armed confrontation that caused suffering among the Guatemalan people.

REMHI

Many in civil society questioned the official truth-telling process. In response to this concern, the Catholic Church in Guatemala coordinated an independent truth project, Recuperación de la Memoria Histórica (Recuperation of Historical Memory: REMHI by its initials in Spanish), in 1995. REMHI was organized and administered through ten of the twelve dioceses in the Guatemalan Catholic church, and had the support of more than 70 different churches and NGOs worldwide.

The organizers of REMHI made explicit their goal of objectivity: “As a church, our position is autonomous. As a result, our investigation will be impartial.”⁵¹ The volunteers began their work in 1995, training, organizing and creating publicity for REMHI. Five hundred of the six hundred interviewers were considered indigenous, which gave REMHI the ability to reach into the most rural areas of Guatemala. They published and distributed fliers and pamphlets in several different languages and placed advertisements asking

people to come forward to give testimony. Workers were located in every region of Guatemala and interviewers were able to go directly to victims. Many interviews were conducted in victims’ homes, at their local parish or in the presence of the local priest.⁵² The investigation took over three years to complete, during which time 600 church activist interviewers collected 6,500 testimonies and documented over 55,000 human rights violations.⁵³

On April 24, 1998, REMHI produced a 1,400 page, four volume final report: Guatemala: Nunca Más! which included a combination of testimony and data relating to torture, the names of the perpetrators, and the military institutions involved. It concludes that the army was responsible for about 80% of the 55,021 violations that it documents. REMHI made efforts to distribute the report and summaries of the report locally through the Church.

Two days after the publication of Guatemala: Nunca Más!, REMHI’s leader, Bishop Gerardi, was murdered. Bishop Gerardi had responded to those who claimed “genuine pardon means forgetting” by arguing that “to pardon really means to create new attitudes, to provoke change inside people and between people.”⁵⁴ Four men were convicted for the murder, but later released on procedural grounds and a retrial ordered.⁵⁵

REMHI did not disband after its report was published but continued to have a strong presence in rural Guatemala. Members of REMHI persisted with a campaign for healing and reconciliation, which at the local level included meetings, workshops, memorials, mental health services, distribution of pamphlets and posters, skits with themes of peace and reconciliation, and providing legal assistance for victims.⁵⁶

REMHI’s work was key for the UN-sponsored CEH. REMHI had finished most of its work before the UN

47 From Report of the Commission for Historical Clarification, Conclusions and Recommendations, <http://shr.aas.org/guatemala/ceh/report/english/prologue.html>

51 From REMHI fact page at <http://www.marianistas.org/conchas-verapaz/guatemala/REMHI.htm>. Author’s translation.

52 M. Ballengee, *The Critical Role of Non-Governmental Organizations in Transitional Justice: A Case Study of Guatemala*, (2000) 4 U.C.L.A.J.I.L.F.A. 477

53 Catholic Church, Guatemala, Guatemala: Never Again! Catholic Church documentation of war crimes and terrorism of 1960-96 4.

54 J. Verhoeven, ‘Working for Peace in Guatemala,’

55 US Dept of State Press Release, Guatemala: Convictions Overturned, <http://www.state.gov/r/pa/prs/ps/2002/14245.htm>, [Accessed 18th December 2002]

56 M. Ballengee, *The Critical Role of Non-Governmental Organizations in Transitional Justice: A Case Study of Guatemala*, (2000) 4 U.C.L.A.J.I.L.F.A. 477

had even begun in 1997. While the CEH was able to collect 7,338 testimonies, REMHI made a substantial contribution towards truth and clarification, especially in gaining testimonies from the indigenous population. Significantly, the CEH pronounced that a number of the army atrocities were acts of genocide against the Mayan population. One commentator writes that “the spread of this historical consciousness through the indigenous population is among the most dynamic aspects of Guatemalan society”.⁵⁷ He describes the Maya as beginning to reclaim their own history, using what has been given to them by REMHI as a window from which to examine the cycle of oppression against themselves and other indigenous peoples.⁵⁸

(D) **Breaking the Silence, Building True Peace: A Report on the Disturbances in Matebeleland and the Midlands 1980-1989 – Summary Report**⁵⁹

In 1997, the Legal Resources Foundation (LRF) and the Catholic Commission for Justice and Peace (CCJP) released *Breaking the Silence, Building True Peace: A Report on the Disturbances in Matebeleland and the Midlands 1980-1989*, a report on the human rights violations that occurred in these two specific areas of Zimbabwe in the 1980s. In 1999, in order to reach a broader audience, LRF and CCJP consolidated the original lengthy report into the Summary Report, which made it cheaper to produce, and then translated it into Ndebele and Shona.

Background

The violence of the 1980s in Zimbabwe had its roots in Zimbabwe’s struggle for independence. Since 1963, two main liberation movements, the Zimbabwe African National Union (ZANU) and the Zimbabwe African People’s Union (ZAPU), had not only fought against the Rhodesians, but also competed against each other for popular support amongst the civilian population. ZAPU believed that aid should come

from the international arena and was strongly aligned with the Ndebele ethnic group, while ZANU trusted that self-reliance and armed confrontation would help to obtain freedom and was associated with the Shona peoples. As a result, upon independence on April 18, 1980, the population was severely divided into supporters of these two main political parties.

By early 1982, groups of armed dissidents killed, robbed, and damaged property in Matebeleland. Operating on the assumption that these men were members of the Zimbabwe People’s Revolutionary Army (ZIPRA), the armed wing of ZAPU, and were supported both by ZAPU politicians and their civilian supporters, the ZANU-dominated government engaged in a violently repressive campaign against them that affected the entire population of Matebeleland. The government increasingly failed to distinguish between dissidents and non-dissidents; thousands of innocent civilians were beaten, killed outright, or disappeared; others were rounded up and brought to the brink of starvation in detention camps; and entire villages were burned, displacing their people. The Summary Report found that the dissidents, though loyal to ZIPRA ideals, were ultimately leaderless and never numbered more than 400.⁶⁰

An official four-man commission of inquiry—the Chihambakwe Commission, chaired by Harare lawyer Simplisius Chihambakwe—collected statements that provided ample evidence of the atrocities. However, in 1985, despite earlier promises that the information would be shared, the government announced that the Chihambakwe commission’s findings would not be released.

The Unity Accord, signed on December 22, 1987, officially ended the hostilities; a general amnesty was issued for all dissidents in April, 1988. This amnesty was extended to include all members of the security forces in June of the same year.

“Breaking the Silence” as Unofficial Truth-Telling

57 P. Smith, ‘Memory Without History: Who Owns Guatemala’s Past?’, (2001) *The Washington Quarterly* 24:2, 59, at 65. The CEH report states: ‘agents of the State of Guatemala...carried out acts of genocide against groups of Mayan people which lived in the four regions... North Huetuetenango, Ixil in Quiché, Maya-K’iche’ in Quiché and Rabinal in Baja Verapapaz.

58 T. Rosenberg, *Children of Cain: Violence and the Violent in Latin America*, (London: Penguin Books, 1991), Paperback ed., 18.

59 The following information was gathered from the web version of Summary Report, which can be found at http://www.hrforumzim.com/members_reports/matrep/matrepintro.htm

60 Summary Report, section 3.

In a context in which the government refused to acknowledge past atrocity, *Breaking the Silence*, *Building True Peace*, and the subsequent Summary Report, constitute LRF and CCJP's attempt to interrupt the state-sanctioned silence. The writers claim that they do not seek to blame anyone, but rather "to break the silence" around the events of the 1980s. Time and budgetary limitations made it impossible to include every district and its victims' stories in one book, but by including the stories of daily abuses that occurred in one district of each of these two provinces in detail, the writers hope that the Report shows the "general way in which things happened over the years from 1982-1987...to help others understand how it was during those years."

LRF and CCJP called upon a variety of sources to write the report, including statements from victims collected for the Chihambakwe Commission in 1984; records from missionaries, journalists, and lawyers; interviews with residents collected by Bulawayo Legal Project Centre; documents from Amnesty International and the Lawyer's Committee for Human Rights; CCJPZ letters, reports, and newspaper and magazines to confirm government opinions and statements; medical records; and evidence from graves and mine shafts.

The report asserts that for the Unity Accord to have real meaning, the truth about the past must be made known, acknowledged, and acted upon. The writers express the hope that the Report will encourage more people to tell their stories, which will lead to increased knowledge about the violence, and in turn, a serious commitment to speed development in the affected regions and compel the government to provide some kind of economic reparation to the victims. In the end, they conceive of their truth-telling as resulting in reconciliation. Though a copy of the original report was sent to the President and various cabinet ministers in Zimbabwe, there has been no official response to it.

(E) **Northern Ireland: Ardoyne Commemoration Project**⁶¹

The Ardoyne Community Project (ACP) was an effort by members of the small Northern Irish community of Ardoyne (population: 6,600)⁶² to remember the 99 Ardoyne residents that were killed as a result of political violence.

Background

From 1966 through 1999, 3,636 people were killed and about 36,000 injured from the 'Troubles' between the British security forces and the Irish Republican Army in Northern Ireland, an area with a population of only 1.5 million people. Rioting and civil violence began in the 1960s when the minority Catholic community fought for civil rights. At the request of the majority Protestant community, British government troops were seconded to the area to keep the peace, but their presence led to more violence. The conflict between the Catholic community and the British military was exacerbated by the existence of Protestant paramilitary forces and continued until the signing of the peace accord, the Good Friday Agreement, in 1998.

A Victims Commission established in October 1997 produced the Bloomfield Report in April 1998. Many in the Ardoyne community found the commission and its report unsatisfactory. Sir Kenneth Bloomfield, the commission's head, was the former Northern Ireland Civil Service head, and, Adam Ingram, the Minister for Victims, simultaneously served as Minister for Armed Forces. These credentials made members of the Ardoyne community doubt the commission's impartiality. They further found fault with the commission's Report, which they felt established a hierarchy of victims in which republicans and nationalists were less deserving than other victims of "the Troubles."

The Ardoyne Community Project

In the post-ceasefire period, this frustration with the Bloomfield Report and informal discussions coalesced into a project that would 'write back...with a collective memory of the community, researched and written by members of that community'.⁶³ The

61 See M. McGovern, P. Lundy, 'The Politics of Memory in Post-Conflict Northern Ireland', available online at: <http://www.edgehill.ac.uk/research/smg/ArticlesMark.htm>; and B. Hamber (ed), *Past Imperfect: Dealing With the Past in Northern Ireland and Societies in Transition*, (INCORE: 1998).

62 2001 Census, Northern Ireland Statistics & Research Agency, <http://www.nisra.gov.uk/census/start.html>.

ACP's focus was to highlight the hidden history of the conflict in Northern Ireland, as lived by one community, in order to reclaim and commemorate the victims' agenda from misrepresentation. Loved ones and friends served as eyewitnesses to the killings, the mistreatment of remains, and the abuse of the families by the various agencies: RUC (the police force), British Army, media, Church and courts. For the organizers, this meant that "the community in effect took 'ownership' and control of the design, research process, editing, return phase and production of the book"⁴² *The introduction of Ardoyne: The Untold Truth provides a detailed overview of the project's discussions concerning the definition of victim status, the drawing of the project's geographical boundaries, and the methodology and process of the interviews and statement-taking.*

Ninety-nine Ardoyne community members were killed as a direct result of political violence between 1969 and 1998. *The ACP went directly to the closest family members of each to request both testimony and the recommendation of a close friend or non-family member who would also assist with the project.*⁴³ Each participant was given complete editorial control over their segment, and allowed to preview other people's contributions for their friend or family member. *Ardoyne: The Untold Truth*, was published in 2002 by a small Irish independent publishing house. The collection of 350 testimonies and 50 oral histories resulted in some politically controversial findings: 26 victims had been killed by British security forces, and not one person had been arrested, charged or convicted with their deaths; fifty victims were killed by loyalists, and state collusion was a major factor in many of these deaths; nine victims were killed by the Irish Republican Army (five of these were accidental); seven people were IRA volunteers who also died as a result of an accident. Of all the identified victims, there were only two cases where no member of the family was willing to give testimony.⁴⁴

(F) **Greensboro Truth and Reconciliation Commission**⁶⁴

The Greensboro Truth and Community Reconciliation Project was founded to understand the truth about a specific incident that occurred on November 3, 1979. The project has examined the causes, sequences, and consequences of that incident, as well as the broader context of political, labor, and race relations in the city and country at the time. As a result of their work, the Greensboro Truth and Reconciliation Commission was created. This is a non-government truth commission that borrowed heavily from the form and language of official truth commissions. It handed over its final report "to the residents of Greensboro, the City, the Greensboro Truth and Community Reconciliation Project and other public bodies" on May 25th, 2006.

Background

Greensboro, North Carolina, is a community of around 235,000 with a long history of active involvement in the fight for equal civil rights. On November 3, 1979, forty Ku Klux Klan and American Nazi Party members drove into an anti-Klan march in Greensboro, shooting and killing five people (an African-American woman, two Jewish men, one Latino man, and one Anglo man) and wounding ten others in broad daylight. Four TV news crews filmed the killings. Tactical officers of the Greensboro police force were sent to an early lunch that day, and police were told that they did not need to be at the parade until 11:30. The killings occurred at 11:23. The motivations behind the police's decisions and actions are still heavily disputed.

In two criminal actions the accused were acquitted by all-white juries. A civil case found members of the Greensboro Police Department, the Ku Klux Klan and American Nazi Party jointly liable for the wrongful death of one individual, but this civil action lacked the official condemnation and punishment options of a criminal prosecution. The City of Greensboro paid

63 A: the UT, Intro, 2.

42 Ardoyne 4

43 The introduction to the ACP makes it clear that defining the parameters of the ACP investigation was a difficult and controversial process.

The final decision on victim definition was primarily due to resource constraints.

44 The introduction to Ardoyne: The Untold Truth, notes the classic Irish phrase, 'whatever you say, say nothing.'

64 See The Greensboro Truth and Reconciliation Commission website at www.greensborotrc.org

damages without admitting or acknowledging any links to the KKK, and the violence was conceptualized in the public domain as a conflict between opposing radical ideologies (Klansmen and Nazis against leftist labor organizers). For many in Greensboro, none of the court cases had satisfactorily resolved the situation by providing a sense of truth, justice or reconciliation. As a result, tensions concerning the Greensboro incident had divided members of the community for many years after it had happened.

The Greensboro TRC: a non-governmental truth commission

To address the division and hostility that lingered in the Greensboro community, the Beloved Community Center and the Greensboro Justice Fund initiated the Greensboro Truth and Community Reconciliation Project (GTCRP). Since its founding, the GTCRP has worked with a National Advisory Committee as well as with national and international experts and institutions, and has drawn heavily on the truth commission models that have come from other countries, South Africa in particular. This effort can be seen as a replacement for a truth commission, or possibly a precursor for a larger, regional or national, effort.

The goals of the GTCRP included 1) to seek the truth around the events of November 3, 1979; 2) to clarify the confusion and reconcile the fragmentation that resulted from the massacre; 3) to acknowledge the feelings that it inspired; 4) to promote healing and reconciliation in the Greensboro community; 5) to facilitate positive changes in the social consciousness and institutions that were, knowingly or not, complicit in the events of that day; and 6) to strengthen justice, to promote democracy and to build a stronger community in Greensboro, North Carolina.

One of the major components of the project was the creation of an independent Greensboro Truth and Reconciliation Commission (TRC), which was formed in June 2004. The TRC was headed by seven “commissioners”, five of whom were members representing the broad array of Greensboro’s social, religious and political sectors. According to the TRC’s mandate, the “[Truth and Reconciliation] Commission will carry out its mandate while operating independently

from any external influence, including the Project [GTCRP].” The TRC was inaugurated by a former city mayor, and had one representative appointed by the sitting mayor.

The first step in carrying out its mandate was a 15 month investigation by the GTRC into the events of November 3, 1979. This was launched in January 2005, as the Commission began taking statements from individuals with information related to the events of the day. The TRC also organized a series of public hearings in an effort to involve the community in the debate about Greensboro’s past, the abuses that were committed, their origins and causes, and the safeguards that must be put in place to prevent the repetition of such abuses.

The first of its kind in the United States, the Greensboro Truth and Reconciliation Commission sought “to translate the international lessons learned from previous truth commissions into a model that can heal many of the divisions caused tragic unresolved events throughout our nation’s unique history.”⁶⁵ Although it focused on a specific event, as opposed to a larger historical period, and was not an official truth commission, it resembled a truth commission in almost every other way.

(G) **Iraq History Project**

The Iraq History Project was established by the Human Rights Law Institute (IHRLI) of the DePaul University College of Law (Chicago, Illinois). As part of a larger set of projects funded by a \$1.8 million grant received by the university in June, 2005, from the U.S. Department of State, the goal of this project has been to collect thousands of testimonies of experiences of repression under the Ba’th party period in Iraq (1968-2003). One of the project directors, Daniel Rothenberg, explains that “the overall goal of this project is to assist Iraqis in creating an accurate, victim-based historical record of past atrocities.”⁶⁶

Background

Iraq’s recent past is one of severe repression and massive human rights abuses. The Ba’athist party’s seizure of power in a 1968 coup paved the way for more than three decades of repressive rule, most of

65 See <http://www.gtcprp.org/faqs.asp>

66 see “Grant expands human rights institute’s work in Iraq, August 1, 2005” (<http://newsline.depaul.edu/>)

which was under the dictator Saddam Hussein's brutal regime which lasted for over 20 years. The Ba'ath party was a "complex, patronage-driven, and exceptionally violent state. Members of the Ba'ath leadership ruled by a system of 'terror and reward,' making widespread use of torture, extrajudicial executions, arbitrary detention, and forced disappearances to compel obedience and silence dissent across the country"⁶⁷. In addition to his abuses of Iraqis who disagreed with the regime's authoritarian policies, Saddam Hussein waged war against Iran (1980-1988) and also launched a campaign to exterminate the Kurdish minority in Iraq, which resulted in as many as 100,000 Kurdish deaths. He also targeted the Sunni minority and many of his regime's most severe repressions were aimed at women.

The US invasion of Iraq in 2003 clearly represents a moment of transition in the country's history, although for many Iraqis, at the time of this writing, the situation has not improved. On the contrary: for many, it has gotten much worse. The country is in the middle of a major conflict, and transitional justice may seem a distant and irrelevant framework. Nonetheless, there are clear justifications for focusing on the 1968-2003 period, which had its own pathologies of power and patterns of repression,⁶⁸ and concentrating on this period does not exclude the possibility of examining the post-2003 period in its own right.

The military intervention in Iraq precipitated numerous conversations and debates within Iraq, as well as in the United States, the United Nations, and elsewhere about transitional justice. For example, a survey done by the International Center for Transitional Justice and the Human Rights Center of the University of

California, Berkeley, published in 2004, showed a strong demand within Iraq for judicial accountability for the previous regime's human rights violations⁶⁹. Meanwhile, between 200-300 mass graves have been found in Iraq and some 300,000 Iraqis remain missing.⁷⁰ In October 2005 Iraq's Transitional National Assembly created the Supreme Iraqi Criminal Tribunal (SICT) to prosecute Sadaam Hussein and other leaders of the Ba'ath regime. However, "serious doubts remain about the capacity of the Tribunal as constituted," according to both Human Rights Watch and the International Center for Transitional Justice, "to conduct fair trials that meet international human rights standards for the prosecution of the crimes in its Statute"⁷¹

The Iraq History Project as an unofficial truth project

There is no truth commission in Iraq, as of this writing, although there have been calls for one at various times and the idea of creating an official truth commission has been considered.⁷²

In this context, with a direct nod to truth commissions, the Iraq History Project website explains that "the methodology used in this project was developed by IHRLI based on the work conducted by various truth commissions and similar research bodies". In fact, the methodology is remarkably similar. Although there are no "commissioners" and no public or private hearings, the interview methodology closely resembles the state-of-the-art in data collection for truth commissions, following guidelines, interview practices, and database development that closely resemble truth commissions in Ghana, Peru, Sierra Leone, and Timor-Leste. This is in part because the project director of this initiative, Daniel Rothenberg, has a deep understanding of truth commissions, having participated

67 See ICTJ Briefing Paper: Creation and First Trials of the Supreme Iraqi Criminal Tribunal, October 2005 (International Center for Transitional Justice), p. 4.

68 See Kanan Makiya (1998), *Republic of Fear: The Politics of Modern Iraq*, Updated Edition (Berkeley, California: University of California Press).

69 *Iraqi Voices: Attitudes Toward Transitional Justice and Social Reconstruction*, May 2004 (International Center for Transitional Justice and Human Rights Center, University of California, Berkeley)

70 See ICTJ Briefing Paper: Creation and First Trials of the Supreme Iraqi Criminal Tribunal, October 2005 (International Center for Transitional Justice), p. 4.

71 Human Rights Watch, *Iraq: Country Summary*, January, 2006 (<http://hrw.org/wr2k6/pdf/iraq.pdf>), p. 3; and ICTJ Briefing Paper: Creation and First Trials of the Supreme Iraqi Criminal Tribunal, October 2005 (International Center for Transitional Justice)

72 See "Along with Trials, Iraq Needs Truth", by Daniel Philpott, *The Boston Globe*, December 8, 2005. Also see *Iraqi Voices: Attitudes Toward Transitional Justice and Social Reconstruction*, May 2004 (International Center for Transitional Justice and Human Rights Center, University of California, Berkeley), especially pp. 57-58.

in numerous events and conferences on the topic and having done in-depth research on the Guatemalan truth commission in particular.

The Iraq History project employs some 90 staff, mostly Iraqi nationals representing all the major ethnic and religious groups⁷³. By May 2006, they had successfully completed 2000 interviews of victims and their families, based on a sophisticated interview methodology using intake sheets, open-ended questions, and conducted in the interviewee's language by native-speaking interviewers. This information is compiled in a database (Martus system) designed and customized by the Human Rights Data Analysis Group (HRDAG) of the Benetech Initiative in Palo Alto, California, a frequent consultant to truth commissions around the world. Intake sheets are scanned and copied, and copies are immediately sent to a secure server outside of Iraq. Originals are destroyed.

Over the lifetime of the project, another thousand or so interviews will be compiled, translated, scanned, and examined, and then the process of analyzing the information will begin. This will lead to the creation of a final report (or a series of final reports), to be translated in Arabic, English, and Kurdish, which will seek to identify patterns of abuse and make recommendations for the future.

(H) **Documentation Center of Cambodia (DC-Cam)—various projects**

The Documentation Center of Cambodia (DC-Cam), an offshoot of the Cambodian Genocide Program originally created through Yale University in 1994, has prioritized societal truth-telling strategies since its inception. Throughout its existence, it has anticipated the possibility of future transitional justice

mechanisms, in particular a tribunal for Khmer Rouge leaders, which now exists.

Background

From 1975-79, the Democratic Kampuchea/Khmer Rouge regime conducted some of the worst horrors of the twentieth century. Fanatical nationalist and communist policies drove massive pogroms that caused the deaths of more than one million Cambodians and destroyed the entire social fabric of the nation. The genocidal regime was deposed by a Vietnamese invasion that installed Heng Samrin as Prime Minister in 1979.

The combination of continuing civil conflict and very limited institutional and economic resources prevented any coherent Cambodian transitional justice policy. While there were sporadic domestic and external attempts to bring members of the Khmer Rouge to justice, no resolution was ever reached⁷⁴, and in some cases, former Khmer Rouge members even negotiated amnesties with the government. The 1991 Paris Peace Accords expressly agree that 'effective measures' will be taken to ensure there is never a recurrence of the policies of the past and an adherence to international human rights instruments.⁷⁵ Over a 15 years later, and after many convolutions, on March 31st, 2006, the Khmer Rouge Tribunal was inaugurated by the Royal Government of Cambodia in partnership with the United Nations⁷⁶.

The director of DC-Cam, Youk Chhang, has often reflected on truth commissions⁷⁷ and others have also explored the idea in depth⁷⁸. But at the present moment, a formal truth commission in Cambodia seems highly unlikely. This is for three reasons⁷⁹. First, both local NGOs and the international community have put so much energy into the creation of

74 Domestically, Pol Pot and Ieng Sary were tried in absentia, and sentenced to death sentences that were never carried out. Internationally, nongovernmental groups suggested bringing a case before the International Court of Justice or obtaining access to documentary evidence of the DK regime's criminal activities. M. Vickery and N. Roht Arriaza, 'Human Rights in Cambodia', ch.18 in N. Roht Arriaza, Impunity in Human Rights Law and Practice, etc at 146.

75 S. Ratner and Abrams, Accountability, ch14, 'Engaging the Mechanisms'

76 See the website for the Khmer Rouge Tribunal: www.cambodia.gov.kh/krt/english/. Additionally, see Tom Fawthrop and Helen Jarvis, "Getting Away with Genocide? Elusive Justice and the Khmer Rouge Tribunal" (London: Pluto Press, 2004).

77 interviews with author, including a discussion in May, 2006.

78 See Ramji, Jaya, "Reclaiming Cambodian History: The Case for a Truth Commission" (24: Fletcher Forum of World Affairs. 137, Spring, 2000), and McGrew, Laura. Truth, Justice, Reconciliation and Peace in Cambodia: 20 Years After the Khmer Rouge. Unpublished paper reporting research December 1999 to February 2000, funded by the Canadian Embassy (Phnom Penh) March 21, 2000

79 See "Cambodia and Transitional Justice: an Assessment", Louis Bickford, the International Center for Transitional Justice, unpublished manuscript (March, 2005).

the Khmer Rouge Tribunal that they are now dedicated to making it work, and not to creating a new institution. Secondly, truth commissions have been framed in Cambodia as related to “reconciliation”, which is also a concept used by the Khmer Rouge leaders to mean “forgive and forget”⁸⁰. This tends to color the idea for many human rights activists, even if many truth commissions historically have not emphasized this element of their work. Finally, the government seems less interested in a truth commission than in the Khmer Rouge Tribunals. This may be because a rigorous investigation of the last 25 years of Cambodian history might reveal complicated and uncomfortable facts about what happened during the 1975-1979 period, as well as what has developed since then.

DC-Cam and its truth-telling projects

In 1994, the Cambodian Genocide Program was established to: a) collect, study and preserve information about human rights violations in Cambodia between 1975-79; b) provide the information gathered to an institution willing to prosecute surviving war criminals; and c) generate a critical, analytic understanding of genocide which can be marshaled in the prevention of political and ethnic violence against populations elsewhere in the world.⁷⁶

In 1995, a Documentation Center—DC Cam—was established in Phnom Penh, originally under CGP auspices, to focus on documentation, historical research and preservation, and training.⁸¹ In 1997, DC-Cam became an autonomous entity and it is now staffed entirely by Cambodians with external support from the US, Europe and other Asian nations.

DC-Cam has had considerable success in collecting documents, and has also sought to disseminate information about the past through books, pamphlets and the regular publication of “Searching for

Truth”, a magazine in Khmer⁸² that was recently circulated to over 20,000 people in Cambodia.⁸³ This magazine combines oral history, reportage, research, photographs, readers submissions (testimonials), and examination of physical documents and archives to tell the victim’s stories about what happened during the Khmer Rouge period.

DC-Cam’s film project, a 30-minute documentary called *The Khmer Rouge Rice Fields: The Story of Rape Survivor Tang Kim*, is essentially the story of a past atrocity, told in great detail, with attention to both historical fact as well as the emotional trauma of the victim/survivor. Moreover, the film is being shown in all of Cambodia’s 22 provinces, with discussion periods with the tragic heroine of the film (a survivor) and DC-Cam staff.

Beyond the film and magazine, DC-Cam has other truth telling projects. They sponsor an oral history project, essay writing contests, and publish numerous monographs, articles, and books, many of which are explicit efforts to unveil the silence and secrecy that has been wrapped around the genocide in the past two decades. Additionally, DC-Cam does “family tracing”: they respond to requests to investigate and find the stories of family members who were killed during the genocide.

(I) Former Yugoslavia: Humanitarian Law Center and Regional Partners

The Humanitarian Law Center (HLC) was founded in 1992 by human rights activist Nataša Kandić, after the outbreak of conflict in the former Yugoslavia. The HLC is a non-governmental human rights and humanitarian law organization that researches and documents human rights abuses during the armed conflict in the region; its objective is “to document the violations of human rights in armed conflicts,

80 See “With ‘No More Pol Pot,’ the ‘New’ Khmer Rouge Hopes the World Will Forgive and Forget”, By Seth Mydans, New York Times, April 20, 1998.

76 Cambodian Genocide Project, Introduction, online at: <http://www.yale.edu/cgp/cgpintro.html>. (Accessed 21 December 2004). These goals accord with §573 of the Cambodian Justice Genocide Act which describes an ‘Office of Cambodian Genocide Investigation’ to ‘support efforts to bring to justice members of the Khmer Rouge for their crimes against humanity committed in Cambodia’ and further provides that these ‘efforts’ should encompass investigation, access to information gathered for the people of Cambodia and the submission of information gathered to a national or international penal tribunal.

81 See DC-Cam’s website for more information: <http://www.dccam.org/>

82 There is also an English edition

83 Documentation Center of Cambodia (Phnom Penh, Cambodia), Second Quarterly Report: April - June 2005

to make public or to report any indication that a war crime had been committed,”⁸⁴ and one of its major goals is to bring war criminals to justice. Today, it has a major focus on atrocities and human rights violations committed in the former Yugoslavia (including Bosnia and Herzegovina, Croatia, and Kosovo) by Serbian government and armed forces during the ten year period between 1991-2001. The HLC works closely with regional partners—specifically with the Research and Documentation Center (RDC-Sarajevo) and Dokumenta (Zagreb)—on both oral history and truth-telling projects.

Background

During the 1990s, Yugoslavia dissolved in a series of bloody ethnic and political conflicts and civil wars that devastated the region and resulted in the deaths of as many as 300,000 people and the displacement of at least a million more. The struggle over the rule of the Yugoslav republics and the deep ethnic clashes in the region between Muslims and Christians; Serbs and Bosnians, Croats, and Kosovars; and between Slavs and ethnic Albanians resulted in the bloodiest conflict in Europe since World War II and the brutal policies of the Serbian leaders, especially the Serbian President, Slobodan Milosevic, are widely considered genocidal today.

In 1992, the serious breaches of international humanitarian law had become evident to the world, and by 1993, the pressures of public opinion, especially in the West, compelled the establishment of an international tribunal to bring to justice those charged with being war criminals. Thus, the International Criminal Tribunal for the former Yugoslavia (ICTY) was formed in May 1993.⁸⁵ Despite the fact that since the ICTY’s formation over 150 individuals have been indicted and are in various stages of their trials, some of the most serious perpetrators, especially Radovan Karadzic and Ratko Mladic who are considered to be the major architects of the genocide, remain free and are widely considered heroes in a Serbia that is unwilling to turn them over to the international court

and is reluctant to face its past. In 1995, after military intervention against the Serbs by NATO, the signing of the Dayton Agreement marked an end to the wars in the former Yugoslavia. However, from 1996, ethnic and concomitant territorial tensions surfaced in the southern part of the country, leading to conflicts in the provinces of Kosovo and Macedonia. In Kosovo, war broke out in 1999, leading to a second episode of NATO bombing and, a few months later, the imposition of control by the United Nations Mission in Kosovo (UNMIK).

In terms of transitional justice, the major thrust of NGO activity has been supporting the ICTY and on domestic-level prosecutions in Bosnia, Kosovo, and Serbia. The idea of a truth commission, by contrast, has not captured the imagination. On the contrary, some NGOs have actively opposed the formation of a truth commission. This was the case with some important NGOs in Serbia and Montenegro, soon after a Yugoslav President Vojislav Kostunica launched a “Truth and Reconciliation Commission” in February 2002. This turned out to be “a case study in how not to establish or run an effective commission”⁸⁶. Moreover, the close association with “reconciliation” among NGOs who have been dedicated to “justice” was seen by some as an incompatible goal, and some civil society actors from then on were highly skeptical and suspicious of the idea of a formal truth commission⁸⁷.

The HLC and its truth-telling projects

Since the founding of the HLC in 1992, Kandić and the 70 lawyers, researchers, activists, and analysts who work for the organization, have been working to uncover and tell the truth about the war crimes committed in the former Yugoslavia. They have researched the killings, disappearances, torture, and forced labor that took place throughout the conflict, mostly relying upon oral testimony of victims and witnesses.

84 There is also an English edition

85 For more information on the Tribunal, see its website: www.un.org/icty/.

86 Mark Freeman, “Serbia and Montenegro: Selected Developments in Transitional Justice” (ICTJ Case-Study Series, October 2004)

87 author’s discussions with Nataša Kandić, Marijana Toma, and other HLC staff (June 15-20, 2005) as well as author’s discussions with various participants during the conference on Transitional Justice In Former Yugoslavia: the Place of the Victim, Belgrade (26-29 June 2005).

After amassing a large body of documentation on war crimes, in 1994 the HLC began to cooperate with the International Criminal Tribunal for the former Yugoslavia (ICTY) at The Hague. The HLC is also currently working with the prosecutors' offices in Serbia, Montenegro and Kosovo. Much of the HLC's attention has been devoted to gathering documentation that can be used to bring the perpetrators to justice, and it hopes to expand to include offices throughout the region, with fully integrated access to such documentation.

In addition to their work with the ICTY and regional prosecutors, the HLC is working to bring the truth about what happened during the Yugoslav conflicts to the public—especially in Serbia, but also throughout the region, and around the world. The HLC has several series of publications on the past, including “Documents,” which is comprised of publications on the Hague Tribunal, and the “Spotlight Reports,” which highlight their research into human rights abuses in the past. They have also hosted a series of broad-based public debates on human rights abuses and facing the past.

The HLC's regional oral history program is its most rigorous form of truth-telling about the past. With its two partners—the RDC and Dokumenta—the goal of the project is “to shed light on past atrocities, foster an honest debate within the affected society, and facilitate the truth-telling and accountability aspects of the process of dealing with the past”, according to their website. The project draws on “the established methodology of oral history” and “the body of documentation produced in compliance with strict methodological standards will complement the existing written sources of evidence of past atrocity”.

Part III: Conclusion

Unofficial Truth Projects such as the ones described here represent one category of a wide multitude of strategies for dealing with past human rights abuse, atrocity, and conflict. The most well-known of these

strategies include criminal prosecutions, truth commissions, and reparations policies.

UTPs share a great deal in common with truth commissions in particular; the major difference is that truth commissions are created, authorized, or sanctioned by the state, and are therefore “official”. But truth commissions have had an enormous influence on the way in which NGOs and others explore traumatic periods in the past. More accurately, the existence of truth commissions, on the one hand, and the parallel development of UTPs, on the other, have influenced each other reciprocally.

Because civil society actors have been creative, UTPs are widely diverse⁸⁹. There are also too many to count, and this paper only scratches the surface of this category. But the survey of examples here does point to some important distinctions between UTPs and formal truth commissions.

Legitimacy

Official truth commissions attempt to produce a historical narrative that contributes to the “official story” of national history. Whether or not they claim to tell the national truth, they clearly stake out a position on an authoritative version of what has happened to victims during the period under examination. Because they have state power behind them and, in the best cases (e.g. Chile, Morocco, Peru, South Africa), because they have undertaken their task with seriousness, rigor, and perceived objectivity, the narrative that they construct can arguably have a higher legitimacy than a similar UTP effort.

In some cases, on the other hand, civil society actors may be better suited than the government to organize truth-seeking efforts. In a country still mired in conflict or fresh out of one, or in which the original perpetrators are still in power, a state-led initiative may raise questions about its evenhandedness and neutrality with respect to different parties to the conflict. The “Breaking the Silence” report discussed in this paper is a good example. As long as ZANU-PF was in power, the likelihood that the government would be able to undertake a dispassionate review of

88 Quotations in this paragraph taken from the website of the Research and Documentation Center (Sarajevo): www.idc.org.ba/

89 Truth commissions are also diverse, although it may be that they are increasingly less diverse, as some practitioners seem to believe that there is a scientific methodology to creating truth commissions (see Conclusion, below).

the events in Matebeleland seemed suspect, and the suppression of the 1984 Chihambakwe Commission report only confirmed this.

Moreover, if official truth commissions are unable or unwilling to take the necessary steps to achieve high levels of legitimacy, as was the case with commissions in, for example, Haiti, Nigeria and the former Yugoslavia, then an unofficial process might have been a better option in terms of constructing an overall narrative of the period under examination.

Nonetheless, in terms of legitimacy, unofficial truth projects may have an inherent disadvantage of being what they are—that is, unofficial. They confront the challenge of achieving the status, recognition and visibility more easily afforded state-run projects, especially in new democracies that have high moral legitimacy and seem to be ushering in a new era. Nonetheless, many UTPs described in this paper have ultimately won remarkable recognition, in essence becoming the primary agent charged with documenting abuses of a particular period of the country's past, as is the case with DC-CAM and its truth-telling projects.

In other instances, UTPs might not claim to be constructing national narratives at all, focusing instead on smaller components of the national story. For example, the Ardoyne and Greensboro projects have smaller ambitions than that of an official nation-wide truth commission. These UTPs aim to tell, respectively, the story of two different communities, in both cases through the perspectives of victims and during a specific period in the past. UTPs may, in these cases, be able to achieve legitimacy by combining reasonable ambitions with high levels of professionalism. They would then be likely to be judged according to whether they have fairly and accurately portrayed what they have set out to examine, as narrow and specific as that might be.

The official status of truth commissions potentially affords the “truth” that they report more weight or validity in the public eye, though not always. When, as in the case of El Salvador, top government and

military leaders question (or outright reject) the findings of the truth commission or, as in Nigeria, when the general population sees the overall effort as unserious or a “soap opera”, the benefits of official status are called into question. While all truth-telling efforts acknowledge the value of truth, their ability to access it is contingent upon the context from which they emerge.

On the other hand, the truth that the Brazilian effort produced had an added weight. As Joan Dassin points out in the introduction to the English language report:

“Yet the Brazilian Nunca Mais project was able to achieve something that the neighboring groups did not—to establish official responsibility for politically motivated human rights abuses on the basis of military records themselves ... Afterward, denial was impossible—although officially at least, the government remained largely silent about the massive project and its revelations”

Finally, one of the key issues around legitimacy is how objective the commission is perceived to be. For example, truth commissions are more likely than UTPs to appoint commissioners and staff that seem to represent society as a whole, as opposed to the NGO-based staff of unofficial projects. The Chilean commissioners, for example, were generally seen as individuals of high moral standing who, together, represented a broad spectrum of formal political activity. Their signatures on the final report gave an added weight to the truth that the commission established.

The lesson here has less to do with the official or unofficial status of the effort, and more to do with its professionalism and perceived objectivity. There are examples of high levels—as well as low levels—of professionalism among both official and unofficial truth-telling initiatives. All of the UTPs mentioned here, for example, can be considered highly professional, and the unofficial Brazil Nunca Mais, for example, with its reliance on official documents, reputable lawyers, and the respected role of the Church is arguably con-

91 The La'o Hamutuk Bulletin, Vol. 4, No. 5, November 2003, <http://www.etan.org/lh/bulletins/bulletinv4n5.html>.

92 Jonathan Saul, “Iraqi author seeks to confront Saddam legacy,” Reuters, December 7, 2003.

93 For one of the first articulations of this difference, see Nagel, *State Crimes: Punishment or Pardon?* (Papers and Report of Conference organized by Justice and Society Program of Aspen Institute, Aspen, Aspen Institute, 1989).

sidered much more legitimate than a hypothetical alternative, such as a truth commission, that is seen as politicized or weak.

Access to Resources

An official truth commission is a potentially expensive endeavor that may have a budget of millions of dollars over a short period of time. At its peak, the 17-member South African Truth and Reconciliation commission employed some 400 staff and had a budget of \$18 million/year. More recently, East Timor's commission required over \$4 million from 2001-2003⁹¹. The proposed budget for the Paraguayan Truth and Justice Commission was over one million dollars a year, even though far less has actually been released.

This kind of effort could be difficult for a UTP to replicate. UTPs are likely to have more limited access to financial resources, although some of the efforts here have been able to garner considerable financial support from both local and international institutions. For example, the Brazilian effort was supported by the World Council of Churches, DC-Cam and the Iraq Memory Foundation have received US government support⁹³; HLC has received substantial support from European and other donors; the Greensboro Truth and Reconciliation Commission has received financial support from major US foundations, and the REMHI project had the support of the Guatemalan Catholic Church, had a large staff and multiple offices at its peak, thus resembling an official truth commission in bureaucratic structure as well as in mandate and goals. Still, given the expense of official truth commissions, having access to financial and similar resources (office space, seconded staff, etc.) is a key consideration. UTPs, of course, may need to use existing staff and offices or create new projects.

Both kinds of efforts seek to provide some form of public acknowledgement concerning past abuses. The move from knowledge (that people know about what happened) to acknowledgment (that fellow citizens publicly recognize what happened) is one of the most important potential effects of an official truth commission⁹³. Unofficial truth projects can

publicize the truth but arguably have less weight in being able to acknowledge the truth. Relatedly, one of the most important resources to which official truth commissions have access is the potentially significant power of the bully pulpit, and concomitant access to national media, although UTPs may be able to attract significant attention as well.

The South African Truth and Reconciliation Commission might be the best example of a commission that was able to garner resources such as access to media and attention. In part because it had highly visible Chairman, Nobel Peace Prize laureate Desmond Tutu, and in part because the commission was also able to hold public hearings of victim testimony that were widely covered in the media, as well as institutional hearings on a variety of topics, such as on business and labor, the faith community, the media, and the prisons. The commission issued a richly detailed report of 3,000 pages that included numerous recommendations for the South African state. Achieving this kind of public presence and influence on the public debate is one potential advantage of a formal truth commission. On the other hand, the Greensboro Truth and Reconciliation Commission, which closely studied South African commission, was also able to attract media attention, especially in the city of Greenboro, but also nationally in the United States.

Another resource that to which truth commissions have access concerns the development of reparations programs that often accompanies, runs parallel to, or is directly linked to a truth commission's work. In some cases, such as in South Africa, the truth commission had a direct relationship with reparations policies. In any case, the fact that one of the outcomes of truth commissions is often to define the universe of recipients for reparations programs suggests a kind of access to economic power in some cases that UTPs could of course never have.

Finally, there is access to legal power. Whereas some commissions (e.g. Chile, Guatemala) have had fairly weak powers, others have had very broad powers. The South African truth commission famously (and uniquely) had the power to grant amnesty to pepe-

93 For one of the first articulations of this difference, see Nagel, *State Crimes: Punishment or Pardon?* (Papers and Report of Conference organized by Justice and Society Program of Aspen Institute, Aspen, Aspen Institute, 1989).

trators in exchange for full disclosure about political crimes. The commission also had powers of search and seizure, robust witness protection powers, the ability to name perpetrators in public forums, and the power to subpoena witnesses (which it rarely used)⁹⁴.

Involvement of civil society

Official truth commissions require the support and assistance of civil society⁹⁵. In spite of these essential relationships, however, truth commissions are official entities, linked to the state and not owned by a certain NGO. Historically, their relationships with civil society have ranged from cooperative to antagonistic. This is because, to varying degrees, truth commission have interpreted their constituents to be broader than the NGOs that supported their creation. Truth commissions, in many cases, see their constituency as the whole society.

UTPs, which by definition emerge from and are directly linked to civil society and usually specific NGOs, may be more connected with the community they aim to serve. They may be more flexible and responsive to societal needs and may establish more direct relationships with their constituents, such as victims and survivors. This was clearly the case with REMHI, which was able to establish far closer linkages with indigenous organizations than the CEH was ever able to do.

Inter-relationships with other transitional justice strategies

Both official truth commissions and UTPs seek to contribute to multiple goals of a broader transitional justice agenda. In other words, they explicitly and

proactively interact with other efforts to confront the legacy of past human rights abuse. These efforts include: the prosecution in criminal proceedings for past human rights abusers, the provision of reparations for victims, the establishment of public memorials for victims, and the reform of those institutions (security sector, police, army, media, etc.) that had been institutionally responsible for the abuses.

In terms of criminal justice and accountability, both UTPs and truth commissions can contribute directly to criminal prosecutions⁹⁷; they can contribute indirectly to criminal prosecutions⁹⁸; or they can complement criminal prosecutions⁹⁹. In a few cases, they are alternatives to criminal prosecutions¹⁰⁰.

Official truth commissions have direct relationships with reparations programs. For example, the Chilean truth commission led to a process by which almost 5,000 beneficiaries received some combination of cash payments of over \$400/month, medical benefits, educational benefits to children, reinstatement and backdating of retirement pensions¹⁰¹.

Although UTPs cannot grant reparations, they can create debate and dialogue about the importance of recommendations. Perhaps the best example of this in this paper is REMHI, the final report of which calls for different forms of reparation and outlines these in a way that is reminiscent of an official truth commission.

In terms of broader forms of institutional reform, many of these efforts, like formal truth commissions, seek to answer questions about the past: why did terrible things happen? What institutions were at fault? How can this be prevented in the future? In

94 The appendices in Hayner's book do a good job of showing the different legal powers of truth commissions. See Priscilla Hayner, *Unspeakable Truths: Facing the Challenge of Truth Commissions*, New York: Routledge, 2001.

95 "Truth Commissions and NGOs: The Essential Relationship," ICTJ Occasional Paper, April, 2004.

96 See Bickford, *Transitional Justice* MacMillan.

97 This was the goal of the Uruguayan effort discussed in this paper, as well as the explicit goal of some of the projects of both DC-Cam (in terms of the Khmer Rouge trials) and the HLC (in terms of Serbian war crimes and crimes against humanity). The Argentine truth commission (CONADEP) understood its mission as a direct contribution to criminal trials, and the Peruvian truth commission established a "judicialization unit" that identified a small number of cases to be passed to prosecutors.

98 This happened with the Chilean Truth and Reconciliation commission, whose files were used decades later to assist with criminal prosecutions.

99 The Sierra Leone Truth and Reconciliation Commission was a parallel effort to a Special Court. The REMHI initiative discussed in this paper is also an example.

100 This is often thought to be the case in the famous South African example, although in that case the truth-for-Amnesty trade-off was supposedly premised on the threat of prosecutions. A better example is the Greensboro effort discussed here. Prosecutions were a failure in this case, because of a biased judiciary, so the truth-telling effort is an alternative to that flawed process.

101 See Pablo de Greiff (ed), *the Handbook on Reparations* (Oxford: Oxford University Press, 2006)

this sense, truth commissions and UTPs are often as much about looking towards the future as looking into the past. The REMHI report, for example, as well as the Breaking the Silence report, the SERPAJ and Brazil reports and, to a lesser degree, the Ardoyne report, all are efforts to analyze the past and make concrete recommendations to guarantee that it never happens again.

Truth Telling and Historical Memory¹⁰²

Official truth commissions, when they achieve success and legitimacy for their methods, conduct, and products¹⁰³, are likely to make a bigger stamp on history than UTPs, since they make some claim to producing the “official story” and they have the power of the state behind them in doing so. This is obviously even truer when the truth commission’s work is itself formally endorsed and recognized by the state, as in the blue ribbon and emotional ceremony when President Aylwin received the report from the Truth and Reconciliation Commission in Chile in 1991. The narrative created by truth commissions is more likely to make it into history books, for example, or state-sponsored school curricula¹⁰⁴. And the final report, if done well, will be cited by government officials, the media, and other opinion-makers.

In some cases, the number of victims established by the commission becomes an important historical figure. This is true in Chile, where no one can deny that at least 3,000 victims were killed or disappeared by the junta, or in Peru, where the number 69,000 (victims of the conflict on all sides) is becoming entrenched as the historically accurate number.

How historical memory is influenced is more complex and difficult to measure. UTPs, because they operate on the level of society and can, in some cases, be seen as legitimate by opinion-makers in churches, political movements, and civil society organizations, can have profound effects on the ways in which societies remember the past. It seems clear that the REMHI initiative was able to influence the way that the conflicts in Guatemala will be remembered over time, and the fact that REMHI still exists is also important. In the small community of Ardoyne, in Northern Ireland, it is likely that the Ardoyne project will have had an important effect on community narratives about the past; These results are likely to be similar in Greensboro North Carolina.

Perhaps most important, both truth commissions and UTPs allow for the voices of victims to be heard: they are intended to provide a space for victims to tell their stories. This kind of space is different than a courtroom. Responding to the need of many victims and survivors to be listened to,¹⁰⁵ both categories of truth-telling efforts can be seen as an arena for those often unheard voices. This is the case whether or not they have public hearings. That being said, the power of public hearings under state auspices, covered by national media, can be immense. Only the Greensboro Truth and Reconciliation commission has public hearings, of the initiatives examined here.

Conclusion

In the past few decades, dealing with the past has gained an increasing salience as a key component of a broader strategy in building a culture of human rights,

102 Historical memory means the ways that societies remember the past and how people frame their discussions about the past. This is different than the scientific discipline of history which (with due respect to all the post-modern caveats) seeks an objective truth about the past. Memory is There is a vast literature on history and collective memory. See for example the various volumes produced by the Social Science Research Council (SSRC) in their massive project “Collective memory and Repression in the Southern Cone” (in Spanish), available at http://www.ssrc.org/fellowships/coll_mem/.

103 Of course this is not always the case. In fact, there are numerous examples of truth commissions that have not achieved these, such as the truth commission in Haiti. See Human Rights Watch/Americas (1997), “Haiti: Human Rights Developments” (www.hrw.org/reports/1997): the Haitian government-supported Commission for Truth and Justice completed its investigation in 1996 and “presented a final, 1,200-page report detailing human rights violations under the military government to then President Aristide in February. President Préval later did little to follow through on the truth commission’s work, only releasing the report’s recommendations at mid-year and announcing a limited distribution of the report in October. The justice minister declared in June that the ministry lacked sufficient funds to provide reparations for human rights victims. The committee for the enactment of the truth commission’s recommendations ... lacked a staff and financial backing”

104 This is an area that requires more empirical research. One worthwhile effort is Elizabeth Oglesby, 2004, “Historical Memory and the Limits of Peace Education: Examining Guatemala’s ‘Memory of Silence’ and the Politics of Curriculum”, manuscript, (Carnegie Council on Ethics and International Affairs, Fellows Program, History and the Politics of Reconciliation, June 2004)

105 See Bickford, Louis, 2000, “Preserving memory: the past and the human rights movement in Chile”, in Hillman, Richard S.; John A. Peeler; and Elsa Cardozo Da Silva (eds), Democracy and Human Rights in Latin America (Westport, CT: Praeger)

confronting impunity, and strengthening democratic institutions. Of the many strategies to deal with the past, the idea of truth-telling—uncovering the truth behind a previous period often characterized by both violence and secrecy—has become particularly important.

There are of course many ways to tell the truth about the past, including both official truth commissions and unofficial truth projects (UTPs) as described in this paper. It is not surprising that these two broad forms have influenced each other and have come, in many ways, to resemble each other. **The entire field of transitional justice has always been characterized by cross-regional sharing of ideas and inspiration¹⁰⁶, and the idea of truth commissions has largely emerged from the Global South. It makes sense that truth commissions would learn from each other, as indeed they have done, and that UTPs would both inform truth commissions and learn from them.**

On the other hand, there is something potentially troubling about the similarities among this multitude of examples, as it suggests an overly scientific approach to truth-telling, as if there is one way to do it, and all these efforts are converging on the formula. **In fact, the most exciting element of these developments has been that there is no formula—no “one-size-fits-all—and that each has been characterized by the context-driven specificity and creativity of each effort.** DC-CAM’s approach to truth-telling in Cambodia both is and should be quite different than Breaking the Silence in Zimbabwe or the Ardoyne project in Northern Ireland.

The Iraq History project, for example, developed by international actors with US funding, suggests a fascinating but possibly worrying global development: that a “template” for truth-telling, whether of the official or unofficial kind, may be emerging. If this

is true, then a truth-telling project could theoretically be quickly put together and inserted into any context, without having the organic linkages to civil society that have characterized the most successful versions of these efforts. **As both official and unofficial truth-telling become more and more driven by scientific approaches and “best practices”, this may be an inevitable result. Indeed, as donors, international institutions, and globalized experts increasingly agree on what truth-telling “should” look like, there will be increasing pressures to create identical forms of both truth commissions and UTPs.**

Indeed, the lessons learned from truth commissions have been disseminated throughout the world, in part because of global communication networks, publications, and the existence of organizations such as the International Center for Transitional Justice (ICTJ)¹⁰⁷, with offices in Brussels, Cape Town, Geneva, Monrovia, New York, and Kinshasa; the Human Rights Data Analysis Group (HRDAG) based at the Benetech Initiative in California¹⁰⁸; and the Centre for the Study of Violence and Reconciliation (CSV) in South Africa, to name only a few. Activists or others (including officials of the United Nations and other international institutions) considering launching a truth commission have almost instant access to global networks of information and activity, such as the “Managing Truth Commissions Affinity Group”¹⁰⁹, a network of professionals involved with truth commissions, or the African Transitional Justice Research Network¹¹⁰, and can easily find answers to a wide array of questions from the best database for information storage, to the pros and cons of truth commission public hearings.

But, in the end, UTPs will always retain their context-specific individuality. Most of the examples given here, in fact, have defined themselves as explicitly local approaches, even if they have drawn on inter-

106 See “Transitional Justice” in *The Encyclopedia of Genocide and Crimes Against Humanity* (Macmillan Reference USA, 2004), vol. 3, pp. 1045-1047

107 the author is a director at this organization

108 See <http://www.hrdag.org/>

109 This is a project of the ICTJ that the author oversees involving members from truth commissions or former truth commissions in Argentina, Ghana, Guatemala, Morocco, Peru, Sierra Leone, South Africa, and Timor-Leste, among others.

110 See www.transitionaljustice.org.za. This is hosted jointly by the Centre for the Study of Violence and Reconciliation, the Ghana Centre for Democratic Development (CDD-Ghana), and the American Association for the Advancement of Science (AAAS).

national knowledge and resources. There is much that these efforts can learn from each other and teach the world, but perhaps the most important lesson

involves the flexibility that UTPs have, by their very nature, to be unique, creative, and appropriate for a local context. This is their greatest strength.