

Editors' Introduction

Extrajudicial investigations into political violence date back at least to the Carnegie Endowment for International Peace's inquiry into crimes against civilians committed during the 1912 and 1913 Balkan Wars, but the modern truth commission form has a much more recent genesis, primarily associated with what is often called Latin America's transition to democracy. First established in 1982 with Bolivia's small Comisión Nacional de Desaparecidos (National Commission on the Disappeared) and in Argentina in 1983 with the more well-known Comisión Nacional sobre la Desaparición de Personas (National Commission on Disappeared People), nationally- or internationally-administered truth commissions did indeed mark a particular moment of transitional justice—but not in the way legal theorists and social scientists like to use the term: to reference the evolution of particular nation-states from repressive and unrepresentative to liberal and constitutional forms of government. Rather, truth commissions, adopted in one variant or another in more than twenty Latin American, African, Asian, and Eastern European countries over the past two decades, indexed the shift from the global crisis of the 1970s—where escalating cycles of conflict and polarization often led to either repressive dictatorships or deadlocked civil wars—to the post-Cold War would-be *pax* neoliberal. Marking this transition, the utility of truth commissions, in retrospect, seems to have been exclusive to it, having exhausted their potential as instruments, however limited, of consolidating the norms and institutions of liberal jurisprudence. Consider two cases at opposing ends of today's global political spectrum: U.S.-occupied Iraq and Venezuela. In the former, the victorious (briefly at least) invaders felt no need to implement a truth commission as an exhortatory body to foster a culture of respect for human rights. Instead, they moved to invoke the more confident time of the Nuremberg and Tokyo trials, putting Saddam Hussein and a number of high-ranking Baathists on the dock to submit to the sword of justice. In the latter, in the wake of

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the 1998 elections that brought Hugo Chávez to power and signaled the collapse of a corrupt two-party monopoly, there have been few calls to set up a truth commission to investigate political violence that took place under the old regime (particularly the murder, by some accounts, of over a thousand people during the 1989 riots against an austerity program imposed by the International Monetary Fund) or to invoke the language of reconciliation to solidify social cohesion. Rather, while there have been a few isolated attempts to investigate the pre-1998 repression, supporters of Chávez, having shattered the previous political order, frame justice nearly exclusively in terms of social and economic rights.

The structure and work of truth commissions took many forms throughout the 1980s and 1990s—some mandated by national legislators, others brokered and administered by an international arbiter such as the United Nations—but in general, they have gathered testimony from victims and witnesses in order to document political violence committed by state and/or nonstate agents. While rarely invested with the legal authority to indict or to prosecute perpetrators, commissions nonetheless usually conducted their investigations within a framework supplied by national or international human rights law, making individual decisions on each case presented to them, similar to a panel of voting judges. When the investigative period ended, the commissions often issued final reports that quantified violations, typically with the aid of a statistical data base, and assigned global institutional responsibility. The UN-administered Commission on the Truth for El Salvador, for example, established as part of the peace negotiations between the state and the insurgent Farabundo Martí National Liberation Front, found that government forces were responsible for 85 percent of human rights abuses, charged the rebels with 5 percent, and left the remainder “undetermined.”

Yet the explicit mission of truth commissions to lay an ethical foundation on which to establish liberal constitutional polities differentiated them from more routine bodies of legal inquiry. Increasingly, as it evolved throughout the 1990s, the truth commission form was presented as a way to forge future social unity, constructed from both an official recognition of past human rights abuses and the supposed collective healing that comes from telling one’s story to an official body. The early architects of Latin American truth commissions—Carlos Nino and Jaime Malamud-Goti in Argentina, for example, and José Zalaquett in Chile—were self-conscious political liberals, seeing themselves as opposed not just to right-wing terror but to what they believed, in Nino’s words, was an “epistemic elitism regarding facts and morality” on the part of the Left, which justified violence in pursuit of a greater good.¹ Heavily influenced by Émile Durkheim’s arguments about the role of the rule of law in the formalization of social solidarity, these legal theorists laid the philosophical foundation of subsequent truth commissions. They understood the function of such commissions to be, first, the healing of the psychic damage caused by repression and, second, the deterrence of similar repression in the future. These

two goals were said to be mutually dependent in that officially sanctioned inquiries into the past, followed by public acceptance of the conclusions of those inquiries, would not only heal wounds but also help generate a culture of liberal tolerance and thus prevent future transgressions. “The truth in itself is both reparation and prevention,” Zalaquett, a professor of ethics and human rights at the University of Chile, believed.² Truth commissions, he wrote, “help to create a consensus concerning events about which the community is deeply divided. . . . The purpose of truth is to lay the groundwork for a shared understanding of the recent crisis and how to overcome it.”³

The ethical charge of the truth commission form meshed with post–Cold War political liberalism in two principal ways. First, truth commissions worked, at least in theory, similar to other myths and rituals of nationalism, to sacramentalize violence into a useful creation myth. To do so, they often embraced historical analysis, but they did so precariously, at the risk of undermining their stated goal of establishing social solidarity. History and law may share many methodological procedures—reliance on eyewitness accounts, corroborating evidence, reasoning by analogy, and the laying out of plausible sequences of events “in accordance with the rules of rhetoric, an art of persuasion”—yet historians usually reach conclusions not about an individual event, as lawyers often do, but about larger social, economic, or cultural patterns and phenomena.⁴ As the burden of proof widens from the individual to the social, historical conclusions are inevitably less verifiable than legal rulings and therefore more open to conflicting interpretations. Likewise, historical conclusions are divisive, for they usually rest on a multifaceted analysis of how economic, cultural, and political power is distributed within a given society. As such, they suggest a more profound degree of social responsibility than do legal judgments of individual actions and tend, as E. H. Carr remarked some time ago, to side with the “losers.”⁵ In order to avoid such divisive conclusions, truth commissions, for the most part, presented history not as a conflict of interests and ideas within a context of unequal power, but as a parable of illiberal intolerance, distilling a nation’s recently ideological feverish past into a useful moral, one that portrays terror as an inversion of a democratic society, a nightmarish alternative of what lies ahead if it does not abide by constitutional rules.⁶

Second, truth commissions have tended to disaggregate the collective nature of social justice struggles. In many instances, they forced victims to submit their experiences to the procedural and doctrinal compartmentalization of liberal jurisprudence: Julie Taylor argues that the Argentine truth commission abstracted human rights violations from dynamics of social power and conflict, in a way reproducing the logic of a repression that was intended to break down networks of political solidarity. She writes that all “who passed through this process, then, accused and accusers—actors in highly political dramas where they had represented clashing world views and collective strategies for implementing them—were refigured

as innocent or transgressing individuals with individual rights and obligations.” The truth commission’s “opposition of the order of law and the chaos of violence further led to the omission of collective motivation not only of victimizers . . . but of victims as well, who were defended as individuals whose human rights had been violated rather than as political activists.”⁷ In other cases, they denied the validity of collective forms of social organization and struggle, which, as mentioned above, the early theorists of truth commissions felt would not only reproduce the conflict but would also open the door to justification. One notable exception to this occurred in South Africa, where the Truth and Reconciliation Commission (TRC) did admit that the struggle against apartheid was morally just.⁸ But the righteousness of the antiapartheid movement was assigned nearly exclusively to its antiracist content, drowning out its socialist and communist impulse. Thus was the officially sanctioned process of national catharsis synchronized with the African National Congress’s capitulation to free-market economics.

But that the time of truth commissions seems to have passed suggests that Cold War triumphalism was in fact more fragile than it appeared during the years following the collapse of the Berlin Wall, and that to whatever degree truth commissions were used to subsume the remnants of the Cold War left into an imagined new postideological liberal polity, they were also meant to leash the Cold War Right—the military states and death squads that by eliminating nationalists and socialists served as the shock troops of neoliberalism. The latter proved more difficult than the former. It is often overlooked that not only did the Argentine theorists who designed the first major truth commission not believe that efforts to hold individuals accountable for human rights violations had to be sacrificed to the needs of national reconciliation, but that any attempt to do so would undermine both. Nino criticized what he believed to be the absolutism of groups like the *Madres de la Plaza* who, he wrote, “invok[ing] Kant” asked “for the punishment of every last individual responsible for the atrocities, even if society were at the brink of dissolution.”⁹ But despite this criticism, Nino, along with others in Raúl Alfonsín’s administration, felt that for their National Commission on Disappeared People to have effect, it would have to be supplemented by the prosecutions of high-level junta officers who set policy, as well as of those soldiers who tortured and killed with excess zeal.

Finding a proper balance between prosecutions and reconciliation, however, proved to be impossible. By 1986, following the convictions of General Jorge Videla and Admiral Emilio Massera, sectors of the Argentine military launched a series of failed but threatening coup attempts, forcing Alfonsín first to pass the so-called full stop law, which imposed an absolute cutoff date for the trials, and then to call a halt to military prosecutions. Before leaving office, he signed the so-called law of due obedience, which allowed military officers to argue in their defense that they “had acted under orders and thus were not punishable.”¹⁰ In 1990, his successor, Carlos Menem, pardoned in the name of national reconciliation all those either awaiting

trial or already convicted, including Videla and Massera. By the time of the installation of the next significant commission—in Chile in 1990, the first to call itself a “Truth and Reconciliation” commission—the strength of the Right vetoed any attempt to complement a broader inquiry into human rights violations with targeted prosecutions. Moreover, many in Chile’s post-Pinochet political class, including those involved with the Truth and Reconciliation Commission, refused to recognize that the inability to prosecute human rights violators was a realpolitik concession to the ongoing strength of the military, rather ideologizing it as a preferred option in the quest for national catharsis.

The very weakness of the post–Cold War liberal order was often manifested in much of the advocacy and theorizing of the truth commission form, which prioritized catharsis and forgiveness over punishment, and tended to gloss over the *de jure* or *de facto* amnesties that often came with it. This is perhaps clearest in the case of the much-lauded South African TRC, which set up a number of mechanisms that pressured victims to abandon a desire for vengeance for the sake of national reconciliation. The progressive hollowing out of the truth commission form was further revealed either by attempts to impose it on shattered nations such as Sierra Leone and Rwanda—where viscous reconciliation talk seemed but a parody of its use, however problematic, in Argentina, Chile, and South Africa—or to introduce it in countries where impunity has long been institutionalized. In 2004, for example, Indonesia passed legislation that would create a truth and reconciliation commission to investigate pre-2000 “gross violations of human rights,” including the 1965 executions of hundreds of thousands of communists and suspected communists, “in order to establish national peace and unity” and to achieve “national reconciliation” in the “spirit of mutual understanding.”¹¹ Following the logic of similar truth commissions, the law explicitly prohibits situating the crimes in their larger historical context, limiting truth to “the truth of an incident.” If it comes into being, Indonesia’s commission would provide for the same kind of truth-for-amnesty swap pioneered by South Africa’s TRC, including, in violation of international law, reprieves for perpetrators of genocide that would restrict the right of victims to seek redress in the judicial system. Where, in South Africa, amnesty decisions were decided on by the independent branch of the TRC, however, the Indonesian legislation invests the power to grant clemency to the executive branch. Worse still, it would condition a victim’s right to reparations to a willingness to sign a formal statement of forgiveness.

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The three feature articles in this special issue highlight the internal contradictions and tensions in truth commissions’ historiographical projects, raising a number of questions about the role of historical narratives in legitimizing state rule. For the most part, in the context of post–Cold War reckonings with the past, truth commissions have served as instruments for reestablishing political and institutional

stability according to liberal democratic norms. In countries ranging from South Africa to Chile and Guatemala, the foundation of this liberal constitutional order has also been viewed as essential to the implementation of market reforms according to hegemonic neoliberal economic development theory. Reconciliation, forgiveness, and political consensus have been understood as the basis for moving forward into an era of market-driven economic progress. The historical “truths” mobilized by commissions function, then, within serious limits. Indeed, in the case of commissions whose charge is both truth and reconciliation (Chile and Peru, for example, and forgiveness in the case of South Africa), it might be argued that the goal of reconciliation imposes profound obstacles to the production of historical truth.

Truth commissions’ primary mode of evading a confrontation with the structural socioeconomic and ideological conflicts that created the conditions for political violence has been to focus on verifiable and documented individual cases of human rights violations. The microscopic and forensic approach, combined with the collection of testimonial evidence and documenting violence, often precludes an analysis of the structural historical processes and political conflicts that gave rise to human rights violations. And the imperative to build forgiveness and reconciliation translates individual modes of working through trauma to the national social and political sphere in the name of building social and political consensus. In the end, the focus on specific cases, individual victims, and individual perpetrators abets the slippery move from individual experiences of trauma and healing to social structure and political process. The historian’s problem of analyzing the relationship between structure and experience, between individuals, individual events, and broader socioeconomic and political processes tends to remain unacknowledged and unresolved.

The anthropologist Alejandro Castillejo-Cuéllar poses critical questions about the use of the South African TRC as a model for other countries, including his native Colombia. Castillejo-Cuéllar makes a number of important points about the South African TRC by focusing on the case of the Gugulethu Seven, one of the TRC’s window cases. He shows how the transformation of the case into a symbol and icon of the TRC’s focus on reconciliation and forgiveness, often articulated in a Christian idiom, elided the voices and experiences of victims and their surviving relatives. He examines the shifting focus and nature of evidence and the tension between testimonials that foreground victims’ subjective experience and forensic and scientific, supposedly objective, forms of knowledge and proof. By foregrounding forensic evidence in the service of a historical narrative organized teleologically to lead to reconciliation, Castillejo-Cuéllar argues, the South African commission marginalized the experiences of victims. While the TRC’s reliance on testimony reduced its focus of analysis to the individual and to the subjective process of working through trauma, it also provided a window onto the ways in which the apartheid regime committed systematic and broad violence that affected all areas of everyday life, which, Castillejo-Cuéllar contends, suggests that testimonial may be the

only way to gain access to and document the daily violence lived by Africans under apartheid. Yet at the same time, he suggests that by placing emphasis on certain kinds of historical evidence, by limiting inquiry into circumscribed acts of violence, and, finally, by placing these cases in the context of a historical narrative designed to produce reconciliation, the structural and systemic violence of apartheid—its underlying class structure, for example—remains obscured in the South African TRC report.

The Gugulethu case also raises the question of the relationship between narrated stories and history. It focuses on the tensions implicit in the equation “truth and reconciliation,” between the imperatives of state formation and regime legitimation and the narratives of subjective and individual process of working through trauma. As the article shows, it is difficult, if not futile, to project the individual or subjective psychoanalytic process of coping with a traumatic experience onto a state level. Indeed, Castillejo-Cuéllar’s article implicitly challenges any direct employment of psychoanalytic categories in the broader context of social trauma caused by state terror. By examining an internationally distributed film documentary on the TRC and the Gugulethu Seven massacre, Castillejo-Cuéllar extends his analysis from the nation-state to the global human rights community, focusing on how certain historical narratives about state violence achieve a certain hegemony through their transnational circulation. The South Africa commission is frequently invoked as a model for application elsewhere in Africa and in Latin America, and Castillejo-Cuéllar demonstrates how the distribution of the documentary at international conferences—the documentary was produced with an international audience in mind—served to disseminate the TRC report’s focus on cases ending in supposed reconciliation and forgiveness.

The issue of the reception of the histories consecrated in truth commission reports is taken up by Elizabeth Oglesby in her article on Guatemala’s ambitiously named *Comisión para el Esclarecimiento Histórico* (Historical Clarification Commission, or CEH). How the histories these reports produce become hegemonic is a key question: How do they both impose a historical narrative of the past, setting the limits of what can be said and known, and create spaces for discussing an otherwise repressed traumatic past? How do they become known nationally, as well as internationally? Oglesby raises the issue of how the histories produced by truth commissions are used and implemented, noting that the Guatemala commission’s report opened an important space in Guatemala for acknowledging and discussing the state-directed terror and genocide of the late 1970s and 1980s. Despite all expectations to the contrary, the CEH broke with past truth commissions to present political terror not as a Durkheimian breakdown of social cohesion but as both an instrument and reflection of class exploitation and racial domination. It fixed overwhelming responsibility for political repression on the Guatemalan state and military and avoided falling into a narrative of a Mayan peasant population caught

between and victimized by two opposing armies (the thesis advanced notoriously by the anthropologist David Stoll). Yet Oglesby shows how the circulation of the CEH's report, rather than its production, limited the possibility of confronting the structural and political origins of genocide in Guatemala.

Oglesby shows that efforts to make the findings of the CEH, along with those of the Catholic Church's own historical memory project, part of national teaching and curriculum standards were frustrated by the entrenched power of the Guatemalan Right. As efforts to disseminate the history of state and military repression documented by the CEH through textbooks and teaching standards floundered, programs directed by international organizations like the United Nations Educational, Scientific, and Cultural Organization (UNESCO) and the U.S. Agency for International Development (USAID) produced their own version of the CEH report's findings in proposals for training and education. These proposals diluted the strong historical conclusions reached by the CEH to a watery opposition of a so-called culture of peace and a supposed culture of violence, attributing the genocide to the latter rather than to the Guatemalan state and ignoring histories of political struggles. These proposals even went as far as purging the role of the United States in the 1954 overthrow of the democratically elected Jacobo Arbenz, the effects of which the CEH documented in great detail. As part of the cultural project of neoliberalism, Oglesby writes, the culture-of-peace framework not only helps to instill a highly individualized doctrine of rights but also, by ignoring traces of collective or class mobilization, draws explicit and implicit boundaries for what is acceptable in the current context. Oglesby's article highlights the question of mediation and reception: Who are the brokers who translate and distribute truth commissions' findings to national and international audiences? What are the means through which the histories produced by the reports are communicated (theater, film, school textbooks, soap operas, advertisements)? In the case of Guatemala, the important work done by the CEH is limited by the powerful role played by international agencies in appropriating its report and imposing their own, neutered version of Guatemala's history in the name of peace.

Finally, Brian Loveman and Elizabeth Lira's article on Chile underlines the ways in which, at least in the Chilean case, truth commissions are a new incarnation of a policy that was central to modern nation-state formation during the nineteenth and twentieth centuries. Rather than a major break with the past, the Chilean truth commission was one in a series of government commissions and policies designed to bring together the "Chilean family," foment healing, and reestablish governability. What then, Loveman and Lira ask, is new in truth and reconciliation commissions? Are not all states founded in both violence and necessary forms of reconciliation between contending political and social groups? Loveman and Lira's argument about Chile coincides with Benedict Anderson's contention that all nations and

nationalisms require political routines and rituals for forging reconciliation and political stability in the wake of the violence that lies at the origin of modern state formation. Furthermore, Loveman and Lira argue that in the case of Chile, rituals of reconciliation have been historically predicated on amnesia and amnesty as much as on historical truth. Oblivion, an erasing of histories of political violence, has been the historically necessary condition of governability.

Yet Loveman and Lira also show that in Chile, efforts to establish historical truth about political violence have a long history embedded in the juridical mechanism of the constitutional accusation. Chile's truth commissions were not the first legal bodies designed to establish the truth about state violence as a precondition for the establishment of a stable political order. Throughout the nineteenth and twentieth centuries, government commissions and constitutional accusations sought to make uncovering histories of political violence central to building a liberal political system. But these efforts, Loveman and Lira contend, ran up against the constant imperative to bury the past with amnesties and pardons in the name of reconciliation or the unity of the national family. They suggest that at least since its early nineteenth-century independence, there has been no reconciliation between truth and reconciliation in Chile as the historical condition of reconciliation has been oblivion.

Loveman and Lira's article raises an important question for historians: if institutional mechanisms and political routines of reconciliation and forgetting have laid the foundation for modern nation-state formation everywhere, what distinguishes the proliferation of truth commissions during the 1980s and 1990s? As tools for reckoning with the political violence of the Cold War, are they distinct from earlier methods of confronting state violence and political upheaval? In addition, what difference does a post-Nuremberg international juridical human rights framework make in the establishment of truth commissions? Finally, the specificities of the Chilean case raise the issue of historical comparison. Does the tension in modern Chilean history between institutional routines of reconciliation and procedures for establishing the history of political violence shed light on the experiences of other nations? How are specific Chilean national political traditions articulated to transnational juridical human rights discourses and institutions, as well as the post-Cold War organization of truth commissions globally? What is Chilean in the Chilean truth and reconciliation commission, or can Chile be understood as just another arena of Cold War struggle and international efforts to build liberal democracies and neoliberal economies following the fall of the Soviet Union?

—Greg Grandin and Thomas Miller Klubock

Notes

1. Carlos Santiago Nino, *Radical Evil on Trial* (New Haven, CT: Yale University Press, 1996), 170.
2. Quoted in Lawrence Weschler, *A Miracle, A Universe: Settling Accounts with Torturers* (New York, 1990), 243–45.
3. José Zalaquett, “Truth Commissions: A Comparative Assessment” (paper presented at an interdisciplinary discussion, Harvard Law School, May 1996), www.law.harvard.edu/programs/HRP/Publications/truth3.html.
4. Carlo Ginzburg, *The Judge and the Historian: Marginal Notes on a Late-Twentieth-Century Miscarriage of Justice*, trans. Antony Shugaar (London: Verso, 1999), 12.
5. E. H. Carr, *What Is History?* (New York: Knopf, 1962), 102.
6. Guatemala’s Comisión para el Esclarecimiento Histórico (Historical Clarification Commission) was an exception to the tendency of truth commissions to avoid a rigorous engagement with history. See the discussion in Greg Grandin, “The Instruction of Great Catastrophe: Truth Commissions, National History, and State Formation in Argentina, Chile, and Guatemala,” *American Historical Review* 110 (2005): 46–67.
7. Julie Taylor, “Body Memories: Aide-Memoires and Collective Amnesia in the Wake of the Argentine Terror,” in *Body Politics: Disease, Desire, and the Family*, ed. Michael Ryan and Avery Gordon (Boulder, CO: Westview, 1994), 197.
8. Hesitantly so: The TRC’s official Web site announces that the commission was “set up by the Government of National Unity to help deal with what happened under apartheid. The conflict during this period resulted in violence and human rights abuses from all sides.” See www.doj.gov.za/trc (accessed May 8, 2006).
9. Nino, *Radical Evil*, 136.
10. *Ibid.*, 101. See also Kathryn Lee Crawford, “Due Obedience and the Rights of the Victims: Argentina’s Transition to Democracy,” *Human Rights Quarterly* 12 (1990): 17–52.
11. See the Web site of the Asian Legal Resource Centre at www.hrli.alrc.net/mainfile.php/indonleg/131 (accessed August 8, 2006).