“... this intertwines the concepts of forgiveness, truth, and justice. One is not more important than the other; rather the elements are mutually constitutive and reinforcing. They are the means to an end—the path to full and enduring reconciliation.”
A FAITH THAT DOES JUSTICE
Truth and Reconciliation Commissions in
El Salvador and Guatemala

KATIE SCHERMERHORN

AFTER THE FIRST TRUTH AND RECONCILIATION COMMISSION WAS IMPLEMENTED IN SOUTH AFRICA, THE MODEL WAS APPLIED TO OTHER WAR-TORN REGIONS AND COUNTRIES WORLDWIDE, INCLUDING MANY LATIN AMERICAN COUNTRIES SUCH AS EL SALVADOR AND GUATEMALA. AS A POLITICAL BODY CENTERED IN A CHRISTIAN PARADIGM, A TRC AIMS TO PROCURE PERSONAL AND COLLECTIVE HEALING. YET, AS A RELATIVELY NEW TREND IN CONFLICT RESOLUTION, IT MERITS FURTHER ANALYSIS AND EVALUATION. BY INVESTIGATING THE MEANING OF THE TERMS JUSTICE, FORGIVENESS, AND RECONCILIATION IN BOTH THE RELIGIOUS AND POLITICAL CONTEXTS, THE STUDY CAN BETTER NAME THE GOALS AND OUTCOMES OF POLITICAL HEALING PROCESSES IN THE LAST DECADE. ADDITIONALLY, IT IS IMPERATIVE TO IDENTIFY THESE STRENGTHS AND WEAKNESSES OF PAST DIRECTIVES IN ORDER TO AVOID FURTHER “SPURIOUS RECONCILIATION.” IF THE TRUTH ALONE PROVES INSUFFICIENT, THIS ESSAY ATTEMPTS TO DETERMINE WHAT THEN IS THE EFFICACY OF FUTURE COMMISSIONS.
A civilization of love that did not demand justice of people would not be a true civilization: it would not delineate genuine human relations. It is a caricature of love to try to cover over with alms what is lacking in justice, to patch over with an appearance of benevolence when social justice is missing. True love begins by demanding what is just in the relations of those who love.

—Monsignor Oscar Romero

After the legendary end to South African apartheid and the country’s first fully democratic election, President Nelson Mandela performed one more remarkable act. In 1995, he established the Truth and Reconciliation Commission (TRC). A political body based on the decidedly religious concepts of reconciliation and forgiveness, the TRC sought to document and investigate human rights abuses and overt acts of violence during apartheid. It granted amnesty to those who contributed their testimonies to the commission and expressed remorse. Archbishop Desmond Tutu led this effort with his faith-based leadership and dedication to Christian forgiveness and capacity for conversion. With seventeen commissioners, the TRC heard nearly 21,000 statements in both public and private hearings over three years. It was widely praised and lauded by the international community for creating a peaceful transition to justice and forgiveness. The TRC established a precedent to attempt political forgiveness and impunity in other conflict riddled countries or regions across the world. During the past 30 years, similar commissions were established in over 30 countries throughout Latin America, Africa, Asia, and Europe.

Yet, as a relatively new phenomenon and approach to post-conflict resolution and national healing, the Truth and Reconciliation Commission merits critique and analysis. Does the process of truth telling inherently lead to justice and reconciliation? Theologically, forgiveness can be a unilateral action where the victim offers mercy towards the offender. The offender does not necessarily have to repent or accept this motion. Reconciliation, on the other hand, restores the relationship through a dynamic exchange of forgiveness and empathy. By actively including both the victims and the perpetrators, it brings back humanity to a state of peace. In his book, *The Healing of Nations*, Mark Amstutz writes:

Frequently, truth telling is regarded as a means to national reconciliation, peace, and justice. According to this prevalent view, truth can help restore victims and their families and contribute to the reformation of social and political structures, leading ultimately to national peace and justice. Building on the biblical admonition that ‘knowing the truth sets people free’ (John 8:32), many transitional regimes have pursued truth telling in the belief that nations, like individuals can overcome their painful past through discovery and disclosure of truth.

However, the individual healing process differs from that of the collective—specifically, the nation-state. Political justice is often omitted in the increasingly popular implementation of truth commissions; an exposition of the truth alone is not sufficient. After a comparative analysis of El Salvador’s and Guatemala’s individual commissions, as
well as an understanding of the religious arguments for justice, forgiveness, and reconciliation it seems that justice and forgiveness must complement each other in order to achieve full national healing, reconciliation, and a foundation for the future.

**EL SALVADOR**

The twelve-year civil war in El Salvador ended in January, 1992. As part of the original settlement, the Chapultepec Peace Accords implemented the Commission on Truth on July 13, 1992. Three international experts comprised the commission: former Colombian President Belisario Betancur, former Venezuelan foreign minister Reinaldo Figueredo Planchart, and George Washington University law professor Thomas Buergenthal. Notably, no members of the commission leadership were religious figures or Salvadorans. The peace accords gave the Commission “the task of investigating serious acts of violence that occurred since 1980 and whose impact on society urgently demands that the public know the truth.”

Until its conclusion in March, 1993, the Commission heard 22,000 cases. In its report, *From Madness to Hope: The 12-Year War in El Salvador*, the commission documented a myriad of massacres, extrajudicial executions, tortures, assassinations, disappearances, kidnappings, and killings by the government, the military, and the armed opposition. Although there were no public hearings or trials, the commission report cited individual perpetrators. For instance, it implicated ARENA (Alianza Republica Nacionalista) party leader Roberto D'Aubuisson in the 1980 assassination of Archbishop Oscar Romero, in addition to several military leaders involved directly in the massacre at El Mozote and the deaths of six Jesuits, their housekeeper, and her daughter. As a result, these individuals were either ostracized in Salvadoran civil society, or, if they remained politically and socially active, they were blanketed with resentment and animosity. The TRC report labeled the events as atrocities and recommended penal action, yet it never mandated the ultimate acts of justice and national healing.

President Alfredo Cristiani immediately denounced the findings of the Commission report and, four days later, his party passed the General Amnesty Law for the Consolidation of Peace. He appealed to the country’s need to move forward by requesting that the population “support a general and absolute amnesty [law], in order to turn that painful page of our history and seek a better future for our country.” The law granted total amnesty to any individual who participated in political violence, including the most horrific and unjustifiable acts. It also ignored the recommendations of the U.N.-sanctioned Commission on Truth that suggested legal action be pursued against alleged perpetrators of violence. Interestingly, Cristiani’s policy and related statements supported one interpretation of truth commissions: the forgive-and-forget mentality. He wanted the nation to continue onward without regard to its historic injustices.

The Amnesty Law remains a contentious legislative act in the healing process of El Salvador. A 1993 public opinion poll taken by the University of Central America (UCA) found that 55.5 percent of Salvadorans were opposed to the law. Eventually, an *ad hoc* commission successfully removed some of the high-ranking criminals from the military, police forces, and civil service. Human rights organizations protested the law due to its flagrant reversal of international law and precedents. The Inter-American Court of Human Rights decided that total impunity was unconstitutional. UCA’s Jesuits and other Salvadoran political actors continue to advocate for its removal and for retributive punishment for the crimes against humanity. Today, President Tony Saca and his administration argue that the civil war and its associated violence belong to the past and El Salvador has moved on.

A professor at the National University, Carlos Mauricio is a survivor of military torture during the civil war. Abducted from campus, he was detained for nine days. During that time, he was blindfolded and tormented in order to force a false confession of his involvement with the oppositional guerrillas, Cuba, and particular leftist leaders. After being
released, he fled and found refuge in the United States. Mauricio was later contacted by Bill Ford, the brother of Ita Ford, a religious woman assassinated by El Salvador’s military government in December, 1980. Bill Ford wanted to bring a civil lawsuit against Generals Carlos Eugenio Vides Casanova and José Guillermo García in his sister’s honor. Like others, the two former generals had immigrated to the United States and were residing in Florida. Mauricio served as a co-plaintiff in the prosecution, along with plaintiffs Romogoza, Gonzalez, and Montes. The two men were ultimately charged with crimes against humanity in 2002. While the court case and its related advocacy movements have procured justice for a small number of victims and perpetrators, it does not alleviate the residual pain in El Salvador. Mauricio believes that penal justice is a crucial step in an individual’s healing process and the country’s path to genuine democracy and legitimacy. Justice has not occurred within the country, and thus the healing process remains incomplete.

GUATEMALA

After 36 years of armed conflict, democratic civilian rule returned to Guatemala in 1994. The Guatemalan government and the political opposition signed the U.N.-brokered peace accords and agreed to establish the Historical Clarification Commission (CEH). Overseen by the U.N. Mission for the Verification of Human Rights in Guatemala, the commission was enacted in order to “clarify with all objectivity, equity, and impartiality the human rights violations and acts of violence that have caused the Guatemalan population to suffer, connected with the armed conflict” and “restore dignity” to the people.\textsuperscript{11}

Initiated on June 23, 1994, the commission heard 42,275 cases in private hearings and informal meetings.\textsuperscript{10} With a much larger staff than the Salvadoran Commission on Truth and a significantly larger budget, the CEH was able to gather a larger array of information, testimonies, and field reports. Three commissioners lead the investigation: German international lawyer Christian Tomuschat, Guatemalan expert on indigenous affairs Otilia Lux de Cotí, and Guatemalan jurist Alfredo Balsells Tojo. Their final report, Guatemala: Memoria del Silencio, was presented in 1999 and documented acts of genocide against the Mayan population, massacres and arbitrary killings, militarized resettlement, forced displacement, forced recruitment, and sexual slavery. Unlike the Salvadoran Commission on Truth, the CEH analyzed the systemic issues that lead to decades of the documented violence. It cited racism against the Mayan people, economic exploitation of the poor, and political exclusivity and authoritarianism of the oligarchy.

In 1996, the National Reconciliation Law was passed in an attempt to move society forward. The stated goal was to integrate former guerrilla and opposition leaders into the developing government and social structure,\textsuperscript{11} even though, like El Salvador’s Amnesty Law, it actually provided immunity for all crimes committed by the state, the military, and related parties during the long war.

Uniquely, the CEH decided to disclose no names or identities in their report. After the Commission on Truth in El Salvador accused specific individuals without having the power to enact justice or legislative action, the CEH chose to maintain the anonymity of the indictments. Although widely critiqued, this enabled them to concentrate wholly on the disclosure of truth, not the prosecution of offenders or the establishment of restorative justice. Nonetheless, individuals such as José Efraín Rios Montt, Guatemalan president during some of the worst atrocities in the early 1980s, still participate in government. He was accused of genocide by external tribunals and countries, including Spain, but continues to evade prosecution.

Similar to El Salvador’s From Madness to Hope, the CEH report was received with some disapproval and frustration. According to a New York Times article the day after the report was presented, the public was displeased with the final outcome: “As the conclusions were read at a solemn ceremony at the National Theatre, rights workers, relatives of victims, and others among the 2,000 people broke into
"As the conclusions were read at a solemn ceremony at the National Theatre, rights workers, relatives of victims, and others among the 2,000 people broke into standing ovations, sobs, shouts and chants of ‘Justice! Justice!’" The victims, their families, and their international supporters were disappointed with the weak outcome of the CEH report.

The CEH was not the only attempt to reveal the truth in Guatemala. On April 24, 1998, the Archdiocese of Guatemala published its official report, titled Guatemala: Nunca Mas.xlv The report criticized the military and its agents and demanded an end to perpetual impunity. It attributed responsibility for massacres, disappearances, and physical and emotional torture to the army. Several points were recommended for social reconstruction: reparations, humanitarian aid, the development of an official Guatemalan history, government acknowledgement, and investigations into alleged abuses and violence.xv To honor the victims, it adamantly proposed monuments, ceremonies, and legal assistance to the families and victims. Remarkably, the report called for the cooperation of Guatemalan civil, state, and religious institutions to work with international supporters and human rights organizations to prevent future violence. Demilitarization, agrarian reform, and a new judiciary were steps the Church foresaw on the path to peace and stability.

Also controversial within the public and private realm, Church members who spoke out in favor of the report were in danger of State reprisal. Monsignor Juan Gerardi spoke at the report’s presentation, saying,

As a church, we do not doubt that the work we have carried out in these past few years has been part of a story of grace and salvation, a real step toward peace stemming from justice . . . To open ourselves to truth and to face our personal and collective reality are not options that can be accepted or rejected. They are indispensable requirements for all people and societies that seek to humanize themselves and to be free.xvi

He was assassinated in Guatemala City that same day. Only recently has the archdiocese called for full disclosure surrounding his murder.xvii Four men have been convicted for Gerardi’s death, but the origin of the plan and its implementation remain unknown.

Most recently, the international organization Human Rights Watch beckoned the Guatemalan government, under current President Oscar Berger, to create an investigative and judicial commission. Thus, a Commission of Investigation into Illegal Groups and Clandestine Security Apparatuses was established in 2004 to prosecute cases in Guatemalan courts.xviii Designed to be led by a U.N. appointed delegate, the commission has yet to be ratified by the state legislature. Justice, in Guatemala, has been stalled again amidst red tape and blanket impunity.

THEOLOGY OF JUSTICE
Truth commissions have been established politically, yet the concepts of reconciliation and forgiveness are defined in theological terms. Nonetheless, a theological basis for justice exists in the Christian tradition. The prophets of the biblical Old Testament and Jesus Christ and the apostles in the New Testament call for justice and care for the “least of your brothers.”xix In recent years,
Pope John Paul II argued for the intrinsic connection between forgiveness and justice:

 Forgiveness, far from excluding the search for truth, demands it . . . There is no contradiction between forgiveness and justice . . . forgiveness does not eliminate nor diminish the demand to repair, which is the work of doing justice.\textsuperscript{xx}

Theologian Stephen Pope presents three normative arguments regarding the relationship between forgiveness and justice in both politics and religion: forgiveness renounces justice; justice outweighs forgiveness; justice complements forgiveness.\textsuperscript{xxi} These arguments provide the founders and commissioners of truth commissions with a distinct choice in framework. However, the incorporation of both forgiveness and justice is the only route to national healing and reconciliation.

To “forgive-and forget,” or to forgive without enacting justice, strives for a future without attention to its history. Principally, it is unethical and irresponsible for the state to forgive the transgressions of individuals on behalf of the victims. This undermines individual sovereignty and the dignity of the victim, leaving them powerless to pursue justice. By forgetting the past in order to maintain the status quo, the country is left with mere nostalgia. One can look into the past without seeing truth and without understanding the treacherous path that led to the current situation. All offenses and periods of violence are idealized into a struggle for national interests. President Cristiani adopted this outlook after the Commission on Truth in El Salvador. His desire for a forward-looking country was supported by leaders of the opposition party, the Frente Farabundo Martí para la Liberación Nacional (FMLN). Conveniently, it also shielded both parties from criticism for their actions during the civil war. Remembering and talking about the past aggravates old wounds; it is considered dangerous to the stable, idyllic future. When the state absolves the perpetrators for past wrongs and simply “forgives-and-forgets” it erases abuses, violence, and injustices without caring for their potential impact on the future.

The second option for governments, truth commissions, and civil society is to espouse the understanding that justice outweighs forgiveness. The argument follows that respect for the victims essentially demands justice. Additionally, “impunity for past acts can create a climate that makes future acts of injustice more likely."\textsuperscript{xxii} It calls for punitive accountability but does not call for the emotional and spiritual resolution necessary in human healing. Theologically, forgiveness requires repentance. As a sign of justice and equitable action, the perpetrator must respond appropriately to the hurt individual when offered forgiveness. The prophets of the Old Testament demand justice for the exploited and downtrodden, and they also require remorse and atonement from evil-doers. In the Gospels and epistles, the authors pronounce a responsibility to repent and then to forgive. Paul warned the Roman community against moralism and righteousness, writing:

Therefore, you are without excuse, whoever you are, when you judge someone else. For on whatever grounds you judge another, you condemn yourself, because you who judge practice the same things. Now we know that God’s judgment is in accordance with the truth against those who practice such things. And do you think, whoever you are, when you judge those who practice such things and yet do them yourself, that you will escape God’s judgment? Or do you have contempt for the wealth of his kindness, forbearance, and patience, and yet do not know that God’s kindness leads you to repentance?\textsuperscript{xxiii}

The exchange of repentance and forgiveness leads to full and complete reconciliation. Justice can only occur in tandem with this process.

Finally, the third argument affirms that justice must complement forgiveness. With this understanding, known as the classical theory, forgiveness occurs as an “interactive process” between two or more people or groups.\textsuperscript{xxiv} According to Amstutz, voluntary and compassionate forgiveness occurs in response to the offender’s repen-
tance. It is generally comprised of five preconditions—consensus on the truth, repentance, renunciation of vengeance, empathy, and the mitigation of punishment. A thorough and accepted revelation of the truth is the basic objective of truth commissions. Guatemala and El Salvador both renounced retaliation and cancelled formal punishment. In contrast to the classic theory, however, they did so without the consent of the victims and the remorse of the offenders. Moreover, the commissions usually skip the inclusion of repentance and empathy. Of these two, empathy may be the most important. Empathy makes it possible to view the offenders or the perpetrators of violence as human beings. Armed struggles take place between sinners; one party is not better or more righteous than the other. Taking away the humanity of the offenders limits the possibility of understanding, reconciliation, and healing. It undermines the potential for a community where groups and individuals can live in peace, without residual tension and animosity.

Truth commissions focus on political forgiveness, or the public response to a collective offense. Like the aforementioned private forgiveness, it too is an interactive process. Collective forgiveness requires the same five preconditions to be applied wisely by leaders of both parties. While not the primary focus of political forgiveness, justice is necessary. This manifests itself through public acknowledgement, sorrow regarding shared offenses, and criminal prosecution. The difference between amnesty and pardon displays a fundamental shift in the approach. Amnesty, derived from the Latin root *amnestia* or forgetfulness, allows governments or social bodies to ignore and gloss over previous transgressions. Pardon, alternatively, releases the offender from penal action. Through this release, the government is forced to publicly admit guilt. A shift in terminology and intent greatly impacts the trajectory toward reconciliation and collective healing. Unquestionably, collective healing will take time and patience after extreme sociopolitical turbulence.

**CONCLUSION**

Remorse and forgiveness were not an official part of the original Truth and Reconciliation Commission model in South Africa. It was encouraged by the leadership, specifically that of Archbishop Tutu, yet it was not a formal tenet of the commission structure or a prerequisite for reconciliation and justice. Regardless, Tutu said,

*True reconciliation exposes the awfulness, the abuse, the pain, the degradation, the truth. It could even sometimes make things worse. It is a risky undertaking but in the end it is worthwhile, because in the end dealing with the real situation helps to bring real healing. Spurious reconciliation can only bring spurious healing.*

Yet a truth and reconciliation commission which exposes the truth but does not include justice yields "spurious reconciliation". This is a dangerous misstep in the healing
processes of post-conflict regions because “although partial forgiveness is realized when enemies stop hating each other and victims overcome their inward resentment and anger, the forgiveness process culminates only when victims and offenders are reconciled and when enemies begin to recognize each other’s humanity.”

Truth and Reconciliation Commissions took many forms in Central America, but they generally omitted mutual acts of forgiveness or reconciliation. This kind of interaction requires strong moral leadership and courageous advocates. Truth-telling may be the first step in the process toward justice and healing, but it cannot be the last. National reconciliation must be accompanied by institutional change. Forgetting the past in lieu of moving blindly forward breeds ignorance and fosters repetition.

The Catholic Church in Central America, particularly in El Salvador and Guatemala, can stimulate genuine reconciliation. Liberation theologian Jon Sobrino calls the Church to imitate Jesus and his utopian vision of reconciliation. He writes,

*The church does not find it easy to be the historical embodiment of Jesus and of his God, or to be an effective, not just routine, dispenser of the ministry of reconciliation. To be these it must do two things. The first is to show a conviction in faith that reconciliation (with its requirements of truth and conversion) is good and possible. The second is to do this with credibility. The latter can be achieved only through major gestures of truth, justice, and forgiveness.*

The Church must confirm that it is impossible to achieve reconciliation without the essential elements of truth, justice, and forgiveness. All other reconciliation is a farce. With inroads to the pueblo and the powerful, the Church holds the unique ability to encourage forgiveness and justice, or dynamic reconciliation, on all sides. As violence continues and even worsens, it is imperative for the Church to take a stand. Today, the same factions exist as before, as do the human rights violations, crime, and political brutality in El Salvador and Guatemala. If the truth commissions were unable to procure peace and transitional justice by themselves, it becomes necessary that they obtain the multilateral support of civil and religious institutions in order to inspire a rejuvenated attempt at national healing.

Priscilla B. Haynor, a director at the International Center for Transitional Justice and author of *Unspeakable Truths: Facing the Challenge of Truth Commissions*, defines these commissions as “official, temporary bodies established to investigate a pattern of violations over a period of time that conclude with a final report and recommendations for reform.” However, this cannot be their definitive meaning. Established after a period of atrocities and violence, truth commissions have a responsibility to initiate national healing. Fundamentally, this intertwines the concepts of forgiveness, truth, and justice. One is not more important than the other; rather the elements are mutually constitutive and reinforcing. They are the means to an end—the path to full and enduring reconciliation.

**ENDNOTES**

i. Romero, Oscar. Speech given on April, 12 1979.
ii. Haynor (2002)
iii. Amstutz (2005)


xv. Recovery of Historical Memory Project, REMHI (1999)
xvi. REMHI (1999)
xix. Matthew 25:31-46
REFERENCES


