



Legacies of Silence: The Role of Civil Society in Truth-telling, Memory and Reconciliation

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Abstract

DPI aims to foster an environment in which different parties share information, ideas, knowledge and concerns connected to the development of democratic solutions and outcomes. Our work supports the development of a pluralistic political arena capable of generating consensus and ownership over work on key issues surrounding democratic solutions at political and local levels.

We focus on providing expertise and practical frameworks to encourage stronger public debates and involvements in promoting peace and democracy building internationally. Within this context DPI aims to contribute to the establishment of a structured public dialogue on peace and democratic advancement, as well as to create new and widen existing platforms for discussions on peace and democracy building. In order to achieve this we seek to encourage an environment of inclusive, frank, structured discussions whereby different parties are in the position to openly share knowledge, concerns and suggestions for democracy building and strengthening across multiple levels. DPI's objective throughout this process is to identify common priorities and develop innovative approaches to participate in and influence the process of finding democratic solutions. DPI also aims to support and strengthen collaboration between academics, civil society and policy-makers through its projects and output.

In recent years, truth commissions have increasingly become a standard component of conflict resolution. Ongoing debate surrounding the efficacy of truth commissions centres on the link between truth and reconciliation and whether truth commissions

take place at the expense of criminal justice. There is also concern that truth commissions could trigger a return to situations of conflict and there are serious questions regarding the impact of the truth-telling process on individuals. In spite of these issues, many observers agree that truth commissions play an essential role in clarifying history, identifying structural causes of conflict and contributing to a culture of accountability. In scenarios where truth commissions are weak, constrained or non-existent, civil society can play a pivotal role in either supplementing the official process or providing an alternative. Observers note that civil society can bring a more flexible approach to truth-telling and memory retrieval and is not subject to the same constraints that truth commissions can be subject to. This report will look specifically at the role that civil society has played in memory-retrieval and historical clarification efforts, focusing in particular on the cases of Guatemala and Lebanon and evaluating the ways in which civil society can supplement failures in official processes.



Kerim Yildiz

Director

Democratic Progress Institute

May 2015

Introduction

In the wake of trauma, conflict and antagonism, memory can play an important role in the ‘healing process’ on a national level. Engaging with the past can be essential to understanding the root causes of conflict and preventing future recurrences. It can foster accountability, responsibility and forgiveness. Memory can also lead to pain, re-traumatisation, a reawakening of grievances and antagonisms that were laid to rest in a peace process.

Furthermore, the link between memory, truth and reconciliation should not be taken for granted. There is no substantive empirical evidence for a causal link between truth and reconciliation or truth and democracy. More research needs to be done in this area. However, silence and ‘collective amnesia’ have largely been rejected among international mediators as ineffective responses in a post-conflict environment. This is evidenced by the rise of the *truth commission*, which is now considered a standard component of conflict resolution.¹

1 A ‘truth commission’ is a commission with the objective of researching and revealing past crimes and events. They are usually officially authorised and aimed at uncovering broad structural patterns rather than dealing with individual cases. The first widely known truth commission was established in Argentina in 1983, although it was not referred to as a truth commission at the time. The term ‘truth commission’ only emerged ten years later after the establishment of the National Commission on Truth and Reconciliation in Chile in 1990 and the Commission on the Truth in El Salvador in 1992. In recent years, truth commissions have increasingly become incorporated into peace processes. Truth commissions vary from country-to-country and there is no strict definition regarding their mandate, scope or process.

Truth Commissions

A truth commission is a commission with the objective of researching and revealing past crimes and events. Truth commissions are usually officially authorised and aimed at uncovering broad structural patterns rather than dealing with individual cases.

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Truth commissions are, almost always, by definition, officially sanctioned. Due to frequent links between those in power and those responsible for wartime offenses, a lack of political will can lead to ineffective or non-existent truth commissions. Terms negotiated during peace processes can also result in weak truth commissions. In these instances, civil society can play a critical role in addressing the deficiencies in the official approach. In Lebanon, the absence of a truth commission and splintered perceptions of the nation's past have led to a number of memory and historical retrieval programmes that are initiated within civil society by the country's intellectuals, activists and artists. In Guatemala, the Historical Clarification Commission (CEH) was seen to be weak on several counts. It fell to civil society to compensate, and the Recovery of Historical Memory (REMHI) project, organised by the Catholic Church, compensated for a number of the CEH's weaknesses.

Focusing on case studies in Lebanon and Guatemala, the subsequent report will explore the role civil society can play in the ‘memory retrieval process’² and the advantages and shortcomings such an approach entails.

Truth Commissions

Definition

While the precise definition of a truth commission is contested, there are certain broad characterisations that each commission adheres to. For instance, a truth commission generally addresses broad patterns and structural causes rather than individual cases. Truth commissions also tend to focus on the alleged victims of crimes rather than the supposed perpetrators. For the purposes of clarity, the definition used by this report utilises is that a truth commission satisfies the following conditions:

- It focuses on past events
- It investigates a pattern of events that took place over a period of time
- It engages directly with the population
- It is a temporary body
- It is officially authorised by the state³

2 Memory retrieval refers to a range of individual, local and national efforts to remember and engage with past events.

3 Hayner, Priscilla (2001), *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, (Oxon and New York: Routledge), pp.11-12

There has been significant controversy and debate surrounding the efficacy and relevance of truth commissions. This debate revolves around three key contentions. The first is whether there is a link, causal or otherwise, between truth commissions and reconciliation, or truth commissions and democracy. A second debate questions the effectiveness of truth commissions and their relationship with the criminal justice system. The third argument concerns the impact of truth commissions on the individual.

Truth Commissions and Truth and Reconciliation Commissions

Reconciliation

The definition that this report identifies four sub-concepts of reconciliation:

- Legitimacy
- The rule of law
- Ethnic reconciliation
- Political tolerance

While the concept of reconciliation may be vague and multi-faceted, it does not elude definition.⁴ The definition that this report will use is not exhaustive but provides a rough outline of what is meant

⁴ It is important to note that, while both Truth Commissions and Truth and Reconciliation Commissions (TRCs) are both composite mechanisms in the overall framework of transitional justice, they are nevertheless distinctive agencies with *different* functions. TRCs amalgamate collected records of past crimes and events with the points listed above to produce a more definitive, multi-faceted peace-building process. The ultimate objectives of TRCs are to actively participate in creating a sustainable resolution to conflict, and to further societal re-integration. They incorporate a plurality of actors to suggest policies for transitional justice.

by reconciliation. This defines reconciliation as encapsulating four sub-concepts:

- Legitimacy: The recognition and acceptance of the authority of major political institutions.
- The rule of law: The support for the principles (abstract and applied) of human rights including the application of the rule of law and the commitment to legal universalism.
- Ethnic reconciliation: The willingness of people from different ethnic backgrounds to trust each other, to reject racial stereotypes and their ability to get on with one another.
- Political tolerance: Respect for those with adverse political ideas.⁵

The notion that truth commissions inevitably lead to reconciliation or democracy is fraught with problems. Though truth commissions tend to adopt the language of reconciliation, whether or not truth-telling is conducive to reconciliation is still very much up for debate. Some critics of memory-retrieval argue that remembering the past can lead to a resurgence of forgotten antagonisms. But often those that adopt such an argument are not without an interest in keeping the past buried. The case of Northern Ireland illustrates this debate. Northern Ireland has had no official Truth and Reconciliation Commission to date.⁶ It has been suggested that this reticence to

⁵ Gibson, James L. (2006), 'Does Truth Lead to Reconciliation', *Overcoming Apartheid: Can Truth Reconcile a Divided Nation?*, (New York: Russell Sage Foundation), p.4

⁶ Northern Ireland experienced 30 years of conflict, known as 'the Troubles',

engage with the past is a legacy of the Irish peace process in the 1990s.⁷ Many argue that a truth commission could destabilise the fragile peace in Northern Ireland by de-legitimising existing authorities and institutions and by re-igniting sectarian tensions. It has been observed that continued tension between communities has led to a popular distrust of truth claims and there are fears on both sides that a truth commission would result in a biased version of events or even a reignition of the troubles.⁸

The Truth Commission Debate in Northern Ireland

Northern Ireland experienced 30 years of conflict, known as ‘the Troubles’, from the late 1960s until 1998, stemming from divisions between the Catholic and the Protestant populations.

Northern Ireland has had no official truth commission, though debates continue. Many argue that a truth commission could destabilise the fragile peace in Northern Ireland by de-legitimising existing authorities and institutions and by re-igniting sectarian tensions.

from the late 1960s until 1998, stemming from divisions between the Catholic and the Protestant populations. For more detail see: <http://www.democraticprogress.org/wp-content/uploads/2013/09/The-Good-Friday-Agreement-Prisoner-Release-Processes.pdf>

⁷ The Good Friday Agreement in 1998 brought to a close 30 years of armed conflict. It did not include any comprehensive mechanism for addressing truth and justice. See Lundy, Patricia and Mark McGovern (2007), ‘Attitudes towards a Truth Commission for Northern Ireland in Relation to Political Party Affiliation’, *Irish Political Studies*, Vol. 22, No. 3, p.322

⁸ ‘The Good Friday Agreement – An Overview’ (2012), Democratic Progress Institute, pp.37-38

A more compelling argument against truth commissions is that the link between reconciliation and truth-telling is fragile and limited. It has been argued that, in relation to the South African Truth and Reconciliation Commission,⁹ there were ‘very few, if any, structures and processes to mediate the complexities of healing and reconciliation.’¹⁰ While truth-telling can often lead to individual reconciliation, where the supposed victims meet their alleged perpetrators, it has been argued that it may be less likely that it can lead to reconciliation on a societal level without political and juridical action. The truth commission has no or little power to enforce its recommendations and the intended goal of truth commissions is often not reconciliation, but instead getting an accurate, historical account of events. It is important that the concepts of *truth* and *reconciliation* are viewed as distinct. Furthermore, an article reviewing fifteen truth commissions concludes that proposed recommendations are often not implemented.¹¹

9 The South African Truth and Reconciliation Commission (1995-2002) was established in the wake of 45 years of apartheid in South Africa and 30 years of armed resistance against the apartheid state by the armed wing of the African National Congress (ANC). The mandate of the commission has been the most sophisticated to date, with extensive investigatory reach. The commission was empowered to grant individual amnesty, search premises and seize evidence, run a witness protection programme and subpoena witnesses. The commission has often been considered the model for truth commissions.

10 Stanley, Elizabeth (2001), ‘Evaluating the Truth and Reconciliation Commission’, *The Journal of Modern Africa Studies*, Vol. 39, No.3, p.543

11 Stanley, Elizabeth (2001), ‘Evaluating the Truth and Reconciliation Commission’, *The Journal of Modern Africa Studies*, Vol. 39, No.3, p.542

If analysis proceeds using the above definition of reconciliation, then it is necessary to break down the connection between truth commissions and each of the four tenets of reconciliation. The following conclusions can be drawn:

- **Legitimacy:** The connection between truth commissions and legitimacy is problematic. If the government refuses to implement the recommendations proposed by the commission, this undermines respect for the political institutions and the legitimacy of the government. The same reasoning applies to the link between truth and the rule of law.
- **The rule of law:** Truth commissions must proceed hand-in-hand with policies that tackle impunity and corruption and implement necessary juridical reform, in order to achieve this aspect of reconciliation. While truth commissions alone can encourage an environment of accountability, official action must be taken to ensure equal rights and judicial fairness. This issue will be discussed further in the proceeding section.
- **Ethnic reconciliation:** While this must also have the connivance of the institutional authorities, it is more fundamentally related to popular sentiment and the peaceful co-existence and acceptance of previously antagonistic communities, whether racially or ideologically opposed. In a study exploring the connection between ethnic reconciliation and truth commissions, James Gibson found that the results varied depending on ethnic groups (which often coincides

with position in society).¹² This report does not go into the details of Gibson's findings but simply summarises that ethnic reconciliation often does not always arise from truth commissions - but that it *can*. This is an area that needs further research, as is the case with the potential correlation between political tolerance and truth commissions.

- Political tolerance: Like ethnic reconciliation, to achieve political tolerance, institutional co-operation is necessary, but it is more important to bring together ideologically *opposed* communities. This may or may not be assisted by a truth commission. Lebanon is an example where truth-telling has failed to bridge sectarian division.

It is important to note that there are different ways of describing reconciliation, and the above definition is not the only one worth utilising. Others have advocated a different approach and suggest asking the following questions to assess whether or not reconciliation has taken place:

How is the past dealt with publicly? What is the nature of relationships between former opponents? Is there one version or narrative of the past, or several?¹³ This is a different approach to identifying the four sub-concepts of reconciliation outlined above,

12 Gibson, James L. (2004), 'Does Truth Lead to Reconciliation: Testing the Causal Assumptions of the South African Truth and Reconciliation Process', *American Journal of Political Science*, Vol. 48, No. 2, p.215

13 Hayner, Priscilla (2001), *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, (Oxon and New York: Routledge), p.189

and is perhaps more effective at identifying the particular impact of truth commissions, since it focuses on the particular question of the past and how history is perceived, rather than on broader social processes.

Another aspect of the reconciliation debate centres on the relationship between truth-telling and democracy. Two quantitative studies on the relationship between democracy and truth commissions have been ambiguous in their conclusions. The first study concludes that transitional justice has a positive impact on human rights and democracy but only when combined with trials and amnesty.¹⁴ A second study determines that truth commissions have an overall negative effect on human rights and no impact on democracy. Four detailed case studies also presented show the opposite result.¹⁵ The above studies illustrate the lack of clarity surrounding the impact of truth commissions and also the need for a holistic approach that encapsulates retributive justice.

Furthermore, the limitations of quantitative analysis must be taken into account.

14 Study undertaken by undertaken by Tricia Olsen, Leigh Payne and Andrew Reiter. See Hayner, Priscilla (2001), *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, (Oxon and New York: Routledge), p.26

15 Study by Eric Wiebelhaus. See Hayner, Priscilla (2001), *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, (Oxon and New York: Routledge), p.26

Truth Commissions and the Criminal Justice System

With the rise of the truth commission, there has been some concern that a commission would act as a *disincentive* to the pursuit of criminal justice.¹⁶ Proponents of that view have argued that the proliferation of truth commissions could act as a substitute to justice in criminal courts, that restorative justice would be promoted at the expense of retributive justice. However, this has proven not to be the case in a number of instances. While truth commissions can often be implemented without accompanying prosecutions and within a climate of impunity in countries such as Guatemala, the Democratic Republic of the Congo, Sierra Leone and Liberia, it is not the truth commission in itself that prevents criminal justice, but the political and juridical climate. Observers have argued that truth commissions have not been shown to weaken or diminish criminal justice in these countries.¹⁷

In fact, while truth commissions typically lack legal teeth and the authority to make arrests or even summons, they can still

¹⁶ Transitional justice encapsulates a number of judicial and non-judicial measures that have been introduced by different countries in order to deal with the legacy of human rights violations. These measures include criminal prosecutions, truth commissions, reparations and institutional reform. There is an important distinction between retributive and restorative approaches. Retributive justice focuses on the alleged perpetrator and adopts punishment as the response to a crime. It includes criminal justice and trials. Restorative justice provides opportunities for both the victim and the offender to communicate and decide on a suitable response. It focuses on the needs of all those affected by the crime rather than on punishment. Truth commissions are primarily restorative but can utilise retributive measures and contribute to criminal justice.

¹⁷ Hayner, Priscilla (2001), *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, (Oxon and New York: Routledge), p.93

contribute to the criminal justice system. They can do this by providing evidence and information, which may not be possible to utilise at the time but can still be relevant 10 or 20 years on. In Chad, a 1992 truth commission report advised the prosecution of alleged perpetrators but was not heeded. However, eight years later the commission served as the primary evidence in charges against the former president on an international level.¹⁸ Truth commissions can also be instrumental in fostering a culture of accountability and truth-telling. They can lay the groundwork for a criminal prosecution by naming perpetrators, challenging impunity, critiquing the juridical and political establishment and calling for reform.

Truth commissions are important in their own right in a post-conflict environment. They play an important role in breaking silence, stimulating debate and discussion about past abuses. This has political, historical and cultural implications, but it can be strongly argued that truth commissions are only feasible after a peace settlement.¹⁹ From a political perspective, truth commissions identify the causes and factors that have created and sustained a conflict. This can assist peacebuilders and officials in preventing the outbreak of further antagonism and addressing the broad structural

18 Ex-President, Hissène Habré, was ousted by a coup in 1990. Habré was accused by human rights groups of the killing of thousands of political prisoners and systemic torture throughout the time he ruled Chad from 1982-1990. He was arrested in Senegal on charges against humanity in June 2013.

19 Gonzalez, Eduardo, Elena Naughton and Felix Reategui (2014), *Challenging the Conventional: Can Truth Commissions Strengthen Peace Processes?*, (Finland, International Center for Transitional Justice and the Kofi Annan Foundation), p. 89.

causes that lie at the heart of societal conflict.²⁰ Historically, truth commissions provide information and evidence for those who want to understand the history of a conflict. On a cultural level, truth commissions can break a silence, present opportunities for forgiveness and reconciliation and reject impunity and denial.

Truth Commissions and the Individual

Truth commissions are particularly focused on individual truth-telling, with an emphasis on the presumed victims. They create a space for individuals to talk about what has happened to them and to express feelings which may include grief and outrage. There is evidence that this can be a cathartic experience and can help victims move on from the past. However, an analysis of the psychological impact of such truth-telling is troubling and reveals the negative effects that truth-telling within an official commission can have on individuals.

20 Peacebuilding is the set of initiatives by actors in government and civil society that attempts to address the root causes of violence and protect civilians before, during, and after violent conflict. Peacebuilders utilise a variety of measures including communication, negotiation and mediation.

Truth commissions do not equate psychological therapy and a number of psychologists have challenged the beneficial nature of a once-off and immediate expression of traumatic events. Many claim there is a danger of re-traumatisation whereby victims experience post-traumatic stress (PTS) after the process of truth-telling.²¹ One expert wrote that in South Africa ‘researchers have concluded that the majority of deponents had either a negative or an ambivalent reaction.

Transitional justice encapsulates a number of judicial and non-judicial measures that have been introduced by different countries in order to deal with the legacy of human rights violations. These measures include criminal prosecutions, truth commissions, reparations and institutional reform.

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21 Hayner, Priscilla (2001), *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, (Oxon and New York: Routledge), p.152-153

One study notes that “a significant deterioration of the overall physical and psychological health after testifying” was common.²²

There are two responses to this issue. One is that truth commissions serve a higher social importance; they are beneficial on a societal level, though perhaps not on an individual level. The other response is that in spite of potential psychological effect, it is important to give individuals the space and the choice to speak out.

Is Truth Possible?

An oft-quoted aphorism argues that truth commissions can only ‘reduce the number of lies that can be circulated unchallenged in public discourse.’²³ Truth is an impossibility. Social memory is a *process*; it is not a set of inalienable truths. Therefore, to retrieve one, single narrative from collective memory is impossible. However, the impossibility of truth does not prevent us from striving towards it. This report argues that collective memory and its exercise can be highly important for moving towards accountability but also as an exercise in itself. Giving a voice to the victims of a conflict can challenge the powerful and the status quo and can act as a motivator for change.

22 Hayner, Priscilla (2001), *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, (Oxon and New York: Routledge), p.162

23 Quote by Michael Ignatieff. See Shaw, Rosalind (2005), ‘Re-thinking Truth and Reconciliation Commissions: Lessons from Sierra Leona’, USPI Special Report 130, p.3

Some writers have observed that through the establishment of a collective memory, it becomes difficult for the powerful to deny that certain activities took place.²⁴ It does not act as a substitute for criminal justice but restorative and retributive justice need not be in opposition, they are tied inextricably together.

Given that truth-telling, in spite of its complexities and faults, is an important element of conflict resolution, this report will now look at alternative approaches available when the official approach fails.

The Role of Civil Society in Memory

Civil society can be difficult to define due to the diversity of society across the globe. However, a loose definition characterises civil society as a ‘third sector’ after government and business; and as sometimes which pursues neither power nor profit.²⁵ It is a space for people to associate, congregate, share information and pursue common interests. Civil society is composed of a large number of organisations and individuals that includes, but is not confined to, local NGOs and charities, trade unions, faith-based organisations, gender groups, youth groups, ethnic groups, academics, artists and intellectuals. Civil society is not rigid but fluid and differs from place to place. One observer explains, with reference to the Arab world for example, that the term ‘civil society’ does not have the

24 Gibson, James L. (2004), ‘Does Truth Lead to Reconciliation: Testing the Causal Assumptions of the South African Truth and Reconciliation Process’, *American Journal of Political Science*, Vol. 48, No. 2, p.204

25 See ‘Civil Society Mediation in Conflict Resolution’ (2012), Democratic Progress Institute, p.11

same meaning in every Arab state.

In Morocco, it is associated with a wave of liberalisation and openness;²⁶ in Lebanon and Palestine²⁷ it is affiliated with the notion of rebirth after long bouts of violence or civil war.²⁸

Civil society is becoming increasingly acknowledged as an important contributor to any peace process, allowing for greater inclusivity in the process. This is important for both symbolic and practical reasons. Symbolically, the participation of civil society can lend a sense of *ownership* to the process and a feeling of involvement for minority groups and for the larger population. Practically, there are important advantages and new ideas that civil society can bring to the table. Without being wholly inclusive of every element within a society, it is not likely that a peace process will be successful.

26 Morocco's rapid drive towards openness and democratisation was stimulated by the ascension to the throne of King Mohammed VI in 1990. Civil society, media and political life began to enjoy more freedom and interaction with international actors, particularly international NGOs. See Safa, Oussama (2007), 'Conflict Resolution and Reconciliation in the Arab World: The Work of Civil Society Organisations in Lebanon and Morocco', Berghof Research Center for Constructive Conflict Management, p.10

27 Lebanon experienced civil war from 1975 to 1990; civil society has played an important role in stimulating public debate surrounding the war. This is discussed in detail in a subsequent section. The Palestinian-Israeli conflict is an on-going struggle between Israelis and Palestinians that began following the Second World War. Civil society is instrumental in supporting Palestinian communities and campaigning for change.

28 Safa, Oussama (2007), 'Conflict Resolution and Reconciliation in the Arab World: The Work of Civil Society Organisations in Lebanon and Morocco', Berghof Research Center for Constructive Conflict Management, p.3

Civil society

Civil society can be difficult to define due to the diversity of society across the globe. However, a loose definition characterises civil society as a ‘third sector’ after government and business, which pursues neither power nor profit. Civil society can include local NGOs and charities, trade unions, faith-based organisations, gender groups, youth groups, ethnic groups, academics, artists and intellectuals, along with a number of other organisations and groups.

Civil society can play a role in ensuring that truth commissions are included in the process, working both within and without the process, through lobbying or direct participation. For instance, in Timor-Leste, during its transition to independence, the United Nations governed the country through the United Nations Transitional Administration for East Timor (UNTAET). When a proposal for a truth commission was put on the table by the coalition of primary political parties, the Human Rights Office of UNTAET implemented a national consultative process. This was headed by representatives of human rights groups, women’s groups and other civil society groups alongside political and religious leaders. This resulted in the Commission for Reception, Truth and Reconciliation (CAVR), considered to be one of the stronger truth commissions.²⁹

²⁹ Timor-Leste was ruled by Indonesia for 25 years and was granted the opportunity to vote for independence on August 1999. The pro-independence vote won by a large majority. See Hayner, Priscilla (2001), *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, (Oxon and New York: Routledge), pp.39-42

Timor-Leste: Commission for Reception, Truth and Reconciliation, 2002-2005

Timor-Leste was ruled by Indonesia for 25 years and was granted the opportunity to vote for independence on August 1999. The pro-independence vote won by a large majority.

Its truth commission is considered to be one of the stronger truth commissions and there was a significant contribution by civil society actors in its establishment.

In instances where the official process has failed to adequately address memory or truth, civil society can provide an alternative to a truth commission. It can provide a space of inclusive and structured dialogue and can broaden bases of democratic involvement. In Northern Ireland, there is no official truth commission. However, this does not mean that there have not been a number of past-focused initiatives. There have been public inquiries under Justice Saville³⁰ and John Stevens.³¹ There have also been a number of projects within civil society, including the Ardoyne Commemoration which provided community based truth-telling initiatives and memory-based workshops, events and projects planned by the community-based organisation 'Healing

30 The Saville Inquiry was an investigation into the events of Bloody Sunday, 1972. The Saville Inquiry was opened in 1998 and released its report in 2010 finding the British forces guilty of an unjustified attack on civilians. David Cameron offered a public apology to the victims' families in June of 2010.

31 Inquiries led by the British government investigating collusion between state security forces and unionist paramilitaries in Northern Ireland.

Through Remembering'.³² Shortcomings in the official process may be due to the failure of the government to implement the commission's recommendations.

Limitations can be placed on the commission because of a lack of political will or negotiated details in the peace process. In some cases, there is no official truth commission. Civil society's efforts can complement the official process; can provide an alternative or can fill a gap. There are advantages and weaknesses to the civil society approach to truth-telling, which will be outlined in the following section.

Strengths of Civil Society in Truth-telling

Civil society is not hindered by an affiliation with a political establishment, which might place limitations on its activities. Some limitations that have been imposed on official truth commissions include time parameters; restrictions on staff; a lack of resources; or a ban on the naming of perpetrators. Of course civil society can still be restricted by the political establishment through violence or repression or through the withholding of information, but it maintains political autonomy. This is an important advantage in a process as contentious as truth-telling, which challenges the politicisation and control of history.

32 Healing Through Remembering (2015), "Events", Available from: <http://www.healingthroughremembering.org/events/all/> [Accessed 5 February 2015].

A truth commission is one narrow approach to truth-telling, civil society initiatives can be more flexible, more creative and can allow for greater participation. For example, they can involve artists and intellectuals, team up with schools and media and can operate on an on-going basis; rather than be a single, limited project. Finally, memory projects within society can sometimes be more ‘in touch’ with local communities. Civil society organisations (CSOs) can organise smaller local projects, initiatives that are tailor-made to fit specific areas and that are implemented by local actors at a grass roots level.

Weaknesses of Civil Society in Truth-telling

Despite the advantages, there are fundamental limitations to the ‘civil society approach’ to memory. One of the main issues is often a lack of official support and resources. Civil society may not have the funding or the security often allocated to official truth commissions and may not be able to access official documents and archives. Official commissions have a better chance of seeing their recommendations implemented and will usually attract wider attention from the government and from the public.

A further challenge is that many civil society organisations can be limited in their understanding and expression of national or popular sentiment; they may fail to speak from *within* society. Local NGOs are increasingly presumed to express the voice of civil society. One critic has argued that, in the case of Sierra Leone, local

NGOs effectively alienated a majority because they articulated themselves using the international language of human rights and humanitarian assistance. This discourse was not the way in which local communities and organisations expressed themselves and this resulted in a breach in understanding between local NGOs and small communities.³³ Civil society may be better positioned to understand local communities and popular sentiments than international organisations, but this does not mean they can always speak on a nationally-representative level. This is apparent in Lebanon, for example, where civil society's efforts have failed to break the logic of sectarianism the ideologically opposed views of the past.

The most fundamental challenge to the civil society approach overlaps with the primary limitation of official truth commissions. Its failure to achieve real change or reconciliation without the adherence of the political establishment.

According to one analyst, the core requirements for political forgiveness are: 'the acknowledgement of wrongdoing, public apologies, and the offering of reparations by the perpetrator.'³⁴

33 Shaw, Rosalind (2005), 'Re-thinking Truth and Reconciliation Commissions: Lessons from Sierra Leone, USPI Special Report 130, p.6

34 Harb, Nadia (2010), 'Political Forgiveness as Conflict Resolution: A Case Study of Post-War Lebanon', Thesis for American University of Beirut (Beirut), p.1

If we accept this, then without the involvement of the perpetrators in the process, how is reconciliation possible? Without the acknowledgement of the state and due process, how can victims forgive?

To better understand the role civil society can play in the truth-telling process, the subsequent sections will look at civil society's memory and history retrieval efforts in Lebanon and Guatemala.

Design Variations

It should be noted that there is not, nor should there necessarily be, a universal template for the methodology and operations of truth commissions. Priscilla Hayner suggests that each commission be 'nationally rooted, unique to each place and reflects a process of national ownership', and that 'given the wide diversity in options that might be included in a commission's mandate, it would be unwise to promote one standard model'.³⁵ Historically such entities have been exceptionally diverse, ranging from the pre-1993 early frameworks established by Presidential decree in Argentina, Chile, Chad and Uganda, to empowerment through the legislature, or, as was the case in El Salvador, through negotiation.³⁶ Technical, methodological and financial structures of each individual commission are underpinned by their context, with sponsorship

35 Hayner, Priscilla (2001), *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, (Oxon and New York: Routledge), p. 211.

36 Hayner, Priscilla (2001), *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, (Oxon and New York: Routledge), p. 210.

and staff facilitated either internationally or internally depending on its mandated purpose and its political and social environment. Similarly, the conclusions reached through such investigations vary. Chile's narrow parameters limited the number of cases reviewed to 3,000 but allowed analysis on an individual basis, in contrast to more extensive commissions established through broad consultation with a plurality of agencies. Examples of the latter included Guatemala, Liberia, Sierra Leone and South Africa, which relied on a 'balance of probabilities standard' to draw more general conclusions.³⁷ Procedures are also heavily influenced by their social context in determining the levels of transparency and public interaction generated by investigations. Security concerns, quantitative obfuscation and the proliferation of unchecked accusations are manifest in public commissions, but they also assure greater levels of legitimacy and social recognition. As such the co-operation of a strong civil society is essential in compensating for any commission deficiencies 'because of their ability to generate public pressure to push for a strong commission, and because of their information, contacts and expertise in human rights monitoring'.³⁸

Truth commission designs are therefore not only formed through multi-party negotiations but shaped by NGO and civil society's input, albeit on a usually ad hoc basis. Mutual co-operation is not

37 Hayner, Priscilla (2001), *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, (Oxon and New York: Routledge), p. 223.

38 Hayner, Priscilla (2001), *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, (Oxon and New York: Routledge), p. 224.

guaranteed, nor is consensus within the civil society sphere itself necessarily present, but the design of the commission is nevertheless influenced through such external agencies. In South Africa for example, Human Rights associations, the church and various international agencies lobbied for greater procedural transparency, which eventually changed the methodological approach of the commission by making amnesty proceedings public.³⁹ They also proved effective in bridging the fissure between macro and micro levels providing liaison services and information for victims at a local level.

Transitional justice is not limited to a truth commission or civil society's activities; there have also been a number of 'hybrid bodies' adopted as an alternative to more formal justice mechanisms, including the Rwandan 'gacaca system'.⁴⁰ Due to the volume of accusations in this situation, autonomous local courts were installed to work with village communities after the 1994 genocide in Rwanda to compensate for the structural weakness of the national justice system. Invested with 'real adjudication power', and the authority to deliver sentences of up to 25 years, such legal proceedings nevertheless suffered from significant shortcomings; elected judges had little training, the accused had limited access to legal counsel and evidence was not necessarily

39 Hayner, Priscilla (2001), *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, (Oxon and New York: Routledge), p. 224.

40 Woody, Katherine (2009), 'Truth and Justice: The Role of Truth Commissions in Post-Conflict Societies', Law of Nationbuilding Seminar, IIT Chicago-Kent College of Law, http://www.kentlaw.edu/perritt/courses/seminar/Nationbuilding%20Seminar%20Paper_Katherine%20Woody.htm, [Accessed 09 August 2013].

properly analysed.⁴¹ Despite a conviction rate of as high as 65 per cent, and the estimated processing of two million people, local and international human rights groups have ‘expressed concern about its fairness’ and potential judicial bias in favour of the ruling Rwandan Patriotic Front.⁴² However, the International Criminal Tribunal for Rwanda, a court established by the United Nations Security Council through Resolution 955, has also experienced significant criticism for ‘being far too slow’ in prosecuting cases.⁴³ The negotiations and process of designing investigative bodies should therefore not only focus on the framework of the body itself, but the ways in which it is *perceived* and interacted with by exogenous actors. The processes and variables in designing truth commissions or similar bodies should be the subject of further research, a discussion that cannot be covered more extensively here. However it should be remembered that there is no infallible or universal model of commission-type agencies that can simply be superimposed from one context to another. The design of each individual framework is the product of its specific institutional, political and social environment, and is constantly in flux through interactions with external actors, including civil society.

41 ‘Rwanda Gacaca Genocide Courts Finish Work’ (June 2012), BBC News, <http://www.bbc.co.uk/news/world-africa-18490348>, [Accessed 09 August 2013].

42 ‘Rwanda Gacaca Genocide Courts Finish Work’ (June 2012), BBC News, <http://www.bbc.co.uk/news/world-africa-18490348>, [Accessed 09 August 2013].

43 ‘Rwanda Genocide: Did Bizimungu Trial Take Too Long?’ (May 2011), BBC News, <http://www.bbc.co.uk/news/world-africa-13434232>, [Accessed 09 August 2013].

Case Study 1: Lebanon

Introduction: Forgetting the Past, Controlling the Present

In Lebanon, a ‘state-sponsored’ amnesia that has dominated since the end of the civil war can be seen to have undermined the capacity of the nation to come to terms with the memory of the civil war. There is a perceived reluctance among official channels to effectively deal with the past. This is evidenced by the absence of a national archive or a public library documenting the events of the civil war. Many claim that there have been too few national memorials and that the lack of a war museum is unacceptable.⁴⁴ Much of this absence of acknowledgment is related to the fact that many of those responsible for re-building Lebanon were also key players in the civil war. They are naturally reluctant to uncover the past and investigate crimes and human rights violations committed during the 15-year civil war.⁴⁵

44 Campaigns orchestrated by Lebanese intellectuals and activists since the mid-1990s have campaigned for a public process of memorialisation. They argue that there are too few national monuments to the war, too many sectarian commemorations, no official research centres and no political will for stimulating a public debate. See Haugbølle, Sune (2012), ‘Dealing with Lebanon’s Past: Remembering, Reconciliation, Art and Activism’, *Accord: Reconciliation, Reform and Resilience*, Issue 24, p.15

45 The Lebanese Civil war took place from 1975 to 1990 and resulted in approximately 90,000 to 120,000 deaths. It was both a regional conflict and an internal affair and involved a melange of domestic, regional and international actors. The conflict was influenced by a range of regional issues that dominated the Middle East in the second half of the 20th century including the Palestinian-Israeli conflict, Cold War competition, Arab nationalism and political Islam. Domestic challenges included sectarian divisions between Maronite Christians, Sunni and

In 1991, a general amnesty law indicated a desire to ‘move on’ after the war and forget the crimes of the past. The public followed suit and the decision to ‘forgive and forget’ was epitomised with the popular mantra, ‘no victor, no vanquished’, which dates back to the aftermath of the 1958 crisis.⁴⁶

The History of the Lebanese Civil War

The Lebanese Civil war took place from 1975 to 1990 and resulted in approximately 90,000 to 120,000 deaths. It was both a regional conflict and an internal affair and involved a melange of domestic, regional and international actors. The conflict was influenced by a range of regional issues that dominated the Middle East in the second half of the 20th century including the Palestinian-Israeli conflict, Cold War competition, Arab nationalism and political Islam. Domestic challenges included sectarian divisions between Maronite Christians, Sunni and Shia Muslims, how to respond to the Palestinian refugee population, national identity, social justice and elitism, and regional alliances.

The conflict was formally broke to a close with the Taif Agreement, signed in October 1989. However, conflict and fighting continued for many years and sectarian and political tension continues to this day.

Shia Muslims, how to respond to the Palestinian refugee population, national identity, social justice and elitism, and regional alliances.

46 The 1958 Crisis was a political crisis occurred when president Camille Chamoun, a Christian was suspected to support the Baghdad Pact (between Iran, Iraq, Pakistan, Turkey and the United Kingdom) angering Lebanese Muslims and igniting religious tension. The United States intervened militarily to bolster Chamoun’s government.

The uneven ending of the Lebanese civil war and the continuation of tensions and conflicts⁴⁷ within the region have made it difficult for Lebanese society to come to terms with its past. The defeat of General Aoun in October 1990 was the end of large-scale fighting.⁴⁸ However, the disarmament of the militias, the stabilisation of the economy and the restoration of state institutions took years to achieve. Fighting continued in Southern Lebanon between Israel and Hezbollah and a Syrian presence remained in the country. Consequently, many Lebanese felt that the war had never really ended. Conflict and sectarian tension have continued up until the present day. The Israeli occupation in Lebanon ended in 2000⁴⁹ but was soon followed by the 2006 Israeli-Lebanese War.⁵⁰

47 The Taif Agreement, which was negotiated and concluded in 1989, brought the war formally to an end. However, many critics argue that the accord did not resolve the root causes of the war and failed to address the sectarian division of power in Lebanon, the Palestinian refugee issue or the presence of Syrian forces on Lebanese soil. See Karam, Karam (2012), 'The Taif Agreement: New order, old framework', *Accord: Reconciliation, Reform and Resilience*, Issue 24, pp.36-39

48 General Michael Aoun, a Lebanese Christian leader and Lebanese Army Commander, acted as interim Prime Minister after the failure to agree to a replacement for President Amine Gemayel in 1988. He rejected the Taif Agreement and began a self-declared 'War of Liberation' against all foreign forces. The reality was that the war was directed almost exclusively against the Syrians. In October 1990, Aoun and his forces were defeated by the Syrian army and East Beirut was seized. This brought large-scale fighting to a halt.

49 Israel withdrew its force from Southern Lebanon in 2000 in accordance with United Nations Security Council Resolution 425. The South Lebanese Conflict began with the Israeli invasion of Southern Lebanon in 1982 in an attempt to destroy the bases of the Palestinian Liberation Organisation following PLO attacks in Northern Israel.

50 34 day military conflict in Lebanon, primarily between Hezbollah paramilitary forces and the Israeli military.

Official and public silence is the first challenge to the retrieval of Lebanese memory of the civil war. However, a second obstacle is the proliferation of competing war discourses that are used to reaffirm sectarian divisions.

Nowhere is the contestation of the past more evident than in the absence of a unified history curriculum.⁵¹ In 2001, there was an attempt to create a common curriculum but this failed due to disagreements over the narrative of the civil war. There is no consensus over the causes of the civil war; some argue it was a result of external influence – the Syrians, the Israelis and the Palestinians; others point to the division between a privileged minority and an oppressed majority that inevitably sparked conflict. Lebanese historians tend to adopt biased or sectarian positions. Narrative and memory can be seen to be utilised as a political tool and to serve competing interests. One observer has argued that ‘both Arabist and Lebanist discourses have heavily permeated Lebanese historical thinking and national writing; providing ideological justification for exclusive national visions and a reoccurring tension at the heart of the Lebanese experience.’⁵²

51 A national unified curriculum with a shared history textbook for students of history in Lebanon has yet to be achieved due to the sectarian nature of narratives of the civil war among most historians. See Beydoun, Ahmad (2012), ‘War, peace and history in Lebanon’, *Accord: Reconciliation, Reform and Resilience*, Issue 24, p.19

52 Larkin, Craig (2012), *Memory and Conflict in Lebanon: Remembering and Forgetting the Past*, (London and New York: Routledge), p.48

Most public commemorations of the civil war in Lebanon tend to entrench sectarian allegiances and celebrate the martyrs of specific religious or ethnic groups at the expense of a unified national perspective. One expert in the region has attested to the division of Lebanese society along spatial lines: ‘Sectarian divisions and patterns of sociability, as well as the physical division of the country into neighbourhoods, areas and villages along sectarian lines, has in effect reproduced skewed historiographies of the war.’⁵³

Official silence and competing ‘war discourses’ are compounded by the instability in Lebanon and the threat of recurring violence. The assassination of Prime Minister Rafiq al-Hariri in 2005⁵⁴ resulted in an exacerbation of sectarian tensions. The absence of reconciliation, the lack of social and economic opportunity and the continuation of sectarian tensions has led one observer to remark that Lebanon is living ‘between two wars.’⁵⁵ Unfortunately, even when the past is addressed, the narrative of the civil war and the memorialisation of its martyrs can tend to take place along sectarian lines. Critics have

53 Haugbølle, Sune (2012), ‘Dealing with Lebanon’s Past: Remembering, Reconciliation, Art and Activism’, *Accord: Reconciliation, Reform and Resilience*, Issue 24, p.15

54 Following the assassination of former Prime Minister Rafiq al-Hariri on 14 February 2005, people took to the streets of Beirut in protest, calling for justice and the withdrawal of Syrian troops from Lebanon in what has been called the ‘Independence Intifada’. This culminated, on 14 March, with the largest demonstration in the country’s history. The 8 March Alliance responded to the protests with their own demonstration on the 8th March. They sought to protect the status quo and celebrate Syria’s stabilising influence in Lebanon. The demonstrations contributed to the segregation of Lebanese society into two distinct camps: 8 and 14 March.

55 Pichard, Elizabeth and Alexander Ramsbotham (2012), ‘Whose Lebanon? A post-war history of people, power and peace initiatives’, *Accord: Reconciliation, Reform and Resilience*, Issue 24, p. 11

argued that the way in which Lebanese society is constructing and conceiving of the past can be seen to obstruct reconciliation.

Civil Society Organisations: Creating Memory

It was not until the mid-1990s that the first attempts to start a public debate and delve into the memory of the conflict took place. In the absence of an official discourse, the responsibility of uncovering the past and creating a forum and a space for memory and history has fallen on civil society organisations.

Civil society organisations in Lebanon face two major issues in their pursuit of memory-retrieval and reconciliation. The first is that the traditional model of truth-telling is not really viable given that the civil war ended over 20 years ago. This is partly due to a lack of evidence; much of the physical and written sources of evidence that may have been used in a truth commission or a historical clarification commission may have been wilfully or accidentally destroyed, many people who could contribute to the truth-telling process will have passed away, memory will have deteriorated. But it is also affected by the fact that people will have moved on from the civil war, a new generation has emerged, the need to address wrongs committed in the civil war is seen by some to be less urgent.

This does not mean that closure is not important; many observers argue that the legacy of the war is still very much present in society.⁵⁶ Rather it means that the approach will be different. Some have argued that in a post-conflict society when the war has been over for decades, what is necessary for national reconciliation and political forgiveness, is not a strategy of truth-telling or an agreed understanding of past events but rather an acknowledgment of past wrongs and an open public forum and debate on the war.⁵⁷ While CSOs in Lebanon have made some progress towards combating public amnesia and stimulating debate, there has been little progress towards an acknowledgement of past wrongs and the involvement of the perpetrators in the memory-retrieval process.

It has been said that the lack of political involvement and the failure to involve those on either side of the divide is a further shortcoming of civil society memory projects. CSOs have succeeded in fostering debate about the war and in challenging the collective amnesia, but while memory initiatives have emerged among academics, artists and activists, some have suggested that this is not enough to break through sectarian division or create a voice of unity on a national level. In order to challenge the deadlock when it comes to dealing with the past, civil society organisations need to engage with politicians and involve the country's leaders in their goal of reconciliation. While many memory activists have tried to avoid engaging with the sectarian system, other organisations have made

⁵⁶ See Craig Larkin, Nadia Harb, Sune Haugbølle

⁵⁷ Harb, Nadia (2012), 'Political Forgiveness as Conflict Resolution: A Case Study of Post-War Lebanon', American University of Beirut (Beirut), p.vi

strides towards including political parties in the process of memory retrieval and engaging the sectarian culture that exists in Lebanon. For instance, one organisation has invited ex-militia to contribute to their hearings.⁵⁸ However, commentators have argued that civil society needs to make further efforts to speak from *within* a culture rather than *outside* it, in order to engage and impact larger swathes of the population and in order to achieve real national cogency. They point out that changing entrenched sectarian divisions requires addressing and incorporating sectarian narratives:

Creating an alternative culture for remembrance in itself is not enough. National and international projects should do more to engage their perceived opponents in the sectarian leadership and milieus, not least in order to gain a better understanding of why so many Lebanese hold widely different views on their national history.⁵⁹

Art and Activism

From the mid-1990s, Lebanon's artists, intellectuals and activists have campaigned for a process of memorialisation. Films, books, art, articles and events have been produced, along with a number of NGOs carrying out community-based projects with a focus on

58 Memory for the Future, established in 2002. This is discussed in greater detail in the following section.

59 Haugbølle, Sune (2012), 'Dealing with Lebanon's Past: Remembering, Reconciliation, Art and Activism', *Accord: Reconciliation, Reform and Resilience*, Issue 24, p. 17

remembrance and reconciliation. Many of these projects grew out of the legacy of wartime activism. For instance, the Committee of the Families of the Kidnapped and Disappeared in Lebanon was formed in 1982 and is still very much involved in memory projects today.

There is much debate in the art world, ranging from whether the civil war is the most appropriate subject for artists, to whether ‘memory makers’ should remain independent of the sectarian system. There is also the question of elitism⁶⁰ and critics have challenged the real impact these artistic movements will have on a national level.

60 Sune Haugbølle writes that: ‘Artistic attempts to deal with the memory have existed since the beginning of the war, but always on the elitist fringes of society.’ Many intellectual and artistic efforts fail to tap into the popular consciousness and remain off the radar of ordinary people or are not accessible to ordinary people. See Haugbølle, Sune (2005), ‘Public and Private Memory of the Lebanese Civil War’, *Comparative Studies of South Asia, Africa and the Middle East*, Vol. 25, No. 1, pp.191-20

Memory for the Future

Memory for the Future

In 2001, a group of activists, intellectuals and journalists held an international conference in Beirut entitled 'Memory for the Future', which explored the question of post-war memory and the culture of forgetting in Lebanon. The conference was effective in encouraging intellectuals, activists and organisations to work together to combat the collective amnesia and the politicisation of history.

From the conference, Memory for the Future emerged as an NGO which set reconciliation as its aim.

The rehabilitation of the past as a pathway to reconciliation and healing is a key feature of truth and reconciliation. Civil society organisations have sought to redress the absence of an official truth commission in Lebanon. One such organisation is Memory for the Future. In 2001, a group of activists, intellectuals and journalists held an international conference in Beirut entitled 'Memory for the Future', which explored the question of post-war memory and the culture of forgetting in Lebanon. The conference was effective in encouraging intellectuals, activists and organisations to work together to combat the collective amnesia and the politicisation of history. It provided a step towards greater coherence and unity. It also involved a number of representatives from other post-conflict countries, which provided an opportunity for comparative studies.

From the conference, Memory for the Future emerged as an NGO headed by Amal Makarem,⁶¹ which set reconciliation as its aim. It has organised a number of truth-telling hearings, some of which incorporated former militia fighters. The NGO was also involved in the creation of a war memorial in April 2009, which was unveiled by President Michel Suleiman.⁶² The involvement of the political establishment and the creation of a national memorial was a step towards greater coherence in Lebanon.

UMAM Documentation and Research

UMAM Documentation and Research is an NGO founded in Beirut in 2004 as a response to the absence of any official engagement with the past and the legacy of the civil war. UMAM D&R argues that when the memory of the civil war is addressed, it serves short-term political gains rather than national stability. History is utilised as an ideological tool, which entrenches sectarian divides and negatively impacts understanding between communities. UMAM D&R believes the act of collective forgetting is not a way of avoiding future violence, but rather contributes to cycles of violence and tensions between communities.⁶³

61 Amal Makarem, historian and former Lebanese journalist, initiated the Memory for the Future conference in 2001 and is head of the NGO.

62 President Michel Suleiman, President of Lebanon at time of writing, in office since 2008.

63 See the organisation's website for an outline of its views and objectives: <http://www.umam-dr.org/>

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The organisation has gathered a large collection of books, newspapers, leaflets, posters, videos and magazines as well as personal and official documents, narratives and interviews relating to the war. UMAM also publishes books and newsletters on the subject of the war, and organises events and projects aimed at educating and engaging communities.

UMAM's goal is to address the lack of historical research, public discussion and availability and access to documents pertaining to the civil war. The organisation has gathered a large collection of books, newspapers, leaflets, posters, videos and magazines as well as personal and official documents, narratives and interviews relating to the war. UMAM also publishes books and newsletters on the subject of the war, and organises events and projects aimed at educating and engaging communities.

One of UMAM's most recent projects 'The Bus Takes the Podium' was initiated in 2012 and is currently in progress. The project is a reference to the 'Ain el-Rammaneh incident' or 'Bus Massacre'.⁶⁴

⁶⁴ The 'Ain el-Rammaneh incident' took place in April 1975 and is often cited as the spark that set off the Lebanese Civil War. In response to the killing of a Christian in a nearby church, Christian militiamen machine-gunned a bus carrying Palestinians in Beirut's eastern suburb of Ain al-Rammaneh, killing 27 people.

Utilising the deep cultural symbolism of the bus, UMAM is planning a road show whereby a bus will travel around the country conducting a series of ‘memory stops’ and engaging the population with cultural activities. The project will be conducted in partnership with schools, NGOs, municipalities and other social bodies.⁶⁵

The ‘Ain el-Rammaneh incident’ or ‘Bus Massacre’

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The strength of UMAM D&R is two-fold. First, it has a wide reach.⁶⁶ UMAM attempts to both bring together a wide range of NGOs for collaborative projects and to engage the population directly. By collaborating with schools and municipalities, UMAM

65 <http://www.umam-dr.org/> (accessed July 20, 2013)

66 Its wide reach is due to the multitude of projects UMAM initiates, its partnerships with other organisations and NGOs, its recognition **by the Lebanese Ministry of Interior and Municipalities and its extensive research collection.** See <http://www.umam-dr.org/>

acts as a challenge to criticism that many memory-projects work outside of the system and are dominated by academics and cultural elites. It has received official recognition by the Lebanese Ministry of Interior and Municipalities but remains highly critical of the government and advocates aggressive measures to attain accountability and engagement with the past.

UMAM's second strength is that it provides the means for other organisations and individuals to verify the past. Its extensive archive can support or confront oral testimony and memory. It provides evidence and documentation. However, UMAM's goal is not solely factual, its main aim is to pursue transitional justice, stimulate dialogue and present open questions for the population to contend with.⁶⁷

UMAM is the largest organisation committed to the retrieval of memory in Lebanon. Its broad reach and scope are partly due to timing. UMAM was established in 2004. In 2005, Lebanon's general context shifted with the assassination of former Prime Minister Rafik al-Hariri on February 14 and UN Security Council Resolution 1595, which established an independent investigation commission focused on the crime. These events opened up the notion of truth seeking in Lebanon and have led to greater public and political participation in debates about the legacy of the civil war.

67 According to Marie-Claude Souaid, urban anthropologist and head of research and communication at UMAM D&R. See Gemayel, Diala (June 2010), 'Umam: en route vers un projet national pour le futur', http://www.babelmed.net/index.php?option=com_content&view=article&id=5702

Conclusion: Breaking the Silence but Not the Divide

Lebanese civil society has been relatively successful in opening up debate and overcoming amnesia about the past. There is still a reticence on the part of political figures, to discuss the war and to initiate an investigation into past events. The feeling exists among intellectuals and among many members of the public that reconciliation is impossible while those responsible for much of the violence of the civil war are still in power. One journalist wrote in 2009 that many Lebanese feel 'that commemorating the war would be impossible while many of the main leaders of the warring factions - Nabih Berri, Walid Jumblatt, Amin Gemayel, Samir Geagea and Michel Aoun - still dominate Lebanese political life.'⁶⁸ However, particularly since 2005, Lebanese society has opened up and while reconciliation may not be on the horizon, debate among Lebanon's past certainly is. The greatest difficulty is not the amnesia but the messy and confused nature of the war itself and the memory of the war. In the wake of al-Hariri's assassination, two narratives emerged: one, March 8, used memory of the civil war to protect the status quo and celebrate Syria's stabilising influence in Lebanon. The other, the March 14 'Independence Intifada', called for investigation into the assassination of al-Hariri and also called for broader social change and Syrian military withdrawal.

68 Fordham, Alice (April 2009), 'Lebanon's Movement to Remember', *The National*

Memory is still being expressed along sectarian lines and utilised for ideological aims. Civil society organisations still have long way to go to achieve a process of memorialisation along national rather than sectarian lines.

One writer, who was conducting a study on political forgiveness in Lebanon, stated that her results support her hypothesis that argues that ‘mutual agreement on the past is not necessarily seen as a precondition for forgiveness.’⁶⁹ This means that a shared singular narrative is not necessary for reconciliation. However, while different narratives will always exist and there is no absolute truth, commentators suggest that it is necessary to cultivate an awareness of different narratives and issues as well as a mutual understanding and respect. One critic argued, in relation to taught history in Lebanon, a unified historical narrative is not the right approach, but that a unified history curriculum should instead be followed which accounts for the plurality and diversity of antagonistic narratives and adopts a critical stance towards learning history.⁷⁰ It is said that the goal for civil society now should be involving politicians in the process and also working from within the sectarian system.

69 Harb, Nadia (2012), ‘Political Forgiveness as Conflict Resolution: A Case Study of Post-War Lebanon’, American University of Beirut (Beirut), p.41

70 Beydoun, Ahmad (2012), ‘War, peace and history in Lebanon’, *Accord: Reconciliation, Reform and Resilience*, Issue 24, p.19

Case Study 2: Guatemala

Introduction: Background to the Civil War

The Guatemalan civil war took place over a 36-year period from 1960-1996 and resulted in an estimate of 200,000 deaths including 40,000 ‘disappeared.’⁷¹ The war was fought between the Guatemalan government and various left-wing guerrilla movements that were subsumed under the organisation Unidad Revolucionaria Nacional Guatemalteca (URNG). Peace was finally attained in 1996 with the signing of the peace accords but 19 years later, Guatemala is characterised by endemic violence, widespread impunity and what is widely perceived to be lack of justice, that suggests that real reconciliation and perhaps lasting peace has not been achieved.

The History of the Guatemalan Civil War

The Guatemalan civil war took place over a 36-year period from 1960-1996 and resulted in an estimate of 200,000 deaths. The war was fought between the Guatemalan government and various left-wing guerrilla movements that were subsumed under the organisation Unidad Revolucionaria Nacional Guatemalteca (URNG).

71 ‘Guatemala: The Continued Tragedy for the Disappeared’, International Committee of the Red Cross (2010), <http://www.icrc.org/eng/resources/documents/interview/guatemala-interview-220210.htm>, [Accessed 24 July 2013]

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The Guatemalan peace accords contain a number of provisions that were aimed at dealing with the question of justice, addressing both restorative and retributive justice. The Human Rights Accord established a truth commission, the Historical Clarification Commission (CEH) and created a UN Verification Mission (MINUGUA). The following sections will address the strengths and weaknesses of the CEH and MINIUGUA and also look at the alternatives offered by civil society.

The Guatemalan Peace Accords 1996

The Accord for a Firm and Lasting Peace was signed on December 29, 1996 and encompassed 13 peace accords negotiated by the government and the URNG. Some of the most important terms mandated by the peace accords were:

- The Human Rights Accord established a truth commission to clarify past human rights violations
- The 1995 Accord on Identity and Rights of Indigenous Peoples mandated a constitutional amendment redefining Guatemala as a multiethnic, multi-cultural, and multi-lingual nation.
- The accords mandated reforms of the judicial system.
- They also required reforms to restructure and limit the functions of the army and other security forces.

The Historical Clarification Commission: Limitations and Evasions

The Historical Clarification Commission was established under the Human Rights Accord in 1994, between the Guatemalan government and the URNG. This agreement was finalised in 1996 in the Accord for Firm and Lasting Peace.⁷² While the CEH went ahead as stipulated in the accords, serious limitations were placed on it. It had no search-and-seizure power and no ability to subpoena witnesses. It could only operate for six months with the possibility of extending its lifespan to a year. Before the investigation of the CEH had even begun, the Law of National Reconciliation of 1996 offered a blanket amnesty for 'political crimes' committed by both sides during the armed conflict. A further controversy was the stipulation that the CEH could not name the perpetrators. The establishment of the truth commission attracted significant attention from civil society and victims' groups who lobbied for more favourable conditions throughout the talks.

⁷² The Accord for a Firm and Lasting Peace was signed on December 29, 1996 and encompassed 13 peace accords negotiated by the government and the URNG. The Human Rights Accord was the first accord to be negotiated and signed in March 1994. It established a truth commission (the CEH) to clarify past human rights violations and created a UN Verification Mission. The 1995 Accord on Identity and Rights of Indigenous Peoples mandated a constitutional amendment redefining Guatemala as a multiethnic, multi-cultural, and multi-lingual nation. The accords mandated reforms of the judicial system. They also required reforms to restructure and limit the functions of the army and other security forces. The military was restricted to defence against external threats to guarantee the country's territorial integrity. They also required the elimination of the PACs (self-defence patrols) and other paramilitary counterinsurgency security units.

There was widespread anger that the URNG had agreed to such limitations.

The Historical Clarification Commission (CEH)

The Historical Clarification Commission was established under the Human Rights Accord in 1994. Serious limitations placed on the truth commission included:

- It had no search-and-seizure power
- The commission could not subpoena witnesses
- It could only operate for six months
- The CEH could not name perpetrators

Once the commission set about its work in 1997, there were further challenges. Funding proved difficult and though it received some assistance from MINUGUA, it was not financed by the United Nations, which did not consider the commission to be a UN institution, or the Guatemalan government, who also saw it as outside their responsibility.⁷³ As for access to evidence and documentation, the CEH met with considerable resistance from the establishment and without legal strength, was unable to force testimonies. Attempts to retrieve information from the government were met with elusions and delaying tactics. The Chair of the CEH, explained that ‘members of the police, of the Army, of the security forces, who were invited by the Commission to testify, generally did not come. They did not even present any apologies. They

⁷³ Tomuschat, Christian (2001), ‘Clarification Commission in Guatemala’, *Human Rights Quarterly*, Volume 23, Issue 2, p.248

simply abstained from making an appearance.⁷⁴ He also described the way in which the National Defence Staff of the Guatemalan Army ordered its officers to destroy any incriminating evidence or documentation that pointed to illegal activities. Mass graves and torture chambers were covered up or demolished.⁷⁵ One major flaw of the Guatemalan truth commission was its difficulty in procuring evidence. The commission was provided with no legal power to forcibly gather evidence. The Chair criticised the limited capacity of the commission in this respect and decried its restricted access to government archives, which should be available to the public in any case.⁷⁶

The Historical Clarification Commission specified a number of recommendations. Among the recommendations were symbolic and monetary reparations including reclamation of Mayan sites, the erection of monuments and financial assistance for exhumations. The commission also advised structural, judicial and security reforms including a purge of the armed forces and a strengthening of the democratic process. Finally, the CEH advocated that the President publicly apologise on behalf of the state. Unfortunately, the recommendations of the commission were largely ignored. President Arzú initially refused to apologise on the grounds that he

74 See Professor Christian Tomuschat, Remarks presented at the conference 'Memory and Truth After Genocide: Guatemala' at the United States Holocaust Museum, Washington, DC, March 21, 2000

75 See Professor Christian Tomuschat, Remarks presented at the conference 'Memory and Truth After Genocide: Guatemala' at the United States Holocaust Museum, Washington, DC, March 21, 2000

76 Tomuschat, Christian (2001), 'Clarification Commission in Guatemala', *Human Rights Quarterly*, Volume 23, Issue 2, p.251

had already done so and the government argued that the relevant recommendations had already been addressed in the peace accord. However, a year later when the final report, '*Guatemala: Memoria del Silencio*' ('Guatemala: Memory of Silence'), was published, President Arzú issued a public apology and committed the government to the implementation of the recommendations.⁷⁷

Since then little progress has been made. According to many critics, there have been too few trials of past abuses. However, there have been some limited successes. In 2009, a retired colonel was convicted of forced disappearance of peasants during the war. This was the first successful prosecution of an army officer in relation to disappearances. In 2011, President Álvaro Colom apologised on behalf of the government for the 1982 Dos Erres massacre.⁷⁸ A few months later, four soldiers were sentenced to 6,060 years prison for their part in the massacre and in 2012 a fifth soldier was also convicted for his participation. Ríos Montt, who is alleged to have presided over gross human violations including genocide during

⁷⁷ Barkoukis, Leah and Charles Villa-Vicencio (2011), *Truth Commissions A Comparative Study*, Institute for Justice and Reconciliation and Georgetown University. Available from: <http://www.ijr.org.za/img/trc/Guatemala.pdf> [accessed 5 February 2015].

⁷⁸ The Dos Erres massacre took place in the small village of Dos Erres in the region of Petén, Guatemala on 5 December 1982. It took place during the *de facto* presidency of General Efraín Ríos Montt. A Guatemalan elite army unit killed and tortured over 250 people, including women and children, before destroying the village. See 'Guatemalan Former Soldiers Sentenced to 6, 060 Years for Massacre' Amnesty International (2011), <http://www.amnesty.org/en/news-and-updates/guatemalan-former-soldiers-sentenced-6060-years-massacre-2011-08-03>, [Accessed 24 July 2013]

his term as President from 1982-1983⁷⁹ received immunity when he acted as President of Congress between 2000 and 2004. He was convicted of genocide on the 10th May 2013 and sentenced to 80 years in prison. The Constitutional Court however overturned the conviction ten days later. Some headway has been made towards reparations. The government allowed for the creation of a National Reparations Programme in 2003. In 2006, financial reparations began. However, progress has been slow. In 2004, the Guatemalan Congress approved Decree 06-2004, establishing a national remembrance day for victims of the conflict.

The United Nations Verification Mission in Guatemala (MINUGUA)

MINUGUA was a ten-year UN humanitarian mission to Guatemala that included, in 1997, a three-month peacekeeping mission. The CEH was UN ordered and it received some assistance from MINUGUA. The majority of investigative staff moved from the MINUGUA office to the CEH. MINUGUA also assisted in historical clarification and retrieval by providing resources and support.

79 See 'Guatemala Annuls Ríos Montt's Genocide Conviction' (May 2013), BBC News, <http://www.bbc.co.uk/news/world-latin-america-22605022> [Accessed 24 July 2013]

MINUGUA had a proven record of combating impunity in Guatemala but in spite of this, one critic has argued that MINGUA's sponsorship of the CEH may have been one of its main weaknesses. The UN's role as mediator is seen to have compromised its commitment to the truth-telling process. This lay in the conflict between their pragmatic role as moderator and an unbiased commitment to truth.⁸⁰ This was apparent in the 'Mincho' case where a member of the Revolutionary Organisation of the People in Arms (OPRA),⁸¹ who had been involved in the kidnapping of an elderly woman of the elite, went missing and was presumed to be killed by Guatemalan security forces. A number of high-ranking MINUGUA officials were accused of involvement in a cover-up of a murder, allegedly to prevent a potential derailing of the peace process.

The shortcomings of the MINUGUA illustrate that in spite of its funding and resources and its freedom from local biases and political affiliations, it was still entangled in the Guatemalan political process. Civil society, however, was not. The following section illustrates the ways in which civil society represents an alternative approach that is *outside* the official peace process.

80 Wilson, Richard (1997), 'Violent Truths: The Politics of Memory in Guatemala', *Accord: Negotiating Rights: The Guatemalan Peace Process*, p.23

81 One of the major insurgent organisations that was subsumed under the URNG

The Recovery of Historical Memory Project: Supplementing the CEH

The Recovery of Historical Memory Project (REMHI)

The Recovery of Historical Memory project was established in 1995 by the Catholic Church in an effort to document the atrocities committed during the civil war.

REMHI released its final report in April 1998. All of REMHI's findings were handed over the CEH, which had not yet completed its inquiry.

The Recovery of Historical Memory (REMHI) project was established in 1995 by the Catholic Church. Offices were set up in parishes across the country in an effort to document the atrocities committed during the civil war. REMHI acted as a supplement to the commission but also served the role of highlighting the shortcomings of the CEH. With 700 trained and bilingual staff, the project amassed 5,000 testimonies representing 25,000 victims. The programme also identified 300 mass graves from around Guatemala.

The advantage of REMHI was that, without the restraints the CEH faced, it was able to name perpetrators and victims on both sides of the political divide. This effort redressed what many Guatemalans perceived as a major impediment to justice and reconciliation and a severe weakness of the official commission. REMHI had other

advantages. Established by the Church, it benefitted from the organisational network of the parish system, ecclesiastical funds and the close and intimate relationship the Church maintained with local communities. It was able to work from within communities, unlike the CEH. The REMHI project received funding from international organisations and had the support of local civil society movements. Finally, while taking a substantive, practical approach, the project was framed around the Christian paradigm of forgiveness and reconciliation.

REMHI released its final report '*Guatemala: Nunca Más!*' ('Guatemala: Never Again') in April 1998. All of REMHI's findings were handed over to the CEH, which had not yet completed its inquiry. REMHI therefore played an important role in fortifying the commission but also in compensating for its faults. Two days after the release of the report, Bishop Juan José Gerardi, who headed the commission, was beaten to death in his garage in Guatemala City. Some commentators have noted that his death was a testimony to the enduring culture of impunity and violence in Guatemala and the importance of a juridical response to complement REMHI's work.

Conclusion: Truth without Justice

The role of a truth commission does not lie in exposing individual crimes. Rather it is largely a historical inquiry, aimed at

investigating the broad structural causes that led to civil war and the accompanying violence and atrocity. In this regard, the CEH was relatively successful. It identified the institutional roots of the abuses and the systematic nature of state violence. One source identifies the report's strength as its 'simple unity of premise: that the origin of the conflict and the overwhelming majority of violent acts were the responsibility of the Guatemalan state. At the end of the day, it is far easier to clarify history than to find truth and promote reconciliation through public hearings.'⁸²

It was also able to conclude that the government's scorched-earth policy between 1981 and 1983 was an act of genocide.⁸³ The primary function of a truth commission is not juridical exactitude but providing broad meaning for a population so that they can move towards understanding and reconciliation. However successful a truth commission may be, many argue that reconciliation cannot be fully achieved until there is a reciprocal effort in the criminal courts. As one observer concluded: 'Such a report might help achieve "reconciliation", but only in a minimalist sense, providing what Commission official Robert Rodríguez has termed an "escape valve" for the frustrations of surviving victims.'⁸⁴

82 Chapman, Audrey and Patrick Ball (2001), 'The Truth of Truth Commissions: Comparative Lessons from Haiti, South Africa, and Guatemala' *Human Rights Quarterly*, Volume 23, Issue 1, p.33

83 See Guatemala Memory of Silence: Report of the Commission for Historical Clarification (1999), Available from: <http://www.documentcloud.org/documents/357870-guatemala-memory-of-silence-the-commission-for.html> [Accessed 23 July 2013], pp.38-41

84 Wilson, Richard (1997), 'Violent Truths: The Politics of Memory in Guatemala', *Accord: Negotiating Rights: The Guatemalan Peace Process*, p.20

At a conference on memory and truth in Guatemala, one speaker acknowledged that retributive justice is an essential element for reconciliation.⁸⁵ She said that ‘for a true reconciliation and a lasting peace in Guatemala, there need to be a few people who are taken to trial. One, two or three people are going to have to pay for the crimes that were committed. Putting money into development projects is not enough.’⁸⁶ This means that ending impunity is not possible solely through a truth commission; it must be achieved in the courts. Nonetheless, the CEH and REMHI played a key role in changing the political situation in Guatemala. The CEH did not have the last word but it started the conversation. Certain crimes that were permissible are no longer so. Observers perceive a new transparency, a new sense of responsibility and efforts and successes towards retributive justice.

As this case has illustrated, civil society plays an essential role in the truth-telling process. It is important for supporting and contributing to the official course of action but also to make up for deficiencies in the truth commission. One observer has claimed that the establishment of the CEH and the progression of its work were reliant on a robust civil society. ‘In Guatemala civil society was strong enough that it ensured that the Historical Clarification Commission had to be a part of the peace accords. Civil society

85 Rosalina Tuyuc, the Founder and General Coordinator of the National Council of Widows of Guatemala. See See Rosalina Tuyuc, Remarks presented at the conference ‘Memory and Truth After Genocide: Guatemala’ at the United States Holocaust Museum, Washington, DC, March 21, 2000

86 See Rosalina Tuyuc, Remarks presented at the conference ‘Memory and Truth After Genocide: Guatemala’ at the United States Holocaust Museum, Washington, DC, March 21, 2000

put this on the agenda in the negotiating room and through the work of the REMHI Project and other projects, made sure that this would move forward.⁸⁷ Civil society played an important role in organising victims and in the dissemination of information at a local level. While criminal justice is important, and reconciliation is hard to achieve without it, a culture of peace needs change at a local and societal level too. Truth commissions and the work of civil society play an important role in changing attitudes and increasingly understanding at this local level.

Conclusions and Final Analysis

Truth Commissions

Truth commissions should be accompanied with retributive justice where possible but as some have noted; often the choice is not between truth commissions and trials, but between truth commissions and nothing at all.⁸⁸ They are a valuable tool in conflict resolution, contributing towards a structured public dialogue on peace and on the past and encouraging public participation in debates. One approach outlines the five goals of truth commissions as follows:

- First and foremost, the truth commission functions as a

87 See Neil Kritz, Remarks presented at the Conference 'Memory and Truth After Genocide: Guatemala' at the United States Holocaust Museum, Washington, DC, March 21, 2000

88 Paul Van Zyl Kauffman. See Larkin, Craig (November 2005), 'Transitional Justice in Guatemala: Linking the Past and the Future', ISA-South Conference, Miami, Florida, p.8

fact-finding process with the goal of clarifying history and stimulating conversation. It is not necessarily about finding one established truth but about engaging with the facts and discussing various truth claims.

- The second goal is to create a space for victims to tell their story. This does not constitute therapy and may or may not have a negative psychological impact but it is important to give the victim the choice to articulate and express what may have been long repressed.
- The commission can pass policy recommendations for further investigation. Whether or not the recommendations are followed does not negate their importance.
- It can also establish institutional responsibility for human rights abuses. Even in cases where perpetrators cannot be named, like in Guatemala, the commission can account for broad institutional blame.
- Finally, truth-telling can assist in the promotion of reconciliation. As this report has indicated, this is a difficult and sensitive area.⁸⁹

These goals suggest that while the debates over reconciliation are important, the lack of a clear link between truth commissions and reconciliation does not discount the more fundamental value of historical clarification. The same can be said of the relationship between truth commissions and the legal system. Truth commissions only form a *component* of transitional justice;

⁸⁹ Hayner, Priscilla (2001), *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, (Oxon and New York: Routledge), p.20-23

they are not and cannot be responsible for retributive justice. That responsibility falls on the criminal justice system, though as this report has discussed, truth commissions can complement and contribute to that system and in some cases have acquired limited legal powers, such as granting amnesty.

Review of Case Studies

The efforts of civil society in Lebanon are perceived to transcend the Manichean narratives of heroes and villains. Substantial strides have been made towards opening discussion and debate in Lebanon, particularly since 2005, but this debate takes place along sectarian lines. Sectarianism marks the limits of memory-culture in Lebanon; observers argue that it must be addressed and overcome before any real reconciliation can be achieved. This is a momentous challenge and outside of the scope of this report, but incorporating politicians into the memory retrieval process, creating a shared history curriculum, discussing all truth claims with candour and open-mindedness and continuing to work within communities are all positive steps that civil society organisations within Lebanon can take to this end.

In Guatemala, it is frequently reported that the major obstacle to reconciliation can be seen to be the judicial system. Levels of corruption and impunity within Guatemala and a failure to hold perpetrators to account for past crimes have eroded trust in the legal system and in sources of authority. There have been signs

of improvement in recent years, but the Guatemalan case study illuminates the limitations of truth commissions and of civil society efforts at truth telling. Transitional justice is about resolving the *legacy* of human rights violations; this cannot only be achieved through a truth-telling process that is ignored by those in power. In Guatemala, many place the responsibility now on a legal system which has made some important, though limited, gains towards justice in recent years.

In both cases, without the participation of the political establishment in the construction of the official narrative, the role that CSOs can play may be limited and may lack legal clout and legitimacy.

Some suggestions for policy makers and civil society actors

Truth commissions can often be a positive component in the peacebuilding process and it can often be beneficial to incorporate them in peace processes in spite of their shortcomings. However, truth commissions need to incorporate a highly sensitive process, and great care should be taken to avoid negative repercussions. The following issues should be taken into consideration:

- For individuals, the benefits of truth-telling are often ambiguous. The psychological impact of the process may be cathartic but can be traumatic, giving way to renewed trauma, anxiety and stress. Truth sessions should be acknowledged and presented not as therapeutic sessions but

as attempts to uncover truth through testimony and to create space for discussion. It is important to provide support and services for the victims following truth-telling sessions, though this report acknowledges the difficulty of finding funding for such services. Civil society can play a role in establishing support groups and spaces for group discussion and healing. In Argentina, 'Children of the Disappeared' was established to help youths come to terms with missing parents.⁹⁰

- Truth commissions should be aware of the difficulties of the concept of a single truth and not market their findings as one *absolute* truth. Because truth commissions operate on a national level, it is important to try to represent a multitude of voices and to present opposing views and narratives. Memory can be fickle; it can be warped by trauma, time or emotion. It is not a reliable source of *historical fact*. However, hundreds of testimonies along with documentation can provide a broad understanding of a conflict and its underlying causes.
- Truth commissions should be tailored to the specific political and cultural needs of the country in which they operate. In Lebanon, a truth commission is no longer advisable or viable after such a long period of silence, and truth-telling has fallen to civil society. The same may be said for Cambodia, which due to the long influence of the Khmer Rouge,⁹¹ failed to

90 Hayner, Priscilla (2001), *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, (Oxon and New York: Routledge), p.157

91 The Khmer Rouge government killed between one and two million people in Cambodia in the late 1970s. In the early 1980s, immediately after the Khmer Rouge were driven from power, there was a reluctance to recount past events because of fears of re-igniting conflict. By the early 1990s, the Khmer Rouge seemed unlikely to prosecute Khmer Rouge actors because of the potential implication of economic and political elites and a weak judiciary.

come to terms with its past. Now international observers do not recommend a truth commission there but rather a community-based truth-telling mechanism.⁹²

- The strength of a truth commission will depend on a number of variables. These include the mandate and power of the truth commission based on those playing a role in its creation. The strength of its political backing and the strength of civil society also influence the outcome of a truth-seeking process. Other factors that can influence the success of a truth commission are the level of fear, security and openness of society. Finally, the role of the international community is significant.

A Cambodian Truth Commission

The Khmer Rouge government killed between one and two million people in Cambodia in the late 1970s. In the early 1980s, immediately after the Khmer Rouge were driven from power, there was a reluctance to recount past events because of fears of re-igniting conflict.

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Debate is on-going as to whether a truth commission is viable or advisable at this point. See Hayner, Priscilla (2001), *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, (Oxon and New York: Routledge), p.204-207

92 Hayner, Priscilla (2001), *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, (Oxon and New York: Routledge), p.206

Truth commissions can be limited for either political or economic reasons. Civil society should play an active role in supporting existing truth commissions and in supplementing their work and findings. The involvement of civil society can contribute towards broadening the bases of democratic involvement by incorporating a wide range of different groups. They offer distinct opportunities, given their proximity to local communities, sensitivity to local issues and in the absence of official truth-telling commissions or the presence of a political agenda in the construction of history. Civil society can assert pressure on the authorities to assist in the establishment of a truth commission, the dissemination of its findings and the implementation of its recommendations. In Peru, it was only after significant pressure from civil society that there was an official inquiry into alleged human rights violations during the conflict between the government and guerrilla group 'The Shining Path' that lasted from 1980 to 2000.⁹³

93 The collapse of President Alberto Fujimori's government in November 2000 opened the possibility of investigation into two decades of alleged government abuses. From 1980, armed conflict between the government and armed revolutionary groups (including the Shining Path and Túpac Amaru Revolutionary Movement, MRTA) was marked, according to observers, by extrajudicial killings, disappearances and torture. The Peruvian Truth and Reconciliation Commission has been considered one of the strongest truth commissions by many academics. The commission was the first Latin American commission to hold public hearings which were instrumental in spreading awareness and in opening public dialogue on the past. The commission operated for two years with a budget of \$13 million and had over 500 staff at its peak. See Hayner, Priscilla (2001), *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, (Oxon and New York: Routledge), pp.35-39

Peru: Truth and Reconciliation Commission, 2001-2003

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The commission operated for two years with a budget of \$13 million and had over 500 staff at its peak. It was presided by Professor Salomon Lerner Febres.

Commissions are an official process with an established framework. Civil society can provide more flexible and interesting means to explore memory retrieval and societal reconciliation. CSOs can incorporate artistic, intellectual and popular processes with which to engage the population. They can also focus on specific interest groups such as war widows, children or particular minority groups. It is important that civil society employs a range of different approaches and projects in order to engage with as many sectors of the population as possible. UMAN D&R provides a good example of an NGO that has adopted a multifaceted and creative approach to historical inquiry. Memory retrieval should not be an elite or an intellectual project but should engage local communities. As this report has already discussed, it is important that CSOs do not

only focus on ‘victims’ but try to incorporate ‘perpetrators’ into the memory retrieving process. By failing to engage with politicians or key actors from the civil war, civil society risks isolating a large portion of the population and of therefore forgoing any chance at real reconciliation.

Civil society has the advantage of transcending the political process. Civil society actors can raise issues, they can cut across parties and groups, and they can garner international support. Unlike political parties, they are not tied to specific, fixed programmes, they have a degree of flexibility because they do not need to appease voters or worry about elections. While civil society is difficult to define, its vague structural nature can also be one of its strengths. Civil society is diverse; it can represent broad swathes of society. However, civil society must be embedded within that society, if it is represented solely by NGOs that have more substantial ties to the realm of the international than the local communities they claim to represent, for example, then civil society will fail to articulate any kind of national or even communal voice.

Finally, in an ethnically or religiously fractured community, civil society faces the challenge of bridging sectarian or ethnic divide. The challenge is to find a common cause that can link communities and transcend such divides. In Lebanon, one step that could be made towards this end is a shared history curriculum that represents different perspectives. National monuments are important. Creating links across other shared identities is important too:

links of national identity, gender, occupation, shared agendas, or intellectual and artistic interests. Shared goals and priorities of peace, of democracy-building and of inclusive discussion can also create bridges across communities.

Suggestions for Policy Makers and Civil Society Actors

- Truth sessions should be acknowledged and presented not as therapeutic sessions but as attempts to uncover truth through testimony and create space for discussion.
- Commissions should be aware of the difficulties of a single truth and not market their findings as one absolute truth.
- Truth commissions should be tailored to the specific political and cultural needs of the country in which it operates.
- Civil society should play an active role in supporting existing truth commissions and supplementing their work and findings.
- It is important that CSOs do not only focus on victims but try to incorporate perpetrators into the memory retrieving process.
- In ethnically or religiously fractured communities, civil society should try to find a common cause to bridging sectarian or ethnic divide.

Closing Remarks

Peace is never absolute. The potential for a return to violence even after a successful peace process is high. Up to 50 per cent of post-conflict countries return to war within a few years.⁹⁴ To avoid a return to conflict, proponents of truth commissions argue that it is essential that there is an engagement with the past, in order to understand and move on. Civil society is ideally located to encourage dialogue and engagement with the past when the national process fails.

One critic has argued that the Truth and Reconciliation Commission in South Africa was ‘careful not to rock the structural boat.’⁹⁵ It did not fundamentally alter society but rather operated within existing political and economic strictures. Victims saw little change in their daily lives or social standing. She writes that: ‘To look towards reconciliation or peaceful coexistence, action has to involve the whole of society... With a sustained lack of effort from the beneficiaries of apartheid, who retain the dominant socio-economic power to implement change, there is little scope for social justice.’⁹⁶

94 Malone, David M., Review of ‘Building Peace After War’ by Mats Berdal (2007), *Canadian Foreign Policy*, p.153

95 Stanley, Elizabeth (2001), ‘Evaluating the Truth and Reconciliation Commission’, *The Journal of Modern Africa Studies*, Vol. 39, No.3, p.526

96 Stanley, Elizabeth (2001), ‘Evaluating the Truth and Reconciliation Commission’, *The Journal of Modern Africa Studies*, Vol. 39, No.3, p.543

The same could be said for the cases of Guatemala and Lebanon, where efforts at historical clarification have not fundamentally changed the status quo but have provided some tools by which to do so. In conclusion, the truth commissions are of the utmost importance in societies enduring conflict, however it is their efficacy that is of real consequence. The value of a truth commission lies in laying the groundwork for future change.

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DPI Board and Council of Experts

Director:

Kerim Yildiz

Kerim Yildiz is Director of DPI. He is an expert in international human rights law and minority rights, and is the recipient of a number of awards, including from the Lawyers Committee for Human Rights for his services to protect human rights and promote the rule of law in 1996, the Sigrid Rausing Trust's Human Rights award for Leadership in Indigenous and Minority Rights in 2005, and the Gruber Prize for Justice in 2011. Kerim has written extensively on human rights and international law, and his work has been published internationally.

DPI Board Members:

Nicholas Stewart QC (Chair)

Barrister and Deputy High Court Judge (Chancery and Queen's Bench Divisions), United Kingdom . Former Chair of the Bar Human Rights Committee of England and Wales and Former President of Union Internationale des Avocats.

Professor Penny Green (Secretary)

Head of Research and Director of the School of Law's Research Programme at King's College London and Director of the International State Crime Initiative (ICSI), United Kingdom (a collaborative enterprise with the Harvard Humanitarian Initiative and the University of Hull, led by King's College London).

Priscilla Hayner

Co-founder of the International Centre for Transitional Justice, global expert and author on truth commissions and transitional justice initiatives, consultant to the Ford Foundation, the UN High Commissioner for Human Rights, and numerous other organisations.

Arild Humlen

Lawyer and Director of the Norwegian Bar Association's Legal Committee. Widely published within a number of jurisdictions, with emphasis on international civil law and human rights. Has lectured at law faculties of several universities in Norway. Awarded the Honor Prize of the Bar Association for Oslo for his work as Chairman of the Bar Association's Litigation Group for Asylum and Immigration law.

Jacki Muirhead

Practice Director, Cleveland Law Firm. Previously Barristers' Clerk at Counsels' Chambers Limited and Marketing Manager at the Faculty of Advocates. Undertook an International Secondment at New South Wales Bar Association.

Professor David Petrasek

Professor of International Political Affairs at the University of Ottawa, Canada. Expert and author on human rights, humanitarian law and conflict resolution issues, former Special Adviser to the Secretary-General of Amnesty International, consultant to United Nations.

Antonia Potter Prentice

Expert in humanitarian, development, peacemaking and peacebuilding issues. Consultant on women, peace and security; and strategic issues to clients including the Centre for Humanitarian Dialogue, the European Peacebuilding Liaison Office, the Global Network of Women Peacemakers, Mediator, and Terre des Hommes.

DPI Council of Experts

Dermot Ahern

Dermot Ahern is a Former Irish Member of Parliament and Government Minister and was a key figure for more than 20 years in the Irish peace process, including in negotiations for the Good Friday Agreement and the St Andrews Agreement. He also has extensive experience at EU Council level including being a key negotiator and signatory to the Constitutional and Lisbon Treaties. In 2005, he was appointed by the then UN Secretary General Kofi Annan to be a Special Envoy on his behalf on the issue of UN Reform. Previous roles include that of Government Chief Whip, Minister for Social, Community and Family Affairs, Minister for Communications, Marine and Natural Resources, Minister for Foreign Affairs and Minister for Justice and Law Reform. Dermot Ahern also served as Co-Chairman of the British Irish Inter Parliamentary Body 1993 – 1997.

Dr Mehmet Asutay

Dr Mehmet Asutay is a Reader in Middle Eastern and Islamic Political Economy and Finance at the School of Government and International Affairs (SGIA), Durham University, UK. He researches, teaches and supervises research on Middle Eastern economic development, the political economy of Middle East including Turkish and Kurdish political economies, and Islamic political economy. He is the Honorary Treasurer of BRISMES (British Society for Middle East Studies) and of the International Association for Islamic Economics. His research has been published in various journals, magazines and also in book format. He has been involved in human rights issues in various levels for many years, and has a close interest in transitional justice, conflict resolution and development issues at academic and policy levels.

Christine Bell

Legal expert based in Northern Ireland; expert on transitional justice, peace negotiations, constitutional law and human rights law advice. Trainer for diplomats, mediators and lawyers.

Cengiz Çandar

Senior Journalist and columnist specializing in areas such as The Kurdish Question, former war correspondent. Served as special adviser to Turkish president Turgut Ozal.

Yilmaz Ensaroğlu

SETA Politics Economic and Social Research Foundation. Member of the Executive Board of the Joint Platform for Human Rights, the Human Rights Agenda Association (İHGD) and Human Rights Research Association (İHAD), Chief Editor of the Journal of the Human Rights Dialogue.

Dr. Salomón Lerner Febres

Former President of the Truth and Reconciliation Commission of Perú; Executive President of the Centre for Democracy and Human Rights of the Pontifical Catholic University of Perú.

Professor Mervyn Frost

Head of the Department of War Studies, King's College London. Previously served as Chair of Politics and Head of Department at the University of Natal in Durban. Former President of the South African Political Studies Association; expert on human rights in international relations, humanitarian intervention, justice in world politics, democratising global governance, just war tradition in an Era of New Wars and ethics in a globalising world.

Martin Griffiths

Founding member and first Executive Director of the Centre for Humanitarian Dialogue, Served in the British Diplomatic Service, and in British NGOs, Ex -Chief Executive of Action Aid. Held posts as United Nations (UN) Director of the Department of Humanitarian Affairs, Geneva and Deputy to the UN Emergency Relief Coordinator, New York. Served as UN Regional Humanitarian Coordinator for the Great Lakes, UN Regional Coordinator in the Balkans and UN Assistant Secretary-General.

Dr. Edel Hughes

Senior Lecturer, University of East London. Expert on international human rights and humanitarian law, with special interest in civil liberties in Ireland, emergency/anti-terrorism law, international criminal law and human rights in Turkey and Turkey's accession to European Union. Previous lecturer with Amnesty International and a founding member of Human Rights for Change.

Avila Kilmurray

A founder member of the Northern Ireland Women's Coalition and was part of the Coalition's negotiating team for the Good Friday Agreement. She has written extensively on community action, the women's movement and conflict transformation. Serves on the Board of Conciliation Resources (UK); the Global Fund for Community Foundations; Conflict Resolution Services Ireland and the Institute for British Irish Studies. Avila was the first Women's Officer for the Transport & General Workers Union for Ireland (1990-1994) and became Director of the Community Foundation for Northern Ireland in 1994. Avila was awarded the Raymond Georis Prize for Innovative Philanthropy through the European Foundation Centre.

Professor Ram Manikkalingam

Visiting Professor, Department of Political Science, University of Amsterdam, served as Senior Advisor on the Peace Process to President of Sri Lanka, expert and author on conflict, multiculturalism and democracy, founding board member of the Laksham Kadirgamar Institute for Strategic Studies and International Relations.

Bejan Matur

Renowned Turkey based Author and Poet. Columnist, focusing mainly on Kurdish politics, the Armenian issue, daily politics, minority problems, prison literature, and women's issues. Has won several literary prizes and her work has been translated into 17 languages. Former Director of the Diyarbakır Cultural Art Foundation (DKSV).

Professor Monica McWilliams

Professor of Women's Studies, based in the Transitional Justice Institute at the University of Ulster. Was the Chief Commissioner of the Northern Ireland Human Rights Commission from 2005-2011 and responsible for delivering the advice on a Bill of Rights for Northern Ireland. Co-founder of the Northern Ireland Women's Coalition political party and was elected to a seat at the Multi-Party Peace Negotiations, which led to the Belfast (Good Friday) Peace Agreement in 1998. Served as a member of the Northern Ireland Legislative Assembly from 1998-2003 and the Northern Ireland Forum for Dialogue and Understanding from 1996-1998. Publications focus on domestic violence, human security and the role of women in peace processes.

Jonathan Powell

British diplomat, Downing Street Chief of Staff under Prime Minister Tony Blair between 1997-2007. Chief negotiator in Northern Ireland peace talks, leading to the Good Friday Agreement in 1998. Currently CEO of Inter Mediate, a United Kingdom-based non-state mediation organization.

Sir Kieran Prendergast

Served in the British Foreign Office, including in Cyprus, Turkey, Israel, the Netherlands, Kenya and New York; later head of the Foreign and Commonwealth Office dealing with Apartheid and Namibia; former UN Under-Secretary-General for Political Affairs. Convenor of the SG's Executive Committee on Peace and Security and engaged in peacemaking efforts in Afghanistan, Burundi, Cyprus, the DRC, East Timor, Guatemala, Iraq, the Middle East, Somalia and Sudan.

Rajesh Rai

Rajesh was called to the Bar in 1993. His areas of expertise include Human Rights Law, Immigration and Asylum Law, and Public Law. Rajesh has extensive hands-on experience in humanitarian and environmental issues in his work with NGOs, cooperatives and companies based in the UK and overseas. He also lectures on a wide variety of legal issues, both for the Bar Human Rights Committee and internationally.

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