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Truth Commission Archives as "New Democratic Spaces"

Introduction

Proponents of truth commissions argue that they can support a society's transition away from a past of human rights abuses by helping to provide closure, strengthen the democratic process, and rebuild trust between citizens and between the citizens and the state (Freeman and Hayner 2003). In this sense truth commissions can play a role in shaping a new social contract capable of supporting a peaceful and democratic future. However, what has often been overlooked in the growing literature on truth commissions and their practice is their archives. This is a surprising omission given the possibilities provided by archives in helping to ensure a legacy of social and political transformation long after the mandate of any specific truth commission has been completed.

Truth commissions all collect and produce records which may include written and recorded testimonies, minutes of meetings, videos, pictures, artwork and media sources.[1] Such sources are then organised in archives which quickly become part of the legacy of the truth commission. However, research which we conducted in 2012-2014 found that most of these archives suffer a

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[1] In our work we are less interested in the records which relate to the administrative life of the truth commission, which are of course important, but instead focus on the investigative records which relate to the human rights violations which are to be investigated during the mandate of the truth commission.

'phantom-like' existence – while they exist, neither the public nor commission staff have clarity on where and for how long they remain available (Jones, Oliveira and Rubli 2014). In many cases truth commission archives are not widely used by the public and it is difficult to gain access to their content, especially if one is a victim of a human rights violation living far from the capital where archives are usually based. Accordingly a number of challenges exist to sustaining the legacy of truth-seeking initiatives past the point of the production of a truth commission final report.

In response to this practical need we propose an alternative conceptualisation of truth commission archives as new democratic spaces. Instead of elaborating an 'end point' for this approach the paper takes the form of a thought experiment, probing the possibilities offered by the new democratic spaces literature for re-thinking how truth commission archives can be understood and designed. The purpose of which is to enhance their contribution to a new social contract following massive human rights abuses which have put to question trust in the state and in fellow citizens. In this sense, as we elaborate below, we focus on two main elements of new democratic spaces: participation/ownership and state-society relations. We suggest that the transformation of truth commission archives into spaces for the interaction between society and the state can help in the development of a broader human

rights culture capable of sustaining the longer-term processes necessary for a transition away from a past of human rights violations.

This argument is based on the findings of our recent research project at the intersection between archival science and dealing with the past. The connection between these two areas of work has been under-discussed and under-researched giving our project a two-fold purpose to (a) find out what had happened to the archives of truth commissions whose mandate had been completed and (b) reflect on the decisions being taken with respect to these archives from a dealing with the past perspective.

In the following section we outline our methodology in more detail and then move onto the first part of the paper which forms the background to our analysis and includes a review of the literature on truth commission archives, and reflections on the relevance of concept of new democratic spaces for this topic. The second part of the paper consists of analysis of our data and desk-based research focused on truth commission archives as space, participation and ownership, and state-society relations. The concluding section highlights the possibilities offered by our approach and policy implications. The material generated through this project, and cited in this paper, demonstrates the importance of bringing together insights from archival science with dealing with the past. Archives documenting human rights abuses can never be seen as static

and separated from the broader social and political contexts which have shaped, and in turn are shaped by, them. Moreover, the theory of new democratic spaces allows us to re-think how a truth commission archive might be able to support a society's reckoning with past human rights abuses and its ongoing dialogue about a social contract for the future.

Methodology

Our project *Archives and the Records of Truth Commissions*[2] built on an original study by Trudy Huskamp Peterson in which she detailed the current status of the archives of truth commissions which had completed their mandate by the time of her study, *Final Acts: A Guide to Preserving Records of Truth Commissions* (2005). Between July 2012 and October 2014 our project collected data on selected cases from Peterson's 2005 study as well as on new cases of truth commissions which had completed their mandate after 2005. From Peterson's sample we excluded commissions of inquiry,[3] and selected the follow-up cases of: Argentina, Chad, Haiti, Peru, Uganda and Uruguay. These cases were selected based on availability of information. New cases which

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[2] The description of the data sets draws on the annex of a previous publication Rubli, S. and Jones, B. 2013. *Archives for a Peaceful Future: A Guidance Note for Working with the Archives of Truth Commissions in Dealing with the Past Contexts*. swisspeace Essential 01/2013, available at http://www.swisspeace.ch/publications/essentials.html

[3] Such as the "International Commission of Inquiry" in Burundi, the German "Enquête-Kommission Aufarbeitung von Geschichte und Folgen der SED Diktatur" or the "Commission on Inquiry to Find the Disappeared Persons during the Panchayat Period" in Nepal.

completed their mandate after 2005 and which thus came under the remit of our study include the truth commissions in Democratic Republic of Congo, Ecuador (2007), Ghana, Honduras, Liberia, Morocco, Paraguay, Sierra Leone, South Korea (2005) and Timor Leste.

In addition, the sample only takes into account official, state-sanctioned truth commissions and does not consider unofficial truth commissions, such as those established by non-governmental organizations or churches (as was the case in Israel), commissions that have been transformed into permanent human rights bodies (for example Rwanda), disbanded (for example Serbia and Montenegro) or those which were still ongoing when we began the data collection (such as Ivory Coast, Kenya, Solomon Islands or Mauritius).

Data collection on this subject matter is time-consuming and challenging as archive staff in many of these contexts are difficult to locate, and information on current access was extremely hard to gain. For many of the cases no information was forthcoming despite multiple attempts at contact, and it is worth noting here that Peterson experienced similar issues in her 2005 study. This methodological challenge also reflects, we believe, the complicated and challenging empirical realities in which truth commission archives are embedded. This means that the data set generated by this research, and on which this paper draws, is rich but nonetheless limited in scope to:

1. Nine questionnaires in English, French and Spanish filled in by staff from national archives, embassy staff, and former commissioners of the truth commissions.

2. Seven semi-structured key informant interviews conducted in English and French with the respondents listed above as well as academics working on the cases. In addition to establishing what had happened to truth commission archives that had completed their mandates, the key informant interviews were used as dialogues in which interviewees were encouraged to reflect in a qualitative manner on issues such as access, impact and narratives of truth.

3. Grey literature such as the mandates of truth commissions, final reports and reports of non-governmental organizations. Such data contains information on the legal framework in which the truth commission operated, on its records, the custodial institution of its archives, on the access rules and the use of the archives, on the laws or decrees establishing the truth commission and recommendations made in the final reports regarding provisions for the records and the archives.

4. Feedback from a validation workshop attended by nine archivists and/or dealing with the past experts on the data set generated and questions it raises.

Each truth commission we researched varies in terms of its mandate (what crimes, what time period and what powers such as whether it can issue subpoenas), the types of documentation generated and collected (public hearings, written testimonies, photographs, video) and what provisions or not are made for archives. This reflects the lack of standardized practice in terms of truth commission archives and provides us with an opportunity to examine this variety as part of a 'taking stock' exercise which asks how truth commission archives currently function in terms of the key elements of new democratic spaces which we focus on. The following able highlights some of the key similarities and differences in truth commission archives from our data set.

Archives - Typology

New Cases

Country	Reference to archives in TRC law?	Reference to archives in TRC report?	Location of archives known?	Are the archives openly accessible?	Are access conditions known?
DRC (2003-2007)	✗	✗	♦	♦	♦
Ecuador (1996-1997)	♦	✗	✗	✗	✗
Ecuador (2007-2009)	✓	✓	✓ ✗	♦	♦
Ghana (2003-2004)	✓	✗	✗	✗	✗
Honduras (2010-2011)	✓	✗	✓	♦	♦
Liberia (2006-2009)	✓	✓	✓ ✗	♦	♦
Morocco (2004-2005)	✓	✓	✓	✓	✓
Paraguay (2004-2008)	✗	✓	♦	♦	♦

	Reference to archives in TRC law?	Reference to archives in TRC report?	Location of archives known?	Are the archives openly accessible?	Are access conditions known?
Sierra Leone (2002-2004)	✓	✓	✓	✓	✓
South Korea (2005-2010)	✗	✓	✓	♦	♦
Timor-Leste (2002-2005)	✓	✓	✓	✓	✓
Updated Cases					
	Reference to archives in TRC law?	**Reference to archives in TRC report?**	**Location of archives known?**	**Are the archives openly accessible?**	**Are access conditions known?**
Country					
Argentina (1983-1984)	✗	✓	✓	✓	✓
Chad (1990-1992)	✗	✗	✓	♦	♦
Haiti (1995-1996)	✗	✓	✗	✗	✗
Peru (2001-2003)	✓	✗	✓	✓	✓
Uganda (1986-1994)	✗	♦	♦	♦	✗
Uganda (1974)	✗	✗	✗	✗	✗
Uruguay (2000-2002)	♦	✗	✓	✓	✓

✗	No
✓✗	Digital copy exists but physical location is unclear
✓	Yes
♦	Information could not be verified - contacts left unanswered

This data was collected, as previously stated, in order to update a study conducted in 2005 on the status of archives of truth commissions which had completed their mandate. In addition to this update our data also provides an

opportunity to reflect more conceptually on the decisions being taken on truth commission archives and the role they can play in a society's reckoning with past human rights violations.

Truth Commissions and their Archives

We take as a starting point the recent literature which describes dealing with the past as a contested process which necessarily involves choices, negotiations and assumptions regarding both past experiences of violence and the possibility of a shared vision for the future (see for example McEvoy and McGregor 2008). As Meister has written 'the cost of achieving a moral consensus that the past was evil is to reach a political consensus that the evil is past. In practice, this political consensus operates to constrain debate in societies that regard themselves as "recovering" from horrible histories' (2002: 96). This is particularly apposite when addressing human rights abuses of the past when '[a]s a moral vocabulary the language of human rights offers ways of talking about the experiences of people; the language offers a way of perceiving, imagining and interpreting suffering' (Ojara, 2012: 180). With reference to truth commissions in particular we might think of negotiations over what counts as truth, the possibility of multiple truths and the often shifting and blurred lines between truth and non-truth. On this subject Syrri has highlighted that '[w]hile engaging in ordering, grouping and negotiating the past, new relationships of

participation, exchange, dialogue, new meanings, disagreement and compromise, possibly trust and respect, could be established' (2008: 226).

As such truth commissions play a role as sites of contestation over the past and future. Societies which have experienced a period of systematic human rights abuses committed by state and non-state actors often also experience diminished trust between citizens and the state, as well as between citizens themselves (Bloomfield, 2003). Uncovering patterns of abuse, identifying victims, bringing responsible persons to justice and providing closure are thus the commonly stated goals of truth commissions. However, whilst some of the process of truth-telling which is undertaken by truth commissions relies on what can be considered a search for 'fact-based truth' – i.e. establishing who did what, where, when and to whom – a very significant part of the division created by human rights violations stems from real and legitimate but nonetheless differing perceptions of the past.

Dijksterhuis and Knippenberg (1998) have highlighted that truth-telling in any given moment will be shaped by how individual actors understand themselves, their role in past violence, and the motivations of others. In addition, truth commissions may themselves be part of a broader strategic use of transitional justice by governments seeking international legitimacy and domestic power (see for example Subotić 2009). Such dynamics mean that truth commissions

are not simply part of a truth-gathering or uncovering exercise; instead they move between different perceptions of the truth and in their final reports pronounce on the veracity of different versions of events. Such dynamics can be as much about understanding the past as about defining what the future should look like.

By highlighting briefly some of the complexity not only of dealing with the past but also of negotiating truth as a truth commission we are prompted to ask how the legacy of a truth commission can contribute to such dialogues and contestations which are necessarily longer-term than an individual commission's mandate. Surprisingly the use of truth commission archives has been under-explored in the literature on truth commissions, despite much interest in impact (see for example Wiebelhaus-Brahm 2010; Bakiner 2014). Some important work in this area has been done by Peterson who argues that preserving this material ensures social remembering beyond that which is mentioned in the final report, and also allows victims, future generations, researchers or persons contesting the report to continue to make their own interpretations and conclusions (2005: 2).

Building on these observations three elements form the background assumptions of this paper: that dealing with the past is contested; that truth commissions negotiate between different versions of the truth; and that

archives have been neglected despite their importance for a longer-term perspective on the impact of truth-seeking on the future protection of human rights. Bringing archives to the fore we position ourselves in the constructivist literature on archival science. In contrast to the positivist approach, which views the archive as a static depository of information, constructivists understand the archive as part of a broader formation of memory and the making of meaning. Accordingly they prioritise rich contextualisation of text, the presence of competing narratives, the role of oral history as a form of archive, the broader participation of non-archivists in the process of memory formation and story-telling and the influence of the archivist themselves on all of these processes (see for example Harris 2002). For constructivists the archive acts to open a space for many, varied and ongoing interpretations.

Taking this approach we research archives not as mere objects or 'things' but as 'epistemological experiments', transforming these spaces from mere 'knowledge retrieval' sites to ones where knowledge is constructively produced, discussed and replicated alongside the broader public (Stoler, 2002: 87, 90). If we no longer understand archives as mere depositories of 'the truth' it becomes possible for them to serve as arenas which can allow often excluded voices to be heard, and where power shifts constantly according to ongoing social and political dialogue. This understanding of the archive brings us to the nature of the archive as a 'new democratic space'. In the rest of the paper we explore the

possibility of creating truth commission archives which are new democratic spaces actively contributing to the deepening of democracy and a human rights culture as societies undergo complex and often contested transitions away from a past of human rights abuses.

New Democratic Spaces and Truth Commission Archives

> The space in which we live, which draws us out of ourselves, in which the erosion of our lives, our time and our history occurs, the space that claws and gnaws at us, is also, in itself, a heterogeneous space. In other words, we do not live in a kind of void, inside of which we could place individuals and things. We do not live inside a void that could be colored with diverse shades of light; we live inside a set of relations that delineates sites which are irreducible to one another and absolutely not superimposable on one another. (Foucault, 1986: 23)

Whereas a definition of space can encompass several different meanings, the one we use refers to more than the physical and spatial. We understand spaces

also as opportunities for engagement, increasing exchanges that enhance the quality and legitimacy of decision-making. Following Foucault's work in 'Of Other Spaces: Utopias and Heterotopias' (1986), we accept that in order to not only reconstruct but also reshape a society, new methods for the participation and engagement of society in spaces of decision-making must be developed.

Scholars have grappled with the idea of 'space' and how it is connected with participation and engagement of society in decision-making. For example, Lefebvre's understanding of space (1991) is as a social construct, a production that can be shaped and changed in relation to the ways we understand it and the ways in which society organises it. Cornwall (2004) distinguishes between 'invited' spaces as offered by government or state structures and 'popular spaces' as emanating from people's organisation. For our work on truth commission archives we find Cornwall's later work on new democratic spaces (2014) to be particularly useful. Defined as 'political spaces for public engagement in governance' (Ibid: 1) they are first and foremost participatory spaces. In order for society to advance, she argues, it is necessary for citizens to actively engage in decision making processes and move towards a different understanding of their responsibilities and the relationship between state and society. It follows that new democratic spaces can bring together society and state in both an exchange of information and in negotiation over the transformation of former forms of governance into new and more open ones.

The concrete characteristics of new democratic spaces – for example how formal or informal they can be, or their durability and scope – will vary according to the different contexts in which they are each embedded.

Pablo de Greiff stresses that "transitional periods are deeply political ones in the life of nations, periods during which at least some of the terms of the social contract seem to be up for renegotiation" (2014: 13). The importance of the social contract was also recently highlighted by the United Nations Development Programme in their 2012 document *Governance for Peace*. Such a contract is only valid and credible, according to the UNDP, when "it adequately reflects citizens' expectations and the state's capacity to meet these expectations." (2012: 18), going on to state that "if popularly viewed as legitimate, a social contract can help to reduce armed violence. Groups of citizens may desist from claiming rights through violence, but rather obtain them through (non-violent) negotiation with public authorities and other citizens." (ibid.)

Although the concept of the social contract is certainly not new,[4] the idea of opening up spaces to re-discuss the social contract with citizens after a period of systematic human rights abuses is only now coming to the fore of policy

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[4] We think here of the work of political theorists such as Hobbes, Locke and Rousseau.

discussions in terms of transitional justice and peacebuilding. An appreciation of the need to think in terms of the longer-term future of a society and to tackle root causes of violence has the potential to move beyond instrumental approaches to transitional justice and the often short-term interventions which have led to frustrations over limited impact and change as discussed above.

In sum, we find the idea of new democratic spaces particularly apposite for truth commission archives. Truth commission archives originate from an official act of the state which mandates a truth commission to carry out its work. However, to limit the arenas and spaces for participation only to spaces that are officially sanctioned by the state – the 'invited spaces' of Cornwall – would be to limit the debate to a state-centred perspective (Miraftab, 2004). Instead, we need to re-imagine ways of understanding and organising archives that combine the use of these physical spaces provided by the state with new spaces and social forms of engagement. This would allow the truth-seeking moment to be more than the vision of the dominant group who mandates the work, and for the archive itself to play an active role in the kinds of negotiations over reckoning with a past of human rights abuses that we highlighted earlier in our paper. In particular, as we will explore, the possibilities offered by understanding archives as new democratic spaces allow us to directly address some of the limitations of current practice in terms of truth commission archives and to ensure that such truth-seeking processes can have a longer-term impact on attitudes to human rights

in the society undergoing transition from a past of human rights violations. In doing so we first focus on truth commission archives as 'invited spaces', and then go on to explore how participation and state-society relations are relevant in our data, pointing at ways forward for truth commission archives as new democratic spaces.

Truth Commission Archives as Space

Truth commissions as we understand them here are invited spaces in the sense that they are formally mandated by a government or international organisations such as the United Nations. They have their own rules, goals and outputs determined by the mandates which are drawn up at their inception. Before we go on to explore the ways in which such a space can become 'new and democratic' we need to first outline how the truth commission archive commonly functions as an invited space and its own logic of ordering the past.

Truth commissions themselves have an interpretive function, in the way that they choose to order and present the past. They have mandates which specify the time period, geographical location and qualitative nature of the human rights violations which will be the objects of their work. In doing so crimes are divided into those which are relevant/not relevant, time is divided into pre-violence/violence/post-violence, and experiences are divided into those of the

victim, the perpetrator, and the bystander. That which falls within the mandate of the truth commission is rendered visible and is organised accordingly. The archive of the truth commission, as the collection of the records used and produced in this work, is thus a direct product of a particular form of ordering of the past.

In Burundi the discussions around the planned truth commission and tribunal include whether events labelled as 'massacres' by the truth commission may then be later investigated as 'genocide' or not by the tribunal. According to Vandeginste the categorization of events by the planned truth commission goes beyond a descriptive function and becomes one of evaluation and judgment (2011). This is not just a choice of words and technical language but has implications for how individual stories of harm are interwoven into broader narratives of what happened, to whom and when.

In the case of Timor Leste crimes were divided into two categories: serious crimes and less serious crimes. The former, which included rape, murder, torture and command responsibility came under the mandate of special courts set up by the United Nations in collaboration with the Government of Timor Leste. The latter came under the mandate of the truth and reconciliation

commission, referred to as the CAVR (Interview E-TLa).[5] The act of separating

crimes out in such a manner informs how the archive will later be organised and

structured, and how people may be able to search for information; it already

determines how we start to think about the violations and which categories and

labels we give to different stories.

A truth commission thus addresses human rights violations by focusing its work

on particular crimes and particular stories. As Leebaw points out, they interpret

past events right from the start of their work, often making selections of the

most tragic, illustrative stories and experiences in the light of a certain goals

which can be found in their mandate and which are an expression of the needs

of the present society (2008). Indeed not every crime can be investigated in

terms of including all individual events and truth commissions thus tend to focus

on patterns of crimes (Wiebelhaus-Brahm, 2010) which may be interpreted

differently by different truth commissions (Dancy et al., 2010).

There has been literature which criticizes this tendency towards exclusivity and

the marginalization of certain voices, especially those of women (see for

example Hayner 2010) and the ways in which 'good' and 'bad' victims may be

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[5] The Portuguese acronym for the Commission for Reception, Truth and
Reconciliation/ Comissão de Acolhimento, Verdade e Reconciliação de Timor Leste,
which was active from 2002-2005: http://www.cavr-timorleste.org/.

labelled. This already narrows the range of possible identities and positionalities

from which one can speak (Gready, 2010: 182-183). As Buckley-Zistel asserts:

> Truth commissions are also embedded in an
> institutional framework which determines the
> discourse and consequently regulates who is allowed
> to speak and who remains excluded; what can be
> said and what remains silent. This has crucial
> consequences for the content of the truth because it
> determines how statements are construed and
> interpreted; it determines the grammar which
> structures thinking and perception (2011: 293)[6].

This has a direct impact on the archive of a truth commission which is a product

of such subjective practice, and on the way it may or may not be accessed by

individuals who seek information but who may not be able to find in the archive

documents which are connected to, or representative of, their own experience.

Indeed Leiby's work (2009) highlights such discrepancies when she compares

reports on sexual violence in Peru in the final report by the truth commission

with primary data available in the same commission's archives. Leiby identifies

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[6] Thanks to Sandra Rubli for the translation.

that while the report only classified men as victims of sexual violence in two per cent of the cases, her work in the archive concluded that this number was actually closer to twenty-two per cent. She goes on to discuss how the legal understanding of rape may change over time, thus going unnoticed by the commission, and that the conceptualization of what constitutes sexual violence will exclude some experiences and include others. Thus what we know about violence during wartime or conflicts can be greatly shaped by the decisions we make in designing and conducting our investigations. In this example we see how the truth commission archive in Peru has the potential to challenge the selectivity, limited representativity and marginalisation of certain experiences in the truth commission's work and final report.

Increasing Participation and Developing Ownership

We believe that truth commission archives understood as invited spaces can only play a limited role in reckoning with a past of human rights abuses. We go further and ask how such spaces, in terms of archives, might work in practice and what dynamics of engagement and participation might be relevant. As Cornwall has cautioned, previous relationships of dependency, fear and restrictions will determine engagement and participation in such spaces (2004). However, we take the opportunity here to examine the current practices of truth commissions and their follow-up bodies with regards to their archives in

order to gain a sense of how participation and ownership of the archives is understood and practiced. For this we highlight three interconnected aspects present in our data: international/local dynamics; access; and representativity.

In our research we found that a background of funding insecurity and lack of resources at the national level could lead to certain types of international/local[7] interactions. Whilst truth commissions are officially sanctioned by the state, funding may be difficult to secure and while some commissions operated solely with national government funding, as was the case with Brazil and Argentina, it is not uncommon for truth commissions to require contributions from other countries, as we saw with Peru and El Salvador, or even private donors, as was the case in Nigeria. Funding problems which exist during the mandate of a particular commission may continue to hamper attempts to render the archives accessible, and indeed be more acute as funders may not think beyond the mandate of the commission.

In some cases urgent need would lead international actors to intervene, as with the chance discovery of the damaged and rapidly decomposing truth

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[7] We do not wish to reproduce the simplistic international/local dichotomy but use it as a short-hand for the relationships produced between non-nationals and nationally resident actors.

commission and secret police archives in Chad (Interview E-Ca). As someone on the scene described it:

> 'It's a funny story...I asked [the President of the Victims' Association] something that I thought was impossible, which was to gain access to the building that used to house the former political police...In the end, he arrived the next morning with the authorization of the President, his cousin; thus we were able to enter the buildings of the political police. To our stupefaction, the entire truth commission was in complete disorder and we were walking through it" (Interview E-b).

This discovery was followed swiftly by the international researcher asking the Prime Minister of Chad 'for the authorization to make copies of the documents, which was done quickly as we were afraid that the government would change its mind. These documents were then photocopied, sent to Human Rights watch in New York, and then to the examining magistrate in Belgium, who started proceedings against Hissène Habré,[8] with universal jurisdiction, using these documents' (Interview E-b). In this case the process moved swiftly and the truth commission archives were copied and removed from the country through the actions of international researchers and non-governmental organisations. In the

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[8] Former dictator of Chad from 1982-1990, currently on trial for crimes against humanity, torture and war crimes in the Extraordinary African Chambers in Senegal.

case of Timor Leste the process was slower and those working with the commission retained greater influence. These commissioners were faced with a dilemma when approached by the War Crimes Study Centre in the United States, who offered to take the archives to the United States of America for preservation and to ensure access for foreign researchers. As our interviewee told us '[w]e basically refused to cooperate with that. Arguing that this stuff should stay in Timor' (Interview E-TLa). This is perhaps particularly pertinent in the case of Timor Leste given that the truth commission archives were considered to be the first national archives of the country, a point further elaborated later in the paper.

On a connected point a number of the intervieweess addressed the question of 'foreign' versus 'local access', for example with South Africa 'it's easier for someone from outside to get access than for somebody local' due to the political sensitivity of the content (Interview E-a), and for Sierra Leone requests for access were unheard of from local people 'because people are very poor there. It is a difficult issue' meaning that 'the big issue has been to try and localize the report of the TRC for ordinary Sierra Leoneans' (Interview E-a). In other cases we heard more optimistic accounts, such as with the Truth Commission archives of Peru which are currently held in the *Defensoria del Pueblo* in the capital Lima. One foreign researcher who worked extensively with these archives during her doctorate told us that it was unusual to see more than

two foreign researchers at any given time, the rest of the visitors being research students from Peru, and local people looking up records associated with their families (Interview E-Pa).

The question of access and in particular 'local' access is relevant for discussions about how a truth commission archive which orders and constructs a past can be more than the interpretation of the commissioners and officials who mandate and then work with the archive. It can be reinterpreted by those who use it, discuss it and seek to compliment it with alternative and additional voices. The ability of others to reinterpret the archive is based on relations of power and ownership over the stories which are included, excluded and shaped by the archive. Madlingozi warns transitional justice entrepreneurs of the dangers of 'speaking for and about victims':

> The transitional justice entrepreneur gets to be the speaker or representative on behalf of victims, not because the latter invited and gave her a mandate but because the entrepreneur sought the victim out, categorized her, defined her, theorized her, packaged her, and disseminated her on the world stage...Despite writing critically and passionately about the situation of *the* victim, the victim is not only left in the same position but this encounter

could be an act of further violence and dispossession

(2010: 210-211).

Before a truth commission archive is opened to the public, in whichever form is decided in the access policy, there is a question of which records are owned by the commission. As one interviewee explained it, 'often investigators and researchers and people who run these bodies they have their own records which they have obtained in the course of their work, and there have been questions around what constitutes part of the records' (Interview E-a). This same interviewee, also a previous Commissioner of the South African Truth and Reconciliation Commission told us that they had handed over the records which they had personally generated during the course of their work, both to the National Archives and the South African History Archives (interview E-a). However, this was an independent decision rather than a rule which was followed by all commissioners. Distinguishing between private and public documents and the ownership of them is an ill-defined area for truth commission archives. It is not always clear what should happen to such personal videos, voice recordings and written notes which contain sensitive material gathered at the interface between formal consent and informal observation during testimonies. If such privately produced materials are not officially part of the archive, one is prompted to ask where the responsibility to these stories lies.

The very act of producing an official archive, which by default will always be incomplete and partially representative, marginalises the voices which are not included. We have heard from our interviewees how the complete body of material collected and generated by truth commissions is usually vast, and that many events, experiences and voices will not become part of the final official archive, potentially limiting the ongoing broader dialogue about the past.

In terms of a direct encounter with the archive itself we have seen in our research how every day and subtle interactions between people can shape how access is granted, beyond that which is actually written down in an access policy. In the case of Peru one user of the truth commission archive described to us the importance of the disposition of the staff working there and how it was vital for access, providing context and helping with interpretation of the material (interview E-P). In the South African and Timor Leste cases our interviewees described how such individual disposition has on the contrary severely restricted access regardless of the official access policy (Interview E-SAa; Interview E-a; Interview E-TLa). In this latter case we were told that the gatekeeper to the archive has no archival expertise and makes decisions on the basis of how well he understands the purpose of the access and his fear of the uncontrolled impact which use of such information might have. Apparently he 'is a bit out of his depth'. In the interviewee's words, 'this is terribly sensitive, you know, to open it, it might open up old wounds, create local conflict and we

will be held responsible, it will work against the interests of the new state, all that sort of stuff, so they all go conservative' (Interview E-TLa). In contrast to a very open process of testimony collection when 'people stood up and delivered great detail often very passionately and graphically about who did what to them' these stories and these details are now seen as 'a time bomb and if you light the fuse it's going to blow up and break the whole process' (Interview E–TLa).

Several other reasons can explain these differences in treatment and behavior from the staff of archival institutions. A study published in 2013 by the National Archives of Sweden in collaboration with the Desmond & Leah Tutu Legacy Foundation concluded that South Africa lacked trained archival professionals, and a developed archival system. This is echoed in our interviewee's comments that 'there wasn't expertise in the department [of justice] to work with the database, they didn't know how to give us a stamp of it, they lost the password of access, and this is the database of all the victims' statements' (Interview E-SAa). For this interviewee such archival incompetence is 'not even about TRC archives, it's about all our archives' (Ibid). For another interviewee speaking of Sierra Leone's truth commission, such problems are not just a question of 'lack of funding, but also a lack of understanding of what to actually do properly with the archive' (Interview E-a).

Indeed, another study, this one commissioned by the Council of State Archivists Task Force on Local Government Records and carried out by Jami Awalt in 2007 in the United States, highlights that amongst many staff members of archives as well as amongst the general population, there seems to be a lack of awareness of the importance and value of the information held in the archives. Proper management and storage of the files suffers from overworked staff members and understaffed institutions. The lack of community pressure for the proper management and keeping of these parts of a nation's history is also cited by archivists as a reason for the common problems faced by archival institutions, often limiting their ability to be fully transformed into inclusive and inviting spaces (Awalt, 2007: 4).

Syrri comments, in relation to the International Criminal Tribunal for the Former Yugoslavia and its archives:

> What in Western archival practice is called the subject of the record has to be reconsidered as a full partner in the record-creating process, as a co-creator of the record. And are there not other co-creators, such as indictees and witnesses? Not only the individual co-creators have a legitimate interest in the records. The right to know is not simply the right of any individual victim: it is also a collective right (2008: 232).

Whether it is testimonies or any other type of information collected by the members of a truth commission, it is important to note that once given and verbalized they are no longer owned by those who gave them. They are then subject to interpretation by the truth commission and its commissioners who have a responsibility according to their mandates to organise and present the information for use in reports or in formulating recommendations. Those who are granted access to archives, such as researchers who may go on to write about what they found there, will also formulate and express their own judgment, and victims and witnesses can no longer control their stories by owning the sole interpretation.

State-Society Relations: Shaping the Future?

New democratic spaces are intended to be both participatory in terms of the space itself but also in terms of governance. In applying this concept to truth commission archives we connect the understanding of participatory governance used by Cornwall with the literature on truth commissions which claims that may be able to play a role in consolidating democracy and rebuilding trust between the state and citizens as well as between citizens themselves: i.e. in shaping and consolidating a new social contract for peace.

In our research we identified multiple connections made between truth commission archives and the possibilities for inclusive participation in shaping the new social contract. To begin with though it is important to highlight that political transition is not a simple linear progress, and in fact the broader political context at times of transition may be both fluctuating and at times inhospitable for the forms of governance we imagine here. Speaking about the case of Peru's truth commission archives, our interviewee told us:

> The openness or not about memory has been really fluctuating in terms of who is in power. 2009/2010 was a challenging period. Maybe there is more space now for people to have discussions about memory as the government has changed and the President is no longer someone the TRC report suggested for prosecution (interview E-P).

Such fluctuations in politics intersect with the aftermath of experiences of massive human rights violations which, as we discussed earlier in our paper, reduce trust between the state and citizens as well as between citizens themselves. Indeed, speaking on this topic one interviewee tells us 'the other thing, not only in South Africa, but also in other transitional contexts, is often the question of legitimacy … deep roots of suspicion of official organisations and official institutions' (Interview E-SAa). Reflecting on experience with the cases of South Africa, Sierra Leone, Liberia and Sri Lanka another interviewee

observes that 'you often find that the state is suspicious and wants to block access. We have got the job of making sure that the state actually understands the right to truth is an important right and access to the archives is an extension of that right' (Interview E-a).

Not only is the truth commission archive a space in which such rights can be articulated and claimed 'it's about families who want to implement their...to access their own right to the truth' (Interview E-a) but a truth commission archive is also 'a rich resource [which] belongs to the nation' (Interview E-SAa). For Timor Leste our interviewee considers the truth commission archive the founding archive of the nation, being the first official archive in Timor Leste. He goes on to tell us that the objective of the commission was to 'create a culture of non-violence of human rights, or respect, of peaceful resolution of issues' and thus the preservation of and access to its archives was an 'idea to convey to the general public what happened, so that people understood and would learn from that. And we considered the archives as part of that ongoing process' (Interview E-TLa).

When truth commission archives are accessible and useable, i.e. participatory in the language of new democratic spaces, it is possible for the wider society to use these spaces as opportunities for ongoing shaping and debating of the social contract. For example in Peru the idea of creating a larger memory

archive which would house the truth commission archive would mean that the latter could be complemented by information on current human rights abuses as part of ongoing reflections about the meaning of the past: 'I would say revisit, reinterpret; why not let students read the final report and themselves and then go further and look at the archive' (Interview E-Pa). In Morocco commemorations of past violence are linked by local non-governmental organisations and activists with demands for democratisation and 'real change' (Interview E-b) pointing at a potential role for open and accessible archives in such movements.

Experiences with secret police files in Eastern European countries show, however, that these synergies can go beyond the state-society duo. Roland Jahn, Commissioner for the Records of the State Security Service of the former German Democratic Republic comments:

> The different communist secret police agencies collaborated closely. This is why it is important that the East European countries today also cooperate using the available records in their efforts to address their own dictatorial pasts. (Federal Commissioner for the Records of the former German Democratic Republic, BStU, 2014: 4)

A concrete example of such collaboration on the region is seen through the European Network of Official Authorities in Charge of the Secret Police Files, founded in 2008 and including Poland, Bulgaria, Czech Republic, Hungary, Romania, Slovakia and Germany in its body. Information was fluid and crossed borders, the documents contained in the archives of one country alone were insufficient and incomplete for understanding the full dynamics of the past. Present day cooperation beyond national borders has been instrumental in engaging the populations of Eastern Europe in social and political debate related to the Communist-era secret police archives. For example the work of this particular network has allowed the creation of joint exhibitions on the history of the secret police and the communist past, conferences to enhance and promote research around the topic, ease of access to information and increased access to the archives in all seven countries.

Legislation and political will certainly differs in each country, as well as the choices of mechanisms on how to deal with past abuses, but it is important to highlight that State-State partnerships can also be helpful in pushing back opposition to the archives, in a sense that an archive's existence, access and contact with the public becomes less subject to the whims of a current political ruler or fluctuations in power. Such a network could also be beneficial in regions like Latin America, where countries collaborated closely during the dictatorship years and information on a particular context is spread throughout the region.

There remains, however, the need to address the possible presence of mis-information. Nalepa (2010) argues that archives of secret police forces in Poland, Hungary and the Czech Republic, for instance, also complicated transitional justice processes in the sense that verification was difficult. There was little information available on what circumstances allowed the collection of information, what pieces were missing from the files and what had already been destroyed. Continued dialogue with the population, as illustrated in the examples used from Eastern Europe, is one way of tackling this issue.

Indeed, increasing the positive synergies between citizens and the state is a way of bridging the democratic deficit that affects both stable societies but especially those affected by violent conflicts (Benner, Reinicke and Witte 2004). It is necessary for citizens to occupy new spaces, arenas that were before neither available nor accessible to them, reposition themselves in relation to old or remodelled structures.

Possibilities for Truth Commission Archives as New Democratic Spaces

Our paper began with the observation that despite a practice-oriented and scholarly interest in the longer term impacts of truth commissions on democracy and human rights there has been limited work on the archives of

truth commissions. Addressing this gap our work brings together constructivist approaches to archives with an understanding of the contested and politically charged process that is dealing with the past of human rights abuses. Our findings from researching what happens to truth commission archives when the commission's mandate ends and how such archives can play an active role in broader social processes of a transition away from human rights violations of the past, made it clear that a re-thinking of the archive was necessary. This re-thinking has been explored here with a focus on truth commission archives as new democratic spaces.

Cornwall's work on new democratic spaces builds on a literature which looks beyond the physical and material dimensions of space to interrogate how they can be lived and popular sites of collective decision-making and struggle. The potential of such spaces for truth commission archives is exciting. If such archives can be understood not as depositories of the truth proclaimed in the final report, but rather as spaces where different actors can continue to re-interpret the past and re-imagine the future, then we can envision a much larger role for archives than is currently the case.

In this paper we aimed to start a series of discussions on what truth commission archives as new democratic spaces might look like. As formally mandated and therefore invited spaces, a truth commission in its work will order, categorise

and mediate between differing interpretations of the past. As we have highlighted there is a danger that this process can marginalise voices, act to close debate and be subject to interference by political elites. The archive of a truth commission will be the product of such processes and limitations but has the potential to provide a space for ongoing interpretation which is more participatory and inclusive. Based on the examples we cite from our research there are challenges to be addressed, such as balancing access with sensitivity of information held, having appropriately trained staff working in and managing the archive, creative means by which re-interpretations can be included in the archive, and culturally sensitive presentation of information.

In our work we have observed that there is not enough critical reflection on how archives of truth commissions order and construct the past, on how the archive itself represents a particular version of the past which will go on to be used by other actors, or that a truth commission archive is incomplete in terms of the full range of possible stories. These issues have implications for the possibilities of multiple and ongoing interpretations of the archive. The truth commission itself has the responsibility of interpreting the stories it hears and produces and selecting those that fit the narrative produced in the final report. This is also a significant power; a power to determine the ways in which the past is categorised and understood into the future.

In fact, it is exactly because activities linked to truth commission processes can concentrate so much power that the possibilities of new democratic spaces are so engaging. Whereas truth commissions may have the burden and responsibility to interpret the information that reaches them, this task is also in the hands of other actors, be it researchers, member of the general community and also other victims perhaps previously excluded from the process, who now need to re-interpret and make sense of their experiences in relation to those present in the archives. By introducing Cornwall's understanding of new democratic spaces to the archives of truth commissions, visitors become agents in a process of dialogue and negotiation.

Thinking through the policy implications of our work we should highlight at the beginning that this a woefully under researched area and much more needs to be done in terms of sharing best practice and developing the empirical evidentiary foundations for making concrete recommendations. However, we can begin to point towards policies for truth commission archives which will enhance their potential as new democratic spaces. Access is of course a key issue, particularly as a balance between democratic opening of the archive space and ethical considerations when dealing with such sensitive material. Rarely do dealing with the past and archival experts work together in the design and maintenance of a truth commission archive, but such a combination of expertise would appear to be vital in ensuring that an appropriate access policy is agreed upon and implemented. Connected to the question of access is how

to manage the fact that much of the information in the archive will be contested, incomplete, and perhaps even inaccurate. Examples such as those of Peru and Liberia where a right to reply to information contained in the archive is possible might constitute good practice. In Peru written notes can be added to the documents by those who are named in the source as a response (Interview E-Pa) while in Liberia the Mobile Story Exchange System (MOSES) combines interactive new media for sharing video messages on the truth commission's work throughout the country, including video in response to the work of the truth commission, the content of the archives, or a video message by someone else (Smyth, Etherton and Best 2010). By focusing on user-generated content through a system specifically designed to meet the needs and possibilities in Liberia – low internet penetration, low levels of literacy and fragile infrastructure – the program aimed at expanding the spaces for public dialogues.

The example of MOSES in Liberia raises the question of how to have an inclusive new democratic space. As highlighted throughout our paper the archives of truth commissions are often located in capital cities, difficult and expensive to access and are therefore limited in their ability to be inclusive and participatory spaces. Outreach activities of truth commission archives could be helpful here, including travelling plays, the use of songs, and designing non-written materials such as comics to explain the content of the truth commission

archives and how they can be accessed. In Sierra Leone a secondary school version of the truth commission report and information on its archives is available on a website and in Argentina a twice weekly radio broadcast on six different radio stations provides information on archive events and news.

The radio emissions in Argentina are perhaps more possible because of the location of the truth commission archive in a larger space, the *Espacio para la Memoria, Promoción y Defensa de los Derechos Humanos*,[9] which also holds cultural and social exchanges on state terrorism and the country's recent past of abuses (Jones, Oliveira and Rubli 2014: 15). Policies such as this mean that the truth commission archives become part of a democratic dialogue about what the contents of the archive mean in terms of not only the recent past, but also the historical past, present and future. In many of the country contexts we have researched there is ongoing violence and human rights abuse for which civil society groups are trying to hold the state accountable.

As one of our interviewees puts it, it is 'about supporting civil society or communities and using this archive and translating that archive into local memory projects or doing community based symbolic reparations' (Interview E-

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[9] Space for Memory, Promotion and Defense of Human Rights.

SAa). In this sense the truth commission archive, from a policy perspective should never be considered 'closed' and 'final'. The integration of the archive in larger 'memory spaces' (as in the case of Argentina), the continued acceptance and inclusion of new material (as in the case of Uruguay), the development of outreach materials (as in the case of Sierra Leone) and an ongoing 'right to reply' (as in the case of Liberia) recognise that the archive is not a static depository of facts but rather can play an active role in shaping the social contract through its presence as a new democratic space. Such policies must begin with an acknowledgement of the necessarily incomplete nature of the truth commission archive, in terms of voice and representation.

Finally, it is important to note that we as researchers also wield an enormous amount of power and responsibility in terms of the way in which we choose to write about the stories of human rights violations and their representation in the archives of truth commissions. As researchers we often hear the loudest voices, and tend to use that which is produced and made available in forms which are most conducive to the processes and outputs of research: such as archives. It is our responsibility to promote more inclusive ways to think about and design archives, in the same way that is also our responsibility to seek out those stories which are less accessible, less obvious and perhaps most unsettling.

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