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Truth Commission Impact: An Assessment of How Commissions Influence Politics and Society

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Truth Commission Impact: An Assessment of How Commissions Influence Politics and Society

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Abstract:

This paper defines *truth commission impact* as the effect of truth commissions on government policy, judicial processes and social norms. It isolates *impact* from the causal effects of similar post-conflict institution-building and other transitional justice and conflict resolution measures. It examines ten causal mechanisms through which truth commissions are expected to influence politics and society. *Immediate political impact* through the implementation of recommendations and *delayed political impact* through *civil society mobilization* are the two explanations that draw strong empirical support. Some commissions contribute to human rights accountability (*judicial impact*), and some promote *impunity through amnesty*, although the magnitude of impact is small in each case. They also generate normative changes through the *delegitimation* of perpetrators, the *reaction to delegitimation* on the part of perpetrators and their allies, and commissions' overall *impact on social norms*. Only one commission (in El Salvador) has successfully lobbied for *vetting*. Despite widely held claims that commissions present a trade-off between reconciliation and justice, there is no evidence that commissions forge *reconciliation through consensus*, or that they perpetuate *impunity*.

About the author:

Onur Bakiner is Assistant Professor of International Studies at Simon Fraser University. He completed his dissertation in political science, entitled "Coming to Terms with the Past: Power, Memory and Legitimacy in Truth Commissions," at Yale University. The project combines comparative qualitative research on truth commissions (in Chile and Peru) with reflections on the ethics and politics of the 'public use of history' and social memory. Bakiner's research and teaching interests include memory politics, transitional justice, Latin American politics and normative political theory. His article, "From Denial to Reluctant Dialogue: the Chilean Military's Confrontation with Human Rights (1990–2006)," was published in the *International Journal of Transitional Justice* in 2010.

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Truth Commission Impact: An Assessment of How Commissions Influence Politics and Society

Introduction

In what ways do truth commissions influence policy and social attitudes? The transitional justice literature suggests various mechanisms through which truth commissions are expected to achieve a set of moral and political objectives in peace-building and democratization contexts. However, only a handful of studies have explored the commission *and* post-commission processes to assess hypotheses of truth commission impact. Taking my cue from this gap in the literature, I explain whether or not, and the specific ways in which, truth commissions *in fact* transform the lessons from history into policy, human rights accountability and changes in shared social norms.

I define *truth commission impact* as the effect of truth commissions on government policy, judicial processes and social norms, operating independently of the simultaneous effects of post-conflict institution-building, as well as other transitional justice and conflict resolution measures. I isolate truth commission impact from such causal influences with a two-step research strategy: first, I identify all plausible causal explanations of how truth commissions are likely to produce impact, and second, I assess those explanations in light of empirical evidence from all transitional truth commission experiences. I show that some of the taken-for-granted explanations of truth commission impact hold in none or only a few of the cases, whereas others have greater explanatory power.

Drawing upon the existing literature, I identify ten explanations for truth commission impact: *immediate political impact*, *delayed political impact through civil society mobilization*, *vetting*, *delegitimation*, *reaction to delegitimation*, *immediate reconciliation*, *impact on social norms*, *judicial impact*, *impunity through amnesty* and *impunity through distraction*. *Political impact* refers to a commission's capacity to make the key decision-makers acknowledge human

rights violations publicly and to influence policy in the areas of institutional reform and human rights policy through its findings and recommendations. Almost all truth commissions have produced political impact, albeit to different degrees. I distinguish between *immediate* and *delayed* impact to separate those cases in which the government demonstrates political will to implement truth commission recommendations immediately from other situations where the government is pressured to adopt policy. The distinction is important because delayed implementation often points to a high degree of *civil society mobilization* around the truth commission to pressure the government for reform. Although there is little systematic treatment of civil society mobilization in the literature, it is a crucial element that drives cross-national variations in policy adoption once the commission's work comes to an end.

Two causal explanations are discarded in light of evidence. Truth commissions do not forge *immediate reconciliation* through societal consensus, although most commissions name reconciliation among their chief goals. To the contrary, the post-commission period in each country is marked by disagreement and polarization over the commission's findings and narratives. Similarly, truth commissions do not promote *impunity* by distracting or appeasing human rights groups and victims' associations that advocate prosecution.

Truth commissions' contribution to human rights accountability or impunity is a controversial issue. I find that commissions have produced some *judicial impact*, understood as the use of findings for prosecution. Nonetheless, it often happens with a delay, highlighting the significance of an auspicious political and judicial context, as well as continued civil society activism, for human rights accountability. In other words, commissions do not trigger human rights trials in the absence of these factors. They may also promote *impunity* through amnesty procedures built into the commission in a small number of cases, and often in ways unanticipated by the existing scholarship. Despite the widespread tendency to associate truth commissions with amnesties, only two commissions (in South Africa and Liberia) have actually granted immunity from prosecution, and only to a handful of perpetrators. In other words, the failure of human rights accountability cannot be attributed to truth commissions.

All truth commissions have tried to delegitimize at least some perpetrators, and faced angry reactions from those individuals and organizations representing, or in alliance with, violent

actors. However, it is unclear whether the *delegitimation* of perpetrators and the *reaction to delegitimation* have produced long-term political effects. *Vetting* (the policy of removing perpetrators from public office) as a result of a truth commission process has taken place only in El Salvador.

Likewise, most truth commissions have tried to transform social norms by cultivating non-violence and respect for human rights (and other norms, depending on the specific context) among the political elite as well as the broader population, but admittedly, the results of these efforts remain inconclusive, in great part because normative change is extremely difficult to document. Nonetheless, I measure the impact on social norms with proxies, such as the publicity and educational incorporation of a commission's results, and argue that *the impact on social norms* is likely to increase when domestic and international NGOs take the initiative to popularize a commission's findings and message. Thus, civil society mobilization emerges again as a key intervening factor in explaining truth commission impact.

The Literature on Truth Commissions

Truth commissions are expected to contribute to human rights conduct and democratic strengthening.¹ Ideally commissions acknowledge the victimhood of those affected by the human rights violations under the outgoing regime by providing a platform for truth-telling (Minow 1998), and setting the stage for symbolic and material reparations (de Greiff et al. 2006; du Toit 2000). They rewrite the nation's history of political violence and human rights violations, focusing on the patterns, causes and consequences, in order to forge a shared historical memory and draw lessons from history (Ross 2003, 326; Andrews 2003). They make recommendations for institutional reform to create the legal, political and cultural framework conducive to peace and democratic strengthening (Minow 1998; Laplante 2007). Some commissions facilitate the removal of those public officials responsible for the earlier cycle of violence and violations (Magarrell 2003, 22). Furthermore, commissions may serve national reconciliation, a "healthy social catharsis" (Zalaquett 1992), as former enemies reach common understandings, the incentives for revenge diminish, and society is reunited through tolerance and forgiveness. For some, genuine reconciliation ought to be based on the full disclosure of past atrocities and the

provision of criminal justice: truth, justice and reparations complement one another (Amnesty International 2007). Others point to the looming threat of renewed violence or military coups during fragile transitions, and conceptualize the relationship between criminal justice and the other objectives of transitional justice, in particular democratic stability, as a trade-off.

Accordingly, truth commissions' success rests upon their ability to sidestep retributive justice, and promote restorative justice and social reconciliation – what one commentator names “compromise justice” (Grotsky 2009).²

The numerous expectations from truth commissions have triggered scholarship that evaluates truth commissions' achievements and shortcomings. International organizations and international NGOs have been publishing manuals to assess truth commissions' role in promoting post-conflict peace and reconciliation using the best practices approach (OHCHR 2006; Amnesty International 2007; Bloomfield, Barnes and Huyse 2003). Recently, scholars have turned to rigorous hypothesis-testing by employing statistical, survey, experimental and ethnographic methods, as well as mixed-method strategies. Those studies that evaluate truth commission impact tend to focus on the country's human rights conduct (Brahm 2006; Wiebelhaus-Brahm 2009; Kim and Sikkink 2010; Olsen, Payne and Reiter 2010), democratic stability (Snyder and Vinjamuri 2003; Wiebelhaus-Brahm 2010), social reconciliation (Gibson and Gouws 1999; Gibson 2006), and the rule of law (Gibson 2004). Although case studies of one or several truth commissions had initially dominated the field,³ recent studies increasingly use large-n regression analysis.⁴

A striking characteristic of the existing literature is the coexistence of competing, if not outright contradictory, theories about truth commission impact (Thoms, Ron and Paris 2010). For example, Olsen, Payne and Reiter find that truth commissions, when used alone, “have a significant, negative effect” on democracy and human rights, but yield positive outcomes when combined with trials and amnesties (Olsen, Payne and Reiter 2010, 153-4). Kim and Sikkink (2010), on the other hand, argue that truth commissions have a positive independent effect on human rights conduct, which increases in magnitude if accompanied by prosecutions. Others find truth commissions to have weak negative impact (Wiebelhaus-Brahm 2010), or no observable impact at all⁵ on democracy and human rights.

What explains the divergent results between studies that explore the same causal relationship? Qualitative and quantitative research strategies are known to produce systematically different results in human rights research (Hafner-Burton and Ron 2009). Moreover, even studies using the same data collection and analysis method (for example, large-n regression analysis) arrive at divergent results due to differences in their conceptualization of key variables, codification and collection of data, and model specification. Scholarly disagreement on the definition of a truth commission or amnesty law has implications for coding data and testing theories. Transitional justice databases often codify the same procedure under different categories, which in part explains divergent outcomes. For example, the Transitional Justice Data Base Project sets the number of truth commissions established between 1970 and 2007 at sixty, while the figure ranges between 30 and 40 in all other studies. Once the concepts are defined and data codified, the specification of relevant variables can generate differences, too. For example, two recent studies of human rights accountability disagree over the evidence for the “justice cascade” (i.e., unprecedented human rights accountability) in the 1990s and 2000s: while Kim and Sikkink (2010) get statistically significant results supporting the theory, Olsen, Payne and Reiter (2010) argue that the incorporation of amnesty laws into the statistical model eliminates the overwhelming support for the justice cascade.

Another set of complications arises from the intrinsic difficulty of measuring truth commission impact (Brahm 2007). Critics rightly warn against confounding other causal processes with the independent impact of truth commissions.⁶ It makes intuitive sense to expect improvements in human rights conduct and democratic governance during and after the truth commission process in great part because truth commissions are likely to be established during democratic transitions, and when the human rights situation has already improved, at least to the extent that transitional justice becomes a viable possibility. The reverse case, i.e., when the truth commission process is followed by increasing levels of violence and instability, does not offer much analytical leverage, either: countries that have undergone civil wars are more likely to suffer from violent conflict in the future, but truth commissions’ role in provoking such conflict is unclear. Therefore, the variety of factors that might lead to democratic strengthening and non-violence (which in turn makes the creation of a truth commission possible), or renewed conflict, should not be conflated with the independent effect of truth commissions.

Many scholars therefore prefer regression analysis to make causal inferences on the independent effect of truth commissions on democracy and human rights. Insufficient attention to causal processes, however, might aggravate the problems of endogeneity and multicollinearity in statistical analysis. Aware of this difficulty, most studies propose one or several causal mechanisms to link the truth commission process to the outcomes of interest, but it is often unclear how they build their hypotheses or which observable implications confirm them. For example, Olsen, Payne and Reiter attribute the potential positive effects of truth commissions to their capacity to provide a forum for dialogue, “a fundamental building block for peace and democratic trust” (Olsen, Payne and Reiter 2010, 155). However, they conclude that the combination of trials and amnesties *without* truth commissions contribute to democracy and human rights, as well as the combination of trials, amnesties *and* truth commissions. In what ways, then, are truth commissions relevant? Moreover, the claim that truth commissions foster dialogue between victims, perpetrators and bystanders does not apply to the majority of the cases where perpetrators do not testify before the commission, and often try to close the space for dialogue. Wiebelhaus-Brahm provides several explanations for how truth commissions might influence political behavior, but his statistical analysis, which finds a negative correlation with human rights conduct and no significant relation with democratic politics, tends to contradict many of the possible causal mechanisms described elsewhere in the book (Wiebelhaus-Brahm 2010, 137).

Kim and Sikkink (2010) provide a plausible causal explanation for their findings: commissions’ findings and advocacy of the human rights norm build pressure on perpetrators, making prosecutions more likely. The observable implication of their theory is that prosecutors would initiate lawsuits following the commission process, building their case on commission findings. However, their dataset, Human Rights Trials in the World, 1979–2006, shows that few truth commissions have created the impulse for prosecution. Furthermore, even if one assumes that truth commissions do produce normative transformations, their study does not produce evidence that some politicians, civil society actors, attorneys and judges have changed behavior as a result of the truth commission process.

Failing to account for the heterogeneity of truth commission experiences compounds these problems. Several consolidated democracies, like Brazil, and ongoing authoritarian regimes, like Morocco, established truth commissions in the 2000s. The political stakes, self-declared goals, and methodologies were radically different from those characterizing transitional truth commissions. Ensuring democratic stability or forging reconciliation between victims and perpetrators, for example, were not outstanding goals for non-transitional commissions. In countries like Chile and South Korea, follow-up truth commissions investigated violations not covered by an earlier commission. Therefore, lumping all truth commissions in one database obscures the distinct character of causal processes in transitional and non-transitional settings.

Many of the shortcomings of the literature can be addressed if the research strategy pays close attention to causal processes rather than correlations between a truth commission and outcomes of interest, such as democracy, human rights and the rule of law. I explain cross-national variation in truth commission impact by employing the comparative method, but instead of lumping all truth commissions in a large-n dataset, I separate a total of 15 transitional commissions from non-transitional ones to explain the dynamics specific to the former group. Instead of assessing impact on human rights conduct or democracy, I focus on the specific mechanisms through which commissions *are likely to* produce such impact.

Causal Explanations of Truth Commission Impact

Several causal mechanisms have been proposed to evaluate commissions' capacity to produce changes in policy, judicial practices and social norms. Most accounts pay attention only to some parts of the causal chain that links the initial conditions to the outcomes of interest. I draw upon the literature on truth commissions, from enthusiasts as well as skeptics, to outline these mechanisms in full here, but if the existing explanations have missing causal links, I identify those missing parts. Table 1 (next page) presents these causal mechanisms, along with their observable implications and supporting empirical evidence (if any).

Table 1: Hypotheses of Truth Commission Impact

Name of Causal Mechanism	Causal Process	Observable Implications	Empirical evidence
Immediate Political Impact	Findings and recommendations ► Official publication, acknowledgment and implementation	Political will to implement commission recommendations Immediate publication, acknowledgment and implementation	Most commissions produce immediate political impact Variation across commissions
Delayed Political Impact	Civil society mobilization around the commission ► Pressure on government ► Delayed official implementation	Civil society mobilization Delayed implementation under pressure	Some commissions produce delayed political impact through civil society mobilization Variation across commissions
Vetting	Vetting recommended ► Official implementation	Recommendation of vetting Political will to implement	El Salvador (1993) only
Delegitimation	Commission delegitimizes perpetrators ► Civil society mobilization around the commission ► Pressure on government ► Exclusion or self-exclusion of perpetrators	Civil society mobilization for formal or informal vetting	All commissions try to delegitimize Variation across commissions Difficult to measure
Reaction to delegitimation	Delegitimation & recommendation for vetting ► Reaction by perpetrators and their allies ► Delegitimation defeated	Failure to mobilize civil society Political salience of presumed perpetrators	Most commissions face reaction Variation across commissions Difficult to measure
Immediate Reconciliation	Commission as a democratic & participatory platform ► Consensus and reconciliation between victims, perpetrators and bystanders	Consensus and reconciliation immediately after truth commission	No evidence for immediate reconciliation Counter-evidence: Lack of consensus immediately after truth commission
Impact on Social Norms	Publicity and incorporation into educational curriculum ► Widespread acceptance of commission norms ► Norm change	Public awareness of truth commission's message Incorporation into educational curricula	Some commissions may have produced normative change Variation across commissions Difficult to measure
Judicial Impact	Findings ► Judges and prosecutors use in proceedings, immediately or delayed	Use of truth commission report in proceedings	Delayed and very limited use of some commissions' findings in domestic and foreign courts
Impunity through Amnesty	Commissions accompany amnesty laws or promote amnesty ► Impunity for perpetrators	Amnesty built into, or legislated along with, truth commission Impunity resulting from truth commission	Conditional amnesty built into commission (South Africa, Liberia); most perpetrators not covered Counter-evidence: amnesty law <i>to offset</i> truth commission impact (Nepal and El Salvador)
Impunity through Distraction	Commissions dampen the demand for retribution ► Impunity for perpetrators	Civil society demobilization	No evidence of civil society demobilization

1. Immediate political impact

The most straightforward causal impact is when the findings and recommendations of a truth commission's final report are incorporated into policy. If a government acknowledges the commission's final report, legislates reparations for victims, and establishes watchdog institutions for human rights protection, then these reforms are likely to lead to progress in democratic governance and human rights conduct. Immediate political impact crucially depends on political decision-makers' ability and willingness to implement commissions' recommendations. Only in El Salvador and Sierra Leone did the commission mandate state that the recommendations would be binding on all parties, and even then politicians enjoyed a high degree of discretion on which reform proposals to adopt.

The degree to which a truth commission's recommendations are implemented into policy without delay (in other words, within one year of the commission's final report) is an appropriate measure of *immediate political impact*. Delayed implementation points to other causal processes, such as civil society pressure overcoming government inattentiveness. Immediate implementation, to the contrary, is a key measure of political will. Given that truth commissions make context-specific recommendations, and given that the quality of policy implementation can be quite varied, comparative measures are bound to be imperfect.⁷ Nevertheless, one observes near-universal demand for certain policies and political gestures, which I employ as measures of immediate political impact: (1) public endorsement of the commission's work by government leadership; (2) government publication of the commission's final report; (3) implementation of a reparations program (this measure is applicable in 12 cases where the truth commission recommended reparations); and (4) the creation of follow-up institutions to carry out the recommended reforms and monitor progress.

It is important to note that a government might implement human rights policies whether or not it abides by the truth commission's recommendations. *Immediate political impact* captures only the truth commission-induced political change, which is often confounded with the country's overall human rights improvement, leading to the under- or overstatement of truth commission impact. The measures described above refer to political change *relative to the*

commission's recommendations for reform. I take into account variations in discursive and policy change relative to the expectations of each country's truth commission in conducting cross-national comparisons, rather than variation in overall political reform. Thus I isolate the independent effect of truth commissions from the broader reform processes during democratic transition.

Such generic and context-blind measures, even if they allow for cross-national comparison, might be highly imperfect and misleading if not accompanied by case studies that capture the extent to which the political decision-makers address country-specific problems, as diagnosed by the national truth commission. I employ these general measures for the comparison of 15 truth commissions, but the comparative study of truth commissions in Chile and Peru, based on semi-structured interviews and research on press archives, provides a context-sensitive account of the match between truth commission recommendations and policy implementation.

2. Delayed political impact

Several accounts argue that a truth commission might improve a country's human rights record by drawing attention to past violations (Wiebelhaus-Brahm 2010, 9; Amnesty International 2007). Domestic and international actors, most notably human rights organizations and victims' associations, build sufficient pressure on politicians and state functionaries to reform human rights policy and behave in conformity with a truth commission's recommendations. What distinguishes indirect from immediate political impact is that decision-makers adopt truth commission recommendations and related human rights initiatives only as a result of civil society pressure. Thus, implementation is typically delayed, rather than immediate.

Delayed political impact is likely to result from what I label *civil society mobilization* around the truth commission. Civil society mobilization refers to a truth commission's ability to motivate human rights activism, especially in the post-commission period. I use three measures to account for civil society mobilization: (1) non-governmental initiatives to publish and/or disseminate the commission's final report if the government fails to do so; (2) activism on the part of local and national NGOs to monitor the progress on the implementation of recommendations; and (3) the emergence of new local and national civil society organizations,

that is to say, human rights NGOs and victims' associations, as a result of the commission process.

Generally, domestic human rights groups make alliances with international organizations and transnational networks to hold governments accountable to the human rights norm (Beitz 2003). Whether domestic human rights activism originates from, or merely follows, the transnational actors, is a matter of controversy. Some see transitional advocacy networks' capacity to pressure governments by naming and shaming them in the international arena as crucial (Keck and Sikkink 1998), whereas others point to the predominantly domestic nature of legitimacy and norm change (Moravcsik 1997; Anaya 2009). In the case of truth commission recommendations, what I observe is that even when international actors initiate the commission process, the success of the reform process ultimately depends on pressure built by domestic human rights groups.

Civil society mobilization only measures the capacity of the commission to motivate civil society actors. Human rights activism may exist independently of, and conceivably in opposition to, a truth commission. This measure does not capture the overall quality of civic relations (i.e., social capital); it instead focuses on those civic groups most likely to pursue the truth commission's agenda and maximize its impact, since the primary concern is to explain the precise mechanisms through which truth commissions produce impact. Finally, the model of civil society advocacy presented here does not make *a priori* assumptions about state-civil society relations – it does not claim right away that they are antagonistic or mutually reinforcing. It is plausible to expect that political impact and civil society mobilization are both high, both low, or in an inverse relationship in any given country.

3. *Vetting*

Truth commissions might recommend the removal of presumed perpetrators and their political supporters from public office. Also known as *lustration*, this causal mechanism is relatively easy to measure: a commission may or may not make an explicit recommendation for vetting, and if it does, the government may or may not implement it. It is also plausible that a

government removes individuals from public office in the absence of commission recommendation, which is unrelated to the causal mechanism presented here.

4. Delegitimation

Another causal explanation states that truth commissions improve democratic governance and human rights conduct by exposing, shaming or delegitimizing anti-democratic and violent actors, even when they do not make a plea for official vetting (Freeman and Hayner 2003, 126-7; Wiebelhaus-Brahm 2010, 12; Landsman 1996, 89). All commissions have pointed to those individual and institutional actors responsible for human rights violations, albeit with varying levels of specificity: a number of commissions have named individual perpetrators, while others have described in detail the systematic and institutional nature of human rights violations under the outgoing regime. Unlike vetting, which relies on explicit recommendation and direct political implementation, this causal mechanism relies on civil society mobilization to further delegitimize violent actors.

5. Reaction to delegitimation

Some scholars have argued that the delegitimation effect might work against democratic strengthening and social peace. Those individuals and institutions that have the most to fear from human rights accountability often seek to steer the course of national debates away from *truth* and *memory*.⁸ Alleged perpetrators and their allies, acting in individual and organizational capacity, have tended to not participate in truth commission processes, tried to obstruct truth-finding efforts, and been the quickest to condemn commission findings. The denial of the truth commission findings often accompanies denigration against the commissioners. So much so that, commissioners and collaborating social activists in many countries have suffered various threats and attacks against their lives and wellbeing during and after the truth commission process.⁹

If they succeed in swaying key decision-makers and the broader public, they might see their position strengthened in the context of a fragile democracy. Furthermore, some of those actors might engage in extra-legal activities to defend their power, further undermining democratic stability and the rule of law (Wiebelhaus-Brahm 2010, 13). The failure of a truth commission to mobilize civil society is likely to aggravate the failure of delegitimation. In other

words, explanations based on the delegitimizing effect of truth commissions need to conceptualize the post-commission political developments as a dynamic and open-ended process that involves a multiplicity of political and social actors contesting and reconstructing political legitimacy in the short- and long-run.

Delegitimation and *reaction to delegitimation* pose serious challenges to research on truth commissions. First, the quantitative criteria for successful delegitimation are unclear. How many of those individuals who deserve public opprobrium actually face unofficial sanction? Is there a cut-off number to evaluate success and failure? In many cases one sees the delegitimation, even prosecution, of some violent actors, whereas other individuals who may have faced similar treatment seem to enjoy political clout. The second challenge, related to the first, is that delegitimation is a long-term and society-wide process, which can only be measured via periodical and consistent surveys on representative samples. Added to the difficulty is that many individuals lose the public's favor independently of the naming and shaming by truth commissions, so the independent effect of truth commissions might be conflated with other processes of delegitimation.

6. *Reconciliation through consensus*

The capacity to reduce social conflict through truth commissions has captured the imagination of transitional justice scholars. According to this line of explanation, the potential for renewed conflict decreases because the inclusion of victims and victims' relatives in the human rights investigation reduces their incentives for revenge (Govier 2002), the creation of a participatory space through truth commissions results in the affirmation of democratic values; victims, perpetrators and bystanders engage in dialogue (Olsen, Payne and Reiter 2010, 155); perpetrators and victims learn to live under "contentious coexistence" (Payne 2008), and the rewriting of official history allows society to reach consensus about human rights violations and the meaning of the national past.¹⁰ The idea of reconciliation is so engrained as an expectation that many commissions are called truth and reconciliation commissions.

One observable implication of such immediate reconciliation would be when the individuals representing different viewpoints with respect to past violence converge on the

accuracy and significance of the truth commission's work. Military and insurgency leaders, politicians across the political spectrum, and high-court judges acknowledge the facts of human rights violations, and perhaps even provide *mea culpa* statements. However, as I show in the next section, *reconciliation through consensus* is not supported by evidence.

7. *Impact on social norms*

It is possible that truth commissions' efforts at ruling out violence and promoting democratic participation might produce long-term effects by cultivating a civic culture based on non-violence and human rights (Gairdner 1999; Oettler 2006). Truth commissions do not advocate the exact same set of norms. For example, the South African TRC stands out with its emphasis on forgiveness, while the Guatemalan commission is known for its defense of socioeconomic and cultural equality. Nonetheless, the defense of non-violent political conduct and respect for human rights is present across commissions. Thus, impact on social norms captures a commission's self-understanding of the values that it promotes.

It is notoriously difficult to measure long-term normative changes, let alone determine if they were caused by truth commissions' transformative potential. Nonetheless, assuming that broad-based exposure to a truth commission's ideas increases social groups' likelihood of internalizing non-violence and respect for human rights, two of the observable implications, which I use as proxies for the *impact on social norms* hypothesis, can be measured: (1) widespread access to, and readership of, the truth commission's final products (the report as well as audiovisual documentation), measured by governmental and nongovernmental efforts to disseminate the commission's work; and (2) the incorporation of the commission's findings and recommendations in school curricula.¹¹

8. *Judicial impact*

Do truth commissions contribute to human rights accountability? Truth commissions are not allowed to deliver sentences, but their findings may be used during criminal proceedings, either as evidence or contextual information (Abrams and Hayner 2002; Amnesty International 2007). Judicial impact depends on the powers granted by the truth commission mandate, judges' and prosecutors' willingness to incorporate commission findings, and the existence of laws and

conditional amnesty procedures that precede or operate simultaneously with the commission. Commissions differ with respect to their search and subpoena powers and the power to name perpetrators. Setting mandate limits on commissions' judicial attributes is justified on the grounds of fair trial guarantees (Freeman 2006). Another difficulty is that prosecutors might be unwilling to use findings to initiate lawsuits against alleged perpetrators, claiming that commission procedures fail to satisfy the evidentiary standards of the courtroom. As I show in the next section, judicial impact happens with delay, reflecting *civil society mobilization* to pressure judges and prosecutors into a more activist stance with respect to human rights trials.

9. *Impunity through amnesty*

Skeptics have long noted the possibility that truth commissions, far from contributing to justice, in fact serve to perpetuate impunity, as they provide an imperfect substitute for human rights trials. It is generally assumed that the truth commission is a moderate transitional justice tool to meet the victims' demands in the context of a negotiated political transition (Harris and Reilly 1998; Hayner 1998). Jon Elster, for example, notes that a new democratic regime may have to "*choose between justice and truth*" (Elster 2004, 116–7). Mark J. Osiel (2000) takes the opposition between truth commissions and prosecution to an extreme when he claims that most commissions' inability to take testimonies from perpetrators not only undermines justice, but defeats the justification for the presence of the truth commission: to establish the historical truth, which involves the full disclosure of violations and names of perpetrators. Especially the South African Truth and Reconciliation Commission has raised serious concerns about the extent to which truth commissions serve to sidestep accountability, as a specialized Amnesty Committee granted amnesty to those perpetrators who fully confessed to their crimes, and the truth commission itself promoted a highly Christianized notion of forgiveness.

Impunity through amnesty holds if truth commissions provide amnesties for perpetrators through amnesty laws built into the truth commission or legislated as a result of the commission's work. Especially the South African TRC's amnesty procedures have led to the misperception that truth commissions generally give away amnesties to perpetrators by invoking the language of forgiveness and reconciliation,¹² but as I describe in the next section, few

commissions have offered amnesties, and even built-in amnesty procedures do not guarantee an escape from justice for most perpetrators.

10. Impunity through distraction

Other skeptics argue that the spectacle of a truth commission creates a distraction from prosecution. More specifically, the recognition of victims and the provision of material and symbolic reparations through truth commissions may assuage the public demand for truth and some kind of justice.¹³ Furthermore, the decision to establish a truth commission itself is a sad admission of the country's inability to prosecute, which undermines the rule of law at the outset of a democratic transition.¹⁴ The observable implication of this hypothesis is that the public demand for prosecutions would fall, and civil society groups advocating retributive justice would get demobilized during and after the truth commission process.

Empirical Evidence for Causal Explanations

Immediate political impact is the chief mechanism through which commissions influence policy, but the implementation is always selective. Table 2 (next pages) shows that all transitional truth commissions except the one in Nepal have produced some immediate political impact. Of the 15 transitional truth commissions, ten published the final report within one year of the commission's termination. Presidents, backed by the governments they represented, endorsed the commission's work upon receiving the final report in five countries. In South Africa, President Mandela endorsed the final report despite opposition from the governing ANC.

Acknowledgment did not take place in eight countries, and in Sierra Leone, it happened only after a new president assumed office. Seven countries established follow-up institutions to monitor the post-commission reform process, whereas eight did not. The least favored policy by the governments was reparation: 12 truth commissions demanded compensation for victims, and only Chile and Sri Lanka initiated a program within one year of the commission's publication, and six more implemented reparations with a delay ranging from two years (Peru) to over two decades (Argentina).

Table 2: Truth Commission Impact in 15 Transitional Commissions*

	Reparations Recommended /Immediately Implemented (Yes/Yes, Yes/No, No/No)	Immediate Publication of Final Report (Yes, No)	Official Endorsement (Yes, No)	Immediate Creation of Follow-up Institutions	Recommended Reparations Implemented as a Result of Civil Society Mobilization	Publication of Final Report as a Result of Civil Society Mobilization
Argentina (1983)	Yes/ No	Yes	Yes	No	No (reparations: 2004)	Immediate policy
Uganda (1986)	No/No	No	No	Ugandan Human Rights Commission	No reparations	No publication
Nepal (1990)	No/No	No	No	None	No reparations	Yes (1994)
Chile (1990)	Yes/Yes (1992)	Yes	Yes	National Corporation for Reparation and Reconciliation	Immediate policy (1992)	Immediate policy
Chad (1991)	No/No	Yes	No	None	No reparations	Immediate policy
El Salvador (1992)	Yes/No	Yes	No	None	No reparations	Immediate policy
Sri Lanka (1994)	Yes/Yes	No	No	Presidential Commission on Ethnic Violence	Yes (reparations: 1998)	Yes (2001)
Haiti (1995)	Yes/No	No	No	Office of the Public Prosecutor	No reparations	Yes (1998)
South Africa (1995)	Yes/No	Yes	Yes (government divided)	None	Yes (reparations: 2003)	Immediate policy
Guatemala (1997)	Yes/No	Yes	Yes	None	Yes (reparations: 2005)	Immediate policy
Nigeria (1999)	Yes/No	No	Yes	None	No reparations	Yes (2005; unofficial)
Peru (2001)	Yes/No	Yes	Yes	None	Yes (reparations forthcoming)	Immediate policy
East Timor (2002)	Yes/No	Yes	No	Technical Secretariat	Yes (reparations: 2010)	Immediate policy
Sierra Leone (2002)	Yes/No	Yes	No (delayed endorsement)	National Commission for Social Action	Yes (reparations: 2008)	Immediate policy
Liberia (2006)	Yes/No	Yes	No	Independent National Commission on Human Rights	Ongoing civil society campaign	Immediate policy

* 'Yes' / positive outcomes are indicated in red.

Table 2 (continued): Truth Commission Impact in 15 Transitional Commissions*

	New human rights NGOs established to monitor post-commission policy	Non-governmental efforts to disseminate truth commission report	Vetting Recommended/ Implemented	Judicial Impact	Amnesty law legislated during or immediately after the truth commission
Argentina (1983)	No	No	No/No	Domestic courts; immediate and delayed	No
Uganda (1986)	No	No	No/No	None	No
Nepal (1990)	No	No	No/No	None	Yes (1991; de facto)
Chile (1990)	No	No	No/No	Domestic and foreign courts; delayed	No
Chad (1991)	No	No	Yes/No	Foreign courts; delayed	No
El Salvador (1992)	No	No	Yes/Yes (1993; partial)	Foreign courts; delayed	Yes (1993; blanket)
Sri Lanka (1994)	No	No	No/No	Domestic courts; immediate and delayed	No
Haiti (1995)	No	No	No/No	None	No
South Africa (1995)	Institute for Justice and Reconciliation (2000)	Yes	No/No	None	Yes (built-in; partial)
Guatemala (1997)	No	Yes	No/No	Domestic and foreign courts; delayed	No
Nigeria (1999)	No	Yes	No /Yes (1999)	Domestic courts; immediate	No
Peru (2001)	Movimiento Ciudadano Para Que No Se Repita (2003)	Yes	No/No	Domestic courts; immediate and delayed	No
East Timor (2002)	No	Yes	Yes/No	None	No
Sierra Leone (2002)	Transitional justice branch of the Campaign for Good Governance	Yes	No/No	None	No
Liberia (2006)	Post TRC Transitional Justice Initiative under the Transitional Justice Working Group	Yes	Yes/No	None	Yes (built-in; partial)

* 'Yes' / positive outcomes are indicated in red.

Several, but not all, truth commissions provided a platform for domestic human rights groups to make demands on the government and evaluate policy progress. There is evidence of *civil society mobilization* around the truth commission in ten countries, although with varying degrees. Human rights activism led to the delayed publication of the final report or the adoption of reparations programs in various countries. In South Africa, Guatemala, Peru, East Timor and Sierra Leone, reluctant governments found themselves pressured into legislating reparations programs, although the speed and efficiency with which the reparations were actually disbursed generated discontent in most cases. In Nepal, Sri Lanka and Haiti, it took domestic and/or international human rights organizations several years of pressuring to get the government to publish the commission's final report, and in Nigeria, private initiative undertook the publication. Furthermore, new civil society organizations were formed in South Africa, Peru, Sierra Leone and Liberia to monitor the progress of reforms in the wake of the truth commission.

Not all cases of civil society mobilization point to truth commission impact: in Chad, human rights groups successfully campaigned for reparations even though the truth commission did not recommend the policy, and in Argentina, there is no evidence to show that the campaign for reparations, succeeding 20 years after the publication of the final report, was influenced by the truth commission in any way.

Recommending vetting/lustration does not appear to be a significant impact mechanism for truth commissions. Four of the 15 transitional truth commissions have demanded the removal of presumed perpetrators from office; the government has met this demand partially in El Salvador, whereas in Chad, East Timor and Liberia, the call for vetting was disregarded. In one of the countries where it was used (Nigeria), the truth commission had not recommended the measure.

While official lustration is uncommon, truth commissions may have contributed to the elimination of presumed perpetrators from public life by delegitimizing their political status in the eyes of citizens. Eight of the transitional commissions have published the names of individual perpetrators, and at least in one other case (Argentina), the list of perpetrators was "leaked" by the press. Beyond individuals, truth commissions have also criticized organizational actors, such as the military, police, armed opposition, political parties, and judicial institutions,

for committing or condoning human rights violations, and contributing to a political context in which violations would happen. They have often refuted self-justificatory discourses of violent actors (Zalaquett 1990, 629). The angry responses to the commissions' findings on the part of military institutions almost everywhere, high courts (e.g., Chile) and political parties (e.g., South Africa's major parties, including the African National Congress) shows that truth commissions are capable of *delegitimizing* institutional actors, and consequently, the individuals representing these institutions.

Much less clear, however, is whether delegitimation translates into change of personnel within institutions or a nationwide attitude change towards human rights. The military and high courts in Chile did not undergo significant change in the first five years following the publication of the truth commission report. Augusto Pinochet was the retired commander-in-chief, with full honors, and lifelong senator, when he was arrested in London in October 1998. In Guatemala, the political repercussions of human rights awareness were deeply felt when various court decisions ruled (and overruled) former dictator and presumed human rights violator Efraín Ríos Montt's bid for presidency in 2004, a process that brought his opponents and supporters in bitter conflict. Montt participated in the presidential election, lost, and ran a successful campaign for a seat in Congress in 2007. In Peru, former president Alberto Fujimori was sentenced for human rights violations in 2009, but his political downfall had begun before the truth commission, and in fact, the commission became possible only after Fujimori's corrupt civilian-authoritarian regime collapsed in 2000. Following collapsed transitions (e.g., Argentina, Uganda, Chad, Haiti, Peru, among others) commissions have further discredited former dictators by publicizing the abuses and corruption under their regime, but it is impossible to disentangle truth commissions' role in discrediting deposed and widely hated dictators. In conclusion, there is suggestive evidence for the *delegitimation* of perpetrators and their allies, as well as their *reaction to delegitimation*, but the specific mechanisms that affect their stature are too complex to attribute to the independent effect of truth commissions.

The idea that truth commissions produce consensus and reconciliation between victims, perpetrators and bystanders draws no empirical support. This causal explanation misses the potential for increased social and political conflict (although not necessarily violence) resulting

from the reactions of individual and organizational actors accused of conducting and/or abetting human rights violations, as well as victims' own frustrations with the truth-telling process (Hamber and Wilson 2002). Far from acknowledging violations and seeking reconciliation, presumed perpetrators and their political allies resort to rejecting the findings and conclusions of the commission, discrediting the moral authority of the commissioners and victims, and in extreme cases, threaten the political system with instability. In Chile, El Salvador, Guatemala and Peru, military leaders were quick to reject the truth commission's work in angry words. The Supreme Court of Chile went so far to declare that the commission's final report put the country's institutional stability in danger. In South Africa and Peru, political parties voiced serious disagreements with the truth commission, and certainly did not make a gesture toward apology, forgiveness or reconciliation. If anyone, it has been the leadership of the incoming government that has extended a gesture of acknowledgment and apology toward victims, and not those individuals and institutions responsible for past violence.

In conclusion, the release of a commission's final report invariably leads to disagreement and a tense political environment, at least in the short-run (Dwyer 2006). The parties to violent conflict acknowledged, and apologized for, violations in Argentina, Chile, East Timor, but only years after the publication of the commission's final report.¹⁵ The commission may have played an important role by providing the factual basis upon which to build a politics of recognition and forgiveness, but this role should be evaluated in the context of long-term normative and political transformations, rather than immediate reconciliation. Consensus-based models of truth commission impact need to be abandoned in favor of explanations that acknowledge the conflict potential of coming to terms with a violent and divisive past. Social reconciliation is a complex and multivalent process that defies quick closure (Verdeja 2004).

It should be also noted, however, that there is no evidence that any truth commission has caused resumption of violence. The termination of the commission's work coincided with large-scale violence in Sri Lanka, but no observer has attributed to the commission process a causal role.

A satisfactory cross-national analysis of truth commissions' *impact on social norms* would require nothing less than conducting standardized surveys on the change of social and

political values as a result of truth commissions among representative samples in various countries. The best available data come from case studies, including my fieldwork in Chile and Peru, and the only available proxies for impact on social norms, albeit imperfect, are the data on the dissemination of truth commission's final work. Evidence shows that some truth commissions have devised ways to increase public awareness of their findings and recommendations, such as publishing the final report as a marketable book or in a newspaper, producing an accessible version of the final report for adults and/or children (Peru and Sierra Leone), organizing outreach activities, etc. Governments have been invariably unsupportive of truth commissions' dissemination efforts other than publishing the final report. Even the official publication was not available to most citizens in Uganda, Sri Lanka, Haiti, and Nigeria. Domestic and international civil society organizations have spearheaded efforts to incorporate the commission's findings and lessons into educational curricula, but there are reports of national-level incorporation in Guatemala only (Oglesby 2007). Several of my interviewees in Peru stated that educational incorporation was one of the major goals of local civil society groups in Ayacucho and Huancavelica, in the face of lack of political will at the local and national levels. Finally, incorporation might be highly problematic for teachers, who find themselves in a position to adjudicate historical controversies with the aid of the truth commission, at times to the dismay of school authorities and parents. In conclusion, truth commissions' contribution to society-wide normative change is inconclusive, but civil society mobilization to popularize the commission's work is likely to account for the possibility of enacting such change.

Several commissions have generated judicial impact, but the magnitude of the impact remains small. In Argentina, human rights trials began immediately after the truth commission, although the commission's findings or recommendations may not have influenced the decision directly. The commissions in Chile, Chad, El Salvador, Guatemala and Peru saw their findings incorporated into domestic or foreign lawsuits as contextual information. Except for Peru, where the commission handed in relevant information to the Attorney General's Office immediately, even the preliminary investigation for prosecutions took place several years after the publication of the final report. In none of the cases did judicial impact extend beyond one or two high-profile

cases, such as the arrest of Pinochet, the indictment of Habré, and the conviction of Fujimori. Truth commission findings may provide the factual basis upon which to build human rights accountability, but they have hardly been utilized in courts.

Do truth commissions promote amnesty, then? There is a tendency to exaggerate the prevalence of amnesty laws accompanying truth commissions as a result of the attention given to the South African TRC's amnesty procedures (Pensky 2008). South Africa and Liberia are the only countries where an amnesty-for-truth option was built into the commission, but it would be unfair to fault the amnesty procedure for the obstruction of justice: the South African TRC rejected about 88% of the 7112 amnesty applications as of 2000, and many perpetrators did not testify at all.¹⁶ Thus, the majority of perpetrators are available for prosecution. The results in Liberia are yet to be seen. Peace accords in Guatemala and Sierra Leone initially had amnesty provisions, but pressure from the international community and domestic NGOs forced the exclusion of serious charges, such as genocide and crimes against humanity, from the amnesty laws. In other words, the failure to prosecute results less from amnesty laws accompanying truth commissions than other factors, such as the unwillingness of the judiciary or political pressures.

In Chile and Sri Lanka, amnesty laws preceded the truth commission by over a decade. Chile's amnesty law dates back to 1978, and Sri Lanka's to 1982 – long before the respective truth commissions of 1990 and 1994. El Salvador and Nepal are the only countries where a truth commission resulted in amnesty, but precisely as counter-evidence for the *impunity through amnesty* hypothesis: an amnesty law was passed hastily in each country as the release of the final report generated the fear of prosecution among the political and military elite (Popkin and Roht-Arriaza 1995). The post-commission amnesties in Argentina served to stop criminal accountability, but they had nothing to do with the truth commission's work: 1986 Full Stop Law halted the prosecution of most perpetrators, and Carlos Menem's 1989 presidential pardon of military officers accused of violations further undermined retributive justice.

There is no empirical evidence to show that the actors who actively seek prosecution get 'distracted' by the non-retributive promises of truth commissions, like healing, reconciliation or monetary compensation. My fieldwork reveals that commissions have restructured their investigation methods to respond to the persistent advocacy of trials (Peru) or have found

themselves severely criticized for failing to respond to this demand (Chile). While it is true that many politicians, military leaders and armed groups have accepted the creation of truth commissions under the impression that those panels would replace, or distract from, prosecutions, commissions have neither advocated impunity nor dampened the energies of activists who sought trials. The failure to prosecute has resulted from many other factors, but not from the existence of truth commissions.

Conclusion

This paper conceptualizes *truth commission impact* as a set of political, institutional, societal and judicial transformations resulting from the truth commission process in the course of a political transition. The discussion above discards several hypotheses about the relationship between truth commissions and political, social and judicial change: *vetting* (effective only in El Salvador), *reconciliation through consensus*, and *impunity through distraction*. It qualifies other hypotheses: *judicial impact* tends to appear several years after the commission's termination, in great part as a result of broader changes in politicians' and judges' attitudes on human rights trials; and *impunity through amnesty* favors only a small subsection of perpetrators, while the overall climate of impunity is likely caused by factors other than truth commissions' amnesty procedures. The *delegitimation*, *reaction to delegitimation* and *impact on social norms* hypotheses draw support, but the evidence for truth commission impact is suggestive rather than conclusive, since a host of contextual factors produce political and societal normative changes in conjunction with, and inseparable from, the effect of truth commissions. Therefore I provide an account of these causal processes in my case studies of Chile and Peru, but not in the cross-national comparison of 15 truth commissions.

The processes that generate the greatest impact are *immediate political impact* and *delayed political impact* through *civil society mobilization*. The former points to the quasi-official character of truth commissions, while the latter is a reminder of the need for continued civil society activism to keep politicians accountable to otherwise non-binding recommendations. Civil society mobilization is a crucial factor in generating judicial and normative impact, as well. Truth commissions are neither state institutions nor NGOs; their

liminal position vis-à-vis public authorities necessitates a broader discussion of their agency and vulnerability, stated goals and unanticipated consequences. It is through the relations of mutual cooperation and competition, autonomy and dependence, legitimation and delegitimation between politicians, domestic and international human rights activists, and commissioners that truth commissions generate policy and normative impact.

Notes

¹ Not all accounts assess commissions' worth in terms of political outcomes. The investigation of human rights violations and remembrance of the past in an institutionalized setting may be desirable and morally defensible independently of political transformations (Booth 2001; Allen 2001), which I discuss elsewhere in the book. This chapter is, however, devoted to truth commissions' impact on politics and society.

² Since the early days of transitional justice scholarship, the specific applications of a state's duty to prosecute have fuelled disagreements. See Arthur (2009) for a summary of the debates on the duty to prosecute at the 1988 Aspen Institute Conference, one of the meetings that framed the field of transitional justice.

³ Examples include, but are not limited to, Wilson 2001; Long and Brecke 2003; Brahm 2006; Rodio 2009.

⁴ Charles D. Kenney, and Dean E. Spears, "Truth and Consequences: Do Truth Commissions Promote Democratization?" Paper presented at the Annual Meeting of the American Political Science Association, Washington, D.C. (September 1-4, 2005); Hun Joon Kim, and Kathryn Sikkink, "Explaining the Deterrence Effect of Human Rights Prosecutions for Transitional Countries." *International Studies Quarterly*, 54 (2010): 939-963; Eric Wiebelhaus-Brahm, *Truth Commissions and Transitional Societies: The Impact on Human Rights and Democracy*, (New York: Routledge, 2009); Tricia D. Olsen, Leigh A. Payne and Andrew G. Reiter, *Transitional Justice in Balance: Comparing Processes, Weighing Efficacy*, (Washington, DC: US Institute of Peace Press, 2010).

⁵ David Mendeloff (2004) cites several Amnesty International reports to conclude that truth commissions do not contribute to human rights progress, while González, de Brito, and Aguilar Fernández (2001) put into question the democracy-promotion effects of truth commissions based on four case studies.

⁶ "The capacity of truth commissions to promote reconciliation is far more limited than their proponents suggest. Truth commissions contribute to democratic consolidation only when a prodemocracy coalition holds power in a fairly well institutionalized state. Absent those conditions, truth commissions can have perverse effects, sometimes exacerbating tensions and at other times providing public relations smoke screens for regimes that continue to abuse rights." (Snyder and Vinjamuri 2003, 20). Also see: Wiebelhaus-Brahm 2010, 137.

⁷ For example, the payment of reparations is an important step for the progress of transitional justice, but the meager amounts allocated to individual victims put into question the actual success (Schlein 2010).

⁸ In some other cases, the presumed perpetrators have admitted to the social legitimacy of the truth commission, and faced the strategic (and moral) choice to obstruct, ignore or participate in the truth-finding process. Especially non-transitional truth commissions have seen an increasing willingness on the part of perpetrators to make confessions or present their accounts before truth commissions or similar truth-finding bodies. In other words, major disagreements about the truth commission both reflect and structure societal polarization around the human rights issue.

⁹ In Guatemala, Bishop Juan Gerardi was assassinated in April 1998, soon after the publication of a church-backed human rights report under his direction. In Peru, threats against the truth commission staff, most notably against its president Salomón Lerner, have been reported to this day.

¹⁰ James L. Gibson (2004) stands out in clearly explaining the causal mechanism for how historiography may have promoted attitudes toward reconciliation in the context of the South African transition. The publication of historical facts by the truth commission creates cognitive dissonance in individual and group perceptions of apartheid. The need to mitigate “collective dogmatism” forces individuals to rethink their past actions and to renounce earlier self-justifications that stated political conflict in terms of absolute evil and absolute good.

¹¹ I do not assume that mere exposure to an idea leads to its automatic internalization. My modest assumption is that awareness of a truth commission’s work (as opposed to no exposure whatsoever) increases a person’s likelihood of adopting its central message.

¹² “In transitional justice circles, the indistinction between forgiveness and amnesty has been rendered murkier by the fact that the one instance where binding amnesty decisions were made by a truth commission, South Africa, was also an instance where the idiom of forgiveness played a central role” (Saunders 2011, 125).

¹³ The temptation to establish truth commissions as a means to avoid justice has provoked normative debates over the nature of the relationship between truth, justice and reconciliation. Juan Méndez (2001) argues against the counterpoising of truth and justice, as well as reconciliation and justice, as binary opposites. Instead, he claims: “Truth commissions are important in their own right, but they work best when conceived as a key component in a holistic process of truth-telling, justice, reparations, and eventual reconciliation” (Méndez 2001, 29). Likewise, Ernesto Verdeja (2009) resists the appropriation of reconciliation as a pretext for impunity and amnesia. He argues for a notion of reconciliation understood as “mutual respect among former enemies” that implies truth telling, accountability, victim recognition and the rule of law as fundamental tenets.

¹⁴ ICTY Prosecutor Carla del Ponte, for instance, helped stop formation of a truth commission for Bosnia because she feared such a commission would undermine her judicial cases (Call 2004, 112 footnote 14).

¹⁵ I do not claim that not instituting a truth commission would facilitate consensus-building. As the example of Bosnia and Herzegovina suggests, the absence of societywide truth-telling procedures might delay reconciliation further, as widely divergent accounts of why a violent conflict started, and who the perpetrators were, inhibit dialogue and consensus between ethnic and political groups (Kostic 2008).

¹⁶ Data available at: <http://www.justice.gov.za/trc/amntrans/index.htm>

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