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## Building a better world by establishing a Truth Commission: **Incomplete healing in El Salvador**

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*Stener Ekern\**

## 1 Introduction<sup>1</sup>

On 17 October 1992, as a consultant to the Commission on the Truth for El Salvador, I visited the village of Corinto to collect stories of ‘grave cases of violence’. Situated in the remote and poor province of Morazán, Corinto is as far as it gets from the central areas of this Central American republic. But the war—i.e., El Salvador’s civil war between 1980 and 1990—had taken its toll also up here in the peasant-dominated rocky uplands. I remember the trip well, in a UN-provided jeep, two consultants and a driver, on ever poorer roads through lush, green scenery that became progressively drier as the road climbed. Halfway up the hills, we made a stop at a place known as ‘Burnt Car’ (*Carro Quemado*), which was where a battle between the army and the guerrillas had taken place ten years earlier. After the battle, the road remained closed for several days to clear it of heaps of blackened and twisted metal. The episode had left memories strong enough to rename a stretch of the road. Burnt Car spoke about much suffering but also, for visiting Europeans, it told a story about a war that looked like a real war, with organised groups fighting for territorial positions.

In Corinto, we were received by a local lawyer. The trip had been arranged after he had visited our regional truth commission office, a week earlier, in the town of San Miguel down in the lowlands. The lawyer had given us his testimony regarding four extrajudicial killings and added that the violent events he reported were of general knowledge in Corinto. There were also many other similar stories so if we could come and collect them he would be happy to serve. Given that few people came to see us at the regional truth commission office, we decided to go to Corinto the following week.

During that day in Corinto, the two of us received twelve testimonies. We followed our instructions and duly noted down the names of the victims, the relevant category of violence (in this case torture and extrajudicial killing), the names of the perpetrators (if known) and their institutional affiliation, if any. Thus, a typical testimony reads:

“On 15 October 1980, two men from the Civil Defence (*Defensa Civil*) of Corinto captured and assassinated, in this same village, the gentlemen NV and ES. NV was 45 years old, originally from the hamlet of Corralito, in the municipality of Corinto, where he lived and worked until May 1980, as a farmer and a day labourer. He was married and had nine children. In May he

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and his family were forced to flee because of fear of the army. They found refuge in Corinto, in the house of a son-in-law of his wife, called ES. NV was an active member of the Catholic Church. . . . On the day of the crime, the Civil Defence, the entire patrol of some 25 men, stopped outside the house at around six pm. Several patrollers went inside and brought with them NV and ES before the eyes of the family members who were present, and without saying anything. They brought the captives to the headquarters of the Corinto Civil Defence. On that very night the two were shot. On the following morning the children of the captives found the bodies of their fathers along the road to [the neighbouring village of] Sociedad.”<sup>2</sup>

From this as well as the other testimonies we were able to reconstruct the history of a particularly brutal Civil Defence official and reign of terror in Corinto during his tenure in the early 1980s, when the Salvadoran civil war was at its most intense. Before we left the town after an intense day in the field, we were also shown the now deserted house that had served as the headquarters of the Civil Defence and as torture chamber and execution site. There were still traces of blood on the walls. The local lawyer was able to paint a broader picture of the fighting between guerrillas who tried to recruit fighters and gain territorial control over this area in North Eastern Morazán, on the one hand, and on the other an army that without much questioning had let the front be held by its auxiliary force, the Civil Defence. He also told a story of a local misfit who seized the opportunity to become the bloody ruler of Corinto during the dark years of the civil war.

The stories I heard in Corinto resembled stories from the Second World War I had grown up with in my own country, Norway. A war with reasonably fixed battle lines (unlike the ‘dirty wars’ in South America, that otherwise provided the template for understanding violent conflict in Latin America at the time), and one in which the most sinister details included stories of locally grown torturers and madness. As a local boy, growing up in the aftermath—albeit at a distance of 25 years—for me, then, in the 1970s, the issue had been how to make sense of such atrocities in an otherwise reasonably understandable war. Now I was again confronted with trying to understand inhumanity. Receiving first-hand narratives in the field was something quite different from studying social conflict and political confrontation in books and academic journals.

I left Corinto that day with a sense of satisfaction, no doubt stemming from the cathartic feeling the taking of testimonies usually produced in both speaker and listener.<sup>3</sup> However, as the events in Corinto and many other places were analysed and put together in an overall report about the war, I grew uneasy about what we were doing to the original story and the hopes of those who volunteered to tell their stories. Twenty-five years later, I am still unsure about the real truth contained in the stories we collected, and not least, the wider impact of the report we put together from the testimonies.

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<sup>2</sup> Document on file with the author. Initials replace original full names.

<sup>3</sup> Whether there really exists such a ‘cathartic release’ with healing capabilities is a topic of debate among psychologists as well as anthropologists. For the present purposes, it must suffice to say that this feeling is what I remember, and moreover by way of references to this more or less Freudian grammar of emotions, I was able to share my experiences with my fellow consultants as well as many Salvadorans war victims.

This paper is an attempt to deal with this discomfort and turn it into something constructive. The ambition is to reflect upon the human experience of ‘closing the books’<sup>4</sup> and starting afresh to complement the more specific lessons about truth commissions.<sup>5</sup> I will do this by way of comparing what I learnt in El Salvador in 1992 to what I have later learnt about truth commissions; that is, how such truth-seeking undertakings have come to form a standard instrument in transitional justice (TJ) and how the jury is still out as regards the impact of the work of these commissions. Following a note on methodology and definitions in section 2 below, section 3 provides an outline of the Salvadoran civil war (ca 1979-1992) and problematizes how its story typically tends to be told, i.e., as a conflict between a right-wing dictatorial government and a left-wing popular rebellion. I argue that this standard story is a narrative frame that perhaps occludes more than it reveals for the present purpose of finding a constructive (both healing/restoring and future-oriented) truth. Then (section 4) I give a presentation of the mandate and the work of the commission, first situating its message in a framework of possible ways of starting afresh, and second (section 5), as an early example of what by now amounts to a standard UN mechanism with its own Special Rapporteur.<sup>6</sup> In the remaining sections 6 and 7, I examine my own work in the El Salvador truth commission and discuss its findings in the light of what I learnt from the testimonies I received when working for it back in 1992.

## **2      *A Note on Definitions and Method***

The literature about transitional justice (TJ) and truth commissions (TC) is vast. The International Centre for Transitional Justice (ICTJ), a well-respected international NGO, defines TJ as “the ways countries emerging from periods of conflict and repression address large scale or systematic human rights violations so numerous and so serious that the normal justice system will not be able to provide an adequate response”.<sup>7</sup> Establishing a TC is but one TJ measure along with, for instance, criminal prosecution or war trials, reparation programmes, and various kinds of institutional reform. An authoritative voice on the issue who also has written about TJ measures in El Salvador, US-based legal scholar Naomi Roht-Arrioz (2006:1), defines TJ studies as looking at “how societies emerging from periods of civil war or dictatorship deal with the legacies of the past.” To conclude this zooming in on the issue of finding the truth in order to build a better future, I add the definition given by another US legal scholar, Ruti Teitel. In her opinion, TJ involves a “conception of justice associated with periods of political change, characterised by legal responses to confront the wrongdoings of repressive predecessor regimes...informed by desires to (re-) build social trust, repair a fractured justice

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<sup>4</sup> Which also is the title of a standard reference book about transitional justice and the role of post-war trials and truth commissions by Jon Elster (Elster 2004).

<sup>5</sup> See, for instance, Skaar et al (forthcoming).

<sup>6</sup> For a presentation of the work of the Special Rapporteur in question, see <http://www.ohchr.org/EN/Issues/TruthJusticeReparation/Pages/Index.aspx> . For a general introduction to the mechanism as such, see <http://www.ohchr.org/EN/HRBodies/SP/Pages/Introduction.aspx>. Both accessed 10.05.18.

<sup>7</sup> See <https://www.ictj.org/about/transitional-justice>. Accessed 10.05.18.

system and build a democratic system of governance” (Teitel 2003:69). We note the mixture of apparently straightforward (though of course not easy) work for legal redress and political reform, tasks that can be thought of as technical, on the one hand, and on the other the call for furthering an overall moral improvement through social and cultural reform.

The combination of social/political engineering and moral improvement that these definitions contain reflects the latent tension between ‘truth’, meaning revealing and assigning causality or responsibility, on the one hand, and on the other, ‘justice’, meaning fairness and lawfulness. Working in a truth commission (or indeed in any peace-making exercise) makes one acutely aware of the peace v. justice dilemma. (If not, any thoughtful informant will do it for you when musing over whether to give or not to give the additional detail that might have immediate consequences.) On top of the indeterminacy of social phenomena which social scientist always have to deal with when researching indeterminate human action, there is an indeterminacy in the discipline of law itself, as political scientist Anne Leebaw (2008:97) points out. How can law, as a set of ordering measures, at the same time create another order?

For the present purpose, let me also stress how the work of truth commissions in most cases is just one of several, parallel measures designed to create a new order. In the Salvadoran commission, all of us were very much aware of the fact that ours was only a smaller part of a greater effort. This meant that at times our discussions took the work going on elsewhere into consideration when deciding which cases to focus upon and what recommendations to give. We saw ourselves as specialising in a legalising effort to be complemented by political and social measures. To some extent, the above definitions of TJ work tend to over-emphasise the legal aspects of societal change at the cost of less tangible form of regulating social and political life.

A fundamental point which I deduce from historically informed analyses of transitional processes in countries such as Germany and Spain (Mihir 2017, UN 2014), is that in order to reset and transform a society, a time scale of at least a generation (20+ years) is needed. Specifically, Mihir (2017) argues that the so-called Auschwitz trials in Germany were only able to produce the impact they did in the 1960s when a new generation was at work and when there was a critical mass in German civil society willing to confront the past of its own country. The dynamics between these actors or societal factions amounted to a positive feedback loop. The argument about time as a factor also points to thinking about truth commissions in the broader sense I adopt here, as a way of ‘closing the books’ (Elster 2004) or even proclaiming a ‘year zero’.

In my discussions of my Salvadoran experiences, I particularly stress how all testimonies are narratives, i.e., they are constructed with a purpose and are given a meaning within a context. This literary quality of the social phenomena we study go for all the cases that truth commissions collect as well as for the reports they put together once they have completed their investigations. The stories we receive and tell are all culture dependant. An appraisal of the impact of the edited versions we find in their final reports must involve a kind of cultural analysis.

### 3 *El Salvador's Civil War*

Dealing with atrocities was the mandate of the Commission on the Truth for El Salvador (*Comisión de la Verdad para El Salvador*). The commission was part of the UN-brokered peace accord between the Government of El Salvador and the Farabundo Martí guerrilla alliance FMLN (*Frente Farabundo Martí para la Liberación Nacional*) in 1992. Following on the heels of the truth-seeking exercises of Argentina and Chile, initiated to manage the aftermath of military dictatorships that ended in 1985 and 1989 respectively (i.e., before the work of the South African attempt at dealing with the legacy of apartheid), it was one of the first exercises of a new kind of internationally brokered civil war closures. In El Salvador, the UN—and thus international society—played a decisive role in pushing the warring parties on to building peace and a new society. Along with a series of specific agreements about armistice and disarmament, vetting and social reform, the accord called for the setting up of a truth commission.

It would be difficult to argue that the establishment of the commission responded to a widespread, popular clamour. Past research stresses how neither the government nor the rebels really wanted such an exercise (Sieder 2002, Martínez Barahona et al 2012). What I recall from my fieldwork in 1992 was an atmosphere of unwillingness to open past wounds (the wounds were then already 10-12 years old in most cases) and of a certain disbelief in imagining any profoundly different future—though perhaps such fatalism or numbness was another consequence of the war.

Furthermore, post-war analyses point at how in fact both parties that have alternated in power since 1992 (FMLN on the left and ARENA on the right) continued to obstruct the implementation of the accords for around 20 years. The telling detail is how the truth commission's report upon its publication was promptly met with a sweeping amnesty law that furthermore has been repeatedly upheld by the country's highest judicial authorities. Not until 2016 did the Supreme Court revoke this amnesty law that in all likelihood was illegal in terms of international human rights law.<sup>8</sup>

Discussions of the failures of the commission place the main responsibility for its meagre impact on successive governments, specifically the courts and the prosecutor's office (Martínez Barahona et al 2012). I do agree that these core governmental institutions in effect have blocked the anticipated peace process. In 1992, I had several experiences with foot-dragging judges and have no problem in imagining such unwillingness at large. However, I also had the pleasure of being received by very forthcoming court officials in some instances. Thus, in my mind the problem of governmental reluctance (this point about refusing to obey the truth commission's recommendations of accepting responsibility for war crimes also goes for the FMLN leadership) is just begging the bigger question: How can state institutions go on disregarding what from the outside appears as nothing more than a referral to the basics of the rule of law? And is

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<sup>8</sup> Corte Suprema de Justicia de El Salvador. Sala Constitucional. Expediente 44-2013AC. Sentencia de 13 de julio de 2016. The 2016 decision says that the 1993 decision, which had accepted the amnesty law, contravenes the country's constitution as well as international human rights law, and ignores the rights to remedies for victims of crimes against humanity and war crimes.

government defiance really a lack of impact? Could it be just a necessary first step in a process of acceptance, like the one we observed in Germany between 1945 and 1970?

It is easy to assume that this 25 year-impasse in El Salvador is primarily a question of the legacies of war, dictatorship and not least, the politics of an intransigent ruling class coupled with attitudes of denial among military men. These are all macro-level factors that typically form the narrative tropes that drive the standard story about the lack of impact of the commission's recommendations. Again, I do not dispute that El Salvador is a class-ridden and deeply unequal society; receiving 180 witnesses to war from all social layers is a crash course in comprehending an alien, strongly hierarchical and patriarchal society. However, by reporting and condemning social inequality and political intransigence, we do not get closer to the problem at hand, which is to gauge the impact of an authoritatively produced report. To do this we must embark on an interpretative journey, to see how it was framed locally and realise how we in the truth commission framed it differently.

The first thing to keep in mind when assessing the work of the Salvadoran truth commission is that many Salvadorans have a very different story about what happened before and during the war than the story of a state captured by military dictators, a narrative to which the truth commission also subscribed. This was true not only because the witnesses were afraid to tell stories going against their masters. The story of a state struggling to overcome class divisions and transform itself into a democracy, is also a child of a specific historical context. Human rights-based truth commission reports require the use of conceptual frames created and designed by consultants and scholars with an international outlook. This is for complying with the UN framework and, not least, for reaching the attention of the international community. This latter point was made very eloquently to me—the foreign human rights expert—by several witnesses (including the mentioned lawyer in Corinto) when I was asked how on earth we could expect “human rights”—the norms of an “advanced society”—to prosper in Salvadoran soil just like that.

In addition to the contexts of sharp class divisions and the legacy of brutal warfare, with rampant death squads and army-led massacres, the narrative frame that resonated most easily in the international community at the time stressed how the local left-right cleavage reflected the ongoing cold war between the USA and the USSR. Such parallels between national and international political struggles were of course not without merit, and certainly they were drawn also by the warring parties themselves in the form of calls for a socialist revolution or all-out fights against world communism. However, the meanings carried by these interpretative frames are basically shaped by living in a modern, industrialised society. That is, the roles we, as foreigners, assign to the actors in the drama we reconstruct in our reports are derived from the cultural repertoire of a modern society. In the local imagination, the meanings ascribed to e.g. the behaviour a death squad member will be quite different from the killer-hired-by-the-

extreme-right type of person people from the international community will see before their eyes.<sup>9</sup>

By listening to 180 intimate stories of personal loss and the speculations about causes and consequences they invariably carried, I started to develop a picture of a war that involved much more than the politics of the left versus the right. Furthermore, the reflections so many of the witnesses shared with me (and which I had to edit out of the testimony because of its strict framing), indicated the use of very different frameworks for understanding and overcoming political violence than those prescribed by the mandate of the commission.

An illustrative case of such contrasting frames is how a vast majority of the cases that the commission listed as “extrajudicial killings” were actually carried out by what witnesses called *escuadroneros*, death squads. These men (I never heard of any women in this role) were typically locals in disguise with faces painted, or covered by handkerchiefs, who accompanied army units (or acted alone, as in Corinto) and who, with local knowledge, “pointed a finger at” the “subversives” of the community. The following testimonies I collected in the province of Cuscatlán—where, like in Morazán, the guerrilla was able to establish contiguous territories under their control—gives a fascinating glimpse into the Salvadoran civil war:

“... [on] 9 April 1980, in the village ... of Monte San Juan, members of FPL (one of the three guerrillas factions of FMLN) executed the four following persons [their names are mentioned]. At 6 am, between the hamlet of Candelaria and Monte San Juan, an FPL group met. On the handkerchief that covered their faces was written FPL. Some of them walked towards the village and some towards Candelaria. The FPL people found some of the victims on the streets of the village, where they were killed immediately, except for EH and AV. The first of these two was brought to the hamlet of Soledad where he was executed. His body was found tied up. NP was executed and accused of being a member of ORDEN. PF they killed so that he could not testify. ...”<sup>10</sup>

... As a consequence of these events Civil Defence forces were organised. All members of the patrols armed themselves with revolvers and ammunition, which they received by forming a patrol. ... The local commander, who at that time was sergeant CFR, asked for arms to the civil defence from the National Guard in Cojutepeque. [Here] the man in charge was major OAAP. Now he is a colonel. He instructed the civil defence forces and drilled them on the town square. He said he armed them in order to fight the guerrillas. And that everyone who heard about guerrilla meetings had to report. ... However, when the patrols arrived, they only found good men without arms. Because the patrols were unable to catch guerrilla fighters, they began to seek out and kill people directly without asking anyone.”<sup>11</sup>

In line with standard international society usage (i.e., the language of the urbanised parts of the world, as it were), in the report from the truth commission the term ‘death squad’ was reserved

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<sup>9</sup> I discuss this production of biases in my earlier work (Ekern 2010). Also see the general anthropological debate about human rights implementation as a kind of ‘vernacularisation’ of international human rights law in, for instance, (Merry 2017).

<sup>10</sup> Document on file with the author. Initials replace full names.

<sup>11</sup> Documents on file with the author. Initials replace full names. The statement continues with how the civil defence forces, in cooperation with the National Guard, established a reign of terror in Monte San Juan.

for the motorised, urban variety of such killers. The local context of competing fractions in a local community that through being inserted in grand, national narratives of liberation and/or modernisation turn increasingly polarised, exclusionary and violent to the point of initiating sequels of ideological cleansing, disappear. For the locally produced stories of what happened in Corinto and Monte San Juan usually involve preceding stages of not only poor peasants versus big landowners. It also involves how different nation-wide entities such as, on the one hand a guerrilla movement and its associated base organisations, and on the other, a series of half private, half governmental, anti-communist defence forces, become leading contenders and clash violently.

The Salvadoran Civil Defence force, in Corinto and elsewhere, had its roots in private police forces established by a weak state a hundred years earlier. The National Guard—one of the country's three police forces until all of them were disbanded and merged to form a new police force in accordance with the peace accords—was originally founded in 1912. Among peasants their units were known as *escoltas* (escorts) because landowners could hire their services privately. ORDEN refers to the semi-clandestine armed wing of the right-wing party that governed El Salvador in the 1960s. It was disbanded after the 1979 military coup only to be resurrected as the Civil Defence. In any case, informants referred to all of them as *escoltas* and as *escuadroneros* whenever they appeared in disguise.<sup>12</sup>

Thus, the increasingly violent behaviour of El Salvador's various paramilitary police forces was partly the organised answer to the underground establishment of a revolutionary guerrilla army. In military terms, the waves of systematic killings or “cleansing operations” (*limpiezas*) were “opening of fronts” or “free firing zones”. Moreover, whereas for the children of the modern world, to which international society readers typically belong, it suffices to know that the victims were poor and oppressed. The witnesses themselves used quite different concepts to make the story meaningful. Theirs would be stories of family feuding, personal grievances and grave offenses, coupled with qualifiers such as “extremism”, “polarisation” and “dehumanisation”. Only rarely would the quest for redress involve rule of law instruments such as police investigation and court proceedings. How can you build a human rights-based state when you have little or no experience with modern society and live in a tradition-bound world?

#### **4      *The Mandate of the Truth Commission***

With the above articulation of the cultural distance between local peasants and metropolitan urbanites in mind, and images of an aborted modernisation process as much as any left vs. right political struggle before us, let us now recapitulate the mandate of the El Salvador truth commission. The instruction formulated by the UN was to investigate “*grave acts of violence ... whose impact on society urgently demands that the public should know the truth ... because incidents of this kind ought to be subjected to the exemplary handling of the tribunals of justice*”.<sup>13</sup> There was no explicit reference to human rights, but the phrasing certainly reflects

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<sup>12</sup> For Salvadoran history, see Woodward 1999 and Booth et al 2006.

<sup>13</sup> The full report is available at <http://www.derechos.org/nizkor/salvador/informes/truth.html>.

modern ideas about how to heal societal wounds and build a better society (i.e., using tribunals for setting precedents). On the other hand, as a concept, from day one ‘human rights’ was resorted to in the commission’s daily work to classify and categorise the grave acts of violence we were to find the truth about. In fact, it was we, the consultants, who at one of our very first meetings simply decided that applying the term of human rights would be the most convenient way of operationalising our mandate. We did not discuss whether our choice of terminology would be understood or not, and intuitively, we also used human rights language in the recommendations.

In this context, it is pertinent to also point out how we used human rights discourse to justify our presence in El Salvador, for instance on visits to provincial courts as well as to establish our authority in receiving the victims of war. We were all foreigners (on the insistence of the Government of El Salvador and the FMLN high command no Central Americans were admitted to the staff) but at liberty to work as human rights specialists under the authority of the UN and the peace agreements.

Re-reading the flowery words of the mandate makes me recall the sense of frustration I felt when our work was over and the report compiled. I was acutely aware of how the many stories we collected from places like Corinto and Monte San Juan were cut in pieces and redrawn in accordance with templates of narration utterly different from those that had provided the original testimonies with meaning. The testimonies reproduced above simply fed statistics containing (1) the name of the victim, (2) the name of the institution or force to which the perpetrator belonged (which had to be a state agency such as the army, one of the three police forces or the FMLN; *escolta* was not an accepted category), and (3) a description of the act qualifying it as a grave act of violence. Thus, in the report, the Salvadoran countryside became populated by anonymous, but sinister “paramilitaries” with no local life. Similarly, the “paradigmatic cases” that the report highlights in order to “subject [them] to the exemplary handling of the tribunals of justice” were all deduced from the situations that a human rights framework establish and only indirectly from any concern grounded in the local killing fields. The monstrosity in Corinto remained if anything even more unexplained.

This unease with the poor explanatory powers of the report did however result in much systematic reflection about what I later would call the “modernising bias” of human rights and truth commissions (Ekern 1998; Ekern 2010). The main points of my argument have been that (1) reformatting local stories of grave acts of violence into catalogues of human rights violations induces quite serious distortions in the meaning these narratives might have. For this reason, they fail to serve as the exemplary cases one will need for healing and reconstruction locally, even if they might very well succeed in attracting international attention and economic aid. The latter observation follows from (2) how stories constructed around human rights violations resonate best in modern society in so far as concepts such as ‘paramilitaries’ and ‘extrajudicial killings’ were first born in such a context.

The argument about a modernising bias can be furthered by considering truth commission reports as a kind of transformational device. Like so many of my informants in Central America, I keep imagining truth commission reports and associated recommendations directed at building

a modern democratic society as creating a kind of year zero through social and cultural engineering and international intervention and cooperation, rather than through revolutionary action or divine intervention. As noted, in this way, a field for comparisons with broader transforming processes can be opened. The specific example I have in mind is the abovementioned historically informed discussion about such processes in Germany and Spain (Mihir 2017).

The references to ‘divine revelation’ and ‘revolutionary action’ opens for perhaps even broader historical and cross-cultural comparisons. Taking a longer view of Central American development, it is fascinating to contemplate how in the pre-colonial world new dynasties consolidated their seats on old thrones by defiling the portraits—and hence the political heritage—of preceding kings. (There are several ruins of such dynastic nuclei, i.e., pre-Columbian royal courts, in El Salvador.) By mentioning “revolutionary action”, I refer of course to the transformational aspirations of ideologies that belong to our own, modern world. As suggested, to a substantial degree both sides in the Salvadoran conflict rallied around a type of emancipatory and/or purgative vision, i.e., a society purged of either subversive/Communist elements or their antithesis, capitalists and reactionaries.

## **5      *Truth-Seeking as a Transformative Tool***

The perhaps most authoritative, modern formulation of closing the books and installing a new dynasty is the quest for overcoming civil war given in the mandate of the UN *Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*. The Special Rapporteurs are a human rights mechanism designed to assist the UN Human Rights Council and the Office of the High Commissioner of Human Rights in, in this case, consolidating peace and democracy in war-torn countries. Today the institution in question is one of 35 ‘special procedures’ at the service of the international community, i.e. the UN.<sup>14</sup> Back in 1992, no-one in the Salvadoran truth commission could even imagine the phenomenal growth of the international human rights system that has taken place since then—and much less that setting up such commissions would become the order of the day in democratic transitions all over the world.

Even so, such a development is in many ways a natural outcome of the internationalisation of peace processes and regime transitions that gathered momentum during the early 1990s. This decade was a time of much optimism as regards the capabilities of the liberal state to deal with almost any social and political problem. It was also a time of rapid expansion of global interchange in all areas, from ideas to goods and services, and not least in defining the ways in which states can be assembled.

Discovering the truth about a painful period or chain of events, and making it known and accepted as a basis for future social interaction, is at first sight a useful and perhaps even necessary stepping stone for promoting justice, repairing the damage done, and re-construct

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<sup>14</sup> See note 6 above.

social institutions. Within the discourse of human rights promotion and realisation, this entails building democracy and the rule of law because this particular way of constructing a state authority is what the UN- and human rights-based world order permits.<sup>15</sup> When we consider the now UN-authorized set of TJ measures as just one among many possible year zero processes, truth commissions appear as a specifically modern variety of a preparing the ground for a major political change. Truth commission reports and their mandates become comparable to programmes for re-writing political culture, giving governmental practices a democratic spin.

Such a symbolic or interpretative approach to analysing the impact of TJ measures will involve investigating the communicative aspects of their work. The argument I am building is that the main reason for the poor implementation record of the recommendations of the Salvadoran report, at least so far, lies in how poorly its narratives communicated with the general population, not only with its governing classes.

The contrasting case would be the gradual acceptance of responsibility for war crimes in German society from the 1960s onwards which Mihr (2017) discusses. Post-Fascist West Germany becomes a case of a “completed transformation” but only after 25 years of internationally supervised peace, economic development and, as mentioned above, because both key state personnel and civil society had changed culturally. Based on this dynamic process most factions of German society were able to accept Auschwitz and move on. Thus, the completion of a year zero depends on a high degree of institutional and economic stability as well as a kind of determined guidance from international society. Importantly, I think, the gradualness of the process allowed remaining Fascists to leave behind their fear of being victims of revenge.

The detail about how Fascist power gradually did yield to the democratic order is a pointer to what has turned out to be much more problematic in Spain (UN 2014). Here, the “pact of silence”, i.e., the absence of trials and truth commissions, has meant that non-democratic pockets have survived and continued to complicate Spanish politics in spite of wide-ranging institutional reforms. In turn, this difference in degrees of completion of democratic transitions points to the great difference between Germany and Spain. In Germany, the process was initiated after the complete defeat of the Fascist faction of society, in Spain Fascist surrender was a peaceful and, in many ways, top-down process. Rank-and-file fascists were bereaved of a maturing process. The Salvadoran scenario is a mixture between the two. The lesson might be that democratisation in El Salvador would have fared a lot better if the international pressure had been stronger and more sustained.

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<sup>15</sup> Turner (2013) deconstructs TJ as a ‘discourse’ or a ‘political-legal assemblage’ that is close to being constitutive of the contemporary neoliberal world order. While revealing regarding how the contemporary set of TJ measures is a child of our times, so to speak, the downside with such deconstruction is how it tends to close the space for human innovation.

## 6 *Stories for Deconstructing Worlds*

As suggested, already before the plans of the truth commission were announced, probably few Salvadorans would have believed that such a body would be capable of establishing an authoritative record of the war. Based on the stories brought to me during confidential interviews as well as discussions with Salvadoran academics and NGO personnel in 1992 and during later visits, below I present a selection of locally grounded explanations of the war. It will be seen that much of the relevant and necessary meaning production—necessary for moving on personally, at least—is missing in the stories of state violence that the commission reported. The main concern here is not to arrive at a more complete truth, but to look for ways wherein forward-looking rule of law-building stories can be grounded.

In their interviews with the commission, informants first of all pointed to the great complexity of the issue of responsibility and hence ‘guilt’ in the sense of having acted morally wrong. They expressed widespread doubts as to whether the truth commission was correct when it counted cases and assigned percentages of responsibility to the various armed factions. Particularly the followers of the right-wing ARENA (*Alianza Republicana Nacionalista*) party—who won all the national elections between 1989 and 2009—claimed that the report was biased. They asserted that the selection of witnesses that actually arrived at the offices of the truth commission were in favour of FMLN, pointing to how this party had urged their followers to go and moreover paid for the trip. This was often true, too. UN personnel referred routinely to the FMLN-friendly NGOs that organised the transport as “the filters”. On several occasions, the army also organised transportation of “their” victims. In Central American Spanish, there is a special word for bringing humble party supporters from rural areas to the capital by motorised transport: *acarrear* (bringing in by vehicle). By referring to a multitude of party supporters as ‘*acarreados*’ one also asserts that they are mere followers of the person who paid for the transport. Party politics in the region is submerged in and driven by patron-client relationships.

Moreover, and more to the point, the selection of paradigmatic cases and statistical data disregarded the antecedents of the war and hence FMLN’s responsibility for turning a social conflict into civil war. Of course, FMLN supporters argued the opposite point: it was the authoritarian right that forced the left to rise in arms. In any case, both arguments reflect how people spontaneously resort to historical sequencing when political and moral issues are at play. I believe this lack of attention to context is a major flaw of human rights formatting. No matter how gruesome an act of violence is, it will only live on—and can only be used pedagogically—as part of a narrative.

In discussing the violence as such, I group local explanations into six groups and add two more that I have put together myself.

(1) Many witnesses, perhaps mostly people with an intellectual inclination and with some education, pointed to the complete polarisation of one single society that a civil war promotes. This observation is only strengthened when one places all the reported killings on geographical and temporal maps. A large majority of the killings took place within and not between communities, and as the story from Monte San Juan suggests, the responsibility for the first

killing is placed on external agents. Then a vicious spiral is set in motion. In El Salvador, in 1980, these agents were themselves agents of the factions of a polarised national society. Today, almost 40 years later, it is easy to underestimate how open the overall political situation was after the 1979 Sandinista revolution in neighbouring Nicaragua. A feeling of despair gripped the country's elite. The extreme right was ready to initiate harsh measures against a left that already was busy establishing a new order. On this side of the political spectre, there was much optimism. Victory was near as the FMLN launched its *ofensiva general* as part of its insurrectionist strategy of liberation. In this frantic run for seizing state power, Salvadoran society was simply ripped apart. The politico-military organisations that had been built by FMLN (a fusion between mass organisations, Leninist political parties and armed units, such as FPL) and the precursors of ARENA (including ORDEN), were created precisely in order to deal with such a situation. Between the two alternatives, there was no room for anything but fear. Fear could only be overcome by seeking protection in one of the two camps. From then on polarisation drove waves of mutual elimination or, as I started to call it when seeing this bigger picture, "ideological cleansing".

(2) The perhaps most commonly heard general reference was to "political extremism". As a concept, extremism is closely related to polarisation and the two terms are frequently mentioned together. Extremists in El Salvador were defined as a kind of ruthless followers of a political cause, preferring to eliminate opponents instead of negotiating. The testimonies repeatedly testified to the depth of the delegitimising of political opponents in Salvadoran society. It seemed to me that the simple political theories that postulate total solutions (the elimination of a group or the entire system) had managed to resonate widely among the rich as well as poor. This rhetoric not only aimed at maximising conflict, but also at depriving the adversary of all human traits. The right referred to FMLN and the left as "subversives" and "terrorists". Similarly, the left kept insisting that the wealthy upper class, the political right as well as the political centre (the Christian Democrats) were nothing but the tentacles of imperialism, i.e., a kind of sinister, foreign force that would have no place in a future, liberated Salvadoran society.

(3) Many witnesses kept referring to hate (*odio*) and firmness or harshness (*firmeza, ser duro*) in order to explain the brutality. By 'hate' they meant a kind of rage or holy wrath, the anger that rises and possesses you when, for instance, as a peasant, you feel you are trampled upon by an insensitive landowner; the kind of blind despair that gets you when fighting against arrogant superiors. The 'firmness' refers to the methods that such hard men use. Some informants pronounced the word with respect, because "that's the way to do things here in El Salvador". But others expressed resignation: "It seems we're never able to learn". The next step in this argument is how hate and firmness engender physical violence. If we imagine bodily integrity also to include honour and reputation, we see how offensive words can be met with physical action without negative reactions from bystanders. Physical fighting might be a part of everyday life. Thus, the first strike will not necessarily be classified as out of proportions the way international human rights law, as practiced by "Western" lawyers do. Many events could be explained as an element in a Saturday night drama of heavy drinking, but appropriated, so to speak, by larger institutions. During the war, all fighters, on all sides, escaped any prosecution after such violence, protected by their commanders. Most judges were too scared to do anything.

(4) The references to firmness and impunity lie close to another frequently repeated observation about possible drivers of violence: “In El Salvador there is no respect for life.” The testimonies are full of examples of people who lost their lives simply because they were together with someone else, a person on somebody’s death list, in the moment of death. The war only worsened this trend of mutual avenging in order to protect your own family. Lack of respect for life is thus both a cause and an effect of the war.

(5) Another concept informants often utilised was “dehumanisation”. By this they meant that the perpetrators had crossed the boundaries of accepted human behaviour. The colloquial adjective for referring to such behaviour was *ingrato*, i.e., shameless. It is a way of explaining that the violator has lost the education or manners characteristic of civilised beings.

Dehumanisation might also refer to how perpetrators deprive their adversaries of their humanity. The enemy can be eliminated because he is no longer “one of us”, as is suggested in genocide research.<sup>16</sup> Possibly such dehumanisation is always necessary for waging war. The tendency to initiate “hygienic measures” in order to introduce a new order is well known. It is sufficient to mention Fascist Germany, Communist Kampuchea and ethnically divided Bosnia. Possibly dehumanisation appears most frequently in situations with ethnically based extremist movements. Ethno-political or racially informed language clearly opens the door to denying the humanity of the other very rapidly. Vetlesen (2005) discusses how the collective action perpetrated by armed groups emerges as a kind of “gear shift” in social action when neighbours learn to kill neighbours. The Salvadoran case shows us how political ideologies are capable of releasing the same hell in the moment they get totalising and start employing medicinal terminology about ‘the other’. Thus, on the right, the leaders of the death squads talked about “preventive surgery” as a justification for clandestine action while the left claimed it was necessary to eliminate the “parasitic classes”. In both cases, the political project was to cleanse or liberate the social organism. Many testimonies describe how the death squads took the opportunity to eliminate the alcoholics and the down and out of the community, and this was not unpopular.

(6) Yet another factor mentioned by almost everyone was that the perpetrators wished to sow fear. That is why they behaved so threateningly and violently also when they refrained from torturing or killing. That is why they mutilated the corpses and left the dead bodies in visible places, “to the dogs”. In this way the victims were denied the otherwise compulsory social and religious rituals a deeply Catholic country demands. The conclusion is that in El Salvador fear is above all spread through physical violence.

(7) Aided by historical readings, I have assembled a seventh explanatory factor that follows from the previous observation about the widespread use and efficiency of physical violence as a political idiom in El Salvador. I have in mind using pain and sacrifice as instructions for action. What originally drove my imagination was the excessive and apparently unnecessary brutality applied in the killings. Soldiers could shoot, but the *escuadroneros* relied on their machetes. Does this mean that peasants are more brutal than people from metropolitan areas? I think not,

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<sup>16</sup> See, for instance Vetlesen (2005) and Hinton (2002).

but in order to understand the meanings of the violence it is helpful to contextualise the lives in question.

Compared to the Western city-dweller, the Salvadoran peasant might be said to lead a much more naked and existentially bare life than the inhabitant of the welfare state. In the latter context, the common citizen receives injections against all possible pain, including guarantees of a future, orderly life. Thus, we hardly know what pain is and are less prepared for the inevitability of pain. Therefore, it is also very difficult for us to catch the deeper meanings of the concept of offering. To achieve something through physical agony is an almost unknown idea. Everyone in the Christian West will know the passion plays of the Bible, but for most people it is a drama of another world. If you have participated in interpreting these biblical stories in the company of Central American peasants, however, you will realise that such bare worlds still exist.

Furthermore, Salvadoran peasants lead their lives in lifeworlds that are a whole lot more unified and integrated than the existences offered by the industrialised and fragmented lifeworlds of modern nation-states. For the Salvadoran peasant with little or no formal education the boundaries of the world coincide with the boundaries of the community. In such a world, the parables from Palestine under the Romans and local myths and legends achieve a status as meaning-producer at least on a par with the Marxism-Leninism read in FMLN study circles and the anti-Communist war plans of the officers in the National Guard. Stories from the Bible and from pre-Columbian mythology offer valid explanations of life in family-based, hierarchical agrarian societies.

About themselves and their violent traditions, Salvadorans often state that they are “*los hijos de la verga*”, the children of the battering ram, that is, the offspring of the cruel rape that was the Spanish conquest of the land in the late 1520s. And further back in time there are the stories of how the world is but one cycle in a sequence of creations that all end in all-encompassing violence—which in fact is necessary to engender a new cycle. The Salvadoran artist and author Salarrué uses this motif of self-immolation for helping a new world arise in his novel about the previous civil war in El Salvador in 1932 (Lara Martínez 1991). Where modern scholars see the crushing of a communist rebellion (led by Farabundo Martí, whose name the FMLN party carries) in urban San Salvador, Salarrué saw the indigenous Pipil leaders of rural Izalco apparently mobilising for a party of workers and peasants but in reality immolating themselves in the fires released by the national armed forces. He argues that it is difficult to believe that the Pipil leaders were that unaware of the power asymmetries. The explanation is then that their part was a sacrifice to the new order.

(8) A striking feature of the above explanatory factors is that all are or can act simultaneously as cause and effect. They are self-generating mechanisms. In this way, the war reproduced itself in the form of war machines that were moving around on their own, so to speak.<sup>17</sup> We are faced with a series of vicious circles created and sustained by extremism, polarisation, harshness, lack of respect for life, dehumanisation, impunity and perhaps even a longing for sacrifice. How are

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<sup>17</sup> Kapferer and Berthelsen (2009).

we to explain the causes or first moves of these circles? What is the exemplary way to break them?

### ***Concluding Thoughts: Breaking Cycles of Violence***

At the insistence of one of the three members of the truth commission, former Colombian president Belisario Betancur, the report we compiled and wrote was called “From Madness to Hope”. At the time, I thought of this title as somewhat flowery. However, now I believe that its poesy is more adequate than the dry descriptions and statistics that followed. In fact, it catches the existential challenge of the country in a more open way than most passages in UN human rights legalistic idiom do. In a sense, this is trivial. UN legal texts and policy manuals can hardly avoid such language for its task is to specify rules for reforming bureaucratic agency. Moreover, by referring to universal and timeless concepts like ‘madness’ and ‘hope’ one avoids the trap of being stuck in the frames of one particular version of modern political language.

I see the immediate cause of the war in the lack of such a hopeful and boundary-breaking language that could take people beyond the confines of the closed, ideological loops that the parties developed as tensions mounted. I see the war as a kind of dead-end street in a modernisation process rather than an inevitable struggle between fundamental forces. By turning the problems of how to accommodate the many new phenomena of a modernising, industrialising society into an issue of eliminating adversaries, and by utilising ideology that identified your neighbour as a dehumanised being, leaders on both sides contributed to spread the war rather than limiting it.

Another way to look at this is to recognise that ‘democracy’, as an alternative vision for explaining and proposing, simply did not possess the necessary attraction there and then. The responsibility can therefore not only be laid at the door of a small group of leaders. Through active and passive collaboration, the fire was extended far and wide. In fact, self-critical reflections about one’s own role often accompanied the testimonies we received. When neighbours and relatives are capable of behaving shamelessly, you know that you could have done unspeakable acts yourself.

The Government of El Salvador at the time was incapable of stopping the cycles of violent cleansing. On the contrary, it took an active role in elaborating this primitive, totalising policy in which concepts like neutrality and civilians had no meaning. On the other side, the same argument can be used against the embryos of a revolutionary state that functioned for a time in Morazán and Cuscatlán. At that time, FMLN professed an ideology that denied the possibility of building an impartial government administration.

In some important ways, this thinking takes us back to the situation in post-war Germany. Underlying Mihr’s argument about Auschwitz trials being the turning point there is an acknowledgement that a truth commission in 1946 would not have made the day for being premature. Even as perhaps a majority of Germans in the late 1940s would have voted against a Fascist party, too many people were too involved in the war and too many people would be

unable to take the leap of the imagination that democracy and human rights demands. Not until 20 years later, with the institutional stability that allied occupation forces provided and the associated economic revival, was it possible for a fortuitous circle to gain traction in the form of continuing interaction between an independent judiciary and a civil society.

How can a similar process be originated and take root in El Salvador? Would outlining such a proposal be the constructive way of finding a “truth” with transformative capabilities? How would such a proposal be different from the recommendations the commission gave in 1992?

I think the answers to such questions are to be found in focusing more on the communicative aspects of establishing peace. It is about grounding new proposals in old soils. Within the logic of the old order, it will be difficult to imagine that the prosecution proposed by the truth commission could have been understood as anything else than revenge. The deep fear of seeing such a thing affecting “your own people” prompted the announcement of a sweeping amnesty law, announced even before the commission presented its final report. Today, 25 years later, chances are that an exemplary trial can be initiated. A Supreme Court staffed with younger people with fewer direct links to relatives that were involved and less dependence on political patrons might look into some of the worst cases and refer to how the 1992 amnesty in fact was a violation of the country’s own constitution.

At the same time, somehow these future court proceedings must direct attention to moving towards democracy, a system that does not build on personal loyalties or ideological bonds. The past must be evaluated (and “judged”, as it were) as much for identifying situations as for finding individual perpetrators. The judgements must clearly demonstrate the incompatibility between a clientelist society and the order of the rule of law. In such trials the many examples of death squad-based cleansing operations might serve as exemplary cases in so far as their modus operandi so clearly negate ideas about human dignity and civilised life in both orders, indeed any possible order. Accusations and rulings could focus on dehumanisation and acknowledge that violence no longer can be accepted as political statements. The court could flesh out alternative visions and show how democratic procedure will result in less pain.

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