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OUTSIDERS IN EL SALVADOR: THE ROLE OF AN INTERNATIONAL TRUTH COMMISSION IN A NATIONAL TRANSITION

Ana G. Guardado*

I. INTRODUCTION

Truth commissions have emerged as a common tool in post-conflict societies to facilitate a break from previous norms of violence and discord. These commissions investigate patterns of abuse and establish an official record of what occurred in the hopes of preventing repetition. In countries where political or military leaders perpetrated and sponsored abuse, acknowledgment and denunciation by a truth commission can serve as a symbol of new political empowerment and changing social norms. Following a long civil war, El Salvador established a truth commission to investigate patterns of violence and to promote reconciliation in the country. However, many doubted the nation’s ability to investigate its own actions objectively. After an extended period of fighting, El Salvador appeared too polarized to document a unified official narrative of the war. As a result, the “Commission on the Truth in El Salvador” (“Commission”) was comprised entirely of non-Salvadoran citizens. Establishing a truth commission with only international actors addressed the polarization between Salvadoran leaders and opposition forces, but ultimately failed to promote reconciliation because it excluded Salvadorans from participating in the transition process.

This article will explore the role of the Commission, first by contextualizing the Salvadoran civil war within the country’s history of political rule by elites and then by examining the Commission’s origin. Next, the article will consider why El Salvador’s social and political circumstances led to the construction of an entirely international truth commission. Then, the article will assess the effectiveness and

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2. Id. at 20.
4. HAYNER, supra note 1, at 50.
5. Id. at 214.
6. Id.
consequences of an international commission, rather than a national truth-finding project. The Commission will be evaluated by its immediate impact, the fulfillment of its mandate, and its long-term effects on public discourse. The Commission’s effectiveness will also be compared to the effectiveness of the Ad Hoc Commission, a separate investigation of military abuses conducted by Salvadoran nationals. Finally, the article will address whether the Commission actually contributed to reconciliation within the country.

This article employs a less traditional approach to assessing truth commissions, which considers the truth-finding process at least as important as its outcome. The article proposes that a commission is most successful if it engages the public in political discourse and uses the process of truth-finding and truth-telling to change the way citizens address each other and deal with conflict. The Salvadoran Commission failed to solicit public discourse, and the public was unable to engage in dialogue about the meaning and implications of the facts the Commission collected.

The Commission’s decision to exclude Salvadorans from its staff and operations intentionally limited local contribution to the truth-finding process and decreased the Commission’s potential for positive impact. Rather than drawing upon existing resources within El Salvador, the international Commission worked independently, which proved to be an inefficient use of collective knowledge. The Commission perpetuated a pattern of foreign influence over El Salvador’s domestic affairs by controlling the truth commission. Once foreign commissioners and staff exited the country, international support for the Commission’s goals faded. Remaining local actors who had a continued interest in ensuring political progress had been excluded from the Commission and afterwards lacked political leverage to demand change.

A. Historical Context

Beginning in 1980, the country of El Salvador experienced a twelve-year civil war between guerrillas and the government’s armed forces. This conflict reflected the struggle against ingrained social inequality by the poor majority of Salvadorans. The war claimed over 75,000 lives, as political assassinations, disappearances, and large-scale civilian massacres became part of a daily reality. The guerrillas proved to be an unbeatable opposition and, in the face of a stalemate, the United Nations (“UN”) brokered a negotiated end to the civil war in 1991.

At the root of the conflict, the country’s economic disparity existed since Spanish colonial rule. Disproportionate land ownership caused friction and unrest.

8. See id. at 448-450.
9. HAYNER, supra note 1, at 49.
12. HAYNER, supra note 1, at 49.
within the country. The military and a small wealthy class controlled all political and economic power within the country. By the 1970s, labor unions and churches responded to long-term repression by launching into political organization and activism. The Salvadoran government reacted by assembling death squads to intimidate and murder political activists. Many Salvadorans momentarily hoped that the reform junta would bring agrarian reform, greater employment opportunities, democratization, and an end to the violent repression. Yet the military maintained its control over the population through intimidation tactics and high profile assassinations.

The death of leftist activist and religious leader Archbishop Oscar Romero in 1980 further inspired the radicalization of resistance groups. This became clear on October 10, 1980 with the consolidation of several revolutionary entities to create the armed forces of the Frente Farabundo Martí para la Liberación Nacional (FMLN). The group named itself after communist leader and revolutionary, Agustín Farabundo Martí, who led a revolt in 1932 to give a voice to campesinos and indigenous communities. By January 10, 1981, the FMLN launched a guerrilla offensive and initiated the Salvadoran civil war.

The United States financially supported the Salvadoran government and military throughout the conflict to prevent the insurgency from installing a leftist government within Central America, similar to what occurred in neighboring Nicaragua. The United States had economic interests in El Salvador throughout the twentieth century and with the rise of insurgent activity in the 1970s, the United States significantly increased its financial support of the Salvadoran military. The war ultimately reached a stalemate when both sides of the conflict began to lose international support for their efforts. Both parties realized that without

15. See, e.g., Ardón, supra note 10, at 27.
17. See MARGARET POPKIN, PEACE WITHOUT JUSTICE: OBSTACLES TO BUILDING THE RULE OF LAW IN EL SALVADOR 2 (2000).
18. The civilian-military junta was formed by reformist military officers and governed from 1979-1982. The junta initiated a major land reform program and nationalized the banking and coffee industries. The junta was replaced by an elected government in 1982. See id. at 2-3.
20. See Ardón, supra note 10, at 27.
23. As used in this paper, campesinos refers to poor, rural people.
26. See Ardón, supra note 10, at 27.
27. POPKIN, supra note 17, at 2.
28. The regional geopolitics had changed after the end of the Cold War when the United
international intervention (rather than international instigation), the conflict could continue indefinitely and sacrifice more innocent lives.\textsuperscript{29} At the beginning of the conflict, there had been discussion of international mediation, but the Salvadoran government insisted that the civil war was an internal issue and El Salvador did not want its sovereignty violated by a foreign entity.\textsuperscript{30} However, by 1989 it became clear that the FMLN would not be defeated through military tactics.\textsuperscript{31} As a result the government dropped its resistance to international involvement, and both the FMLN and the government agreed to allow a representative of the UN Secretary-General, Alvaro de Soto, to facilitate negotiations.\textsuperscript{32} Despite UN involvement, there still existed a power imbalance between the parties throughout the peace negotiations.\textsuperscript{33} There was no clear victor or loser on either side, and the same government leaders who spearheaded the war maintained control during the transition.\textsuperscript{34} El Salvador's transition is categorized as a transplacement: the new democratic regime originated from negotiations rather than reform from above or overthrow of the old regime.\textsuperscript{35} The FMLN asserted its interests, but ultimately the Salvadoran government maintained control over the terms of the democratic transition.\textsuperscript{36}

With the UN acting as a "'conscience' and quasi-enforcer" of the peace accords process, the two sides agreed to four central objectives: a political solution to the war, development of democracy, an assurance of human rights, and unity within Salvadoran society.\textsuperscript{37} It took another two years, and many compromises by all parties involved, before the Salvadoran government and the FMLN signed the final peace agreement on January 16, 1992 in Chapultepec, Mexico.\textsuperscript{38} The Chapultepec Agreement incorporated the decisions made by both parties during the prior negotiations, including the establishment of the Commission.\textsuperscript{39}

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29. See Burgerman, supra note 28, at 66-68.  
32. Id. at 67-68.  
33. See POPKIN, supra note 17, at 88.  
36. See Popkin & Roht-Arriaza, supra note 34, at 86.  
38. See BELISARIO BETANCUR, REINALDO FIGUEREDO PLANCHART & THOMAS BUERGENTHAL, FROM MADNESS TO HOPE: THE 12-YEAR WAR IN EL SALVADOR: REPORT OF THE COMMISSION ON THE TRUTH FOR EL SALVADOR 10 (1993); see also Buergenthal, supra note 3, at 499.  
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B. Truth Commission Mandate and Expressed Goals

The Chapultepec Agreement called for military, political, and social reforms, including a Truth Commission, to aid in the efforts to end impunity. The Agreement expressed the Commission’s mandate: “. . . the peace agreements entrust the Commission with making ‘legal, political or administrative’ recommendations. Such recommendations may relate to specific cases or may be more general. In the latter case, these ‘may include measures to prevent the repetition of such acts, and initiatives to promote national reconciliation[.]’” This mandate gave considerable flexibility to the Commission to determine how to facilitate the investigation within the framework of documenting facts regarding wartime violence.

The Chapultepec Agreement clearly stated that the Commission’s investigations should lead to punishment for those who had oppressed the Salvadoran people during the war. Although the Commission was not a judicial body with the jurisdiction to require prosecutions, as the international mediator, both the government and FMLN understood the Commission’s recommendations to be binding. Both parties agreed they would carry out the Commission’s recommendations, but no formal mechanisms were put in place to ensure cooperation.

The UN entrusted the Commission with the responsibility to “investigate[e] serious acts of violence that have occurred since 1980 and whose impact on society urgently demands that the public should know the truth.” The UN also expected the Commission’s report to identify perpetrators and document their abuses. Both the government and FMLN representatives agreed that this duty would prove to be too controversial if conducted by Salvadoran citizens. Consequently, UN Secretary General Boutros Boutros Ghali appointed three commissioners who were highly-respected international figures: Belisario Betancur, the former president of Colombia; Thomas Buergenthal, the former president of the Inter-American Court of Human Rights and professor of law; and Reinaldo Figueredo Planchart, the former minister of foreign relations for Venezuela. While these men spent their careers involved in Latin American politics, none of them had personal experience with the Salvadoran conflict.

The UN expected the Commission to provide the “complete truth” of war atrocities and recommend reforms appropriate to the extent and causes of the violence. One of the three Commissioners, Thomas Buergenthal, explained the Commissioners’ interpretation of their assignment: “. . . we focused our inquiry on the following questions: what happened, which side of the conflict was responsible,
who were the victims, and who were the perpetrators?" Essentially, the
Commission sought to write an official history of the war.

Over a period of eight months, the Commission collected evidence from
over 2,000 testimonies from victims and witnesses to investigate killings,
disappearances, torture, rape, and massacres committed by the government and the
FMLN. The Commission interviewed Salvadorans across the country, including
military members, FMLN supporters, lawyers, government employees, domestic and
international human rights organizations, and foreign government representatives. On March 15, 1993, the Commission issued From Madness to Hope: The Twelve Year War in El Salvador, documenting assassinations, disappearances, massacres, death squad activity and kidnappings. Rather than attempt to investigate every
death that occurred during the twelve-year conflict (which would have been
impossible given the Commission’s six-month timeframe), the report detailed the
cases that represented the types of abuses that frequently took place and for which
overwhelming evidence existed. The report contained individual sections on dozens
of specific cases; some cases were chosen because they shocked the public, while
other cases represented the types of violations committed during the conflict. In
addition, the report offered a series of binding recommendations for political, legal
and administrative measures to prevent the repetition of such acts, as well as
initiatives to promote national reconciliation.

II. AN ASSESSMENT OF EL SALVADOR’S INTERNATIONAL
TRUTH COMMISSION

Most truth commissions have been predominately domestic undertakings
that employed national actors as staff and commissioners. El Salvador is the lone
exception: it is the only truth commission to date that insisted upon all foreign
commissioners and staff members. The choice to form the Commission with all
international actors came from an overwhelming belief that Salvadorans were too
polarized to work objectively on the Commission and ensure participants’ safety.
Both sides agreed to these terms during the peace negotiations. Yet other countries
that suffered extreme polarization conducted truth commissions with local actors.
The particular circumstances of the Salvadoran conflict help explain the rationale
behind the decision to only employ international figures. The following section
assesses whether the Commission made the right choice in excluding Salvadorans by

51. Buergenthal, supra note 3, at 519.
52. See Hayner, supra note 1, at 50.
53. Popkin & Roht-Arriaza, supra note 34, at 88.
55. See Betancur, Figueredo Planchart & Buergenthal, supra note 38, at 19.
56. Buergenthal, supra note 3, at 528.
57. Hayner, supra note 1, at 131.
58. Id. at 214.
59. Popkin, supra note 17, at 123.
60. See Eric Wieland-Brahm, Truth Commissions and Transitional Societies:
61. Popkin & Roht-Arriaza, supra note 34, at 87.
62. See, e.g., Hayner, supra note 1, at 214.
considering the Commission’s positive and negative influences on El Salvador’s transition and long-term democratic development.

A. Choosing Commissioners Within a Polarized Society

The FMLN proved to be the strongest opposition force in Latin America and received substantial support from the Salvadoran citizenry, as well as international recognition. In fact, FMLN Commanders Salvador Samayoa and Ana Guadalupe Martinez initiated contact with the UN requesting its role as a third-party mediator, which commenced the peace accord process. This gave the FMLN some political leverage to make demands during peace negotiations related to the democratic transition. Interestingly, the FMLN did not take advantage of this leverage to endorse progressive activists as Commissioners, who could vindicate the social and economic needs of campesinos and other marginalized communities. Perhaps this would have been an unrealistic goal, considering El Salvador’s political climate remained virtually unchanged.

Unlike other democratic transitions in Latin America, El Salvador’s ruling civilian government did not replace a military dictatorship. In fact, military leaders maintained high-ranking political positions after the war ended. El Salvador lacked an actual shift in power that has been present in other political transitions in Latin America. In addition, the Salvadoran military had been neither defeated nor discredited, thereby leaving a real risk of military destabilization if officers under scrutiny for past acts chose to retaliate. The FMLN legitimately feared that government and military officials, as well as their supporters, would intimidate Salvadoran nationals managing a truth commission and that witnesses would be afraid to testify in front of fellow countrymen with no real guarantee of confidentiality. Instead, the FMLN used their leverage to insist on a Commission made up of “objective” foreigners rather than one staffed by members of the Salvadoran community.

Salvadoran citizens were not the only people excluded from the Commission. The Commission refused to hire anyone with previous experience working on human rights issues in El Salvador, either Salvadoran citizens or international non-governmental organizations (NGOs), out of concern that this could color the Commission as biased. The Commission collected some evidence already accumulated by human rights groups and asked churches to send witnesses to give statements, but once the Commission began its investigation, its staff chose to work

63. POPKIN, supra note 17, at 86.
65. See HAYNER, supra note 1, at 214; see also SRIRAM, supra note 35, at 80.
66. Popkin & Roht-Arriaza, supra note 34, at 81.
67. See HAYNER, supra note 1, at 128.
68. Popkin & Roht-Arriaza, supra note 34, at 81.
69. POPKIN, supra note 17, at 89.
71. Id. at 123.
72. See HAYNER, supra note 1, at 214.
in isolation.\textsuperscript{73} The Commission tried to avoid the appearance of bias by establishing an "objective" process, yet critics on both sides of the political spectrum continued to attack the Commission’s credibility based on its findings rather than its process.\textsuperscript{74} Human rights activists thought the report failed to provide enough information about the operation of death squads and involvement by the United States.\textsuperscript{75} Military leaders characterized the findings as "'unfair, incomplete, illegal, unethical, biased, and insolent.'"\textsuperscript{76} The Commission was not able to overcome the polarization that already existed despite its attempt to remain neutral.\textsuperscript{77}

During the peace negotiations both parties agreed to appoint all foreign commissioners and staff members in order to combat concerns of bias, security, and confidentiality.\textsuperscript{78} These immediate concerns needed to be addressed during a political transition where many groups within the country remained suspicious of each other.\textsuperscript{79} However, commissioners also have an important role in creating the lasting reputation and legacy of a truth commission. Commissioners determine policies, control content, and serve as the public face of the commission.\textsuperscript{80} The Commission excluded those who knew the most about the Salvadoran context and who had the most incentive to ensure follow up to improve conditions within the country.\textsuperscript{81} When selecting commissioners, transitioning countries should consider short-term and long-term needs.

\section*{B. Comparison to other Truth Commissions}

The standard justification for the Salvadoran Commission’s international make-up was the need for neutrality.\textsuperscript{82} Many worried the opposition to the Commission would grow if there were any inference of bias in the truth-finding process.\textsuperscript{83} Early on during the peace accords negotiations, both the FMLN and the government agreed on three specific foreign commissioners before most parties outside of the negotiations were even aware the idea of a truth commission was being discussed.

Some scholars argue that truth commissions must be independent from all actors in the conflict in order to have the moral authority necessary to investigate.\textsuperscript{84} El Salvador took this principle to the extreme by assuming anyone who previously worked in the country was biased \textit{per se}. During the six-month investigation, the Commission staffers were discouraged from interacting with Salvadoran or foreign

\textsuperscript{73} IMPROVISING HISTORY, supra note 70, at 127-28.  
\textsuperscript{74} See HAYNER, supra note 1, at 51.  
\textsuperscript{75} See id.  
\textsuperscript{76} Id.  
\textsuperscript{77} Id. at 214-215.  
\textsuperscript{78} Id. at 211.  
\textsuperscript{79} Id. at 214.  
\textsuperscript{80} Id. at 212.  
\textsuperscript{81} See IMPROVISING HISTORY, supra note 70, at 142; see also HAYNER, supra note 1, at 214.  
\textsuperscript{82} HAYNER, supra note 1, at 50.  
\textsuperscript{83} Id. at 214.  
\textsuperscript{84} See id. at 211.  
\textsuperscript{85} See Popkin & Roht-Arriaza, supra note 34, at 93.
NGOs within the country, socially or professionally. This segregation posed both practical and symbolic problems. Practically, commissioners lacked personal knowledge of who, what and how to investigate. Symbolically, the Commission lacked authenticity. Other truth commissions have tried various strategies for achieving the goal of neutrality without resorting to completely excluding national actors from the process.

The political context of El Salvador’s negotiated transition distinguished it from previous South American truth commissions. The truth commissions in Chile and Argentina were established by presidential decree of newly elected civilian leaders, rather than via negotiation. These leaders benefited from public support for emerging civilian governments that replaced prior military control. Both Chile and Argentina also had a long tradition of democracy, interrupted by a period of military dictatorship. On the other hand, the Salvadoran military controlled politics for decades and the government remained consistent through the transition. In both Chile and El Salvador, where the military remained powerful post-transition, neither commission was able to act or speak freely in their critique of military and government actions. Yet compared to both Chile and Argentina, El Salvador faced more structural resistance to real political reform.

As one of the earliest truth commissions, Chile offered valuable lessons for subsequent commissions, including El Salvador’s commission. Chile’s political climate, with Pinochet’s military maintaining significant popularity despite losing a plebiscite, required careful balancing in seeking justice for human rights abuses exerted during military rule. The truth commission in Chile emerged as a compromise between those who wanted accountability and those who wanted to preserve the military’s power. Chile attempted to project neutrality by appointing national commissioners from across the political spectrum with equal numbers of representatives from the left and the right. While this balanced panel of investigators resulted in a unified acceptance of the Chilean commission’s findings as reported, human rights activists criticized the “timidity” of the report for being too focused on consensus building rather than in-depth investigations of the atrocities that occurred. At the same time, military figures, especially Pinochet, denounced the report and claimed any actions that the military had taken were justified and should not be criticized. Even though there were complaints at either end of the political spectrum, Chileans felt a sense of ownership over the commission as a

86. IMPROVISING HISTORY, supra note 70, at 128.
87. See WIEBELHAUS-BRAHM, supra note 60, at 82.
88. See, e.g., Popkin & Roht-Arriaza, supra note 34.
89. HAYNER, supra note 1, at 210.
90. Id.
91. IMPROVISING HISTORY, supra note 70, at 121.
92. POPKIN, supra note 17, at 88.
94. See WIEBELHAUS-BRAHM, supra note 60, at 82.
95. Id. at 52.
96. Id.
97. Id. at 54
98. Popkin & Roht-Arriaza, supra note 34, at 93.
99. See WIEBELHAUS-BRAHM, supra note 60, at 54-55.
domestic effort. Perhaps this collective ownership helps explain why the balance between the political parties within Chile has remained relatively stable since the transition.

Many countries followed a composition model of appointing neutral, well-respected national figures to serve as commissioners who were “untainted” by the prior conflict. Honduras selected as its commissioner a well-respected Honduran citizen with international supporters, Leo Valladares. Valladares acted as a representative of the national government while also relying on UN support. He benefited from having familiarity with local nuances and political circumstances. As a single commissioner, Valladares felt less pressure to concede with other political parties in order to maintain national unity. The report was criticized by the military, but Valladares ultimately obtained widespread support for his recommendations because the Honduran government officially accepted the report and supported its recommendations.

Guatemala used a hybrid approach of appointing one international chairman and two notable Guatemalan commissioners: Christian Tomuschat, a German law professor and expert on Guatemala; Otilia Lux de Coti, a Mayan scholar; and Edgar Alfredo Balsells Tojo, a Guatemalan lawyer. Guatemala faced a polarized environment similar to that of El Salvador after having experienced 20 years of civil war between the anti-communist government forces and guerrillas. Perhaps learning from the Salvadoran experience, Guatemalan human rights and victims groups actively pushed for a strong truth commission during UN negotiations to ensure that past human rights abuses would be adequately condemned during the transition. However, the Guatemalan commission could not overcome the trust lost in some communities. Throughout the conflict the government coerced local communities, especially indigenous Mayans, to assist them with counter-insurgency violence. Some witnesses in rural communities were afraid to speak with the commission because they were unsure whether the commissioners were really neutral figures. The witnesses were unsure of who would listen to their testimony and if they would experience harmful repercussions for the information they shared. Despite the presence of international staff, some witnesses declined participation.

100. Id. at 103.
101. See id. at 148.
102. Id. at 158.
103. See Popkin & Roht-Arriaza, supra note 34, at 95.
104. See id.
105. Id.
106. Id.
107. See id. at 101.
108. HAYNER, supra note 1, at 33.
109. SRIRAM, supra note 35, at 43.
110. See HAYNER, supra note 1, at 211.
112. Id. at 156.
113. See HAYNER, supra note 1, at 33.
114. See Popkin & Roht-Arriaza, supra note 34, at 95.
115. HAYNER, supra note 1, at 33.
In contrast, South Africa pioneered a unique method of selecting commissioners that solicited public participation. Rather than relying on presidential appointment, South Africa used the selection process as a way to engage the public in the commission. An independent selection panel consisting of members of human rights organizations called for public nominations and conducted public interviews of potential commissioners. The final commissioners were appointed by the President from a list of twenty-five citizens generated by the selection panel. The Truth and Reconciliation Commission ("T.R.C.") demonstrated that collectively determining members of a truth commission could be part of the transitional process rather than merely a means to an end.

Additionally, the T.R.C. invited the public to listen to the investigative hearings through radio broadcasts and extensive news coverage. This public engagement brought the issues raised during testimony into the national discourse, which differed sharply from the Salvadoran experience. Rather than collect public opinion or seek requests, the Salvadoran Commission decided which issues to investigate. The Commission did not hold public hearings because it legitimately feared that witnesses' lives would be in danger once confidentiality was breached. In trying to protect Salvadorans, the Commission denied the public an opportunity for engagement and ownership.

One scholar argues that the lack of public dialogue in El Salvador caused a failure to establish a shared understanding of the conflict. This lack of shared understanding is reflected in the continued use of partisan language in the twenty-first century. For example, the scholar observed that members of the political right still refer to opposition forces as "communists" and laud themselves for their role in promoting peace. Similarly, members of the political left continue to associate the military with "death squads" who fought to protect the economic elites' control over land. The South African T.R.C. was also not without its dissenters and critics, but the public nature of the fact-finding process made it much more difficult to deny the social causes of conflict and the abuses that occurred. As the scholar notes, reconciliation does not require that opposing political groups write a joint consensual history, but it does require admitting the other's truth into one's own narrative.

The South African T.R.C. seemed to start a national conversation about the nation's history. In contrast, Salvadorans were not involved in the collection and retelling of the "truth" of their civil war and therefore did not have to admit any other version

116. Id. at 212.
117. Id.
118. Id.
119. Id.
120. Id. at 28.
121. See Mazzei, supra note 7, at 449.
122. See id. at 448-50.
123. Id. at 449.
124. Id. at 450.
125. Id. at 442.
126. Id. at 443.
127. See id. at 444.
129. See Mazzei, supra note 7, at 448-50.
of the "truth" but their own.\textsuperscript{130}

Several potential problems may arise within a truth commission run by foreign actors. First, the commissioners lack knowledge of local circumstances and context of the conflict. Second, foreigners struggle to understand the relative differences between cases when choosing what to investigate. Third, no one involved with the commission remains within the country to ensure long-term commitment to strengthening society after the transition.\textsuperscript{131} Finally, the image of an "outside" report gives national figures, especially ones implicated in the findings, a reason to question the commission's legitimacy.\textsuperscript{132} Ultimately, constructing a truth commission with only foreign actors takes political power out of the hands of those who best understand the context, implications, and consequences of truth-finding. In contrast, commissions who employ national actors are more likely to hear different political perspectives, thereby creating a unified collective national history and shifting the public discourse.\textsuperscript{133}

C. Challenges in Conducting the Investigation

Salvadorans' lack of trust in the national judicial system trickled into a lack of trust and participation in the Commission during its first months.\textsuperscript{134} Though the Commission's proponents believed the international composition would project an image of neutrality, Salvadoran citizens had little faith that an investigation could be neutral.\textsuperscript{135} Buergenthal discusses how fear and suspicion were quite prevalent among most Salvadorans, especially those who suffered during the war, explaining that ". . . the average Salvadoran had no reason to assume that the Commission would in fact carry out an honest and serious investigation."\textsuperscript{136} Despite the supposed objectivity built into an international investigation, the Salvadoran people could not refrain from associating the Commission with the government who remained in power.\textsuperscript{137}

Many Salvadorans feared physical harm if they testified against either side of the conflict, but especially against the government.\textsuperscript{138} Some victims only felt comfortable testifying when they spoke with the few Salvadoran non-governmental organizations or church members who volunteered for the Commission.\textsuperscript{139} Buergenthal notes the difficulties of gaining trust when the Commission was not prepared to offer any protection:

. . . the population at large continues to believe that many military and police officers in active service or in retirement, Government officials, judges, members of [the] FMLN and people who at one time or another were connected with the death squads are in a

\begin{enumerate}
\item See id. at 451.
\item See WIEBELHAUS-BRAHM, supra note 60, at 82.
\item Id.
\item See Popkin & Roht-Arriaza, supra note 34, at 94.
\item Buergenthal, supra note 3, at 513.
\item IMPROVISING HISTORY, supra note 70, at 126-27.
\item Buergenthal, supra note 3, at 513.
\item See id.
\item See IMPROVISING HISTORY, supra note 70, at 127.
\item See id. at 127.
\end{enumerate}
position to cause serious physical and material injury to any person or institution that shows a readiness to testify about acts of violence committed between 1980 and 1991. . . . the Commission was not in a position to offer any significant protection to witnesses apart from this guarantee of confidentiality.

The extent of public fear reflected how deeply ingrained corruption had been in Salvadoran politics. Few people, even Salvadorans, believed that anything would change the pattern of injustice that the government had always tolerated, and they felt discouraged from participating in the Commission's investigation. The Commission maintained confidentiality of witnesses to protect against retaliation against those who shared information with the Commission. But with the country's history of secrecy and insecurity, most witnesses questioned the confidentiality of the process and worried about the consequences of sharing information with the statement-taker. This fear did not dissipate simply because the Commission consisted of international actors, despite the Commission's attempts to provide a neutral environment for victims and witnesses to step forward.

In fact, the Commission made logistical choices that alienated many Salvadoran citizens and decreased the perception of neutrality. The Commission initially set up its office within San Salvador's wealthiest neighborhood. Members of the nation's economic elite were recognized supporters of the military and death squads during the civil war. Therefore, setting up an interview center near the homes of supporters of death squads and military forces made many potential witnesses nervous about testifying. Where international commissioners may not recognize the expressive implications of operational choices, Salvadoran actors understood the significance of socioeconomic distinctions within national politics. A local priest describing his experience transporting testifiers to the Commission's office described the palpable fear many felt driving into a wealthy neighborhood because of its association with the political right:

The three or four people in the car were terrified that they'd be seen coming to the commission and there'd be retaliation against them. They were really very scared. Even when we left the commission's offices, they all kept saying 'They saw us, they took pictures, they were watching.' The fear of that neighborhood was intense.

This is one concrete example of how the international nature of the Commission exposed Salvadoran citizens to circumstances that were insensitive to the Salvadoran experience and were unnecessarily traumatic for the testifiers.

The Commission's mandate was to investigate "serious acts of violence,"

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140. Buergenthal, supra note 3, at 511.
141. See IMPROVISING HISTORY, supra note 70, at 127.
142. Popkin & Roht-Arriaza, supra note 34, at 98.
143. HAYNER, supra note 1, at 214-15.
144. See id. at 159.
145. Id.
146. Id.
147. Id.
rather than only state-sponsored military abuses. This opened the investigation to both governmental and nongovernmental acts in an attempt to gain legitimacy as a balanced report. However, there was a potential danger that by presenting "balance," the report could fail to convey the reality that the majority of violence was committed by the military. The Commission avoided historical inaccuracies by publishing quantitative data that showed the real disparity between violence committed by the FMLN and the military. Despite the Commission's efforts to demonstrate neutrality, the Salvadoran government questioned the report's credibility. The report provided extremely imbalanced results, even though the results reflected reality.

After conducting interviews, the Commission found it impossible to create a report with balanced representations of violations committed on both sides of the conflict because both sides did not harm equally. Eighty-five percent of the reported abuses were attributed to government forces, paramilitary groups and death squads. This differed greatly from the Commission's expectations because the government had presented a great deal of propaganda that accused the FMLN of committing a similar level of atrocities as the government. The report featured a few cases of FMLN violence, which consisted of assassinations of unsympathetic mayors and extrajudicial executions. Many interpreted the lack of emphasis on insurgent violations as favoritism by the Commission, but the Commissioners felt that in order to provide a realistic account they should focus on the military's abuses. This decision represented how the Commission reshaped the public's perception (domestically and internationally), as it disproved the government's exaggeration of FMLN violence.

The clandestine nature of the war-related atrocities increased the need for truth-telling. In El Salvador, practically every family had lost someone or knew someone who lost a family member. It is estimated that 1.4% of the population was killed during the war. The atrocities were widespread and a truth commission would not likely inform the families of victims who were not previously aware that violence occurred; but it could officially admit the facts. The Commission provided official recognition of the atrocities that occurred and disproved the government's denials. Disappearances and killings by death squads took place in

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148. See id. at 50.
149. Popkin & Roht-Arriaza, supra note 34, at 98.
150. See id. at 98-99.
151. See id.
152. Id.
153. Id.
154. See Buergenthal, supra note 3, at 528-29.
155. See id. at 529; see also Popkin & Roht-Arriaza, supra note 34, at 99.
156. See Buergenthal, supra note 3, at 528.
157. Id. at 530-31.
158. See id. at 528.
159. See Aryeh Neier, Rethinking Truth, Justice, and Guilt after Bosnia and Rwanda, in HUMAN RIGHTS IN POLITICAL TRANSITIONS: GETTYSBURG TO BOSNIA 39, 40 (Carla Hesse & Robert Post eds., 1999).
161. HAYNER, supra note 1, at 49.
162. See Popkin & Roht-Arriaza, supra note 34, at 99-100.
Salvadoran officials denied the murders or justified the actions by falsely identifying civilian victims as "subversives." Even family members who were sure that their loved one had been kidnapped or murdered had nowhere to turn for information. This type of repression requires clarification of the truth on a personal and national scale. Human Rights Watch described the Commission’s impact as: “one contribution [that] was completely unprecedented: that of giving official acknowledgement to the truth, a way of affirming...that ‘all these things happened among us.’” The Commission’s documentation provided legitimacy for locals’ losses, as well as acknowledgment of the government’s abuses.

The Commission received information for approximately 22,000 cases but lacked the resources to investigate them all; thus, rather than investigate every one, the Commission selected a smaller sample for in-depth investigation. Critics complained that the majority of the sample of cases analyzed within the report had already been investigated and well-documented by other groups, and therefore failed to uncover new information. In order to separate itself from anyone with an apparent bias, the Commission did not consult human rights activists who had already investigated incidents of human rights abuses. This resulted in repetition, with the Commission discovering little new information. The Commission decreased its efficiency by resisting cooperation with human rights organizations working in El Salvador.

In addition, the report disproportionately emphasized violence inflicted upon foreigners within El Salvador. Of the 32 cases in the report, nine cases involved the deaths of foreigners. While it is probable these cases were specifically requested by foreign governments, the disproportionate reporting did not reflect the actual violence committed during the war. Perhaps as an international Commission funded by international donors, there was more pressure to investigate what happened to foreigners. As a result, the majority of Salvadoran victims were only included in the report as part of the full list of victims rather than through detailed analysis.

The Salvadoran Commission was financially independent from national sources and completely dependent on international donors; its $2.5 million budget was financed fully by voluntary contributions from foreign governments. Earlier truth commissions in Argentina and Chile received funding from their own national governments. In contrast, the Salvadoran government lacked resources after

163. See id. at 81-82.
164. Id.
165. Id.
166. ARNSON, supra note 54, at 4.
167. HAYNER, supra note 11, at 26.
168. WIEBELHAUS-BRAHM, supra note 60, at 83.
169. See IMPROVISING HISTORY, supra note 70, at 129.
170. See id.
171. Id.
172. Id. at 129-30.
173. Id. at 130, n.134.
174. See WIEBELHAUS-BRAHM, supra note 60, at 83.
175. HAYNER, supra note 1, at 217.
176. Id.
having fought a civil war the preceding decade. Thus, El Salvador did not contribute any funds to the Commission. While the funding was contributed without explicit conditions, perhaps the Commission felt compelled to satisfy the interests of donor governments.

The decision to establish a truth commission arose from negotiations between Salvadoran politicians and Salvadoran FMLN leaders. The role of local actors was intentionally limited in the Commission; low expectations of El Salvador's justice system and institutional capabilities explained this decision. However, this perspective also limited the function of transitional justice mechanisms to seeking traditional goals, such as truth-finding and criminal justice.

Employing transitional justice mechanisms can produce benefits beyond punishing abusers. For example, pursuing trials for perpetrators within the Salvadoran justice system may not have resulted in actual convictions. In fact, it is highly likely that the judges—who were appointed by right-wing governments—would have acquitted guilty military officers. But is there value in the exercise of justice? Conducting trials could have provided local actors the opportunity to engage with the justice system and participate in building El Salvador's new democracy. Even if the exercise failed, perhaps there would have been value in earnest attempts at local control of the trial process rather than merely dismissing trials as impossible. Without conferring with local activists about their ideas for democracy-building, other potential opportunities for success were largely ignored.

Even when the Commission did consult Salvadorans over the report's final recommendations, they sought out individuals who were really “outsiders” within El Salvador: the economic elite who represented a tiny proportion of the population. The Salvadorans included in the process were educated and wealthy businesspeople, government officials, and institution representatives. Targeting these populations largely underutilized leftist activists and Salvadoran human rights agencies that could have represented the voices of the majority of Salvadorans. While the Commission was formed of all non-Salvadorans, the Commissioners considered the benefits of hearing a Salvadoran perspective even if it did not seem safe to have Salvadorans working on the project: “The Parties, who knew their country and its problems better than we did, had in these agreements themselves presented a blueprint for a free, democratic, and peaceful El Salvador.”

One must remember, however, that the domestic elite offered a very different vision of the nation's future than one would hear from a rural campesino or mothers of the desaparecidos. The majority of Salvadorans citizens were limited to the role of testifiers,

177. See id. The money for the war effort primarily came from the United States. The United States provided $4.5 billion in military and other aid to El Salvador during the twelve-year civil war. See id. at 49.
178. HAYNER, supra note 1, at 217.
179. See Buergenthal, supra note 3, at 498-449.
180. See HAYNER, supra note 1, at 214.
181. See POPKIN, supra note 17, at 97.
183. SRIRAM, supra note 35, at 80.
184. Buergenthal, supra note 3, at 524.
185. Desaparecidos are people who “disappeared” during the war. Many are presumed to have been killed by members of the military or other security forces.
and therefore victims, in the Commission’s truth-finding process rather than that of participants in transitional justice. By restricting Salvadorans to the positions of victims, their roles became inherently passive. Following a history of colonization, a century of military rule, and repressive government, Salvadorans were unable to seize the transition as an opportunity for self-determination unconstrained by a small group of elites. The democratization efforts may have suffered because the majority of the citizenry continued to struggle at the bottom of an overwhelming power structure. The Commission hindered the progress of repressed groups in El Salvador in an otherwise potentially revolutionary moment.

Conducting a truth commission provides the potential to reset societal norms through investigating abuses that occurred, engaging the public in discussions over the abuses, publically condemning bad acts, and establishing a new relationship between political actors. In a country such as El Salvador, where the government spent years denying its actions, a truth commission has the power to challenge the dominant discourse by providing a new narrative of the nation’s history. But the dominant discourse did not change in El Salvador after the release of the Commission’s report, as shown by the continued, widespread use of conflict-era language to refer to parties who supported the “other” side during the war. Perhaps if Salvadorans had grappled with the testimony by facilitating the Commission, the evidence could have become part of the public discourse and may have been absorbed politically and psychologically. Salvadorans could have potentially used their own voices to condemn the abuses that wreaked havoc on their lives for over a decade. The government’s attempt to maintain balance and neutrality resulted in a loss of ownership in the Salvadoran transition.

D. Domestic v. International: Comparison to the Ad Hoc Commission

The Ad Hoc Commission was a domestic investigatory body that also originated out of the Salvadoran peace negotiations. This civilian commission was responsible for identifying members of the armed forces to be purged for committing human rights abuses. Though the culpability of the armed forces proved to be a controversial issue within the negotiations, the FMLN won an important concession to create the civilian commission to make recommendations. The Ad Hoc Commission differed from the Truth Commission by employing Salvadorans to investigate the atrocities committed by the military. As such, the Ad Hoc Commission provides an interesting comparison of national versus international approaches to human rights investigations.

The Ad Hoc Commission experienced many of the same obstacles raised when deciding whether to establish a national truth commission. Initially, the armed forces objected to civilian control of the process. As a compromise, both civilians

186. See Mazzei, supra note 7, 433-435.
187. See id. at 436.
188. Id. at 445.
189. POPEN, supra note 17, at 95.
190. Id.
191. Id. at 95-96.
192. Id. at 96.
and military officers presided over the commission with military officers curbed to a limited role in decision-making.\textsuperscript{193} Even after appointing highly-respected and politically moderate civilians as commissioners, military officers refused to accept the Ad Hoc Commission’s findings and the government failed to implement the purges without international pressure.\textsuperscript{194} The commissioners were placed in personal danger; each received death threats after releasing the report.\textsuperscript{195} In fact, two commissioners left El Salvador because they feared for their lives.\textsuperscript{196} Clearly, concerns about safety and acceptance of a national investigatory body were justified.

Military officials criticized the Ad Hoc Commission as an attack on the military as an institution because it published charges against high-ranking officers.\textsuperscript{197} In recommendations that exceeded both parties’ expectations, the Ad Hoc Commission called for the discharge or transfer of 103 officers, including the entire High Command.\textsuperscript{198} The report even named the Minister of Defense Ponce and Vice Minister Zepeda as perpetrators of wartime abuse.\textsuperscript{199} The Ad Hoc Commission focused its review on the upper echelon, and therefore served as a symbolic cleansing of the forces rather than a widespread investigation.\textsuperscript{200} In a country where impunity had reigned for a century, the Ad Hoc Commission pioneered accountability for high-ranking officers.

Buergenthal notes that the Ad Hoc Commission contributed to shifting the public’s expectations about the Truth Commission.\textsuperscript{201} Before the release of the Ad Hoc Commission’s findings, many Salvadorans doubted the ability of the Truth Commission to overcome the corruption and impunity within the government.\textsuperscript{202} The Ad Hoc Commission provided the first example of Salvadoran citizens honestly evaluating and criticizing the human rights record of military officers.\textsuperscript{203} This shocked many Salvadorans who found inspiration in this display of courage.\textsuperscript{204} The strength of the Ad Hoc Commission encouraged more victims to testify for the Truth Commission because they believed that, “the days of ‘business as usual,’ of military impunity and cover-ups, might be over.”\textsuperscript{205} More people became willing to cooperate with a foreign entity, allowing a non-Salvadoran team to conduct the investigation in the hopes that the Commission would bring justice.\textsuperscript{206}

\begin{thebibliography}{9}
\bibitem{193} Id. at 97.
\bibitem{194} Id. at 106.
\bibitem{195} HAYNER, supra note 1, at 215.
\bibitem{196} Id.
\bibitem{197} POPKIN, supra note 18, 106.
\bibitem{198} Id. at 106.
\bibitem{199} SRIRAM, supra note 35, at 88.
\bibitem{200} POPKIN, supra note 17, at 107.
\bibitem{201} Buergenthal, supra note 3, at 517.
\bibitem{202} See id. at 517.
\bibitem{203} Id.
\bibitem{204} See id.
\bibitem{205} Id.
\bibitem{206} Id.
\end{thebibliography}
III. IMPACT OF THE COMMISSION

There are numerous ways to assess a truth commission’s success and impact. One conventional standard of measuring success is to analyze the degree to which a commission fulfilled the duties assigned to it within its mandate. The mandate articulates the immediate objectives of the commission and can serve as a concrete measuring stick for assessing success, judged on a commission’s own terms. Measuring immediate success is distinguishable from measuring impact, which considers the long-term effect on the country’s subsequent human rights practices and democratic development. Impact on democratic development is especially difficult to measure because it includes factors of causation that are separate from the effects of commission itself. While there may be increased democratic participation or strengthened institutions, it is unclear whether causation can be traced directly to the commission or simply part of the shift in political momentum driving the transition. Truth commissions are themselves a product of a transition, complicating the identification of which effects are produced by the commission or simply alongside the commission.

The Salvadoran Commission’s mandate aimed to “investigat[ing] serious acts of violence” that had occurred since 1980. The Commission pledged to investigate and document cases that would “create confidence in the positive changes which the peace process, [was] promoting and to assist the transition to national reconciliation.” The Commission believed its impact came from its power to investigate and make recommendations. However, the Commission did not consider its potential for greater impact had it engaged Salvadorans in the truth-finding process or in making recommendations for reform.

A. Recommendations for Reform

The Commission report offered a series of binding reform recommendations that the Commission felt would help El Salvador achieve reconciliation. The recommendations included prohibiting violators from holding positions of authority for ten years, resignation of all members of the Supreme Court, further investigation of death squads, implementation of military and judicial reform, decentralized appointment of judges, and the creation of a victims’ compensation fund. The

207. WIEBELHAUS-BRAHM, supra note 60, at 8.
208. Id. In some cases, actually completing a truth commission in particularly difficult circumstances is itself a success. Some countries such as the Philippines and Bolivia attempted to conduct a truth commission and were unable to complete an investigation or report due to a lack of funds or military and government cooperation. Id.
210. WIEBELHAUS-BRAHM, supra note 60, at 22.
211. Id. at 22.
212. IMPROVISING HISTORY, supra note 70, at 126.
213. Id.
214. BETANCUR, FIGUEREDO PLANCHART & BUERGENTHAL, supra note 38, at 18.
215. SRIRAM, supra note 35, at 8.
216. Id. at 89.
Commission's objective was to move toward national reconciliation by providing the country with the truth; it expected the government to use the findings to punish the guilty.\textsuperscript{217} However, many of the Commission's recommendations were not implemented because of a lack of government support.\textsuperscript{218}

The government's refusal to implement several of the recommendations caused much more than just frustration: it made many Salvadorans afraid that the climate of repression would continue indefinitely.\textsuperscript{219} In order to achieve accountability in El Salvador, the Commission and its international backers would have needed to devote more resources and attention to monitoring the implementation of recommendations for reconciliation.\textsuperscript{220} There are many rational reasons for the UN not to continue its involvement with monitoring implementation.\textsuperscript{221} But since no Salvadorans were involved in the Commission process, the exit of the foreign Commission team left a vacuum. There was no one left who had committed energy to the process, leaving no one committed to follow-up.\textsuperscript{222} Some transnational human rights organizations pressured El Salvador to implement the Commission's recommendations with limited success.\textsuperscript{223}

Much of the eventual implementation of recommendations came from local organizations pressuring the government or acting on their own accord.\textsuperscript{224} For example, the Commission called for the creation of a national memorial for the victims of the war.\textsuperscript{225} While the government started the project, it required civilian groups to finish it years later in 2001.\textsuperscript{226} El Salvador's memorial wall, "A Monument to Remembering and Truth," located in Parque Cuzcatlán in San Salvador, listed 30,000 of the murdered and disappeared victims and functioned as a physical reminder of the cost of war, as well as a reminder of the limited government commitment to implementing the Commission's recommendations.\textsuperscript{227}

B. Amnesty

Salvadoran President Alfredo Cristiani and his supporters in the Assembly disappointed hopeful observers by immediately declaring amnesty for anyone named in the Commission's report; this amnesty prevented prosecution for the crimes documented therein.\textsuperscript{228} The amnesty demonstrated that the government intended to ignore the past and therefore belittled the gravity of the crimes examined in the report. Despite the Commission's recommendations for reconciliation, the nation could not reform without the full cooperation of the government and evidently that

\textsuperscript{217} Id.
\textsuperscript{218} IMPROVISING HISTORY, supra note 70, at 133.
\textsuperscript{219} See POPKIN, supra note 17, at 161.
\textsuperscript{220} Popkin & Roht-Arriaza, supra note 34, at 115.
\textsuperscript{221} See id. at 115.
\textsuperscript{222} IMPROVISING HISTORY, supra note 70, at 142.
\textsuperscript{223} WIEBELHAUS-BRAHM, supra note 60, at 151.
\textsuperscript{224} See id. at 88.
\textsuperscript{225} Id.
\textsuperscript{226} Id.; interview with Miguel Montenegro, supra note 181.
\textsuperscript{227} See WIEBELHAUS-BRAHM, supra note 60, at 88.
commitment did not exist.

The government's actions reminded citizens that ultimately the peace negotiations did not restructure the distribution of power in the country. The FMLN had gained a place within the legislature, which should have provided an opportunity for legitimate political debate in a functioning democracy. Yet despite heated debate over amnesty, the ARENA-dominated Assembly pushed through a law barring trials three days after the release of the Commission's report. The military continued to dominate the civilian government's agenda. The military and government were so closely aligned that one could not differentiate between the culpability of both entities. El Salvador would not claim full political integration of the FMLN until years after the transition.

The government considered itself above the Commission, entitled to assert national sovereignty over the recommendations of an international body. Cristiani declared that he would only apply the recommendations that fit his desired agenda rather than accept the authority of the Commission. He demanded, "[t]his Truth Commission report must serve only to build a country in which all of us want to live." Realistically, many Salvadorans would have preferred to hold the offenders responsible for the violence executed during war. Yet with the government maintaining power throughout the conflict and after, there was little political weight pushing for accountability.

Even with international truth commissions advocating for accountability, implementation of the accountability measures are unlikely without support from the national government. This is especially true when government officials, such as those in El Salvador, have more to lose than to gain from implementing recommendations. One scholar argues that truth commissions are most useful to the country after transition is already underway, rather than as a tool to bring about transition. Perhaps the timing of the Commission, before there was a break in power from the past, lessened its impact on reconciliation efforts. By investigating abuses through a truth commission instead of encouraging the courts to take action, truth commissions sometimes take serious human rights violations out of the sphere

229. Quantifying the direct impact the Commission had on current democratic development is beyond the scope of this article's historical analysis. The 2009 election of President Mauricio Funes, a member of the FMLN political party, suggests there has been democratic progress and incorporation of political balance since he is the first FMLN politician to reach the nation's highest office. Further research should be conducted to determine how attitudes toward democratic participation and political representation have changed as a result of this election in El Salvador.

230. Wilkinson, supra note 228.

231. See Popkin & Roht-Arriaza, supra note 34, at 81.

232. See id. at 114.


235. Id.


237. Popkin & Roht-Arriaza, supra note 34, at 114.

238. Id. at 115.

239. See id.

240. Id.
of judicial action and lose an opportunity for institution-building. A commission can only recommend measures for accountability; the transitioning democracy must implement those measures willingly.

The Salvadoran government used the international nature of the Commission to question its legitimacy, which is a common disadvantage of international truth commissions. Vice President Francisco Merino López claimed that the Commission inappropriately intruded in Salvadoran affairs: "The fact that a commission, made up of foreigners, expressed an opinion and assessed the actions of a state institution has been described as meddling in El Salvador’s internal affairs." He argued that rather than building peace by exposing violations committed during the war, the report continued to cause division and created a "climate of confrontation and revenge, which is not the best climate for any of the parties involved." Merino’s "climate of confrontation and revenge" referred to calls for prosecutions for the crimes documented in the report; most would define that as justice rather than revenge. Yet Merino discredited the Commission’s findings because the information came from foreigners.

C. Reparations

The Commission did not consider economic harms in the report, which reflected the Commissioners’ narrow perspective regarding the Salvadoran conflict. The Salvadoran civil war was a class conflict; the government repressed its people through both physical violence and economic marginalization. However, the Commission excluded economic issues from its analysis of the Salvadoran conflict and therefore erased the country’s struggle with poverty from the nation’s historical memory of the war and the struggle for justice.

Consequently, the Commission did not specifically recommend offering reparations to victims. The Commission did, however, recommend that one percent of foreign aid be set aside to compensate the relatives of victims, but it did not suggest mechanisms for establishing such a program. This type of compensation fund was never created. Perhaps the limited attention to reparations was another example where, as an international body, the Commission lacked the political will or understanding of local context to recognize how economic harms in an already impoverished country impaired some victims more than physical abuse.

The Commission demonstrated disconnect from the majority of the Salvadoran people by ignoring the socioeconomic causes of the war. Landlessness and poverty continue to plague the country. In fact, poverty rates in the country are

241. Id. at 115-16.
242. See WIEBELHAUS-BRAHM, supra note 60, at 82.
244. Id.
245. See Berdal & Keen, supra note 13, at 810-11 (citing a UN mediator who noted that “the problem of land was... a root cause of the armed conflict...”).
246. HAYNER, supra note 1, at 163.
247. POPKIN, supra note 17, at 135.
248. Id.
249. Richard Bower, Whose Romero Do We Celebrate, WITNESS MAG., (Apr. 19, 2005) (“The globalization of the economy and the emerging free trade agreements in Central America has left [El
higher today than before the war. Some analysts argue that the lack of meaningful economic reform actually serves as evidence of lacking transitional justice. Local activist Guadalupe Mejia discussed the challenge of trying to attain political freedom when many people lacked access to basic needs: “Para tener paz tiene que tener usted la comida porque es parte de eso. Como va a tener paz cuando la gente están muriendo de hambre? Cuando una persona vive con un dollar por día y vive con una familia de cinco personas?” Mejia argued that reconciliation could not begin until the conditions that initially caused social upheaval improve.

Yet by the last years of the conflict, even the FMLN had shifted its focus away from voicing the plight of poor campesinos, straying from the pre-conflict ideology. Economic suffering, such as displacement of campesinos from coffee lands, had been an integral motivation of the initial FMLN opposition and helped explained the support they received from poor communities. In 1989, the FMLN changed its official ideology from promoting a socialist revolution to seeking a pluralistic democracy. This pragmatic shift made the group’s platform less threatening to an international community who feared socialist agendas. Consequently, the peace negotiations focused more on political matters such as institutional changes in the military and judiciary rather than proposing changes in economic policy. Throughout the negotiation process, socioeconomic concerns were compromised in order to obtain political concessions.

Reparations were not one of the Commission’s priorities. Yet they may have been if national actors were more involved in the policy decision-making, especially people who worked within poor and rural communities. National commissioners more familiar with the socioeconomic context may have addressed poverty as part of the chosen remedies. While reparations alone, without other mechanisms, may not have satisfied victims, including reparations within the total transitional justice efforts may have met victims’ needs in more complete manner.

In fact, it was not until 2009, when the country elected its first President from the FMLN party, that the issue of reparations was finally introduced. President Mauricio Funes offered reparations for victims and their families who suffered damages during the civil war. The reparations were offered as part of a

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250. Id. (“The poor are poorer in El Salvador these days, with poverty and violence greater than during the time of the 12-year civil war (1980-1992”).
251. Mazzei, supra note 7, at 446.
252. Interview with Guadalupe Mejia, supra note 21, (translated by author “To have peace you need to have food because it is part of this. How are you going to have peace when the people are dying of hunger? When a person lives on a dollar a day and supports a family of five?”).
253. Interview with Guadalupe Mejia, supra note 21.
254. SRIRAM, supra note 35, at 80.
255. See Paige, supra note 14, 137.
256. SRIRAM, supra note 35, at 80.
257. See id.
258. See id.
259. See id.
260. HAYNER, supra note 1, at 177.
261. See id. at 178.
262. Id. at 51.
larger policy to further address the human rights violations and impunity legacy from the civil war.  

IV. CONCLUSION

El Salvador suffered human rights atrocities that were shrouded in secrecy. There was a real need for truth-finding after the civil war. After years of witnessing murders, torture, and disappearances, the Salvadoran people needed to hear an official body recount what happened and state who was responsible. The Commission promised to achieve reconciliation as part of its mandate. Yet Salvadoran leaders lacked the commitment to democracy and reform that would lead to real reconciliation. It is possible that an international Commission contributed to a lack of reconciliation. As one scholar notes, the exclusion of Salvadoran civilians from the Commission hindered the facilitation of a functional democracy: “Participatory democracy requires the active participation of civil society as well as politicians.”  

Though truth-finding proved more feasible with a Commission consisting of all international figures, the international community ousted the Salvadoran people from their own reconciliation process. International bodies can provide crucial assistance as donors or observers, but they should not replace national involvement. Unfortunately, replacing national involvement was an intentional aim of the Salvadoran Commission. The Commission relied on its own set of priorities, perspectives, and goals rather than engaging with local actors about the needs of the community. Ultimately, the Commission provided much-needed information but left a country still suffering from impunity and economic oppression without mechanisms to advance a new future.

The impact of a truth commission is inherently limited; it has a specific purpose and function, which is to create an official narrative. It differs from a tribunal or criminal proceeding by aiming to “provide an account” rather than assessing accountability and delivering justice to victims. By its nature, the truth commission lacks power to compel any action. It promotes democracy by providing recommendations and providing the “truth.” Truth commissions rely on “moral persuasion” to compel governments to reform and institute social change. When a government further limits that impact by refusing to prosecute anyone found to have committed abuses, then what has been accomplished by documenting the past? In El Salvador, the Commission provided relief to some and disappointment to many. Perhaps the Commission’s biggest failure is that it focused on what the people could not achieve rather than what they could achieve. The Commission ignored the
potential contribution of local actors and exercised a foreign voice to speak for the Salvadoran people instead of encouraging them to speak for themselves.

While the Ad Hoc Commission demonstrated that the concerns of a national truth commission were valid, the Ad Hoc Commission was still ultimately successful in providing hope to many and demonstrating that impunity would not always reign. The Ad Hoc Commission’s achievements, despite the challenges it faced from military opponents, suggest that the international nature of the Truth Commission limited its own potential success. Including more local actors in the Truth Commission could have helped commissioners identify what was actually important to the Salvadoran people, whether that be trials, reparations, or simply the opportunity to engage in policy-making. Including local actors, especially Salvadorans who understood the struggles of the poor, could have broken El Salvador’s long pattern of decision-making by “outsiders,” and contributed to a change in the way Salvadorans viewed themselves and their compatriotas.