Reconciliation, Nations and Churches in Latin America

Edited by Iain S. Maclean

First published 2006

ISBN: 978-0-7546-5030-0 (hbk)
ISBN: 978-1-3156-0395-7 (ebk)

Chapter 3

Unspeakable Violence: The UN Truth Commissions in El Salvador and Guatemala

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DOI: 10.4324/9781315603957-4

The funder for this chapter is David Tombs

Routledge
Taylor & Francis Group
LONDON AND NEW YORK

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The ordinary response to atrocities is to banish them from consciousness. Certain violations of the social compact are too terrible to utter aloud: this is the meaning of the word unspeakable. Atrocities, however, refuse to be buried. Equally as powerful as the desire to deny atrocities is the conviction that denial does not work ... Remembering and telling the truth about terrible events are prerequisites both for the restoration of the social order and for the healing of individual victims.

Judith Herman[1]

In the last few decades many countries have adopted investigative 'truth commissions' to examine and document past abuses in attempts to deal with a painful past.[2] As a result, the politics of truth-telling and its significance for social reconciliation after periods of political violence has received unprecedented attention from political scientists, lawyers, ethicists, and other interested parties. Whilst extra-judicial commissions have many limitations and are certainly not a straightforward or universal remedy for social healing, their potential value in providing a new start based on truth rather than denial has been widely acknowledged, especially in countries where other ways have not been practical.

In carrying out their mandates to document human rights' abuses, truth commission reports offer insights into the dynamics of terror and mechanics of repression. In reviewing the lessons to be learnt from the reports a striking feature of reports after the mid-1990s has been their attention to gender violence whereas earlier reports had little to say on this. It seems that prior to the conflict in the former Yugoslavia (1992–95), which highlighted the political use of rape as a war crime, the reports did not include abuses against women and sexual violence as a distinctive and essential

1 Judith L. Herman, *Trauma and Recovery: From Domestic Abuse to Political Terror* (London: Pandora, rev ed 2001), 1.

2 For a very helpful overview of recent truth commissions and their reports, see Priscilla Hayner, *Unspeakable Truths: Confronting State Terror and Atrocity* (New York and London: Routledge, 2000). See also her earlier surveys, 'Fifteen Truth Commissions – 1974–1994: A Comparative Study', *Human Rights Quarterly* 16/4 (1994), 597–655, and 'Commissioning the Truth: Further Research Questions', *Third World Quarterly* 17/1 (1996), 19–29.

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part of the quest for truth.[3] Rape and other sexual violence during conflicts were usually either unacknowledged or presented as a marginal or secondary issue. To illustrate this change, this chapter examines the very different approaches to sexual violence taken by the UN investigatory commissions in El Salvador (1992–93) and Guatemala (1997–99).

When these two reports are explored in the light of each other, they reveal the 'unspeakable' nature of sexual violence. In the process, they also point to the major barriers that sexual violence poses for reconciliation processes based on truth-telling. From a theological perspective, what the two Commissions show about sexual violence might help theologians to analyse political violence more clearly and confront 'unspeakable' atrocities more openly.[4]

The Peace Process in El Salvador and Guatemala

During the 1970s and 1980s, El Salvador and Guatemala were convulsed by political violence and counter-insurgency wars sponsored by the US. In both countries, Cold War geo-politics were used to justify waves of extreme violence against innocent communities. Civilians and the poor – especially women, children, and the elderly – bore the brunt of this terror.[5]

In El Salvador, the military fought a full-scale civil war (1980–91) with the Farabundo Marti National Liberation Front (FMLN) in which an estimated 80,000 people were killed.[6] In Guatemala, the armed resistance movement was relatively

3 Hayner, *Unspeakable Truths*, 78–79.

4 This includes the challenge to address the extremes of sexual violence in recent Central American conflicts, and also to recognise the sexual humiliation and possible violence in the Gospel accounts of Jesus' crucifixion. Although I do not pursue these issues here, I have examined them in more detail in David Tombs, 'Crucifixion, State Terror and Sexual Abuse', *Union Seminary Quarterly Review* 53 (Autumn 1999), 89–108.

5 On US support for the Salvadoran and Guatemalan militaries, see M. McClintock, *The American Connection: State Terror and Popular Resistance in El Salvador* (London: Zed Books, 1985); the exact level of US responsibility for the torture techniques that were adopted is unclear but the US claims that its training included lessons on respect for human rights needs to be treated with some scepticism. In 1996 the Pentagon finally admitted that manuals used at the School of Americas in Fort Benning Georgia for training Latin American militaries included instructions on torture and many of the worst abuses were committed by graduates of the School. Furthermore, US training of Brazilian security services in torture techniques in the 1960s has been documented and commentators have suggested that in the 1970s many of these techniques passed from Brazil through Chile, Uruguay, and Argentina and onto El Salvador and Guatemala. On Argentine involvement in counter-insurgency training in El Salvador (1979–81) and Guatemala (1978–82), see A. C. Armony, *Argentina, the United States and the Anti-Communist Crusade in Central America 1977–1984* (Athens, OH: Ohio University Press, 1997), 83–93.

6 The literature on the conflict is considerable, but see especially: Tommie Sue Montgomery, *Revolution in El Salvador: From Civil Strife to Civil Peace* (Boulder, CO and

small throughout the entire thirty-six year conflict (1960–96). Nonetheless military repression was so fierce that the death toll may have reached 200,000 deaths.[7] The wave known as *La Violencia* (1978–85), which began under General Lucas García (1978–82), and peaked during the brief rule of General Efrain Ríos Montt (1982–83), amounted in some places to genocide of indigenous communities.

Despite intermittent peace talks during the 1980's there had been little real progress towards settling the conflict in either country. However, the fall of the Berlin Wall on 9 November 1989, which symbolised the ending to the Cold War, opened the way for new initiatives. Three months later, on 25 February 1990, the surprise political defeat of the Sandinistas after a decade in government (1979–90) signalled an equally significant end to the US-sponsored Contra war.[8] With the international and regional political situation in rapid flux, there was a renewed seriousness in the stalled Guatemalan and Salvadoran peace processes. In the first months of 1990 both the US and the UN exerted new political pressure for a resolution to the conflict in both countries and both governments had at least start to appear to be taking the process seriously.[9]

On 30 March 1990 talks between the Guatemalan National Reconciliation Commission (CNR) and the opposition National Revolutionary Union of Guatemala (URNG) led to the Oslo Accord, which committed the participants to the 'search for peace by political means'. A few days later, UN Secretary General Pérez de Cuéllar

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Oxford: Westview Press, 2nd edn. 1995); Hugh Byrne, *El Salvador's Civil War: A Study of Revolution* (Boulder, CO and London: Lynne Rienner, 1996); William Stanley, *The Protection Racket State: Elite Politics, Military Extortion, and Civil War in El Salvador* (Philadelphia: Temple University Press, 1996).

7 See Robert M. Carmack (ed.), *Harvest of Violence: The Maya Indians and the Guatemalan Crisis* (Norman, OK: University of Oklahoma Press, 1988); Ricardo Falla, *Massacres in the Jungle* (Boulder, CO and Oxford: Westview Press, 1995); Susanne Jonas, *The Battle for Guatemala: Rebels, Death Squads, and U.S. Power* (Boulder, CO and London: Westview Press, 1996).

8 Furthermore, UN monitoring of the Nicaraguan elections pointed to the major contribution that the UN was soon to make in both El Salvador and Guatemala. See esp., Cynthia J Arnson, *Crossroads: Congress, the President and Central America, 1976–93* (University Park, PA Penn State Press, 2nd edn. 1993), 218–64; Thomas Carothers, *In the Name of Democracy: U.S. Policy Toward Latin America in the Reagan Years* (Berkeley: University of California Press, 1991).

9 Public opinion in the US had been particularly horrified by the massacre of six Jesuits, their housekeeper and her daughter, carried out by soldiers belonging to an elite US-trained Salvadoran battalion on 16 November 1989 during the FMLN offensive; see Teresa Whitfield, *Paying the Price: Ignacio Ellacuría and the Murdered Jesuits of El Salvador* (Philadelphia: Temple University Press, 1994); Martha Doggett, *Death Foretold: The Jesuit Murders in El Salvador* (Washington, DC: Georgetown University Press & Lawyers Committee for Human Rights and Americas Watch, 1993). At the UN, Javier Pérez de Cuéllar (UN Secretary General from 1 January 1982 to 31 December 1991) took a close personal interest in assisting the Central American Peace Process.

brokered a joint declaration by the Salvadoran government and the FMLN in Geneva on 4 April 1990, which expressed the desire to end the ten-year conflict.[10]

Although progress continued to be slow – especially in Guatemala – a protracted series of further UN-sponsored negotiations eventually led to national Peace Accords in both countries, signed in El Salvador in 1992 and in Guatemala in 1996.[11] During these negotiations, it was also agreed that the UN would have a role after the signing of agreements to oversee compliance and actively help the democratic transition and building of peace.[12] As part of this process, at the insistence of the FMLN and URNG, both settlements included provisions for official UN commissions to investigate, document and report on cases of political violence during the conflict.

The 'Commission on the Truth for El Salvador' – usually referred to simply as the Truth Commission (TC) – began its formal work on 13 July 1992.[13] It included three commissioners – Belisario Betancur (an ex-President of Colombia), Reinaldo Figueredo Planchart (ex-Minister for Foreign Relations of Venezuela) and Thomas Buergenthal (Professor of Law at George Washington University and ex-President of the Inter-American Court) – who were supported by a professional staff.[14] After approximately six months of investigation in El Salvador, and a further three months of compilation and writing in New York, they presented their findings entitled *From Madness to Hope: The 12-Year War in El Salvador* in New York on 15 March 1993.[15]

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10 See Reed Brody, 'The United Nations and Human Rights in El Salvador's Negotiated Revolution', *Harvard Human Rights Journal* 8 (Spring 1995), 153–78.

11 For good overviews of the two Peace Processes and their wider context, see the relevant chapters in Cynthia Arnson (ed.), *Comparative Peace Processes in Latin America*, including Antonio Cañas and Héctor Dada, 'Political Institutionalization in El Salvador' (69–95); Dinorah Azpuru, 'Peace and Democratization in Guatemala: Two Parallel Processes' (97–125); and Teresa Whitfield, 'The Role of the United Nations in El Salvador and Guatemala: A Preliminary Comparison' (257–90).

12 The shift in policy towards 'peace-building' reflected a new direction in UN strategy under Boutros Boutros-Ghali, who succeeded Pérez de Cuéllar as UN Secretary General. Boutros-Ghali's term in office (1 January 1992 to 31 December 1996) spanned the implementation of the Salvadoran Accords and the prolonged negotiations in Guatemala. The conclusion of the Guatemalan negotiations on 29 December 1996 (in the last days in office for Boutros-Ghali) gave an interesting historical echo to the Salvadoran process, because the crucial New York Agreement on 31 December 1991 was signed in the very last hours of Pérez de Cuéllar's term; see especially Teresa Whitfield, 'The Role of the United Nations in El Salvador and Guatemala', 259.

13 Its Spanish title was 'Comisión de la Verdad para El Salvador', often abbreviated to 'CVES' or simply 'CV'.

14 All three commissioners were named on 10 December 1991. They elected Betancur as their chair.

15 The report's Findings were made public in New York on 15 March 1993 but the official text (in the original Spanish and in English translation) was not released until two weeks later as an annex of 251 pages (dated 1 April 1993) to a one-page letter from UN Secretary Boutros Boutros-Ghali to the UN Security Council (UN Document S/25500, dated

In Guatemala the full title of the Commission was 'The Commission to Clarify Past Human Rights Violations and Acts of Violence that have caused the Guatemalan Population to Suffer' but they were widely referred to by the abbreviated title, *Comisión de Esclarecimiento Histórico* (Commission of Historical Clarification), or simply by the Spanish acronym, CEH. The absence of the word 'Truth' in the Commission's title reflected a sensitive political compromise. The Guatemalan military – which had been in a much stronger position than its Salvadoran counterpart – had fiercely resisted the notion of a 'Truth Commission' but the URNG had been equally firm on insisting that any settlement include a Commission to investigate past abuses. In June 1994 both sides finally agreed to a UN-sponsored Commission of Historical Clarification as the best way forward.

The CEH chair was Christian Tomuschat, a German law professor (and expert on human rights). The other two commissioners, Edgar Alfredo Balsells Tojo and Otilia Lux de Cotí, were both Guatemalan.[16] The CEH started work on 1 August 1997 and continued to 31 January 1999. It presented its report *Guatemala: Memoria de Silencio* in February 1999 and published it in June 1999.[17] The extra months between presentation and publication meant that the work for the final report stretched over two years and the resources available to the commissioners made it a very lengthy document.[18]

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29 March 1993). Whilst it is common to simply refer to the published Findings as the report, the full report actually consists of three volumes, the Findings plus two annexes of supporting material. Annex I contains the texts of the Salvadoran Peace Accords plus the full findings of the forensic scientists who investigated El Mozote. Annex II details statistical information on the testimony presented to the Commission and lists the names of individual victims. The annexes were deposited in the UN library but have not been translated or published. The page numbers for quotations given here refer to the version published as S/25500.

16 The appointment of two Guatemalan commissioners (and the many Guatemalans who served on the investigative staff) was in marked contrast to the Salvadoran Truth Commission, which had had no Salvadoran personnel.

17 Comision para el Esclaracimiento Histórico *Guatemala: Memoria del Silencio* (Guatemala: United Nations, 1999). The full Spanish text of the 12 volume report is also available on CD-Rom published by the American Academy for the Advancement of Science or as PDF at http://hrdata.aaas.org/ceh/index.html. An English Translation of the Prologue (from Vol. 1), the Conclusions (from Vol. 5) and the Recommendations (also from Vol. 5) is available as *Guatemala: Memory of Silence: Summary* at http://hrdata.aaas.org/ceh/report/english. In what follows below, quotations from the Prologue, Conclusions and Recommendations are from this translation (and referenced to it as *Guatemala: Memory of Silence*). All other quotations are my own translation from the Spanish (and referenced to it as *Guatemala: Memoria del Silencio*). The PDF and CD-ROM are subdivided slightly differently but in each case the paragraph sections run on consecutively (Vol. 1, §§1–737; Vol. 2, §§738–2349; Vol. 3, §§2350–3882; Vol. 4. §§3883–4594). I am grateful to Cath Collins, Institute of Latin American Studies, University of London, for assistance with some of the translation.

18 The period from mid-April 1997 to July 1997 was a particularly productive preparation period and the Commission received a six-month extension to its original six-to-twelve-month term for investigations.

Neither the overall success of the political transition in El Salvador and Guatemala nor the role of the truth commissions within the process should be overstated.[19] Despite the economic benefits that arose from ending the conflict, both countries continue to face very serious economic and social pressures.[20] Despite the important legislative and political reforms of the 1990s, the ironic term 'Low Intensity Democracy' remains an apt description for both societies. Nonetheless, the two Truth Commissions have generally been seen as constructive parts of the process and welcomed as important new landmarks of progress in human rights work in Latin America.[21]

Both Commissions faced national militaries that would have preferred for the past to be forgotten. In both countries the military sought wherever possible to restrict the Commissions' mandates and powers, frustrate their investigations, dismiss their conclusions, and ignore their recommendations. Despite these serious obstacles, both *From Madness to Hope* and *Guatemala: Memoria del Silencio* provide authoritative statements on the political violence and terror that afflicted the two countries. Both reports confirm that the military and related para-militaries were responsible for the vast majority of abuses.[22] In the process, they document many similar patterns of violence in the two countries and point to state terror policies behind them. The Salvadoran Truth Commission notes that:

> The main characteristics of this period [1980–83] were that violence became systematic and terror and distrust reigned among the civilian population. The fragmentation of any opposition or dissident movement by means of arbitrary arrests, murders and selective

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19 On the challenges still facing the two countries, see especially, Margaret Popkin, *Peace Without Justice: Obstacles to Building the Rule of Law in El Salvador* (University Park, PA: Pennsylvania State University Park, 2000); Jack Spence *et al.*, *Chapultepec: Five Years Later: El Salvador's Political Reality and Uncertain Future* (Boston: Hemispheres Initiative, 1997); Rachel Sieder (ed.), *Guatemala after the Peace Accords* (London: Institute of Latin American Studies, 1998).

20 See Rachel Sieder (ed.), *Central America: Fragile Transition* (Basingstoke: Macmillan Press, 1996).

21 The most significant reservations usually relate to issues of justice, especially on the intractable issue of truth at the price of justice. For a helpful comparative evaluation of how this was handled differently in El Salvador, Gautemala and Honduras, see Rachel Sieder, 'War, Peace and Memory Politics in Central America', in Alexandra Barahona De Brito, Carmen González-Enríquez and Paloma Aguilar (eds), *The Politics of Memory: Transitional Justice in Democratizing Socities* (Oxford: Oxford University Press, 2001), 161–93.

22 The Salvadoran Commission noted that: 'those giving testimony attributed almost 85 per cent of cases to agents of the State, paramilitary groups allied to them, and the death squads. Armed forces personnel were accused in almost 60 percent of complaints, members of the security forces in approximately 25 percent, members of military escorts and civil defence units in approximately 20 per cent, and members of death squads in more than 10 per cent of cases' (TC, *From Madness to Hope*, 43). The CEH stated that state forces and paramilitary groups were responsible for 93 per cent of the violations that they documented. This included responsibility for 92 per cent of the arbitrary executions and 91 per cent of the forced disappearances. CEH, *Memory of Silence: Conclusions*, §15.

> and indiscriminate disappearances of leaders became common practice … Organized terrorism, in the form of the so-called 'death-squads', became the most aberrant manifestation of the escalation of violence'.[23]

The CEH is equally emphatic when it states:

> [T]hroughout the armed confrontation the Army designed and implemented a strategy to provoke terror in the population. This strategy became a core element of the Army's operations … A high proportion of the human rights' violations known to the CEH and committed by the Army or other security forces were perpetrated publicly and with extreme brutality, especially in the Mayan communities of the country's interior.[24]

Most significantly of all the CEH Conclusions confirm that:

> … agents of the State of Guatemala, within the framework of counterinsurgency operations carried out between 1981 and 1983, committed acts of genocide against groups of Mayan people …[25]

However, despite the many similarities, one area in which the reports differ markedly is their attitudes to sexual violence as an integral part of state terror strategy. The systematic rape of women prisoners in detention centres and rural massacres was commonplace in both countries.[26] Standard operating procedures in torture sessions in both countries included physical and/or psychological sexual abuse of both men and women.[27] Yet, whilst the CEH provides graphic documentation of the sexual violence, the Salvadoran Truth Commission is entirely silent on it.

23 TC, *From Madness to Hope*, 27.

24 CEH, *Guatemala: Memory of Silence. Conclusions*, §§44–46. See further, *Guatemala: Memoria del Silencio*, §§3897–4003.

25 CEH, *Memory of Silence: Conclusions*, §§108–23 (122).

26 Elizabeth Shrader Cox reports that interviews with Central American refugees by social workers in Texas and California suggested that rape was virtually a universal experience for refugee women over the age of twelve (Cox, 'Gender Violence and Women's Health in Central America', in Miranda E. Davies (ed.), *Women and Violence*, 118–33. For a personal testimony, see Robin Ormes Quizar, *My Turn to Weep: Salvadoran Refugee Women in Costa Rica* (Westport, CT and London: Bergin & Garvey, 1998), 4–6 and 14; see also Beatriz Mariz, *Refugees of a Hidden War: Counterinsurgency in Guatemala* (Albany, NY: State University of New York Press, 1988).

27 On the variety of tortures inflicted on women in El Salvador and Guatemala, see A. Aron *et al.*, 'The Gender Specific Terror of El Salvador and Guatemala: Post-traumatic Stress Disorder in Central American Refugee Women', *Women's Studies International Forum* 14 (1991), 37–47.

The Salvadoran Truth Commission

In their report *From Madness to Hope* the Salvadoran Truth Commissioners affirm the principle that is central to truth-telling investigations, when they say that 'One bitter but unavoidable step is to look at and acknowledge what happened and must never happen again.'[28] In many ways the report offers a frank and outspoken record of serious human rights' abuses between 1980 and 1989.[29] Yet reading *From Madness to Hope* in the light of *Guatemala: Memoria del Silencio*, one of the most notable issues is that *From Madness to Hope* makes virtually no mention of rape or other sexual violence against men or women. Throughout the entire Salvadoran Truth report, the most unspeakable truth remains unspoken.

The silence on sexual violence is particularly striking in cases where sexual violence had already been widely reported by human rights' agencies and the press. For example, when documenting the notorious case of the four US churchwomen who were raped and murdered in December 1980, the Truth Commission makes no mention of the rape, despite it being widely reported at the time.[30] Likewise, in its account of the notorious massacre at El Mozote – which the report highlighted as an 'illustrative case' – the Truth Commission failed to mention the systematic rape of approximately twenty-five young women and girls.[31] *Tutela Legal* (the Archdiocesan Legal Aid office) had already documented that, after the soldiers had separated the men and women of the village, the soldiers took about twenty-five of the younger women and older girls to the nearby hill known as Cerro La Cruz – Hill of the Cross – where they repeatedly raped and then executed them.[32] However, although the

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28 Commission on Truth for El Salvador, *From Madness to Hope: The 12-Year War in El Salvador* (Report of the Commission on Truth for El Salvador; New York: United Nations, 1993), 185; reprinted in United Nations, *The United Nations and El Salvador, 1990–1995* (The United Nations Blue Books Series, 4; New York: United Nations, 1996), 290–415 (384).

29 The Salvadoran Truth Commission presented just thirty-two cases of the violence. These were chosen either because they specially outraged Salvadoran society or the international community, or because as individual cases they illustrated a systematic pattern, or both (see TC, *From Madness to Hope*, 19). For each case, the report offers a 'Summary of the Case', a 'Description of the Facts', and the Commission's 'Findings'.

30 The 'Description of the Facts' simply records: 'Shortly after 7 p.m. on 2 December 1980, members of the National Guard of El Salvador arrested four churchwomen as they were leaving Comalapa International Airport. Churchwomen Ita Ford, Maura Clarke, Dortothy Kazel and Jean Donovan were taken to an isolated spot where they were shot dead at close range', (TC, *From Madness to Hope,* 62). Nor is there mention of rape in the 'Summary of the Case' or the 'Findings'.

31 See Mark Danner, *The Massacre at El Mozote: A Parable of the Cold War* (New York: Vintage, 1994), 71, 78–79; and Leigh Binford, *The El Mozote Massacre: Anthropology and Human Rights* (Tuscon: University of Arizona Press, 1996), 21.

32 Tutela Legal, *Investigación sobre la masacre de centenares de campesinos en los caseríos El Mozote, Ranchería y Jocote Amarillo del cantón Guacamaya, en los cantones La Joya y Cerro Pando, de la jurisdicción de Meanguera y en el caserío Los Toriles de la jurisdicción de Arambala, todos del departamento de Morazán, por tropas del BIRI Atlacatl*

Truth Commission mentions that the men and women were separated it does not give details on what happened to the women before they were killed. It confirms that the men were 'tortured and executed' but only states that 'the women were executed'.[33]

Elsewhere, such as the 'Attack on an FMLN hospital and execution of nurse' (15 April 1989), the report gives details that strongly suggest rape but it does not name rape as part of the atrocity.[34] The case summary states that members of a Salvadoran air force unit captured the French nurse Madeleine Lagadec alive and executed her, alongside José Ignacio Isla Casares (an Argentine doctor) and Clelia Concepción Díaz (a Salvadoran literacy instructor). Later, in the description of the facts and the investigation, it says: 'The soldiers questioned the three captives and screams were heard, the loudest being those of Madeleine Lagadec. Next, some shots rang out …'. That same day, FMLN members found the bodies at the scene. According to two of them, Madeleine Lagadec's trousers were below her knees and she did not have any underwear on under them.[35] It also reports that in addition to the potentially lethal shots to the head and shoulder she was shot at close range in the pelvic area, thighs and right breast. In addition it notes that her left hand had been severed at the wrist.[36] However, it offers no comment on her loud screams, her state of undress or on the practice of Salvadoran security forces to deliberately target the pelvic area of the body in their executions.[37]

The one partial exception to the Truth Commission's silence on sexual violence is in the account of the massacre at El Junquillo, Morazán. Here the 'Summary of the Case' records that:

On 12 March 1981, soldiers and members of the Cacaopera civil defence attacked the population, consisting solely of women, young children and old people. They killed the inhabitants and raped a number of the women and little girls under the age of 12. They set fire to houses, cornfields and barns.[38]

However, even in the El Junquillo case, the report downplays the role of sexual violence in the atrocity. The unambiguous statement presented in the 'Summary

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durante operativo militar los días 11,12 y 13 de Diciembre de 1981: Hechos conocidos como 'Masacre de El Mozote' (San Salvador: Tutela Legal, 1991).

33 TC, *From Madness to Hope*, 114–15 and 120.

34 TC, *From Madness to Hope,* 87–89. Whether or not the literacy instructor Clelia Concepción Díaz was also raped is left unclear. An unfortunate feature of the report – in this case and elsewhere – is that international victims of the violence were given more prominence than Salvadoran victims.

35 Subsequent analysis of the French autopsy reports confirmed that she could not have been wearing her brassiere, briefs and trousers when executed; see TC, *From Madness to Hope*, 89.

36 Salvadoran death squads commonly severed the hands from their victims' bodies to signify that they had been executed as 'leftists'.

37 Similar injuries to the pelvic and thigh areas in the case of Jesuit housekeeper and her daughter go unmentioned in the report of the Jesuit assassinations; see TC, *From Madness to Hope*, 45–54.

38 TC, *From Madness to Hope*, 67.

of the Case' is more tentatively qualified in the 'Description of the Facts' to read '*According to testimony*, some of the women and little girls had been raped'.[39] Then when it comes to the part of the case dealing with 'Findings', there is no mention of rape at all. It simply reads:

> There is substantial evidence that on 12 March 1981, units of the Military Detachment at Sonsonate and members of the civil defence unti at Cacaopera indiscriminately attacked and summarily executed men, women and children of El Junquillo canton in the district of Cacaopera, Department of Morazán.[40]

Given its silence on sexual violence against women it is no surprise that the Salvadoran Truth Commission likewise makes no reference to sexual violence against men in any of the cases it documents in which men were disappeared, tortured or killed. Yet there is good evidence that the Salvadoran security forces subjected their male prisoners to sexual torture, sexual assaults with foreign objects, rape, and genital mutilation.

A wide variety of sexual abuses as part of torture had already been clearly documented during the military dictatorships in Chile (1973–89), Uruguay (1973–85), and Argentina (1976–83).[41] The report by the Uruguayan Peace and Justice Service (SERPAJ) in 1989 explicitly included the sexual torture and rape of men as well as women.[42] It recorded that 7 per cent of male prisoners interviewed testified to being raped – the same percentage for men as for women – and noted that the figure could be much higher.[43]

The report on *Torture in El Salvador* from the non-governmental Human Rights Committee of El Salvador (CDHES-NG) provides evidence that sexual violence against male prisoners was relatively common. Based on research on 433 of the 434 prisoners remanded to Mariona men's prison between January and August 1986, it indicates that eighty-five men suffered blows to their testicles during physical torture. Furthermore, sixty-six men reported being threatened with rape and two

39 TC, *From Madness to Hope*, 68 (emphasis added). There is no such qualification in recording other details in this section – such as setting fire to the houses and cornfields, stealing some of the stored corn, or killing some of the animals – although presumably these also relied on similar testimony from survivors.

40 TC, *From Madness to Hope*, 69.

41 See esp. Frank Graziano, *Divine Violence: Spectacle, Psychosexuality, and Radical Christianity in the Argentine 'Dirty War'* (Boulder, CO and Oxford: Westview Press, 1992); Ximena Bunster-Burotto, 'Surviving Beyond Fear: Women and Torture in Latin America', in Miranda E. Davies (ed.), *Women and Violence*, 156–76.

42 SERPAJ, *Uruguay: Nunca Más: Human Rights Violations, 1972–1985* (Montevideo: Servicio Justicia y Paz, 1992 [Spanish orig. 1989]), 99.

43 SERPAJ, *Uruguay: Nunca Más*, 99. A further reason for under-reporting of rape can be that some tortures – such as rape with objects and instruments or even with animals – might be classified by the victim or by the interviewer under headings other than rape.

testified that they had actually been raped.[44] On top of this, news reports and other writing from El Salvador referred to bodies being openly dumped by the roadside with mutilated genitals or other signs of sexual assault.[45] Yet there is no hint to this dimension of the conflict in *From Madness to Hope*.

The Guatemalan Commission for Historical Clarification

In the Prologue to their report the CEH commissioners recall that prior to their investigation none of them had imagined the full horror of what had happened.

> When we were appointed to form the CEH, each of us, through different routes and all by life's fortune, knew in general terms the outline of events. As Guatemalans, two of us had lived the entire tragedy on our native soil, and in one way or another, had suffered it. However, none of us could have imagined the full horror and magnitude of what actually happened.[46]

This was probably nowhere more true than in their investigations of sexual violence summed up in their conclusion that: 'Sexual violence was a widespread and systematic practice carried out by agents of the state as part of their counterinsurgency strategy'.[47] Volume III Section 13 of the report, entitled 'Sexual Violence against

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44 CDHES-NG, *Torture in El Salvador* (San Salvador: CDHES-NG, September 1986), cited in Leigh Binford, *The El Mozote Massacre*, 158–59. The under-reporting of rape cases has been extensively documented and since the stigma of male rape is particularly strong it is widely assumed to be even more of a problem in cases of male rape.

45 The Salvadoran novelist Manlio Argueta includes a passage in his famous work *One Day of Life* (trans. W. Brow; London: Chatto and Windus, 1984 [Spanish orig. 1980]), 30, which describes the discovery of a naked priest by the roadside with a stick still stuck up his anus. Joan Didion's book *Salvador* (London: Chatto & Windus, 1983) records sightings of male corpses left with their genitals hacked off during her visits in the early 1980s. As the decade progressed and the Salvadoran government came under increasing pressure to improve human rights – or at least appear to be doing so – these public displays became less common. Evidence from Joya Martínez (a death squad member in 1988–89 who fled El Salvador in 1989 and sought asylum in the US) suggests that by the late 1980s greater care was taken to eliminate all traces of victims. One way to do this, using techniques well-known in Argentina and Chile, was by throwing them into the sea or large lakes; see Human Rights Watch, *El Salvador: Extradition Sought for Alleged Death Squad Participant* (New York: Human Rights Watch, August 1991), 3.

46 Commission for Historical Clarification, *Guatemala: Memory of Silence. Prologue* (Guatemala: United Nations, 1999). See also Hayner's reference to a Commissioner on the Chilean National Commission on Truth and Reconciliation who reported after the release of the Chilean report 'What I know now, I would not have imagined' (Hayner, *Unspeakable Truths*, 37). The Chilean confession is especially telling because the Commissioner had himself led a human rights commission during the Pinochet era.

47 CEH, *Guatemala: Memoria del Silencio*, §2351: 'La violación sexual fue una práctica generalizada y sistemática realizada por agentes del Estado en el marco de la estrategia

Women', gives a frank and shocking insight into the unimaginable cruelty of many of these practices.[48]

The majority of the abuses were concentrated in the period 1980–83 when the violence against indigenous communities was at its peak under Lucas García and Ríos Montt.[49] The violence often included the public humiliation of victims to maximise the terror and trauma. During massacres mass rapes were common and often included assaults with foreign objects. For example:

> The most usual practice was to strip women and insert objects into their vaginas or drive stakes into their wombs. The soldier said that when the women were dead they lifted up their skirts and put a stick in their vagina … they hung one elderly woman with a noose around her neck. She was naked with a banana in her vagina.[50]

Some of the worst violence was deliberately directed against pregnant women.[51] In some cases this included the sadistic destruction of the unborn. For example:

> They opened the womb of a pregnant woman and pulled out the child and pushed a stick up the child's behind, until it came out through the child's mouth.[52]

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contrainsurgente'. In compiling their report, the CEH benefited greatly from the 1998 report of the Guatemalan Archdiocesan Recovery of Historical Memory project (Recuperación de la memoria histórica) usually known by the Spanish acronym REMHI; REMHI/ODHAG, *Guatemala Nunca Más* (Informe proyecto interdiocesano de recuperación de la memoria histórica; 4 vols; Guatemala: Oficina de Derechos Humanos del Arzobispado de Guatemala [ODHAG], 1998). An abridged single volume version has been published in English as REMHI/ODHAG, *Guatemala: Never Again!* (The Official Report of the Human Rights Office, Archdiocese of Guatemala; trans. G. Tovar Siebentritt; Maryknoll, NY: Orbis Books; London: Catholic Institute for International Relations and Latin America Bureau, 1999). Some of the testimonies from REMHI are also included in the CEH report. On sexual violence in the REMHI report, see esp. REMHI, *Never Again!*, 76–85, 170–71, 298. For background to the REMHI report, see Marcela López Levy, 'Recovery: The Uses of Memory and History in the Guatemalan Church's REMHI Project' in M. A. Hayes and D. Tombs (eds), *Truth and Memory: The Church and Human Rights in El Salvador and Guatemala* (Leominster, Herefordshire: Gracewing, 2001), 103–17.

48 CEH, *Guatemala: Memoria del Silencio*, §§2350–2485. Very little of the detail from this part of the report is included in *Guatemala: Memory of Silence. Conclusions*, but see §28 on Children, §§29–30 on Women, and §91 on rape.

49 CEH, *Guatemala: Memoria del Silencio*, §2392.

50 CEH, *Guatemala: Memoria del Silencio*, §2412: 'El más usual fue la desnudez y la introducción de objetos en la vagina de las mujeres o estacas que clavaban en sus vientres. "El soldado … contaba que cuando estaban las señoras muertas les subía la falda y les metía un palo en la vagina … a una anciana la ahorcaron con un lazo en el cuello. Estaba desnuda con un banano en la vagina'.

51 CEH, *Guatemala: Memoria del Silencio*, §2352.

52 CEH, *Guatemala: Memoria del Silencio*, §2412: 'Abrieron la panza de una mujer embarazada y sacaron el nene y al nene le pusieron un palo por atrás hasta que salió de su boca.'

Elsewhere the CEH describes other particularly misogynistic and degrading executions of women. For example, 'They raped the women, they put them on all-fours, and then they shot them putting the gun in the rectum or in the vagina'.[53]

The CEH notes that the army tried to classify such atrocities simply as 'errors'.[54] However, it would be entirely mistaken to assume that the abuses were an unfortunate by-product of military action and restricted to cases where troops got out of control. The CEH shows that the sexual violence was systematic and part of a strategy.[55] The frequency and extremity of the violence suggests that these were not just 'excesses' or 'errors' committed by untrained troops but a recognised part of a political strategy. The CEH concludes:

> Based on the extensive and systematic form in which the army perpetrated the sexual violation of women, the CEH arrives at the conviction that these were not isolated acts or sporadic excesses but were above all a planned strategy.[56]

On some occasions, the violence was clearly organised and the result of very explicit orders.[57] As one witness explains:

> Each officer had his own little band of killers, and he would tell them what methods to use. 'Today you are going to cut their throats, or hang them up with wire; rape all the women today'. They often gave instructions beforehand like this.[58]

53 'Violaban a las mujeres, las ponían a cuatro patas, luego les disparaban metiendo el arma en el recto o en la vagina' CEH, *Guatemala: Memoria del Silencio*, §2404. Close parallels are clear in the following story reported from El Salvador: 'One night Brenda's co-worker was dragged from her apartment and brought to national guard headquarters where she was gang raped and tortured. In the morning the soldiers led her into the town square and forced her to bend over. Then a soldier inserted a machine gun into her rectum and pulled the trigger. She was three months pregnant'; R. Golden and M. McConnell, *Sanctuary: The New Underground Railway* (Maryknoll, NY: Orbis Books, 1986), 65, cited C. Smith, *Resisting Reagan: The U.S. Central America Peace Movement* (Chicago: Chicago University Press, 1996), 53.

54 CEH, *Guatemala: Memoria del Silencio*, §2413.

55 CEH, *Guatemala: Memoria del Silencio*, §§2389 and 2398.

56 'Con base en la forma masiva y sistemática con la que el Ejército perpetró las violaciones sexuales de las mujeres, la CEH llegó a la convicción de que no se trató de actos aislados y excesos esporádicos sino sobre todo de una planificación estratégica'; CEH, *Guatemala: Memoria del Silencio*, §2398, cf. §2214.

57 Whether US advisers played an active role in encouraging sexual violence is unclear. However, there is no doubt that the US bears a very heavy responsibility for much of the political repression in Guatemala since the CIA-led coup of 1954. The CEH explicitly acknowledges the support given by the US government and the CIA to the Guatemalan security forces.

58 'El oficial tiene sus grupitos de asesinos y les dice cómo tienen que matar. Hoy van a degollar o a guindar con alambres, hoy violan a todas las mujeres. Muchas veces las órdenes las dan antes'; CEH, *Guatemala: Memoria del Silencio*, §2404.

On other occasions the organisation was less direct but no less significant. The soldiers shared a *macho* culture of sexual aggression rooted in norms and values of wider society and reinforced by the distinctive ethos of military institutions.[59] As the CEH notes, *machismo* would have encouraged and appeared to justify acts of sexual violence and humiliation in warfare.[60] The CEH points to aspects of military training that were intended to channel this and make sexual atrocities more likely even when they were not directly ordered.[61] For example, according to testimonies, recruits were provided with prostitutes to acclimatise them to sexual violence.[62]

In addition to physical suffering, frequent injury, and a woman's risk of pregnancy, a single rape could traumatise not just the immediate victim and but whole families and others in the community.[63] To increase the humiliation sexual abuses were often conducted in public rather than in secrecy.

Whilst the focus of the CEH report is on sexual violence directed against women, it also makes clear that sexual torture was widely used against men as well. It states that: 'The direct victims were principally women and girls, but in addition, there were sexual abuses of boys and men'.[64] Violence against men included sexual violation with animals or bottles, and physical blows or electrical current applied to the genitals.[65] It also confirms that the mutilation of the sexual organs of male victims – along with the eyes and tongue – was a systematically applied practice.[66]

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59 See further, David Tombs, 'Honour, Shame and Conquest: Male Identity, Sexual Violence and the Body Politic', *Journal of Hispanic/Latino Theology* 9 (May 2002), 21–40.

60 CEH, *Guatemala: Memoria del Silencio*, §2395. It should, however, be emphasised that sexual violence in warfare is not in any way a distinctively Latin America phenomenon. Whilst the specifics of sexual violence might vary human rights abuses against women have been a typical feature of many conflicts across the world. For a helpful summary of major abuses committed in earlier twentieth-century wars – including World Wars One and Two, Vietnam and Bangladesh – see Susan Brownmiller, *Against Our Will: Men, Women and Rape* (London: Secker and Warburg, 1975), 31–113.

61 At a number of points the CEH makes explicit reference to the training methods used by the *Kaibiles* (specialist counter-insurgency forces responsible for many of the massacres); see esp. *Guatemala: Memory of Silence. Conclusions*, §42.

62 See CEH, *Guatemala: Memoria del Silencio*, §2397. The soldiers' tendency to describe indigenous women as 'meat' reflects this brutalization; see esp. §§2389 and 2421.

63 Along with other physical and psychological injuries, contracting venereal diseases from the soldiers could add to the women's distress; CEH, *Guatemala: Memoria del Silencio*, §2234.

64 'Las víctimas directas fueron principalmente mujeres y niñas, pero también fueron ultrajados sexualmente niños y hombres'; CEH, *Guatemala: Memoria del Silencio*, §235.

65 'La tortura sexual consistía en violencia directa en los órganos genitales, en la forma de violación sexual por animales, con botellas o porras, y golpes o corriente eléctrica aplicada a los órganos genitales. Se aplicaba tanto a hombres como a mujeres'; CEH, *Guatemala: Memoria del Silencio*, §2232, see further, §§2237 and 2247.

66 'La mutilación de los órganos sexuales de los hombres fue aplicada sistemáticamente;' CEH, *Guatemala: Memoria del Silencio*, §2251.

For all victims, the shame and the stigma were invariably much longer lasting than the physical suffering. For male victims, the psychological burdens of sexual violence could be especially hard. In the eyes of *machista* society, sexual violation of a male prisoner signified his loss of manhood whilst simultaneously reinforcing the 'manly' status of the torturers. Torturers could therefore take a particular 'pride' in male rapes or penetrations with objects and might even boast of them.[67] For example, after three days of various violations, the body of one dumped victim was left with a note that read: 'He had never met a real man before'.[68]

Breaking the Silence on Sexual Violence

Given the prevalence of sexual abuses in the Central American conflicts, the failure of the Salvadoran Truth Commission to address sexual violence as an obvious 'pattern of abuse' is a serious omission.[69] The silence on sexual violence is all the more striking given the report's recognition that atrocities need to be understood in terms of a policy of systematic terror. Only a policy of systematic terror could make sense of the sexual violence, and there is no real understanding of the terror without addressing its sexual element. However, the Salvadoran Truth commission did not see it this way – or at least, they did not believe that there was sufficient direct evidence for it. Part of the reason may have been sheer revulsion at the atrocities of the crimes but other factors were also significant.

For example, in the case of the four US churchwomen it appears that the commissioners concluded that the rapes had occurred. However, as there was no direct evidence that they had been ordered from above, they were therefore not seen as 'politically' motivated.[70]

One factor in this was that the Commissioners were determined to focus on the responsibility of individuals rather than institutions.[71] Establishing explicit

67 See David Tombs, 'Honour, Shame and Conquest: Male Identity, Sexual Violence and the Body-Politic', 27–33.

68 CEH, *Guatemala: Memoria del Silencio*, §2235.

69 For further elaboration of the Commission's work and the thinking behind it, see Thomas Buergenthal, 'The United Nations Truth Commission for El Salvador', *Vanderbilt Journal of Transnational Law* 27 (1994), 497–544.

70 See Patricia Hayner, *Unspeakable Truths*, 79. Furthermore, Hayner also notes (79 n. 20) that the unpublished appendix to the Salvadoran Truth Commission Report lists many incidents of rape and that commissioners never explained the apparent discrepancy between the Report and the appendix.

71 TC, *From Madness to Hope*, 13–14. The Salvadoran Truth Commission's approach was explicitly intended to protect institutions whilst punishing individuals. The Commission therefore rejected the argument for institutional responsibility. The report notes: 'A situation of repeated criminal acts may arise in which different individuals act within the same institution in unmistakably similar ways … This gives reason to believe that institutions may indeed commit crimes, if the same behaviour becomes a constant of the institution and, especially, if clear-cut accusations are met with a cover-up by the institution to which the accused belong and the

orders in individual cases certainly gives the most clear-cut grounds for assigning responsibility. However, whilst the focus on individuals had legal advantages, it also carried significant disadvantages in presenting a complete record of why certain patterns of violence were especially prominent. Explicit orders were often very hard to document. Regrettably, on matters of sexual violence, the Commission ignored the equally significant and obvious responsibility of those who failed in their duty to make any attempt to stop the atrocities and/or helped cover them up. Thus in the case of the four US churchwomen, the Truth Commission highlighted the complicity of superiors in attempting to cover up the National Guard's responsibility for the murders. It also accused the Salvadoran government of failing its obligations under international law to investigate the case.[72] Yet even though the evidence of complicity was also clearly relevant to the rapes (the military attempted to deny responsibility for the entire incident, not just the murders) the Truth Commission drew no attention to this.

In 1993 the political status of rape and other forms of sexual violence as war crimes was only just starting to be internationally recognised. The 1949 Geneva Convention lays out internationally agreed humanitarian protocols during conflicts (which forbid torture and cruel and inhuman treatment) but before the early 1990s little international attention had been given to rape and sexual violence as 'war crimes'.

The conflict in the former Yugoslavia (1992–95) dramatically raised international awareness of the issues. The use of rape (and the threat of rape) to terrorize families and whole communities into flight was widely reported.[73] The role of rape in 'ethnic cleansing' made clear that rapes could be part of a deliberate political strategy.

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institution is slow to act when investigations reveal who is responsible. In such circumstances, it is easy to succumb to the argument that repeated crimes mean that the institution is to blame. The Commission on the Truth did not fall into that temptation … the Commission believes that responsibility for anything that happened during the period of the conflict could not and should not be laid at the door of the institution'. Within the framework of individual responsibility the Commission was much stronger in ascribing responsibility for abuses, which were explicitly ordered, rather than patterns of violence that were tacitly condoned or encouraged indirectly. The Commission stated that its intention was to lay responsibility at the door of 'those who ordered the procedures for operating in the way that members of the institution did and also of those who, having been in a position to prevent such procedures, were compromised by the degree of tolerance and permissiveness with which they acted from their positions of authority or leadership or by the fact that they covered up incidents which came to their knowledge or themselves gave the order which led to the action in question'. However, as far as sexual violence was concerned, the Commission focused entirely on the lack of clear evidence for knowing what was explicitly ordered (thereby virtually excluding it from the report) rather than condemning the failure of those responsible to stop a clearly widespread pattern.

72 TC, *From Madness to Hope*, 66.

73 On rape in Bosnia, see Alexandra Stiglmayer (ed.), *Mass Rape: The War Against Women in Bosnia-Herzegovonia* (trans. Marion Faber; Lincoln: University of Nebraska Press, 1993); Beverly Allen, *Rape Warfare: The Hidden Genocide in Bosnia-Herzegovonia*

International law reflected this increased awareness in the Statutes adopted in May 1993 for the UN International Criminal Tribunal for the former Yugoslavia (ICTY).[74] Statute 5 (on Crimes Against Humanity) specifically names rapes during the conflict as one of the 'crimes against humanity' for which it would prosecute.[75] Furthermore, because mass rapes could disrupt the very basis of a community and destroy its future, Statute 4 of the ICTY (on Genocide) also provides scope for prosecutions for rapes intended as part of ethnic-cleansing.[76]

Meanwhile, and much closer to Central America, atrocities during the military regime of Lt. Gen. Raoul Cédras in Haiti (September 1991–September 1994) highlighted the use of rape in internal political repression.[77] Haiti's National Commission for Truth and Justice included specific attention to sexual crimes committed against women during the Cédras regime.[78]

In 1995 the New York-based Human Rights Watch drew attention to the integral role of rape in war and political repression in their *Global Report on Women's Human Rights*. Drawing on their investigations in the former Yugoslavia, Peru, Kashmir, and Somalia they noted that rape was used for a wide variety of different political purposes in different situations. This included 'terrorizing civilian communities', conducting 'ethnic cleansing', avenging historical disputes, and rewarding mercenary soldiers.[79]

The Salvadoran and the Guatemalan reports stand on either side of an important watershed in human rights' work during the 1990s. After 1993 there was a growing

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(Minneapolis: University of Minnesota Press, 1996); Ivana Nizich, *War Crimes in Bosnia-Hercegovina,* vols I–II (New York: Human Rights Watch, 1992–93).

74 The Tribunal's full title was 'International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991'.

75 The ICTY 1993 statutes are available at http://www.un.org/icty. On ICTY prosecutions for crimes against women, see Kelly Askin, *War Crimes Against Women: Prosecution in International War Crimes Tribunals* (The Hague: Martinus Nijhoff, 1997); Liz Philipose, 'The Laws of War and Women's Human Rights', *Hypatia* 11/4 (Fall 1996), 46–62. On 22 February 2001 the ICTY convicted three suspects accused of the Foca abuses. This was the first time in history that an international tribunal prosecution had been based solely on crimes of sexual violence against women.

76 Serb forces were accused of deliberately impregnating Bosnian Muslim women with 'Serb' babies to destroy future community relations.

77 Human Rights Watch and National Coalition for Haitian Refugees, *Rape in Haiti: A Weapon of Terror* (New York: Human Rights Watch, July 1994). Terry Rey discusses the unprecedented scale of rape during the Cédras era in terms of widespread social attitudes and Haiti's earlier history of conquest rapes (including rapes committed by US marines during the occupation of Haiti 1915–34); Terry Rey, 'Junta, Rape, and Religion in Haiti, 1993–94', *Journal of Feminist Studies in Religion* 15/2 (1999), 73–100 (esp. 79–85).

78 Commission national de verité (CNVJ), *Si M Pa Rele* (Port-au-Prince: Minstère Nationale de la Justice de la République d'Haiti, 1996).

79 Human Rights Watch, *Global Report on Women's Human Rights* (New York: Human Rights Watch, 1995).

recognition of the significance of sexual violence. In contrast to the Salvadoran Truth Commission, the CEH (which worked in the second half of the decade) was much better placed to acknowledge the wider consequences of sexual violence and see its political role.[80]

By breaking the silence on sexual violence, the CEH made a major advance on its Salvadoran predecessor. It is an important model for future reports.[81] There can no longer be any justification for assuming *a priori* that widespread sexual violence during conflicts is only a side effect of political violence.[82] Rather it is often an integral part of political violence. Even where there is no evidence of deliberate planning and organization, apparently 'random' atrocities have political consequences and reflect political values that are relevant to the conflict.

These insights provide a new dimension to past and present conflicts. They contribute to a clearer understanding of the layers of 'truth' that are to be acknowledged. However, this 'progress' also shows how difficult attempts at reconciliation based on truth are likely to be. Even when there is a wish to discover

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80 The CEH has a section in Vol. 3 on 'International Human Rights and the Rights of Women in Situations of Armed Conflict' (*Guatemala: Memoria del Silencio*, §§2363–2374) and makes explicit reference to the precedents set by Tribunals for the Former Yugoslavia and Bosnia (§§2372–73). In particular, it cites the observation by Elizabeth Odio (Vice-President of the Tribunal for the Former Yugoslavia) that 'The rape of women is not a more or less inevitable or unavoidable consequence of an armed conflict but is a systematically applied political strategy to destroy collective groups of people in addition to the immediate victim' (§2363 n. 2).

81 It may also be significant that the CEH took the opposite stance to the Salvadoran Truth Commission by naming institutions but not individuals. This was a condition imposed by the Guatemalan military to protect military personnel from possible prosecutions. Preventing consideration of individual responsibility may have encouraged the CEH to look more critically at how the institutions themselves actually contributed to the violence.

82 The concern of this chapter with sexual violence during periods of state terror and armed political conflicts is to be distinguished from more 'everyday' sexual violence in societies that are supposedly at 'peace'. However, whilst preserving this distinction is important (in order to examine the special circumstances created by armed conflicts), it should not disguise the fact that sexual violence in 'peace' times can sometimes be so widespread and intense that it approximates to a political conflict in its own right. For example, on the day before this paper was first presented, the *New York Times* carried a story from Johannesburg on the trial of six men for the rape of a 10-month-old baby, which it headlined as an 'Unthinkable Attack'. Even though the atrocity was not part of a political conflict in the usual sense, the article raises questions about when civil violence against women should be seen as part of a systemic conflict. Mpho Thekiso (the Program Manager of the national Network on Violence) is quoted as saying: 'There is a civil war in this country and it's a war against women's bodies.' The 'unthinkable' makes more sense when viewed in terms of patriarchal sexual attitudes that have no concern for female victims. When these include the belief that sexual intercourse with a virgin is a cure for AIDS, the unthinkable becomes as possible in 'peace' as it is during conflicts. See Rachel Swarns, 'Unthinkable Attack Jolts a Crime-Weary Country', *New York Times* (16 November 2001), A3.

the truth, it can often remain hidden. Silence and self-censorship amongst victims can seriously impede a Commission's ability to document the full truth. The reluctance of victims to speak of rape was one of the principal difficulties that the CEH says it faced in documenting the atrocities.[83] Feelings of extreme shame kept survivors and communities silent. When rape was mentioned in testimonies, survivors often only referred to what happened with euphemisms. Very few victims named what happened as 'rape' or 'violation'.[84]

According to the CEH, few women spoke of their experience of rape with other people. They did not even tell other women who had been victims of similar violence.[85] In many cases even the closest family member of a victim might be unaware of what had happened. As one woman testified:

> Never before have I told of how the soldiers raped the women, even less have I said that they also abused me … I am going to die with this … nobody can know … my children do not know, my husband does not know … nobody knows.[86]

The traditionalist values of Mayan culture created an additional pressure on the women. The report notes: 'It is not easy for a woman to dare to say that they raped her, and it is even more difficult for an indigenous woman'.[87] Some women feared that they themselves would be blamed.[88] In some cases, the stigma from what happened was so strong that survivors preferred to leave their own communities and live elsewhere because they could not bear to live with others knowing.[89] The reluctance of male survivors in *machista* societies to testify to what happened is just as strong.

Confronting unspeakable truths is a deeply painful process. Some victims may never be able to face some of the things that they suffered. Others might only refer to them only indirectly. In such cases the 'truth' can only ever be partial and provisional. However, a sensitive investigator can help victims to disclose their experiences. Perhaps the Guatemalan woman who said that she would tell nobody about what happened to her shows how complex this can be. Even as she says she will not tell anybody about what happened to her, she tells the depth of her experience to the

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83 See CEH, *Guatemala: Memoria del Silencio*, §2383. Sections 2379–2387 of the report are subtitled 'El dolor en silencio' (Grieving in Silence).

84 'Las víctimas o testigos usan las palabras "*pasar*" o "*usar*" en vez de violar (los soldados *pasaron* con ellas, las usaron). Muy pocas identifican el hecho como "violación", es decir como aggression'; CEH, *Guatemala: Memoria del Silencio*, §2381.

85 CEH, *Guatemala: Memoria del Silencio*, §§2379–2387 (2380).

86 CEH, *Guatemala: Memoria del Silencio*, §2380.

87 CEH, *Guatemala: Memoria del Silencio*, §2380.

88 CEH, *Guatemala: Memoria del Silencio*, §2384. Cox notes that some men become abusive against their wives when they learn that they have been sexually assaulted; Elizabeth Shrader Cox, 'Gender Violence and Women's Health in Central America', 125.

89 CEH, *Guatemala: Memoria del Silencio*, §2384.

world – and perhaps to herself – reaching a level that could not be expressed by any amount of words.

Truth and Reconciliation

Neither the Salvadoran nor the Guatemalan Commission had the word 'reconciliation' as part of their official titles. However, the mandates for both commissions made clear that their work for truth was understood in a broader context of national reconciliation.[90] The mandate of the Salvadoran Commission stated that: 'The Commission shall have the task of investigating serious acts of violence that have occurred since 1980 and whose impact on society urgently demands that the public should know the truth'.[91] In carrying out this task it was agreed that it must take account of:

> The exceptional importance that may be attached to the acts to be investigated, their characteristic and impact, and the social unrest to which they gave rise; and the need to create confidence in the positive changes that the peace process is promoting and to assist in the transition to national reconciliation.[92]

The CEH makes the link even more directly in its Preface with the statement that:

> Despite the shock that the Nation could suffer upon seeing itself reflected in the mirror of its past, it was nevertheless necessary to know the truth and make it public. It was their

90 The Chilean National Commission on Truth and Reconciliation and the Truth and Reconciliation Commission South Africa are perhaps the two best-known Commissions that explicitly linked Truth and Reconciliation in their titles and mandates. See Chilean National Commission on Truth and Reconciliation, *Report of the Chilean National Commission on Truth and Reconciliation* (2 vols; trans. Phillip E. Berryman; Center for Civil and Human Rights, Notre Dame Law School; Notre Dame, IN and London: University of Notre Dame Press, 1993 [1991]); Truth and Reconciliation Commission South Africa, *Report* (5 vols; Cape Town: Juta and Co, 1998; London: Macmillan, 1999).

91 Cited in TC, *From Madness to Hope*, 18. The mandate was agreed during the Peace process as Section 4 (Commission on the Truth) of the 27 April 1991 Mexico Agreement. The Mexico agreement is re-printed as Document 29 in United Nations, *The United Nations and El Salvador*, 167–74 (for Section 4, see p. 168). The characteristics, functions and powers of the Commission (along with other related matters including the Parties agreement on co-operation with it and acceptance of its recommendations as binding were set out in a corresponding annex to this section (173–74). Subsequently, Section 5 ('End to Impunity'), of the 16 January 1992 Chapultepec Agreement added to this initial mandate a further responsibility for the consideration and resolution of any indication of impunity on the part of officers of the armed forces. The entire Chapultepec Agreement is reprinted as Document 36 in United Nations, *The United Nations and El Salvador*, 193–230 (with Section 5 on page 196). The Commissioners helpfully summarise the Mandate and explain their interpretation of it as a preliminary section in the Report; see TC, *From Madness to Hope*, 18–19.

92 TC, *From Madness to Hope*, 18.

> hope that truth would lead to reconciliation, and furthermore, that coming to terms with the truth is the only way to achieve this objective.[93]

Both Commissions believed that documenting the truth of what happened in political conflicts could make important contributions to long-term healing at both an individual and a political level. The Introduction to *From Madness to Hope* indicates some of the ways in which the truth might contribute to reconciliation and a new political order:

> Learning the truth and strengthening and tempering the determination to find it out; putting an end to impunity and cover-up; settling political and social differences by means of agreement instead of violent action: these are the creative consequences of an analytical search for truth.[94]

It would be naïve to believe that this healing process occurs in some magical way as soon as the truth becomes known. Survivors often need long-term help and support in rebuilding their personal identities and their social confidence. The physical scars and psychological wounds of sexual violence may leave a permanent mark. For some victims, proclaiming the truth about sexual atrocities might at first seem to be an additional punishment rather than an affirmation of their dignity. Nonetheless, survivors and relatives often attest to the importance of breaking the silence about atrocities.

Anthropologist Judith Zur (who studied the impact of terror on Guatemalan war widows) notes that terror brings about shared denial in a population. Knowing what not to know is a common coping mechanism.[95] Speaking the truth reverses this culture of denial and involuntary complicity. This is necessary for the well-being of society. Likewise, for the healing of individuals, therapists who have worked with torture victims who suffered extreme traumatization in Chile suggest that sometimes the past must be 're-experienced' in order to make new futures possible.

In other words, the more victims try to forget and leave their terrible experience in the past, the more they tend to reproduce it in the present in the form of emotional illness. But once they begin to confront the past directly, the past, present, and future can be adequately discriminated. To achieve this, we have found that the person or the family needs to recount the traumatic experience in detail, and express the emotions it produced.[96]

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93 CEH, *Guatemala: Memory of Silence*, Preface. See also Supreme Decree 355 establishing the Chilean Commission, which states: 'That only upon a foundation of truth will it be possible to meet the basic demands of justice and create the necessary conditions for achieving true national reconciliation'; cited Chilean National Commission on Truth and Reconciliation, *Report of the Chilean National Commission on Truth and Reconciliation*, 5.

94 TC, *From Madness to Hope*, 11.

95 Judith Zur, 'The Psychological Impact of State Terror', *Anthropology Today* 10/3 (June 1994), 12–17 (15).

96 David Becker, Elizabeth Lira, Maria Isabel Castillo, Elena Gómez and Juana Kovalskys, 'Therapy with the Victims of Political Repression in Chile: The Challenge of

William Cavanaugh, a North American theologian who has studied torture in Chile, puts it succinctly:

> Years later, many victims are incapable of expressing significant parts of the horror they underwent; the tortures remain, in a word, unspeakable. The experiences are remembered vaguely, as those of another, repressed into a hidden corner of the fragmented self ... This is why therapy for torture victims is centred on recovering their voices, allowing them to conceptualise and verbalize their anguish.[97]

Truth commissions can help victims to realise that what happened to them happened to many others and relatives can feel that the record has been put straight about their loved ones. In some cases, the actual process of investigation and testimony can be as important as the publication of the findings. In testifying to a commission, survivors document their story. Sometimes this is the first time that they have been able to officially record it. To have their testimony formally acknowledged in this way often provides a strong sense of vindication, especially if it follows on years of systematic denial by the authorities and wider society, and even self-denial by the victims.

Many of Latin America's political reconciliation processes reflect the need to break the silence on what happened to initiate a process of individual and social healing. However, survivors and relatives can feel that even the positive aspects of a truth process can ring hollow if they are not accompanied by other measures including admission of responsibility by those responsible for the abuses. The political trade-offs that are often involved in establishing Truth Commissions can undermine the sense of acknowledgement that survivors and victims' families might feel.[98]

In many Latin American countries, amnesty and impunity laws raise questions about how seriously the suffering of victims is seen in wider society. Survivors and victims' families are often disillusioned by the failure to bring perpetrators to trial.[99] Only Argentina managed to carry through the momentum from its National

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Social Reparation', *Journal of Social Issues* 46/3 (1990), 133–49 (142).

97 William T. Cavanaugh, *Torture and Eucharist: Theology, Politics and the Body of Christ* (Oxford: Basil Blackwell, 1998), 40 and 42.

98 See M. Popkin and N. Roht-Arriaza, 'Truth as Justice: Investigatory Commissions in Latin America', *Law and Social Inquiry: The Journal of the American Bar Foundation* (1995), 79–16; J. M. Pasqualucci, 'The Whole Truth and Nothing But the Truth: Truth Commissions, Impunity and the Inter-American Human Rights System', *Boston University International Law Journal* 12/2 (1994), 321–70. For an excellent comparative analysis of El Salvador, Guatemala and Honduras see Rachel Sieder, 'War, Peace and Memory Politics in Central America', in Alexandra Barahona de Brito, Carmen Gonzalez-Enriquez and Paloma Aguilar (eds), *The Politics of Memory and Democratization: Transitional Justice in Democratizing Societies* (Oxford Studies in Democratization; Oxford: Oxford University Press, 2001), 162–93.

99 See Carlos Santiago Nino, *Radical Evil on Trial* (New Haven and Yale: Yale University Press, 1996); Jaime Malamud-Goti, *Game Without End: State Terror and the Politics of Justice* (Norman, OK and London: University of Oklahoma Press, 1996).

Commission into trials of high-ranking military leaders. Even there, despite partial success in convicting some of the leading figures responsible for the Dirty War the civilian government eventually backed down when faced by intense pressure from the military.

When the Truth Commission report was released in El Salvador neither the military nor the government of Alfredo Cristiani were willing to acknowledge responsibility or express any remorse for what had happened. Three days after publication, Cristiani addressed the nation. He urged that, in the interests of reconciliation, there should be no further actions because 'What is most important now is to see what has to be done to erase, eliminate and forget everything in the past'.[100] On 20 March, just five days after the Truth Commission report became public, the Salvadoran government pushed through a sweeping amnesty law, which ended any hope of trials.[101]

In Guatemala, by contrast, neither the Guatemalan military nor the government publicly criticized the report. Nonetheless, they did not distance themselves from those in the private sector who felt no such need for restraint. Furthermore, on 26 April 1998, three days after presenting the hard-hitting REMHI report, Bishop Gerardi (chair of the Archdiocesan Human Rights Office) had been brutally murdered. Despite the military's attempts to shift the blame elsewhere, it was widely – and rightly – believed that they were responsible and the murder was intended as a warning that things had not changed that much.[102] In any case, the amnesty provisions included in the Law of National Reconciliation – agreed in December 1996 – already gave absolute protection to those guilty of all abuses, expect the internationally proscribed crimes of torture, genocide and forced disappearance.[103]

In these circumstances it is easy for victims to question the value – and even the sincerity – of a truth commission. The Guatemalan CEH countered this danger by recommending prosecutions for abuses excluded by the amnesty.[104] It also

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100 Presidential Address to the Nation (18 March 1993), quoted in Popkin, *Peace Without Justice*, 150.

101 Given the supposedly binding nature of the Salvadoran Truth Commission's recommendations, some critics point to its failure to recommend against an amnesty as making life too easy for the ARENA government.

102 After a prolonged investigation and trial process, three officers from the Military High Command were finally convicted of Gerardi's murder on 8 June 2001. See esp. Judith Escribano, 'The Cook, the Dog, the Priest and His Lover: Who Killed Bishop Gerardi and Why?', in M. A. Hayes and D. Tombs (eds), *Truth and Memory*, 59–80; Francisco Goldman, 'Murder Comes for the Bishop', *The New Yorker* (15 March 1999), 60–77.

103 The amnesty was agreed during the peace negotiations between the government and URNG, despite the active opposition of Human Rights groups and others who formed the 'Alliance against Impunity' to oppose it.

104 On 2 December 1999 Nobel Laureate Rigoberta Menchú Tum and various human rights' organizations filed a case in Spain against eight Guatemalan ex-military officers, including former-Presidents Generals Lucas García (1978–82), Efrain Ríos Montt (1982–83), and Oscar Humberto Mejia Victores (1983–85). Both the CEH and REMHI reports were submitted in evidence of the argument that because of the genocide, the case could be tried in

recommended an extensive system of reparations, compensations and victim support.[105] The Salvadoran Truth Commission also made recommendations on reparations – arguing that this is where the need for justice could best be served.[106] However, the Salvadoran provisions were less comprehensive than in Guatemala and – despite their supposedly binding nature – much less carefully observed by the government.[107] Inevitably in such instances, meaningful reconciliation remains a distant hope.

Challenges for Christian Theology

From Madness to Hope and *Guatemala: Memoria del Silencio* are secular documents. At times, however, they touch on religious themes. This is particularly marked when they address reconciliation and it is notable that when speaking of reconciliation the reports sometimes draw on religious terms. For example, *From Madness to Hope* states that: 'The process of reconciliation is restoring the nation's faith in itself and its leaders and institutions'.[108] A little later, it describes El Salvador as a 'society of sacrifice and hope'.[109] Such religious language invites theological analysis and critiques of how the concepts of reconciliation, faith, sacrifice (and others that might be related to them such as forgiveness and justice) are understood in the reports and the assumptions that shape their use. However, perhaps an even more important task is to explore what significance the reports might have for theology rather than vice-versa. To phrase the question this way round – starting with what theology might learn from Truth Commissions, rather than what Truth Commissions might learn from theology – is to adopt the approach pioneered in Latin America by liberation theologians after the Medellín conference of Latin American Bishops in 1968.[110] In this light, the two reports address issues of power and violence, gender and domination, truth and reconciliation, acknowledgment and forgiveness, and memory and amnesia that are rooted in the Central American contexts but are also relevant

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Spain under international law. However, on 13 December 2000 the Spanish court announced that it did not have jurisdiction, since there was insufficient proof that the plaintiffs had first been denied justice in the Guatemalan courts. Meanwhile in Guatemala, on 3 May 2000 the Center for Human Rights Legal Action (known by the Spanish acronym CALDH) filed a genocide case against General Romeo Lucas García and his military high command. On 6 June 2001 CALDH added a second genocide case, against Ríos Montt and members of his military high command.

105 See *Guatemala: Memory of Silence. Recommendations*, §§7–21.

106 TC, *From Madness to Hope*, 186.

107 Margaret Popkin, *Peace Without Justice*, 134–36.

108 TC, *From Madness to Hope*, 14.

109 TC, *From Madness to Hope*, 17.

110 The literature on liberation theology is now far to extensive to mention but for the classic advocacy of theology as a 'second step' rather than the first step, see G. Gutíerrez, *A Theology of Liberation: History, Politics and Salvation* (trans. and ed. C. Inda and J. Eagleson; Maryknoll, NY: Orbis Books; London: SCM Press, 2nd edn., 1988 [ET 1973]), 9–12.

to many other contexts as well. This chapter can hardly begin to address the many theological issues they help to raise as they highlight both the dignity and potential depravity of the human person but it can at least point to the importance of the work to be done.

First and foremost, there is the supreme importance of seeking the truth, even when the truth is full of pain. John's gospel records the promise that 'you will know the truth and the truth will set you free' (Jn 8:32). In John's gospel the truth is an 'uncovering' of what is hidden. However, as the gospel shows this is not an easy or comfortable process. Truth can be full of pain and when it is it is usually avoided or set aside. It is only those who actively seek truth and accept the difficulties this involves who are likely to 'discover' it. In Christian terms, as the rest of the verse shows, the truth comes in following Christ's words and actions. This should be the mission of the church. Yet too often the churches avoid rather than confront the disturbing realities of the world. In affluent societies cultural pressures to conform to wider society have compromised the prophetic heritage of the church. Instead of taking a courageous lead to speak on painful issues as an integral part of proclaiming the gospel, the churches tend to avoid issues that might raise disquieting questions. Alternatively, they address them only in an abstract way that tends to erase, obscure, or at least sanitise, the true nature of the problem.[111]

The sexual violence that was part of the state terror in El Salvador and Guatemala is a salutary reminder of the depths of evil that Christian theology must confront. It challenges theologians to deepen their understanding of God's presence in the world and in human suffering. A Christian witness to truth must confront the realities of political violence and its legacies. A Christian ministry of reconciliation must recognize the full range and intensity of suffering and shame. A Christian theology of redemption can only be credible if the human experiences that the cross is supposed to redeem are not systematically sanitized or excluded altogether.

Read alongside the gospels the two reports from Central America can help to root theological discussion of Jesus' crucifixion in a more concrete awareness of state terror and its abusive mechanisms. They show why questions relating to Jesus of Nazareth's treatment as a political prisoner need to be examined with the same careful critical scrutiny that is commonly shown for other parts of the text. Crucifixion was an abusive torture that involved the extreme humiliation of victims and was associated in many cases with mutilation or other form of sexual violence.[112] Yet New Testament scholars have done little to explore the significance of the repeated stripping of Jesus, the display of his humiliated body, or the sexually suggestive

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111 Unfortunately the churches have an especially poor record on gender and sexuality justice issues. Traditional church teaching has often reinforced rather than challenged the patriarchal foundations on which sexual violence is based.

112 See David Tombs, 'Crucifixion, State Terror and Sexual Abuse', especially pages 100–109; see also *idem*, 'Crucifixion, Rape and the Body-Politics of Power in the Roman Empire', unpublished paper presented at the Society of Biblical Literature International Meeting, Rome, 9 July 2001.

elements of crucifixion as a form of execution. These historical questions may at first seem very disturbing, even offensive, to Christian faith. However, if the cross is taken seriously as a message of hope and not despair, understanding and confronting the true nature of crucifixion is a necessity. At a theological level, recognizing the unspeakable violence of crucifixion ensures that theology is honest to reality. This can help guard against sacralizing the evil which Jesus suffered.

The painful truth of the cross points to the significance of resurrection in affirming human dignity. There is no shame or stigma that puts human beings outside of God's love. There is no trauma or despair that is unknown to God.[113] The cross reveals God as intimately present with victims of abuse, sharing in all their suffering and standing in open protest against it. Christianity as a religion is founded on these 'scandalous' affirmations yet they have often been too scandalous for Christian theology to address.

Conclusion

Both the Commission on Truth for El Salvador and the Guatemalan Historical Clarification Commission believed that reconciliation had to be built on truth not denial. Despite considerable resistance from those who preferred the past to be forgotten, *From Madness to Hope* and *Guatemala: Memoria del Silencio* are important records of what really happened during the years of terror.

However, the reports also show that some parts of the truth are often so painful that they are 'unspeakable'. The Salvadoran report repeatedly passes over sexual atrocities in silence, because their political significance was beyond the Commission's imagination. The Guatemalan report (written in the aftermath of widely publicized and recent sexual violence in the former Yugoslavia, Rwanda, Haiti, and elsewhere) documents many testimonies to sexual violence with unspeakable frankness, but also recognises that the silence of many victims of sexual violence was one of the biggest challenges that it faced in recording the truth.

There is good reason to believe that breaking the silence on abuses and confronting the truth is a vital first step for individual healing and social reconciliation. Any meaningful reconciliation process is likely to begin this way, although other steps may also be necessary if it is to carry forward successfully. Christian theologians therefore have much to learn about truth and reconciliation from concrete experiences in El Salvador and Guatemala and from the UN Commissions that became part of this history. For theological reflection in relation to sexual violence, the reticence of the Salvadoran Truth Commission shows how strong the urge to silence can be. At the same time, the frankness of the Guatemalan CEH shows how brutal the truth often is when the silence is broken. Both aspects are important for a reading of the

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113 Flora Keshgegian's work on theology and trauma offers a particularly thought provoking suggestion on how Jesus's followers experienced Jesus's death as a trauma and how they struggled to respond to it; see Flora A. Keshgegian, *Redeeming Memories: A Theology of Healing and Transformation* (Nashville: Abingdon Press, 2000), esp. 166.

crucifixion and challenge Christian theology to confront the realities of the world, to imagine the unimaginable, and speak of the unspeakable in bold witness to God's painful presence in the world.