



RESEARCH ARTICLE

An Unbroken Search. The Right to Truth in Guatemala and El Salvador

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This paper aims to describe the progress of the right to know following the transitions to peace in Guatemala and El Salvador. It not only analyzes the work of truth commissions but also examines the preservation and accessibility of archives and evidence, as well as developments related to the search for missing individuals and exhumations over time. The outcomes in both countries have been shaped by different political contexts: in El Salvador, the perpetrators of crimes remained active in politics for nearly three decades following the transition, whereas in Guatemala, there has been greater political alternation. However, this alternation has not been free from the influence of veto players seeking to prevent society from uncovering the truth about the past.

INTRODUCTION

Nowadays, transitional justice scholars debate the development and progress of accountability mechanisms for addressing past crimes. These questions have been explored through both quantitative (Sikkink and Booth Walling, 2007; Olsen et al., 2010; Sikkink, 2011) and qualitative (Skaar et al., 2016) studies. Within this qualitative framework, this work focuses on the concept of truth, comparing events from the transitional period to the 2024 in Guatemala and El Salvador.

Knowledge of history is regarded as a collective right, forming an integral part of a people's heritage. Thus, the right to truth extends not only to victims but also to society, which is equally entitled to its recovery and preservation. States bear the responsibility of ensuring remembrance by preserving archives and evidence, as well as rejecting revisionist and negationist narratives through the disclosure of human rights violations (UN, 2005).

The transitions in Guatemala and El Salvador were driven by the imperative to end armed conflicts. In El Salvador, the peace agreements were signed in January 1992, leading to the establishment of a truth commission (UN, 1992). Similarly, in Guatemala, peace agreements were signed in December 1996, resulting in the creation of the Commission for Historical Clarification (CEH).

In the two decades following the signing of the peace accords, the presidency of El Salvador was held by the Nationalist Republican Alliance (ARENA), a political party closely linked to the military responsible for past atrocities. The Truth Commission (CV-ES, 1993) accused Roberto D'Aubisson, one of ARENA's founders, of orchestrating the assassination of Monsignor Oscar Arnulfo Romero. However, then-President Alfredo Cristiani praised D'Aubisson for "defending the Republic, its institutions, democracy, and civil liberties" (Executive Body of El Salvador, 1992).

In 2009, Mauricio Funes assumed the presidency under the Farabundo Martí National Liberation Front (FMLN), a political party formed by former guerrilla groups following the peace accords. This

marked the first political alternation in the presidency, as Funes was not historically associated with the FMLN. In 2014, the FMLN reclaimed the presidency with Salvador Sánchez Cerén, a former FMLN leader and a key negotiator of the peace agreements.

Since June 1, 2019, Nayib Bukele has served as president. While presenting himself as an independent, Bukele began his political career with the FMLN, serving as mayor of Nuevo Cuscatlán and San Salvador between 2012 and 2018. Despite an explicit constitutional prohibition, Bukele was reelected in early 2024, consolidating the end of the two-party dominance that had prevailed since the 1992 peace accords.

In Guatemala, the first elections after the peace agreements were held in 1999, resulting in the victory of Alfonso Portillo, a candidate from the Guatemalan Republican Front (FRG). In 2003, Óscar Berger, a candidate from the Coalition of the Great National Alliance (GAN), won the presidency in a violent electoral process. The 2007 election, also marked by violence, saw Álvaro Colom from the National Unity of Hope (UNE) defeat Otto Pérez Molina from the Patriotic Party (PP). Pérez Molina eventually won the presidency in 2011.

In September 2015, following massive social mobilizations against corruption and the arrest of his vice president, Roxana Baldetti, Pérez Molina was forced to resign. In October of the same year, Jimmy Morales won the presidency under the National Convergence Front (FCN) and took office in January 2016. His term was marred by corruption allegations and criticism for his close ties with the military. Morales was succeeded by Alejandro Giammattei of the VAMOS party, who governed from January 2020 to January 2024. During Giammattei's administration, judicial independence deteriorated significantly, and judges pursuing cases related to past crimes faced persecution. In 2024, Bernardo Arévalo assumed the presidency, becoming the most progressive head of state in Guatemala since the country's return to democracy.

While in El Salvador, political power remained divided among signatories of the peace accords (Martínez-Barahona and Gutiérrez, 2016) who dominated parliamentary votes until February 2021, Bukele's party eventually secured a parliamentary majority. In contrast, Guatemala has seen no political party win the presidency more than once since 1999 (Martínez-Rosón, 2016), a pattern that remains unchanged in 2024. At the time of their transitions, both countries prioritized uncovering the truth to address past crimes (Sieder, 2002). But what progress has been made in advancing the right to know in Guatemala and El Salvador?

1. METHODS

To empirically examine the evolution of the right to the truth in Guatemala and El Salvador, we propose to analyze, first, truth commissions: specifically, their origins, the scope of the truth they seek, the external recognition of the truth they document, and its local adoption. Next, we will explore the preservation of archives and, finally, efforts related to exhumations and the search for missing individuals.

One of the most prominent mechanisms for enforcing the right to truth is the establishment of Truth Commissions. During the early transitions in the Southern Cone, and given the challenges trials posed to democratic stability, these commissions were conceived as an alternative and as a form of accountability for perpetrators of heinous crimes (Zalaquett, 1992). Similarly, truth commissions were integral components of the peace accords in Guatemala and El Salvador.

Since then, the right to truth has evolved and been codified in principles aimed at combating impunity. The sixth principle highlights the importance of ensuring that commissions enable "the recognition of parts of the truth that were previously denied" (UN, 2005: 40). On this point, Van Zyl (2011: 51) argues: "It is important to not only make known that human rights violations have been committed, but also that the Government, citizens, and perpetrators recognize the injustice of such abuses."

The seventh principle underscores the need for commissions to operate with independence and impartiality, while the thirteenth principle specifies that their reports should be made public and widely disseminated to the greatest extent possible. Van Zyl (2011) also emphasizes the importance of local ownership and national control over these commissions. As Olsen et al. (2010) argue, for a commission to be successful, it must meet three key conditions: the truth must be comprehensive, officially recognized, and publicly communicated.

These aspects –origin of the truth, scope, recognition of documented truth, and local adoption– form the basis for analyzing progress in terms of the right to know in the countries under study. The "origin" refers to examining the processes by which the truth commission was established, as well as the rigor and dissemination of the investigations carried out to uncover the facts. Regarding "scope", it is essential that the commission provides a truth that goes beyond illustrative or paradigmatic cases, enabling an understanding of the facts and their underlying causes. Furthermore, it is important to assess how Truth Commission reports are received by those involved in past atrocities and whether their content is regarded as legitimate and valid. Finally, the commission must integrate into a local framework, ensuring that, once produced, its reports are disseminated to the general population (Gutiérrez, 2018).

On the other hand, the principles against impunity emphasize the need to preserve files to guarantee the right to know and ensure that victims and the accused have access to them. The State is responsible for adopting measures to prevent their alteration, while maintaining the confidentiality afforded to witnesses and victims who cooperate with investigative commissions to clarify past violations.

To uphold the right to the truth, it is essential to protect the sources of information necessary for its elucidation and ensure sufficient access to them. To evaluate how effectively this right is safeguarded, it is crucial to assess the guarantees provided to preserve military, judicial, state, and other records, as well as mechanisms for querying them and preventing the destruction or disappearance of evidence.

Finally, the search for truth extends beyond the work of archives and truth commissions. In cases of forced disappearances, "the family of the direct victim has the inalienable right to be informed of the fate and/or whereabouts of the missing person, and, in the event of death, the body must be returned as soon as it is identified" (UN, 2005: 51). Guaranteeing the right to truth in such cases necessitates the pursuit of evidence to clarify events and the implementation of procedures such as exhumations.

Efforts to uncover the fate and whereabouts of disappeared victims can be categorized into two distinct scenarios: those in which such efforts lack official support or face resource limitations, and those in which the State assumes responsibility for conducting exhumations, including the identification and restitution of remains to victims' families.

1. RESULTS

The following section explores the development of the right to the truth in Guatemala and El Salvador, in accordance with the framework established in the previous section.

1.1. Truth Commissions

1.1.1. El Salvador

1.1.1.1. Origin and scope

The Truth Commission for El Salvador was created through the Mexico Agreements on April 17, 1991, with the purpose of investigating serious acts of violence that had occurred since 1980 and had profoundly impacted society. The agreements stipulated that the commission would consist of three members, appointed by the UN Secretary-General after consulting with the negotiating parties.

The 1991 Agreements outlined the commission's functions and decision-making processes. Although the commission was empowered to refer cases to the Prosecutor's Office for judicial investigation, it was explicitly stated that its actions would not carry judicial authority. The commission was granted autonomy in organizing its operations, maintaining discretion in its activities, and collecting information. Furthermore, the agreements mandated the submission of a final report within six months to the negotiating parties and the UN Secretary-General, who was tasked with making it public.

The establishment of the Truth Commission in 1991 provided formal guarantees regarding the origin of the truth: the process was marked by solemnity, transparency in the selection of its members, and assurances of impartiality. The commission's funding came from international actors¹. On July 15, 1992, the commission was formally instituted, and it took eight months –two months longer than initially planned– to issue its report.

The three commissioners, appointed by the UN Secretary-General, were all foreign nationals: former Colombian President Belisario Betancur, former Venezuelan Minister of Foreign Affairs Reinaldo Figueredo Planchart, and former President of the Inter-American Court of Human Rights (IACourtHR) Thomas Buergenthal. Betancur was selected as the commission's chairman. Additionally, all members of the investigative team were foreigners.

1.1.1.2. Recognition

The commission's report, titled *De la locura a la esperanza: la guerra de 12 años en El Salvador*, was published on March 15, 1993. It concluded that the military and paramilitary forces were responsible for 85% of the documented human rights violations. The report identified over 40 military personnel responsible for crimes committed during the conflict and contributed to the dismissal of high-ranking military officials (Sieder, 2002).

The commission received more than 22,000 reports of violations, primarily involving disappearances, executions, and torture. However, the final report focused on 33 emblematic cases, leaving many other incidents undocumented (Lazo Fuentes and Rey Tristán, 2011; Sieder, 2002). After its publication, the report faced widespread rejection from the government, military, and judiciary². President Alfredo Cristiani criticized the report, claiming it did not contribute to national reconciliation. Even the FMLN expressed dissatisfaction with the report's findings. Critics accused the commission of protecting civilians who financed death squads³ and of failing to address the role of the United States in supporting repressive regimes (Hayner, 2001).

In response to these criticisms, Buergenthal (1996) argued that certain cases were not investigated due to a lack of evidence, resources, or time. Furthermore, accusations of bias from government institutions stemmed from the report's identification of numerous state officials as responsible for atrocities, including the chairman of the Supreme Court and the founder of ARENA. Despite this, Méndez (2011: 210) observed that “the human rights movement generally considers the efforts in El Salvador to have been successful, as the report [...] provides an honest assessment of the atrocities committed during the twelve-year war.”

Nevertheless, the recognition of truth remained a challenge. In 2006, President Elías Antonio Saca publicly honored individuals implicated in crimes revealed by the commission (Martínez Ventura, 2009). This stance shifted in November 2009, when President Mauricio Funes awarded the families

¹ The money, equivalent to “approximately two and a half millions of dollars, was donated by the United States, the European Union, the Netherlands, and the Scandinavian countries to a special fund of the United Nations. The United States was the major contributor, with a donation of one millions of dollars” (Buergenthal, 1996: 17-18).

² Therefore, “[f]ollowing the publication of the Report [...] the Army of El Salvador issued a statement on March 23, 1993 [whose reading was broadcast by national television] which fails to acknowledge the importance of the Truth Commission's report, and regards it as “unfair, incomplete, illegal, unethical, biased and insolent” [...]. With regard to the judiciary, [...] the Supreme Court of Justice officially rejected the Report” (IACHR, 1994).

³ It was argued that “the Truth Commission has received much more names than the ones they revealed, [and that] it had to be clearer about the criteria under which some names were made public and some other were not” (Méndez, 2011: 206).

of Jesuit priests murdered at the Universidad Centroamericana José Simeón Cañas (UCA) with the country's highest honor, acknowledging the importance of collective memory. Although Funes initially avoided apologizing or recognizing state responsibility for these crimes⁴, he became the first Salvadoran president to do so on January 16, 2010, during the 18th anniversary of the peace accords.

On March 24, 2010, Funes apologized for and acknowledged state responsibility in the assassination of Monsignor Romero. Later that year, the United Nations Human Rights Council declared March 24 the International Day for the Right to the Truth concerning Gross Human Rights Violations and for the Dignity of Victims. Significant judicial changes followed, including a 2012 ruling by the IACourtHR holding the Salvadoran state accountable for the El Mozote massacre. In September 2013, both the Prosecutor's Office (FGR) and the Supreme Court of Justice (CSJ) publicly endorsed efforts to clarify the events surrounding that massacre⁵.

Resistance to truth and accountability persist, however. In October 2013, the military honored two commanders involved in the El Mozote massacre⁶, contradicting President Funes' prior acknowledgment of state responsibility⁷. Similarly, in November 2014, the mayor of San Salvador, aligned with ARENA, honored Roberto D'Aubuisson, arguing that his connection to Archbishop Romero's assassination had never been proven in court⁸. Despite these setbacks, in 2016, the Constitutional Chamber of the Supreme Court declared the 1993 amnesty act unconstitutional.

In 2021, at the 40th anniversary of the El Mozote massacre, President Nayib Bukele dismissed the war and peace accords as a "farce," refusing to apologize to victims on behalf of the State⁹. That same year, the Inter-American Commission on Human Rights (IACHR) highlighted in its report that victims continue to feel ignored and undervalued (IACHR, 2021).

1.1.1.3. Local Adoption and Dissemination

The Truth Commission was established and implemented by peace negotiators without prior consultation with the community. However, once created, efforts were made to engage citizens and encourage their cooperation in uncovering the truth¹⁰. According to the commission's report, over 7,000 complaints out of the 22,000 submitted were received directly, while the remainder were filed through government and non-governmental organizations (NGOs).

Méndez (2011: 210) observed that, although the Truth Commission is considered a successful international model, it had limitations. He noted that "the fact that the Commission's members and technical team were exclusively non-Salvadoran" led some Salvadorans to view the report as merely another external report.

Dissemination of the commission's report was also limited. According to Douglas Cassel, a lawyer on the commission's team, the Universidad Centroamericana (UCA) was the only institution that actively promoted the report. Neither the FMLN nor the government made significant efforts to disseminate

⁴ Funes, Mauricio. Speech. Condecoran "Orden José Matías Delgado, Grado Gran Cruz Plaza de Oro", a los Sacerdotes Jesuitas. November 16, 2009.

⁵ El Faro. Daniel Valencia. "Fiscalía da un viraje y decide investigar la masacre de El Mozote". September 1, 2013.

⁶ This is how "in the military museum, the Third Brigade and Detachment Number 3 in La Unión honored Domingo Monterrosa, even with busts and chants [and the] Third Brigade still has his name." El Faro. Daniel Valencia. "Fiscalía visita El Mozote y promete justicia a víctimas de la masacre". May 11, 2014.

⁷ El Faro. Daniel Valencia. "Ejército salvadoreño homenaje a dos de los comandantes de la masacre del Mozote". October 28, 2013.

⁸ El Faro. Gabriel Labrador. *Quijano defiende homenaje a D'Aubisson en vísperas del 35 aniversario de monseñor Romero*. November 27, 2014.

⁹ Wola. Geoff Thale. "What's Behind Bukele's Attacks on El Salvador's Peace Accords". January 23, 2021.

¹⁰ One of its members recalls that: "the Commission posted paid ads on newspapers, radio and television to let people know about its "open doors" policy and urge them to appear with information" (Burgenthal, 1996: 19), despite which "few victims or relatives appeared to tell their stories [...] fear and suspicion prevailed" (Burgenthal, 1996: 27).

its findings, with the latter even obstructing its distribution by avoiding censorship while neglecting to publicize it or incorporate it into educational curricula¹¹.

In a 2007 survey conducted by *El Faro* newspaper, 40% of high school graduates did not know what was commemorated on January 16, and only 20% were aware of the Truth Commission's report. Interviews with key stakeholders revealed that there were no mandatory textbooks addressing the armed conflict or the commission's findings, and no consensus on how this history should be taught (Martínez-Barahona and Gutiérrez, 2016).

Efforts to disseminate the report improved marginally in August 2014, when President Sánchez Cerén released a new edition of the commission's report. However, this edition also failed to reach a wide audience. As Martínez-Barahona et al. (2022) argue, the primary goal of the Truth Commission was securing peace, rather than providing truth, which explains why the report was initially aimed at policymakers rather than the broader society.

1.1.2. Guatemala

1.1.2.1. Origin and scope

Although the Army opposed any form of accountability, the Catholic Church, local human rights organizations, and the UN insisted on the creation of a Truth Commission. This led to an official Truth Commission (1996-1999) and an unofficial report in 1998. The official body, the Commission for Historical Clarification (CEH), was established as part of the Peace Accords and produced the report *Guatemala, Memoria del Silencio* in February 1999, with the participation of the UN Verification Mission in Guatemala (MINUGUA). The unofficial report resulted from the Recovery of Historical Memory (REMHI) project, promoted by the Catholic Church, which published the report *Guatemala, Nunca Más* in 1998. This analysis focuses on the official Commission (CEH) while considering the contribution of the REMHI project to its findings.

In June 1994, the agreement to create the CEH was signed in Oslo. This agreement required the Commission to prepare a public report on gross violations and incidents of violence committed during the armed conflict.

The Oslo Accords specified that “the Commission's papers, recommendations, and reports will not individualize responsibilities, nor will they have judicial purposes or effects” and that “the Commission's acts will be reserved to guarantee the secrecy of sources and the safety of witnesses and informants” (*Acuerdo sobre el establecimiento de la CEH*, 1994). The agreement provided for a three-member structure: the moderator of the peace negotiations, appointed by the UN Secretary-General; a Guatemalan citizen of impeccable behavior; and a scholar selected from a shortlist proposed by university presidents. The latter two were designated by the moderator in agreement with the parties.

The Commission team included both Guatemalan and non-Guatemalan members. Guatemalan representatives included Otilia Lux de Cotí, an educator and Mayan activist, and Edgar Alfredo Balsells Tojo, a lawyer. Christian Tomuschat, a German professor and independent UN human rights expert for Guatemala, served as the moderator. The CEH received logistical support from the UN, employing 273 staff members, including 142 Guatemalans and 131 individuals from 31 other nationalities (CEH, 1999: 31).

The Oslo Accords stipulated that the Commission would begin its work “from the day of the Peace Agreement's signing” and operate for six months, renewable for another six. Formally established on July 31, 1997, the Commission submitted its report on February 25, 1999, after extending its operation to 18 months. The extension was attributed to interpreting the 12-month limit as applying only to the investigative phase (Hayner, 2001). The CEH operated with a budget of \$9,796,167,

¹¹ El Faro. José Luis Sanz and Carlos Martínez. “En un juicio, la información que recabamos habría resultado en la condena de D'Aubuisson” Interview with Douglas Cassel. February 8, 2012.

managed by the UN Office for Project Services (UNOPS), with funding from 14 countries, including an 8% contribution from Guatemala (Impunity Watch, 2008). Contributions also came from the United Nations, foundations, and NGOs¹².

In June 1997, the commissioners approved internal regulations outlining work procedures and decision-making mechanisms. In March 1998, the Commission was granted privileges and immunities under the UN Convention, protecting its members from judicial detention for statements made during their mission. Despite these guarantees, the Commission faced intimidation, including threats to its members' integrity and attempts to declare its moderator unwelcome (Tomuschat, 2001; Impunity Watch, 2008)¹³.

The CEH's establishment was marked by guarantees of transparency, impartiality, and adequate funding. While the Commission's report does not encompass all crimes committed during the 36-year civil war¹⁴, it remains comprehensive, addressing not only paradigmatic cases and overall patterns of violence but also the structural causes of the conflict, highlighting institutional responsibilities.

The Commission documented 7,517 cases. Cooperation from the military and the executive was limited, while the URNG generally cooperated with the Commission (CEH, 1999: 49-51). The report estimated over 200,000 victims, including 42,227 identified individuals, 23,671 of whom were arbitrarily executed, and 6,159 forcibly disappeared. Mayans accounted for 83% of the total victims, with 93% of crimes attributed to the state, including 626 massacres. The period between 1978 and 1984 saw 91% of recorded violations, implicating the United States in supporting Guatemala's repressive policies and documenting acts of genocide¹⁵.

1.1.2.2. Recognition

The CEH report was presented on February 25, 1999, at the National Theater in Guatemala City. It faced immediate criticism, with the Army dismissing it as fake and biased, and President Álvaro Arzú publicly rejecting many of its recommendations in a statement dated March 16, 1999¹⁶. The URNG also failed to acknowledge its responsibilities after the report's publication (Minugua, 2004).

In December 1999, Alfonso Portillo was elected president. During his inaugural speech on January 14, 2000, he expressed commitment to the CEH's recommendations and appointed Otilia Lux de Cotí, a former Commission member, as Minister of Culture. Portillo's Guatemalan Republican Front (FRG) party, however, was led by Efraín Ríos Montt, who presided over Portillo's swearing-in ceremony as Congress President.

In August 2000, Portillo publicly acknowledged the State's role in human rights violations, including the Plan de Sánchez and Dos Erres massacres. While complying with the IACHR, he issued apologies on behalf of the state but denied direct responsibility (Minugua, 2004).

¹² The CEH has been one of those that had the most budget, after that of South Africa, which had US\$18,000,000 annually (Hayner, 2006).

¹³ It is not proven that such pressures served to break the impartiality of commissioners; however, it must be considered that Monsignor Gerardi was assassinated on April 26, 1998, two days after the delivery of *Guatemala Nunca Más*. Although Gerardi did not work directly with the Commission, he did lead the REMHI project, which served as a fundamental support for the former. His position as auxiliary bishop of Guatemala and director of the Human Rights Office of the Archdiocese (ODHAG) was occupied by Mario Enrique Ríos Montt, brother of the former dictator.

¹⁴ The Association Center for Forensic Analysis and Applied Sciences (CAFCA) "indicates that only 30% of its exhumations correspond to cases recorded in the reports of CEH and REMHI, which implies that the panorama of violations committed during the conflict is much larger than what is contained in the reports" (IW, 2012: 11).

¹⁵ The CEH concluded "that the repetition of destructive acts directed systematically against groups of the Mayan population, including the elimination of leaders and criminal acts against minors who could not constitute a military target, shows that the only factor common to all the victims was their belonging to a certain ethnic group and prove that these acts were committed 'with the intention of totally or partially destroying' said groups" (CEH, 1999: 48-49).

¹⁶ This even though "prior to the publication of the report, President Arzú and the defense minister, General Barrios Celda, had publicly acknowledged the State's participation in the 'excesses' of the past" (Sieder, 2002: 269).

In 2012, President Otto Pérez Molina, a former military officer accused of past crimes, repeatedly denied the existence of genocide in Guatemala (Gutiérrez, 2019). His position was echoed by Zury Ríos, daughter of Ríos Montt¹⁷, and Interior Minister Mauricio López Bonilla. In May 2014, Congress passed a resolution with 87 votes, questioning the legal basis for recognizing genocide in Guatemala¹⁸. Although Ríos Montt was convicted of genocide on May 10, 2013, the Constitutional Court annulled the sentence, and he died in 2018 without a final conviction. Despite ongoing attacks on the justice system and attempts to broaden amnesty provisions, some trials continue to advance due to victims' persistence¹⁹.

1.1.2.3. Local Adoption and Dissemination

Social engagement played a crucial role in Guatemala's truth elucidation process, often regarded as its most defining feature (Sieder, 2002). Before the CEH began its work, community-led initiatives mobilized victims to contribute to information-gathering projects. The CEH benefited significantly from the Historical Memory Recovery (REMHI) project, which collected over 600 field interviews through religious networks, and the International Center for Human Rights Research (CIIDH), which gathered hundreds of testimonies from grassroots organizations²⁰.

The CEH established 14 offices in conflict-affected areas, recording over 7,000 testimonies. Interpreters were hired to facilitate communication in indigenous languages, yet some remote communities remained unaware of the peace agreement or the Commission's work (Hayner, 2001). Despite national and regional outreach efforts, many communities were too isolated to participate fully (IW, 2008).

The CEH recommended widespread dissemination of its findings, accounting for Guatemala's cultural and linguistic diversity²¹. In 1999, 285,000 copies of the conclusions and recommendations were published in Spanish with government funding and distributed through major newspapers (IW, 2012). Summaries were later translated into seven Mayan languages, though the full report was not translated into any indigenous language (Minugua, 2004).

The Myrna Mack Foundation also supported dissemination efforts, producing 296,000 summary copies and 30,000 simplified versions of the report (IW, 2012). Other contributors included CONADEHGU, the Catholic Church, UNESCO, UNOPS, and UNDP (Minugua, 2004). However, the full report –spanning 12 volumes– remains limited to specialized circles. Civil society led dissemination efforts, with minimal governmental involvement.

In education, references to the conflict were absent from textbooks before 1996. Following Rigoberta Menchú's Nobel Peace Prize win in 1992, some teachers began addressing the issue informally. After the peace accords, textbooks included limited references to the conflict and the CEH report. In 2007, the National Base Curriculum (CNB) incorporated the conflict and the REMHI and CEH reports into sixth-grade curricula, extending to earlier grades in 2009 (IW, 2008, 2012)²². However, lack of resources and teacher training hindered effective implementation (Leonardo, 2011).

¹⁷ El Faro. José Luis Sanz. "El ejército tenía todas las de la ley para ejecutar las acciones necesarias." Entrevista a Zury Ríos. April 23, 2013.

¹⁸ PrensaLibre.com. Justicia. Aprueban punto resolutivo que niega genocidio en Guatemala. May 14, 2014. El Faro. Edgar Calderón and Henry Morales (AFP). *A un año de la condena de Ríos Montt, diputados resuelven: no hubo genocidio*. May 14, 2014.

¹⁹ Wola. Burt, Jo-Marie and Estrada, Paulo. "Hope amidst the darkness: Victims continue to press for justice for wartime atrocities in Guatemala". December 2, 2021, and Wola. Burt, Jo-Marie and Estrada, Paulo. "Expediente del Diario Militar es desmantelado por sistemas político-legales corruptos Guatemala". April 4, 2023.

²⁰ The CIIDH data on human rights violations in Guatemala during 1960-1996 are available at <https://hrdag.org/guatemala-ciidh-data/> and were the basis for the book by Ball et al. (1999).

²¹ The complete report had to be translated into at least five languages (K'iché, Kaqchikel, Mam, Q'eqchi' and Ixil), and the conclusions and recommendations chapter into twenty-one Mayan languages.

²² Decree No. 48-2008, Article 1.

1.2. Preservation and Query of Files and Evidence

1.2.1. El Salvador

Buergenthal (1996) highlighted that the greatest challenge faced by the El Salvador Truth Commission was obtaining documents, such as records from army officers²³. Although the United States provided Buergenthal with limited and personal access to confidential material, certain officials obstructed this access. Neither the FMLN nor the government presented documentary evidence to support their accusations against the opposing side (Buergenthal, 1996). Some of these documents were later declassified and made public during the Clinton administration. In November 1993, U.S. media reported the declassification of over 12,000 documents from the State Department, Department of Defense, and Central Intelligence Agency (CIA), following congressional pressure based on the Truth Commission's report. These documents revealed that the Reagan and Bush administrations had collected detailed information about murders committed by Salvadoran right-wing groups in the 1980s²⁴.

Access to public information in El Salvador was regulated by the enactment of Decree No. 534 in 2010. Article 19 of this decree specifies cases in which information is deemed confidential and explicitly states that "confidentiality cannot be invoked in cases involving investigations of gross violations of fundamental rights or crimes of international importance." Regarding the duration of confidentiality, Article 20 establishes an initial period of seven years, extendable by an additional five years. Information related to secret military plans, national defense, and public security may be subject to further extensions.

Despite the implementation of the Access to Information Act, information on serious human rights violations during the conflict remains largely inaccessible. In January 2014, the Institute for Access to Public Information (IAIP) decided to audit the Ministry of Defense to locate information requested by families and survivors of massacres that occurred between 1981 and 1983 in Cuscatlán and San Vicente. This effort was supported by the Law Application Studies Foundation (FESPAD) and the Center for the Promotion of Human Rights "Madeleine Lagadec." In March 2014, the IAIP overturned a November 2013 decision by the Ministry of Defense, which had claimed that the requested information did not exist and ordered the ministry to conduct the necessary proceedings within two months to recover or reconstruct the information²⁵.

In February 2014, the Armed Forces (FFAA) stated that the President of the Republic must authorize the opening of military files from the civil war²⁶. However, the president delegated this decision to the Minister of Defense. In May 2014, the Ministry of Defense reported that it could not locate a copy of an August 7, 2011 document in which a quarter commander informed General David Munguía Payés about the arrival of soldiers for whom Spanish courts had issued arrest warrants for the murder of Jesuits. This pattern of denial and disappearance of evidence persists²⁷.

In an additional blow to transparency, on September 30, 2013, the Legal Protection Office of the San Salvador Archdiocese was closed without prior notice. Established in 1977 by Monsignor Óscar Romero to provide legal aid to the impoverished, the office had accumulated approximately 50,000 reports of human rights violations. The closure, ordered by Archbishop José Luis Escobar Alas, occurred two weeks after the Supreme Court admitted an appeal for the annulment of the 1993 Amnesty Act²⁸. This decision not only disrupted access to the files and evidence collected by the Legal

²³ Noting that "the answer used to be that the files either had been destroyed or could not be found" (Buergenthal, 1996: 20).

²⁴ The information included data on the central role played by D'Aubuisson in the death squads. See: NY Times. *Clifford Krauss, U.S., Aware of Killings. Worked with Salvador's Rightists. Papers Suggest*. November 9, 1993.

²⁵ El Mundo. María Cidón. *IAIP ordena a ministro recuperar información operativos militares*. March 4, 2014.

²⁶ El Faro. Sergio Arauz. *"Fuerza Armada y presidente se contradicen sobre quién está negando información sobre las masacres"*. February 9, 2014.

²⁷ El Faro. Gabriel Labrador. *Defensa extravía documento que registra refugio a militares procesados en España por asesinato de jesuitas*. May 25, 2014.

²⁸ Law in favor of which the archbishop had already pronounced: "I cannot imagine what would happen if all the cases were opened [...] possibly the Amnesty Act is the most appropriate mechanism to maintain peace." Cited in: El Faro. Gabriel

Protection Office but also left many victims, including those of the El Mozote massacre, without legal representation locally or before the Inter-American Court of Human Rights²⁹. Following widespread criticism, the archbishop announced plans to create a new human rights office but provided no timeline for its establishment³⁰.

In 2012, then-Vice President Salvador Sánchez Cerén announced plans to declassify the Truth Commission's files; however, this never materialized. In 2016, the Supreme Court declared the Amnesty Act unconstitutional and instructed the legislative body to enact a law granting access to information about gross human rights violations committed during the conflict. Nevertheless, enforcement of this ruling remains pending³¹.

In 2019, as president, Sánchez Cerén approved the creation of a commission to review military archives. However, in its 2020 report, the UN Special Rapporteur on the Promotion of Truth, Justice, Reparation, and Guarantees of Non-Recurrence expressed concern about persistent obstacles to accessing military archives. The IACHR reiterated these concerns in 2021. Although President Nayib Bukele initially expressed support for opening military archives³², he later blocked access, citing an alleged political conspiracy by the opposition³³.

1.2.2. Guatemala

With assistance from international NGOs, the Commission for Historical Clarification (CEH) successfully requested the declassification of U.S. files, which provided detailed information about the Guatemalan military. This information complemented existing documentation collected by various NGOs and international organizations. Conversely, the Guatemalan executive branch provided limited information, claiming the nonexistence or loss of requested files (Hayner, 2001; CEH, 1999).

In 2005, the Human Rights Ombudsman discovered the Historical Archive of the National Police while inspecting the institution's former facilities. The archive contains documents spanning from 1882 to 1997. Initially, access to the Ministry of the Interior archives, which oversees the police, required court authorization (IW, 2008).

In February 2008, President Álvaro Colom announced the opening of military archives³⁴. In 2009, the Military Files Declassification Commission was established³⁵, though it reported an absence of records for the period between 1980 and 1985³⁶. Additionally, on July 1, 2009, the Information Access Unit of the National Police Historical Archive (AHPN) began operations under Decree No. 57-2008, the Free Information Access Act, which became enforceable in March 2009.

Labrador and Daniel Valencia. "Arzobispo cierra el socorro jurídico para los pobres creado por Monseñor Romero". September 30, 2013.

²⁹ Initially, the vice chancellor of the episcopal conference, Monsignor Rafael Urrutia, said that "the Church has come to the conclusion that the Legal Protection office no longer has a *raison d'être* because the human right protection approach in time of war is different from that we may have now" (El Faro. Gabriel Labrador and Daniel Valencia. "Arzobispo cierra el socorro jurídico para los pobres creado por Monseñor Romero". September 30, 2013). Later the archbishop would pronounce stating that the closure was due to the denaturing of the office and irregularities committed by its employees (El Faro. Daniel Valencia and Gabriel Labrador. "Arzobispado cambia por tercera vez el argumento que lo llevó a cerrar Tutela Legal". October 7, 2013).

³⁰ El Faro. AFP. Patricia Carías. *Tras cerrar Tutela Legal el arzobispo creará una nueva oficina de tutela legal*. October 13, 2013.

³¹ El Faro. Gabriel Labrador. "Juez ordena reapertura del caso jesuitas y abre proceso contra Cristiani y el Alto Mando de 1989". April 14, 2018.

³² El Faro. Jimmy Alvarado. *Bukele abrirá archivos militares: "Si el juez nos pide de la A la F, vamos hasta la Z"*. November 1, 2019.

³³ El Faro. Nelson Rauda. *El gobierno de Bukele, como los anteriores, niega a las víctimas los archivos de El Mozote*. September 21, 2020.

³⁴ BBC.mundo.com. Piers Scholfield. *Buscan verdad en archivos de guerra*. February 26, 2008.

³⁵ By Government Agreement No. 64 of the same year, extended by Government Agreement No. 2 and 203 of 2010 and 2 of 2011.

³⁶ Infodefensa.com. *Guatemala desclasifica 11.641 archivos militares de la pasada guerra*. December 15, 2010.

The Military Archives Declassification Commission stated that by 2011 it had responded to 156 requests related to judicial proceedings against the military, with a total of 640 requests processed since 2009. Nonetheless, the Ministry of Defense continues to deny the existence of information requested by judicial and administrative authorities (Leonardo, 2011). Access to the Army General Archive, overseen by the Army General Adjutancy, also remains restricted. No significant progress has been made since.

1.3. Exhumations and Searches

1.3.1. El Salvador

In 1990, the Institute of Legal Medicine (IML) was established as a subdivision of the Supreme Court of Justice, responsible for conducting exhumations in criminal cases³⁷. The Argentine Forensic Anthropology Team (EAAF) worked in El Salvador at the request of Legal Protection, carrying out nine missions between 1991 and 2007, when it issued its final report on the country.

According to press reports, in 2008, the Center for Human Rights Promotion Madeleine Lagadec (CPDH-ML), in collaboration with Legal Protection of the Archdiocese and the Human Rights Institute of the Central American University (IDHUCA), had exhumed the remains of approximately 600 individuals³⁸. By 2012, this number had risen to 700³⁹. The CPDH-ML was responsible for securing and managing the financial resources required for these procedures, including transportation and legal expenses, primarily through international cooperation agencies. However, neither the government nor the NGOs conducting exhumations maintained a systematic or unified registry, limiting the availability of comprehensive information.

Regarding search efforts, it is important to highlight judicial orders issued on June 26, 2009, November 25, 2009, and December 1, 2010, under case files No. 192-2007, 198-2007, and 199-2007. In these rulings, the Constitutional Chamber of the Supreme Court of Justice ruled on habeas corpus petitions for three missing girls, instructing the Prosecutor's Office to investigate their whereabouts and periodically report its findings. Additionally, on June 22, 2011, in case file 132-2007, the Supreme Court denied a habeas corpus request but urged the Prosecutor's Office to continue its investigation.

In response to the Inter-American Court of Human Rights (IACourtHR) ruling in the Serrano Cruz sisters' case, the Salvadoran Executive Branch issued Decree No. 5 on January 15, 2010, creating the National Commission for the Search of Missing Children. The Commission's primary mandate was to investigate the whereabouts of children who disappeared during the conflict and facilitate their reunification with their families. Although the Commission began operations on March 14, 2011, it lacked a budget until July of that year, despite the decree stipulating that it would operate only until January 2012⁴⁰.

To ensure its continuity, Pro-Búsqueda proposed the creation of a permanent commission through a legislative decree. A bill was introduced in February 2012, but it never materialized. As a result, in 2024, search efforts still depend on the initiative of the sitting president.

Disagreements between official bodies, such as the IML and the Prosecutor's Office, have also hindered progress. For example, disputes arose in 2013 regarding forensic methods for exhumations, reflecting the lack of standardized protocols for preserving evidence⁴¹. Despite judicial interventions, such as the Constitutional Chamber's recognition of the collective right to truth, significant practical

³⁷ Supreme Court of Justice, Agreements No. 329 and 339 of September 13 and 24, 1990, which create and regulate the Legal Medicine Institute.

³⁸ BBC.mundo.com. Eric Lemus. *El Salvador desentierra su pasado*. May 27, 2008.

³⁹ DiarioCoLatino.com. Summer Harlow. *Despiden a 18 víctimas de una masacre, 28 años después*. October 29, 2012.

⁴⁰ By Executive Decree No. 45 of 5 October 2004, the Inter-institutional Commission for the Search of Disappeared Children as a Result of the Armed Conflict was created in El Salvador and Executive Decree No. 108 of 29 September 2008, extended the period of operation of the Commission until May 31, 2009; however, in following up on its ruling, the Inter-American Court maintained this item as pending enforcement.

⁴¹ El Faro. Daniel Valencia. *El cuarto de los huesos*. September 23, 2013.

challenges remain, including inadequate preservation of exhumed remains and limited State capacity to identify victims.

Efforts to search for missing people have predominantly been driven by civil society. However, the Salvadoran government announced the creation of the Commission for the Search for Adults Disappeared in the War (CONABÚSQUEDA) in 2017. Despite limited funding and coordination, the Commission has registered 329 cases as of 2019, resolving 107 by 2020, out of an estimated 4,000 to 8,000 cases of forced disappearances (IACHR, 2021). Despite these efforts, the State's capacity to conduct exhumations and identify remains insufficient.

1.3.2. Guatemala

Since 1992, civil society organizations have played a leading role in Guatemala's exhumations, often operating without official support or funding (Minugua, 2004)⁴². The Guatemalan Foundation for Forensic Anthropology (FAFG), in collaboration with the Historical Clarification Commission (CEH), the Center for Legal Action in Human Rights (CALDH), and the Archdiocese's Human Rights Office (ODHAG), has carried out numerous exhumations.

In its report, the CEH recommended that the government implement an active exhumation policy, which should take the form of legislation passed by Congress. Although this law was never enacted, in 1997, the FAFG led the development of an exhumation manual, later updated in 2002 with financial support from Canada. This manual, officially adopted by the Public Ministry in 2003, provided much-needed guidelines for exhumation processes. Despite these efforts, most exhumations have been initiated by civil society and victims' families, with minimal involvement from State institutions such as the judiciary and the Public Ministry (IW, 2008).

In 2007, the National Institute of Forensic Sciences of Guatemala (INACIF) was established. By 2012, more than 1,900 exhumations had been conducted, with FAFG and ODHAG extracting 7,276 remains. The FAFG has reported 3,869 identified individuals as of early 2024, 87% of whom were Indigenous (FAFG, 2020). This is the only organization that provides open access to data on its work and results, whereas other organizations exhibit notable limitations in this regard, particularly due to a lack of coordination among them.⁴³

Efforts to locate missing children have also been notable. The National Commission for the Search for Missing Children (CNBND), established in 2001, has facilitated the identification of approximately 600 children. However, a unified registry of missing people, ordered by the IACourtHR in 2004, has yet to be created. Despite a 2018 court order requiring Congress to pass legislation to establish a Commission for the Search for Missing Persons⁴⁴, this initiative remains stalled as of 2024⁴⁵.

4. DISCUSSION

Guatemala and El Salvador, like many countries in Latin America and across the world, made initial efforts to address past human rights violations through truth commissions. However, not all commissions approach the rights of victims in the same way, and the pursuit of truth does not end with their reports.

International developments regarding the right to know suggest that it is a right to benefit society as a whole. However, this right is influenced by factors such as the origin of the truth, including the mechanisms of the commission's establishment, its funding, and the procedures adopted; the scope

⁴² Although the Peace Secretary's Office of the Presidency of the Republic (SEPAZ) cooperated in some cases later.

⁴³ Warned by IW: "the archives of the different organizations of civil society that are dedicated to the search of missing persons are still fragmented. This also implies that an accurate figure of the number of missing persons has not been reached since there is the possibility of under-recording and that some cases are included in several databases simultaneously" (IW, 2012: 14).

⁴⁴ Prens Libre.com. Guatemala. *Tribunal ordena crear la Comisión de búsqueda de desaparecidos*. May 28, 2018.

⁴⁵ Although since 2007 the Human Rights Ombudsman (PDH) has a Unified Registry of victims of forced disappearance and other forms of disappearance (RUDFOR), which is a first step in this regard.

of the truth documented in the reports; the recognition of this truth by those involved in the violations; and its adoption by the communities, both in the production and dissemination of the truth.

It is also important to highlight that the State has the duty to remember, through the disclosure of human rights violations, and the obligation to preserve documents and evidence, making them accessible to relevant parties. Moreover, there must be an ongoing effort to search for missing individuals and to exhumed and identify remains.

All this is mediated by different political contexts. In El Salvador, the party linked to the military remained in the presidency for 20 years following the signing of peace and, in 2009, there was an alternation of party in the presidency, with the party formed by the former guerrilla, which represents the other side of the armed conflict. In Guatemala, since 1996 Portillo showed an attitude towards achieving some international legitimacy, even if it was only instrumental.

Regarding the origin and scope of the commissions, there are notable differences between the two countries. Both truth commissions were transparent in their funding, procedures, and appointments, and international support was essential in both cases. However, in El Salvador, the support and intervention were so extensive that not only the commissioners, but the entire commission team consisted solely of foreigners. This later impacted local adoption of the findings. Furthermore, the Salvadoran commission focused its report on paradigmatic cases. In contrast, Guatemala's official truth commission benefited from the prior work of the church and social organizations, allowing for a more comprehensive report, with only one of the three commissioners being foreign. More than half of the commission's team members were Guatemalan.

While both countries faced challenges, the shortcomings were more pronounced in El Salvador, where for two decades the report's findings were ignored, and the perpetrators of state-sponsored crimes continued to be glorified. In 2009, with the election of Funes as president, recognition of state responsibility began to emerge, though the FMLN government under Sánchez Cerén hesitated, partly due to his own involvement in conflict-era violence, which still needs investigation. In Guatemala, the initial rejection of the report by government representatives was quickly overcome with the arrival of a new party in the presidency. However, former dictator Ríos Montt remained active in politics and even led the Human Rights Commission in Congress. Over time, revisionist narratives have persisted, denying the commission's findings and the violence against the Mayan population. These efforts and advancements have continued to face strong resistance.

Local adoption of the commissions' findings differs dramatically between the two countries. In El Salvador, citizen participation in uncovering the truth was minimal, while in Guatemala, it was a central feature. As for the dissemination of the reports, both countries faced challenges, but El Salvador's difficulties were more pronounced. There, a counter-narrative was promoted, contrary to the commission's findings, which emphasized that most of the abuses were perpetrated by the state. In Guatemala, while dissemination was hindered by the country's linguistic diversity, NGOs played a crucial role in promoting the report.

The work of these commissions and subsequent searches has been influenced by the preservation of files and access to evidence. This has been particularly challenging in El Salvador, where a lack of national and international cooperation during the production of the Truth Commission's report has posed obstacles for those seeking access to archives. In contrast, Guatemala benefited from the unexpected discovery of the police's historical archive in 2005. Despite this, and the subsequent declassification of military archives, it is claimed that the most crucial files –those documenting the conflict's bloodiest years– have disappeared.

Finally, progress in exhumations and searches has been greater in Guatemala, thanks to the coordination and efforts of civil society. In El Salvador, civil society has also organized to promote the search for children who disappeared during the conflict, and their efforts have led to the creation of a Commission for the Search of Adults, established in 2018 and allocated resources. In Guatemala,

the creation of a search commission is still pending, despite a legislative initiative since 2017 and a judicial order in 2018.

The analysis of both countries highlights the interplay of political, social, and international actors in advancing the right to know. It underscores, above all, that the struggle for the effectiveness of the right to truth –like the fight for other rights of victims of human rights violations– does not end with the transition or the mechanisms put in place at the outset. It is an ongoing fight, driven by various actors, with the participation of both national and international courts and authorities.

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