

NEVER AGAIN: STRUGGLING FOR HUMANNESS  
IN POSTCONFLICT RWANDA AND GUATEMALA

by

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ABSTRACT

What kind of situations do people face in postconflict countries? What is the impact of structural violence? What is the role of the state in facilitating violence and in redressing such violence? What are the mechanisms of justice and how are they used and abused by individuals and groups? Is reconciliation merely a procedural ploy to mask the continuation of physical and structural violence? What roles do power and legitimacy play in selecting and implementing various transitional strategies? Through a secondary source study of post-genocide Rwanda and post-civil war Guatemala, this work provides one set of answers to these questions. Different groups struggle over which strategies to use to navigate the postconflict world. Many strategies are used to mask underlying class, racial, and ethnic inequalities as well as to provide for the continued impunity of one or more of the parties responsible for both acute and structural violence.

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## CHAPTER 1

### INTRODUCTION

“I need you my witness/To dress this up so bloodless”  
- Rage Against the Machine (1999)

A Rwandan Tutsi rape victim sits before an international tribunal and recounts her experiences before the prosecutor, judge, defense counsel, and the accused. A Rwandan Hutu accused of genocide stands in an open field, speaking into a microphone about his role in killing members of the same community that now stands in judgment over him. A Mayan villager talks with an interviewer from the government’s truth commission about how his family and friends were slaughtered before his eyes during the Guatemalan civil war. A Guatemalan man accused and judged guilty of a common crime stands in the street while others attempt to set him on fire. These examples are the representation of justice and reconciliation in postconflict Rwanda and Guatemala.

Nagengast (1994) suggests that the state was the primary agent of violence in both countries. Over 800,000 Tutsi and moderate Hutus were killed during one hundred days in the 1994 Rwandan genocide. Power called it the “fastest most efficient killing spree in the twentieth century” (Power 2001:84). The massacres were theorized and led by the extremist Hutu government in power, but ordinary citizens carried out the majority of the killings. Today, local, national, and international trials are being conducted to address portions of that violence. However, the judicial process is slow and appears to only

benefit the new Tutsi-led government. The economic and social difficulties of the past have only grown since the genocide.

Over 200,000 people were killed during the thirty-six year Guatemalan civil war, which lasted from 1960 to 1996. The military-led government theorized and carried out terror and killing campaigns against the plurality of the population, including indigenous Mayans, poor rural and urban individuals, and social and economic justice activists. The state used the army, army-controlled civilian militias, and death squads to carry out the slaughter. Peace accords officially ended the hostilities in 1996, but political violence has continued and expanded. Poverty, land tenure, employment, and justice remain critical issues facing the majority of the population.

While genocide and civil war massacres draw the attention of scholars and the general public, extracting specific acts from the greater historical milieu does a disservice to those who endured the tragedy as well as to those who seek to understand the resulting postconflict situation. Generic massacre stories de-emphasize research into the political, social, and economic ramifications of each conflict. Such massacre stories represent cataclysmic violence as the result of primordial hatreds, momentary madness, or a small number of corrupt officials. If these stories are to be believed, then systemic changes would not be necessary and there would be no need to search for deeper explanations.

Cloaking these atrocities in such explanations is too convenient. The duration and scale of the violence in both countries belies calling it senseless or medicalizing it as a mass mental disorder. Using the term 'primordial hatreds' hides the fact that social and political identities are dynamically constructed, not static, quantities. My analysis will

show that the violence was not an anomaly but a direct result of political and economic processes at work in each country. The role of the state is crucial to understanding why the violence occurred and why problems continue in the present. I will show how differential access to power determines what actions are taken, or not taken, in the postconflict period. I am primarily concerned with how power is used to shroud the past and maintain the status quo in the present.

Such a situation has ramifications for evaluating the effectiveness of military victories, peace accords, amnesties, trials, and truth commissions. Do these techniques document the fundamental inequalities that existed before the violence? Do they address the persistence of inequalities and hold perpetrators to account after the cessation of open hostilities? Who determines which process is used and to whom it will apply? Who benefits and who loses after these processes are completed? Are these processes merely used by the state to compartmentalize history and undermine the struggles of different social groups? What role is there for non-state actors in these processes? Finally, are there alternate options that should have been used?

At first glance, civil wars and genocide seem like sudden ruptures in time. But before the rupture in the social world fabric there is the break. And before the break, there is stress. And before stress, there is the making of the material itself. Socially constructed inequalities are woven into the fabric of community at the beginning, and are reinforced over time as individuals struggle against their constraints. Studying these inequalities leads to an understanding of how power is used and manipulated by different groups in order to advance particular agendas.

I will focus on the contextualized individuals and groups who live their lives in the affirmation of widespread political violence. The title of this thesis is not ‘the struggle’ but ‘struggling’ for humanness. This is an endless battle to claim and exercise individual and group rights in a constantly renegotiated social world. To understand this struggle, I must unpack the specifics of each situation.

### A Two Case Study: Rwanda and Guatemala

On their own, these two cases are interesting for several reasons. They both were colonial properties. Contemporary racial and ethnic categories were not primordial identities but historically specific relationships that served the needs of the colonial administrators. As each country gained its independence, these colonial markers remained. In Rwanda, these ethnic and racial categories continued to divide people into groups whose meaning was only derived from an effort by the former colonizer to control the colonized. In Guatemala, the creation of a mixed Spanish-Mayan category, called Ladino, could have led to deracialization. However, the post-independence hierarchy was reconstructed to craft Ladinos as superior to Maya.

Both countries produce coffee for export. The government and a small group of elite business leaders in both countries practically enslaved a portion of the population to work on these coffee plantations (Grandin 2000; Menchú 1984; Newbury 1988). Both countries were subject to neoliberal structural adjustment programs (SAPs) imposed by the World Bank and the International Monetary Fund (IMF) (International Labor Organization 1996; Uvin 1998). These international aid programs created massive debt obligations for both countries, which were already racked by extreme poverty among the

majority of their populations. They both have experienced several periods of massive state-initiated violence, which resulted in large numbers of murders, disappearances, and displaced persons. Finally, both have experienced the failure of the state to respond effectively to both structural and acute violence.

These countries also have several important differences. Rwanda became an independent country in 1962, whereas Guatemala received its freedom in 1821. In the most recent violent period in each country, the state-directed violence was carried out in dramatically different fashions. The conclusion of the violence was also different, one settled by a military victory and the other settled via a negotiated settlement. And, as each country entered the postconflict period, they chose different human rights tools to partially confront the past violence.

Studying the Rwandan and Guatemalan experiences together can lead to a fuller understanding of how the processes of violence, justice, reform, and reconciliation are implemented and experienced. I suggest that it is important to consider these two cases for four reasons. First, the structural and acute violence in these two countries has become all too common in the late twentieth century. Second, focusing on these two countries allows me to examine the role of the state in the contemporary world. I will concentrate on how the state is actively or passively contributing to violence and social, political, and economic inequalities. Third, I will examine the different impact on the postconflict world depending on whether a conflict is resolved by military victory or negotiated settlement. And finally, I will explore the role and impact of two human rights instruments in a reconfigured, postconflict setting.

Starting with the commonality of violence in the world today, Rwanda and Guatemala are representative of the shift from wars about foreign physical conquest to ones about domestic identity and social relationships (Kritz 2001; Licklider 2001). Wars fought between opposing sovereign armies have given way to “ethnic and religious conflicts, disputes over self-determination or secession, and violent power struggles between opposing domestic political factions” (Kritz 2001:801). Foreign actors still play active parts in the unfolding violence, but their roles are primarily premised on social and economic force, rather than overt military action.

Turning to the role of the state, these two cases allow an examination of what role it has played and what role it should play in the postconflict period. Studying the historical and contemporary violence in Rwanda and Guatemala aids in understanding the mechanisms of injustice and inequality. The state was a major contributor to structural and acute violence before, during, and after each conflict. But how this violence unfolded was different in each case. In Rwanda, the violence was directed from the top echelons of the government, but individuals with no official status carried out the actual atrocities (Gourevitch 1998; Mamdani 2001). In Guatemala, the heads of the army and the government theorized, managed, and executed their campaign of terror through the use of their soldiers and army-controlled civilian militias (Schirmer 1998).

Human rights advocates have made fervent calls for civil, political, social, economic, and cultural rights. These demands originate from both internal and external actors in areas where rights have been or currently are being violated (Lauren 1998). The primary themes of these rights are social justice, equality, and responsibility. The United

Nations (UN) has crafted many multilateral treaties to codify these rights. International human rights law binds states, not individuals; therefore the state becomes the primary guarantor and responsible agent for respecting human rights.

The convergence of human rights demands and extreme violence provides an excellent opportunity to explore the role of the state. Post-genocide Rwanda and post-civil war Guatemala present an opportunity to ground such discussions and investigate issues of accountability and social and economic reform in the postconflict period. I will look at how government leaders work to maintain the social and economic status quo, mask the past, and secure impunity for their actions. I also will examine how victims who suffered during the conflicts must continue their struggle to live in an ostensibly postconflict world. Survivor groups have been organized around ethnicity and race. But, there are also examples where people have transcended these constructed categories to organize into more diverse social mobilizations. This includes mobilizing around class as well as geography, such as bridging the rural and urban gap.

My third reason for comparing Rwanda and Guatemala centers on how the most recent violent situation was resolved. Whether a conflict is settled by a definitive victory or by a negotiated settlement is vital to understanding the choices that leaders and individuals make in the postconflict period. The former occurred in Rwanda and the latter in Guatemala. With a clear winner in a conflict, is justice instantiated only as victor's justice? In other words, are the past misdeeds of the new group in charge rendered invisible? Also, are the social and economic problems that led to the conflict resolved for the entire population, for the victor's portion, or not at all? In negotiated

situations, are calls for justice subverted under a doctrine of reconciliation? Are the leaders in power using processes such as truth commissions and calls for reconciliation to mask the violence of the past and secure their impunity? Also, given the power differentials between the Guatemalan army and the rebel forces that negotiated the peace accords, was the final agreement truly beneficial to both parties? And more importantly, what happens to the majority of the population who endured the brunt of the violence? They had no role in the negotiation process. Are their needs considered at all?

My fourth reason for considering these two countries revolves around the use of international criminal tribunals and truth commissions. Both countries have been high-profile experimental cases for these latest instruments that the international law and human rights communities have to offer. Rwanda chose a tribunal and Guatemala selected a truth commission. Each process was executed through different mandates and structures. Examining the use of these institutions will show how well intentioned interventions often overlook the specific political-economic conditions in a given country. They often serve to distract attention from the real social, economic, and political needs of those most affected by the violence.

Compelling ethnographic material, on the ground reporting, and multi-sourced scholarly material provide a solid basis for me to undertake this effort. My research uses secondary sources on Rwanda, Guatemala, human rights, international tribunals, and truth commissions. I draw from the fields of anthropology, international human rights and humanitarian law, and peace and conflict resolution. I also consult a variety of media sources. While media accounts are less formal, they provide timelier information.

### The Importance of History and Structural Violence

Rwanda and Guatemala have undergone fractures in understandings of time and history. The violence has become the pivot point around which narratives of the past and future are embedded. History is crucial to see the violence not as an anomaly but as a response to a pattern of social events. It ensures that people remain politicized and historicized, so that individual and group actions are not obscured behind linguistic euphemisms, such as the commonality of man (Malkki 1995). Justice, reconciliation and lasting peace require understandings of the historical situation of a country and the regions surrounding it (An-Na'im and Peshkova 2000). Jorge Ramón González Ponciano comments that “there is no possibility of visualizing the future if not from the perspective of memory” (cited in Hale 1997:830).

But what is history? There are historical facts, such as a person was killed by a particular weapon on a certain day. There are historical practices that document how certain groups are excluded from obtaining land or being free of targeted taxes. But how these facts are gathered, selected, and presented represents something else, which I will use as my definition of history. Williams (1977:115) call this process selective tradition, which he defines as “an intentionally selective version of a shaping past and a pre-shaped present, which is then powerfully operative in the process of social and cultural definition and identification.” This form of history is a powerful tool that can deflect attention from structural flaws. It can be used to justify actions that the state takes and marginalize alternative voices that demand action on other issues.

Different groups tell alternate histories at different times for a multitude of

reasons. The effort to have one story heard over another represents a fundamental power struggle in a society. While melodramatic, Gourevitch's definition of power resonates with this thought: "Power largely consists in the ability to make others inhabit your story of their reality, even if you have to kill a lot of them to make it happen" (Gourevitch 1998:181). Controlling the past is a powerful weapon for both the oppressor and the oppressed. By defining the past, the authors of these histories can justify a mandate for their current and future policy decisions. What is told and what is omitted opens a window onto the lived experiences of the teller. Chakrabarty (1997) suggests that history can be seen as a violation. It can background the concerns and experiences of one group and foreground another. Thus, it privileges one narrative over other possibilities. Rabasa (1997:423) describes the concept of 'writing violence' whereby justifications and rationalizations for imperialism and colonialism are offered. This concept includes epistemic violence, which means calling indigenous knowledge and representations irrational or pre-civilized. Thus, certain histories can create and sustain underlying discriminations and overt and covert violence. In both countries, powerful individuals and groups have manipulated history to legitimize authority and cement impunity.

Rwandans and Guatemalans have constructed a multitude of histories. A study of these histories can be used to contextualize the violence in both countries. It moves our understanding from acute acts to structural ones. Structural violence represents various forms of inequalities to which people are subject. Khan (1978:836) divides it into four forms: "(a) classical, or direct violence; (b) poverty— deprivation of basic material needs; (c) repression— deprivation of human rights; (d) alienation— deprivation of higher needs".

In his work on infectious diseases, Farmer (1999) discusses the structural impediments to survival and success of lower classes and marginalized groups. He writes that the “control of lives is related to control of land, systems of production, and the formal political and legal structures in which lives are enmeshed” (Farmer 1999:91). Without access to these necessities of social life, people are being violated on a daily basis. Racism, sexism, classism, and ethnic hatred are all manifestations of structural violence. A society “characterized by structural violence produces profound popular anger, frustration, cynicism, ignorance, and desire for scapegoating. This creates a fertile soil for elites to mobilize these sentiments against the minority social groups” (Uvin 1998:8).

Agency suggests that people are not automatons, responding only to outside stimuli. Individuals can act through the force of their own being. But, Farmer (1999:148) notes that agency can be circumscribed by history and political economic factors, such as those manifested in structural violence. Individual agency cannot be disregarded but it must be situated within the framework of the larger social processes.

Elite histories can aid the development or reinforcement of structural and acute violence. The histories of Rwanda and Guatemala are replete with both direct acts of violence, such as murder and disappearances, and manifestations of structural violence, such as access to necessary services, earning a livelihood, and participating in the dialogue of politics. Rwanda and Guatemala experienced state-directed violence that led to individual-based violence. Kritz places blame for the structural violence and genocide on Rwandan elites. “For decades, elite maneuvering for power manipulated ethnic rivalries between Hutu majorities and Tutsi minorities for political ends, without any fear

of being called to account for their actions” (Kritz 2001:810). While a strong governmental imprint on the killings can be seen, the genocide took on a life of its own. It pulled noncombatants into the fray. In Guatemala, decades of state-directed acute and structural violence, accompanied by a lower-tempo guerrilla movement, led to individual and communal killings. The destruction of the Guatemalan social fabric birthed vendetta, fraud, community disputes, and the technique of denouncing others for personal gain.

### Understandings of Justice and Reconciliation

Justice and reconciliation are important concepts for coming to terms with postconflict violence in Rwanda and Guatemala. These ideas are separate, though related, analytical concepts. In theory, justice is about fairness, equality and accountability. It requires common sets of rules that apply to everyone. It should seek to prevent physical, mental, and structural violence. It must also provide redress if violence is perpetrated against an individual or a group.

Reconciliation is ideally about forgiveness, the creation of harmony, and the construction of a new social organization in the aftermath of conflict. Lederach (2001:842) defines reconciliation as “dynamic, adaptive processes aimed at building and healing the torn fabric of interpersonal and community lives and relationships.” Formal reconciliation must address preexisting structural inequalities and post-violence reconfigured social relations. Structural violence, perpetrated by the state and a class of business elites, is at the root of the unrest that led to fratricide in both countries. After violent episodes, reconciliation must not be about returning to the pre-conflict state, but about reorganizing the foundations of social, economic, and political life. A return to

pre-conflict conditions only serves to reset the cycle of violence, not break it.

Reconciliation can be understood as a process that combines Lederach's (2001:847) four social energies of Truth, Mercy, Justice, and Peace. While individual energies can be satisfied without requiring reconciliation, the converse is not true. He insists that Truth must include acknowledgement and acceptance of responsibility for past actions. Reconciliation must facilitate the process of rehumanizing people on both sides of a conflict, who have been reduced to one-dimensional objects of derision and hate. Mercy attempts to organize a new social space where victims and perpetrators live together. He notes that in the tradition of Western law, punishment is seen as accountability, but there is rarely any focus on reintegration into the community. While Mercy can be risky in the short-term, it supports the possibility for long-term change. Justice, his third energy, is composed of accountability, recompense, and equality and fairness. Justice must address the particulars of the crime and the underlying inequalities and lack of access to decision-making and resources. Lederach's final energy, Peace, includes stopping the violence, and a "long process of weaving back together the fabric of a human community" (Lederach 2001:853). Peace must focus on individuals, not political parties, or institutions. It must provide a space for safety and opportunity so that people "experience themselves and each other in a new light" (Lederach 2001:853).

Lederach explains how these four energies must interact with each other:

If we have Truth at the expense of Mercy or Peace, we fall quickly into negativism, stuck in past repetitive cycles of criticism and failure with no hope for a way forward. If we have Mercy at the expense of Truth, we fall prey to manipulation, impunity, and complete lack of accountability. Justice without Mercy is a sharp sword controlled only by the victor, but Peace without Justice is a facade and a betrayal, for it requires no change. (Lederach 2001:854)

Justice is more important than reconciliation in the postconflict setting. Justice without reconciliation at least attempts to provide for accountability and redress for violations that occurred prior to and during the violence. Reconciliation without justice is a sham that enables the pre-conflict situation to remain in place.

The move from theory to application poses more serious concerns. Many of the instances of justice and reconciliation in Rwanda and Guatemala do not reflect the ideals ascribed to their respective theoretical definitions. Rwanda has used national trials and tribunals to pursue an agenda that benefits the Tutsi leadership, at the expense of most Hutus and many Tutsi groups. Guatemala has avoided many trials by using amnesty decrees and its truth commission. Reconciliation cannot happen without justice and more equitable social institutions. Reconciliation has been used to hide past violence and present impunity under the cloak of an insincere process.

Postconflict justice and reconciliation are used and experienced in different ways by different people. The context must be examined to see how these concepts are applied and to what ends. Nagengast (1994:115) proposes that violence is only violence if perpetrators fail to secure the legitimacy of their actions. If the violence can be locked away in the past or removed from an official history, then calls for change and justice can be ignored. Putting the past in the past creates a clean slate for new leaders, absolved from past digressions and free from having to make substantial systemic changes.

Justice and reconciliation can also be used to build a new national identity to support those in power. Bierce calls justice “a commodity which is a more or less adulterated condition the State sells to the citizen as a reward for his allegiance, taxes and

personal service” (Bierce 1999). Truth commissions and trials help create a new national history. This new identity comes with its own silences and litmus tests for access to citizenship rights. People must accept this history to engage with government services. This new history suggests that there no longer is any violence and that the leaders will provide for the transition to a new order. This attempts to avoid the outbreak of new violence. While preferable on the surface, it can prevent social movements from organizing and acting on calls for justice, land reform, and economic opportunities. This order over justice argument succeeds in shielding new leaders from calls for equality and justice. Should violence be stopped or should underlying issues be resolved? These situations are not mutually exclusive, but care must be taken so as not to reignite the violence. Leaders dismiss demands for trials, reparations, and economic reforms, calling them too risky in the short-term. However, ranking order over justice is too often used as an excuse to avoid dealing with real issues (Touval and Zartman 2001).

Turning to how justice and reconciliation are experienced, what types of justice are being called for? Is reconciliation even something that people desire? More likely, they are interested in economic, social, and political forms of justice. Victims demand restitution for lost property and lands, legal determinations for family members who were killed, punishment for perpetrators, as well as many other concerns that they may have.

Is it even possible to reconcile with those who tortured, disappeared, and murdered one’s friends and relatives? Reconciliation is a deeply personal process that may be possible in the long-term, but definitely not in the short-term. A Rwandan survivor of the genocide said: “People come to Rwanda and talk of reconciliation. It’s

offensive. Imagine talking to Jews of reconciliation in 1946. Maybe in a long time, but it's a private matter" (Gourevitch 1998:240). On Guatemala, Menchú writes: "My mother said that when a woman sees her son tortured, burnt alive, she is incapable of forgiving, incapable of getting rid of her hate" (Menchú 1984:172). While I believe reconciliation should be encouraged as part of a comprehensive approach to real social justice, it cannot be mandated. It is important to note the speciousness of statements like 'Guatemala has undergone reconciliation' or 'Rwanda needs the international tribunal in order to reconcile with its past.' It is not an event to be staged or performed.

Changing the relationship between individuals and the state and between community members is difficult. The first task is to rehumanize the survivors, both victims and perpetrators. The dehumanization of the enemy and the legitimization of atrocities are self-defense mechanisms in order to understand what transpired (Akhavan 2001). This process is complicated in Rwanda and Guatemala since perpetrator and victim often were within the same social networks, such as families or neighborhoods. In Guatemala, victims and survivors had relatives who committed atrocities as part of their service in the civil patrols or the army (Carmack 1988:63; Green 1999:10; Zur 1994:14). In Rwanda, neighbor killed neighbor and inter-ethnic families experienced the violence very personally (Gourevitch 1998:125; Mamdani 2001:221-225; Power 2002:333).

The impact of the violence was so great in both countries that many fled their homes and communities (Gourevitch 1998; Manz 1988a). But, some stayed and endured (Gourevitch 1998; Schirmer 1998). The differences in experience and the difficulties encountered by each of these groups create new problems as they seek to reintegrate.

Those who left were often fleeing state-sponsored violence, and should have rights to their original land and a right to some form of recompense. Those who stayed were either complicit with the forces committing the violence or were under the control of those forces. Those who were complicit need to be held accountable. Those who were not need some form of recompense. They also need to live in a community free from fear of those who committed the violence.

There are practical short-term limits placed on demands for justice. For example, amnesties can facilitate the transfer of power from military to civilian control. With a military victory, as seen in Rwanda, many of the top-level perpetrators were removed from government positions by force. However, in Guatemala, the civilian and guerrilla movements could not dislodge the *de jure*, and then *de facto*, military government from power. An amnesty agreement paved the way to an opening for peace. But, how amnesties are wielded is important to investigate. They are powerful tools and if used by those who committed the violence, the cycle of injustice and impunity will continue. In Guatemala, amnesties have allowed high-level perpetrators to continue in positions of power without any accountability for their actions during the civil war.

Another example of the difficulty of individual and group justice would be the vast number of perpetrators in the Rwandan genocide. It is impossible to try a million suspects. These examples also generate dilemmas on international levels. Blanket amnesties violate international law. Genocide and ethnic cleansing are prohibited by treaty and to absolve those guilty of violating these laws is unacceptable. However, if international and national punishment against perpetrators is too severe, it could

destabilize the country (Mertus 2000:154) and reignite the fires of violence.

Calls for justice or reconciliation are heard from all sides of a conflict. However, my study will show how justice and reconciliation were conceptualized in Rwanda and Guatemala. It will show how these processes were used and manipulated for competing ends in the postconflict periods.

### Tribunals and Truth Commissions

The use of international criminal tribunals and truth commissions in the aftermath of extreme political violence has become almost ubiquitous in the past decade. Tribunals have been created in places such as the former Yugoslavia, Rwanda, Sierra Leone, and East Timor. Over twenty truth commissions have been created in such places as Guatemala, El Salvador, South Africa, and Sierra Leone (Hayner 2001).

Both are formalized institutions and each uses its own specialized techniques and understandings in order to confront the past, manage the present, and dream the future. They are liminal entities that stand between the violent times and the postconflict period. These institutions cleave the flow of history into before and after, bridging the gap with their own particular understandings. Elites that sanction their use construct this bridge, and demand that to officially move from past to present to future, one must walk the path as they have laid it out. Individual victims and personal demands for justice are transformed into national identities and calls for reconciliation.

While these techniques have become standardized items on a postconflict checklist, the question remains: are they effective components of an overall justice and reconciliation project? In other words, are they responding to the needs and desires of

people they have an effect upon or are they solely tools to lock the past behind a door, maintain the structural inequalities built into the system, and absolve the new leaders from any responsibility to address demands for personal and social justice?

Williams writes that “the effective establishment of a selective tradition can be said to depend on identifiable institutions” (Williams 1977:117). These formalized institutions play a large role in the creation of a sanctioned history. Williams adds that socialization itself is a form of institution that furthers the hegemonic. By accepting and engaging these institutions, individuals can become social, or more likely sanctioned, citizens. Participation does not guarantee any rights, but non-participation can lead to people being further excluded from the larger social world.

The International Criminal Tribunal for Rwanda (ICTR), the Guatemalan Catholic Church’s Recovery of Historical Memory Project (REMHI), and the Guatemalan government’s Commission on Historical Clarification (CEH) are the three instantiations of these processes that I will focus on. Their frameworks and outcomes have had both positive and negative effects. I believe that these processes take the first few steps towards justice and reconciliation, but that they are just that, the beginning steps. They are only one component in an overall process that works to provide justice and create hope for all the survivors. Hayner cautions:

There are simply too few mechanisms to address the urgent need for accountability, reform, reconciliation, acknowledgement of wrongs, historical preservation, and reparations for victims. Truth commissions are thus turned to with great expectations of hope, although often with little appreciation for the complexity of the process and the difficulty of achieving the hoped-for ends. (Hayner 2001:251)

In Rwanda and Guatemala, these institutions have been presented as the ‘official

approach,' precluding other understandings and undertakings. Care must be taken to examine their workings and who benefits from their outcomes. Differential power among those who negotiate such solutions impacts what is looked at and what outcomes result. In addition, both types of institutions exhibit an undoubtedly Western imprint. Can external solutions capture understandings of local suffering and demands for redress? Chapter 4 provides a more in-depth analysis of these particular institutions.

\* \* \* \* \*

To conclude this introductory chapter, I want to provide a roadmap for the subsequent chapters. Chapter 2 will discuss the history of the severe racial, ethnic, and class inequalities prior to and during the violence in each country. I will organize the data into thematic groups that focus on the challenges brought on by overt and covert policies of economic and political violence. These groupings revolve around the acute violence in each country, group relationships, land tenure, and forced labor.

Chapter 3 will discuss how inequalities have either inverted or increased in the postconflict period. Official measures have had little impact on impunity or economic inequalities. This chapter will focus on the themes of impunity, legitimacy, official and vigilante justice, and the economic realities of postconflict life.

Chapter 4 will discuss the international criminal tribunal in Rwanda and the truth commissions in Guatemala. While having good intentions and making several positive contributions, these approaches have fallen far short of the requirements for legal and social justice. These institutions have benefited national governments and provided little real relief to the victims and survivors of the violence.

The final chapter will provide concluding thoughts on justice and reconciliation in Rwanda and Guatemala. It will also offer points to consider on how to address the judicial and material needs of the survivors of the atrocities in these countries and in other ones undergoing similar bouts of violence.

## CHAPTER 2

### HISTORY OF VIOLENCE

"What do we need electricity for? So we can watch our children starve to death at night?!"  
- Mayan villager (Manz 1988a:43)

The history of violence in Rwanda and Guatemala is not confined solely to the relatively brief periods during which physical violence occurred. The enduring nature of structural violence figures prominently in the configuration and maintenance of spaces that allow violence to become a fundamental component of both societies. This institutionalized violence is expressed in ethnic, racial and class forms. Economic inequalities were rampant and almost all encompassing. Not only were the majority of people excluded from any national or local economic benefits, but they also were obligated, frequently under the power of law, to provide extra services to a ruling minority. Many were essentially forced into part-time slavery.

This chapter will show how structural violence was organized locally and the impact it had on the acute violence in each country. It will look at how people acted in these hierarchical structures of power. Structural violence set the stage for the atrocities in Rwanda and Guatemala, and the cessation of hostilities has seen little reduction in this insidious form of violence. Before exploring these structural issues, I provide a brief recounting of the acute violence in each country. The aftershocks from these intense

brutalities continue to play a major role in postconflict structural and acute violence.

### The Rwandan Genocide

The Rwandan genocide lasted only one hundred days in 1994, but the stage had been set since at least the early twentieth century. The minority ethnic Tutsi group exercised social and economic power under Belgian rule. The Belgians constructed the Tutsis as a non-indigenous people, called Hamites, who were superior to Hutus (Mamdani 2001:79-87). During the 1950s, Hutus organized a political struggle against the domination of the Tutsi and Belgian powers (Newbury 1988). This struggle briefly turned violent in a 1959 uprising that “demonstrated the depth of rural discontent with Tutsi domination, and the ability of Hutu to destabilize the state” (Newbury 1988:195). Hutus won a majority in elections in 1960 and at independence in 1962, they were in charge. Newbury notes that there was a change in the “locus of power and the social categories that had access to high office” (Newbury 1988:xiii).

The violence of the independence movement resulted in several hundred thousand Tutsi fleeing to surrounding countries, primarily to Uganda (An-Na'im and Peshkova 2000:79). During the rest of the 1960s and 1970s, many of these Tutsi refugees tried to return to Rwanda. Their reasons were multiple: to regain lost lands and other material goods and to return to their natal communities. Many refugees were denied citizenship rights and social and economic services in the countries they had fled to, especially in Uganda (Mamdani 2001:164). Attempts at return were often raids or military ventures, which the Rwandan Hutu government responded to by killing those Tutsis who had remained in Rwanda after 1962.

With the rise of the Second Republic in 1973, under President Juvénal Habyarimana, there were some changes put into effect that tried to re-legitimize Tutsi access to political power, although the economic realm was still off-limits. These changes were cut short by an organized invasion from Uganda by Ugandan-born descendants of the 1962 refugees. This invasion began in December 1990 and was under the control of the Ugandan-based Rwandan Patriotic Front (RPF).

In the late 1980s, a virulently anti-Tutsi movement reemerged, calling itself Hutu Power. The RPF invasion helped build support for this organization that had fallen into disfavor in the 1970s. This group had broad support in the government and among Hutu in both rural and urban areas. Léon Mugesera, a Hutu Power politician, advanced propaganda about ‘evil and subversive Tutsis’ and called for a ‘final solution’ for the Tutsi (Power 2002:339). In 1992, Interahamwe, the youth militia of the ruling political party, was created. By 1994, between thirty and fifty thousand youths were organized into similar armed militias (Mamdani 2001:206).

The Arusha Peace accords were signed in late 1993 and sought to end hostilities between Rwanda and the RPF rebels. It planned to create a transitional unity government that would address demands from both sides. The Hutu Power movement called the accords a win for the RPF and whipped up more anti-Tutsi sentiment. They said that if the accords were implemented, the Tutsi would return to power and would exact revenge on Hutus, just as they had during the colonial period. In early 1994, Rwanda and the RPF were in the midst of implementing this peace accord.

In January 1994, General Roméo Dallaire, commander of the UN peacekeeping

forces in Rwanda, sent a fax to the UN headquarters (Power 2002). He warned that Interahamwe was collecting the names of ethnic Tutsis and he had heard boasts that within twenty minutes, up to one thousand Tutsis could be killed. Dallaire also warned of extremist Hutu arms caches, but his superiors in New York dismissed his concerns. Kofi Annan, in charge of UN peacekeeping operations at the time, and UN Secretary-General Boutros-Ghali felt that Dallaire was overstating the situation.

On April 6, 1994, a plane carrying President Habyarimana was shot down in an assassination bid. This event was the spark that ignited the genocide. Within one hour of Habyarimana's plane being shot down, roadblocks were set up in the Rwandan capital of Kigali (Gourevitch 1998:113). People manning these roadblocks stopped everyone who passed and checked their identity papers. If they were Tutsi, which Rwandan identity cards explicitly noted, or their name was on lists like those collected by Interahamwe, they were executed on the spot or taken to another area where they were killed.

Names, addresses, and license plate numbers of Tutsis and moderate Hutus to be killed, that had been prepared in advance, were announced over official state radio. "Killers often carried a weapon in one hand and a transistor radio piping murder commands in the other" (Power 2002:334). The weapons used in the killings spanned the history of humanity from spears, knives, and machetes, to bicycle handlebars and automatic weapons. The violence was initiated from the top level of government, but ordinary citizens, acting without direction, engaged broadly in the killing frenzy. On July 19, the RPF took Kigali, installed itself as the new government of Rwanda. Over one million Hutus fled Rwanda. Their numbers included those who actively participated in

the genocide and others fearful of Tutsi reprisals. The genocide was over.

### The Guatemalan Civil War

The civil war in Guatemala raged from 1960 until peace accords were signed in 1996. While 1960 is considered the official start of the civil war, I suggest that it began with the military overthrow of democratically elected President Jacobo Arbenz in 1954. The civil war had 626 documented massacres with over 200,000 people killed (Archdioceses of Guatemala and Quigley 1999). The violence included torture, disappearances, murders, and genocide. The parties responsible were the military, the guerrilla insurgency, and paramilitary groups, with the military committing over 90 percent of the human rights violations (Commission for Historical Clarification 1999). Mayan men were recruited into the army and were involved in many of the atrocities. Local civilians were also forced to kill those identified as insurgents, under the threat of everyone being executed. Perera (1993) notes that this allowed the army to say it did not personally kill anyone. As in Rwanda, death lists were compiled before and during the violence. These lists were started after the 1954 coup and almost seventy-two thousand names were on them by December 1954 (Archdioceses of Guatemala and Quigley 1999:189). Death squads and paramilitary groups primarily used these lists (Archdioceses of Guatemala and Quigley 1999; Carmack 1988).

As the Rwandan violence had a historical context, so too did the violence in Guatemala. Perera (1993) posits that the social order was already in place by 1552. Failed land reforms in the 1950s, political repression during the civil war, and complete social control during the 1980s provided the foundation to create and sustain the violence.

Throughout Guatemalan history, a common theme has been the focus on overt control of the indigenous population, rather than on addressing economic and political inequalities.

The violence turned extreme under President Lucas García during his 1978-82 rule. By 1979, his scorched earth policy was producing between one and two hundred deaths a month, primarily of students, peasants, cooperative leaders, labor organizers, political reformers, and church activists (Manz 1988a). By the end of 1981, the military campaign turned on all people, not just those readily identified as subversives (Manz 1988a). After a 1982 coup, President Efraín Ríos Montt took power and over 75,000 were killed on his watch (Schirmer 1998). He replaced Lucas García's scorched earth campaign with a program euphemistically entitled Bullets and Beans. This program put 30 percent ('bullets') of the counterinsurgency effort into massacres and forcible control of the civilian population. The other 70 percent ('beans') was devoted to food, medicine, and re-education for those who surrendered or fell into the army's hands. This program expanded the government's reach into all facets of rural socioeconomic life (Schirmer 1998). Elections in 1985 led to a civilian president, Vinicio Cerezo. However, the military retained de facto power and many of the president's powers were circumscribed. By 1991, there was a resurgence of violence, at a level unseen since Lucas García (Perera 1993). By the end of 1996, the guerrillas and the government signed a series of peace accords. The civil war was officially over.

The governments of the early 1980s effectively militarized daily life. Civilian militias were formed in 1982 with mandatory 'voluntary' labor. While numbering only a few hundred members in 1982, it grew to over a million strong by 1986, including

approximately 90 percent of highland Mayan males between 14 and 60, before declining to about five hundred thousand by 1992 (Perera 1993). It was “the largest civilian militia in Latin America and one of the largest in the world” (Perera 1993:92). Many of those not killed in the violence in the rural areas were forced into ‘model villages’ that offered absolute military control over the means of production and social life. It is ironic that the post-civil war guerrilla reinsertion camps are frighteningly similar to these model villages. Sanford (2000) describes a grid of centrally located homes surrounded by guard towers and razor wire, where people’s movements are monitored and curtailed.

Part of the counterinsurgency program was to create an official Sanctioned Maya (Schirmer 1998), whose identity was crafted by the army to support the war effort and prevent deviation from the army’s social, political, and economic agendas. The army claimed that the civil war was between rural citizens and rebels, and only the army could help Mayans. Mayan villagers were constructed as having no history, since history would show their subordinate status, and also as having no agency, since only the state could provide protection and prosperity. During the civil war, understandings of reality were effectively destroyed. Guatemala became a “more punitive and less predictable place” where stable expectations of what people will do were destroyed (Zur 1994:13).

#### Ethnic and Racial Discrimination

There were divided economic opportunities based on ethnicity and race in both Rwanda and Guatemala. In Rwanda, local Catholic Church leaders played an almost equal partner to the colonial administration in the creation and enforcement of separated Hutu and Tutsi ethnic identities (Newbury 1988:115-116). Msgr. Léon Classe, the

bishop of Rwanda, supported and facilitated differential access to education for Hutu and Tutsi. Hutu were only taught enough to be workers, while Tutsi were groomed for future leadership roles. The official state school, run by the Catholic Les Frères de la Charité brotherly order, only took Tutsis, in effect, creating a new social class. A degree from an official school was needed to procure a good job. Hutu were economically and socially marginalized since they could not obtain these required credentials.

The Rwandan colonial system also locked individuals into either a Hutu or Tutsi ethnic category. Prior to the centralization of Rwandan power in the pre-colonial period, the term Hutu had little political importance as a moniker (Mamdani 2001:73; Newbury 1988:10). Tutsi was used primarily as a marker for wealth. Individuals could move up to the Tutsi category or fall down to the Hutu one, as they acquired and lost wealth. Moving between these identities was eliminated under the colonial regime (Mamdani 2001:101), essentially freezing the categories in time.

After independence in 1962, power shifted from Tutsi to Hutu hands. But while the majority ethnic group was now in charge, power was still held by only a small group of people. With the rise of the Second Republic in 1973, this select group was drawn mainly from the northwestern section of the country. While the names changed, the structural violence remained. Tutsis now bore the brunt of the new Hutu regimes. Prior to 1973, they were excluded from economic and political life (Newbury and Newbury 1995:7-8). They were threatened at their jobs and in school, forcing some to leave these places, and even leave the country. After 1973, a quota system crafted by Habyarimana's government allowed some Tutsi political participation, but economic opportunities were

still rare (Newbury and Newbury 1995:8).

Catharine and David Newbury (1995) believe that the IMF's demands, part of Rwanda's SAP commitment, exacerbated the plight of poor rural and urban youths and were an important factor in the violence by increasing social and economic alienation. IMF demands included currency devaluation and fiscal austerity measures. When the currency was devalued, the returns from selling agricultural products on the international market dropped precipitously. With fewer funds and a devalued currency, the cost of buying domestic and foreign materials rose dramatically. Fiscal austerity only added fuel to the fire. The government reduced its economic support for health care, education, and agricultural production.

These reforms also had social impacts. The Newburys write that Rwanda had many dense population regions and little available land in a country where agriculture was the primary economic activity. What land existed was frequently controlled by a few wealthy individuals. The Newburys propose that these impediments inhibited youths from becoming social adults through marriage. To be married, a man must own a house where he and his future wife will live. These factors led to youths who had "no land, no jobs, little education, and no hope for the future" (Newbury and Newbury 1995:10). This aided in lowering the social bar to killing. Genocide provided a chance for economic benefit, whereby some killers could obtain the material goods and lands of those slaughtered. This situation is similar to what happened in 1962, when elite Hutu took control of lands vacated by fleeing Tutsis (Mamdani 2001:150). In addition, state and extremist propaganda offered the Tutsis as a target for venting social and economic rage.

In post-genocide Rwanda, disparities continue, although a select group of Tutsis is again the main beneficiary. The new Rwandan government states that women have become actively involved in a reconfigured, more equitable society, one which previously had few public rights for women (Smiley 2003). Women have physically rebuilt destroyed infrastructure, such as schools and community centers. However, these roles are being primarily filled with Tutsi women, reaffirming the new order established under the RPF-led government. Thus, women in these positions can be held up by the government as evidence of their beneficial and salutatory behavior, while masking the fact that Hutus have been excluded from their largess.

In Guatemala, there is a major social division between Maya and Ladinos. Ladinos believed that the Maya had the potential to become productive Guatemalan citizens, with productivity being defined by the dominant power holders. However, Ladinos said that if a Mayan failed, it was his own fault (Grandin 2000:98), ignoring a multitude of racist and classist structural impediments. An illustrative example is the case of the first Mayan mayor of San Juan Ostuncalco (Ebel 1988). Don Carlos, a Mam Mayan, was elected mayor in 1976. Urban ladino businessmen felt threatened by his policy focus on the fair treatment of the poor, both Ladino and Maya. The mayor's blurring of the Maya/Ladino binary also unnerved some local Ladino politicians, who feared rising Mayan political power would diminish their own power. Through various maneuvers, these groups forced Don Carlos out of office in May 1978, only to see him reinstated by late June. But, by November 1978, he was forced out again, permanently.

Ladinos also objectified Maya. In her life story, Rigoberta Menchú writes that

“what hurts Indians the most is that our costumes are considered beautiful, but it’s as if the person wearing it doesn’t exist” (Menchú 1984:204). It is ironic that clothing, which is used to designate an indigenous person, is becoming more and more difficult for an indigenous person to produce or acquire. Green (1999) describes how many of the Mayan women she worked with were unable to wear traditional clothes anymore. What they had time to produce, they had to sell in order to survive. In essence, they were priced out of their own cultural heritage. Smith (1988) notes how even the traditional weaving arts themselves are in decline. He suggests that it is too expensive to make their own clothes, so they turn to modern, machine-made replicas of traditional clothes.

Social cleavages were also drawn along class lines. In the late 1800s, urban K’iche’ elites in Quetzaltenango sought to present themselves as the sole voice for the local Maya (Grandin 2000). These elites were composed of artisans, builders, merchants, farmers, and politicians. They played ladinos and poor K’iche’ against one another in order to maximize their own capital. These actions helped solidify the economic disparities between rural and urban Maya. Not only did the poor get poorer, but they were also pushed far into the background of political discourses. “In order to maintain their fragile identity as urban indigenous spokespeople, K’iche’ elites had to keep rural Indians out of view, manifest only in political discourse as objects of charity or regeneration” (Grandin 2000:217). The agrarian reforms of President Arbenz were an attempt to allow these voices to be heard for the first time. Access to land would have provided economic self-sufficiency for both poor ladinos and Maya, enabling them to engage in the higher-level pursuit of politics.

### Land Tenure

Land tenure is a fundamental crisis in both countries, and it has been throughout both their histories. In Rwanda, access to land for subsistence farming and cattle grazing had been done through mutually beneficial client/patron relationships. But, with the centralization of pre-colonial power in the 1890s and the institution of German, then Belgian control in the early 1900s, land control transformed into a more hierarchical relationship dominated by the patron, who often had associated political powers provided by the central government and colonial authority. The economic value of cattle and land became intertwined and led to a dilemma that Newbury (1988:137) describes. If a person was not under the protection of a patron, they could be subject to taxes, taking of their cattle, and loss of their land. However, by entering such a relationship, their land would be protected, but the patron could take all of their personal cattle at his whim.

In Guatemala, land is important to both Maya and Ladinos for cultural, political, and economic reasons. Economically, it is vital to provide food and shelter for families. It also is used to fuel the economy, both internally and on the world market. In its colonial period, land was controlled by the state, but parceled out to communities. Ladinos controlled land as private property while Mayan elite controlled their parcels of land communally. This state of affairs continued after Guatemalan independence in 1821. During the nineteenth century, Mayan land was treated more and more as private property, although official title to such land was rarely provided. Much of this land was used for subsistence farming, but with the rise of coffee plantations in the 1870s, land switched to being valued for its capitalistic production capacity. Land was appropriated

for the coffee plantations and the poor were forced into wage labor in order to buy foodstuffs and earn money that previously had been done with their own land (Grandin 2000; Sanford 2000).

The loss of communal or private land had a major impact on the ability of the poor to get access to credit. To secure credit, collateral was necessary. The only thing of value that non-elites had was land. Grandin describes that in the nineteenth century, people sold their land in order to get money or credit for survival needs, while Manz (1988a) notes that in the twentieth century, since they no longer had land, they no longer had access to credit.

During Guatemala's short democratic period, President Arbenz saw the importance of land for sustaining the people, and the country. In 1952, he issued Decree 900 that sought to move unused land into the hands of indigenous and poor people. It expropriated such lands and created local agrarian committees to democratically oversee land distribution (Grandin 2000). The Supreme Court repealed the decree in 1953, but Arbenz responded by firing the justices and the Congress upheld his actions. Commenting on Arbenz's actions, a member of the Guatemalan Labor Party (PGT) said: "one can live without tribunals, but one can't live without land!" (Cullather 1999:24). Cullather suggests that in eighteen months, Arbenz gave 500,000 people, approximately one-sixth of the entire population, the land that they needed. Piero Gleijeses describes the momentousness of this occasion: "For the first time in the history of Guatemala, the Indians were offered land rather than being robbed of it" (Cullather 1999:xx).

These redistributive actions did not go unnoticed nationally or internationally.

Local landowners, especially coffee growers, and the United States Central Intelligence Agency (CIA) saw land reform as mobilizing the masses, destroying conservative landowner power, and providing support to a communist organization, the PGT. This agrarian reform helped initiate and support the CIA plan to overthrow Arbenz, which succeeded in 1954. All appropriated land was quickly returned to the landowners.

The late twentieth century saw a continuation of land tenure problems. In 1974, the regime of President Kjell offered the indigenous poor small plots of land. This gesture, while on the surface, and certainly in media reports, looked good, it was problematic from the start. It was true that land was given to people; however, the stipulation was that one could not use anything outside this tiny parcel. Gathering firewood and wild greens in the surrounding forests was forbidden and strictly enforced (Menchú 1984:158). In 1983, a US Agency for International Development (USAID) report noted that there were approximately 1.2 million hectares of idle, arable land in Guatemala (Manz 1988a). The report also calculated the land needed for the landless population was 1,205,566 hectares. In their 1992 pastoral letter, the Guatemalan Catholic bishops wrote that there were 231,000 hectares of fallow national land while at the same time, 84 percent of the population was landless, hungry Guatemalans (Perera 1993:351). So, usable land was available but it was never provided to those who needed it not for its capital generating function but for its life-sustaining capacity.

The poles of development, established under government decree in 1984, reflect the Guatemalan practice of attacking those in need instead of addressing the problems that create their needs. These development poles contained highly organized, physically

demarcated, and militarily policed communities, which were called model villages. Like the plots of land provided under President Kjell, the people living in these model villages were severely circumscribed in their ability to collect firewood, harvest wild greens, or supplement their meager diet with hunting. Before the introduction of model villages, the "well-developed 'Indian' market economy in western Guatemala provide[d] the material basis for Indian cultural autonomy and Indian political resistance to the state" (Smith 1988:215). With the introduction of these model villages, where Mayan residents were dependent on the state for land, food and whatever wage labor it provided, Mayan culture and economic self-sufficiency were undermined.

Another important facet of land tenure is represented by claims to land by those who fled and those who stayed during the periods of violence in Rwanda and Guatemala. Tutsis who fled as Rwanda achieved independence in 1962 had their lands distributed to local elites instead of the entire remaining population (Mamdani 2001:150). The beneficiaries of the newly independent Rwanda were indeed small. In post-genocide Rwanda, there are "thousands of competing claims to property made by several groups" (Kritz 2001:813). Similar stories can be found in the aftermath of the Guatemalan civil war. Some land was marked as forbidden by the military, and could not be reclaimed by returning refugees. Land that was fertile or rich in minerals was regularly appropriated by the military for its own enrichment. Perera (1993:54) describes how the army acquired the Zone of the Generals, a mineral-rich area located below El Péten. Other land, once it had been pacified, was given to resettled people in the model villages. Those who returned could not retake ownership of these confiscated tracts. Some civil

patrollers were also rewarded with vacated land.

In both countries, land reform still has not been properly addressed. Treaties and political speeches promise to concentrate on this concern, but it remains to be seen whether real change can happen or if a backlash similar to 1950s Guatemala will occur. Land is vital to people to provide food for living, access to credit, and to create a legacy to pass on to offspring. Land is also important to governments and economic elite. Saldaña-Portillo describes how the leftist government in 1980s Nicaragua feared that giving too much land to peasants would entice them to switch from export-based agricultural to subsistence farming. Agricultural exports were fueling national development. In Guatemala and Rwanda, land was used to fuel coffee and other foodstuff production, which were destined for foreign markets. However, this type of elite welfare only served to enrich a select few in the ruling and business class, while effectively enslaving the majority of the population.

#### Forced labor

Forced labor is perhaps the most insidious of all forms of economic exploitation. It includes obligated paid and unpaid labor as well as taking advantage of people by paying a low wage to those who need every scrap of money to survive. All of these forms of forced labor were found in Rwanda and Guatemala.

Starting with Rwanda, the colonial practice of uburetwa required all Hutus to perform forced unpaid labor (Newbury 1988:140-144). People designated as Tutsi were free from this obligation. The practice was even written into colonial law under the Belgian authority. Uburetwa comprised jobs that were often the worst and hardest

available, such as “collecting and drying firewood, ... fetching water, [and] cultivating the hill chief’s fields” (Newbury 1988:141). With the 1931 colonial administration’s decree making coffee an export product, uburetwa provided a large, free labor pool in which to enrich local Tutsi chiefs and the Belgian authority. In an attempt to provide abundant, inexpensive labor to their other colonies in central Africa, the Belgians would exact lower taxes and provide a domestic exemption from uburetwa duty if individuals would travel outside Rwanda to perform low-wage dangerous labor. Local Tutsi chiefs subverted this process time and again by requiring people under their authority to perform both uburetwa and foreign labor, keeping the foreign wages for themselves. Uburetwa duty was abolished in 1949, but according to Newbury’s (1988:146) sources, the practice continued well into the 1950s.

In 1974, under President Habyarimana, the practice of umuganda was initiated. This was a compulsory, unpaid, one day a week communal labor to assist in public works projects (Mamdani 2001:146; Ranck 1998:28). While the obligation fell on all Rwandan citizens, it still was reminiscent of the hated uburetwa practice of several decades before. In massacres responding to the RPF invasion, local Hutu leaders began to refer to killing Tutsis as one way to satisfy Hutu umuganda obligations (Mamdani 2001:194). Under pressure from farmers and peasants revolting at the forced unpaid labor, the government abolished the practice in 1992.

In post-genocide Rwanda, forced labor is still an ongoing practice. Temple-Raston (2003) describes how prisoners charged with genocide have been forced to build homes for elite Tutsis who live in the capital of Kigali. The prisoners are not

compensated for their time or labor. Ironically, some individuals call these structures ‘thank you genocide’ houses.

With respect to children, Human Rights Watch (2003) writes that there are over 400,000 orphans from the violence, which represents approximately 10 percent of all Rwandan children. These children are not included in the statistics of orphans who have already been placed in homes or other care. UNICEF, the US government, and the Agency for Cooperation and Research in Development (ACORD) estimate that there are 65,000, 85,000, and 227,500 child-headed households, respectively (Human Rights Watch 2003). If ACORD’s numbers are accurate, this means that 13 percent of all households in Rwanda in 2001 are child-headed. In order to survive, many of these children are being exploited as domestic servants or prostitutes in the postconflict economy. Human Rights Watch also reports on the status of street children. Many of these young survivors have become a cheap, exploitable labor pool. There are human trafficking networks that transport these unattached children into dangerous jobs. The police and Local Defense Forces, which are government-organized civilian militias, are often responsible for setting up and running these networks.

Guatemala has experienced similar instances of forced labor. As coffee production became a primary component of the economy, not only was land appropriated, as discussed above, but also a forced labor law was enacted in 1877 to provide workers for the coffee fields (Grandin 2000). In the construction of the railroad system, K’iche’ peasants were conscripted as fodder for the dangerous jobs. Grandin notes that when people died laboring anonymously on the railroad, the local elites praised

them as builders of a new nation. Instead of investing in technology to make production efficient and safe, money was spent on repression to ensure worker compliance. Under Presidents Juan José Arévalo (1945-51) and Arbenz (1951-54), forced labor and debt peonage were abolished. While that might have been the law of the land, it did little to stop further economic abuses after Arbenz's removal.

The plantations on the southern coast of Guatemala, called *fincas* in Spanish, represent an institutionalized form of slavery. Menchú (1984) provides a local perspective on these hyper-exploitive institutions. Laborers were treated horribly, paid low wages, and extorted by the company store for any goods they needed while they toiled the land. At the coffee finca where she worked, Menchú noted the irony of harvesting a product that the workers could never afford to purchase for their own use. She also spoke about the extreme hunger of the workers who labored from sun up to sun down. She remembers that they were not allowed to eat the bananas that were left to rot on the trees. The finca managers said the bananas provided shade to the coffee crops (Menchú 1984:150).

In the 1980s, Davis (1988) estimated that approximately 300,000 workers migrated annually to the coastal *fincas* in order to supplement their income. Workers spent up to eight months out of the year working on the *fincas*, though that time was parceled out over the entire year. Workers would travel back and forth between the *fincas* and their homes where they did other wage labor and subsistence farming. This disruptive schedule had a negative impact on schooling for the workers' children (Davis 1988). The inability to obtain advanced education consigned generation after generation

of poor workers to economic deprivation. Today, the fincas continue to exploit laborers. On February 26, 2002, peasants occupied the San Luis finca in San Marco, demanding fair wages and safe working conditions. There were threats made to Monsignor Ramazzini who had helped organize the occupation and who had offered legal assistance to the peasants in the negotiations with the finca owners (FIDH and OMCT 2003).

Unions attempted to address low wages and dangerous working conditions. Levenson-Estrada (1994) and Menchú (1984) provide accounts of the union experience in Guatemala. After the overthrow of Arbenz, right-wing business interests, the government, and the military all worked to destroy any form of worker organizing. Legal methods were used to prevent unions from forming or to limit their ability to act as powerful worker advocates. Changes to the labor code in 1957 forbade government workers unions and any union role in politics. In addition, the code created strict procedures for unionization, which benefited companies over workers. Illegal, covert methods were also used to undermine or exterminate unions. Leaders, student organizers, and intellectuals who supported the movements for “the survival of everything workers understood to be human” were killed (Levenson-Estrada 1994:232). The government, military, and management-hired death squads, carried out threats, disappearances, and killings. One-third of the unions created between 1968-82 were destroyed by 1973; their leaders killed and their offices shut down.

During the Guatemalan civil war, and especially the counterinsurgency efforts of the military government in the late 1970s and 1980s, economic activity was severely curtailed by forced labor and travel restrictions. Both the government and the guerrillas

limited freedom of movement. The civil patrol system, a military-organized civilian militia, mandated uncompensated duty to patrol rural areas. This duty, which could occur as often as once a week and last for several days, limited people from migrating for seasonal wage labor. It also prevented many from selling their goods in regional markets or Guatemala City. Patrolling also interfered with subsistence farming, when duty was required at critical times in the agricultural production cycle.

Working in a model village was also economically repressive. Labor was regularly compensated with food, not money. Major-Dr. Luis Sieckavizza, a government civil affairs officer, suggested that Mayans did not understand the concept of money, and therefore the government was not exploiting them (Schirmer 1998:73). However, as the Maya had been performing forced and voluntary wage labor since at least the colonial era, this suggestion was merely an attempt to further stigmatize indigenous people as less than civilized and to promote the role of the state in their supposed uplift.

When the civil patrols were officially disbanded after the peace accords, ex-patrollers continued to face economic difficulties. They demanded payment for their unpaid service during the counterinsurgency (Miles 2003), but this has met resistance. The government agreed to pay them \$2,500, to be delivered in three payments over two years; however, the ex-patrollers have demand one lump sum payment. The US government and human rights groups have criticized any remuneration since they feel this is rewarding people who actively participated in gross human rights violations during the civil war (de Leon 2003b).

CHAPTER 3  
AND JUSTICE FOR ALL?

"What difference does that make? Will the color of their uniform bring back my son?"  
- Guatemalan villager (Perera 1993:147)

With the end of the Rwandan genocide and the Guatemalan civil war, each state must now confront the many challenges of postconflict life. How it approaches these problems has profound implications for the survivors of each conflict. The choices the state can make to address these challenges are partly determined by how the conflict ended. The military victory in Rwanda provides the new government an almost free hand in addressing the issues of the past. But which issues are attacked and to whom the benefits are directed may only transfer the old burdens to a new group of people. On the surface, the negotiated settlement in Guatemala would seem to allow for a more equitable resolution of legal and economic problems. However, the negotiating parties had different degrees of power, with the government and army having the upper hand.

The major issues confronting the state and the population are centered on the state-sponsored structural and acute violence. These issues are justice, accountability, and social and economic reform. The killings in Rwanda were not the result of primordial hatreds. Hutu Power extremists in government positions and in the local media incited hatred and fear among the population that directly fed the killing frenzy.

Long-term structural violence, expressed via ethnic discrimination and economic isolation, worked in conjunction with this propaganda to mobilize individuals into killing their friends, neighbors, and family members in interethnic marriages. The massacres in Guatemala were not senseless violence but were the premeditated murder of Mayans, rural peasants, union members, intellectuals, and others who challenged the economic and political power of landowners, politicians, and army officials. In the aftermath, both states have tried to distance themselves from the past violence and have worked to shore up their own legitimacy to govern.

Legal justice is necessary to ensure that impunity does not become the epitaph of the postconflict period. Those responsible for formulating and orchestrating the violence must be removed from official positions and prosecuted for their crimes. Institutions that fostered or carried out violent actions need to be reformed or disbanded. Individuals, acting on their own or under the orders of an official institution, must also be held accountable. When this form of justice is not available, communities sometimes take justice into their own hands. As will be discussed below, Guatemala has experienced this as vigilante justice. Rwanda has not seen much of this type of justice, but the local gacaca tribunals allow for an almost institutionalized version of vigilante justice.

Accountability and reform also extend to the economic realm. Reparations must be made and structural barriers to economic benefits must be torn down. The stranglehold of poverty and economic deprivation continue to shorten people's lives and opportunities. Legal justice can provide cognitive closure on the death of loved ones, but it does not put food on the table.

This chapter will show how postconflict judicial practices failed to provide meaningful legal redress for the victims of state-sponsored violence. In addition, economic justice continues to be denied to many people who suffered prior to and during the genocide and civil war. Political violence during each conflict reinforced existing structural impediments and created new ones. The violence prevented many ethnic and class groups from having any control over their economic or political life. Impunity robbed victims of any form of judicial redress. Without addressing the roots of the political violence during and after the conflict, structural violence will continue to plague the survivors of each conflict. Overall, urban and rural citizens have taken justice into their own hands and have struggled to survive as the state abdicates its responsibilities to hold individuals accountable, create jobs, and provide reparations and social services.

#### Impunity and Legitimacy

In post-1985 Guatemala, Manz explains that “many of the same individuals who were responsible for past atrocities remain in command and are supposedly the new guarantors of democratic rights” (Manz 1988b:84). Even today, many of the intellectual authors of the Guatemalan government’s assault on its people are still free. Héctor Gramajo, a leading military officer and then de facto co-president in his role as Cerezo’s defense minister, has seen no fallout for his role in planning and carrying out the violent counterinsurgency plan. Ríos Montt, who oversaw eighteen months of the worst violence during the civil war, is currently head of the national Congress and is running for president on his Ruling Republic Party’s ticket (de Leon 2003a; Gedda 2003). Middle and upper-tier members of the military, civil patrols, and death squads have continued in

both public and private lives without any repercussions for their actions.

Some of those responsible for the violence have been brought to trial. On October 13, 1999, three civil patrollers were convicted of murder for participating in the 1982 massacre at Rio Negro (Sanford 2000:340). On October 4, 2002, Army Col. Juan Valencia Osorio was jailed for thirty years for killing anthropologist and social activist Myrna Mack Chang. However, this decision was reversed on appeal in May 2003.

Trials have been few and far between, and the verdicts have been appealed at every step.

In Rwanda, the situation is slightly better with respect to the impunity of those who ruled prior to and during the genocide. The RPF victory removed many of the top-level Hutu genocide planners from positions of power. However, a few top-level individuals and many middle and lower-level officials fled the country and have set up a government in exile that seeks to deny that the genocide occurred or to spin it as a slaughter of Hutus, not of Tutsis. While sidelined, they are still not being held accountable for their actions.

While Rwanda saw the removal of Hutu extremists from power, care must be taken when looking at the motives and legitimacy of the RPF-led government. The RPF was a non-Rwandan institution. Its founders and members were predominately Ugandan-born Tutsis whose parents fled Hutu reprisals during the Rwandan independence movement of 1959-62. As it took power, the RPF promoted the genocide not to aid in justice or reconciliation, but to sustain its right to lead (Ranck 1998). They framed the genocide as Hutu killers and Tutsi victims, erasing the fact that Hutu moderates had been killed by the genocidal masses. The RPF also suppressed any suggestion that they

themselves had committed massacres, even though questions were raised (Bamford 2003; BBC News 2003b; Temple-Raston 2003). State announcements and media dispatches focus primarily on the Tutsi victims but the 800,000-murdered statistic covers all victims of the genocide. The ICTR and gacaca tribunals also played a role in legitimizing this claim and hiding RPF violence. Gacaca and the ICTR will be discussed in the next section and the next chapter, respectively. These sanctioned narratives work to reinforce ethnic divisions instead of undermining the political extremism that fed the genocide.

The legitimacy of the current Guatemalan government is derived from the peace accords signed by the president, the military, and the guerrillas. Three important accords were on: (1) the identity and rights of Indigenous Peoples; (2) socioeconomic aspects and the agrarian situation; and (3) strengthening civilian power and the role of the armed forces in a democratic society. The state's legitimacy is predicated on implementing these accords, which it has failed to do. According to Tom Koenigs, the head of the UN mission, the first accord was the least implemented (Gonzalez 2003b). Indigenous communities have seen little benefit from that accord (Gonzalez 2003a). According to Green (1999), the second accord called for neoliberal reforms, such as selling state land to companies for export agriculture and to build new homes. These homes ended up in the hands of the rich class, since the poor had no money to purchase the land or building materials from the state. These reforms left rural Mayans "to bear not only the high costs of war but the high costs of peace" (Green 1999:51). The third accord, which claimed to seek the demilitarization of Guatemalan society, appears to be a complete failure. The new police force, army, and state intelligence organizations have only been renamed, not

demobilized, destroyed, or reformed (Schirmer 1998:269-274). The paramilitary groups established during the civil war should also have been demobilized, but they continue to threaten and kill people in rural areas of the country, such as Chichicastenango and El Afán in El Quiché (Godoy 2002:650), Las Pozas (de Leon 2003b), and Concepción Tutuapa (Gonzalez 2003b).

### Laws, Trials, and Amnesties

While justice can be talked about in theoretical terms, laws and trials are where it takes substance and attempts to have an impact. Both Rwanda and Guatemala had laws that were frequently ignored or laxly enforced. Their judicial systems had the appearance of fairness but never fulfilled those expectations. Corruption based on political favor and economic benefit was an everyday occurrence. Class and ethnic stereotypes determined who received 'justice' and who was denied. Denouncing people was a common practice used to have someone detained in both Rwanda and Guatemala. This technique was used to settle old grudges, which could be personal, economic, or political in nature.

Looking at Rwanda, the RPF-led government enacted genocide legislation in 1996 that created definitions and sentences for those who participated in violence during the 1994 genocide. The definitions were broken up into four categories, the first of which covered the most serious violations. It addressed those who organized, instigated, led, or took a large role in the violence. Category two applied to alleged perpetrators or accomplices to homicides while category three was for those who seriously assaulted individuals. Category four, the least serious, covered property crimes.

In less than one year after the end of the genocide, over 37,000 people had been

arrested, and by the end of 1997, that number had risen to 125,000 (Gourevitch 1998:242). The government insisted that “every person who participated in the atrocities should be prosecuted and punished” (Kritz 2001:810). These numbers could easily have been greater if the arrest process had not been circumscribed for political reasons. Estimates suggest that Tutsis killed over 10,000 Hutus in the RPF march to power (Temple-Raston 2003). This figure includes any Hutu who got in the way of the RPF forces as well as reprisal killings for complicity in the genocide. No Tutsis were detained for these suspected killings nor are there plans for any prosecutions.

In addition, President Paul Kagame initiated a short-term moratorium on genocide arrests during the mass repatriation of Hutu refugees from Congo in November 1996 (Gourevitch 1998:307). Kagame said that stability was more important at the moment, rather than going after those responsible for crimes during the genocide. Rwandan Tutsis said this amnesty was certainly not justice (Gourevitch 1998:308). But, Rwanda is a poor country recovering from enormous state and individual violence. Massive numbers of detained suspects overwhelmed decimated state institutions (Akhavan 2001; Power 2003). Judicial institutions needed to be rebuilt first, instead of arresting all suspects and leaving no resources to prosecute them. This type of moratorium would be more suspect in Guatemala, where the number of people implicated in the atrocities was much lower and state institutions had not been destroyed during the civil war.

The Rwandan criminal trials were incredibly slow. This was partly due to the devastated judicial system. Prior to April 1994, there were roughly eight hundred lawyers and judges in the country. When the genocide ended in July 1994, only forty

remained (Akhavan 1996). While the number of judicial officials stayed low, the number of detainees grew rapidly. By 2001, of a now 135,000 people detained, less than two thousand had been processed in national court trials that had started in 1998 (Akhavan 2001:24). And by 2003, only a total of 6,000 people had been processed through the courts (Power 2003:48). Many who participated as trial witnesses felt they had not received justice nor had they been provided with any type of protection. There was a real fear of testifying since victims and perpetrators often knew and lived by each other. Threats were widely used to prevent testimony or to terrorize those who did testify.

Since the court system was taking so long to process individuals and the nation's jails were severely overcrowded, the government began to release those who had pleaded guilty to non-category one crimes. This included the elderly, seriously ill, and some children. Ibuka, a group of genocide survivors, opposed these releases but to no avail. As a last resort, they asked the government for increased protection for witnesses and counselors for "people who may be traumatized by seeing those who killed their relatives walk free" (BBC News 2003a). The government would not provide extra protection but promised to beef up security at trials and to provide extra counselors.

The convicted also had problems with the judicial system. There was little post-justice reintegration assistance given for them after they had served their sentences. Child soldiers are a case that illustrates the failure of the court system and the ethnic discrimination of the transitional government. Many Tutsi child soldiers received education, material assistance, and help with reuniting with their families (Human Rights Watch 2003). Hutu child soldiers who fought with the Army for the Liberation of

Rwanda fared much worse. This army was composed of Hutus who had participated in the genocide but fled as the RPF took over. These children were put through re-education camps called engando (Lubega 2003). At eighteen camps nationwide, children soldiers convicted of genocide were placed in halfway houses where they underwent rehabilitation and sensitization. After this process, they were required to go to their home community, publicly apologize for their crimes, and seek forgiveness. This would not end their potential troubles, as they could still be brought before the new gacaca tribunals.

The massive number of potential suspects overwhelmed the legal system. Attorney General Gerald Gahima estimated that “if a million people died, another million or two million people had a role in what happened. It would be impossible to try and punish all these people” (BBC News 2003a).

To relieve the stress on the national system, the government turned to gacaca. Gacaca are traditional community tribunals that in the past had been used to resolve conflicts between two families by employing the heads of the community’s households as judges. In 2001, the government planned to turn over most of the pending genocide cases to this process; however, category one suspects would remain in the national system (Power 2003). A thirty-six hour crash course was provided to 254,000 people who would sit on over one hundred gacaca panels located throughout the country. Each tribunal would have nineteen locally chosen judges who had the power to call witnesses, search homes, order detentions, and pronounce sentences (BBC News 2002; Power 2003). Defendants would be tried in the community where the crimes were committed. Sentences spanned the range of acquittal to life imprisonment. Lesser sentences were

allowed if the defendant confessed and agreed to do community service. Any time served waiting for a national court trial would be deducted from a gacaca sentence. By June 19, 2002, eighteen hearings had begun.

The gacaca process has several positive aspects. It can stimulate conversation and act almost like a truth commission. Some feel that it can help heal the nation, resolve the fates of lower-level genocide suspects, and produce public information about what happened (Temple-Raston 2003). “Rwandan advocates argue that [gacaca] will engage local villages in the process of justice, return and reintegrate perpetrators into the home communities, and empty the prisons on untried cases within a relatively short time” (Kritz 2001:810). Amnesty International (2002) believes that gacaca “may represent an opportunity for genocide survivors, defendants, and witnesses to present their cases in an open and participatory environment”. In the initial experiments with gacaca, whole communities have positively engaged in the process (BBC News 2002).

Unfortunately, there are many problems with turning to gacaca. In the pre-screening process for choosing suspects to go before a gacaca, if the state has no information on file or no one offers evidence against them, the defendants are automatically released. Over 2,000 people have been set free under such circumstances (Power 2003:50). Also, since many of the suspects have already spent between six and eight years in jail awaiting trial, if they are sentenced by the gacaca tribunal, most could go home immediately (Bamford 2002). Thus, the system does not provide any sense of closure for the victims, since no matter what the decision, the perpetrators are most likely to go free right after their tribunal session.

Furthermore, new arrests are still possible depending on the testimony given, so Hutus fear that they can still be arrested on real or false testimony. Gacaca might inflame new tensions if Hutus are wrongly imprisoned. Vengeance is possible if a Hutu suspect is tried in a Tutsi community and impunity is possible if a Hutu is judged in a Hutu community. In the latter case, Tutsis might fear speaking out against someone whose family lives nearby to their own. In a press release, Amnesty International stated that it is concerned that gacaca “may become a vehicle for summary and arbitrary justice that fails defendants and genocide survivors alike” (Amnesty International 2002).

Of even greater concern is the solitary focus on Hutu crimes. The government has limited gacaca’s jurisdiction to only the genocide crimes committed by Hutus, excluding Tutsi crimes against Hutus, during the period 1990-94 (Power 2003). Joseph H, a Hutu, fears that the government is interested only in revenge and is using gacaca as retribution (Temple-Raston 2003). President Kagame has said: “if we all rise up and support [gacaca] we will have shown our love for our country and our fellow Rwandans” (BBC News 2002). This attempt at nationalism should be seen not as a manifestation of reconciliation but as a ploy by Kagame to reinforce the contrived ethnic divide between Hutu and Tutsis. This ploy uses the gacaca process to write an official history that portrays Hutus as the sole violator in Rwanda’s genocide. By focusing the populace on gacaca and presumed Hutu guilt, Kagame can deflect attention from more serious concerns, such as jobs, land tenure, health care, and education.

Turning to Guatemala, the judicial process is much worse than it is in Rwanda. Even though an official judicial system exists, law and justice are rarely implemented by

the government, which has led to a climate where “concepts of innocence and guilt lose their meanings” (Zur 1994:12). The almost ubiquitous use of amnesties during the civil war has flustered almost all attempts at justice. Under Decree 8-86, President Mejía Victores provided an amnesty for all political and related criminal acts between 1982-86. He said it was “time for reconciliation, not revenge” (Manz 1988a:32). In reality, this was really the empty reconciliation of impunity.

In the 1996 National Reconciliation Law, a general amnesty was given to all military members, civil patrollers, and politicians. This amnesty omitted those who committed acts of disappearance, torture, or genocide. While noteworthy for these exceptions, it still sought to undermine the depth of the violence and constrain what occurred to historically disconnected acts. Without investigating the entirety of the violence, a deeper understanding can never be found.

Amnesty declarations are troublesome for how they are used to craft a new history, one that hides the past and guarantees impunity for violators. As an added insult to the victims, those who developed and orchestrated the crimes are the ones who have the power to declare amnesties. These are the last people who should have this power. Only the victims should be able to authorize such determinations.

Amnesties are troublesome not only for crimes they hide, but for protection they offer to those who commit acts not covered by the amnesty. The military commissioners in San Pedro Laguna used their authority to terrorize and kill the local population during 1980-83 (Paul and Demarest 1988). They killed people who they believed were disloyal or against whom they held grudges. The commissioners falsely claimed that they

themselves were guerrillas in an effort to obtain amnesty under a plan offered by President Ríos Montt. Their ruse was discovered and the men were prosecuted, but how many others took advantage of similar circumstances and went unnoticed?

In the post-civil war era, many feel that the end of the violence has “brought neither law nor order” (Gonzalez 2003b). In 1994, the survivors of the massacre in Rabinal wanted revenge. By 1998, they wanted the intellectual authors of the counterinsurgency punished, not their neighbors or other low-level functionaries, claiming that “jailing my neighbor will only create more widows and orphans” (Sanford 2000:343).

Trials frequently de-contextualize crime from the larger systemic violence. They focus on individuals, which is necessary in a positivist legal paradigm that seeks to assign individual guilt and punishment. But separating an individual from the historic context works against understanding how this crime fits into the larger violence (Hayner 2001:100). Assigning individual blame works to hide how the Guatemalan army and government planned and directed the violence. Command responsibility, where the person who gives an order is held accountable, must complement individual responsibility for carrying out that order. Therefore, trials are necessary instruments, but they are only one step towards justice.

The Guatemalan judicial system itself is an institution that the state manipulates (Hayner 2001:12). With the negotiated end to the civil war in Guatemala, the state retains many of its powers. Judicial action and reform are done at its discretion. Trials consume massive amounts of money, time, and personnel. If the state forces the judicial

system to focus on low-level perpetrators, resources can be exhausted before the intellectual authors are ever brought to trial. This is happening in Guatemala where only a few dozen trials of low-level soldiers have occurred (Hayner 2001:89). In addition, the passage of time may dim popular support for continuing trials, again allowing those most responsible from every being held accountable. This situation has played out in Rwanda already, partially explaining the shift to the gacaca process.

Several groups in Guatemala strongly oppose trials. Business leaders hired death squads to terrorize unions and kill their leaders (Levenson-Estrada 1994). Landowners used death squads and paramilitaries to protect their land and maintain a stranglehold on their workers (Grandin 2000; Menchú 1984). The army used its powers during the counterinsurgency to gain control over land, banks, pension funds, and airlines (Vilas 1996:496). If brought to trial, these groups may lose those material gains. At the very least, the breadth of their economic benefits from the civil war would undermine their legitimacy and most likely lead to the mobilization of class-based groups against them.

The government has conceded that during 2001-02, there has been continuing harassment and killings of judges (Jordan 2003). In 2001, one hundred and forty-seven judges were threatened and three were killed. In December 2002 alone, nineteen judges received death threats. A commission including the UN, the Organization of American States, and the Guatemalan government has been convened to discern who is behind the political violence.

### Vigilante Justice in Guatemala

The official justice system failed to provide even a modicum of redress for

victims in Guatemala. This has led to the rise of vigilante justice throughout the country, though it is primarily practiced in rural areas (Gonzalez 2003b). The almost total collapse of an ineffective criminal justice system has led to citizen apathy regarding the usefulness of the police (Godoy 2002). A police commander in Concepción Tutupá states that “if [the vigilantes] call us, it is only so they can burn somebody in front of us” (Gonzalez 2003b). There may also be fear of anyone wearing a uniform and identified with the security forces. Under the guise of security, safety, and upholding the law, many state security forces, who actively participated in massacres during the civil war, continue to terrorize rural people.

This state of affairs is partly due to the military objective of insulating itself from prosecution. The military sought to place the judiciary into a state of “institutional ineptitude” (Godoy 2002:644). With institutional justice destroyed, people might turn to community leaders. But the army killed union, student, and religious leaders (Godoy 2002:646). In addition, political leaders who did not adopt the army’s policies were also killed. Cultural and social mediators who would resolve daily social conflicts were killed and replaced by army leaders and civil patrollers (Godoy 2002:647). Thus, nonviolent conflict resolution is extremely difficult, especially when victims and perpetrators live side by side.

Citizens have decided to take justice into their own hands, using lynchings that most often involve drenching a person in gasoline and setting them on fire (Godoy 2002:644). The REMHI report documents that burning people was the most prevalent method of killing during the civil war, and this tradition carries forward into current

times. The UN Mission to Guatemala (MINUGUA) has cataloged 421 lynchings during the years 1996-2001 (Godoy 2002).

Some residents have suggested that the civil patrols and paramilitaries are heavily involved in these vigilante movements (Godoy 2002; Gonzalez 2003b). While the civil patrols were demobilized by the peace accords, they still retain *de facto* power in many rural regions of Guatemala. Several of the death squads have also continued functioning in the post-peace accord era.

Community-sanctioned violence is not a secretive affair. People openly and willingly support, advocate, and instigate lynchings (Godoy 2002:654). Godoy warns that to blame lynching purely on the army's role in human rights violations "underestimate[s] the communities' reactions to lived experience" (Godoy 2002:658). As the state has abdicated its responsibility to uphold the law, individuals have taken on this duty. One local human rights worker said that lynchings are useful for crime prevention (Godoy 2002:654-655). Interviews with four Mayan men and one Mayan woman from Santa Cruz del Quiché found them all supportive of lynchings (Godoy 2002:655-657). One said that to work hard on the coast and then get robbed on the way home is intolerable (Godoy 2002:656). But this reconfigured space of justice does not bode well for long-term justice. Without institutionalized processes, vigilantism can be abused and turned into a tool of personal vengeance and gain. Vigilantism also mimics the long-term government practice of denying judicial human rights to suspects.

Vigilante justice is being directed at various groups of people, who may have committed crimes during or after the civil war. Godoy (2002:645) notes that "social

cleansing groups” have been formed to clear areas of prostitutes, street children, and homosexuals. They are acting like the death squads did during the civil war. But others have been attacked simply for being in the wrong place at the wrong time. Judge Almendra Teresa Gutiérrez said that “like during the war, if someone is outside at night after a certain hour, they are up to no good and must be executed” (Gonzalez 2003b). As people denounced others for personal reasons, lynching, too, has become a tool to act on personal vendettas and settle old political scores. Many could not get at those responsible for crimes during the civil war, and afterwards the justice system failed them, so they now turn to their own style of justice.

In the postconflict period, there has been a blurring of political violence and common criminality. Reports of common crime have risen dramatically since the end of the civil war (Godoy 2002). Some of this can be attributed to the state attempting to hide its continuing political intimidation and killings. The state blamed the deaths of several social justice advocates on common crimes, even though evidence suggests state security forces were involved. Myrna Mack Chang’s murder is one example. The state originally said her death was a common crime that resulted from her changing money on the black market (Wilson 1997:144). Later, it was shown that the state had orchestrated and carried out her murder (Amnesty International 2003a; Wilson 1997:144). The rise in common crime can also be linked to the political violence of the civil war period, which drove many people further into poverty. With no social support network and little economic opportunity, people may revert to stealing food and money to survive.

### Living in a Postconflict World

The role of the government in the postconflict period is crucial to resolving previous economic inequalities and searching for ways to prevent new racial, ethnic, or class-based barriers to economic opportunity from forming. Unfortunately, Rwanda and Guatemala have not risen to the challenge. Economic reforms were attempted in Guatemala at several times in the twentieth century. Arbenz's reforms cost him his office. Cerezo tried to introduce a minimum wage and price controls in early 1988, but this was met with an attempted coup. While the coup failed, Cerezo rescinded his calls for liberal economic reforms.

Assistance for survivors is also a state responsibility. Human Rights Watch (2003) reports that the Rwandan government's bureaucracy hindered the release of assistance for genocide survivors. For children to receive any aid, they needed official proof that one or both of their parents had been killed in the genocide. But, the certificates of proof cost money and these parent-less children have little or no money. Bribery is an alternate method to acquire such documentation, but again, with no money, these children are left to fend for themselves.

Access to death certificates and a legal status for the disappeared has inflicted economic hardships on widows and children from both countries. In Rwanda, survivors need death certificates to access death benefits, pensions, land, and inheritances, but such certificates were hard to acquire. In most circumstances, children were unable to receive any land inheritance from their slaughtered parents. Widows were doubly insulted as the state still treats them as second-class citizens without formal inheritance rights, thus

impeding access to their husbands' pensions (Nowrojee and Ralph 2000).

In Guatemala, the silence surrounding many of the deaths during the civil war meant that many were left with little hope of gaining access to any inheritance or material possessions of their loved ones. If a loved one was killed or disappeared, there frequently was no body to produce for the authorities. In addition, claiming such a loss might be feared since it would link the survivor to a person the army killed. Such relationships often resulted in further deaths during the civil war. The lack of any real change in the postconflict period seems unlikely to convince people that this fear is unwarranted. Without a body, obtaining any legal document about their status was near impossible. The CEH truth commission recommended that a death status of 'disappeared' be created to allow families to obtain access to benefits, however, the state has made little effort on this front.

Receiving inheritances and death benefits is something to be expected when a loved one dies. However, the victims in Rwanda and Guatemala did not die of natural causes. Their violent deaths at the hands of state-directed security forces and mobs influenced by government propaganda demands that the government provide reparations to the survivors. François Xavier Nkurunziza, a Rwandan lawyer, said that compensation is necessary since killing the offender does not help in everyday life (Gourevitch 1998:249). The National Coordination of Guatemalan Widows (CONAVIGUA) has demanded compensation for their husbands who were killed in the counterinsurgency (Green 1999:106). With respect to reparations, the transitional government in Rwanda and the reformulated one in Guatemala must address Hayner's irony of reparations:

[they] must pay for the abusive policies of the prior government, the financial burden ultimately carried by the population as a whole, while the perpetrators are not obliged to cover these costs, even if they enriched themselves in the course of their rule. (Hayner 2001:171)

The extreme poverty of both countries, coupled with their international debt burdens, makes any attempt at compensation difficult. Reparations may be the final, and perhaps most significant, example of the economic violence.

Structural adjustment programs were introduced in Guatemala and Rwanda in 1986 and 1991, respectively. These programs required states to reduce spending, privatize the means of production, liberalize trade, and reduce market regulation (Rapley 2002). Deregulation meant that price controls and state-set currency values would be eliminated. While SAP was not fully implemented in Rwanda, its effects were devastating. Inflation rose from 1 percent in 1989 to 19.2 percent in 1991 (Uvin 1998:58). Rwanda's debt, as a percentage of its GNP, rose from 32 percent in 1990 to 62 percent in 1993. In Guatemala, after the introduction of SAP under President Cerezo, the International Labor Organization (1996) noted that the inequality gap between the rich and the poor widened and real wages dropped precipitously. Vilas (1996) argues that structural adjustment policies may improve the efficiency of the public and private sectors, but scaling back state services hurts the majority of the working poor. He goes on to suggest that neoliberal reforms after brutal state-sponsored violence are the worst possible timing (Vilas 1996:493). Survivors of the brutal violence in both countries saw services scaled back and eliminated just as they most desperately needed them.

Money that could go to alleviating local poverty in both countries is instead spent on servicing national debts, leaving little funds for the majority of the population. At the

end of the twentieth century, the Rwandan government (1999) states that 70 percent of the population lives below the poverty line, up from 53 percent in 1993. The latest Guatemalan figures, from 1989, state that 75 percent of the population lives in poverty, and that 58 percent lives in extreme poverty (PAHO 1998). These figures rise significantly when looking at the rural indigenous areas, where 93 percent of the people live in poverty, and 91 percent live in extreme poverty. Vilas (Vilas 1996:470) notes that the share of national income for the poorest 10 percent of Guatemalans dropped from 2.4 percent to 0.5 percent between 1980 and 1990. During that same period, the top 10 percent of the population increased their share from 40.8 percent to 46.6 percent.

Individuals in both countries continue to face insurmountable obstacles in their daily lives. In Guatemala, there is high poverty, poor health care and education, and little housing and job opportunities (Vilas 1996:464). People migrate to the cities only to find that conditions there are little better than in the rural areas (Perera 1993; Vilas 1996:468). Perera describes individuals living in the city's dumps and the creation of an informal economy centered on petty services and selling discarded items found in landfills.

Green (1999) writes about the condition of Mayan widows in the aftermath of the civil war. Losing their husbands at the hands of the guerrillas or the state has robbed them of the psychological and social benefits of having a companion. The murder of a loved one is a traumatic personal event. The destruction of kinship connections, as relatives were killed, also undermines the social safety net that such relationships provide. Before the civil war, life was not easy, but familial networks supported each other. After the devastation, survival borders on the impossible as social networks are

destroyed by murder and fear and the state is unwilling to address the social and economic disorder erected by its own policies.

As most of the rural Guatemalan economy was based on agriculture, the loss of male relatives' labor in the fields also impacts widows' subsistence needs and their economic survival. These widows do not have the money to hire wage laborers to work the fields, and so they are left with the choices of selling the land or keeping it but not working it. If they sell the land, they will lose their only material good that can be used to get credit. In addition, without the land, they would have nothing to pass on to their children, condemning the next generation to a worse situation.

In Rwanda, the plight of widows is not much different. Many have felt the economic impact of losing their husbands' labor contribution (Nowrojee and Ralph 2000). Tutsi women were raped and widowed during the genocide and still have little financial support from familial or state sources. Pregnancy from rape poses another problem. The social stigma of rape causes some women to hide their stories, or face being ostracized at their time of greatest need. Abortion is illegal in Rwanda, so women have turned to infanticide, abandonment, and clandestine abortions (Nowrojee and Ralph 2000:168). Hutu women are in a similar situation, as their husbands have been murdered in reprisal killings or they have been imprisoned.

## CHAPTER 4

### TRIBUNALS AND TRUTH COMMISSIONS

“If I testify, how do I know I will be protected?”  
- Rwandan genocide survivor (Ranck 1998:154)

“What kind of truth, and for whom?”  
- Priscilla Hayner (2001:82)

In Rwanda and Guatemala, international criminal tribunals and truth commissions offered a complementary means to assist the pursuits of justice and truth. The ICTR in Rwanda and the REMHI and CEH truth commissions in Guatemala borrowed from previous incarnations of these methods. The Rwandan criminal tribunal drew precedence and jurisprudence from the International Criminal Tribunal for the Former Yugoslavia (ICTY). The truth commissions drew their primary inspiration from a similar truth commission exercise in El Salvador (Hayner 2001:45).

Where the attempts at justice described in chapter 3 were internally formed and executed, these institutions included outside actors. The ICTR was established jointly between the RPF-led government and the UN. The CEH commission grew out of the peace accords and included one non-Guatemalan as a commissioner and other foreign nationals as administrative managers. The REMHI commission was created by the Catholic Church, which was intimately involved in all its functions.

Each of these institutions provides an avenue to examine the extreme violence

that took place in Rwanda and Guatemala. Through different mandates and modes of operation, each process generated some successes. They also generated many problems, often related to how their planned courses of action were actually instantiated.

This chapter will show how these institutions failed the survivors of the violence, due to problems in their mandates, implementations, and how the state abused them. While well intentioned, they predominantly benefited the state by providing an institutional process to validate newly crafted national histories. These institutions frequently served to secure the impunity that each claimed it was dispersing. They also served to distract attention from the continuing role structural violence plays in the daily lives of the survivors by either ignoring it, as in the case of the ICTR, or focusing only on past violence, as the Guatemalan truth commissions did.

#### International Criminal Tribunal for Rwanda

On November 8, 1994, UN Security Council resolution 955 created the ICTR to address the genocide in Rwanda. It established chambers in Arusha, Tanzania, and its mandate was to prosecute individuals for genocide, crimes against humanity, and violations of Common Article 3 of the Geneva Conventions that occurred during 1994. It drew on the ICTY's jurisprudence and also shared an appeals chamber with it. The first ICTR indictment came on December 12, 1995, when it accused eight people of playing a role in the killing of several thousand people in the Kibuye prefecture of western Rwanda. In February 1996, it indicted those who played a role in killings in Kigali and Gitarama prefectures of central Rwanda. Trials and new indictments continue today.

The ICTR has had several major areas of success. The first pertains to the ability

to prosecute people for violating laws against genocide. There was no national genocide law in Rwanda until after the RPF-led transitional government crafted Organic Law 08/96 in 1996. Therefore, individuals could not originally be accused or tried in domestic courts (Widner 2001:69). The Rwandan government, the survivors of the genocide, and the international community desperately wanted to hold the perpetrators of the violence accountable, and the ICTR provided a forum in which to prosecute them.

Even if there had been a genocide law on the books at the time the ICTR was created, the court system in Rwanda had been devastated by the civil war raging since 1990. Widner (2001:67-68) describes the judicial staff and witness' fear of reprisals for investigating these crimes, the limited knowledge of the drastically reduced judiciary to prosecute genocide cases, and the lack of funds in the postwar economy to support proceedings. The ICTR worked to complement this overburdened domestic system. It provided a safe-haven for the judiciary and legal groups to work. This safety, however, was not extended to witnesses and victims, as will be discussed below.

The next success centers on the leaders of the genocide. The ICTR has been very successful in indicting, capturing, and prosecuting those most responsible for planning, inciting, and carrying out the genocide. By June 2003, it has captured and detained sixty-five out of approximately eighty people who have been indicted (International Criminal Tribunal for Rwanda 2003). This prevents detainees from continuing to incite active violence against Tutsis and the RPF-led government, and has helped to undermine their legitimacy among their constituents in the region. The ICTR has severely limited Hutu extremists in their ability "to rehabilitate the remnants of their leadership abroad," and

that holding these individuals accountable has “mitigated the severity of Tutsi reprisals against the Hutu” (Akhavan 2001:9). At times, the ICTR can work rapidly. One ICTR official notes that the tribunal had convicted and sentenced Jean Kambanda, the interim prime minister during the genocide, two and one-half years before Slobodan Milosevic was even brought to the ICTY chambers in the Hague (Power 2003:47) to stand trial for crimes he is accused of committing since the beginning of the 1990s.

The final major success revolves around the ICTR’s 1998 case against a Hutu named Jean-Paul Akayesu. His position was to provide for the maintenance of public order in the Taba commune, where from April until June 1994, over 2,000 Tutsis had been slaughtered and others had been systematically and repeatedly raped. In this case, it was held that individual responsibility was important. Even if Akayesu was threatened with death, he had to do something to combat the violence about to be committed (Steiner and Alston 2000:1183).

Of even greater importance, especially for future international prosecutions, was the court’s ruling in this case regarding rape and sexual violence. In 1996, the original charges against Akayesu did not include rape. Rwandan and international groups put pressures on the prosecutor to include the sexual violence counts in the indictment. With the judgment in this case, the court affirmed that rape is a war crime and defined sexual violence as a form of genocide (Power 2003). This was the first time an international court had “punished sexual violence in a civil war, and the first time that rape was found to be an act of genocide to destroy a group” (Nowrojee and Ralph 2000:171).

The ICTR has four specific problem areas: effect, geography, mechanics, and

international issues. The ICTR has helped cement the identification of Hutu with perpetrator and Tutsi as victim in national and international venues. This black and white position does not allow the nuances of the violence to be investigated nor does it allow the conflict to be seen as anything other than Hutus slaughtering Tutsis. By not exploring the atrocities committed by all sides and the structural violence that was a precursor to the genocide, the ICTR severely limits the insights its verdicts can produce. With this circumscribed mandate, the ICTR has officially formalized and finalized the conflict. It is increasing ethnic divides rather than exposing the uselessness of such categories.

Geographically, the physical distance of the ICTR chambers from Rwanda leads to victims and perpetrators feeling disconnected from the process. Power (2003) notes that there is little information about the purpose and outcomes of the proceedings sent back to Rwanda. In June 2003, the ICTR began publishing a newsletter that it hopes will start to address some of these access to information problems. In addition, many Rwandans cannot afford to travel to Arusha to participate as witnesses or simply to view the proceedings (Ranck 1998:154). Thus, the ICTR creates a new economic structural impediment to participating in the process.

The mechanics of the ICTR offers the most problems. The temporal jurisdiction for the tribunal was fought over during its creation. The UN mandated the entire year of 1994, but the RPF-led Rwandan government wanted the period to be 1990 until July 1994. The civil war had started in 1990 and the government wanted crimes committed during the entire war to be open for prosecution. However, it wanted the jurisdiction to stop once it took power. This was meant to marginalize or hide potential retributive acts

by the Tutsi-led rebels, and the RPF-led government, against Hutus who had participated in the genocide. Interestingly enough, Rwanda's post-ICTR national genocide law covers crimes from October 1990 until the end of December 1994.

There have been calls for an investigation into Tutsi crimes during the genocide. The ICTR began an investigation into these suspected events, but it has met with resistance from the Rwandan government. Carla del Ponte, the tribunal's chief prosecutor, complained that the government has stopped working with the tribunal (BBC News 2003b), due to this new investigative direction. Indigenous support for the ICTR inevitably wanes when a Tutsi is indicted (Power 2003), as this contradicts the axiom that Tutsis were only victims. The government also does not want to be called before the court for its 'liberation' activities. In July 2003, Kofi Annan asked the UN Security Council to remove del Ponte from the chief prosecutor position (Bamford 2003).

With regard to the actual proceedings, Power (2003) and Ranck describe how survivors perceive the process as slow and ineffective. The government has also decried the slow progress of the tribunal and its enormous cost (BBC News 2003b), although this can be seen as a strategy used by the government to further its own agenda. As noted above, the ICTR has recently begun to look at potential Tutsi crimes during the genocide. Previously, the focus had been on high-level Hutus who could easily be shown to have been intellectual authors or major instigators of the slaughter. The government did not criticize the ICTR at this earlier time for its slow proceedings. But now, the government can portray itself as the protector of Rwandan citizens by urging a faster pace for current indictments and trials, in order to ensure 'justice.' And, its pressure serves to give notice

to the ICTR to finish the work it has started already before heading into new territory. This strategy is not merely to protect fellow comrades, but also to ensure that no challenges to the dominant binary of Hutu as bad and Tutsi as good. This would rock the foundation of the legitimacy of the government's post-genocide rule.

As in the national court trials, there have been threats to potential witnesses (Akhavan 1996; Power 2003). With respect to prosecuting rape, even after the Akayesu victory, the social stigma attached to the victim can induce individuals to not testify (Nowrojee and Ralph 2000). Even if they do testify, Mertus (2000) notes that the narrative of how rape is experienced does not translate easily into a positivist legal script. And after testifying, many women now refer to themselves as not only genocide survivors, but also as "tribunal survivors" (Power 2003:48). The issue of HIV infection is also troublesome. Defendants who are HIV+ receive anti-retroviral therapy while they are held in detention. If any of the women witnesses became HIV+ due to sexual violence they experienced during the genocide, they receive nothing from the ICTR.

As for international problems, many Rwandans look at the ICTR with skepticism. Ranck remarks how victims still feel betrayed by the inaction of the UN and world during the genocide. The introduction of the UN-sponsored tribunal seems too little, too late. Rwandan Attorney General Gerard Gahima caustically noted: "the tribunal was not set up for the people of Rwanda. It was set up to ease the world's guilty conscience" (Power 2003:47).

#### REMHI and the Commission on Historical Clarification

The two Guatemalan truth commissions documented over 626 massacres,

accounting for over 200,000 deaths and an enormous internal and external displacement of civilians. Their reports spanned volumes and provided minute details about each of the atrocities that had occurred over the almost four-decade long civil war. The CEH report was primarily quantitative while the REMHI report included additional qualitative data collected through a lengthy interview process.

The CEH was the official commission established through the Oslo Accord of June 23, 1994, which was part of the peace process involving the united guerrilla front (URNG), the government, and the military. Its objective was to “promote peace and national harmony” by attempting to “clarify with objectivity, equity and impartiality, the human rights violations and acts of violence connected with the armed confrontation that caused suffering among the Guatemalan people” (Commission for Historical Clarification 1999). It was funded and assisted by the UN, numerous countries, and private foundations. Two Guatemalans and one foreigner chaired the commission. There were over 200 staff members at the height of operations, though none of the administrative managers were Guatemalan. This was due to a fear of reprisals against nationals in those positions (Hayner 2001). The CEH claimed to have the support of the government, army, police, survivors, and the international community. It visited approximately two thousand communities and conducted over 7,000 interviews.

The REMHI commission was an unofficial commission formed by the Catholic Church in Guatemala. It predated the CEH commission, which allowed its analysis and reporting to be used by the later commission. The REMHI commission sought to analyze the violence of the civil war by drawing on Guatemalan and international law. It targeted

structural issues in order to be more than simply a statistical report. It used interviews to “create a space, albeit limited, that acknowledged and supported the witnesses” (Archdioceses of Guatemala and Quigley 1999:xxxix). Unfortunately, the REMHI commission had less international and government support than the official commission.

Bishop Juan Gerardi released the REMHI report on April 24, 1998. Tragically, people who feared the contents of the report murdered him two days later. The Estado Mayor Presidencial (EMP) has been implicated in the killing of Bishop Gerardi. The EMP is a clandestine military intelligence unit that was formed during the Lucas García regime and worked out of the presidential palace complex. During the civil war, the EMP actively planned and carried out political murders against members of civil society. It worked with death squads to increase their effectiveness in silencing opposition. The CEH and REMHI commissions explicitly implicated the EMP in carrying out state violence; and they recommended its disbandment. The culture of impunity is alive and well in contemporary Guatemala.

Both of these commissions provided detailed documentation of the civil war violence conducted by all parties. One fundamental contribution of both commissions was an official acknowledgment that atrocities had occurred. Ninety-three percent of the violence was attributed to the military, according to the CEH report. This was surprising since the seemingly more independent REMHI commission had only assigned 89 percent blame to the military. Both of the commissions noted that the violence had reached genocidal levels during the height of the counterinsurgency effort in the early 1980s. Of even greater surprise was the fact that the CEH report boldly reported that the violence

was a result of racism, structural violence, and antidemocratic institutions. It even went so far as to include some blame for the US government, which had supported the rabidly anticommunist government throughout the civil war, except for a brief intermission in military training and arms sales during the presidency of Jimmy Carter.

Hale (1997) asserts that truth and historical reclamation are important in order to understand the process of violence as well as to recontextualize the civil war. On a personal level, he suggests that in Guatemala there was an “intense collective need to remember their past as a precondition for facing the future” (Hale 1997:817). The REMHI interviewers went to great lengths to create interviews that were not only information-gathering tools but also ones that sought to look at the context and impact of individual acts of violence. They were “structured to be emotionally and psychologically supportive of the deponent” (Hayner 2001:84).

Both reports went beyond documenting the past. Each offered a list of recommendations to provide for reparations, respect, and economic justice. The REMHI report called for the demilitarization of daily life and curtailments of the armed forces, intelligence services, and civil patrols. It called for land reform and economic and social reparations for victims. The CEH report called for preserving the memory of the victims, an official apology by the government and the URNG, and the restoration of sacred sites that were destroyed during the counterinsurgency. It also called for restoring land to rightful owners and providing psychological services for all involved. An official status for the disappeared was requested, to allow survivors to collect pensions and death benefits. In addition, a search for those abducted was demanded in order to determine if

they were still alive or to find their clandestine gravesites.

Unfortunately, there are several problems with these two truth commissions. As a practical matter, no matter what truth is discovered and written down, disseminating the information to the population is extremely difficult. There is a 75 percent illiteracy rate in Guatemala City and a 90 percent rate in the highlands (Perera 1993). Radio could be used to disseminate information; however, the vast amount of data would be difficult to convey through such a limited bandwidth medium.

The commissions took radically different approaches with their choice of language on land tenure. The CEH report recommended returning land to its rightful owners, while the REMHI report called for land reform. It appears that the CEH commission saw the violence as an aberration, something to be resolved so that the old state of affairs could be reinstated. The REMHI report seeks a much broader approach to land, one that seeks to address long-lasting economic inequalities. There have been no signs of real land reform to date. Landless activists continue to face harassment, assaults, and death threats (Amnesty International 2003b).

On assigning blame, the CEH report did not name the names of those who had committed individual acts of violence, nor did it name higher-level intellectual authors (Hayner 2001:45). The REMHI report named a few low-level individuals, but did not venture beyond that. The CEH was constrained by the state and the military command, the dominant members who negotiated the accord that established the commission. The military do not want their cadre questioned or indicted for fighting an insurgency that they portrayed as a threat to the state. If the CEH portrayed the military as dominators,

not saviors, then this would be a serious threat to their contemporary power. The military command supported the idea of official truth-seeking but not trials (Hayner 2001:86).

Truth could be manipulated, and with the guarantee of no trials, military impunity would be almost total. However, when not naming names is viewed in a larger context, it becomes less problematic. The CEH AND REMHI documentation is substantial, and it can be combined with other evidence and used to bring charges against Guatemalan perpetrators in international courts today (Hayner 2001:124-125) and perhaps in national trials in the future. The reports have become reserves of information for future prosecutions of Guatemalans who were complicit in the atrocities of the civil war.

The commissions' operations provoked new violence and some people turned them into tools of vengeance and vehicles for personal vendetta. People were threatened not to testify before either commission. "The mere act of witnessing can cost you your life" (Perera 1993:44). Of those who did testify, many were threatened afterward, some were publicly lynched (Godoy 2002:651), others disappeared, and some killed. Personal scores, usually not related to the actual atrocities of the civil war, were settled by denouncing a person to the commission, saying that they had been instrumental in carrying out a violent action. As officials had abused amnesty decrees to hide their personal criminal acts, people now use the truth commissions to express personal rage. Thus, while the truth process was useful, individuals could undermine its legitimacy.

These commissions worked toward an airing of the 'truth' about the civil war. The CEH commission spoke of reconciliation, while the REMHI report talked about creating a path to social reconstruction. If these ambitious goals are to be fulfilled, then

victims and survivors must be involved in the truth commission process. Neither commission held a single public hearing. Other commissions, such as the ones in South Africa and Sierra Leone, went to great efforts to complement their statement taking and report writing with public meetings to allow victims to testify and to allow a dialogue about the process. In Guatemala, the process was private, just as the civil war had been conducted in secrecy and shrouded in denial. While very real threats to personal safety existed, a closeted process severely limits its potential positive effects. Closed meetings curtail discussions of how the commission operates, who it selects to interview, how the data will be analyzed, and what it intends to do with the results.

Finally, neither commission sought to address the future needs of those who would be affected by demilitarization. The fate of civil patrollers, military intelligence personnel, and former soldiers who would lose their jobs was not discussed. To avoid creating a new class of individuals who feel marginalized and who could serve as a spark to new violence, the commissions should have considered this important issue.

### Analysis

Beginning with tribunals, “precedents of accountability, however selective and limited, contribute to the transformation of a culture of impunity that has hitherto implied the political acceptability of massive human rights abuses” (Akhavan 2001:8).

Accountability aids in removing criminals from leadership positions, which works to stigmatize and de-legitimize these individuals. But, Kritz (2001) has suggested that accountability is best done at the local level in order to have longer lasting effects, thus the ICTR tribunals would rank behind the national trials and gacaca tribunals. Kritz also

believes that individual accountability is very important. By focusing on individuals, ethnic and racial categories can be challenged. ‘Hutus’ did not commit the genocide in Rwanda, individuals did, encouraged by extremists in the government and national media. Holding entire ethnic groups responsible for the atrocities only sustains these colonial markers.

There are still many difficulties. In the case of massive violations, such as in Rwanda, traditional legal processes are overwhelmed. In Rwanda, it has been suggested that over one million people played an active role in the genocide. No justice system could possibly provide fair trials for that many cases. This inability to provide justice has undermined the legitimacy, authority and prestige of the ICTR. Akhavan (2001) cautions that the horror of the genocide cannot be encased and solved by legal means alone.

While tribunals can challenge racial and ethnic categories, the ICTR actively supported the identity tags assigned to Rwandans during the colonial era. It included a discriminatory intent clause in its core jurisprudence (Steiner and Alston 2000:1171). This meant that several crimes against humanity were only justiciable if the victim was a member of a specific targeted group. While this does not apply to all crimes the ICTR has jurisdiction over, it establishes a priori categories of Hutu as perpetrator and Tutsi as victim. This supports ethnic divisions and renders invisible ‘victor’s violence.’

In general, then, tribunals have three fundamental problems. First, as Ranck notes, they have a biased belief that individual justice leads to reconciliation. Amadiume echoes this sentiment by saying that it is “a modern arrogance to assume that courts are instruments of healing” (Amadiume 2000:52). Second, it is difficult to overcome the

stigmatization of these tribunals as victor's justice. While they might have the best intentions, perceptions often win out in the minds of the population, especially among victims who most likely have little chance of being given their day in court.

And third, legal, positivist narratives are not designed to capture the lived experience of victims of extreme violence (Mertus 2000; Ranck 1998). Legal proceedings demand a linear progression of discrete facts from which it can draw logical conclusions, but life is not experienced, remembered, or understood as a series of sequential events between isolated persons. Memory is a constructed entity, impacted by internal and societal forces, that is better imagined as a feeling or mood, rather than a photograph. Being able to describe this feeling can be beneficial to the larger society and the individual. Society benefits since it sees the interplay of many people and events that led to the creation of this feeling, instead of only a victim in a single case. The individual is allowed to tell a story, rather than merely itemize events. This provides a more complex description of the event and its impact on the narrator. In effect, the narrator becomes a three-dimensional person. However, there is a risk that the narrator will be re-traumatized by testifying (Hayner 2001:141-144). Recounting tales of extreme personal violence can create emotional and physiological problems. The judicial system should provide mental health services to those who testify.

Turning to truth commissions, Kritz (2001:812) believes they serve two important functions. First, if trials cannot be carried out, commissions can contribute to healing and reconciliation, by uncovering and making undeniable actions that happened in the past. Survivors know the details of their own experiences, but they may not know about the

pervasiveness of the violence. Sharing this information can help create relationships based on shared experiences. Second, they provide a forum for victims who would not have the chance to testify at trial. Perera (1993:189) echoes Kritz's support of a truth process since often there is no one to listen to victim's stories.

Even if people did receive their day in court, truth commissions look not just at individuals, but also at systemic problems that made the abuses possible. Their approach is not constrained by the need to prove individual guilt or innocence. Paul van Zyl, a lawyer for the South African Truth and Reconciliation Commission (SA TRC), suggests that truth commissions offer exploratory value that trials avoid by definition. He writes:

[trials] are about individual culpability, not about the system as a whole. Trials set up an 'us versus them' dynamic. A trial is not about 'our' complicity. It makes it look like 'they're' guilty, not us. So all of white South Africa can look at Eugene de Kock and say, 'evil guy,' and not realize they made him possible. But, a trial will never say that. (Hayner 2001:101)

But, while commissions shed some light on the past and offer a forum for those who would otherwise be unheard, they do introduce several problems. Starting with Lederach, he requires that all four social energies of reconciliation must be addressed in order for real change to occur. In Guatemala, we have calls for mercy (amnesties, forgiveness), constructions of truth (CEH, REMHI), and promises of peace, yet justice seems to be absent, as represented in part by the lack of individual accountability. Furthermore, reconciliation cannot simply be declared. Hayner suggests that true reconciliation might depend on a:

clear end to the threat of further violence; a reparations program for those injured; attention to structural inequalities and basic material needs of victimized communities; the existence of natural linkages in society that bring formerly opposing parties together, or most simply (although often

overlooked), the simple passage of time. (Hayner 2001:6)

In Guatemala, though, we have recommendations for reparations without the financial support to implement them. The state has refused to pay for or organize institutions to help survivors. Communities have had to put together their own organizations to provide mental health services. Dr. Roberto Cabrera and Sister Barbara Ford started a post-traumatic community health program in Quiché province in the early 1990s and their program continues today (Gonzalez 2003a). Green (1999:75) describes how Mayan war widows have gotten together on their own to work through their mental anguish. Being able to vocalize their experiences provides a form of catharsis.

As with trials, some interviewees may be re-traumatized as they recount their stories. Commissions should have mental health practitioners available to help survivors before, during, and after their testimony. Unfortunately, there is only a token amount of funding set aside for these services. If a commission starts the process of healing, it must remain fully engaged with those who testify until their healing is complete.

Truth commissions attempt to look at larger systemic issues when confronting the past. As in judicial proceedings, these attempts polarize people into constructed categories. Violence is portrayed as an aggressor, such as the state or the military, acting against a victim, such as a community. This high level view abstracts the real impact that the violence had on individuals. By not naming those responsible for the violence, commissions create a history where the violence was carried out by a nebulous entity. Without explicit information about the atrocities, it is impossible to hold individuals accountable for their actions. A better solution would include looking at individuals,

both victims and perpetrators, as well as situating these events within the larger processes of state-directed violence. Only by looking at both levels will there be a chance for real justice and reconciliation to begin.

And finally, is speaking the truth even what people are after? Silence does not imply not forgetting (Amadiume and An-Na'im 2000). Sandra Harding suggests that:

the questions an oppressed group wants answered are rarely requests for so-called pure truth. Instead, they are questions about how to change its conditions; how its world is shaped by forces beyond it; how to win over, defeat or neutralize those forces arrayed against its emancipation, growth, or development; and so forth. (Harding 1987:8)

To conclude this chapter, I will show how tribunals and truth commissions are subverted and abused by governments. While the idealized goals of these institutions are laudable, their implementations have at times marginalized, or rendered invisible, victims. Elites have used their power to craft solutions that fit their needs and compel less powerful groups to accept this as the only solution.

Tribunals and truth commissions provide a way for a new government to legitimize its power. After the types of violence seen in Rwanda and Guatemala, the role of government itself is thrown into confusion. If atrocities could occur with a government in place, then what use would it serve now? The first necessary action of any transitional government is to re-legitimize the right to govern. By positing their existence on securing the peace and providing justice, they recreate a role for themselves. Transitional justice mechanisms serve as a conduit to re-legitimize state authority that was either overthrown (Rwanda) or cosmetically reformulated (Guatemala). In

Guatemala, this resulted in legitimizing an illegitimate military government.

After establishing the general right to govern, new leaders must confirm their right to take up that role. In the modern nation-state system, the right to rule also must be negotiated on the international stage. While this outside nod might be perfunctory and done in order to protect the consciences of other nations, it still must be carried out. The new government can accomplish this by supporting UN-backed modes of transitional justice and preventing the recurrence of violence. Both Hayner and Wilson (2001) suggest that truth commissions have been used not to address the needs of the victim and perpetrator communities, but to shore up international legitimacy. This highlights the core of the debate on establishing order or providing justice, as Touval and Zartman (2001) and Hayner discuss. Demands for, and implementation of, justice can restart the violence that has only recently ended. But order without justice fails to address impunity and structural violence. Supporting tribunals shows that a government is at least cosmetically pursuing justice. Akhavan (1996) notes that the Rwandan government supported the ICTR's creation in order to show the world that it was not a vengeful power nor would it engage in extrajudicial actions.

Along with securing international acceptance, the new government must also secure local approval. This can be accomplished by providing a service which one or more groups of people demand. Problems arise when not every group is interested in the service offered. Tribunals and truth commissions offer a variety of options to a disparate set of groups. They offer retributive justice, an official confirmation of past violence, suggestions for systemic change, and so forth. However, they also offer impunity,

maintain current hierarchies of power, and officially approve the transfer of power from one group to another.

The ICTR provided retributive justice against Hutus, impunity for Tutsi actions during the genocide, and an official stamp of approval for the new Tutsi-led government. The CEH commission offered a glimpse at the vastness of the violence during the Guatemalan civil war, impunity for those who committed the atrocities, and the denial of legal justice for the victims of the war. The Guatemalan government supported the CEH process since it provided for their continued impunity, since perpetrators would not be named and the process would be a substitute for trials. Without the threat of real individual accountability behind it, current leaders could satisfy themselves that the CEH was less likely to have an effect that could transform the entire system and take away their political and economic power.

Once the authority to wield power is in place, the next issue is how it is used. Wilson (2001:20) called some of the SA TRC hearings a “theatricalization of state power.” The ICTR and CEH are also examples of theater, performed for the victims of the violence and for an international audience. These institutions show that the government is actively pursuing ‘something’ during the transitional period. Whether or not this ‘something’ is what people need is irrelevant. If the show fails, the leaders who supported it can say that they at least tried to do something. Inaction by the leadership would most likely be met with international repercussions and internal revolt.

These performances are replete with symbols of justice. There are victims and perpetrators, specifically named or collectively grouped. There are facts and findings.

The ICTR has judges. In the REMHI and CEH commissions, prelates and commissioners fill that role. As a show of state power, while individual outcomes might be questioned, the process itself is accepted. The performance has succeeded. Unfortunately, as past cases in both countries show, the proceeds of the 'show' go to the presenters, not to the participants.

All three institutions have held up the victims of the violence as heroes of the new state. Benedict Anderson (1991) puts forward the idea that nations are imagined through their war dead. Wilson (2001:115) cites Anderson and suggests that the SA TRC has used this notion. He describes how deaths investigated by the SA TRC are used to celebrate the birth of a new nation. The same applies to the REMHI and CEH commissions. In its recommendations, the CEH calls for the creation of a National Day of Dignity for the Victims of the Violence. It also asks for monuments, parks, buildings, and other public facilities to be named after individuals who lost their lives during the civil war. The REMHI report calls for ceremonies for, and monuments to, the dead. While honoring victims is important, it must not be used as a substitute for addressing what caused these people to be killed. These types of memorials tend to objectify the victims and place them securely in the past. Their memory becomes detached from the current needs of their family and friends, and is placed in the service of a peace process or legitimizing a new government. Their deaths are celebrated and their lives, along with the lives of the survivors, are placed into the background.

It appears that in addition to their chosen approach, each country should have included the other country's mechanism. Rwanda needs a truth commission and

Guatemala needs a tribunal. But, they would need to be altered to take into account the issues discussed in this chapter. I am reluctant to discard these institutions due to their failings. With concerted attention to what they can accomplish, and more importantly to what they cannot, truth commissions and tribunals can serve as effective components to a postconflict program of justice, and perhaps even assist in long-term reconciliation.

## CHAPTER 5

### CONCLUSIONS

"Peace is not an absence of war, it is a virtue, a state of mind,  
a disposition for benevolence, confidence, justice."  
- Baruch Spinoza (1632-1677)

With trials proceeding slowly in Rwanda and the Guatemalan truth commissions concluded and their reports gathering dust on shelves, what is the contemporary situation? Has there been justice or reconciliation? Has the state changed its role? Are there signs of reconciliation? Is there peace? Political leaders in both countries have spoken at great length on justice and reconciliation, but the current situation belies their rhetoric. Political and economic power still resides in the hands of a few. Poverty rates continue to be alarmingly high. Land tenure, economic reform, job training and creation, physical and mental health care, and reparations for the violence reside solely in the realm of political speeches.

With this thesis, I have shown that explaining the violence in both countries as primordial hatreds and senseless violence is baseless. The violence was conceived in structural violence that was maintained and exacerbated by the state in each country. The state and extremist politicians theorized and oversaw the Rwandan genocide. While individuals unaffiliated with the state committed many of the atrocities, this state-level orchestration defined the process and helped fuel the flames of the killing machine. In

Guatemala, the state theorized, managed, and carried out the killings, disappearances, and massacres, through the use of its military and affiliated civilian militias.

This thesis has also shown that structural violence continues to be a major factor in the daily lives of the survivors of the extreme violence seen in each country. Extreme poverty continues to plague the majority of people in each country. Poverty was high before the violence, and has only worsened in a postconflict world filled with victims, survivors, and millions of displaced people. The state continues to be the main actor in sustaining these types of violence. Both Rwanda and Guatemala have large numbers of landless people, high unemployment, low wages, and little opportunities to better their social and economic conditions. Guatemalan structural problems that have existed since the Conquest have yet to be seriously engaged or resolved by those who control the political, social, and economic levers of power.

I have also shown that there still is no real peace in either country. Rwanda has negative peace, one that is simply the absence of extreme violence. It is not Galtung's positive peace that includes creating and sustaining cultural, social and economic practices that lead to safe, fair, and healthy lives (Fisk 2000:161). In Guatemala, there is not even negative peace, as political and common violence continue to flourish. There have been peace accords and calls for reform but acute violence continues, although the distinction between what is political violence and what is common criminality has been blurred since the end of the civil war. Godoy (2002) reports that common crime has risen dramatically since the final peace accords were signed in 1996 and that political violence has resurged by the middle of 2000. An independent report (FIDH and OMCT 2003) on

threats, assassinations, assaults, and kidnappings of human rights workers is also disturbing. During the first half of 2002, one hundred and twenty-five incidents were reported. Many human rights organizations have had their offices raided and equipment stolen. Human rights workers are still seen as enemies by the state and force is still used to quell calls for socioeconomic justice. Ordinary people may also see human rights workers as enemies. These people feel the criminals preying on them do not have nor deserve any rights. Lynching of these common criminals is political violence.

I have shown that negotiated settlements and military victories have resulted in similar situations in each country, with the status quo effectively maintained. In Rwanda, the Hutu-Tutsi divide has not been resolved; it has merely undergone an inversion. Where Hutu had ruled in post-independence Rwanda, Tutsi now rule. The victor's justice of the RPF-based Tutsi leadership is focused on the past. This situation is validated and reinforced by the ICTR, national trials, and the gacaca tribunals. A new RPF-sponsored constitution, approved in May 2003, includes one article that "in effect prohibits political campaigning at grassroots level, restricting it to provincial and national institutions" (BBC News 2003c). By limiting alternative political voices, some critics fear that this will enable the RPF to maintain its control over power in the state. In Guatemala, the effects of the current government have not changed much since the civil war ended. A civilian president is in charge, but the military is still lurking in the shadows. The EMP still plays a major role throughout the country. Amnesty International (2003a) reports that the current president, Alfonso Portillo, promised to follow through on CEH and REMHI recommendations to disband the EMP, but he has

postponed taking the necessary steps to shut down the unit. The report further suggest that the EMP are linked to death squads that have threatened, attacked, disappeared, and killed judges, lawyers, witnesses, and activists in the post-civil war period.

I have also shown that the processes of truth-seeking and justice are not as straightforward as they appear. Through power it holds due to military, economic, or political might, the state has manipulated these processes to further its own agenda, rather than assisting the millions who survived the violence. In many cases, institutions that embody these processes have been used to reinforce, not diminish the ethnic and racial divides that precipitated the violence. In Guatemala, truth commissions have ‘recovered memory’ of the civil war period, but they have placed it firmly in the past. The government, by supporting these commissions, affirms a negative past but places itself at the vanguard for leading changes in the present, under the banner of reconciliation. While speaking about reconciliation in the SA TRC, Wilson could have applied his description to the Rwandan and Guatemalan experiences. He bluntly states that “reconciliation was the Trojan horse used to smuggle an unpleasant aspect of the past (that is, impunity) into the present political order, to transform political compromises into transcendental moral principals” (Wilson 2001:97).

Finally, I have shown how individual agency has been circumscribed in both countries. Some efforts were made but they were ineffectual or only generated small gains. Organizing across racial, class, and ethnic lines was fought hard by powerful elites. In Rwanda, Hutu power zealots used negative Tutsi propaganda to keep poor Hutu separate from all Tutsis. Even though these two groups faced equal economic

domination, the stigmatization of ethnicity was raised in order to prevent coalitions. In Guatemala, labor organizing was a major thrust to unite people along class rather than racial lines. But, the anticommunism of the early to middle twentieth century and the counterinsurgency focus of the latter twentieth century effectively destroyed much of the movement. Landowners also fought unions to secure their capital holdings, protecting their main conduit to the leadership of the country. Land ownership is a formidable power that rests in the hands of only a few wealthy families (Vilas 1996:475). Sadly, the civil patrol system provided a means for some indigenous males to gain abusive power over other Maya and even Ladinos. Ladinos who resided or traveled in civil patrol zones resented being subjected to a Mayan invested with such power (Manz 1988b:81). Demobilizing the civil patrols is a threat to this power. Reforms are necessary to replace this authority with one that offers equal access to social and political power for both Maya and Ladinos.

\* \* \* \* \*

Attempts at justice and reconciliation, in and of themselves, are good. But, how they are carried out seems to betray their idealistic definitions. At the core of this betrayal is power: who has it, how do they use it, and who does not have it. Tribunals, truth commissions, trials, and reconciliation processes are tools. They can be used to improve the lives of those who suffered during the violence. Unfortunately, they can also be used to sustain the inequalities that are at the root of the acute and structural violence. Real change requires an unmasking of how power operates.

To assist this struggle, the roles played by peace and human rights activists need

to be critically reevaluated. While these groups act with the best intentions, there are many stumbling blocks along the path. The paradigm of human rights is an approach where the search for a better future state is strived for in the present. Mahmood (2003) suggests that this is a better approach than one that speaks of reconciliation and peace. She describes how authoritarian states have used the terms peace and reconciliation as linguistic cover for “pacification and security” (Mahmood 2003:8). While this is true, she discredits the deeper meanings these words can carry, the ones that I have ascribed to them throughout this thesis. Care must be taken with regard to how peace, reconciliation, and even human rights are used by different actors at different moments. Wilson (1997:23) writes that human rights cannot exist outside of history, context, or agency. I can speak of a right to life, a right to food, or a right to political participation, but unless these rights are grounded in the historical moment, they are merely nebulous concepts. While the struggle for human rights is phrased as a political struggle, by atomizing rights, we decontextualize them. This can have the unintended consequence of depoliticizing the entire endeavor. If rights exist as singular objects, their interaction with other rights and with lived experience becomes tenuous. Focusing on one right denies the interconnectedness of rights; they are not items to be checked off on a list. Taken together, they represent a three-dimensional image of human dignity.

Understanding how human rights have played out in Rwanda and Guatemala is vital to making future engagements more fulfilling. Many groups took the side of the Tutsis and RPF after the genocide in Rwanda. While the Tutsis had been on the receiving end of unspeakable atrocities during the genocide, to single them out and place

them on a pedestal does a disservice to the complex national history. Hutus suffered greatly under the colonial regime while Tutsis actively participated with German, Belgian, and Church authorities. Choosing sides also homogenizes Hutus into one group, ignoring past and present class discrimination by richer Hutu against poorer ones.

A Human Rights Watch (2003) report paints Tutsis as full human beings while Hutus are sketched only as one-dimensional characters. Gourevitch (1998) sides with the Tutsi and RPF, excluding a discussion of colonial Tutsi actions and minimizing RPF atrocities. He also expresses anger that the UNHCR provided aid to post-genocide Hutu refugees in Congo. His resentment is that Tutsi survivors are not receiving similar or better assistance. In his mind, the Tutsis were the victims and that many of the Hutu refugees were active participants in the slaughter. While I agree with his frustration at the lack of support for Tutsi survivors, he polarizes the situation into a zero-sum game where only one side is deserving of aid. Not every Hutu refugee was rich, politically powerful, or complicit in the genocide. To homogenize almost two million Hutu refugees into undeserving killers is simply outrageous. Refugee services can be reformulated without increasing ethnic animosities.

Involvement by human rights activists and organizations has not always been negative. Both Power and Uvin note that the UN peacekeeping forces in Rwanda served as a deterrent to more than a few killings. If foreigners were present, armed or unarmed, there was a hesitation among the Hutu to slaughter their victims. In Guatemala, international human rights and labor organizations worked with local organizations to put pressure on the US-based offices of Coca-Cola to compel their Guatemalan subsidiary to

stop suppressing its worker's union and to prevent the killings of the union's leaders (Levenson-Estrada 1994).

International human rights advocates have power. This power includes an economic component, derived from their funding. It takes money to compensate investigators and to write and publish reports. Their power also includes a political piece. Being connected with international organizations or powerful states allows them to engage at different levels of the power hierarchy in a targeted country. My concern is with how this power is exercised. Advocates should not place themselves in the vanguard of the human rights struggle. Their power and influence should be placed at the disposal of those who are struggling for their own survival and for human dignity.

All activists have a responsibility to understand the repercussions of their actions. Goode (2001:391) documents how outsiders can and do slow or regress local, cross-racial, class-based political identity formation. Targeted economic aid is one example of this. In the description of aid being provided to Guatemalan widows, one of the outcomes was that these women were further distanced from other groups that bore similar burdens during the civil war. What about aid for poor Ladino women who lost their husbands? A potential unifying factor can be erased by an unintended consequence of helping one group. Apart from the extreme physical violence seen in Rwanda and Guatemala, the most predominant form of violence is economic. Anything that subverts a working poor struggle works against fighting contemporary structural violence. Ethnic and racial identities must be discarded. This fight should focus on the common needs and desires of survivor populations. It must address issues of equality, fair labor practices,

job training, job creation, and the redistribution of material wealth, including land.

There are several actions that can help work towards true justice, reconciliation, and equality. First, any approach needs to be interdisciplinary. It must involve social scientists, politicians, lawyers, teachers, religious groups, and most importantly, the communities affected by the violence. Saunders (2001:484) writes that “until we work with that large a conceptual context, we will not have adequate theories of conflict prevention, management, [or] resolution.”

Second, all parties must have active roles in the long-term peace process that follows a period of violence. While the binary of perpetrator/victim, established by tribunals and hinted at in truth commissions, tries to marginalize the perpetrator, without their involvement, the hopes for a lasting peace are dramatically reduced. In his discussion of Rwanda, Mamdani writes that “the key lesson [of Rwandan political history] is that one cannot put an end to the civil war by excluding one party to it, especially the party most entrenched in its partisan ideology” (Mamdani 2001:278). While the extremist Hutu who formulated and carried out the genocide certainly were entrenched in their belief system, the post-genocide Tutsi leadership has also picked up the mantra of ‘us versus them.’

Third, removing the guilty and their accomplices from the structures of power must be done with care. It is a difficult balancing act. “Rather than contributing to reconciliation and rebuilding, such purges may create a substantial ostracized opposition that threatens the stability of the new system” (Kritz 2001:811). The sword of justice must not be wielded in vengeance. Groups should avoid the pitfall of revenge. In the

cases of Rwanda and Guatemala, revenge would likely incite another genocide.

Finally, of paramount importance, structural problems have to be addressed. Data must be gathered from the ground up in order to penetrate the official veil of government reports and partisan belief systems. The poor, landless, and survivors of the violence must be at the center of this discussion. To this end, economic, social, and cultural rights must be attended to, in addition to civil and political ones. Democracy does not guarantee social justice. Access to, and funding for, education are critical. Job training, and naturally job opportunities, must be provided. Land tenure must finally be addressed.

## REFERENCES

Akhavan, Payam

- 2001 Beyond Impunity: Can International Criminal Justice Prevent Further Atrocities? *American Journal of International Law* 95(1):7-31.
- 1996 The International Criminal Tribunal for Rwanda: The Politics and Pragmatics of Punishment. *American Journal of International Law* 90(3):501-510.

Amadiume, Ifi and Abdullahi An-Na'im

- 2000 Introduction. *In The Politics of Memory: Truth, Healing and Social Justice*. Ifi Amadiume and Abdullah An-Na'im, eds. Pp. 1-19. London: Zen Books.

Amadiume, Ifi

- 2000 The Politics of Memory: Biafra and Intellectual Responsibility. *In The Politics of Memory: Truth, Healing & Social Justice*. Ifi Amadiume and Abdullah An-Na'im, eds. Pp. 38-67. London: Zed Books.

Amnesty International

- 2003a Guatemala: Accountable Intelligence or Recycled Repression? Abolition of the EMP and Effective Intelligence Reform. AI Index: AMR 34/031/2003. Electronic document, [www.amnesty.org/library/index/ENGAMR340312003](http://www.amnesty.org/library/index/ENGAMR340312003), accessed July 2, 2003.
- 2003b Guatemala: Violence against land activists must stop. AI Index: AMR 34/019/2003. Electronic document, [www.amnesty.org/library/index/ENGAMR340192003](http://www.amnesty.org/library/index/ENGAMR340192003), accessed July 31, 2003.
- 2002 Rwanda: Gacaca— gambling with justice. Press Release: AFR 47/003/2002. London: Amnesty International.

An-Na'im, Abdullahi and Svetlana Peshkova

- 2000 Social Movements Revisited: Mediation of Contradictory Roles. *In The Politics of Memory: Truth, Healing & Social Justice*. Ifi Amadiume and Abdullah An-Na'im, eds. Pp. 68-89. London: Zed Books.

Anderson, Benedict

- 1991 *Imagined Communities: Reflections on the Origins and Spread of Nationalism*. 2nd edition. London: Verso.

Archdioceses of Guatemala and Thomas Quigley

- 1999 *Guatemala: Never Again!* Maryknoll, NY: Orbis Books.

Bamford, David

- 2003 Genocide prosecutor 'to go'. BBC News Online, July 29.
- 2002 Rwanda sets up genocide courts. BBC News Online, November 25.

BBC News

- 2003a Anger at Release of Rwandan Killers. BBC News Online, January 7.
- 2003b Extra genocide judges 'no use'. BBC News Online, June 26.
- 2003c Rwandans vote on new constitution. BBC News Online, May 26.
- 2002 Rwanda tests genocide courts. BBC News Online, June 19.

Bierce, Ambrose

- 1999 [1911] *The Devil's Dictionary*. Oxford: Oxford University Press.

Carmack, Robert M.

- 1988 The Story of Santa Cruz Quiché. *In Harvest of Violence: The Maya Indians and the Guatemalan Crisis*. Robert M. Carmack, ed. Pp. 39-69. Norman, OK: University of Oklahoma Press.

Chakrabarty, Dipesh

- 1997 The Time of History and the Times of Gods. *In The Politics of Culture in the Shadow of Capital*. Lisa Lowe and David Lloyd, eds. Pp. 35-60. Durham: Duke University Press.

Commission for Historical Clarification

- 1999 *Guatemala: Memory of Silence - Conclusions and Recommendations*. Guatemala City: CEH.

Cullather, Nick

- 1999 *Secret History: The CIA's Classified Account of its Operations in Guatemala, 1952-1954*. Stanford: Stanford University Press.

Davis, Shelton H

- 1988 Introduction: Sowing the Seeds of Violence. *In Harvest of Violence: The Maya Indians and the Guatemalan Crisis*. Robert M. Carmack, ed. Pp. 3-36. Norman, OK: University of Oklahoma Press.

de Leon, Sergio

- 2003a Ex-Guatemalan Dictator Registers for Run. Associated Press Wire, July 31.
- 2003b Oil Pumping Station Seized in Guatemala. Associated Press Wire, April 2.

Ebel, Roland H.

- 1988 When Indians Take Power: Conflict and Consensus in San Juan Ostuncalco. *In Harvest of Violence: The Maya Indians and the Guatemalan Crisis*. Robert M. Carmack, ed. Pp. 174-191. Norman, OK: University of Oklahoma Press.

Farmer, Paul

- 1999 *Infections and Inequalities: The Modern Plagues*. Berkeley: University of California Press.

FIDH and OMCT

- 2003 *Human Rights Defenders on the Front Line: Annual Report 2002*. Paris, France: International Federation for Human Rights (FIDH) and World Organization Against Torture (OMCT).

Fisk, Larry J.

- 2000 *Shaping Visionaries: Nurturing Peace Through Education*. In *Patterns of Conflict, Paths to Peace*. Larry J. Fisk and John Schellenberg, eds. Pp. 159-193. Orchard Park, NY: broadview press.

Gedda, Gorge

- 2003 *Washington Squirms Over Guatemalan Race*. Associated Press, May 23.

Godoy, Angelina Snodgrass

- 2002 *Lynchings and the Democratization of Terror in Postwar Guatemala: Implications for Human Rights*. *Human Rights Quarterly* 24:640-661.

Gonzalez, David

- 2003a *Guatemalans Try to Mend Ties Snapped by War: Modern Methods and Mayan Beliefs*. *The New York Times*, February 27: A8.  
 2003b *Justice in Guatemala Can Be Gasoline and a Match*. *The New York Times*, March 8: A3.

Goode, Judith

- 2001 *Let's Get Our Act Together: How Racial Discourses Disrupt Neighborhood Activism*. In *The New Poverty Studies: The Ethnography of Power, Politics, and Impoverished People in the United States*. Judith Goode and Jeff Maskovsky, eds. Pp. 364-398. New York: New York University Press.

Gourevitch, Philip

- 1998 *We wish to inform you that tomorrow we will be killed with our families: Stories from Rwanda*. New York: Picador USA.

Grandin, Greg

- 2000 *The Blood of Guatemala: A History of Race and Nation*. Durham: Duke University Press.

Green, Linda

- 1999 *Fear as a Way of Life: Mayan Widows in Rural Guatemala*. New York: Columbia University Press.

Hale, Charles R.

- 1997 Consciousness, Violence, and the Politics of Memory in Guatemala. *Current Anthropology* 38(5):817-838.

Harding, Sandra

- 1987 Introduction: Is There a Feminist Method? *In* *Feminism and Methodology*. Sandra Harding, ed. Pp. 1-14. Bloomington: Indiana University Press.

Hayner, Priscilla B.

- 2001 *Unspeakable Truths: Confronting State Terror and Atrocities*. New York: Routledge.

Human Rights Watch

- 2003 *Lasting Wounds: Consequences of Genocide and War on Rwanda's Children*. New York: Human Rights Watch.

International Criminal Tribunal for Rwanda

- 2003 ICTR Newsletter for June 2003. Arusha, Tanzania: External Relations and Strategic Planning Section– Immediate Office of the Registrar, United Nations International Criminal Tribunal for Rwanda.

International Labor Organization

- 1996 *World Employment 1996/97*. Geneva: International Labor Organization.

Jordan, Mary

- 2003 Guatemala Strife to Be Probed. *Washington Post*, March 15: A20.

Khan, Rasheeduddin

- 1978 Violence and Socio-economic Development. *International Social Sciences Journal* 30(4):834-857.

Kritz, Neil J.

- 2001 The Rule of Law in the Postconflict Phase: Building a Stable Peace. *In* *Turbulent Peace: The Challenges of Managing International Conflict*. Chester A. Crocker, Fen Osler Hampson, and Pamela Aall, eds. Pp. 801-820. Washington, DC.: United States Institute of Peace Press.

Lauren, Paul Gordon

- 1998 *The Evolution of International Human Rights: Visions Seen*. Philadelphia: University of Pennsylvania Press.

Lederach, John Paul

- 2001 Civil Society and Reconciliation. *In* *Turbulent Peace: The Challenges of Managing International Conflict*. Chester A. Crocker, Fen Osler Hampson, and Pamela Aall, eds. Pp. 841-854. Washington, DC: United States Institute of Peace Press.

Levenson-Estrada, Deborah

- 1994 Trade Unionist Against Terror: Guatemala City 1954-1985. Chapel Hill, NC: The University of North Carolina Press.

Licklider, Roy

- 2001 Obstacles to Peace Settlements. *In* *Turbulent Peace: The Challenges of Managing International Conflict*. Chester A. Crocker, Fen Osler Hampson, and Pamela Aall, eds. Pp. 697-718. Washington, DC: United States Institute of Peace Press.

Lubega, Henry

- 2003 Freed Genocide Convicts Begin Journey Home. *The East African*, March 31.

Mahmood, Cynthia Keppley

- 2003 Agenda for an Anthropology of Peace. *Anthropology News* 44(5):8.

Malkki, Liisa H.

- 1995 Purity and Exile: Violence, Memory, and National Cosmology among Hutu Refugees in Tanzania. Chicago: The University of Chicago Press.

Mamdani, Mahmood

- 2001 When Victims Become Killers: Colonialism, Nativism, and the Genocide in Rwanda. Princeton: Princeton University Press.

Manz, Beatriz

- 1988a Refugees of a Hidden War: The Aftermath of Counterinsurgency in Guatemala. Albany: State University of New York Press.
- 1988b The Transformation of La Esperanza, an Ixcán Village. *In* *Harvest of Violence: The Maya Indians and the Guatemalan Crisis*. Robert M. Carmack, ed. Pp. 70-89. Norman, OK: University of Oklahoma Press.

Menchú, Rigoberta

- 1984 I, Rigoberta Menchú: An Indian Woman in Guatemala. Ann Wright, trans. London: Verso.

Mertus, Julie

- 2000 Truth in a Box: The Limits of Justice through Judicial Mechanisms. *In* The Politics of Memory: Truth, Healing & Social Justice. Ifi Amadiume and Abdullah An-Na'im, eds. Pp. 142-161. London: Zed Books.

Miles, Nick

- 2003 Guatemalan ex-paramilitaries riot. BBC News Online, May 6.

Nagengast, Carole

- 1994 Violence, Terror, and the Crisis of the State. *Annual Review of Anthropology* 23:109-136.

Newbury, Catharine and David Newbury

- 1995 Identity, Genocide, and Reconstruction in Rwanda. Paper presented at the Conference on Les Racines de la Violence dans la Région des Grands-Lacs, Bruxelles, January 12-13.

Newbury, Catharine

- 1988 The Cohesion of Oppression: Clientship and Ethnicity in Rwanda, 1860-1960. New York: Columbia University Press.

Nowrojee, Binaifer and Regan Ralph

- 2000 Justice for Women Victims of Violence: Rwanda after the 1994 Genocide. *In* The Politics of Memory: Truth, Healing & Social Justice. Ifi Amadiume and Abdullah An-Na'im, eds. Pp. 162-183. London: Zed Books.

Pan American Health Organization (PAHO)

- 1998 Health in the Americas: 1998 Edition, Volume 2. Washington, DC: Pan American Health Organization.

Paul, Benjamin D. and William J. Demarest

- 1988 The Operation of a Death Squad in San Pedro la Laguna. *In* Harvest of Violence: The Maya Indians and the Guatemalan Crisis. Robert M. Carmack, ed. Pp. 119-154. Norman, OK: University of Oklahoma Press.

Perera, Victor

- 1993 Unfinished Conquest: The Guatemalan Tragedy. Berkeley: University of California Press.

Power, Samantha

- 2003 Rwanda: The Two Faces of Justice. *New York Review of Books*, January 16: 47-50.
- 2002 "A Problem from Hell": America and the Age of Genocide. New York: Basic Books.

- 2001 Bystanders to genocide. *In* The Atlantic Monthly. Vol. 288. pp. 84-108.
- Rabasa, José  
 1997 Of Zapatismo: Reflections on the Folkloric and the Impossible in a Subaltern Insurrection. *In* The Politics of Culture in the Shadow of Capital. Lisa Lowe and David Lloyd, eds. Pp. 399-431. Durham: Duke University Press.
- Rage Against the Machine  
 1999 Testify. *From* The Battle of Los Angeles. New York: Sony Music Entertainment, Inc.
- Ranck, Jody Lee  
 1998 The Politics of Memory and Justice in Post-Genocide Rwanda. Doctor of Public Health dissertation, School of Public Health, University of California, Berkeley.
- Rapley, John  
 2002 Understanding Development: Theory and Practice in the Third World. Boulder, CO: Lynne Rienner Publishers.
- Rwanda, Government of  
 1999 Background to the 2000 Budget. Kigali: Ministry of Finance and Economic Planning.
- Saldaña-Portillo, María Josefina  
 1997 Developmentalism's Irresistible Seduction— Rural Subjectivity under Sandinista Agricultural Policy. *In* The Politics of Culture in the Shadow of Capital. Lisa Lowe and David Lloyd, eds. Pp. 132-172. Durham: Duke University Press.
- Sanford, Victoria  
 2000 Buried Secrets: Truth and Human Rights in Guatemala. Ph.D. dissertation, Department of Anthropology, Stanford University.
- Saunders, Harold H.  
 2001 Prenegotiation and Circum-negotiation: Arenas of the Multilevel Peace Process. *In* Turbulent Peace: The Challenges of Managing International Conflict. Chester A. Crocker, Fen Osler Hampson, and Pamela Aall, eds. Pp. 483-496. Washington, DC: United States Institute of Peace Press.
- Schirmer, Jennifer  
 1998 The Guatemalan Military Project: A Violence Called Democracy. Philadelphia: University of Pennsylvania Press.
- Smiley, Tavis  
 2003 Rwanda Women: Interview with Kimberlee Acqu. National Public Radio: The Tavis Smiley Show, February 21.

Smith, Carol A.

- 1988 Destruction of the Material Bases for Indian Culture: Economic Changes in Totoncapán. *In Harvest of Violence: The Maya Indians and the Guatemalan Crisis*. Robert M. Carmack, ed. Pp. 206-231. Norman, OK: University of Oklahoma Press.

Steiner, Henry J. and Philip Alston

- 2000 *International Human Rights in Context: Law, Politics, Morals*. Oxford: Oxford University Press.

Temple-Raston, Dina

- 2003 Rwanda Gacaca. National Public Radio: Morning Edition, January 16.

Touval, Saadia and I. William Zartman

- 2001 *International Mediation in the Post-Cold War Era. In Turbulent Peace: The Challenges of Managing International Conflict*. Chester A. Crocker, Fen Osler Hampson, and Pamela Aall, eds. Pp. 427-443. Washington, DC.: United States Institute of Peace Press.

Uvin, Peter

- 1998 *Aiding violence : the development enterprise in Rwanda*. West Hartford, CT: Kumarian Press.

Vilas, Carlos M.

- 1996 Prospects for Democratisation in a Post-Revolutionary Setting: Central America. *Journal of Latin American Studies* 28(2):461-503.

Widner, Jennifer

- 2001 Courts and Democracy in Postconflict Transitions: A Social Scientist's Perspective on the African Case. *American Journal of International Law* 95(64):64-75.

Williams, Raymond

- 1977 *Marxism and Literature*. Oxford: Oxford University Press.

Wilson, Richard A.

- 2001 *The Politics of Truth and Reconciliation in South Africa: Legitimizing the Post-Apartheid State*. Cambridge: Cambridge University Press.
- 1997 *Human Rights, Culture and Context: An Introduction. In Human Rights, Culture & Context: Anthropological Perspectives*. Richard A. Wilson, ed. Pp. 1-27. *Anthropology, Culture and Society*. London: Pluto Press.

Zur, Judith

- 1994 The Psychological Impact of Impunity. *Anthropology Today* 10(3):12-17.