

**The Religious in Responses
to Mass Atrocity**
Interdisciplinary Perspectives

Edited by

THOMAS BRUDHOLM

University of Copenhagen

THOMAS CUSHMAN

Wellesley College

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DANIEL PHILPOTT

8. When Faith Meets History: The Influence of Religion on Transitional Justice

Over the past couple of decades, a historically unusual concatenation of societies – Germany, Rwanda, Guatemala, South Africa, and so many others – has confronted the injustices of their past, ranging from systematic authoritarian suppressions to the mass atrocities of communal conflict. Words and images persist: defiant dictators in the docket at the trial of the century (of which the last century featured many), relatives facing the killers of their kin at truth commissions, debates over reparations, and typically a surrounding clamor of charges and countercharges: victors' justice, no justice, stunted justice, retributive justice, perverted justice, restorative justice, injustice. Occasionally, the clamor has yielded a long awaited just verdict, a head of state's healing speech, or a genuine expression of repentance and forgiveness, moments where "hope and history rhyme," in the words of Irish poet Seamus Heaney.

In these diverse scenes, one often describes miters, beards, clerical robes, pectoral crosses, or clusters of women chanting prayers. In the politics of transitional justice, religion is often, though not always, involved. Journalists and chroniclers sometimes have made much of this involvement, but not usually scholars, few of whom have sought to chart it systematically (exceptions are Graybill, 2001; Vinjamuri and Boesenecker, forthcoming). To be sure, theologians have written about the ethics of transitions, many of them urging reconciliation and forgiveness (de Gruchy, 2003; Schreier, 1998; Volf, 1996).

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But does religion actually make a difference in the politics of transitions? Or is its effect mostly lapidary, ceremonial, and sacral?

Religious leaders and their organizations have in fact played remarkably varied roles in transitional justice, this chapter argues. In many locales, they have encouraged and even conducted truth commissions; less often, they have urged trials; in some places, they have worked for healing within civil society; in other instances, they have exercised little influence at all due to a legacy of complicity in authoritarianism or even mass atrocity.

Why does religion diverge so widely in its influence on transitional justice? What factors shape this influence? These are the central questions of this chapter. It begins by categorizing major approaches to transitional justice. It then charts the kinds of influence that religious actors have had on it and offers some correlational evidence for this influence in 15 countries. Next, it proposes an explanation for why religious leaders and organizations are highly influential in the transitional justice of some countries like Guatemala and South Africa, but hardly influential at all in other countries like Rwanda. It then tests this explanation through cases. Finally, it asks why almost all of these countries are Christian, Protestant, and Catholic at that. Might the argument travel more widely? All in all, the chapter holds that religion matters in transitional justice, but in certain ways and under certain kinds of circumstances.

Institutions for Transitional Justice

A genocide in Rwanda that killed 800,000 people, four decades of communist rule in East Germany that took comparatively few lives but violated the human rights of many, apartheid in South Africa, the Guatemalan military's massacres of Mayans: these are the various and dolorous subjects of transitional justice. They include both authoritarian regimes and civil wars, but always involve large scale and sustained violations of basic human rights.

In a very inexact sense, transitional justice takes place after these episodes have come to a halt through a peace settlement or the downfall of an authoritarian regime. The claim is inexact because a peace settlement can then experience stops, starts, and breakdowns; war and authoritarianism is not always succeeded by democracy; and because some efforts to "deal with the past," to borrow a phrase common in Northern Ireland, do not take place until years or even decades following a transition. When countries do undertake transitional justice, though, their approaches fall into two broad categories, ones that emerge as distinct in the arguments, justifications, and purposes of advocates, detractors, participants, and commentators: "truth recovery"

and "punitive justice." The distinction, though, is hardly a pure one, either conceptually, in that aspects of each are contained in the other, or in practice, in that transitional societies often adopt both at the same time, though in different proportions and with different levels of emphasis, ambition, vigor, and success.

Truth recovery aims to uproot the truth about the past. Its quintessential form is a truth commission, a temporary body appointed by the state (or, in some cases, the United Nations) to unearth the human rights violations of a specified period (Hayner, 2001, p. 14). Usually, truth commissions culminate in the publication of a comprehensive report of these violations. Reasonably included is also the work of "quasi-truth commissions," civil society organizations who investigate the past political injustices of an entire state, much as official truth commissions do. In Brazil, Chile, and Guatemala, it was indeed churches that played this role. Advocates of truth recovery offer several rationales for knowing the truth about the past. It contributes to victims' healing and the restoration of their citizenship, creates a public record of the past that disables the lies through which perpetrators vindicate and re-empower themselves, establishes the new regime on the basis of truth and accountability, encourages deliberative democracy, and promotes reconciliation between victims and perpetrators (Arnstutz, 2005, pp. 91–113; Gutmann and Thompson, 2000; Ignatieff, 1996; Minow, 1998; Neier, 1995, p. 34).

The task here is not to evaluate these rationales or to determine how just any transition has been. In this volume, Thomas Brudholm, Nigel Biggar, Arne Grøn, and R.A. Duff offer fine examples of normative reasoning about responses to past atrocities. Here, the task is empirical. Still, if comparisons between truth recovery efforts are to be made, criteria are needed for determining their scope, ambition, and success. Only some of these criteria can be measured quantitatively, while the relative importance of any of them in the overall truth recovery effort is quite subjective. For any given country, though, the criteria can be assessed and aggregated to such an extent that comparisons can be made. The criteria include: How extensive are they in their budget, their staff, and in the amount of time they are given to investigate? What portion of the human rights violations during the period of war or authoritarianism does the commission report? How extensively does it report them? What proportions of victims testify? An important strength of truth recovery is balance. Its efforts are not simply a victors' justice that only tells one side's story and disproportionately punishes one side's perpetrators. Further: Are truth recovery institutions empowered with subpoena, search and seizure, and witness protection? Do they name perpetrators? To what extent do they grant perpetrators amnesty in order to secure their testimony?

Do they involve hearings? Do they both promise and provide reparations to victims? Do they promote apology and forgiveness? Were these efforts well-received? It is important to remember that any truth recovery effort, even those that score highest on these criteria, will be mixed in its results and pockmarked with compromises and misfires of justice. It is in comparison with one another that truth commissions are judged strong or weak.

Punitive justice, in contrast, aims to try and punish human rights violators – proportionately, with respect for due process. Its quintessential institution is the courtroom trial, but it can also involve purgative procedures – "lustration," as they are known in the Central European context – that debar perpetrators from government positions. Proponents of punitive justice defend it according to the intrinsic value of retributive justice, but also for its contribution to human rights, democracy, the rule of law, and deterrence of crime in the context of new regimes. Punitive justice can even contribute to the discovery of the truth about past injustices.

For punitive justice, too, there are criteria for judging comparatively the strength of institutions. How empowered – with personnel, money, the power to elicit testimony, and public prestige – is an institution for assessing and determining guilt? What portion of human rights violations does it cover? How many are tried? Convicted? Later pardoned due to political pressure? What portion of total violators do they include? Are violators on all sides of a conflict tried? What powers does a punitive institution possess to elicit testimony? Finally does it promote the rule of law through fairness, due process, and right procedure?

With these criteria, transitional societies can be compared according to the relative strength of their institutions for truth recovery and punitive justice, each ranging along a continuum of "strong," "moderately strong," "moderately weak," "weak," and "nonexistent." Table 8.1 arrays 15 countries into a chart according to the strength of their institutions.

An initial glance shows a spread of both kind of institutions, arrayed from strong to weak. Rare are countries with strong institutions of both kinds. Countries with strong truth recovery institutions tend to have weak punitive justice institutions or lack them altogether, while those with the comparatively strongest punitive justice institutions range from strong to weak in their truth recovery institutions. Only one country examined, Northern Ireland, has developed neither sort of institution. The 15 countries were indeed selected to include strong and weak institutions of both kinds as well as institutions prominent for their magnitude or historical significance, thus offering grist for a robust comparative assessment of the influences behind their institutions (George, 1979; King et al., 1994).

Table 8.1. Comparative strength of truth commissions.

Truth Recovery			
Punitive justice	None	Weak	Moderately strong
None	Northern Ireland		Strong
Weak	Poland		Perru
Moderately weak	Czech Republic		El Salvador; Guatemala; Brazil; South Africa
			Argentina; Sierra Leona; East Timor
Moderately strong	Rwanda; Former Yugoslavia		Germany; Chile
Strong			

Behind Choices of Transitional Justice

"Hermeneuticists of suspicion," as philosopher Paul Ricoeur called them, will doubt that religion, or any set of ideas, explains transitional justice. The most credible and parsimonious version of such suspicion looks to the relative power of the negotiators of transitions. So goes Samuel P. Huntington's explanation for whether prosecutions occur in democratic transitions (1991, pp. 211–231).¹ His reasoning can easily be adapted to include truth recovery and the context of civil wars.

Political transitions, the logic of power runs, involve a contest between the prior regime and its opponents. The stakes are high. They have been vying mightily, either through open war or through a struggle pitting police forces against popular demonstrations. They know that for the loser, justice could mean long prison terms, public dishonor, or even death. Transitional justice interests them keenly.

In some transitions, which Huntington calls "transformations," members of the regime in power take the lead in negotiating a transition to democracy or an end to civil war.² Because of their relatively strong role in initiating and conducting talks with their democratic opponents, the regime's members are able to prevent their own prosecution, and usually to secure an amnesty for themselves (Huntington, 1991, p. 114, pp. 215–217). Punitive justice, then, does not result. In El Salvador, Guatemala, and, at first, Chile, settlements of civil wars even left many top military officials in powerful positions – and unpunished for their human rights violations, of course.

Other transitions occur through what Huntington calls "replacement." Here, the ruling regime is defeated, overthrown, or exits power under heavy pressure, leaving its successors with control over the police, the armed forces, and the judiciary. Punitive justice is far more likely (Huntington, 1991, p. 114, pp. 217–225). It is the means by which victors disempower, discredit, and punish their opponents. A stark example was the execution of Communist President Nicolae Ceaușescu in Romania's transition in December 1989.

Huntington posits a hybrid category, "transplacement," where democratization results from joint action by the regime and opposition groups. The outcome for transitional justice will be the result of a tug-of-war between the two parties. The regime's members will secure some sort of amnesty for themselves, though it may be reversed or overthrown. Punitive justice may result, but it will likely be weak.

Again, Huntington focuses his explanation on punitive justice. A mirror argument for truth recovery, also rooted in power, is not difficult to imagine. Truth telling, and still more, reconciliation, the logic runs, are sops for justice unachieved. Where opposition forces are too weak to overthrow a regime and establish a new one on their own terms, they will have to settle for less than the prosecutions that they would desire. Truth recovery is their consolation prize. Where they succeed in disempowering the regime, by contrast, they will push for prosecution. Truth recovery, then, is likely to emerge in transformations, and perhaps sometimes in transplacements, but not in replacements.

In every transition, "[j]ustice was a function of political power," Huntington concludes (1991, p. 225). Replacements produce punitive justice and no truth recovery; transformations produce solid amnesty, but often efforts to uncover the past as well; transplacements yield amnesty, but on shakier terms, and sometimes truth recovery. The underlying logic is embodied in Thucydides' description of the punitive justice that Athens imposed upon Melos during a very different time: "the strong do what they can and the weak accept what they must."³

How well does a relative power explanation account for transitions? Table 8.2 arrays the 15 countries shown on Table 8.1, posing the nature of each country's transition side by side with its truth recovery and punitive justice ratings. Though the sample is too small to demonstrate an indubitable statistical correlation between transition type and transitional justice approach, it may still be investigated for patterns. The relative power explanation proves to account for an important part of the outcome, especially regarding punitive justice, as Huntington claims. Replacement transitions

Table 8.2. Type and strength of transitions.

Country	Transition	Truth recovery	Punitive justice
South Africa	Transformation	Strong	Weak
Guatemala	Transformation	Strong	Weak
East Timor	Transformation	Strong	Moderately weak
Chile	Transformation	Moderately strong	Moderately strong
Peru	Transformation	Strong	None
Sierra Leone	Transformation	Strong	Moderately weak
El Salvador	Transformation	Moderately strong	Weak
Northern Ireland	Transformation	None	None
The Czech Republic	Transplacement	None	Moderately weak
Poland	Transplacement	Weak	Weak
Argentina	Replacement	Moderately strong	Moderately weak
Brazil	Replacement	Moderately strong	Weak
East Germany	Replacement	Moderately strong	Moderately strong
Rwanda	Replacement	Weak	Moderately strong
Former Yugoslavia	"Replacement"	Weak	Moderately strong

* Yugoslavia is not a "Replacement" in the ordinary sense. Following the Dayton Accords of November 1995, in none of the successor states to Yugoslavia did regime change occur. But it follows the dynamic of replacement insofar as outside actors created the impetus for punitive justice in the International Criminal Tribunal for Yugoslavia. In a sense, pressure from outside actors "replaced" a situation where these regimes acted alone as sovereign actors.

correspond to a concentration of three "moderately strong" punitive justice settlements; while transformations correspond to three out of five weak cases and both of the cases where no punitive justice resulted at all. The pattern of truth recovery settlements also corroborates the relative power explanation, with transformations yielding all five of the strong cases and replacements yielding a comparatively weak array of no strong cases, three moderately strong ones, and two weak ones.

Yet there is much about transitional justice that relative power leaves unexplained. Although each type of transition corresponds broadly to the cluster of outcomes that its configuration of relative power predicts, several specific outcomes do not fit the pattern neatly. Transformations, which predict strong truth recovery and weak punitive justice, included two cases of moderately weak punitive justice and one of the moderately strong cases of punitive justice. Chile, and one case where no truth recovery resulted. Replacements included three moderately strong truth recovery efforts, toward the strong end of the truth recovery spectrum, and two cases where punitive justice was weak or moderately weak. Transplacements are ambiguous, as might

be expected of this middle category, but they also included one case of no truth recovery, found at one end of the spectrum. Though few outcomes fairly contradict the relative power account, several appear to be inadequately explained by it.

Beyond correlational issues, the logic of relative power does not account for why one approach to transitional justice is chosen at all: truth recovery. In cases where the regime in power prior to the transition continues to exercise sway during the transition, it will understandably act to secure amnesty for itself. But why would its members agree to a truth commission, which threatens to expose their deeds, ruin their reputations, and delegitimize them in the eyes of their nation? Yet, truth recovery emerges even in cases like El Salvador, where the ruling regime remains in power during the transition. A relative power perspective might maintain that truth recovery is the compromise that opponents are able to extract in cases of transformation: they are too disempowered to extract trials, but strong enough to win a truth commission. But unless proven by criteria independent from the outcome, such an explanation can only be *post hoc*. Still less does relative power explain hybrid solutions that involve both punitive justice and truth recovery like East Timor, Sierra Leone, and Germany. Again the claim is not that relative power is logically inconsistent with transitional justice institutions, but only that it does not sufficiently explain them.

What else, then, might account for transitional justice? The preferences, not just the power, of negotiators, matter. In the South African transition to democracy, amnesty for apartheid officials can well be explained by their strong negotiating position, but the Truth and Reconciliation Commission is difficult to explain apart from the perspective of the African National Congress, which was arguably rooted in South Africa's cultural and religious traditions. Eluding a relative power account even more sharply is the influence of actors other than the regime and its opponents. These may include international organizations like the United Nations, which strongly shaped transitional justice in countries like El Salvador, Sierra Leone, and East Timor. They also include civil society actors – parties, unions, domestic and foreign nongovernmental organizations (NGOs), as well as the present object of inquiry, religious organizations, and their leaders.

How Does Religion Affect Transitional Justice?

A religious actor is a religious body, a religious political party, a NGO with a religious affiliation and purpose, or an individual cleric or layperson who

leads such an organization. Such actors do not always speak singly or comprehensively in their politics. Religious actors at the national level, the focus here, do not always cooperate with their leaders outside their borders, and can be fractured themselves. The Protestant Evangelische Church in Communist East Germany, for instance, diverged between a hierarchy that accommodated the Communist regime and a rank and file that often dissented. Any faction or sector might constitute a religious actor to the degree that it acts as a cohesive agent.

Prima facie evidence that religious actors are important to transitional justice appears back in Table 8.1, which highlights in bold face those transitions in which religious leaders and groups asserted strong sway. What emerges there is a sharp correlation: eight out of 10 countries whose transitions involved moderately strong or strong versions of truth recovery were ones where religion was actively influential, while in all other, weaker cases of truth recovery, religion had virtually no shaping role at all. Religion's correspondence with punitive justice appears to be far more mixed: its influence on transitional justice was strong in four out of eight cases where punitive justice was moderately weak or moderately strong (again, the strong end of the spectrum), but strong also in four out of seven cases where punitive justice was weak or nonexistent.

This pattern suggests that religion has both an influence and a certain kind of influence. It is strongly associated with truth recovery, but ambiguously with punitive justice. The pattern consists only of correlations – again, with a small sample size – which do not alone prove that religion influences transitional justice. The same results might have occurred in religion's absence. Nor does it show exactly what sort of approach religion influenced in what sort of way. In a country whose transitional justice approach combined both truth recovery and punitive justice, for instance, it is not clear which approach religion influenced. What buttresses and clarifies the influence of religion is a close examination, through case studies, of the activities through which it shapes, or fails to shape, transitional justice (George, 1979).

These activities take two broad forms – those that shape the formation and those that shape the implementation of transitional justice institutions. Among religious efforts to clamor and organize for transitional justice, the strongest are truth recovery efforts that religious actors organize and carry out themselves. Again, the work of churches in Chile, Guatemala, and Brazil fit this description. More common are the efforts of religious actors to encourage their state to undertake transitional justice. They lobby their governments, both publicly and privately, and are sometimes even involved in the circles that negotiate transitional justice institutions. Even more directly, another sort of

religious actor – not prelates, but religiously motivated political officials – will use their power and prerogatives to influence their country's transitional justice institutions. Less directly, but still powerfully, religious actors can influence the character of transitional justice by shaping the content of a society's political discourse – for instance, by injecting the language of reconciliation, apology, and forgiveness into the media and political debate.

Once a set of institutions for transitional justice has been negotiated and decided upon, religious actors may help to construct and conduct them. This is far more likely with truth recovery than with punitive justice, since trials are the distinct preserve of state courts. Religious organizations may influence the selection of commissioners, while their leaders may actually serve as commissioners, sometimes even bringing religious language and ceremony to the commission, as did Archbishop Desmond Tutu of South Africa. South Africa's truth commission was also notable for having corporate entities, not just individuals, testify about the past; among these were religious communities. In several truth commissions, religious organizations provided logistical support, helping to organize and conduct hearings, locate and support victims and witnesses, and provide counseling in the wake of hearings. Just as religiously motivated political actors can encourage the formation of transitional justice institutions, so too can they contribute to their functioning. And in this stage, too, religious actors can shape transitional justice by bringing the language of reconciliation into the discourse.

In all of these manners, religion contributes to transitional justice – in different ways in different cases, to greater and lesser degrees, and with different outcomes. Table 8.3 arrays these several forms of religious contribution, assesses their strength in the case of each transitional justice institution, and derives a composite rating of the general strength of religious influence upon that institution.

Behind Religious Influence

Table 8.3 manifests the variety of religious influence and clarifies the causal logic behind the correlations shown in Table 8.1, showing which transitional justice institutions were influenced by religion. In eight countries, religion actors exercised a strong (or in one case, moderate) influence in eliciting a truth recovery approach, and in one of these countries, Chile, the Catholic Church influenced both a proto-truth commission and a truth commission. In only two places did a religious actor shape punitive justice – East Timor, where trials occurred, and Germany, which practiced lustration. In two countries, including El Salvador and Argentina, truth recovery was strong

Table 8.3. The influence of religious actors in forming and implementing transitional justice institutions.

Transitional justice institution*	Role of religious actors in creating institution														
	Overall influence of religious actor ^a	Institutional formation					Institutional implementation								
		Creates and carries out a "proto-truth commission"	Participates in formal negotiation of official transitional justice institution	Urges formation of institution through public lobbying or private channels	Political actors motivated by religious belief influence formation ^a	Shapes the discourse surrounding an institution during negotiation phase	Participates in construction of transitional justice institution	Religious leaders serve as commissioners or judges	Religious leaders utilize religious ceremony as commissioners or judges	Influence selection of commissioners/judges	Influence of political actors motivated by religious belief on construction of truth commission/trial	Shapes the discourse surrounding an institution during implementation phase	Participate in investigations and hearings as corporate religious communities ^a	Logistical support for conduct of institution	
184	Argentina - CONADEP	Weak	None	None	Weak	None	Weak	Weak	Moderate	None	None	None	Moderate	n/a	None
	Argentina - courts	Weak	n/a	None	None	None	None	None	None	n/a	None	None	None	n/a	None
	Brazil - truth investigation	Strong	Strong	n/a	None	None	Strong	n/a	n/a	n/a	n/a	None	Strong	n/a	Strong
	Chile - Vicariate of Solidarity	Strong	Strong	n/a	n/a	n/a	Strong	n/a	n/a	n/a	n/a	n/a	Strong	n/a	Strong
	Chile - National Commission On Truth and Reconciliation	Strong	Strong	None	Moderate	Strong	Strong	Moderate	None	n/a	Moderate	Strong	Strong	n/a	Moderate
	Chile - Court System	Weak	n/a	None	None	None	None	None	None	n/a	None	None	None	n/a	None
	Czech Republic - Lustration	Weak	n/a	Weak	None	None	Weak	None	None	n/a	None	n/a	None	n/a	None
	Czech Republic - Trials	Weak	n/a	None	None	None	None	None	None	n/a	None	None	None	n/a	None
	East Timor (CAVR and Community Reconciliation Division)	Strong	n/a	Strong	Strong	Strong	Strong	Strong	Moderate	None	Moderate	Strong	Strong	n/a	Strong
	East Timor - Trials	Strong	n/a	None	Strong	Weak	Strong	None	None	n/a	None	Strong	Strong	n/a	None
	El Salvador - Truth Commission	Weak	None	None	None	None	Weak	None	None	n/a	None	None	Moderate	n/a	Moderate
185	Germany - Enquete Commission (truth commission)	Moderate	None	Moderate	Moderate	Weak	Moderate	Moderate	Strong	None	Moderate	Weak	Weak	Moderate	None
	Germany - Gauck Authority (Stasi files and lustration)	Strong	n/a	Strong	Strong	Weak	Strong	Strong	Strong	None	None	None	Moderate	n/a	None
	Germany - Trials	Weak	n/a	None	None	None	None	None	None	None	None	None	None	n/a	None
	Guatemala - REMHI	Strong	Strong	n/a	n/a	None	Strong	Strong	n/a	n/a	n/a	n/a	Strong	n/a	Strong
	Guatemala - CEH	Weak	n/a	Strong	Strong	None	None	None	None	n/a	None	None	None	n/a	None

(continued)

Table 8.3. (continued)

	Role of religious actors in creating institution														
	Overall influence of religious actor ^a	Institutional formation						Institutional implementation							
		Creates and carries out a "proto-truth commission" ^b	Participates in formal negotiation of official transitional justice institution	Urges formation of institution through public lobbying or private channels	Political actors motivated by religious belief influence formation ^d	Shapes the discourse surrounding an institution during negotiation phase	Participates in construction of transitional justice institution	Religious leaders serve as commissioners or judges	Religious leaders utilize religious ceremony as commissioners or judges	Influence selection of commissioners/judges	Influence of political actors motivated by religious belief on construction of truth commission/trial	Shapes the discourse surrounding an institution during implementation phase	Participate in investigations and hearings as corporate religious communities ^e	Logistical support for conduct of institution	
Ireland	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
Peru - Truth Commission	Strong	Weak	Moderately strong	Strong	Weak	Moderate	Moderately strong	Moderate	None	Moderate	Weak	Strong	n/a	Moderate	
Poland - Truth investigation	Weak	None	Weak	None	None	Strong	None	None	n/a	None	Weak	Weak	n/a	None	
Rwanda - ICTR	Weak	n/a	None	Weak	None	Weak	None	None	n/a	None	Weak	None	n/a	None	
Rwanda - Gacaca Courts ^f	Weak	None	Weak	Weak	Moderate	Weak	Weak	n/a	n/a	None	Weak	Moderate	n/a	Moderate	
Sierra Leone - Truth and Reconciliation Commission	Strong	n/a	Moderate	Strong	Weak	Moderate	Moderate	Strong	Strong	Moderate	Moderate	Strong	Strong	Strong	
Sierra Leone - National Courts	Weak	n/a	None	None	None	None	None	None	n/a	None	None	None	n/a	None	
South Africa - Truth and Reconciliation Commission	Strong	n/a	Moderate	Weak	Moderate	Strong	Moderate	Strong	Strong	Moderate	Weak	Strong	Strong	Strong	
Yugoslavia - ICTY	Weak	n/a	None	None	None	None	None	None	n/a	None	None	None	n/a	None	

^a Transitional justice institutions can include trials, truth commissions, lustration procedures, "proto-truth commissions," or nongovernmental organizations that carry out investigations into political injustices on behalf of an entire state. In Brazil and Chile, the latter conducted their work well before a regime transition took place and thus are not technically transitional justice institutions. But their work is so similar in spirit and substance that they are included.

^b "Overall influence" is a composite rating that combines the strength rating of each particular component of religious influence into a single resultant. It is not merely additive of these components, but takes into account the particular circumstances that might make a particular category especially important. For instance, in Guatemala, the Catholic Church's performance of the activity of creating and carrying out the performance of a proto-truth commission was far stronger in substance than any of its other activities, and thus receives an especially strong weighting.

^c For this criterion, "n/a" obtains where the institution is a trial or where a religious actor influences a truth commission, making a proto-truth commission a moot point.

^d For this criterion, "n/a" obtains where a truth commission, or, in all cases, trials, provide no opportunity for corporate hearings. In corporate hearings, representatives of religious organizations appear to speak for their entire organization.

^e Rwanda's Gacaca courts are still in progress, so complete information is unavailable. The two categories dealing with religious leaders' role as judges or commissioners are labeled "n/a" due to insufficient information.

but the influence of religion weak. Six other countries show that the seemingly ambiguous relationship between religion and punitive justice is in fact a fairly strong inverse one. In the Former Yugoslavia, the Czech Republic, Rwanda, Argentina, Sierra Leone, and Chile, punitive justice was strong relative to other cases, but religion's influence upon it was weak.

Why, then, does religious influence vary in strength and kind? Two influences in particular prove promising for explanation. The first of these corresponds to a concept found in modern sociology, though it also finds far earlier antecedents (Casanova, 1994, pp. 3–75; Martin, 1978; Tocqueville, 1988). It is the mutual autonomy of religion and state in their basic institutional authority. What level of authority does the state exercise over a religious body's governance, appointments, finances, speech, worship, or practice? Does the state establish a religion through law? Does it provide religions, especially minority religions, the freedom to worship, educate, speak publicly, and carry out other distinctive activities? Reciprocally, does any religious body hold express constitutional prerogatives, standing titles, offices, or legal prerogatives in appointing state officials or vetoing government decisions?

A low level of autonomy may embody either a consensual coziness between religion and state or the state's domination of religion. Throne and altar relationships between the Catholic Church and the state in Argentina and between both the Catholic Church and mainline Protestant churches in Rwanda illustrate mutual "integralism"; the East German state's power over the hierarchy of the Protestant Evangelische Church illustrates the far less mutual version. Autonomy is high, by contrast, when religious actors maintain distance from the state's authority, either by constitutional design or through determined resistance against a dictatorial regime, such as churches undertook in Poland, Guatemala, South Africa, Brazil, Chile, East Timor, Peru, El Salvador, and East Germany, at least among the rank and file of the Protestant church.

Religious actors who exercised a strong influence on transitional justice approaches are ones who practiced autonomy from the state, first before the transition away from war or dictatorship and then during the transition. Prior to the transition, many of them maintained their autonomy against constant threat, carving out what George Weigel has called a sphere of "moral extrajurisdictionality" (1992, p. 151) in which they could develop, articulate, and lobby for their politics. During the transition to peace or democracy (and often both), their autonomy, often heroically preserved, bequeathed them a moral authority that then empowered them to exercise influence on their state's approach to transitional justice. Religious actors who exercised little such influence were the same who enjoyed little autonomy – and little accompanying moral authority.

But if autonomy explains what enables religious actors to shape transitional justice, it does not account for what kind of approaches they advocate. Here, a second sort of influence on religious actors becomes relevant – the set of ideas that they hold about legitimate political authority and justice. Who possesses it? The state? Some other entity? What is the proper relationship between political and religious authority? What conception of justice ought to govern the state's behavior? Rooted in its both its core doctrines and the circumstances of time and place, political theology prescribes a religious actor's stance toward the state and motivates it to pursue certain kinds of approaches to political transition.

A sympathetic political theology indeed motivated the churches that promoted truth recovery. Often, it emphasized human rights and called for exposing their violation. Another political conception encouraged these churches to promote truth recovery even more strongly: reconciliation. The concept shows up in the transitional discourse of religious actors in Peru, Guatemala, South Africa, Brazil, Chile, Sierra Leone, East Timor, El Salvador, Germany, Argentina, and in some churches in Rwanda and Northern Ireland. Reconciliation indeed finds its most ancient expression in religious traditions – especially the Abrahamic ones, Judaism, Christianity, and Islam – where it commonly connotes the restoration of right relationship. It now appears in the discourse of transitional justice all across the world, as well as in the writings of theologians, philosophers, and social scientists. In the political context, it calls for several practices designed to restore relationships along the many dimensions that political violence severs them: a public acknowledgment of the suffering of victims, reparations and other forms of memorial and public honor for victims of injustice, and practices of apology and forgiveness. Reconciliation does not necessarily exclude punishment, but defends it as "restorative justice" and envisions it taking creative political forms – the public exposure of perpetrators' injustices before victims in a truth commission, for instance (Abu-Nimer, 2001; Gopin, 2000; de Gruchy, 2003; Kiss, 2000; Marshall, 2001; Shriver, 1995; Tutu, 1999; Volf, 1996).

Contrasting with reconciliation is the idea of retributive justice, whose central goal is the proportionate punishment of guilty offenders, usually through imprisonment, sometimes through death. The balancing of evil with deserved pain and privation is obligatory and should not be compromised by other goals. In the context of transition, it might additionally help establish the rule of law in the new regime. But it is distinguishable from the punishment in reconciliation by its emphasis on traditional forms of punishment as an end in itself. Retributivism also finds expression in the Abrahamic traditions; in the Christian tradition, it has enjoyed prominence since the Middle

Ages (see Gorringer, 1996). A political theology of retribution will favor punitive justice.

Other political theologies are possible, too. Religious actors might translate their texts and traditions into support for human rights, a caliphate, or an established church. A political theology might prescribe loyalty to the state regardless of its character. Or it might call for the privileging of an ethnic community (Auerbach, 2005, pp. 472–473). A religious actor's political theology might also simply be undeveloped, or even entirely lacking.

It is hard to explain systematically why such a large proportion of religious actors have held a political theology of reconciliation in the transitions of recent years. Potential explanations lie in global theological trends within Catholic and mainline Protestant churches over the past generation, as well as in the influence of voices for reconciliation like South Africa's Archbishop Desmond Tutu or Pope John Paul II. But whatever exactly its sources, this political theology has made its way into the language of religious actors in transitions all over the world.

In sum, the argument is that those religious actors who influence approaches to transitional justice will be those that are institutionally autonomous and that hold a political theology sympathetic to the institution that they influence. In the vast majority of cases, those religious actors who are influential advocate truth recovery and draw from a theology of reconciliation and human rights in doing so. In a small number of cases, they advocate punitive justice, either out of a theology of reconciliation that emphasizes accountability or one of retribution. Conversely, those religious actors that are not influential either lack autonomy from the state, hold a political theology that favors no particular approach to transitional justice, or both.

To stress autonomy and political theology is not to claim that these are the only determinants of religious influence on transitional justice. The size of a religious body, the centralization of its hierarchy, and, in the spirit of Max Weber's argument, the presence of a charismatic leader – again, Tutu comes to mind – all matter as well. And again, religion itself is far from the only determinant of transitional justice institutions. But these two influences explain a great deal, as the cases now show.

Religious Actors and Transitional Justice: Cases

It is in the texture and particularity of 15 countries and 25 transitional justice institutions arrayed in Table 8.3 that the forms of religious influence upon transitional justice and, in turn, the shapers of this influence, become apparent.

Cases of Strong Religious Influence, Mostly for Truth Recovery. Religious actors shape institutions for transitional justice most directly and powerfully when they create them and conduct them, apart from, and sometimes in opposition to, the state. It is only truth recovery efforts that arise through such direct civil society initiatives: punitive justice is always the state's work. So, too, such initiatives have been rare, found only in Guatemala, Brazil, and Chile. Their occurrence, though, is especially elusive to explanations that lie in the power dynamics of the transition. Religiously organized transitional justice is neither blocked nor enabled by negotiations; rather, it circumvents them altogether.

In 1995, perceiving weaknesses in official plans for a truth commission to investigate three decades' worth of atrocities in Guatemala's civil war, the Human Rights Office of the Catholic Archdiocese of Guatemala, led by Bishop Juan Gerardi, launched its own Recovery of Historical Memory Project (REMHI). In the end, the government's Historical Clarification Commission (CEH) turned out to be one of the most extensive truth recovery efforts to date. But REMHI was similarly impressive, uncovering 14,291 incidents of human rights violations involving 52,427 victims, gleaming them through a personalist form of investigation that supported victims psychologically and spiritually. Its final report, *Nunca Mas* ("Never Again") adopted the language of reconciliation, repentance, and forgiveness, and was even-handed, covering the crimes of both the government and the guerilla opposition. Its biggest weakness lay in accountability: few perpetrators offered testimony, repented, or were even exposed. Well after the peace accords, the military was successful in suppressing the truth in numerous instances. Punitive justice in Guatemala's transition from war was correspondingly weak. Though a 1996 amnesty agreement exempted crimes of genocide, torture, and other offenses for which international law demands prosecution, only a tiny fraction of perpetrators have faced trial (Hayes and Toms, 2001, p. 34, pp. 104–107, 108, 111, 125; Jonas, 2000, pp. 156–157; REMHI, 1999, pp. xxiii–xxix, 304–305; Sanford, 2003, p. 19, 64; Tomuschat, 2001, p. 243, 253).

All in all, though, truth recovery in Guatemala was comparatively strong, and the Catholic Church played a strong role in bringing it about. By the 1980s, this Church's hierarchy and grass roots had come together in asserting autonomy from the state, a position from which it came to criticize the government's human rights abuses, channel civil society organizations into the peace process, and through this leadership gain respect as an efficacious moral force. No testimony to the Church's clout is more powerful than the opposition it incurred from the military: Two days after he presented the REMHI report at the Metropolitan Cathedral in Guatemala City in 1998,

Bishop Juan Gerardi was bludgeoned to death. In his address at the Cathedral, Gerardi stressed reconciliation, echoing the REMHI report and the consistent social teachings of this Church since the 1980s. In 1995, in the last stage of the peace process, it issued a major document calling for repentance and forgiveness as a response to the past. Such a political theology guided the efforts made possible by the Church's institutional autonomy (Jeffrey, 1998, pp. 28–63; Klaiber, 1998, pp. 216–238; REMHI, 1999, xxiii–xxix).

In Brazil and Chile, unlike in Guatemala, religious organizations conducted truth recovery during the reign of the military regime that violated human rights. In Brazil, they did so in secret. There, Cardinal Evaristo Arns, founder and head of the Brazilian Catholic Church's Commission of Peace and Justice, and Protestant Pastor Jaime Wright, a human rights activist, worked from 1979 to 1985 to investigate the regime's practices of "disappearance," torture, and sometimes murder of political opponents between 1964 and 1979, its most repressive period. Spiriting from government offices records of the regime's trials of military officers for torture, they established incontrovertible evidence of its crimes. After the regime fell in 1985, they published a report, *Nunca Mais* ("Never Again"), which became a bestseller in Brazil for 91 straight weeks (Klaiber, 1998, pp. 23–36; Wright and Dassin, 1998, pp. xi–7).

All of these themes – active opposition to the state, a focus on human rights – arguably resounded in the Brazilian Catholic Church more strongly than they did in any other Latin American church. By the early 1970s, Arns and several other prelates had become regular and outspoken critics of the regime, especially its human rights abuses. As was reflected in the language of *Nunca Mais*, their political theology was largely centered around human rights. But it was an understanding of human rights that advanced certain themes of reconciliation – acknowledgment of victims' suffering, and accountability through exposure (Cleary, 1997, p. 255; Klaiber, 1998, pp. 25–32, 34–36).

The Chilean Catholic Church similarly worked to bring attention to human rights violations under the regime of General Augusto Pinochet. Its leading human rights advocate, Cardinal Raúl Silva Henríquez, organized the ecumenical Committee for Cooperation for Peace in Chile (COPACH) in 1973, and then the Church's own Vicariate of Solidarity in 1976. Over the next 15 years, the Vicariate became a model throughout Latin America for its work in investigating, publicizing, and recording human rights violations (de Brito, 1997, p. 115, 158; Brown, 1987, pp. 10–24).

Following Pinochet's defeat in a popular referendum in 1988, Chile's transition to democracy took the form of a transformation. Its military command

structure, with Pinochet as Commander-in-Chief, survived intact. In this milieu, President Patricio Aylwin created a National Commission on Truth and Reconciliation on April 25, 1990. The language of reconciliation pervaded the commission right up to its close, when Aylwin, in at least two major speeches, apologized to victims on behalf of the nation, urged the armed forces to join him in repentance, and begged forgiveness for the state. Victims received significant reparations. As in Guatemala, though, the Chilean commission was weak on accountability, hampered by feeble investigatory powers, a decision not to name perpetrators in its report, and a mandate that limited its work to crimes ending in death, thus ignoring thousands of surviving torture victims. Chile, then, managed to stage truth recovery on a moderate scale, though one that remained limited by the extant power of the military and the political right (Brown, 1991, p. 10, pp. 21–25; de Brito, 1997, pp. 153–160; Hayner, 2001, pp. 36–37, p. 112, 322).

Predictably, punitive justice was largely quelled during this transitional transition. In August, 1990, the Supreme Court upheld a 1978 amnesty law that had given broad immunity to military officers who had committed atrocities up to that date. Defying the power logic, however, human rights lawyers have since succeeded through gradual legal victories in prosecuting and convicting at least 35 military officers, including five generals, for human rights violations (de Brito, 2001, pp. 133–157).

Chile's period of transition itself, though, featured its truth commission, behind which were strong Catholic forces. The Vicariate of Solidarity provided it with indispensable archival information, while Church leaders supported it through public statements, pastoral letters, homilies calling for public acknowledgment of victims' suffering, repentance, forgiveness, and reconciliation. Prior to the commission, Pope John Paul II himself spoke for truth recovery and reconciliation in his visit to Chile in 1987. President Aylwin was also a powerful carrier of Catholic ideas. His support for the commission was animated by a conception of reconciliation "laden with Catholic associations" that he articulated in his inaugural address and made a major theme of his presidency (Brown, 1991, pp. 4–5). Aylwin's Christian Democratic Party and the larger "concertación" of parties that brought down Pinochet also frequently voiced the Church's message of reconciliation and supported the commission on this basis (de Brito, 1997, pp. 106–113, 155–160; Fleet and Smith, 1997, pp. 160–166).

The Church's own message of reconciliation was empowered by its autonomy from the state. By 1976, Chile's bishops had united behind Cardinal Silva's precedent in denouncing Pinochet for his widespread violations of human rights, and already used the language of reconciliation in doing so.

Through such public criticism, the Church gained the popular respect to become an important mediator of Chile's democratic transition in the late 1980s, and then an efficacious supporter of its truth commission.

The Chilean commission was a prototype for another commission that has become the world's most famous: the Truth and Reconciliation Commission (TRC) of South Africa. Though its investigation was sizable, what earned the TRC so much fame were its nationally televised hearings – over 200 – where victims, and often perpetrators, recounted their stories. The commission notably also held hearings for corporate actors – businesses, labor unions, prisons, the media, and religious associations.

The TRC's most controversial feature was its provisions for amnesty, which arguably created impunity for human rights, but also elicited the accountability of exposure: applicants appeared at public hearings where they faced the accusations and lamentations of victims and the difficult task of explaining themselves. Though not all perpetrators were remorseful, many, including some prominent ones, showed genuine contrition and enduring repentance.

The language of reconciliation, repentance, and forgiveness suffused the TRC more than they did any other commission. Archbishop Desmond Tutu, the TRC's chairperson, proclaimed these themes regularly and volubly and gave them a central place in the commission's final report. Accounts of the commission reveal a comparatively high proportion of perpetrators and victims practicing apology and forgiveness, though still containing significant numbers of refusals (Graybill, 1995, pp. 103–123; Krog, 1999; Meiring, 1999).

Unquestionably, the TRC, particularly its amnesty provisions, was the fruit of a deal cut in the negotiations that ended apartheid. True to the logic of transformation, the apartheid government refused to relinquish power without securing impunity for its officials. It was only within this bargain that the African National Congress managed to extract conditionality for amnesty. What these power dynamics do not explain is the form, content, and spirit of the TRC, which was shaped by influential leaders who drew from South Africa's culture and religion.

South Africa's church leaders were not in fact among the TRC's chief shapers. Far more directly influential were ANC and other political leaders. But in a less direct way – by injecting the concept of reconciliation into South Africa's public discourse – South Africa's religious communities did help shape the TRC. From as early as 1968, a broad coalition of anti-apartheid churches – the South African Council of Churches (SACC) and the South African Catholic Bishops' Conference (SACBC) – gave reconciliation a central place in their message. It was a constant theme of Tutu, who served

as General Secretary of the SACC from 1978 to 1985. In the Rustenburg Declaration of 1990, a broad coalition of church leaders reiterated reconciliation as a central political theme (Boraine et al., 1994; Boraine and Levy, 1995; Niehas, 1999).

Having become prominent in South Africa's political discourse, reconciliation, along with *ubuntu*, an African concept connoting human interdependence and restorative justice, could play a central role in the debates that shaped the commission. Deputy chairperson of the TRC, Alex Boraine, confirms the importance of these concepts in shaping, not merely in retrospectively rationalizing, the TRC. Boraine's own commitment to the concept arose from his early theological training (Boraine, 2004, Interview). Johnny de Lange, the Member of Parliament who chaired the Justice Portfolio Committee that shaped the commission's enabling legislation, offers a similar conclusion about Parliament's proceedings (de Lange, 2003, Interview).

It was in the implementation of the TRC that religious leaders played the direct role that created familiar media images. As Chairperson, Tutu presided over the TRC's hearings in full ecclesial regalia, opened individual hearings with a prayer, and led the assembly room in hymns at particularly emotional moments. Other members of the commission sometimes questioned the appropriateness of this overt religiosity, but its presence was unmistakable. Churches also provided the TRC with staff, publicity, and spiritual and psychological support for victims and perpetrators. Its leaders made public statements supporting the commission, encouraged their own followers to participate in it, and participated in hearings for faith communities (Graybill, 1998; Meiring, 1999, p. 357, 2000).

In South Africa, too, the churches' political theology of reconciliation was bolstered by their autonomy from the state. Not all churches: The leadership of the Dutch Reformed Church, sometimes called "the National Party at prayer," continued to associate itself closely with the apartheid state up until its final demise. But the broad coalition of Protestant churches in the SACC, as well as the Catholic Bishops' Conference, had forged a position of institutional autonomy through over two decades of protest, followed by repression from the state, which in turn strengthened the church to protest further, effecting what Tristram Anne Borer has called a "spiral of involvement" that eventually brought down the apartheid state (Borer, 1998).

In three other countries – Sierra Leone, East Timor, and Peru – churches also contributed to strong truth recovery, in part because their architects sought to improve upon South Africa's experience. In all three cases, a truth commission followed a lengthy civil war and produced a hefty report

documenting thousands of human rights violations. Like South Africa's TRC, each of these commissions held hearings. Peru's Truth and Reconciliation Commission held 200 public ones, 500 private ones, and 15 public meetings. Each commission also incorporated reconciliation processes – healing ceremonies in Sierra Leone, and community restorative justice initiatives in East Timor. All three commissions made recommendations for substantial reparations for victims ("CAVR & Refugees," 2003; Dougherty, 2004; Farrington, 2004; O'Flaherty, 2004).

Sierra Leone and East Timor were notable for consciously combining truth recovery with punitive justice. A Special Court in Sierra Leone envisioned trying up to 20 of the worst violators of human rights. Transitional justice in East Timor included a "Serious Crimes Unit" to prosecute major human rights violators that indicted 391 people and secured 84 convictions (Hirst and Varney, 2005). Although both countries notably failed to prosecute many perpetrators of large scale and heinous crimes – East Timor faced the powerful opposition of Indonesia – they still achieved significant, though still "moderately weak," punitive justice. Peru conducted its Truth and Reconciliation Commission so as to build the legal and evidentiary groundwork for prosecutions, but so far, few have actually taken place.

In all three countries, transitional justice emerged from a peace agreement that not did involve the total defeat of one side – a transformation. But the character of transitional justice in each country eludes this power dynamic. None involved a blanket amnesty; although Sierra Leone's Lomé Agreement proclaimed one in 1999, it was canceled two years later. In all three cases, the character of truth recovery emerged not merely from the peace agreement, but from the initiatives of parties following the agreement, including the UN in Sierra Leone and East Timor. In both of these cases, the UN also helped to effect punitive justice, also contrary to the power dynamics of transitional transitions.

In all three cases, religious actors also shaped transitional justice. True to the pattern, they were autonomous from the state, at least as far back as their country's civil war, and espoused a political theology of reconciliation. In Sierra Leone, an interreligious council of Christian and Muslim leaders sheltered refugees during the conflict, played a crucial role in the peace process, helped shape the truth commission, and then helped to conduct healing and reconciliation ceremonies following the commission's hearings, in all of these activities deploying the language of reconciliation. As in South Africa, the commission's Chairman was a clergyman, United Methodist Bishop Joseph Humper, and one who also spoke frequently of reconciliation (Dougherty, 2004, p. 3; Turay, 2000, pp. 4–5; Shaw, 2004, pp. 2–3).

During East Timor's quarter-century long struggle for independence against Indonesia, its Catholic Church became a vigorous and defiant defender of the East Timorese people. Like the Catholic Church in Chile, its popular prestige and identification with the nation was so strong that the government had little choice but to tolerate it as the sole oppositional institution. After a violence-ridden referendum for independence in 1999, Bishop Carlos Belo and other members of the Catholic hierarchy strongly urged punitive justice, coming closer than any of the other influential religious actors to espousing a retributivist political theology. Still, the Church has also spoken for reconciliation, publicly supporting East Timor's Commission for Reception Truth and Reconciliation, including its Community Reconciliation Panels. Two of seven commissioners were clergy (Kohen, 2001, pp. 50–51; Tanter et al., 2001, pp. 250–252).

Although no church exercised similar social influence in Peru's civil war, some of its churches played an important role in its peace process. During the three-cornered conflict between the Shining Path terrorist guerrilla army, the Tupac Amaru Revolutionary Movement (MRTA) and the Peruvian Government, both evangelical Protestant and Catholic Churches supported victims and documented violence on each side. Evangelical Protestants founded the National Evangelical Council of Peru (CONEP) with similar purposes in mind. After the peace settlement, church groups advocated, provided human rights data for, participated in forming, and helped to conduct the TRC. The Catholic Bishops publicly supported the TRC and even advocated the insertion of "reconciliation" in its title. Three out of seven commissioners were clergy. Here, too, religious groups supplemented the work of the commission by working for reconciliation on the level of civil society (Gamarra, 2000, p. 274; Klaiber, 1992, pp. 136–139, 2004, pp. 178–179).

Finally, East Germany's transition to democracy following the fall of the Berlin Wall in 1989 was a more complicated case of religion's influence on transitional justice. Transitional justice itself was complex, involving a rich admixture of several institutions. The government of unified Germany, which took power through a replacement process in which the outgoing Communist government carried little clout, conducted punitive justice by carrying out highly public trials of leading officials of the German Democratic Republic and border guards at the Berlin Wall, by forming an office in Berlin to investigate thousands of cases of lower-level crimes and bring perpetrators to trial, and through a lustration process that resulted in the dismissal of up to 55,000 officials from the civil service and private industry (McAdams, 2001, pp. 23–54; Sa'adah, 1998, pp. 143–188).

The transition also pursued truth recovery through several institutions. The opening of the files of the Ministry of State Security, or *Stasi*, to public examination resulted in thousands of discoveries of collusion and betrayal by ordinary citizens, though it involved little of public acknowledgment of victims. More systematic was the work of the Enquete Commission, created by the Bundestag to create a public historical record of the Communist regime. Like other truth commissions, it produced an extensive record – 18 volumes – based on extensive testimony – 44 public hearings, 40 closed ones, and 150 subcommittee hearings during its first 3 years of operation. Yet, it created little public conversation, privileging academic analysis over stories and personal testimony (McAdams, 2001, pp. 88–123; Sádah, 1998, pp. 185–186).

Unlike the other religious actors in this section, East German churches and their leaders are a case of weak influence, having had little effect on these institutions. East Germany's influential religious actors were instead pastors in its Evangelische Church who had never participated in their church's leadership or in its collaboration with the Communist regime. With their moral authority and their autonomy, they voiced different political theologies that led to different institutional approaches. One of these pastors, Joachim Gauck, helped to form and was then appointed head of the commission to open the Stasi files and to manage the lustration of former collaborationist officials. For him, exposure, accountability, and repentance among offenders were prerequisites to establishing an honest and just successor society, though he viewed them as part of a larger concept of reconciliation that included forgiveness. In contrast was the vision of reconciliation of another pastor, Friedrich Schorlemmer, head of the Enquete Commission, who urged victims to welcome collaborators into the new order, show restraint in judging their culpability, and be willing to forgive, though he also thought that perpetrators needed to come to terms with their deeds. Both espoused a version of reconciliation, but with different emphases and institutional results (McAdams, 2006, pp. 127–149).

Cases of Weak Religious Influence and Punitive Justice. Where religious leaders and organizations have rallied effectively for transitional justice – almost always truth recovery, but in a couple of cases, punitive justice – in sites of lamentation and outcry, they have by and large come to enjoy international renown: Guatemala's Gerardi is a martyr; Chile's Vicariate is heroic; South Africa's Tutu is a visionary. In other, equally dreadful, sites of atrocity, though, religious actors have become infamous for their acquiescence in tyranny, civil war, and genocide, and for their impotence in the aftermath. In a darker way, these cases, too, confirm the present argument. In three sites

where punitive justice was comparatively strong and truth recovery quite weak – Rwanda, the Czech Republic, and the former Yugoslavia – religious actors exercised little influence on transitional justice. They lacked the requisite autonomy from the state, as well as a strong, commonly held political theology by which they could have advocated either alternative institutions for truth recovery or the punitive approach that their countries adopted.

Following Rwanda's genocide of 1994, in which some 800,000 died, mostly Tutsis at the hands of Hutus, Tutsi rebels overthrew the Hutu government and promised to bring punishment to *génocidaires*. The legally innovative International Criminal Tribunal for Rwanda (ICTR), which focused on high-level cases, had succeeded in conducting 34 prosecutions, resulting in 29 convictions, 18 of these life sentences, and five acquittals by January 2007. National level courts tried around 10,000 detainees between December 1996 and December 2006. These are comparatively high numbers. But punitive justice in Rwanda also left a preponderance of 100,000 to 125,000 detainees untried and was plagued by administrative problems. National courts practiced low standards of due process and mostly failed to try Tutsis, who had committed their own share of atrocities. In 2002, to reduce its docket, the government then revived Rwanda's traditional village *gacaca* tribunals to try all remaining suspects except for those who had taken leadership in organizing the genocide. Touted by the government through its rhetoric of reconciliation, the tribunals aimed to combine community truth telling, apology, forgiveness, and punishment. Though they have achieved some success, they have also been criticized widely for low standards of fairness and due process, for deepening ethnic divisions through their trial of mostly Hutus, and for sometimes encouraging recrimination and revenge. Added up, though, Rwandan punitive justice has been extensive enough to warrant a rating of "moderately strong" (Cory and Joreman, 2004, pp. 73–81; Daly, 2002; Rutikanga, 2003, pp. 156–157; Vandeginste, 2001, pp. 223–231, 238–243).

Punitive justice in Rwanda has by and large subordinated truth recovery – an outcome matching the dynamics of Rwanda's replacement transition. In March 1999, the government created a National Unity and Reconciliation Commission, but this body has relatively little to show for its work, certainly nothing along the lines of any official truth recovery effort. Though President Paul Kagame frequently uses the language of reconciliation, it has corresponded to scant institutional efforts.

Rwanda's established churches – Catholic, Anglican, and Presbyterian – exercised little influence on official efforts to deal with the past. True, their hierarchies, along with smaller churches and para-church organizations such

as African Leadership and Reconciliation Ministries, now speak of reconciliation, encourage the *gacaca* courts, conduct civil society efforts to heal societal wounds, and in some cases have issued statements of repentance. But they have done little to advocate or implement transitional justice institutions.

The churches failed to influence transitional justice because their moral authority was compromised in the genocide itself. Though top leaders of the Catholic and mainline Protestant churches did not actually help organize the killing, they were largely silent toward it while the Catholic hierarchy endorsed the Hutu regime – forms of acquiescence that many in the public interpreted as endorsement. Several lower-level clerics and a few bishops even helped to carry out the genocide, including two Catholic nuns who were convicted in Belgian courts for slaughtering some 5000 civilians (Graybill, 2001, pp. 9–10; Longman, 1998, p. 58, 2001, p. 166, 180; Rittner et al., 2004; Van Hoyweghen, 1996, pp. 394–396).

Behind this infirmity lay a history of close integration between the churches and the Rwandan state. Both Catholic and Protestant missionaries were originally partners to the Belgian colonial state and helped to create ethnic divisions there. In the late 1940s and 1950s, a more socially defiant Catholic Church came to support the Hutu majority underdogs – only then to practice a reconfigured symbiosis with a Hutu regime after Rwanda became independent in 1962. Although the major churches contained dissenting factions and episodically took issue with the regime, these remained aberrations. Generally, their leaders shared close personal relations and strong class ties with state officials, cooperated with them on public projects, and supported Hutu ethnic domination within their own hierarchies. Sanctioning all of this was a dominant political theology that stressed individual salvation to the detriment of social change, human rights, or social reconciliation (Longman, 1998, pp. 54–56, 2001, p. 171; Van Hoyweghen, 1996, pp. 380–392).

Neither the evil addressed through transitional justice nor the supine posture of churches toward the regime was as dramatic in Czechoslovakia as these were in Rwanda, but the logic of religion and politics ran broadly the same. After the fall of Communism in 1989, Czechoslovakia, and then the Czech Republic after the breakup of the state on January 1, 1993, largely pursued punitive justice (Slovakia all but dropped the process after it became independent). Czech courts tried 198 and convicted 29 communist officials for specific crimes like beating and killing dissidents, but trials were overshadowed by a far more ambitious scheme of lustration in which some 200,000 high communist officials and citizens who worked or collaborated with the State Security Corps (StB) were debarred from holding positions in the government (Rosenberg, 1995, pp. 67–121; Ash, 2002; Enriquez, 2001, pp. 225–240).

The Czech transition was largely one of replacement: the summary fall of Communism left the new regime to call the old one to account as it saw fit. Aside from a few exceptional voices, Czech churches, Catholic and Protestant, played little role in advocating or implementing trials or lustration, or in advocating an alternative of truth recovery. These churches lacked autonomy and public moral authority. With their governance and activities dominated by the Communism regime, they largely failed to speak out, at least until the 1980s, and then only weakly in comparison to defiant churches in Poland, South Africa, and elsewhere. In the street protests of 1988 and 1989, the churches were only a few among the many factions that coalesced. It is not surprising, then, that they exercised little influence on the transition that followed (Ranet, 1998, pp. 112–115; Weigel, 1992, pp. 159–190).

A final case of weak religious influence upon punitive transitional justice is Former Yugoslavia, where a civil war between 1991 and 1995 took over 200,000 lives and created up to a million refugees. Two special complexities arise here. First, Yugoslavia disintegrated into several successor states, each having its own experience of transitional justice. Yet, the most prominent institution for transitional justice, the International Criminal Tribunal for Yugoslavia (ICTY), covers crimes from the entire former federal state. My imperfect solution is to treat Yugoslavia as an aggregated case, but then to note particularities in the transitional justice approaches of its successor states.³ Second, though Yugoslavia is called here a case of “replacement,” it was not the usual sort of replacement, where a holder of power is removed. But the power dynamic was similar insofar as outside actors – the United Nations and NATO – became involved so as to place pressure on state governments. Ultimately, Serbian President Slobodan Milošević was himself “replaced” when he was electorally defeated in September 2000, and subsequently faced prosecution himself.

Formed by the UN in 1993, the international tribunal continues to indict and try alleged war criminals, including Milošević up to his death in March 2006. By March 2006, it had indicted 161 people and had convicted 43. Punitive justice here somewhat defies the logic of replacement, since Milošević continued to rule in Serbia well after the court was established. It was the UN and other outside authorities that made the court possible. At the time of this writing, war crimes trials have begun to take place in national level courts in Bosnia and Croatia, and Serbia. Together, these institutions render punitive justice in Yugoslavia “moderately strong.”

On the official level, truth recovery efforts are virtually nonexistent. In Bosnia, though, several NGOs have sought to gather information on war crimes, indeed systematically enough to render them “proto-truth commissions.” In

Serbia, President Vojislav Koštunica established a Yugoslavian Truth and Reconciliation Commission in 2001, but it dissolved without results 2 years later. Calls for a truth and reconciliation commission for Bosnia have come from civil society leaders like Rabbi Jakob Finci of Bosnia's Jewish community, in cooperation with other organizations. To date, though, no official commission has emerged, in part because of opposition among both victims' groups and ICTY officials (Borello, 2004, Interview). Though truth recovery efforts in the Yugoslavian successor states have existed, they have never become more than "weak."

Aside from Finci's tiny Jewish community, religious communities have given little force to the idea of a commission. In a war fought between nations with identities defined primarily by religion – Orthodox Serbia, Catholic Croatia, and Muslims in Bosnia – these communities played a highly mixed role. To be sure, some leaders and lower-level clerics in all three communities called for an end to fighting and urged reconciliation. But many, including top ecclesiasts, failed to distance themselves from nationalist leaders like Croatia's Franjo Tuđman and Serbia's Slobodan Milošević, who mobilized religious symbols and loyalties for brutal ethnic war. Leaders of the Catholic Church, especially Franciscans in Croatia, and of the Orthodox Church, including the Bishop of Banja Luka, themselves propagated national myths and memories through sermons, speeches, and media images. While most Muslim leaders were moderate in tone, statements of the Muslim President of Bosnia, Alija Izetbegović, publicly raised fears of a religiously intolerant Islamic Bosnian nation (Steele, 2003, pp. 126–129).

As a result, in the wake of the conflict, religious communities have commanded scant moral authority for reconciliation. Again, the story is mixed. Interreligious councils were formed in the late 1990s to bring together religious leaders from each community in both Bosnia and in Kosovo, where another civil war took place between Serbs and Muslims in 1999, but these councils had little influence on official institutions. Generally, in comparison to the influence of religious actors on truth recovery elsewhere, the impact of Bosnia's religious leaders, like that of the Czech Republic's and Rwanda's, has been fairly feeble.

Anomalies: Apparent and Real

The cases cited earlier sustain the argument best. Influential religious actors were autonomous actors, and ended with a political theology that led them to advocate a particular institution for transitional justice, in most cases, one of truth recovery. Weak religious actors were neither. Other cases, though,

are not so straightforward. Both Argentina's and East Germany's transitions involved not only significant measures of punitive justice, but also strong truth recovery efforts, the sort that religious actors are most commonly behind. Yet churches played scant role in forging either country's political approach.

East Germany's transition, as argued earlier, was a rich mixture of several institutions for both truth recovery and punitive justice. As a collective institution, though, the East German Evangelische Church had little effect on it. Argentina's transition to democracy, one of replacement, occurred through the fall of a military dictatorship whose "Dirty Wars" of 1976 to 1983 perpetrated a documented 8963 "disappearings." Trials resulted in the conviction of five top junta officials, but President Carlos Menem later reversed these gains by pardoning them in 1990. Argentina also created one of the first contemporary truth commissions, the National Commission on the Disappearance of People (CONADEP), which compiled the testimony of around 7000 relatives of the disappeared into a bestseller, *Nunca Mas*, but was weaker than later commissions elsewhere for its meager investigatory powers and its lack of public hearings. Here, Catholic bishops issued only a few weak calls for reconciliation and none for trials (de Brito, 2001; Brysk, 1994).

Why then, did these churches have so little influence, despite the fact that their countries' truth recovery was strong? In part, because religion is not required for truth recovery. Secular actors can perfectly well advocate truth recovery and espouse reconciliation. More importantly, the relative importance of the churches in East Germany and Argentina arises from the very factors that the argument stresses – the absence of autonomy and of a political theology of reconciliation.

During the Dirty Wars, the Argentinian bishops were closely tied to the military regime. Only four out of 80 bishops spoke out against its human rights violations. Belatedly, and somewhat mutedly, they recognized this complexity in 1995, when they publicly asked for forgiveness for the "guilt we can be accused of" (Klaiber, 1998, pp. 75–91). The hierarchy of the Protestant church in East Germany had long accommodated its Communist regime and submitted to its oversight, having declared itself a "church within socialism" in 1971. Until just before the Berlin Wall fell, neither it nor the East German Catholic hierarchy voiced strong criticism of the regime or a robust doctrine of human rights or reconciliation. Despite the fact that both of these transitions involved truth recovery, then, neither church was involved for the same reasons that churches were not influential in Rwanda, Czech, and Yugoslavia – they were not the sort of church that brings about democracy or robust transitional justice (Conway, 1994; Kellogg, 2001; Monshipouri, 1996; Ramet, 1998).

El Salvador presents a bigger problem for the argument. Following the settlement of its civil war, this country conducted a truth commission in 1992–1993 that was moderately strong for its partial naming of perpetrators but also hampered by a lack of endorsement from the government. Shortly after the commission published its report, President Alfredo Cristiani granted blanket amnesty to combatants under the rationale “forgive and forget,” undermining the credibility of the commission along with any possibility for accountability. Here, too, the Catholic Church hardly participated, apart from providing rhetorical and moderate logistical support. But here, the Church was indeed the sort that brings democracy and truth recovery. Like the Guatemalan Church, it played an autonomous, mediating role in the civil war, had come to preach human rights since the late 1970s, and urged reconciliation in the aftermath of the conflict. In fact, the reason for this weakness is not a systematic one: This commission was shaped and carried out by the UN, who involved few other organizations, even human rights groups, in its work. El Salvador reaffirms that religious actors are not necessary for truth recovery (Pope, 2003; Popkin, 2000; Santiago, 1993, p. 169, 180).

Neither are religious actors sufficient for truth recovery. Or for punitive justice, for that matter. This is the lesson of two other cases – Northern Ireland and Poland. Both states had active, vibrant churches, but neither adopted strong truth recovery.

Northern Ireland has also lacked punitive justice, a predictable outcome of the transformational end of its civil war in the Good Friday agreement of 1998. None of the parties to this pact, all of which remain at large and powerful, will consent to the trial of its leaders. A leading NGO, Healing Through Remembering, publicly proposed a truth commission, but its prospects are highly uncertain. The British Government, averse to any forum that would place it on an equal footing with the Irish Republican Army, is reluctant to participate (Porter, 2005, Interview).

Churches in Northern Ireland have issued mixed messages about transitional justice. In this conflict fought between communities defined by religious identity, some churches closely identified themselves with their community’s militants – they lack both autonomy and a political theology of reconciliation, and clearly reject a truth commission. Other churches range from the Presbyterian Church, which passed a resolution against a truth commission, to the Methodist Church, which supports one, to the Anglican Church of Ireland, which is ambivalent (Porter, 2005, Interview).

The fall of Communism in Poland was also a transformational transition, negotiated through a Roundtable of Communists and their opponents in 1989. In the new democracy, lively debates arose over how to address

injustices of both the communist period and World War II, with voices like those of the first prime minister, Tadeusz Mazowiecki, and former dissident Adam Michnik favoring forgiveness and reconciliation, and nationalists like Lech Walesa favoring punishment. What emerged was weak punitive justice. The Head Commission for the Investigation of Crimes Against the Polish Nation carried out 1900 investigations of crimes occurring between 1939 and 1989, but only a handful of judicial indictments resulted. After the courts struck down an early lustration law in 1992, parliament passed another, more scrupulous, one in 1997. Its implementation, however, has been continually plagued by corruption and judicial challenge. An official initiative for truth recovery, by contrast, has been almost entirely lacking (Rosenberg, 1995, pp. 178–222; Walicki, 1997).

That the Polish Catholic Church has played little role in shaping transitional justice is curious. A model of autonomy under authoritarianism, its defiance of the Communist state, famously abetted by favorite son Pope John Paul II, was instrumental in the regime’s downfall in 1989. Recent allegations of Polish church leaders collaborating with the Communist secret police tarnish this conclusion somewhat, but leave it mostly intact. What is missing is a strong political theology of reconciliation. As late as 1966, when the Polish bishops forgave Germany for its crimes against the Polish nation, such a theology was strong. But in the 1980s, it seems to have yielded to anti-Communism and human rights, and then, after 1989, to positions on abortion, the family, and sexuality.

In both Poland and Northern Ireland, then, even vibrant churches failed to influence official transitional justice. Few of the Irish churches combine autonomy with a political theology of reconciliation; those that do face the ambivalence or the opposition of other churches and the reluctance of the British government. The Polish Church, though autonomous, has not spoken strongly for reconciliation. Both autonomy and political theology are essential, these cases show, but even a strong religious actor is not sufficient to effect a particular approach to transitional justice.

Conclusions

Together, the cases show *that* religious actors are a significant influence on transitional justice. They have made a difference in Guatemala, Chile, Brazil, South Africa, Peru, Sierra Leone, Germany, and East Timor. They also show *how* religious actors are significant for transitional justice. In almost every site where they were efficacious, they advocated truth recovery. Wherever they advocated truth recovery, except, perhaps, in Brazil, they articulated

the case for it through the language of reconciliation. Although they often viewed some form of accountability as an important part of reconciliation, only in East Timor and Germany did a religious actor strongly urge trials, lustration, or a political theology of retributivism. Finally, the cases show *under what conditions* religious actors are influential, namely when they are institutionally autonomous from the state and hold a political theology of reconciliation.

Most of the cases are predominantly Christian countries, Protestant and Catholic ones at that, though not all of them: Sierra Leone is 60% Muslim, while in South Africa, where Christians are a vast majority, prominent Muslims helped shape and conduct the TRC. The Christian emphasis arises from an empirical fact: Most of the Third Wave democratic transitions, and most of the transitional justice institutions to arise from civil wars, have taken place in majority-Christian countries.

Might the argument's conclusions travel more widely? Transitions in the last generation have also occurred in Eastern Orthodox countries, at least two Buddhist countries, Taiwan and Cambodia, and a handful of Islamic countries. Eastern Orthodoxy follows the model well. In neither Greece, Russia, Romania, Bulgaria, nor Serbia did this church play an important role in democratization or in advocating for an approach to transitional justice. All of these national churches had been tied quite closely to their countries' pre-democratic regimes – though in some cases, only after dissidents resisted and faced martyrdom – thus following a pattern of collaboration dating back to the "Caesaro-Papism" of the Byzantine period and continuing into the era of modern nation states. Insofar as they held a "political theology," it was largely one of acquiescence to the state. Orthodox churches have embraced human rights only weakly in comparison to western Christianity and have only occasionally preached reconciliation in a political context (Philpott and Shah, 2006, p. 44, 47, pp. 49–50).

Evidence is already emerging that truth recovery can take place where Islam is predominant. Following on the experiences of Sierra Leone and South Africa is Morocco, which has just completed the first major truth commission in a country that is almost solely Muslim. The government of Afghanistan, also almost entirely Muslim, has approved an "Action Plan for Peace, Reconciliation, and Justice in Afghanistan" to investigate past human rights violations, commemorate victims, and implement reconciliation mechanisms. A survey of Iraqis conducted by the International Center for Transitional Justice also shows them largely open to truth recovery, while Iraq's Prime Minister has recently advocated a national reconciliation plan (ICTJ, 2004; Partlow and Sebt, 2006).

But the case for Islam must go deeper: Does the tradition include a political theology of reconciliation? It is a large question to ask about a religion with centuries of writings on justice, punishment, and politics. At least some prominent contemporary scholars of Islam point to the possibility. George Irani and Nathan Funk (1998) have documented traditional Arabic Islamic rituals of *sulh* ("settlement") and *musalahah* ("reconciliation"), rich practices of reconciliation that include apology, forgiveness, restitution, and community ratification. Abdulaziz Sachedina (2001) makes a case that a conception of restorative justice is rooted in the Qur'an. Whether these and other statements of Islamic restorative justice (Ammar, 2001) can command a broad consensus within Islam is still an open question.

Transitional justice will continue to be important. As long as countries are becoming democracies they, or at least most of them, will want to look back at their pre-democratic past. As long as civil wars are being settled – and there are plenty still raging – the parties involved will want to assess injustices committed during the combat. The justice of transitions will interest both activists who proffer solutions and analysts who want to understand why certain solutions are adopted and what their effects are. Both will look around to other countries for lessons and patterns. If the current argument is correct, they will want to pay special attention to the role of religion.

NOTES

- ¹ This is not to say that Huntington is generally a "hermeneuticist of suspicion." His scholarship is known for its emphasis on ideas, culture, and religion. See *The Clash of Civilizations and the Remaking of World Order* (New York: Simon & Schuster, 1996).
- ² Huntington notes the correspondence between his own categorization of transition processes with that of Donald Share and Scott Mainwaring (1986).
- ³ For helpful comments on this section, I thank John Alcock.

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THOMAS CUSHMAN

9. Genocidal Rupture and Performative Repair in Global Civil Society: Reconsidering the Discourse of Apology in the Face of Mass Atrocity

Acts of Apology

One of the most interesting developments in political discourse over the last few years has been the emergence of official, public apologies by nations, individuals, religious institutions, and institutions of global governance for their culpability for and failure to prevent atrocities, gross violations of human rights, and genocide. The Queen of England apologized for the treatment of the Maori people by the British Empire; the Roman Catholic Church apologized for the Spanish Inquisition and other acts of violence committed in its name; and the United States, several European countries, and the United Nations have apologized for failing to prevent genocide in Bosnia and Rwanda.¹ Hardly a day goes by, it seems, without a representative of some nation, social institution or group apologizing for the misdeeds of some individual, institution, or group for either doing something to them or failing not to do something for them.

Why has this "age of apology" (Gibney et al., 2008) come about? And what does it mean? Or more to the point, what do apologies mean? Clearly, it was not always the case that powerful nations and institutions have apologized for their acts. Indeed, the opposite has been the case: wars, imperialism, mass killings, and other such nefarious acts have generally been committed in the name of self-defense, material interest, considerations of national interest, *realpolitik* and simply as ordinary business. The exercise of power throughout history has always been attended by an unapologetic and willful rhetoric of justification and righteousness, the latter being the antithesis of the rhetoric of apology. Historically speaking, what Hegel called the "slaughterbench of history" has always been a bed that has been made in a distinctly unapologetic way.