

Reconciliation or Justice: What Role Does Truth Play in Mexico's Redress for Victims of Atrocities?

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Abstract: Since 2018, the concepts of truth, justice, and reconciliation have become increasingly important in the Mexican State's judicial agenda. In Andrés Manuel López Obrador's presidential term, two Truth Commissions were established to investigate cases of mass atrocities that have deeply affected the country's social fabric. The first Truth Commission was established to look into the "Ayotzinapa Case" —a brutal episode of violence resulting in the disappearance of forty-three students. The second Truth Commission sought historical clarification of the atrocities committed in Mexico between 1965 and 1990, a time of political violence commonly known as the "Dirty War".

Despite sharing the same institutional name (commission) and being based on the same ideal (truth), closer examination reveals a conceptual split in their mechanisms and goals. This article shows that the Truth Commission for the Dirty War ("MEH") revolves around a reconciliatory view, while the Truth Commission for the Ayotzinapa Case ("COVAJ") prioritizes a sense of retributive justice. The article demonstrates why the selection of one political objective (*e.g.*, reconciliation) resulted in the exclusion of another (*e.g.*, justice) and how truth works inside each political process.

Keywords: truth; truth commission; justice; reconciliation; human rights.

Resumen: Desde 2018, los conceptos de verdad, justicia y reconciliación han cobrado importancia en la agenda judicial del Estado mexicano. En el periodo presidencial de Andrés Manuel López Obrador, se crearon dos Comisiones de la Verdad para investigar casos de atrocidades masivas que han afectado profundamente el tejido social. La primera se estableció con la intención de investigar el "Caso Ayotzina-

¹ This article is based on a broader research on reconciliation, human rights and transitional justice at the LSE.

pa”, un brutal episodio de violencia que resultó en la desaparición de cuarenta y tres estudiantes. La segunda Comisión de la Verdad buscaría el esclarecimiento histórico de las atrocidades cometidas en México entre 1965 y 1990, un episodio de violencia política comúnmente conocido como la “Guerra Sucia”.

A pesar de compartir el mismo nombre institucional (comisión) y basarse en el mismo ideal (la verdad), un examen más detallado revela una división conceptual en la forma en que se construyen sus mecanismos y objetivos. Este ensayo muestra que a Comisión de la Verdad para la Guerra Sucia (“MEH”) tiene una visión reconciliadora, mientras que la Comisión de la Verdad para el Caso Ayotzinapa (“COVAJ”) prioriza una agenda de justicia retributiva. El artículo demuestra por qué la selección de un objetivo político (por ejemplo, la reconciliación) resultó en sacrificios de otro (por ejemplo, la justicia), y muestra cómo funciona la verdad dentro de cada proceso político.

Palabras clave: verdad; comisión de la verdad; justicia; reconciliación; derechos humanos.

Summary: I. *Introduction.* II. *On Truth, Justice and Reconciliation.* III. *Mexico’s Human Rights Crisis: The Role of Truth in Reconciliation and Justice Processes.* IV. *Conclusions.* V. *References.*

I. Introduction

Mexico’s political debate on violence saw a shift in 2018. Following Andrés Manuel López Obrador’s (“AMLO”) election to the presidency, the concepts of truth, justice, and reconciliation became increasingly important in the State’s judicial agenda. Violence and atrocities take on different forms in Mexico, as do the causes and victims’ demands. In a country with over 100,000 people missing and 6,000 clandestine graves,² it is common for political leaders, society, and victims to find themselves embroiled in arguments and tensions over a wide range of pleas for justice.

Amid spiraling violence, prioritizing the truth was the State’s initial action. In the first years of the presidential term, two Truth Commissions were established to investigate cases of mass atrocities that have deeply affected the social fabric. The first Truth Commission was set up to look into the “Ayotzinapa Case” —a brutal episode of violence resulting in the disappearance of forty-three students. The Commission’s stated goal was to ensure the relatives’ right to know the truth, as well as due access to justice. The second Truth Commission sought the historical clarification of the atrocities committed in Mexico from 1965 to 1990, a period of political violence commonly known as the “Dirty War”.

Despite sharing the same institutional name (commission) and being based on the same ideal (truth), closer examination reveals conceptual divisions in the construction of their mechanisms and goals. Specialized literature suggests that “projects of public remembering have sought the truth about the past through

² Comisión Nacional de Búsqueda, *Informe total de personas desaparecidas, no localizadas y localizadas* (2024), <https://comisionacionaldebusqueda.gob.mx/> (accessed on Dec. 14, 2024).

two different paths: reconciliation or justice”.³ This essay argues that the Truth Commission for the Dirty War (“MEH”) was committed to the former, while the Truth Commission for the Ayotzinapa Case (“COVAJ”) aimed for the latter.

The purpose of this article, then, is to demonstrate why selecting one political objective (*e.g.*, reconciliation) might result in the exclusion of the other (*e.g.*, justice), and appreciate how truth functions within each political process. To this end, the article begins by outlining the theoretical and practical distinctions between a truth that promotes retributive justice and one that advocates reconciliation. It continues by discussing the institutional procedures designed to guide the truth, with particular emphasis on Truth Commissions. The context of the Mexican case is provided in a second chapter. My research focuses on comparing the MEH and COVAJ, examining how their political agendas led to conceptual and practical distinctions in the pursuit of the “truth.” These chapters come together in a third section, where the conclusions are presented.

II. Truth, Justice, and Reconciliation

Dealing with historical injustices commonly begins with confronting or coming to terms with the past. This first task, which Stanley Cohen names the “truth phase”,⁴ can be understood as something objective “to know what happened, to phase the facts”.⁵ Nevertheless, in practical terms, it is typically a political choice “tied to deciding what to do with individual offenders or wider social goals such as reconciliation”.⁶

Truth is a disputable concept and is built upon multiple meanings shaped by political decisions. A truth that is intended to serve as a legal basis for judicial persecution and punishment, for example, will be articulated and constructed differently from a truth that is intended to serve as a basis for reconciliation. As Humphrey explains, a “legal truth” is commonly expressed through “facts” that can be presented and applied by the judiciary. In contrast, a truth that promotes national renewal is often supported by testimonies that make victims’ stories of suffering visible.⁷ In these cases, the power of words is not legal, Humphrey points out, “but empathetic”.⁸

These boundaries are not rigid and can be used interchangeably⁹ (*e.g.*, factual information can influence a reconciliatory effort, and testimony can inform

³ MICHAEL HUMPHREY, *THE POLITICS OF ATROCITY AND RECONCILIATION: FROM TERROR TO TRAUMA* 98 (Routledge, 2022).

⁴ Stanley Cohen, *State Crimes of Previous Regimes: Knowledge, Accountability and the Policing of the Past* 20 *LAW & SOC. INQUIRY*, 1995, at 7.

⁵ *Id.* at 10.

⁶ *Id.* at 11.

⁷ Humphrey, *supra* note 3, at 105.

⁸ *Id.* at 99.

⁹ Moreover, as explained by Cohen and Humphrey, reconciliation and justice also have

a trial), but the emphasis and weight are often skewed toward one side or the other depending on the political objectives in play. Furthermore, the pursuit of “truth” in violent settings is entwined with a more general political choice about how to deal with gross human rights violations.¹⁰ Ultimately, this political decision will be fundamental to understanding the nature of the truth that will be produced and presented.

In Argentina, for example, the political aim was to punish a regime that had disappeared thousands of innocent people. Under the motto *Nunca Más* (“Never Again”) and the belief that “truth should lead to justice,” the truth in that political context was used to serve “as the basis for persecution of the leaders of the Argentine Junta [...] consequently the whole procedure was very legal”.¹¹

South Africa, on the other hand, opted for a post-apartheid reconciliation process, relying on the idea that truth-telling would have a therapeutic and healing effect on the nation-building project.¹² With this political agenda and under the motto “reconciliation *through* truth”, the State granted amnesty to perpetrators in exchange for confessions of some atrocities committed under apartheid.¹³ As Moon recounts, political actors at the time argued that to achieve truth and reconciliation, the nation “must deliberately sacrifice the formal trappings of justice, courts, and trials”.¹⁴

The political dilemma to use the truth as a tool for “reconciliation” or “justice” is not unique to Argentina or South Africa. In Sri Lanka, commissions were established to inquire into the disappearance of people in the country, as a way to gather evidence to criminally prosecute those involved.¹⁵ Conversely, countries like El Salvador and Chile ease off on retributive justice ideals and the rule of law in support of a reconciliation agenda. Perpetrators in these nations enjoyed a certain degree of impunity and even gained political concessions to join the next government.¹⁶

What I am interested in underlining is that “truth” in political discourse is neither objective nor universal. Instead, it is flexible and conditional since it is inextricably linked to a specific political context that has irretrievably shaped its tenets and mode of expression. When confronted with past human rights violations, the State can prioritize the “ordinary” justice formula of prosecution and

some points in common. For example, both oppose forgetting, both seek some kind of accountability, and both seek some kind of retribution for victims.

¹⁰ Cohen, *supra* note 4.

¹¹ Humphrey, *supra* note 3, at 102.

¹² Claire Moon, *Healing Past Violence: Traumatic Assumptions and Therapeutic Interventions in War and Reconciliation*, 8 J. HUM. RTS., 71, 99 (2009).

¹³ RICHARD WILSON, *THE POLITICS OF TRUTH AND RECONCILIATION IN SOUTH AFRICA: LEGITIMIZING THE POST-APARTHEID STATE* (Cambridge Univ. Press, 2001).

¹⁴ Moon, *supra* note 12, at 80.

¹⁵ PRISCILLA B. HAYNER, *UNSPEAKABLE TRUTHS: CONFRONTING STATE TERROR AND ATROCITY* (Routledge, 2000).

¹⁶ *Id.*

punishment, or it can opt for a reconciliatory process. Embarking on one mission often involves making sacrifices in the other. As Cohen notes, States must decide: “[...] should atrocities and their perpetrators be held accountable and punished, or should old wounds be allowed to heal, and national reconciliation be achieved?”¹⁷

The question of truth is intrinsically linked to this decision and will be severely influenced by the political objectives pursued (whether justice or reconciliation). This political aim, in turn, will affect the path taken by the institutional vehicle that contemporary democracies have devised to pursue it: the Truth Commission.

Truth Commissions: An Overview

Defined as an “official body created [...] to investigate, document, and report upon human rights abuses within a country over a specified period of time”,¹⁸ truth commissions have established themselves as key institutions in confronting past human rights violations. Their general objective is “to establish an accurate record of a country’s past, clarify uncertain events, and lift the lid of silence and denial”.¹⁹ A few characteristics that truth commissions have in common are their temporary nature, historical focus, State authorization or empowerment, and their study of abuse tendencies over a defined period of time.²⁰ Truth commissions are not courts or prosecutors’ offices and, although they have quasi-legal elements, their task “is not to establish (criminal) guilt, but to establish (political) responsibility”.²¹

While often focusing on atrocities suffered “at the point of political transition”,²² some may also investigate serious human rights abuses that occurred years ago. These “historical truth commissions”, as dubbed by Hayner, are not part of a political transition agenda, but serve to clarify historical injustices, acknowledge victims, and provide reparations.²³ In the preceding section, I contended that “truth” is inherently linked to a broader political question related to the State’s political aim while confronting past atrocities. Whether justice or reconciliation, the establishment of a truth commission often represents the State’s choice between those two ends. The political objective that truth will pursue in a given context is generally entrenched in the commission’s legal mandate, *vis-à-vis* the political leaders appointed to enforce it.

¹⁷ Cohen, *supra* note 4, at 9.

¹⁸ Ruth Teitel, *Transitional Justice Genealogy* 16 HARV. HUM. RTS. JOURNAL, 69, 78, 94 (2003).

¹⁹ Hayner, *supra* note 15, at 24.

²⁰ *Id.*

²¹ Francois Du Bois, *Nothing but the Truth: The South African Alternative to the Dilemma of Corrective Justice in Transitions to Democracy* 1 LETHE’S L., 97 (2001).

²² Hayner, *supra* note 15, at 17.

²³ *Id.*

Since truth commissions frequently rest on ambiguous or construable goals like “memory,” “justice,” or “forgiveness”, political players are decisive in directing how these goals are carried out. In Sri Lanka, for example, the government set up different truth commissions to scrutinize disappearances that occurred in the country. Despite working under the same mandate and investigating the same atrocity, the political leadership of each commission approached the search for the “truth” differently. Of note for this essay, one of the commissions “was clearly oriented towards identifying the perpetrators and recommending prosecution [...] (while other) adopted a more academic tone oriented towards reconciliation and the psychology of national healing”.²⁴

Although the question of how truth is constructed and presented “will ultimately come down to what (political) purpose a commission is intended to fill”,²⁵ it is important to note that its purpose can be multilateral. Commissions may seek to adhere to the benefits of truth-telling, such as “acknowledging” victims or the deterrence theory, which holds that uncovering the past will prevent similar events from happening again.²⁶ They might also strive to tell a story that creates social consensus and closes an unpleasant chapter in the country’s history.²⁷ Perhaps more concretely, as Hayner noted, the purpose of creating a truth commission can be to foster justice and accountability, or to promote reconciliation.²⁸ As I will show in the following chapters, truth commissions in Mexico mainly pursued the objectives of reconciliation and justice, but with different approaches in each case.

III. On Mexico’s Human Rights Crisis: The Role of Truth in Reconciliation and Justice Processes

Mexico was ruled by a single political party for 70 years.²⁹ From electoral frauds to single candidate elections, the country was always formally a democracy, but with tints of partisan autocracy. Perceived at the time as a “perfect dictatorship”,³⁰ the country took a stride toward genuine democracy in 2000 when it elected a president from an alternative platform, even if the political elite and the *status quo* remained substantially unchanged. The state of democracy changed in 2018, as Mexico elected its first left-wing president. Since then, the official message has been that the country is undergoing a political *transformation*. Within this political framework, the new government pledged transition-

²⁴ *Id.* at 75.

²⁵ *Id.* at 83.

²⁶ Cohen, *supra* note 4.

²⁷ Du Bois, *supra* note 21.

²⁸ Hayner, *supra* note 15.

²⁹ The Institutional Revolutionary Party (“PRI”) governed Mexico from 1930 to 2000.

³⁰ El País, *Vargas Llosa: México es la dictadura perfecta*, Aug. 31, 1989.

al justice measures to challenge the country's overwhelming issue of violence. The truth commissions studied below are part of this agenda.³¹

One could legitimately contend that Mexico is not a democracy undergoing a transition. Unlike the earliest models of the twentieth century, which Teitel identified as Phase I models,³² Mexico did not transition from a state of war to one of peace, nor did it undergo a shift from military rule to democracy like other Latin American countries. Furthermore, Mexico's national history does not match other processes of political reconciliation —where the idea of union, rupture, and reunion dominates.³³

Rather than regarding truth commissions in Mexico as instruments of transitional justice, I view them as exceptional mechanisms³⁴ for the redress of historical injustices and past atrocities in a context of extreme violence and brutality. With this clarification in mind, I examine the truth commissions the Mexican government has established in the following sub-sections.

1. The Reconciliation Approach in the Commission for Access to the Truth, Historical Clarification, and the Promotion of Justice for Serious Human Rights Violations Committed from 1965 to 1990 (“MEH”)

In Mexico between 1960 and 1990, opponents of the ruling party faced political violence. Students, farmers, and “rebels” who threatened the political class were subjected to persecution, murder, disappearances, and torture at the hands of the State. Addressing and comprehending this era —also known as the “Dirty War” or “State Terror”— was one of López Obrador's administration's top concerns.

Shortly after winning the presidential election, AMLO instituted the “Forums for Pacification and National Reconciliation”. Before groups of victims of the “Dirty War”, he presented his political agenda to redress Mexico's human rights crisis. Focusing mainly on the idea of forgiveness and reconciliation, Obrador declared, “Regarding those of you who say, ‘neither forgive nor forget’, I say, ‘forgive, but do not forget’ [...] If we abide by the Lex Talionis of ‘an eye for an eye, a tooth for a tooth,’ Mexico will be left toothless”.³⁵ In his inaugural speech to Congress, AMLO doubled down on this idea. Addressing critics,

³¹ The phrase “transitional justice” is used in several official documents. Perhaps the most important one is found in the National Plan for Security and Peace (2018-2024).

³² Teitel, *supra* note 18.

³³ Claire Moon, *Prelapsarian State: Forgiveness and Reconciliation in Transitional Justice* 1 J. SEMIOTICS L., 2004, at 185.

³⁴ Daniel Torres-Checa, *Who Holds the Reins of Power in Chaos? Military Involvement and the Emergence of a De Facto State of Exception in Mexico* 2 RATIO DECIDENDI, 2025, 1, <https://revistas.up.edu.mx/ratio-decidendi/article/view/3251>

³⁵ Tania Casasola, *Olvido no, perdón sí. López Obrador llama a la reconciliación en el primer foro de pacificación*, ANIMAL POLÍTICO, Aug. 7, 2018.

victims' and organizations' calls for justice and retribution, Obrador declared, "There would not be enough courts or prisons (for the perpetrators), and what is even more delicate and more serious, is that we would put the country into a cycle of fracture, conflict and confrontation".³⁶

Seeing justice as an incentive for confrontation is not unique to Mexico. Governments "often deny the retributive model on the basis that it threatens a return to violence".³⁷ In any case, Obrador's position sheds light on the politics of reconciliation and serves as a clear example of the dilemma States face when determining how to address historical injustices. According to AMLO, pursuing a justice model would result in "fracture" and "confrontation" that come in conflict with the objectives of national reconciliation. As I argue, this political vision would affect the priorities and methodology of the MEH.

The MEH is what Hayner would call a "historical truth commission".³⁸ Its function is to study the political violence perpetrated by the Mexican State against dissidents of the regime between 1960 and 1990. Its mandate outlines different objectives: the "clarification of the truth, remembrance, promotion of justice and reparation to victims".³⁹ Formally, one of the MEH's objectives is the promotion of "justice", but the political priorities seem to point towards the exercise of reconciliation, memory, and reparation. Since its establishment, the Commission has focused its efforts on investigating the atrocities committed by the State, listening to the victims' voices, and creating a truth-telling narrative of the Dirty War.⁴⁰

According to MEH official reports,⁴¹ the Commission has hosted dialogue and communication forums in 20 states; gathered the testimonies of more than 800 individuals; conducted research using documents found in specialized collections; exhumed the remains of victims of the 'Dirty War'; held events publicly acknowledging victims and their families; organized various commem-

³⁶ Presidencia de la República, *Andrés Manuel López Obrador rinde protesta como Presidente Constitucional de México* (Dec. 1, 2018), <https://www.gob.mx/presidencia/articulos/discurso-de-andres-manuel-lopez-obrador-presidente-de-los-estados-unidos-mexicanos?idiom=es>, (last visited Dec. 18, 2024).

³⁷ Moon, *supra* note 12, at 72.

³⁸ Hayner, *supra* note 15, at 17.

³⁹ MEH Mandate, *Decreto por el que se crea la Comisión para el Acceso a la Verdad, el Esclarecimiento Histórico y el Impulso a la Justicia de las violaciones graves a los derechos* (June 6, 2021), https://www.dof.gob.mx/nota_detalle.php?codigo=5631865&fecha=06/10/2021#gsc.tab=0 (Accessed on Dec. 18, 2024).

⁴⁰ It is important to note that MEH was only one of many efforts the State led to investigate Dirty War crimes. Notably, in 2019, the Human Rights Commission issued Recommendation No. 30VG/2019, which included a full report on the results of the investigation into serious human rights violations during that period. This document highlights testimonies, evidence, and recommendations made to the Ministry of the Interior and the Ministry of Defense to ensure measures to prevent any recurrence of such practices.

⁴¹ MEH Report, *Comisión para el Acceso a la Verdad, Esclarecimiento Histórico y el Impulso a la Justicia de las Violaciones Graves a los Derechos Humanos Cometidas desde 1965 a 1990, Avances y Perspectivas (2022-2023)* (Oct. 2023), <https://comisionverdadyjusticia.segob.gob.mx/>.

orative acts and events; and created memory archives and microsites, such as ‘We Don’t Forget,’ which contains infographics and documents on that violent period. One can argue that this might work under an agenda of reconciliation (as narrative), one that “seeks to cohere and unify diverging perspectives on the past”.⁴² This undertaking may foster memory, acknowledgment, and perhaps reparation. The “promotion of justice” is, however, the Commission’s remaining task.

Even though the MEH Report confirmed the existence of covert detention centers in several military installations and identified the bodies of victims extrajudicially executed during this period and left in communal graves, no one has been prosecuted or held accountable as a direct consequence of this process.⁴³ The Commission’s own data notes the lack of progress in this area and argues that, considering the absence of justice for victims for over 50 years, it may be appropriate to “promote different models of justice, before insisting on criminal prosecution”.⁴⁴ In a nutshell, this is a political call to abandon the claim of retributive justice (prosecution and punishment of perpetrators).

When the Truth Commission was established, the “Collective of Surviving State Victims” asked the MEH “not limit itself to producing a historical report or carrying out a merely academic exercise”. Instead, they demanded that it “focus on the perpetrators and prove their criminal responsibility”. Before the commissioners and the president, they pleaded for it “not to take another 20 years to bring about *justice*”.⁴⁵ The MEH completed its work in September 2024, submitting a historical report.⁴⁶ No one has been criminally charged due to this process and the prevailing recommendation regarding justice is that, perhaps, it is time to stop insisting on that idea.

2. The Retributive Justice Approach in the Commission for Truth and Access to Justice in the Ayotzinapa Case (“COVAJ”)

On September 26, 2014, students from a Rural Normal School in Ayotzinapa, Guerrero, traveled to Mexico City to participate in a protest. Military personnel and state police were secretly observing the students. The truck carrying the students was intercepted by the police sometime between September 26 and September 27. That night the police opened fire on the students. Some were

⁴² Moon *supra* note 33, at 193.

⁴³ MEH Report, *supra* note 38.

⁴⁴ *Id.* at 93.

⁴⁵ MEH Inauguration, *Versión Estenográfica. Instalación de la Comisión de Acceso a la Verdad por Violaciones a DDHH 1965-1990* (Dec. 10, 2021), <https://www.gob.mx/presidencia/articulos/version-estenografica-instalacion-comision-de-acceso-a-la-verdad-por-violaciones-a-ddhh-1965-1990?state=published>.

⁴⁶ MEH Final Report, *Fue el Estado (1965-1990) Informe Final del Mecanismo para la Verdad y el Esclarecimiento Histórico* (Aug. 16, 2024), <https://www.meh.org.mx/>.

killed, some were injured, and 43 were violently held and abducted.⁴⁷ To this day, students are still missing, and the violent events of September 26th are still unresolved.

As Cohen notes, truth is more pressing than justice in most situations.⁴⁸ This is particularly true in situations involving disappearances, where there is an overwhelming feeling of “desperately wanting to know what happened”.⁴⁹ In some sense, creating the COVAJ was the institutionalization of that struggle. “We will find the truth about what happened”. Obrador said in 2018, “Let us know where the students are and let us punish those responsible”.⁵⁰

Right from the start, the political rhetoric surrounding the Ayotzinapa Case has been focused on justice. Journalists quickly ascertained that, unlike with the victims of the “Dirty War”, the government neither discussed reconciliation nor used the term ‘forgiveness’ in meeting with the parents of the missing students.⁵¹ The COVAJ mandate seeks to “provide all the legal assistance required so that families can have [...] proper access to justice and knowledge of the truth”.⁵² In addition, its decree establishes the creation of a Specialized Prosecutor’s Office which will provide the “truth” the Commission renders to the Courts.

Unlike the MEH, the COVAJ is not primarily concerned about hosting public debates, memory exercises or the construction of a compelling truth-telling narrative. As evidenced in its Progress Report, the COVAJ’s work is focused on presenting a legal case-theory, establishing the facts, organizing the evidence, identifying the groups accountable for the atrocity and suggesting courses of judicial action to punish those responsible.⁵³ In some ways the COVAJ is guided by the Argentinean model where “truth must serve justice”. Although in that case as in this one, a more honest motto would be “truth and justice must serve politics”.

When the COVAJ became a threat to the political establishment, the ruling class and the military elite blocked its work. They discredited the group of inde-

⁴⁷ ÁNGELA MARÍA BUTRAGO RUIZ ET AL., INFORME AYOTZINAPA: INVESTIGACIÓN Y PRIMERAS CONCLUSIONES DE LAS DESAPARICIONES Y HOMICIDIOS DE LOS NORMALISTAS DE AYOTZINAPA (Grupo Interdisciplinario de Expertos Independientes, 2015).

⁴⁸ Cohen, *supra* note 4.

⁴⁹ *Id* at 19.

⁵⁰ BBC News, México: *AMLO Se Compromete con Familiares de Víctimas de Ayotzinapa a Esclarecer lo Sucedió con los 43 Estudiantes*, BBC NEWS, Sept. 9, 2018.

⁵¹ Shalia Rosangel, *AMLO no habló con los padres de los 43 del perdón. Les ofreció castigo, “sea quien sea”*. Sin Embargo, Sept 26, 2018.

⁵² COVAJ Mandate, *Decreto por el que se Instruye Establecer Condiciones Materiales, Jurídicas y Humanas Efectivas para Fortalecer los Derechos Humanos de los Familiares de las Víctimas del Caso Ayotzinapa a la Verdad y al Acceso a Justicia* (Dec. 4, 2018), https://www.dof.gob.mx/nota_detalle.php?codigo=5545622&fecha=04/12/2018#gsc.tab=0.

⁵³ COVAJ Report, *Informe de la Presidencia de la Comisión para la Verdad y Acceso a la Justicia ‘COVAJ’ del Caso de Estudiantes de Ayotzinapa* (Aug. 12, 2022), https://comisionayotzinapa.segob.gob.mx/es/Comision_para_la_Verdad/Informe_Presidencia.

pendent specialists investigating the case, illegally spied on Truth Commissioner Alejandro Encinas, and forced the prosecutor overseeing the case to resign. “It is because you went after the military” was the excuse given to the former prosecutor explaining why he should step away from the investigation.⁵⁴ Shortly thereafter, arrest warrants against high members of the army were dropped.

When the Commission published the “new narrative of the case,” the families of the victims rejected it for “confining responsibility to the municipal level [...] and diminishing the responsibility of the army”.⁵⁵ Yet, this truth-framework served as a basis for prosecuting lower-ranking local officials and former public servants, while larger structures of the armed forces remain virtually untouched.

Since there is nothing “remotely like a full policy of criminal accountability”,⁵⁶ those in control of the political power are also positioned to determine who faces prosecution and who is pardon. Truth commissions play a role in this endeavor as well, presenting the Courts with an interpretation of the facts that best serves the political objectives of those in charge. On the eighth anniversary of the disappearance, rural educator Minerva Najera remarked, “there is still no truth, only fragments of the truth; pieces of truth that have befitting the government (to share)”.⁵⁷ No wonder why Hayner suggests referring to truth commissions as “fact and fiction commissions” or “some-of-the-truth commissions”.⁵⁸ In this case, as in others, the truth that comes to light, the truth that will serve justice, and the truth that will remain buried depend on the political goals pursued.⁵⁹

IV. Conclusions

Mexico’s Truth Commissions illustrate two approaches used to redress historical human rights abuses. It demonstrates, on the one hand, a commission intent on crafting a compelling truth-telling story. Testimonies and victims’ voices make up most of the input while its political objective is to acknowledge harm and preserve historical memory. The overall design is more in line with the

⁵⁴ John Giber, *El Gobierno Dinamitó la Investigación del Caso Ayotzinapa, Denuncia Exfiscal*, ANIMAL POLÍTICO, Sept. 26, 2023.

⁵⁵ Alejandro Santos Cid, *La rabia de los familiares de los 43 de Ayotzinapa: ‘el Gobierno se ha colocado del lado del Ejército*, EL PAÍS, Sept 26, 2023.

⁵⁶ Cohen, *supra* note 4, at 20.

⁵⁷ Rodrigo Soriano, *Las familias de los 43, ocho años después: ‘no hemos conseguido verdad ni justicia’*, EL PAÍS, Sept 26, 2022.

⁵⁸ Hayner, *supra* note 15, at 22.

⁵⁹ For a better sense of how the government altered the facts this case, see Ángela María Buitrago Ruiz et al., *supra* note 4, and Javier Dondé, *El caso Ayotzinapa: de la desaparición forzada de personal al crimen de lesa humanidad*, PARÉNTESIS LEGAL (2022).

South African model, where discovering the truth aims to help heal and reconcile society.

On the other hand, we have a commission focused on gathering evidence, investigating the facts, and crafting a legal case. Its purpose is to punish the perpetrators while its structure and aim are closer to the Argentinean model, where truth must serve justice. “Truth” was embedded in both processes, serving either as a vehicle for reconciliation or as a tool to advance justice. Even though truth served as the foundation of both commissions, its function and the way it was pursued were ultimately shaped by the prevailing political objectives in each case.

The sources for seeking reconciliation primarily lie in victim testimony, while the sources for seeking justice are based on “facts” that can be presented to the courts.⁶⁰ If the role of the victim in a reconciliation process is typically to forgive, in a retribution process, it is to demand.⁶¹ Reconciliation is seen as a way to stop the cycle of violence and avoid confrontations between political figures, while justice is typically understood as a way to set a moral standard and deter (via punishment) the atrocious deed from ever occurring again.

In the midst of seemingly diverging paths, I would underline two important lessons. First, there are no generic formulas for resolving past injustices. The same State under the same political leadership can apply apparently contrasting models, as happened in Mexico. Thus, the political aim of the procedure will be determined by the balance of the different interests at play. The State may take a “strict justice” stance and seek punishment for any wrongdoer in a Kantian-type model.⁶² It may seek to recall, remember, reconcile, and forgive, with the goal of “closing the chapter on the past”.⁶³ It can also follow Zalaquetti’s more utilitarian prescription and seek “all the truth, and as much justice as possible”.⁶⁴ The number of alternatives and goals might be as high as the specific interests require.

Identifying the political interests at stake is a second key insight. The investigation compels us to strip the aura of universal objectivity with which “the truth” is commonly presented in political discourse. In processes that address mass atrocities and historical injustices, we are compelled to think of the “truth” not as a concept, but as a political tool. The question, then, is not *what* truth is, but rather *who* constructs it and *why*.

⁶⁰ Humphrey, *supra* note 3.

⁶¹ Moon, *supra* note 12.

⁶² Cohen, *supra* note 4.

⁶³ Moon, *supra* note 12, at 89.

⁶⁴ Cohen, *supra* note 4, at 43.

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