

Truth Commissions in Post-Communism: The Overlooked Solution?

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Abstract: Despite their increased popularity in Latin America, Africa and Asia, truth commissions have remained an overlooked solution to coming to terms with the recent human rights abuses perpetrated in communist Europe. Since the start of the democratization process in the early 1990s, only Germany, the Baltic states of Estonia, Latvia and Lithuania, and Romania have employed truth commissions as methods to reckon with communist crimes. These five commissions share important similarities and differences in terms of their organizational structure, goals, activity, and efficacy. The scarcity of truth commissions in post-communist Europe is explained by the nature of communist repression, the legitimacy of the communist regime as a home-grown versus an externally-imposed political set of institutions and practices, and the use of lustration and access to secret files as methods to obtain truth, justice and reconciliation in post-totalitarian times.

Keywords: Truth commissions, transitional justice, de-communization, post-communist democratization.

INTRODUCTION

During the last 35 years, truth commissions have been widely embraced around the world as effective mechanisms for redress. From 1974 to 2007 over 30 commissions dedicated to truth and/or reconciliation were set up in Africa (South Africa, Uganda, Liberia, Morocco, Zimbabwe, Chad, Burundi, Nigeria, and Sierra Leone), Asia (Sri Lanka, Nepal, and South Korea), Central and Latin America (Haiti, Bolivia, Uruguay, El Salvador, Argentina, Guatemala, Chile, Ecuador, Panama, and Peru), and even Canada, to name just a few. Established in newer or older democracies by elected and non-elected heads of state, governments, national assemblies, political parties or the international community, truth commissions have been hailed for their potential to educate future generations and to provide truth, justice and reconciliation to deeply divided societies (Heyner, 2001).

Through public hearings that bring victims and perpetrators face to face, truth commissions can help post-authoritarian countries to engage in the moral catharsis needed to heal and reconcile their fractured societies. In the process, victims or their surviving relatives can get closure by finding the reasons why their families were targeted, while victimizers can be offered absolution and forgiveness in the form of amnesty and reintegration into the community. In this sense, truth commissions can help societies heal from the past, come to terms with unspeakable atrocities, debunk the “impermissible lies” (Michael Ignatieff, quoted in World

Peace Foundation, no year) that prevented them from overcoming extreme conflicts, find the resources to transcend group divisions, and foster the trust that can bring the community back together by protecting and promoting those inter-human relations that form the basis of social capital. By systematically searching for the truth in a relatively short timeframe, truth commissions attest to the commitment of the country’s new political leadership to resolutely break with its predecessor’s record of human rights abuses. By rewriting and reinterpreting the historical record, truth commissions educate future generations about the horrors of the recent past, ensure that such atrocities will not reoccur, and prevent denials of the occurrence of human rights abuses in the country. When their work aids in the implementation of other methods of transitional justice (such as the restitution of property, the allocation of compensation packages, the launching of court trials against decision-makers of the *ancien regime*, etc.), truth commissions are capable to enlarge the scope of the politics of memory from uncovering the truth and rewriting history to obtaining justice and reparation.

Although in a “justice cascade” (Lutz and Sikkink, 2001) the international community has strongly advocated truth commissions as effective tools of almost universal relevance and applicability, some new democracies have been reluctant to embrace them, for a number of different reasons. First, it remains uncertain that commissions reconcile societies instead of dividing them, a possibility that becomes especially dangerous since new democracies are vulnerable to the limitations and constraints of painful political and economic transition. For some countries, the wild card of reckoning with the past through truth telling is accompanied by a risk factor too great to be worth assuming. This is why, for example, after emerging from General Francisco Franco’s dictatorship, Spain decided not to engage the past in a meaningful way (Aguilar, 2001). In its turn, post-communist Poland drew a “thick line” between the democratic present and the communist past (Stan, 2006),

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while post-communist Russia unexpectedly chose to praise its Soviet past as a time of international splendor and national harmony among its ethnic groups (Stan 2008). For how much time can the process of coming to terms with the past be put off remains a matter of debate, since none of these countries was able to stem out public debate on their recent past. Although assumed by only a handful of post-dictatorial states, the “forgive and forget” option suggests that transitional justice (the option to “prosecute and punish” through a range of methods, including truth commissions) is neither a necessary nor a sufficient condition for successful democratization.

Second, when devoid of reconciliation purposes, commissions tend to closely parallel the work of the historians. Historians can produce impartial and comprehensive investigations, if they retain political independence and take time to document, to examine and to interpret the evidence. For sure, not all historians are devoid of political loyalties and not all of them can produce valuable scholarly interpretations. In new democracies, historians have to grapple with the legacies of the old authoritarian regime, which subjected them to systematic and sometimes prolonged indoctrination, asked them to view the country’s history through a predominantly political lens, scorned critical thinking and independence of mind, and deprived them of the international contacts that kept them abreast with the newest research methods (Maier, 2000).

By contrast, truth commissions are declared political tools producing political results at politically defined times. Beyond serving the “didactic purpose” of academic inquiry carried out by historians, truth commissions offer an official acknowledgement of regime abuses that “is an important step in breaking with the undemocratic patterns of the old order, which may have included cover-ups and misinformation” (Yoder, 1999, 60). The investigations into past atrocities carried out by truth commissions always have public significance and political urgency, but they are never comprehensive, transparent or totally impartial. Since new democracies allow historians to work freely and independently in environments untouched by significant censorship, where open discussion about what went wrong in the old regime is tolerated, it seems superfluous to create truth commissions to replicate work that would unfold naturally with time.

Third, when they primarily seek reconciliation, truth commissions are criticized for providing soft justice and partial truth, if they substitute themselves to court trials and refuse to list the names of the torturers in their final reports. To avoid social unrest, some truth commissions chose to disclose no names or only some names of perpetrators. Their defenders have argued that understanding the mechanism of repression is sufficient to prevent the reoccurrence of crimes, but their critics have pointed out that truth implies the disclosure of both the repressive institutions and the persons working in and for them. Truth has abstract (social) and personal dimensions of comparable importance. In the name of reconciliation and truth, some commissions have further opted to reward known torturers with amnesty. When seeing their chances to get justice in courts denied, the victims have denounced commissions as “farfetched” “vehicles of political

expedience” that rob them of the right to (court) justice (*The Independent*, 11 September 1997).

Fourth, truth commissions are expensive political tools, especially for new democracies facing severe economic constraints and a plethora of social demands. For this reason, in some cases the international community has provided most or part of the necessary funding (as in South Africa or El Salvador). Even when money was available, commissions found it difficult to adhere to strict budgets. As exploratory research tools, commissions can estimate the amount of work they need to undertake, but in the course of their activity might discover that the atrocities outnumber the initially anticipated crimes. Some commissions spread their resources thinly in an effort to find out as much as possible about as many cases as possible. Other commissions concentrate resources to look at smaller subsets of representative or extreme abuses and “gross” human rights violations (Brahm, 2007). Whatever the route they take, commissions need money to keep running. Their reliance on governmental funding makes them prone to political bias and obliges them to participate “in a struggle for access to scarce financial resources” (Ernst, 1995, 380) that they might not always win.

While popular around the world, truth commissions have been overlooked in post-communist Europe. After the collapse of the communist regimes in 1989 in Eastern Europe and in 1991 in the Soviet Union, only five such commissions were created in Germany, Romania, and the Baltic states of Estonia, Lithuania and Latvia. None of these commissions became widely known in their respective countries, none was credited with bringing all the benefits of truth, justice, reconciliation and education to their societies, and none was regarded as a model worth inspiring neighboring countries.

What exactly accounts for the post-communist countries’ relative indifference to truth commissions? Why did only five countries see their potential benefits, and why did the region feel the need to devise new methods of reckoning with the past, such as lustration (the banning of communist decision-makers and secret agents from post-communist politics) and access to the secret files compiled by state security services? Why did these societies prefer legal-administrative to truth-telling measures? Conversely, what can post-communist countries tell us about the efficacy of truth commissions in regions affected by widespread, but relatively mild, repression? These questions are answered first by looking at the five post-communist commissions constituted to date, then by examining the explanations proposed by different authors, and finally by suggesting, in the concluding section, a new mix of explanatory variables worth considering.

Truth commissions are defined as “official, temporary, non-judicial fact-finding bodies that investigate a pattern of abuses of human rights or humanitarian law, usually committed over a number of years” (*Truth, Justice and Reparation* 2007). They are bodies that 1) focus on the past; 2) investigate a pattern of abuses over a period of time, rather than a specific event; 3) are temporary bodies “typically in operation for six months to two years” and “completing their work with the submission of a report”; and 4) are “officially sanctioned, authorized, or empowered by

the state” (Heyner, 2001, 14)¹. They are, thus, temporary not permanent monitoring and enforcement bodies, mandated to gather and interpret information about past human rights violations, and meant to finalize their work with the release of a concluding report to either the general public or the body (political actor) that created them. They investigate patterns of human rights violations that occurred over several years, with only in exceptional cases that period of time being extended over several decades (as, for example, in the case of the South African Apartheid regime of 1949-1991 or the Indian Residential School system in Canada, which ran from the 1920s until 1997). Truth commissions are best suited for investigating relatively short periods of time that mark the beginning and the end of a specific historical event marred by unspeakable atrocities or widespread state abuse. Finally, truth commissions might seek reconciliation, but such a specific mandate is not always present. According to the above definition, a number of official, temporary, fact-finding bodies have been set up in Eastern Europe to examine human rights trespasses, but only five of them examined the abuses of the communist regime and completed their work with the publication of the results of their investigation.

For this reason, several commissions in Yugoslavia and Romania were not included in the present analysis. For example, in March 2001 a 15-member Commission for Truth and Reconciliation was set up by the Yugoslav President Vojislav Kostunica. Appointed to a three-year period, the commission members were meant to address human rights violations of the Yugoslav Wars of the 1990s, not those resulted from the previous decades of communist rule. As such, from the viewpoint of its mandate, if not of its organization and structure, the commission was similar to the parliamentary inquiry commissions created in the 1990s by the Romanian Parliament to investigate the involvement of the army, the militia and the secret state security forces in the anticommunist Revolution of December 1989.

From the start, observers were skeptical as to the Yugoslav commission’s ability to uncover the bloodshed and destruction caused by Serbian or Serbian-sponsored forces in the former Yugoslav federation (Pejic, 2001). The Yugoslav commission found the truth as illusory as its Romanian counterparts, whose reports were ignored by a general public convinced that the commissions had no commitment to ask the hard questions as long as important players dominated the post-communist political scene. Indeed, who shot at the revolutionaries after dictator Nicolae Ceausescu was no longer in power, who gave the orders for the massacre that left over 1,100 dead and some 3,350 wounded, and why exactly remain riddles that are yet to be solved (Ratesh, 1991; Hall, 2000 and 2002; Siani-Davies, 2006). The Yugoslav commission was marred by additional difficulties. Set up without public consultation on its mandate, structure and composition, it saw two of its members resigning soon after their appointment. As if this were not enough, its work paralleled the hearings of the International Criminal Tribunal

for the Former Yugoslavia, a fact which threatened to make the commission redundant (Heyner, 2001). It is not surprising, thus, that in 2003 the commission faded away into insignificance without being able to achieve anything notable (Ilic, 2004).

TRUTH COMMISSIONS IN POST-COMMUNISM

The five truth commissions that investigated communist abuses share some important features translating into both advantages and disadvantages for their activity. First, the German and the Romanian commissions were set up without much prompting and support from the international community, whereas the Baltic commissions had a more international flavor, not only because these three countries decided together to employ this particular transitional justice method, but also because those bodies included foreign members. In all Baltic countries the research, documentation and writing of final reports were completed by national support staff. Truly “international” commissions enjoy independence from the fractured societies they investigate—including former torturers placed in the government, the police, the secret police and the army who could block or distort their work—but they can translate independence into lack of legitimacy and aloofness toward the very societies they are called to serve. As predominantly “domestic” bodies, all post-communist commissions except the Estonian one were in a better position to have their results accepted by the society. The inclusion of a limited number of foreign members was regarded as an advantageous move that would promote “impartiality in the work of the commission” and give it access to the newest research tools developed in the West (Chancery of the President of Latvia, 2005).

Second, all post-communist commissions released final reports detailing their activity, the results of their investigations, and the evidence they amassed to document communist-era human rights trespasses. This is no small accomplishment, given the fact that the period of time under investigation was relatively long (in all five cases), the commissions were large and ran the risk of disagreement among members (especially in the German and Romanian cases) or their complex mandate covered atrocities perpetrated by both the Nazi and the Soviet occupation forces (in the Baltic cases). The fact that all five commissions concluded their activity with well-written reports in relatively short periods of time attests to their overall efficacy and accountability to the political actors that created them. Note that the Latvian commission produced a series of published materials that it regards in its totality as its final report.

Equally commendable was these commissions’ willingness to name perpetrators, a choice that similar bodies in other parts of the world refused to make. Concerns for the safety of commission members, perpetrators, witnesses, victims and their relatives, and the society at large prompted some truth commissions to abstain from including names in the final reports (Guatemala) or to provide just the names of torturers mentioned by victims in their testimonials (Argentina). By disclosing the names of perpetrators and victims, post-communist truth commissions traveled the road from a general, abstract account of atrocities to an individualized account that brings much-deserved

¹ In using Heyner’s definition, I am departing from the position adopted by Welsh (2006), who believes that truth commissions are “public forums”. Since it barely served as such, Welsh questions whether the German commission is similar to bodies constituted in other parts of the world. Note, however, that many truth commissions in Latin America, Africa and Asia did not provide a public forum and did not seek to attain reconciliation. See Uganda 1974 and Morocco 2004, among others.

recognition for past human rights abuses and closure to the wronged victims and their surviving relatives.

One drawback was the fact that the final reports of these commissions were academic in nature, making them unintelligible to the wider public. In this sense, the five commissions attained greater precision for the truth they uncovered about communist-era atrocities at the expense of justice for the victims and reconciliation for the society at large. This choice, the result of the lack of subpoena and amnesty-granting powers, was reflected in the way commissions conducted their work prior to writing the final report. Except for the German commission, the other bodies held no public hearings, preferring to conduct their activity in relative isolation from the civil society, the victims' groups, and the general public. Even the German commission was unable to organize the face-to-face meetings between victims and victimizers for which the South African Truth and Reconciliation Commission became famous. Open public hearings require the cooperation of abusive decision-makers, something no post-communist commission could secure, but they make the public more familiar with the work of the commission and more prone to embrace the results of its investigation. Instead, all five post-communist reports were designed by their authors, and regarded by the public, as mostly academic research products destined for an academic audience. This inability to provide public healing was a matter of concern for many observers. One commentator noted that the German commission left "eastern Germans largely on the side-lines as their past was reconciled on their behalf" (Yoder, 1999, 77). The same can be said about the other post-communist commissions.

Post-communist truth commissions were political in nature, being set up by the Parliament (Germany) or the Presidents (Estonia, Latvia, Lithuania and Romania) in order to signify a radical break with the repressive past and its practices of human rights violations. The German Parliament's drive to set up the truth commission was seemingly inspired by a desire to be as comprehensive and as representative as possible in the effort to atone for communist crimes. By 1991, each of the five political parties represented in the all-German Parliament, where center-right and center-left formations from both East and West Germany were represented, favored the creation of an investigatory commission (Yoder, 1999). The presidential truth commissions of Estonia, Latvia, Lithuania and Romania aimed to bring additional legitimacy and popularity to the Presidents who established them. To boost their political prominence vis-à-vis weak and hesitant Parliaments, the Presidents used a radical anticommunist discourse. All three Baltic Presidents were drawn from the ranks of former communist-era victims, but the anticommunist credentials of the Romanian President Traian Basescu were dubitable (Ciobanu, 2007; Stan 2005). A sea captain who represented communist Romania's ship industry in Antwerp before becoming a director in the communist Ministry of Transportation, Basescu started his post-communist political career in the National Salvation Front, heir to the Communist Party. In 2004, his anticommunism represented a well-thought strategy that permitted him to win the Presidency.

The five post-communist truth commissions are presented below chronologically. As in other respects,

Germany was a pioneer in the region, being the first to establish a commission in May 1992, two and a half years after the fall of the Berlin Wall and nearly two years after the country's reunification (Welsh, 2006). At the time, truth commissions did not receive much international recognition as transitional justice methods, though they had proved their utility in several Latin American post-junta democracies. By the time the Baltic commissions were set up in late 1998, however, the much celebrated South African Truth and Reconciliation Commission had concluded its activity and had helped truth commissions gain international acceptance as effective tools of coming to terms with the past. The Baltic efforts were partly inspired by success stories in other countries and a desire to come to terms with the darker chapters of these countries' recent past. There is, however, little evidence that the Baltic decision-makers knew the German precedent in depth. The most recent commission was established in Romania with the public, the local academic community and even the commission members believing that it was "a first in the post-communist world" (Cesereanu, 2008, 278). In this respect, the country reinvented the wheel, without the advantage of learning from its neighbors' accomplishments and mistakes.

The German Commission of 1992

The Commission of Inquiry for the Assessment of History and Consequences of the SED Dictatorship in Germany (*Enquete Kommission zur Aufarbeitung von Geschichte und Folgen der SED-Diktator in Deutschland*) was created by the German Parliament to document and investigate the practices of the Socialist Unity Party (SED), the Communist Party that ruled East Germany single-handedly from 1949 to 1989 (Act no. 12/2597 of 14 May 1992). Recognizing that "the legacy of the SED dictatorship continues to be a burden preventing people in [unified] Germany from coming together" and that "to work through the history and the consequences of the SED...is a joint task of all Germans" and important "for the purpose of truly unifying Germany," the law mandated the commission to carry out eight different, but inter-related, tasks.

These tasks were the following: "to analyze the structures, strategies and instruments of the SED dictatorship, in particular the issue of responsibilities for the violation of human and civil rights and the destruction of nature and the environment," "to evaluate the significance of ideology, integrative factors and disciplining practices," "to examine the violation of international human rights agreements and standards and the forms of appearance of oppression in various phases; to identify groups of victims and consider possibilities of material and moral restitution," "to work out the possibilities and forms of deviating and resistant behavior and oppositional action in the various spheres along with the factors that influenced them," "to illustrate the role and identity of the churches in the various phases of the SED dictatorship," "to judge the significance of the international conditions, particularly the influence of Soviet politics on the GDR," "to examine the significance of the relation" between the two German states, and finally "to include the issue of continuities and analogies of thought, behavior and structures in 20th century German history, particularly the period of the national socialist dictatorship" (Act no. 12/2597).

The commission's task was meant to be feasible and attainable in a reasonable period of time, more than to be comprehensive. Many crimes perpetrated by or with communist support had occurred outside the period under examination. To investigate communist crimes, the commission could hold "discussions with interested parties and citizens' groups, with scientists, scholars and grass-roots groups which work through GDR history" and "public hearings and forums," and could "commission presentation of expert assessments and scholarly studies" (Act no. 12/2597). It could consult relevant archives, including the secret archive of the Ministry of State Security (*Ministerium für Staatssicherheit* or the Stasi) managed by the Gauck Agency (*Bundesbeauftragter für die Unterlagen des Staatssicherheitsdienstes der ehemaligen Deutschen Demokratischen Republik*). From May 1992 to May 1994, the commission conducted 44 public hearings, met in 40 additional closed sessions, and held 150 related subcommittee hearings about some of the most hotly debated topics in the history of divided Germany (McAdams 2001a and 2001b). It commissioned 148 academic papers on 95 questions dealing with various aspects of the SED dictatorship (Weber, 1997). Although it had no subpoena powers, the commission heard over 100 witnesses representing victims of repression who were willing to come before it and detail their story of life under the hammer and sickle. Fearful that their testimony might be used against them in court sometimes in the future, senior government officials declined to testify when invited.

Chaired by Rainer Eppelmann, the commission included 16 members of Parliament, Dorothea Wilms, Dirk Hansen, Dietmar Keller, Markus Meckel, and Gerd Poppe, among them. Commission members were joined in their activity by 11 outside-Parliament experts and a substantial support staff that organized the public hearings and kept a written record of testimonials. Instead of being chosen from among politically independent luminaries, commission members were nominated by parties represented in Parliament. For example, Wilms represented the ruling Christian Democrats, whereas former Minister of Foreign Affairs Meckel represented the opposition Social Democrats. Some commission members were respected former East German dissidents who had suffered at the hands of the SED or the Stasi. A former pastor working with young people and the co-author of the Berlin Appeal of 1982 that asked communist authorities to join the international peace movement, Eppelmann pressed for a radical and comprehensive reckoning with the communist past (Bacher, 1985). Poppe represented the Peace and Human Rights Initiative, one of the few opposition groups constituted in East Germany. Under the communist regime, Poppe lost his jobs, was frequently detained and harassed for more than two decades for his refusal to toe the party line. The Stasi tried to break up his marriage, and to turn his friends against him (Kinzer, 1992). In 1969, the 17-year-old Meckel was expelled from school because of his political stance. He enrolled at the church-operated school to pursue theological studies.

In June 1994, the commission presented the German Parliament with its final report, which consisted of 18 volumes containing 15,378 pages of information. The report

included thematic papers commissioned to outside researchers and summaries of the public hearings where those papers were presented. Given its considerable length, the report was not directed to the larger audience. Some of its language was considered "ponderous" (Garton Ash, 1998), whereas some of its historical judgments represented compromises between West German political parties worried about their own past connections to the East German repressive regime. Because it privileged "only selected historical narratives" (Welsh, 2006, 145), the report and the commission's activity had "minimal" effects "from the point of view of the average former East German citizen" (Sa'adah, 1998, 185). As a result, German politicians "probably would have better served their long-term interests had they pushed for a less stereotypical assessment of the sources of stability and discord under communist rule" (McAdams, 2001a, 174). These shortcomings probably derived from the fact that "although most witnesses came from the east, most commission members and historians who testified were West German" (Welsh, 2006, 145).

Overall, however, the report presented invaluable documentation for students of East German dictatorship. It covered everything from "the role of the Stasi to that of the churches, the power structures, the police and the judiciary, the opposition, and the relations with West Germany" (Garton Ash, 1998). The commission was so successful that its recommendations were embraced by the German Parliament. One such recommendation called for the creation of a second commission to carry out its mission. The Commission of Inquiry on Overcoming the Consequences of the SED started its work in 1995. At its prompting, on 5 June 1998 the Bundestag established the *Stiftung zur Aufarbeitung der SED-Diktatur*, a foundation destined to investigate the communist past.

The second commission was a study commission, whereas its predecessor was a commission of inquiry, according to the Bundestag. Commissions of inquiry are formed entirely of members of Parliament, whereas study commissions include legislators and independent experts, all enjoying the same rights. Together with public hearings, study commissions are instruments by means of which the Bundestag draws on external expertise. The Commission of Inquiry on Overcoming the Consequences of the SED included 12 members of Parliament and 12 experts. At least one member of the first commission also belonged to the second (Meckel). Unlike reports submitted by inquiry commissions, the reports prepared by study commissions cannot include recommendations for decisions by the Bundestag. Rather, "if the Bundestag is to take a decision on them, proposals contained in the reports must be taken up by the plenary or by the Federal Government and introduced in the Bundestag in the form of a motion or bill" (Bundestag, no year).

The Three Baltic Commissions

In the late 1990s, the Baltic states began to see the benefits of reckoning with their past with the help of truth commissions. In response to calls for reevaluating their involvement in the Holocaust in the early 1940s, from September to November 1998 the presidents of Estonia, Latvia and Lithuania set up investigative commissions of

historians, whose mandate was soon expanded to include an investigation of atrocities perpetrated by the Soviet regime. Fearful that the “local complicity during the Holocaust would be swept under the carpet by an overwhelming official narrative of Baltic victimhood at the hands of the USSR” (Kott, 2007, 321), international observers deplored the move, but had to concede in the end that such fears were unfounded, as the Holocaust figured prominently in the publications produced by all three commissions.

The first Baltic commission, the International Commission for the Evaluation of the Crimes of the Nazi and Soviet Occupation Regimes in Lithuania (*Tarptautine komisija Naciu ir Sovietinio okupaciniu rezimu nusikaltimams Lietuvoje ivertinti*), was created by President Valdas Adamkus on 7 September 1998 with the mission to search for the historical truth and provide a forum for uncensored discussion of the country’s repressive past. Adamkus had a personal stake in the process. After joining the underground anti-Soviet resistance movement, during World War II he escaped to the United States, from where he returned to run for the Lithuanian presidency in the February 1998 elections. During its first meeting of 17 November 1998, the truth commission recognized that the Nazi and Soviet regimes carried out repression for different reasons, with different goals, and with the help of different methods and, as a result, constituted two sub-committees each entrusted with the task of studying one occupation regime. In turn, each sub-committee supervised the activity of an independent working group of experts investigating crimes committed as a result of the Nazi or the Soviet occupation.

The 12-member Lithuanian commission was chaired by Emanuelis Zingeris, the respected signatory of the Act of Lithuania’s Restoration of Independence from the Soviet Union of 11 March 1991. The chairman of the Foreign Affairs Committee of the last Lithuanian Parliament constituted before the country’s break-up from the Soviet Union, Zingeris was the grandson of a Jewish couple who, in the 1940s, poisoned themselves rather than surrender to the Nazis (Rosenthal, 1990). Seven commission members were Lithuanian: three well-known historians, one representative of the Lithuanian President, the respected Roman Catholic Bishop of Telsiai Antanas Vaicius, one Lithuanian academic teaching in the United States (history Prof. Saulius Suziedelis) and Kestutis Girnius, the former coordinator of the radio Free Europe/Radio Liberty Baltic service, which in communist times was the most important broadcaster of a viewpoint alternative to the official communist one. Among the foreign commission members were three representatives of the Israeli Yad Vashem and the American Jewish Congress, and two British and German history professors. In May 2005 Adamkus reconfirmed the commission’s membership by presidential decree.

From 2004 to 2006, the sub-commission analyzing the Nazi occupation of Lithuania published three volumes on the 1941-1944 period (Truskas and Vareikis, 2004; Dieckmann, Toleikis and Zizas, 2005; Dieckmann and Suziedelis, 2006). In 2006 and 2007, the sub-commission examining the two Soviet occupations released three volumes on the first Soviet annexation of 1940-1941 (Jakubcionis, Knezys and Streikus, 2006; Anusauskas, 2006; and Maslauskienė and Petravičiūtė, 2007). During the same period of time some progress was

achieved in the investigation of the second Soviet occupation of 1945-1991, but no final report on that historical period was published to date. In 2002, the commission discussed the results of its research on the role of the Soviet suppression of armed resistance to the country’s re-annexation in 1945 and the forced mobilization of Lithuanians into the Soviet Red Army before the end of World War II, that is, from August 1944 to May 1945. In December 2003 it further examined the Soviet structures of repression and the Lithuanians’ collaboration with them, while in April 2005 it debated the Soviet-organized mass deportations of Lithuanians, the mass arrests and tortures, and the religious persecution of 1944-1953. It is likely that the commission will take some time to disseminate its conclusions on the 1945-1991 Soviet occupation to the public.

On 2 October 1998, the Estonian International Commission for Investigation of Crimes against Humanity (*Inimsusevastaste Kuritegude Uurimise Eesti Rahvusvahelise Komisjon*) was created by President Lennart Meri to investigate crimes against humanity perpetrated by the German and Soviet occupation forces. As a young boy, Meri was deported to Siberia with his family. This was Estonia’s second attempt to use truth commissions as methods to reckon with its recent past. In 1991, Parliament established the State Commission on the Examination of Repression Policies (*Okupatsioonide Repressiivpoliitika Uurimise Riiklik Komisjon*) to document the acts of repression perpetrated on Estonian territory and against Estonian nationals, and the ensuing economic damages to the Estonian people. Because of shortage of personnel, an imprecise mandate and the difficulty to obtain relevant archival documents, this body dragged its feet, and was unable to release a final report by 2008. As this all-Estonian parliamentary commission reached no conclusion in its first seven years of activity, President Meri set up the international commission with a narrower and clearer mandate.

The seven-member international commission was chaired by the respected Finnish Minister Max Jakobson. It included Nicholas Lane (Chairman of the International Relations Commission of the American Jewish Committee), Uffe Ellemann-Jensen (President of the European Liberal Party, former Foreign Minister of Denmark), Peter Reddaway (Professor of Political Science and International Affairs at George Washington University), Arseny Roginsky (Chairman of the Council of the Scientific and Educational Center Memorial of Moscow), Paul Goble (Director of Communications and Public Relations, Radio Free Europe/Radio Liberty), and Wolfgang Freiherr von Stetten (Professor, Mitglied des Deutschen Bundestages). Notable was the effort to co-opt representatives of the Jewish victims’ groups and the Radio Free Europe/Radio Liberty, but also a German and a Russian, representing the two ethnic groups that had transformed from oppressors into oppressed.

The commission met for the first time on 26 January 1999 to agree on the manner in which its mandate was to be transposed into practice. During debates, commission members agreed to investigate crimes against humanity committed during three distinct historical periods: 1) the first occupation of Estonia by Soviet forces in 1940-1941; 2) the

occupation of Estonia by German forces in 1941-1944; and finally 3) the second Soviet occupation beginning in 1944. For practical purposes, the work of the commission was divided into two different stages. The first to be investigated was the German occupation, followed by the two Soviet occupations, which were to be analyzed together, given their manifold similarities and continuities. The commission was conceived as a non-judicial body tasked with the collection of information not in order to launch judicial actions against individuals or institutions, but to illuminate the past in the hope of educating the Estonian and international publics about totalitarian horrors. In 2006 the commission published its two-volume final report of 1,337 pages as *Estonia 1940-1945*, a compilation of short articles devoted to narrowly defined topics of historical relevance.

On 13 November 1998, Latvia created the Commission of the Historians (*Vesturnieku Komisija*) under the auspices of President Guntis Ulmanis, a little-known economist whom Parliament had elected as President in 1993. Chaired by Prof. Andris Caune, it included 24 members, making it one of the largest commissions in the world. Most of its 12 Latvian members were historians affiliated with the Institute of History, the Faculty of History and Philosophy at the University of Latvia, the State History Archives, and the Museum of Occupation. An additional 12 academics from the United States, Sweden, Germany, Israel and Russia were appointed. The research was carried out by 25 Latvian historians commissioned to draft reports on the crimes against humanity committed on Latvian territory in 1940-1956. Four independent working groups investigated different time periods or types of crimes. One group looked at the Soviet occupation of 1940-1941, two other groups examined the Holocaust and the crimes against humanity of 1941-1944, whereas the fourth group investigated the Soviet occupation of 1944-1956. In 2004, commission members were reconfirmed, and the mandate of the commission was extended to include the entire Soviet period up to 1991 (Chancery of the President of Latvia, 2005).

The Latvian commission was the only post-communist commission not to compile a final report of its activity in the form of one single multi-volume book released at the end of its activity. Instead, the Latvian Commission of Historians recognized that a finite time period (even one extending over a decade) was insufficient for the commission to understand the recent past in all its complexity and for the Latvian society to be fully educated about it. As a result, the commission chose to organize a series of annual conferences open to the public and to publish monographs, conference proceedings and collections of scholarly articles (their number had reached 21 in 2007). Some of these conferences and publications touched on the Soviet deportations of 1941 and 1949 and the killings in Kuldiga and Skrunda, where hundreds of Jewish residents died at the hands of the Nazis and their Latvian sympathizers. In cooperation with the State Archives, the commission launched a database of Latvian victims of the German and Soviet occupations of 1940-1991.

The Romanian Commission

The Presidential Commission for the Study of the Communist Dictatorship in Romania (*Comisia Prezi-*

dentiala pentru Analiza Dictaturii Comuniste in Romania) was set up on 11 April 2006 by President Traian Basescu to investigate the communist regime of 1945-1989 and to compile the report that allowed the President to officially condemn the regime for its human rights trespasses (Decizia no. 8/2006). Elected in 2004, President Basescu wanted to deliver the official condemnation before Romania's acceptance as a full European Union member on 1 January 2007. Thus, the commission had only months at its disposal. Because the timeframe was short, the commission was larger than other similar bodies, and heavily relied on studies previously published by commission members and independent experts.

The commission included as many as 20 members, some known for their past dissident activity or open opposition to the Ceausescu regime (Monica Lovinescu and Virgil Ierunca), others known for their research on the Securitate, its relationship with the dominant Orthodox Church, and the communist repression mechanism (Marius Oprea, Cristian Vasile, Stelian Tanase), and still others selected from among the country's most respected intellectuals (the Orthodox Metropolitan Nicolae Corneanu of Banat and writer Horia Roman Patapievici). Commission members were aided by 20 historians, who assumed the task of researching and writing the final report. President Basescu allowed commission chairman, University of Maryland Prof. Vladimir Tismaneanu, to constitute the commission without input from Parliament, the cabinet or the society. The chairman tried to recruit representatives of a wide range of civic groups, but the membership was vigorously contested by the press. The personal involvement with the communist regime of some commission members came under scrutiny when the press revealed that Tismaneanu had graduated from the Academy of Social and Political Sciences Stefan Gheorghiu, which once trained Communist Party apparatchiks. Things got complicated when Virgil Ierunca died, dissident writer Paul Goma declined the invitation to sit on the commission, and Corneanu and Sorin Antohi admitted to past collaboration with the Securitate. Critics believed that former communist collaborators were not morally entitled to investigate communist crimes.

The commission submitted its final report in time for President Basescu to condemn the communist regime during the joint session of the Romanian bicameral Parliament of 18 December 2006, the first post-communist president to do so. The report was made available to the public first in 2006 through the website of the Presidency, and then in 2007 as a book. Inaccuracies discovered after the report's submission to the Presidency led to its modification, a move criticized on grounds that once adopted by the President as an official document, the report was part of the public record and, as such, inalterable. The 665 page report was structured into three sections dealing with the structure and role of the Romanian Communist Party, the communist repression and the role of the Securitate, and their impact on society, economy and culture from 1944 to 1989. Because it examined a wide range of human rights abuses, the report represented a good source of documentation on the Romanian communist regime, but its conclusions were rendered indefensible in a court of law by the use of a definition of genocide extending the concept to society, economy and culture.

The final report included recommendations for furthering the transitional justice process in Romania, but most of them were ignored by a government inimical to President Basescu and a society preoccupied mostly with its economic well-being. In March 2007, a new 12-member consultative presidential commission was set up under Tismaneanu's leadership: 1) to analyze the implementation of recommendations to be included in its final report, 2) to propose strategies for their implementation, and 3) to counsel the President on the progress in implementing the report's recommendations (Decizia no. 5/15 March 2007). This body, which has maintained a very low profile, is to wrap up its activity sometimes in 2009. It is unlikely that it will be able to fulfill its mandate, and as such President Basescu might choose to extend its activity, if he himself will be reelected in 2009.

TRUTH, JUSTICE, RECONCILIATION IN POST-COMMUNISM

As detailed, not all post-communist countries have reckoned with their communist past, and those that did make such attempts only sparingly used truth commissions as a transitional justice method. Indeed, most Eastern European countries and all of the Baltic states adopted lustration to ban communist officials and secret agents from post-communist politics. Parliaments in Ukraine, Georgia and Moldova vigorously debated lustration as a transitional justice method. Most of these countries engaged in the politics of memory by changing the names of localities and streets to remove communist symbols, and agreed to return abusively confiscated property to its original owners or to pay compensation for lost assets. Most of these countries opened at least part of their secret archives to the citizens interested to find out which of their relatives, neighbors and friends spied on them, and agreed to rehabilitate communist-era political prisoners and celebrate the memory of those who lost their lives in communist dungeons. As well, most of these countries rewrote history books to acknowledge communist crimes, and opened court proceedings against secret agents and communist officials who masterminded and carried out mass deportations, killings at the Berlin Wall, arrests and torture against protesters and dissidents (Stan, 2008).

To date, several explanations have been suggested to account for country differences in transitional justice. Huntington (1991) believed that exit from communism was the primary determinant for a country's desire to prosecute and punish former human rights perpetrators. According to him, countries that experienced "replacement," the change of the old communist guard with a new political leadership through violent and bloody revolution, were more likely to engage in the politics of memory. Romania and East Germany were thus more prone to prosecute and punish communist torturers than Hungary and Bulgaria, "transformations" where communist leaders took the lead and changed that regime into a democracy. Romania and East Germany were also more likely to prosecute than Poland and Czechoslovakia, "transplacements" where democracy was brought about in negotiations between weak regimes and weak oppositions. Huntington did not consider the former Soviet republics, but the peaceful secession of the Baltic states from the Soviet Union qualifies as a

"transplacement" whose non-violent character sets these countries apart from Romania and East Germany, although all five states set up truth commissions. Thus, exit from communism cannot explain the preference for this particular transitional justice method.

Moran (1994) claimed to find a more reliable indicator of a country's solution to the torturer's problem in the psychological variables of "exit" and "voice." According to him, "the tendency to forgive and forget can be found in those countries—Poland, Hungary and [East Germany]—where either exit and/or voice were allowed under the former regime. In countries where neither exit nor voice was allowed—Bulgaria and Czechoslovakia—calls for punishment predominated" (Moran, 1994, 101). By extension, Gorbachev's policy of glasnost would have quelled the desire for justice and revenge of former Soviet republics. Only the strict Stalinist communism of Romania (and Albania, a country Moran does not consider) would lead to transitional justice, a prediction invalidated by post-communist developments.

Welsh (1996) proposed that the "politics of the [post-communist] present" played a greater role than the nature of the communist regime or the exit from communism in determining a country's choice for or against coming to terms with its recent past. For her, "the weaker the electoral strength of the former communists, the easier it has been to move ahead with de-communization efforts" (Welsh, 1996, 422). As a result, "in Bulgaria and Romania, where former communists have continuously been able to garner substantial electoral support, issues of lustration and prosecution of crimes committed under communist rule have added to the already substantial political polarization" (Welsh, 1996, 422). In countries where former communists maintained political clout transitional justice proceeded more slowly (if at all) than in countries where political power was gained by the pro-democratic opposition. The pro-democratic leaderships of Poland, East Germany, the Czech Republic, and the Baltic states would be most likely to come to terms with the past, while the reconstituted communist leaderships of the Slovak Republic, Romania, Hungary, Bulgaria, and most Soviet successor republics would resist the process. The "politics of the present," a present restricted to the early 1990s, is thus unable to account for a country's preference for truth commission.

Taking Poland as a case study, Calhoun (2002) agreed with Huntington (1991) that the type of democratic transition determined a country's approach to dealing with past abuses. In Poland, in particular, Solidarity acted rationally when refusing to pursue lustration in the months after the first post-communist election because "when a regime and opposition negotiate the conditions for holding free elections, the regime demands treatment with a velvet glove. The opposition, eager to measure its popularity in the electoral process, is willing to accommodate. The result is a democracy where members of the old regime and its collaborators retain the right to hold public office and comfortable civil service jobs" (Calhoun, 2002, 495). Poland's belated lustration was not the mere result of the post-communist political parties' desire to "maximize power" or willingness to "exploit the issue of past collaboration as a tool in the competition for power"

(Calhoun, 2002, 496), since neither of these could explain why Poland's liberals, the heirs to the Solidarity, did not support lustration, nor why a former communist president approved the country's lustration law. Instead, Calhoun identified the ideology of liberal democracy as the major break on Poland's urge to carry out political purges.

Williams, Szczerbiak and Fowler (2003) refined Welsh's theory by identifying the circumstances in which transitional justice can be instrumentalized as part of the political game, and specifying the motives that animate supporters of the politics of memory. They noted that countries that pursued lustration more vigorously—the Czech Republic, Hungary and Poland—differed in terms of their communist experiences and transition type, but faced identical demands for lustration in the early 1990s. Because of pervasive networks of secret informers and continuous political prominence of un-repentant communist leaders, “the political divisions in the newly-democratizing East European societies were expressed by reference to the old regime” and “attitudes to the past developed into an issue on which parties cooperate and compete” (Williams, Szczerbiak and Fowler, 2001, 3). The adoption of a lustration bill depended on the ability of its most ardent advocates to persuade a heterogeneous parliamentary plurality that the safeguarding of democracy required it. Whereas Welsh believed that support for lustration could mount primarily from within the ranks of the anti-communist opposition, Williams, Szczerbiak and Fowler recognized lustration as a policy palatable to a range of political actors, both former communists and former dissidents. In all three countries, the authors pointed out, lustration bills were initiated by anti-communist opposition forces, but had to be modified to become acceptable to a sufficiently large parliamentary majority. This theoretical model can best account for the balance of forces within Parliament, but most post-communist truth commissions were presidential bodies.

Whereas Huntington and Moran considered the past, and Welsh, Williams, Szczerbiak and Fowler considered the present as primary determinants of lustration, Nedelsky (2004) drew a link between past and more recent developments by arguing that “struggles over transitional justice issues should not be considered exclusively as ‘the politics of the present’ or as ‘the politics of the past’.” For her, “a stronger influencing factor was represented by the level of the preceding regime's legitimacy, as indicated during the communist period by levels of societal cooptation, opposition or internal exile, and during the post-communist period by levels of elite re-legitimation and public interest in ‘de-communization’” (Nedelsky, 2004, 65). By comparing the Czech and Slovak republics, she concluded that “the lower levels of regime repression in Slovakia both reflected and produced a higher level of regime legitimacy than existed in the Czech lands.” In addition, “the communist regime's higher level of legitimacy in Slovakia contributed to a lesser interest in transitional justice there than in the Czech lands” (Nedelsky, 2004, 88). The Czechs adopted lustration because they viewed the communist regime as less legitimate, and the post-communist government carrying it out as legitimate. By contrast, the Slovaks quietly left the lustration law to expire because of their acceptance of the communist regime and dissatisfaction with early post-communist rule.

Nalepa (2005) compared the puzzling behavior of Polish and Hungarian successors to Communist Parties, which first insisted on immunity from transitional justice as the price for supporting liberalization and democratization, and then implemented the very screening policies they raised initially against. In her doctoral dissertation, Nalepa determined that when former communists anticipated losing power to anti-communist forces, as was the case in Hungary in 1994 and Poland in 1997, they sought to appease a pivotal median party to prevent harsher legislation favored by hard-line anti-communists. Thus, she concluded, the former communists behaved rationally by initiating less punitive versions of transitional justice than their anti-communist rivals would. For former communists, support for lustration was not the result of support for an honest reexamination of communist crimes, but a pre-emptive strategy designed to protect their post-communist political careers from more radical policies. In the Baltic states, truth commissions were set up by Presidents who had a clear anti-communist agenda; in Romania it was created by a populist President ready to gain additional political capital for employing an anti-communist discourse; while in Germany the commission was established by a Parliament animated by the desire to overcome the past (*Vergangenheit*). Nalepa's explanation cannot hold, since no commission was the product of the former communists.

The most recent explanatory framework for transitional justice differences among post-communist countries was advanced by Stan and her collaborators (2008). Surveying all Eastern European and Soviet countries except Yugoslavia in terms of lustration, secret file access and court trials, they confirmed that Nedelsky's theory centered on regime legitimacy best explains the appetite for revenge of different post-communist societies. This study did not include truth commissions as a facet of transitional justice.

A NEW EXPLANATORY MODEL

The above theoretical models fall short in explaining the presence or absence of truth commissions in different parts of the post-communist world. Some models define transitional justice as a vague “appetite for revenge” or reduce it to one of its aspects (lustration). Others draw broad conclusions on the basis of a limited set of countries, usually the Central European lustration-enforcers, and completely disregard the post-communist societies that chose to ignore the past in the first stages of democratization (the former Soviet republics and the Balkan states). Still others limit the time frame of analysis to the 1990s, though several countries employed transitional justice after 2000. Even more important is the fact that these models cannot explain why countries preferred a specific method of coming to terms with the past (truth commissions), while others engaged in no transitional justice at all or adopted alternative methods. Several factors seem to explain why only a handful of post-communist truth commissions were created.

Truth commissions are most useful when the categories of victims and victimizers can be clearly outlined. Their usefulness is diminished when categories are blurred, abuses are non-political, and guilt is widespread (Garton Ash, 1998). When many citizens belonged to the Communist Party and offered information to the authorities it is difficult

to assign blame individually, other than for documented cases of participation in the repression that characterized early communist rule. This is why most post-communist countries shied away from truth commissions, and why the mandate of commissions in post-totalitarian countries was wider than in post-authoritarian countries. Totalitarian regimes controlled the public and the private aspects of life, and their repression curtailed political, but also economic and cultural rights. In late communism, victimization took the form of denying the rights to mobility, free speech and privacy, only rarely the extreme offense of murder. The vast network of secret agents ensured that most citizens were both victims and victimizers. Communist state abuses included “prohibitions against working and studying, and the constant harassment by the authorities that produced an environment of fear, and extraordinary limitation on freedom of expression and speech” (Miller, 2008). By contrast, victimization under authoritarian regimes (Apartheid, military juntas) resulted in murder, torture and disappearances, crimes that few observers would not view as serious human rights offenses.

As the American journalist Tina Rosenberg (1996) put it, simply but well, in Latin America repression was deep, in Central Europe it was broad. In Latin America, a clearly defined group of victims (tortured, disappeared or murdered) suffered at the hand of a clearly defined group of victimizers (army and police officers, members of the death squads). Because communist-era human rights trespasses were milder and more insidious than the crimes committed by other dictatorial regimes, the mandate of the German and Romanian commissions was broader than gross human rights violations. The diffused guilt penetrating the fabric of Eastern European societies also explains the tendency of post-communist truth commissions to be academic in nature, disconnected from the society, and interested in truth more than in reconciliation. When most citizens tacitly supported and suffered at the hands of the repressive regime, it is difficult, even morally questionable, to single out some victims as more deserving than the general population. But limiting the number of victims is necessary for the commission to conclude its activity. At the same time, economic and cultural repression is more difficult to evaluate morally, and to obtain justice and retribution for.

Thus, the mild nature of communist repression explains why the overwhelming majority of post-communist countries were uninterested in employing truth commissions in their quest to overcome the past. But this is not the reason why five post-communist countries preferred this method. Additional explanations need to be found.

Garton Ash believed that the relative scarcity of truth commissions in post-communism is accounted for by a combination of two different elements: “first, the historically defensible but also comfortable conviction that the dictatorship was ultimately imposed from outside and, second, the uneasy knowledge that almost everyone had done something to sustain the dictatorial system” (Garton Ash, 1998). There is some truth in his observation. First, as vehicles of redress and reparation for fractured societies, truth commissions help one segment of the society (the victims) come to terms with the actions of another segment of that same society (the victimizers), but to date no

commission was mandated to reconcile one society with a completely different society, be it a conquering neighboring country or an international hegemonic power. The South African Truth and Reconciliation Commission, for example, brought South African black victims face to face with South African white victimizers, but it had no subpoena or amnesty powers for nationals of other pro-Apartheid countries. Latin American commissions have been criticized for not taking a good look at the military and financial support the United States offered to the juntas that ordered the disappearances, torture and arrest of thousands of Latin American leftist sympathizers. Why truth commissions have mostly domestic, not international, mandates relates to the technical difficulties of devising efficient mechanisms to force other sovereign countries to admit to their involvement in human rights trespasses outside their borders, and the international penalties (in the political and economic sanctions) associated with such candid disclosure.

Pointing the finger to the Soviet Union had different effects on different post-communist countries. On the one hand, it quenched the appetite for truth and revenge in Central Asia, the Caucasus, Belarus, and to a lesser extent Ukraine and Moldova, whose societies believed that by merely identifying the source of all of their problems with an outsider morally cleansed them and absolved them of any need for genuine introspection. On the other hand, blaming the Soviet Union exacerbated the need for transitional justice in the Baltic countries, where the forced Soviet occupation and annexation continued to be regarded as the most painful moments in those countries’ history. The pain of losing sovereignty was more acute there because at the time of their annexation the Baltic states were more politically and economically developed and enjoyed more international standing than other Soviet republics. The very existence of East Germany was a painful reminder of Germany’s break-up in the aftermath of World War II, and the Soviets refusal to join the Allies’ decision to allow Germans to live in a united country. As for Romania, although the communist regime gained a high degree of legitimacy by the late 1960s, the country’s capitulation to the advancing Soviet troops, the abdication of young King Michael, and the loss of the province of Moldova were viewed as traumatic events attributable to the Soviet occupation more than to Romania’s chronic political instability, institutional weakness or economic backwardness. In addition, Romania was the only Soviet satellite without Soviet troops stationed on its territory after 1958, and the communist country that most openly and vocally displayed its independence from Moscow. Truth commissions were employed in countries where the repressive communist regime was more strongly associated with the outside (Soviet) occupation.

Country differences are also explained by the use of novel tools that address the truth, justice and educative aspects of transitional justice. Eastern Europe pioneered lustration and secret file access, two methods not employed in Latin America and Africa. Latin America’s preference for truth commissions and Eastern Europe’s preference for lustration and file access might suggest that these are two competing sets of transitional justice methods. First, the truth commissions’ mandate of educating the public and providing truth and justice is partially addressed by lustration and file access. Access to secret files can sort victims from

victimizers, and help an identification process that can form the basis of lustration. Second, at least some of the commissions' social, political and moral benefits can be obtained through much less expensive file access and court trials.

However, all post-communist countries that set up truth commissions also granted access to secret files and adopted lustration programs. Germany was a model in this respect for the entire region, including lustration in its Unification Treaty of 1990 and opening the secret archives that same year. The Baltic states were the only former Soviet republics to pursue both lustration and file access. Estonia and Latvia adopted lustration through their citizenship laws of 1994-1995, while Lithuania introduced vetting as early as 1991. Secret documents were opened to the public in 1995 in Estonia, in 2006 in Lithuania, and in 2007 in Latvia. Romania expanded the archives available to public scrutiny concomitantly with the creation of the truth commission. In February 2006, Romania adopted a mild lustration program that publicly disclosed the identity of former secret spies without obliging them to renounce their public posts. As such, truth commissions seem to supplement, rather than to replace, newer transitional justice methods.

A closer look at the timing of truth commissions comparative to lustration and file access helps us to understand why they are not competing methods. Germany and Estonia passed laws on lustration and file access before creating truth commissions. Latvia and Lithuania enacted lustration before and file access after establishing their commissions. While in 2001 it offered citizens the possibility to view secret files, Romania included radical lustration (denying uncovered secret spies the right to be elected or nominated to public positions) among the recommendations of its truth commission. Of the commissions studied here, the Romanian commission alone released the names of communist perpetrators with the declared intent of blocking their post-communist political careers. It believed that voters knowledgeable of communist crimes would be less inclined to vote for officials and secret agents identified in the report. The goal was questionable, as the commission was set up some 17 years after the country's first free and fair elections. By then, many communist officials had been excluded from post-communist politics by old age or poor health, and a new generation of younger, untainted politicians had come to prominence.

In Germany, Estonia, Latvia and Lithuania, truth commissions were set up with an eye to deliver benefits that lustration was unable to. By the time final reports were compiled, public identification was no longer necessary, since lustration had already banned tainted communist officials and secret agents from the political process. Truth commissions and lustration could be employed together because they addressed two different concerns: lustration delivered justice by forbidding tainted individuals from representing democratic electorates, while commissions allowed societies to reconsider and recreate the historical truth. Commissions were needed because the earlier lustration programs investigated just a fraction of all perpetrators: those who sought to prolong or start their political careers after the fall of the communist regime. Their identification was urgent, as failure to do so allowed these

unsavory characters to undermine the new democracies. But these individuals represented neither the bulk of nor the most tainted communist perpetrators. Truth commissions were able to uncover those responsible for older crimes that took place decades earlier, at the beginning of communism.

Germany, Estonia and Romania granted file access before setting up truth commissions, while Latvia and Lithuania granted it years later. There are substantive country differences with respect to secret collections. Unlike Germany and Romania, Estonia, Latvia and Lithuania have had little direct access to the most valuable source of information that could shed light on their recent past: the secret archive of the KGB. Compiled by the republican branches of the secret political police and consolidated through the inclusion of documents produced by the KGB's predecessors, the archives documented these countries' evolution as Soviet republics (the second Soviet occupation, as they refer to) and their prior political developments (the German occupation and the first Soviet occupation). In Estonia, except for the card system that explained the archive's organization, most secret documents were transferred to Moscow by the retreating KGB in 1991 just before the breakup of the Soviet Union, leaving Estonians to guess the content of the lost secret files. This guessing has provoked much public scandal, as there is no way to ascertain with precision whether the individuals who had a secret file mentioned in the cards were victims, spies or even both. Slightly larger collections of secret files were behind in Latvia and Lithuania, but all Baltic countries have depended on Russian access to secret archival collections more than Eastern European countries like Germany and Romania, which retained their sovereignty during communist times and, with it, their secret collections (Stan, 2008).

Secret file access, however meager (as in the case of the Baltic states), allows ordinary citizens to rewrite their personal history in a process that goes one step further than the final reports released by truth commissions. Whether the recreation of the personal histories is effected before or after the official, public reexamination of the historical record does not seem to matter that much, since the two processes complement each other nicely. The work of truth commissions becomes ever more important in countries that lost most of their written secret documents to a foreign government (the Baltic states). Even when extensive archival records are still available (Germany, Romania) truth commissions can help interpret the information contained in the secret files by contextualizing and embedding it in detailed analyses of the mechanisms of control. To some extent, the five countries did not fully exploit the truth commissions' potential to engage in oral history, as they remained academic in nature and did not multiply their sources of information to gain a historically accurate picture of communist repression.

CONCLUSION

It has been argued that truth commissions are created soon after democratization sets in, when the need for truth and reconciliation with the past is strongest and both the victims and victimizers are still alive (Heyner, 2001). This is because transitional justice can be best pursued within the

rather narrow “window of opportunity” opened by the collapse of a dictatorial regime, but closed soon after the public realizes that it takes more than a mere reshuffling of political institutions to effect democracy (Welsh, 2006, 139). However, the post-communist experience suggests that the need to reckon with an abusive past does not fade away with time. Transitional justice can be launched years after the regime change and the closing of the “window of opportunity,” as was the case in the three Baltic states or Romania. Both early and late truth commissions can be effective, if their goals are carefully calibrated. The German commission mostly sought to piece together a comprehensive account of SED abuses. Its Baltic counterparts were interested to educate their societies and the Western public about the horrors Estonia, Latvia and Lithuania suffered at the hands of their German and Soviet occupants. By contrast, the Romanian commission was political in nature, a means for the President to increase his legitimacy, to officially condemn the communist regime, and to damage the reputation of left-wing formations defending the legacy of 1945-1989.

Given the mild and extensive character of their communist regimes, post-communist countries were not prime candidates for truth commissions, transitional justice methods that tend to be rather expensive and require clearly defined categories of victims and victimizers. This is why only a handful of countries have introduced truth commissions in their repertoire of transitional justice methods. These were the countries that most keenly felt the Soviet occupation and domination, either because they had the most to lose at the time when the communist regime was imposed or because they insisted to retain their independence from Moscow. These were also the countries that tried to expand their efforts of coming to terms with the past by diversifying the repertoire of tools at their disposal. By contrast, other post-communist countries either did not feel the Soviet occupation as an equally abhorrent violation of their domestic and international rights, or they were able to derive the benefits of education, truth and justice by implementing other, novel tools like lustration and file access.

Presidential truth commissions can also be the product of political ambition, although the personality of the politician creating such bodies of inquiry is never the sole explanatory factor. To explain why Romanian President Basescu created the commission, Cesereanu (2008, 274) proposed three different reasons reflecting short-term political calculations made up by a populist President seeking to extend his personal control over a gripped, fragmented and inefficient political system. First, Basescu created the truth commission to outsmart his political rival, Premier Calin Popescu-Tariceanu, and to consolidate his record as a convinced, albeit converted, anticommunist. At the same time, by setting up the commission Basescu sought to deflect public attention from the inefficiency of the National Council for the Study of Securitate Archives, whose leadership was divided along political, ideological and personal lines. Last, the establishment of the truth commission responded to the obstinate calls from the civil society for the condemnation of the communist regime. Similarly, in the Baltic states Presidents Adamkus, Meri and Ulmanis created truth commissions to gain political capital relative to weak

Parliaments unable to move the transitional justice process forward and to reassure supporters of their commitment for documenting communist crimes. Presidential truth commissions can be set up more easily than parliamentary commissions, since the former need less political consensus among ideologically different formations than the latter. It might be possible that other post-communist countries might consider this transitional justice method in the future. Similar bodies might be established by countries just before acceding to the European Union.

The five truth commissions discussed here offer a useful lesson on their suitability to post-totalitarian settings. In all five countries, truth commissions assumed the role of the historians, providing exemplary, if not comprehensive and definitive, accounts of communist repression mechanisms. In this sense, they fulfilled their mission of uncovering the truth and offering new historical accounts for educational purposes. Given the widespread nature of repression, reconciliation was not as important a goal for these bodies. While in Latin America and Africa the “unspeakable truth” made reconciliation a top priority of the transitional justice process, in Eastern Europe establishing the truth had a more urgent character. The concern of the citizens living in the region was not so much that the past will continue to divide them, but that the past will be forgotten, the economic and political crimes of the communist regime ignored, and the differences between victims and victimizers glossed over.

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