

Jaime Rowen: I am currently an assistant professor of legal studies and political science at the University of Massachusetts Amherst. I've been studying the creation of truth commissions since about 2000. I have written a book called *Searching for Truth in the Transitional Justice Movement*, which tries to trace how the ideas of transitional justice and truth commission became intertwined with one another. And then, when people, activists mainly, decide they want to promote a truth commission, what happens and why?

I became interested in this topic while looking at the relationship of meaning-making after war in relation to the Holocaust. I lived in Costa Rica, where I worked at the Inter-American Court of Human Rights. Then I worked in Bosnia with survivors of war, then in Vietnam interviewing survivors of war, then in South Africa and Colombia. I really tried to get as much knowledge from as many different contexts as I could.

Q: TK

JR: I was 16, I think, when I went on this trip to see the concentration camp in Israel, and it was clear to me that there was a direct link between how people made meaning out of the Holocaust and all the violence happening in Israel. I became really interested in how you prevent things like the Holocaust, but even more so, what do you do if things like that happen, so that they don't repeat cycles of violence.

I studied in peace and conflict studies in college and ended up having unique opportunities like going to Bosnia and doing conflict resolution programming with orphans and seeing that, really, this idea that law is gonna solve these problems is the wrong idea. I became interested in why people continue to promote law as a solution. That led me to a PhD in the social scientific study of law in society.

Each place that I went I tried to examine through the lens of why are people doing what they're doing? And what do those assumptions lead to? If their assumptions are based off all the assumptions about the power of law or the power of truth-telling, what are some of the things that unexpectedly could happen? So I became really interested in more empirical approaches to studying mechanisms.

Q: TK

JR: In 2004, I was at the Center for the Study of Violence and Reconciliation in South Africa and was talking to people who had been working on transitional justice there since the 1990s. The CSVR formed in the wake of the truth commission and decided that they wanted to do something called Action Research. They really developed the model, I think, that a lot of transitional justice scholars and practitioners use.

People there seemed really frustrated with what was happening in New York. At the time, there were new studies emerging that showed that the truth and reconciliation commission wasn't as effective as people hoped and that there were some unintended consequences of that model. The CSVR was really trying to be at the forefront of those studies. They interviewed victims and talked about what was missing, such as reparations, which the victims had been promised.

And there was this outfit in New York, made up of the former head of the TRC, Alex Boraine, the head of research for the TRC who's been heavily criticized for not really caring about data and caring more about faith, and then a truth commission scholar, who's actually excellent, Priscilla Hayner, a very thoughtful woman. And they were promoting the truth commission model. It was very clear what they were doing. Alex Boraine was explicit about that. That led me to want to study what was going on between these two organizations that were promoting the model and what kind of effect it was having in other countries because I was starting to hear other countries talk about truth commissions. That seemed curious to me, why is that happening? I ended up in Morocco, for example, in the late 2000s studying the creation of their truth commission there.

I went to the archives at the Rockefeller Foundation because they archive the Ford Foundation documents, and I was able to come across early meetings of what would become the International Center for Transitional Justice and trace how key individuals in the Ford Foundation became interested in truth commissions, largely through their work in Latin America. And Latin America was at the forefront of working on historical memory as a human rights technique.

Then of course there was the truth commission in Chile so, again, key individuals working in key organizations got together and shared their knowledge. But they needed institutional support and financial support, and the Ford Foundation had a vision. They said, "We're not going to fund these NGOs in the global south that have been working on this for a while, we're gonna create a clearing house, an international powerhouse of an organization to spread this message and improve the message." They gave an unprecedented amount of money to the International Center for Transitional Justice, 10 million dollars. Which, in the world of human rights organizations, is gigantic and was very threatening to organizations like Human Rights Watch. Aryeh Neier writes about this in his book on the human rights movement. HRW was trying to develop best practices around international criminal law, and here comes a new organization that seems devoted to truth commissions. Truth commissions at the time were being promoted as an alternative, not a complement, but truly as an alternative.

That created some competition, and it also created problems for the ICTJ. People promoting truth commissions had to respond to critiques that they were undermining this important global justice movement. Over time this has been documented by a scholar named Patricia Naftali, quite well in her book. It's written in French so, unfortunately, it's not reaching English audiences. It's called *The Construction of the Right to Truth and International Law*. She documents how these same individuals who were working at the UN reconcile this truth vs. justice divide and in fact then make truth the catch-all. Truth is gonna be able to provide justice, and truth is gonna also provide peace.

It was more politically salient, it was easier to sell, it was less threatening, but also it was constructed as more respectful. That narrative made its way into organizations like the United Nations that have a lot of power and give money to places like Colombia that are dealing with the aftermath, or ongoing I should say, conflict. And they say, "Well, we think that this is going to work because the other people have said it's going to work," so, then they give money. Scholars are part of this, they start to study these things and they have their own normative commitments. They're looking for answers to their questions that they like, and you've got a divide in the scholarly community, some people who are really critical, other people who are really empirical, other people who are just normative of how things should work. All of these are contributing to this

professionalization where people are repeating these statements that are not verified about the efficacy of truth commissions. And now they're really popular, they're a default. There's a something instead of nothing, and something is necessary.

Q: TK

JR: I think looking at the United States tells you a lot about what's really going on. Most people study where a truth commission has happened, but when you study where they haven't happened it tells you a lot. When I was looking at the U.S. case [on torture in the War on Terror], at the time I didn't know where this effort was going to go. I studied these processes, and I didn't know whether they were going to be successful until I was actually being asked to help one of these efforts. The person who asked me, he knew nothing about truth commissions, he didn't know anything. I was like "Huh, you don't know about their limitations." It was very clearly like, "I'm an activist against the United States for a lot of different issues." I was intrigued by his interest, and then I decided to trace out how this was going to go. I tried to interview as many people as I could find who were involved in these at the time nascent efforts.

Then I decided to interview people who were involved in related efforts to find out what they thought about the truth commission model. There's congressional hearings that I document in the book. People are trying to make some sort of investigative body, not sure what they're going to call it, Patrick Leahy is using the phrase "truth commission". So how does this go? The way it goes is when you look at the congressional hearings and when you look at the people who didn't want to be a part of it but were really interested in the issues, you see the same thing. Which is the United States doesn't need this, the United States has courts. That's where we should be dealing with it. Those are the hard line people who actually really think this is a problem.

Then on the other side you have people who say, "This isn't as serious as what happened in South Africa or Chile or Argentina. It's a much smaller deal and therefore we don't need this because it's too aggressive." Both of those narratives are...there's an exceptionalism to them. The first is, "We don't need it, because we have a functioning judicial system. This is only for countries that don't." Again, it's the default and the better solution is judicial accountability.

Then the other side is, "This isn't serious. These other countries are so much worse." There's also an exceptionalism argument there. Again, as a scholar of law, I'm really interested in how perceptions of law are informing us. Really what's happening is there's a perception of law, that it functions in the U.S. when that's not true necessarily when it comes to politically sensitive issues. We're not that different than these other countries that have state sponsored torture or have judicial bodies that aren't willing to deal with really difficult political questions, especially related to executive power. That tells us a little something about why when we're promoting these truth commissions. They end up in countries that we just think of as a little bit less, or for issues that we think are a little more serious. What's going on in Guantanamo, the numbers are lower, but actually they're not lower than the number of victims in Morocco, and they had a truth commission. They're a lot higher than the number of victims in Morocco, and at this point it's longer term.

When you see the lashing out for why it's not useful here, it helps us understand the rationales that are undergirding this. Against is a default to judicial accountability, and for is for countries that are, y'know, "other".

Q: TK

JR: One of the things that has always intrigued me about this topic is how truth commissions are assumed as a default, like they'll solve any problem, like racial injustice. We're going to solve racial injustice by having a truth commission in the South to talk about slavery. I've had this conversation with so many people, and it's frustrating to me, because it's so limited, this tool.

It's not going to solve these issues. So why do we think it is? Why do we assume? I think one of the reasons is a faith based reason, a kind of confessional reason. The same way we think that confessing to a priest is going to make us feel better and make everything better. And there's also a social science influence, where somehow we think that knowing our history prevents it from happening again. So, this idea of telling sticks to those two ways of making sense of the world. I'm not sure they're right.

Q: TK

JR: I open my transitional justice class with reconstruction. My American students from public schools in Massachusetts are very unfamiliar with other countries. They also might not understand why it would matter how we make sense of violence. When you look at our legacy here, in the South and in the North and our current political situation, the topics we talk about in transitional justice are so important. We are a failed case of transitional justice, generations and generations afterwards. What could we have done? I don't know, but all of the issues that we were dealing with in reconstruction are what these other countries are dealing with. Our utter failure has really messed things up for us.

I do still think it's important to tackle these issues, so important. My caveat in any work that I'm trying to do, on new projects on how we think law is going to solve social problems, is just to be cautious about what we're promising and aware what types of political and social dynamics are going to constrain these really idealistic goals.

Q: TK

JR: When we talk about truth commissions, this expressive function of them was not how they were originally intended, and it can often directly conflict with finding out what happened.

This is really complicated in places like Bosnia, where it's really political to say what happened, and so the advisors, the mentors to the efforts in Bosnia were like, "You better just sort of try to make it cathartic," because the who-did-what-to-who is *more* politically volatile. There's a huge problem there. I think the effort to make these more accurate is highly political, it sounds like it's apolitical, but it's highly political. And these databases that allow for victims to be both victims and perpetrators, that was a huge change.

How do you tell a story of violence? If you're going to use these types of databases that are going to come up with certain trends about what kinds of violence happen, then you're really looking at direct violence and telling a story that isn't about structural violence, and we know that structural violence is the biggest problem for ongoing relationships. Well, is this the right approach? It's

useful, but it also can really undermine the narrative that one would want to tell if the goal is to help countries in the future.

Q: TK

JR: It's important to think about the range of things we call truth commissions, truth telling mechanisms. Why do we call it one thing or another, is there an ideal type? They're such varied bodies, I think that's really important to keep in mind. The other thing I would point to is that there is ongoing desire to study their efficacy and those studies, they're quantitative, they're led by Kathryn Sikkink at Harvard and Leigh Payne at Oxford. There's people who really want to come up with statements about what works, truth commissions or prosecutions. I'm incredibly skeptical of that work because I really believe strongly that context matters and that each of these is so different, that it's really hard to assess efficacy and flatten distinctions between countries and between mechanisms.

Q: TK

JR: The Maine-Wabanaki truth commission...that one is about indigenous children being put into foster care and that is fascinating because Paul LePage, he's a total conservative. This is a story I heard; he grew up with an indigenous boy in his home, so he's very committed to those issues. So, he had a commission where kids in child services could talk about what happened to them. That relates to the model that was used in Canada, which was about taking children from their families. Are these truth commissions, are they not?

Q: TK

JR: They're very useful depending on your goal. If your goal is to reform the state, then they may be less useful, but if your goal is to help individuals then it's even more useful. That's why it's important to be clear about what the goal is, and there's trade-offs depending on what your goal is. That's one of the frustrations, to me, about promoting particular models, people not knowing what they do or don't do.