

Haiti's Failed Truth Commission: Lessons in Transitional Justice¹

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The social impact of civil and political conflict is profound. In Haiti, such conflict was on-going almost from the time the tiny island was discovered in 1492, and worsened over the decades. By the time a truth commission was appointed in the early 1990s, the country faced a number of challenges. The *Commission nationale de vérité et de justice* was implemented, as are most truth commissions, to uncover details of past events. Yet the Commission faced myriad complications, including a dearth of political will and funding, as well as a number of institutional constraints, including lack of capacity, increasing security concerns, and shortages of time and funding.

Social and Historical Context

Haiti was the first of the discoveries of Christopher Columbus in the New World. In 1492, when the *Santa Maria* ran aground off the island of Hispaniola, his crew was forced ashore, and settled the first of the Spanish colonies. After the native Arawak population that inhabited the island had been wiped out, new slaves were imported from Africa. In 1697, at the end of the War of the Grand Alliance between England, Spain, France and the Netherlands, the Treaty of Ryswick ceded the western part of the island of Hispaniola to the French.

By the mid-1700s, the colony was populated by 36,000 whites who ruled over 700,000 black slaves, along with some freed slaves and mulattoes.³ Authoritarian laws restricting the clothing and occupations of freed and slave blacks, and imposing strict curfews, were enacted. In 1791, an organized slave revolt began. When slavery was abolished by the French in 1794, the Haitian revolution began in earnest. The French sent 20,000 soldiers to quell the uprising, and the Haitians were defeated after only three months. After a bloody 12-year struggle, the Haitians defeated the French army. On 1 January 1804, Haiti declared independence.

Independence was no guarantor of stability for the new country. General political and economic instability continued for the greater part of a century. In the 1950s, popular discontent with the white and mulatto ruling class boiled over. It was at this time that Dr. François Duvalier rose to power. Duvalier's pro-Haitian transformations quickly turned to repression and tyranny, and an estimated 30,000-60,000 people were killed under his command. Acting as his personal army, a group of supporters nick-named the *tontons macoute* helped to carry out Duvalier's reign of terror. When Papa Doc died in 1971, his 19 year-old son, Jean-Claude was installed as President. "Baby Doc" Duvalier eased many of the oppressive policies of his father for a time, but eventually he, too, cracked down on dissidents within the country. As the economic situation

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³ John R. Ballard, *Upholding Democracy: The U.S. Military Campaign in Haiti, 1994-1997* (Westport, CT: Praeger, 1998), 3.

worsened, further aggravated by the growing world-wide oil crisis, dissent among Baby Doc's critics grew. He was forced to leave Haiti in 1986.

Among Duvalier's critics was a group of progressive Roman Catholic priests who espoused liberation theology, which teaches compassion and the teachings of Christ in an attempt to raise the political consciousness of the poor in the struggle against oppressors. These ideas found substantial support among the most impoverished sections of Haitian society in peasant groups, cooperatives, and the peasant vigilante groups which had sprung up in defence against the *tontons macoute*, as Duvalier's thugs came to be called.⁴ One of the most visible faces was that of Father Jean-Bertrand Aristide, who stood for justice, openness, and participation.⁵ His ideas found their largest currency among the poorest parts of Haitian society: jobless youth, peasants, and a very few members of the Haitian bourgeoisie, along with the community of Haitians in exile.⁶ His 1990 campaign slogan encompassed many of these ideas, and appealed to a wide audience: "Justice, Participation, and Transparency."⁷ In a stunning electoral victory in 1990, Aristide was elected President with 67% of the popular vote, an indication of his deep support within the electorate.⁸ Just over six months from the day he took office, when the military engineered a coup against him, Aristide was forced into exile, first in Venezuela, and, later, in Washington.

In 1991 and for the next three years, the regime of General Raoul Cédras waged a campaign of torture against Aristide's supporters. Cédras had staged the coup which forced Aristide into exile. A series of provisional governments, all backed by the armed forces under Cédras, ruled the country. In September 1991, Aristide established a government-in-exile, and during this period parallel governments existed: the *de facto* Haitian regime, and the constitutional, democratically-elected government-in-exile.

During this period, the country was rocked by violent outbreaks carried out by the military-backed Cédras regime to crack down on Aristide's supporters. 5,000 or more were killed. Thousands more were beaten, tortured, and raped by Haitian military and police officials. More than 50,000 attempted to escape by boat to the United States. As many as 300,000 went into hiding within the country itself.⁹ The violence was considerably worse in certain regions of the country, where wholesale slaughter ensued.¹⁰ In other cases, Aristide's key supporters were brutally murdered.¹¹ On 3 July, 1993, the U.S. brokered the Governor's Island Accord, signed by Aristide and Cédras. Cédras and his comrades were awarded handsome settlements in return for their cooperation.¹²

On 15 October, 1994, Aristide was returned to power in Port-au-Prince—with the support of more than 20,000 U.S. troops and uneven support from the international community. Aristide finished serving his one term in office, and then stepped aside to cede power to René Préal, as

⁴ Ibid., 8.

⁵ Ibid.

⁶ Amy Wilentz, *The Rainy Season* (New York: Simon and Schuster, 1984), 111-113.

⁷ Catholic Institute for International Relations, *Haiti: Building Democracy* (London: CIIR, 1996), 3.

⁸ Jean-Bertrand Aristide, *Dignity*, 2nd ed. (Charlottesville, VA: The Rector and Visitors of the University of Virginia, 1996), 14.

⁹ Charles Arthur, *After the Dance, the Drum is Heavy: Haiti one year after the invasion*. London: The Haiti Support Group, 1995, 2-3 and Alex Dupuy, *Haiti in the New World: The limits of the democratic revolution* (Boulder: Westview, 1997), 139.

¹⁰ Argentine Forensic Anthropology Team, *Annual Report 2000* (New York: EAAF, 2000), 50-55.

¹¹ "Vérité et Justice," *Information Libre* IX.00 (Jan. 1997): 22-40.

¹² Catholic Institute for International Relations, *Haiti: Rebuilding Democracy*, 160.

per the terms of the constitution. But Aristide was re-elected in 2000 with 92% of the electoral vote, and returned to office in February, 2001.¹³

Commission nationale de vérité et de justice

By Aristide's Presidential decree, the *Commission nationale de vérité et de justice* (CNVJ) was appointed on 28 March 1995. This announcement came less than six months after Aristide returned to Haiti and resumed power. Article 4 of the mandate charged the Commission to seek to identify instigators, criminals and accessories to the serious human rights violations and the crimes against humanity which had been carried out during the coup d'état, from 29 September 1991 to 15 October 1994, both inside and outside of the country.¹⁴ The Haitian commission was to be carried out by the Organization of American States (OAS) and the United Nations Permanent Mission to Haiti (*International Civilian Mission in Haiti* or MICIVIH). Accordingly, four of the appointed commissioners were Haitian nationals, all of whom had then been living in exile, and three others were representatives of the international community. Initially, the Commission was to complete its work by September 1995, but this period was eventually extended by three months. The Commission presented its final report in December 1995. In the end, the Commission was forced to deliver a report that many considered unfinished, simply because Aristide was being forced to hand power over to his elected successor, and the mandate had stipulated that the report must be presented directly to Aristide.

During the tenure of the Commission, more than 8,000 people revealed their stories to teams of investigators across the country.¹⁵ The final report was, however, essentially intended for an international audience. Even though the mandate of the commission had been understood as including public enlightenment, time and financial constraints imposed strict limitations on the reporting of what had been uncovered. The report succeeds in revealing the names of more than 8,700 victims from the period, along with a comprehensive and cross-referenced list of the abuses they suffered.¹⁶ Its eight chapters are filled with often-detailed analyses of the events which took place.

In fact, it was the Haitian diaspora community abroad which acted as policy entrepreneurs for the idea of establishing a truth commission in Haiti. Throughout the growing conflict of the Duvalier era, many of the country's intellectuals, including much of the legal community, had fled.¹⁷ The diaspora community, in fact, was fundamental in shaping the policies and conditions under which Aristide could return to power.¹⁸ These diaspora communities were scattered around North America and the Caribbean, in New York, Boston, Santo Domingo, Miami and Montreal.

Methodology

As part of a larger comparative study, I have been engaged in an extensive study of the *Commission nationale de vérité et de justice* in Haiti. My aim was to test the assumption that

¹³ "Haiti," CIA: *The World Factbook* 19 March 2002; [report on-line]; available from <http://www.odci.gov/cia/publications/factbook/print/ha.html>; internet; accessed 23 May 2003.

¹⁴ The Republic of Haiti, *Rapport de la Commission Nationale de Vérité et de Justice*, trans. Joanna R. Quinn (Port-au-Prince: Government of Haiti, 1995), Annexe I, 355-357.

¹⁵ *Ibid.*, Chapitre 3.

¹⁶ *Ibid.*, Annexe III, 1-456.

¹⁷ *Ibid.*, 3.

¹⁸ See Michel S. Laguerre, "The Role of the Diaspora in Haitian Politics," in *Haiti Renewed: Political and Economic Prospects* (Cambridge, MA: The World Peace Foundation, 1997), 170-177.

truth commissions effectively provide a means by which to acknowledge the events of the past. Acknowledging the events of the past and one's complicity in them, and dealing with the emotional implications of reckoning with both personal and social experiences is particularly important. The component parts of the process of acknowledgement are equally beneficial. Ultimately, acknowledgement, an intricate amalgam of processes including remembering and coming to terms with the past, forms a necessary but not sufficient condition for the creation of the bonds of social capital and social trust, which foster the democratic goals sought by transitional societies.

In seeking to test the theoretical assumptions that I had made, I looked to the Haitian Commission to see whether it had been able to promote any kind of societal acknowledgement. Indeed, the Commission is reasonably well-known; the involvement of international non-governmental organizations (INGOs) like the Organization of American States and the United Nations (UN) in cooperation ensured some level of both interest and involvement from the international community. In addition, the historic (and then-current) involvement of the United States directly in Haitian affairs gave the activities of the Haitian truth commission comparatively more saliency in the U.S.

The aim of the study was to examine the events surrounding the truth commission, to see whether it was able to engender any kind of acknowledgement. As such, I was interested not so much in what came before the truth commission was established, although I recognize that the events of the past were, in fact, the *raison d'être* for the creation of the commission. Rather, I was interested in the events surrounding the actual operation of the commission, as well as any changes which were brought about as a direct or indirect result of its work.

Throughout the autumn of 2001, as I prepared to leave for Haiti, reports of escalating violence began to emerge. In late November, the Canadian Department of Foreign Affairs and International Trade issued an advisory stating that travel to Haiti should be avoided.¹⁹ However, because many of the key figures in the Haitian CNVJ had been foreign nationals, many of them had gone on to other projects with their same organizations (i.e. OAS, UN) in North America. In the end, I was able to interview several people in both Washington, D.C. and New York. Earlier, I had traveled to Geneva, Switzerland and The Hague, Netherlands. I was also able to access several notables through the large Haitian diaspora community in Montreal and Ottawa. Finally, I was able to conduct written interviews with a few people who remain in Haiti via email. This work is based on those interviews, as well as on a number of primary and secondary source documents that have emerged from the Commission and its staff.

¹⁹ Department of Foreign Affairs and International Trade, "Haiti," *Travel Report*; [report on-line]; available from http://www.voyage.gc.ca/destinations/report_e.asp?country=Haiti; internet; accessed 20 November 2001.

Political Will

A group of expatriate Haitians located in Montreal was among the most influential of all the Haitian groups outside of Haiti. Working with support and funding from the International Centre for Human Rights and Democratic Development (ICHRDD), an agency funded by the Canadian government, at that time under the leadership of Ed Broadbent, former national leader of the New Democratic Party in Canada, the ICHRDD encouraged the human rights process initiated by the Montreal Haitians. Throughout 1993, and leading up to the Governors' Island Accord, in July of that year, the diaspora community worked increasingly to return Aristide to power.²⁰

In October 1994, the group held a popular tribunal in Montreal, called "The International Tribunal on Rights in Haiti,"²¹ to mobilize public opinion surrounding the political issues, by reason of which Aristide remained in exile. The group considered the objectives, mandate, jurisdiction, powers, role of civil society, composition, establishing and financing its activities, duration and the final report.²² The results of this effort, outlined in broad strokes in "*Proposition pour une Commission de la Vérité en Haïti: Éléments constitutifs*," constituted the framework for what would become the Haitian truth commission.

Many of those who eventually became involved in the Haitian CNVJ were involved in this initial attempt at truth commission-style investigation in Montreal. Indeed, the Haitian diaspora community had enormous influence on the commissioners who were finally selected. Two of the commissioners, exiled Haitians living in Montreal, Ertha Elysée and René Magloire, the executive secretary, Jean-Claude Icart, another exiled Haitian in Montreal, and a consultant on judicial reform, Juanita Westmoreland-Traoré, were, in fact, from Montreal. Ed Broadbent, ICHRDD head, played a special role as international advisor to the commission. At the head of the commission was a Haitian woman and sociologist named Françoise Boucard. One other Haitian commissioner, Freud Jean, was selected as a representative of the Haitian NGO community.

Other international government organizations (IGOs) also responded to the burgeoning program of democracy and justice in Haiti, and contributed to it. The Organization of American States was among the leaders in this regard. Bertha Santoscoy, then the Haiti Director at the Inter-American Commission on Human Rights (IACHR), under the auspices of the OAS, was appointed as Director of the Investigations Unit. Two members of the IACHR were appointed as commissioners: Patrick Robinson of Jamaica and Oliver Jackman of Barbados. Various interns from the OAS were seconded to work as part of the international staff component of the commission. Bacre Waly Ndiaye, a Senegalese lawyer, was seconded from his work as UN Special Rapporteur on Extrajudicial Executions by MICIVIH, the International Civilian Mission in Haiti, run jointly by the United Nations and OAS. In addition, the American Association for the Advancement of Science (AAAS) provided a statistician with experience in other truth commissions, Patrick Ball, to handle the quantitative aspects of the commission's work. An international team of forensic anthropologists, two from Guatemala, two from Argentina, and one American, was also called in to assist in finding proof to support the suppositions made during the course of data collection.

In the end, the Commission was decreed on 28 March 1995, five months after Aristide returned to office. The truth commission was established because, as Aristide stated, "Knowledge of the truth and the official recognition of the responsibilities of the state for the

²⁰ Ballard, *Upholding Democracy*, 48.

²¹ *Proposition pour une Commission de la Vérité en Haïti: Éléments constitutifs* (Montreal: ICHRDD, 1994), 1-59.

²² *Ibid.*, i.

harm it inflicted will rehabilitate the dignity of victims in public opinion.”²³ Indeed, many of the elements that had been proposed in Montreal were incorporated wholesale into the formation of the CNVJ.²⁴

Government Support

The Government of Haiti appeared to be in support of its truth commission. Aristide’s writings while in exile had shown that he was concerned about the need for Haiti to heal. The decree which established the Commission, and which came from the Office of the President, continued many of these same themes. It pledged the support of the Ministries of Justice, Interior, National Defence, Economy and Finance, and Coordination of Information.²⁵

Indeed, these Ministries actually seemed willing to assist the Commission. This could have been, in part, because the intellectual community was both small and inter-related. Françoise Boucard, for example, was married to the Minister of Health.²⁶ Others involved in the Commission also had ties to those in Aristide’s cabinet. The husband of Commissioner Ertha Elysée was at one point Minister of Justice-in-exile. And Commissioner René Magloire left his post at the CNVJ part-way through to take up the position of Minister of Justice. As one commissioner said, “everyone knows everyone in the intellectual community.”²⁷

Even so, the commissioners were conscious of their need to remain and to appear independent. This was especially true of the judiciary which was still seen as corrupt. This lack of independence imposed certain limitations on the truth commission. One commissioner, when asked about the ability of commissioners to remain objective, said, “There were those who were sociologists but there were those who were jurists, and they were conscious of limitations in terms of independence of the magistrature and at the same time, the need to convey, the need to reform.”

The government’s commitment to the process was evident in other ways as well. Some of the investigative work performed by the forensic anthropologists confirmed that death rates, which had doubled and even tripled under Cédras, had decreased sharply when Aristide took power. The government even provided the salaries for the thirty or more members of the investigative team, both national and international.

In other ways, however, Aristide’s government appeared not to support the work of the CNVJ. For example, when the Final Report was presented to Aristide, along with lists of details about past crimes and the names of perpetrators, he chose not to make these details public. There is now some speculation that the proof contained in these pages was not compelling enough to withstand the intensity of a courtroom proceeding, and for this reason, Aristide chose not to share the information with Haitians. The subsequent government also failed to provide reparation to those Haitians who had come forward, even though that had been a part of the original idea. As one staffer recalled, “The government just never took ownership.”

In one way, however, the government did finally provide something that many of the Commissioners cited as very important: the Office of the Public Prosecutor. Over the course of

²³ *Rapport de la Commission Nationale de Vérité et de Justice*, Annexe I, 355.

²⁴ See, for example, *Proposition pour une Commission de la Vérité en Haïti: Éléments constitutifs* (Montreal: ICHRDD, 1994), 11-18.

²⁵ *Rapport de la Commission Nationale de Vérité et de Justice*, Annexe I, 355.

²⁶ “Truth Commission Buried,” *This Week in Haiti* 12.41 (4-10 Jan. 1995) [article on-line]; available from <http://www.hartford-hwp.com/archives/43a/003.html>; accessed 20 Oct. 2002.

²⁷ Where not specified, direct quotations are those of people who were directly or indirectly involved with the CNVJ, but who wished their interviews with the author, carried out in 2001-2003, to remain anonymous.

the work of the truth commission, the Commission had repeatedly called for the creation of this office. The justice system within Haiti at that time was in a state of serious decay. The corrupt system of judges and police enforcement personnel that had been in place under the Cédras regime was still in place. This was a virtual guarantee that cases brought before a judicial panel, especially if the alleged crime had been committed in support of Aristide, would be treated harshly. This was particularly unsatisfactory to several of the commissioners: “I am a bit disappointed because we came, we risked our lives maybe, and nothing happened.” As a result, many of the acts of repression which had occurred under the previous regime went unpunished.

“The debut of justice should have a judiciary mechanism capable of bringing about some sort of justice,” said one commissioner. As it was, the military was still able to exert some influence on the judiciary, which meant that legal proceedings could not be undertaken. The establishment of the Public Prosecutor finally allowed some of the cases to be taken to court, and to be heard before an impartial officer of the court. In addition, a “follow-up office,” called the *Bureau des poursuites et suivi* (Proceedings and Follow-up Office) was established, although it was not announced until September 1997.²⁸

Aristide himself looked at the *Commission nationale de vérité et de justice* as an opportunity for healing: “After his return to power, Aristide stressed the importance of reconciliation, the need for his country to bind the wounds and move forward together to build a democracy.”²⁹ In the articles laying out the shape the Commission was to take, Aristide stated: “Reconciliation decreed by the President can never become reality unless the truth is told about those crimes committed, [o]nly the complete and public truth will satisfy the elementary requirements of the principles of justice and create the conditions necessary for a real and effective transition and for national reconciliation.”³⁰

The commissioners, many of whom had been involved in the Montreal process, perceived the purpose of forming a Commission differently than Aristide:

Since the 1980s, it is becoming necessary for the people of Haiti to crystallize their claims for justice. The official statements, moreover, of a decayed judicial system, ossified and inefficient, and the cry of the people are nothing other than a thirst for another new and efficient justice within the framework of the laws of the land.³¹

Opposition

Opposition to Aristide and to his program of reform was visible in other ways as well. Over the course of the life of the truth commission, the commissioners received death threats. “Because many Cédras supporters were still around, we received threats, death threats and people calling and shooting the air so you can hear it through the phone, that they are shooting, this kind of thing.” Said another, “Prudence was the rule, I would have to say. There were many threats. Especially against Mme Boucard.” For this reason, the Commission was careful not to expose the international commissioners to any more danger than was absolutely necessary.

The international community disappointed the Commission and Aristide’s government on several occasions. During the period from 1991 to 1994, the U.S. government seized materials

²⁸ “Haiti: Still Crying Out for Justice,” Amnesty International (1998): AMR 36/02/98.

²⁹ Robert Pastor, “A Popular Democratic Revolution in a Predemocratic Society: The Case of Haiti,” in *Haiti Renewed: Political and Economic Responses* (Cambridge, MA: The World Peace Foundation, 1997), 122.

³⁰ *Rapport de la Commission Nationale de Vérité et de Justice*, Annexe I, 354.

³¹ Freud Jean, “Entrevue: HIL a Rencontré Freud Jean, membre de la Commission Nationale de Vérité et Justice,” *Information Libre* X.100 (1997): 11, quotation translated by author.

from the Front for the Advancement and Progress of Haiti (FRAPH), the Haitian military government's principal paramilitary arm, and the Haitian military. They also classified as secret a series of documents implicating various U.S. agencies in various crimes during the same period. Despite numerous requests to the American government by the Commission and through diplomatic channels, the Haitian truth commission was never able to procure any of the more than 60,000 pages from the seizures and documents for which it asked.³²

To some extent, the international composition of the Commission also worked against it. Many of the staffers criticized the international officials for being absent throughout long periods of time during which the work of the Commission continued. They were seen as not being particularly involved in the hands-on running of the Commission. Many, including all of the international commissioners and the Director of Investigations, Bertha Santoscoy, were forced to spend a great deal of time in their regular jobs outside of Haiti. They, too, saw it as a great disadvantage. Commissioner Bacre described it this way: "All the internationals [commissioners], you have to be there almost every month or every two months for at least sixteen days. So it was almost half of our time at least ten days or fifteen if not more about two weeks. So I had to combine it with my work as a lawyer and my mandate as a UN official."

Some ordinary Haitians were ambivalent about the truth commission process. One international staffer said, "many Haitians probably didn't even know the Commission existed." Others remarked on the degree to which Aristide's government began to resemble the corrupt regimes of the past, since Aristide was no longer living among the people as he had prior to his exile in 1991.

The Commission was unable to do much to change this image for a variety of reasons. Chief among them was the production of a Final Report which had an extremely limited distribution, and no form of follow-up among the Haitian populace.

[The report was intended for] largely elites. But basically they are your audience. Anything that is not a sit com or a soap commercial your audience is already elite. In Haiti anything written down is already in a very narrow elite. Now is that a problem? Maybe it is, maybe it is not. My personal feeling is that commission reports are about shaking popular opinion. There are some kinds of taxi drivers in the streets, that sort of thing that you want to influence and those have to do with the big pictures, you talk to taxi drivers in the street in Guatemala and they will tell you that genocide was committed against the Mayan people by the army. How did that happen? The commission's decision to print a short version of their report and put tens of thousands of copies of it on the street, those things contribute to it. What they did is they changed the tone of what journalists can say and what journalists do say and that was what kind of happened.

This focus was something that the organizers had had in mind from the beginning. "We wanted to prepare a report for the government." As a result, the entire second volume of the Report which contained the Appendices and long lists of victims' names was completely inappropriate for public consumption. The first volume, although it could have been published in condensed form by the commission, was not. Instead, it was assumed that one of the civil society organizations in the country would rise to the challenge. None did, with the exception of a small report published in *Information Libre* in 1997.

³² Human Right Watch, *Thirst for Justice: A Decade of Impunity in Haiti* 8.7 (Sep. 1996): 2-3. See also "Letter to Albert Gore," The Republic of Haiti, *Rapport de la Commission Nationale de Vérité et de Justice*, Annexe I, 369.

The report itself is filled with facts and figures, and with numerous lists. It is primarily filled with what might be called “trend analysis.” It seems remarkably short on details of actual cases, unlike the Ugandan report, and contains no actual testimonies. Neither volume ever included the names of perpetrators. Yet when details of specific crimes are included, they are equally shocking. In the end, the Report does describe some gruesome details, organized by category, and telling a whole story. For example:

2 Oct. 1991, the residents of Gonaïves supported President Aristide and were against the military coup d'état that had taken place three days previously. According to the testimony, seven civilians were killed by members of the FADH [Armed Forces of Haiti] during that day. According to the Peace and Justice Commission, a Catholic organization, at least seven others were hurt by bullets and others severely bruised.

According to different sources, the seven people killed were: Frantz Moïse, Fred Chériska, Liné Joseph, Jean-Pierre Dazmé, Elysien Dazmé, Navoir Odéna and Yfalien Alcius, people about whom an amount of information can be obtained.

The bodies were returned to the families without autopsy. The CNVJ was able to retrieve from The Hospital of the Providence [*sic*] of Gonaïves the death certificates of Fred Chériska, de Liné Joseph, et de Elysien Dazmé. Doctors at the hospital cited the following as the cause of death for the three certificates: “death by certain events.” The bodies were buried by the families. Five are interred at the Gonaïves cemetery from where the team had exhumed the bodies in September 1995.³³

Descriptions of other cases differ slightly:

Rocheny Ulysse reports the disappearance of her two brothers, Louis Ulysse and Rameau Ulysse since 22 April 1994. They were all together when there was a loud noise and the three tried to run away. Rocheny hid in a latrine, and the two others took a boat and left on the water where they were trapped by military fire. Each of the victims leaves children aged 3 to 7 years.³⁴

The completion of the Final Report was rushed. Aristide was unable, under the rules of the Constitution, to stay on for another term in 1996. Article 134-3 of the Haitian Constitution (1987) states that “The President of the Republic may not be re-elected. He may serve an additional term only after any interval of five (5) years.”³⁵ Because the Report had been commissioned by President Aristide, the commissioners felt that the report must be given to him before he left. This meant that the commission staff had little more than one month to put the report together before Aristide left Haiti and stepped down as President on 6 February 1996. “At best, the report was incomplete.”

In the end, the presumed success of the Commission was questioned by nearly everyone who was involved in the process. “Unfortunately,” said one commissioner, “it was a very, very disappointing term, we did a lot of work without any, almost no proof, very little.”

The commission wasn't really a success. It did what it could do in those times and the conditions that came with the times. Was it smart to have a commission like that? Under those conditions? I don't know. We simply tried to do our best. One could say that the

³³ *Rapport de la Commission Nationale de Vérité et de Justice*, 51, quotation translated by author.

³⁴ *Ibid.*, 69.

³⁵ *Haiti Constitution (1987)*, article 134-3.

commission was a success simply because we remitted a report! It was our mandate to remit a report, and we remitted a report! Of course, there were some weaknesses. ...The commission contributed to the advancement of democracy.

[We] worked really, really hard. It was hard. A lot of tears shed. It was very stressful, we felt like this was the chance the Haitians had and it was blown, and we could see it getting blown, and that was awfully sad.

Almost immediately following the enactment of the truth commission, however, various groups began to react. While some, including the poorest segments of society, as well as government supporters seem to have felt that the commissions were doing a good job—or at least as good a job as could be expected under the circumstances—others appear to have been discontented with the process as a whole. Among these were opposition groups and elites. The truth commission, therefore, was the victim of a political will that seemed not to care whether or not it succeeded.

Institutional Constraints

Popular opinion inside Haiti at the time was leaning toward punitive trials as a means of dealing with past crimes. At one point, a group of women who had been raped appeared before a panel of the IACHR, asking for their perpetrators to be brought to trial. The IACHR, like most of the international agencies involved, pushed instead for the creation of a truth commission, citing speed and efficiency, as well as pervasive disorder within the judicial system as reasons for their choice.

Others, however, discounted Aristide's ability to support any type of reconciliation and saw the truth commission as merely an opportunity to assign accountability for human rights crimes, modeled as it was on the former truth commissions in El Salvador, Chile and Argentina.³⁶ In all three cases, the truth commissions had offered an open-and-shut introspective on past abuses, and reconciled their respective societies. Others believed that the truth commission would seek a path between the two: that the truth commission was intended to balance the need for justice with the need for reconciliation.³⁷ Still others, like a respondent who was in Haiti for several years as part of an international police force said, bluntly, of Aristide: "I don't think he has a sincere interest." An international consultant who had been present throughout the Montreal process began to sense that Aristide was distancing himself from the CNVJ.

But was there ever hope that the truth commission could work? In part, such a question can be answered only in the definition or redefinition of "success." If the objectives of the truth commission were laid out simply to meet a judicial function or a requirement for speed and efficiency, as posited above, then the CNVJ, operating as it was under Aristide's return to power and the beginnings of a process of "normalization," ought to have been able to more than meet the expectations it was given, even accounting for deficient resources and corruption. Certainly, the Commission placed an enormous amount of emphasis on aspects of juridical reform. Even then, however, one official at ICHRDD, in reflecting on the work of the CNVJ, noted that the Commission "[didn't] seek to address the structural and systematic nature of inequity and imbalance."

³⁶ Catholic Institute for International Relations, *Haiti: Building Democracies*, 22.

³⁷ Pastor, "A Popular Democratic Revolution," 125.

If the mandate had been defined in higher theoretical terms to include the need to achieve some form of reconciliation, the potential outcome would have been decidedly different. An IGO staffer on loan to the CNVJ felt that “the perceived need for enlightenment was understood within the mandate.” Although all of the commissioners said that they had hoped simply to do their best, they were very conscious of the limitations they faced. The dangerous political climate meant that public hearings could not be held. “Reconciliation,” one said, “is simply not possible unless one says ‘I did you wrong’—and perpetrators were never forced to appear.” Said another:

Commissions can’t do both things, they don’t have the resources and they don’t have the skill factors. What you are asking people to do is sort of therapy social work on one side versus social science, legal research on the other, completely different skill sets. The one that gets mixed together like in South Africa it doesn’t work on either score. Doesn’t work either way.

As Françoise Boucard, the head of the Commission, stated, “The commission will expose crimes and make recommendations... but truth never replaces justice... [With only] truth, truth, truth you won’t ever get where you have to get: a justice system with police to carry out inquiries, prosecute and sentence.”³⁸

Many noted that the conditions under which the Commission was forced to operate also acted as a deterrent. To be sure, nearly every respondent noted the issues of security which still confronted Haitian society. The army, which was supposed to have been dismantled by the time that the CNVJ commenced operations, was still able to exercise substantial power. Those who had already been demobilized were making noises of discontent directed at Lavalas, and at Aristide himself. As a result, people felt that security dangers still existed. “Many people were not enthusiastic because they had to be careful about security. People can be suspicious. Why would you expose yourself?” asked one international consultant. As a result, the holding of public hearings, and for a long time legal proceedings, was simply not possible.

Even so, one commissioner believed whole-heartedly that the Commission could succeed, especially once the regime change had been effected and Aristide was back in power.

Haitian society was not at all the same society [as that encountered between 1991 and 1994, under Cédras]. The UN presence assured that. And many of the military were in exile. It was absolutely a new society because the victims could talk. I saw a willingness on the part of the authorities to recognize what had happened. It’s true that in some regions small groups existed – fringe groups, poor people, people without. But they were there even before the coup d’état, probably already there under Duvalier. And they haven’t yet embraced the future.

One Commissioner was so certain that the Commission could make a difference that when she was asked to participate, she did not hesitate to join, even though it meant forfeiting the years of doctoral study she had already completed while in exile.

The very structure of the Commission was designed with success in mind. From the beginning, the framers of the truth commission had an international model in mind. Certainly, the appointment of national and international commissioners was meant to combat charges of bias that would inevitably have risen had only Haitians from the diaspora community been

³⁸ “Haiti: Justice and Impunity,” *Haiti Net* 3.18 (17 Jun. 1995) [report on-line]; available from <http://www.hartford-hwp.com/archives/43a/092.html>; accessed 20 Oct. 2002.

appointed. Their appointments certainly allowed each of the international agencies at least some measure of representation. The fact that each of the international commissioners had a clear and successful track record in a variety of legal fields relating to the Haitian situation only lent the Commission a greater degree of credibility. Indeed, one international NGO representative noted that Haitians appeared to have a special respect for those international commissioners and Commission workers who were themselves black. Above all, the international presence as coordinated from Montreal was designed to tell Haitians, “We care about what you’ve gone through. We want to stop it. And we’ll work with you.”

The staff composition, too, was international in nature. Even the investigations teams comprised national and international staff, selected “so they could be more open.” They were sent out in pairs of one national and one international investigator to speak with victims and their families in the completion of the questionnaires which were filled out in each case. “The idea of mixing national and international staff was a good idea in theory,” reported one former investigator, “but hard to coordinate. And it contributed to a highly politicized environment, because each of us had different decision-making styles, different methodologies and different interviewing techniques.” In addition, the staff was paid by the Haitian government, which many criticized for not appearing to take any ownership of the process.

The Terms of Reference of the Commission provided strict guidelines meant to regulate its internal workings. The document laid out the internal power structure of the Commission, warned of the importance of discretion, outlined a consensus model of decision-making, discussed the participation of experts and expert organizations. The guidelines mandated that a register should be kept for complaints. It gave specific rules for the collection of testimony from people living in Haiti, and those who had fled to other countries, and the videotaping of such testimony. The terms of office also gave specific regulations dealing with legal aspects of the CNVJ’s work, including burden of proof. It also gave the Commission ideas regarding translation and confidentiality.³⁹ Yet it allowed the commissioners a significant amount of leeway in establishing the modalities they thought best in constructing the Commission.

Initially, the Commission tried to use some methods of data collection which had been employed in the Salvadoran commission, but they simply did not work. One of the main difficulties they encountered was the fact that many of the country’s Créole-speaking citizens were illiterate. They also discovered that ordinary Haitians were hesitant to reveal their problems to outsiders, and so the CNVJ determined to find a “made-in-Haiti” solution that excluded the meddling internationals. In the end, a questionnaire was developed to allow for the later questioning of victims, but which would also prove the responsibility of the state in terms of its role and goals in the atrocity under consideration.

Some, however, still contend that not enough focus was put into developing a “big picture” idea of what the truth commission was going to do. Rather, the Haitian Commission became engrossed in a deep examination of only a few cases. One staffer put it this way:

Often enough you don’t know what the questions are when you start, and that is okay. It is kind of undergraduate research methods to think, identify your research question before you start, that is nonsense. You can’t do that, you identify your research process as part of the research. The original question is part of the research. A series of questions is part of the research. By the end you should know what it is. I don’t know at the end if we knew what the questions were in Haiti. And what I think is, we had a real lack of strategic thinking...

³⁹ *Rapport de la Commission Nationale de Vérité et de Justice*, Annexe I, 380-386.

She continued:

I have a couple of reasons why I think that happened: First because Françoise [Boucard] was coordinator of the Commission, President of the Commission, she was also essentially the CEO. It was an inappropriate role for the same person to have. She spent all her time managing the commission. She had to do it because there was no one else for months. Now when Jean-Claude [Icart] finally came on board, months after the Commission started—he didn't come on board until the Commission was 60 percent over—when he came on board he took a lot of that off her shoulders but it was too late. She was already in the habit of running everything and no one ever stops being CEO. That is really hard, especially when there is so much administration to be dealt with. So she really didn't have space to do it.

The President of the Commission, however, had very little support from the rest of the commissioners.

The other commissioners, the Haitian commissioners were each focused, it seems to me, on particular questions. Rene [Magloire] on his own legal issues, they kept him and Oliver [Jackman] and Patrick [Robinson] going around in circles on their legal questions. It doesn't get you to these big strategic visions.

One of the most successful aspects of the Haitian commission, at least from a social scientific perspective, was the creation of a quantitative database which allowed the Commission to generate detailed analyses of patterns of abuses which happened in specific geographic areas or to certain types of people. The result was that an analysis of crimes against humanity and other trends could be done electronically. This marked the first time that a truth commission had ever developed a bank of information to be used in the work of the truth commission and in the legal cases that were intended to follow. This database was created and maintained by Patrick Ball, a social scientist specializing in quantitative methods, from the American Association for the Advancement of Science (AAAS). As a result, a cross-check had to be done of the interview forms, to clarify information, and the information analysts asked for hand-written notes to be attached to the forms, after which a double-verification of data was performed by the AAAS.

The terms of reference, discussed above, which stemmed back to the proposal generated by a group working in Montreal asked the Commission to focus on a few strategic cases of abuse which had occurred. Many people were disturbed by this: “We were not able to assess responsibility for these cases, but [the cases] were published in the final report, which was the initial idea.” Even the Commissioners had trouble coming to an agreement on basic legal jurisprudence: “According to [Commissioner Oliver] Jackman, he thought, for example, that an individual case could be recognized as a crime against humanity. And [Commissioner Ndiaye Waly] Bacre, evidently, his position was the opposite.” In the end, a significant amount of evidence, including reports by forensic anthropologists, was prepared for a small number of extremely dramatic cases.

Capacity

The Haitian commission was forced to deal with many significant institutional constraints. These limitations deeply affected the manner in which the CNVJ was able “to globally establish the truth about the most serious violations of human rights committed between 29 September 1991 and 15 October 1994, both inside and outside the country, and to help in the reconciliation of all Haitians, without prejudice to judicial remedies that might arise from such violations.”⁴⁰

In fact, the community of Haitians abroad was very influential both in setting up the Commission, and in helping to carry out its mandate. This community was made up of many of Haiti’s most educated citizens, including influential judges and lawyers.⁴¹ To be sure, the diaspora community, and especially that part of the diaspora community resident in Montreal, was important in getting the Commission off the ground. Indeed, the Haitian diaspora community even participated from abroad, sending written accounts and coming themselves to testify before the Commission. Yet this community, which is especially influential among the Haitian electorate and political establishment,⁴² seemed to want to do things their own way. Indeed, although the Haitian community in Montreal had asked the International Centre for Human Rights and Democratic Development (ICHRDD) for assistance, the ICHRDD sometimes felt that the diaspora was not approaching things in the right manner. They were concerned, for example, about the number of international commissioners to be appointed, and withheld funding until the commission’s composition reflected a better balance.

The people who had remained in Haiti responded quite differently, depending on the segment of the population in which they happened to find themselves. Haiti is the poorest country in the Western hemisphere, and 75 per cent of its population lives in abject poverty.⁴³ The peasant population, however, had been some of Aristide’s biggest supporters prior to his time in exile. The implementation of the truth commission, therefore, ought to have been able to count on grass-roots mobilization of support. Instead, the Commission failed to win the popular support of Haitians, by ignoring local NGOs and failing to tell ordinary Haitians about the purpose of the Commission.⁴⁴ Even the media seemed uninterested.⁴⁵ Still, a great many Haitians did come forward. The CNVJ carried out 8,650 interviews with people who reported 19,308 violations.⁴⁶ An international consultant to the commission made the following observation: “I had a great respect for people I was working with and meeting, because they were actually trying to accomplish something.”

There is, however, a minority section of the population that is not poor. Since the days before François “Papa Doc” Duvalier took power, the elite has comprised mainly white and mulatto citizens, although a significant number of blacks themselves also fall within this group.⁴⁷ The appointment of the truth commission sent ripples of fear through the traditional elites in Haiti.⁴⁸ Because of their long-time association with the government apparatus, many could have

⁴⁰ *Rapport de la Commission Nationale de Vérité et de Justice*, Annexe I, 355.

⁴¹ Catholic Institute for International Relations, *Haiti: Building Democracy*, 3.

⁴² Robert I. Rotberg, ed., *Haiti Renewed: Political and Economic Prospects* (Cambridge, MA: The World Peace Foundation, 1997), 170.

⁴³ Catholic Institute for International Relations, *Haiti: Building Democracy*, 3.

⁴⁴ *Ibid.*, 23.

⁴⁵ “Elements of a Conjecture,” in *Haiti Info* 4.17 (June 1996): 4.

⁴⁶ Amnesty International, *Haiti: Still Crying Out for Justice* (Washington: AI, July 1998) 8; AI Index: AMR 36/02/98.

⁴⁷ Latin America Bureau (Research & Action), *Haiti: Family Business* (London: Latin America Bureau (Research & Action), Limited, 1985), 25.

⁴⁸ Rotberg, *Haiti Renewed*, 124.

been found guilty under such a mechanism. Indeed, “if a serious truth commission was established, most of the Haitian bourgeoisie, most of the Haitian officer corps... would be indicted.”⁴⁹ An Amnesty Law was promulgated in October 1994 in fulfillment of Section 6 of the 1993 Governors Island Accord, to pardon members of the regime that had toppled Aristide.⁵⁰ But even this was of no real comfort, because it did not protect the perpetrators, as they had hoped it would.⁵¹ The perpetrators were still at large. For this reason, the Commission aimed the report “largely at elites.”

Despite their claims to the contrary, all of the Haitian commissioners had strong ties to this elite community. As one international consultant put it, “They were all either friends, lovers, or associates of people in the Haitian government.” Despite these links, the Commission *appeared* to manage to maintain a discrete distance from the government, which seemed reluctant to press the legal model. For example, when asked about who would be heading the Commission, which was then in its infancy, then-Minister of Justice Ernst Mallebranche replied, “It was François [*sic*] somebody.”⁵²

At a certain point, however, “Aristide, too, began to distance himself from the Commission.” These very ties seemed to call into question the commissioners’ ability to pursue objectively the truth about Haiti’s past. People began to question the legitimacy of the work of the CNVJ.

Partly to blame was the international community. “There was a diversity of international actors throwing around their power, but not talking to each other,” reported one IGO consultant. Chief among these groups was the large American contingent which remained on the ground in Haiti. The U.S. Agency for International Development (USAID), for example, offered large sums of money in exchange for the adoption of American-style processes, including USD \$18 million for justice programs including police reform and changes to the judicial system.⁵³ At the same time however, the White House and Department of Defense seized records and documents which would have been of significant value to the truth commission.⁵⁴ Many of Haiti’s politicians also had strong ties to the United States.⁵⁵

International groups, including the joint UN/OAS International Civilian Mission in Haiti (MICIVIH), refused to help the truth commission implement any of its programs, stating that it was not there for these purposes. MICIVIH had been appointed in January 1993, after a request by Aristide for assistance in monitoring violence, and establishing dialogue between Haitians. Its earlier incarnation, the United Nations Observer Group for the Verification of the Elections in Haiti (ONUVEH) had been deployed from 10 October 1990 to February 1991,⁵⁶ to observe and monitor the elections process. Personnel from the Organization of American States (OAS) had been included in ONUVEH.⁵⁷ MICIVIH was deployed in February 1993.⁵⁸ On 11 October,

⁴⁹ “‘Truth Commission’ Buried in Secrecy,” in *This Week in Haiti* 10.41 (4-10 January 1995): 2.

⁵⁰ United Nations, *Governors Island Accord*, 1993, Section 6.

⁵¹ Catholic Institute for International Relations, *Haiti: Building Democracy*, 23.

⁵² “‘Truth Commission’ Buried in Secrecy,” 1.

⁵³ “Elements of a Conjecture,” 3.

⁵⁴ Brody, “International Aspects,” 231. See also “What’s in the FRAPH documents? Notes by Center research director James Morrell of discussions with a U.S. government official who has read the documents. April 20, 1998;” [article on-line]; <http://www.us.net/cip/fraph.htm>; internet; accessed 26 May 2003.

⁵⁵ “Haiti: Justice and Impunity,” 5.

⁵⁶ Department of National Defence, *Toward a New World (Dis)Order: 1989 - ?*; [report on-line]; http://www.img.forces.gc.ca/commelec/brhistory/chap7_e.htm; internet; accessed 28 May 2003.

⁵⁷ MICIVIH, *Crisis in Haiti: Seeking a Political Solution*, UN DPI #1402-5M; [report on-line]; <http://www.un.org/rights/micivih/rapports/crisis.htm>; internet; accessed 27 May 2003; 1.

1993, after Haitian military forces prevented a United Nations ship from landing and threatened to kill journalists then on Haitian soil, all United Nations and OAS personnel, including MICIVIH staff, were evacuated from Haiti. MICIVIH observers did not begin to return until January 1994. MICIVIH observers were again expelled from Haiti by Cédras' military forces on 11 July 1994, but returned again on 22 October 1994.

Other international observers and forces were active in Haiti as well. On 8 October 1991, the OAS voted to deploy a civilian mission, OEA/DEMOC to "re-establish and strengthen constitutional democracy in Haiti."⁵⁹ The United Nations also established a 1300-member United Nations Mission in Haiti (UNMIH) for a 6-month period, with police monitoring and military construction capabilities. But UNMIH's deployment was prevented on 11 October 1993 by Haitian armed forces. UNMIH finally entered Haiti on 5 March 1994, with 6,000 personnel.⁶⁰

There appears to have been a fairly free flow of personnel between MICIVIH and the truth commission, which may have resulted from the same joint sponsorship by the UN and OAS for the truth commission and for MICIVIH. In fact, many of the CNVJ's investigators were taken exclusively from the ranks of the OAS. At one point, MICIVIH refused to participate in judicial reform projects, stating that these were beyond the mandate of the mission.⁶¹ MICIVIH personnel had a considerable amount to say about the manner in which the truth commission and many of its programs were run, prompting many respondents to relate their frustration, even more than five years later.

[Two staff members in particular] came through MICIVIH. A lot of people came through MICIVIH... These two had senior positions, but they had no experience. As far as I could tell, they had no useful experience. Their ideas were terrible and we spent months undoing the mess they made. They made a lot of bad decisions that we argued about, they made bad decisions that we had to clean up after them.

This international involvement, moreover, came at a price. "Haiti had once been the centre of attention," one senior IGO member and commission member stated. "But suddenly the attention disappeared, making it seem as though the whole situation was suddenly okay." World attention turned elsewhere. And Haiti was forgotten. There have since been calls for the governments of the United Nations and others to share the obligations of prosecuting those in Haiti who violated human rights.⁶²

Partly as a result of the international presence on the Commission, partly because the mandate of the Commission had so explicitly recommended that the CNVJ make use of truth commission "experts," and partly because the CNVJ had the benefit of the experience of the other commissions which had gone before, the Commission was subjected to various experimental techniques which had either been tried elsewhere, or which were thought to be new and improved. Said one international consultant, "[Our first ideas] didn't work. So then we reformulated our plan regarding personnel, funding, the number of investigations, and rights violated. We had to start over." In addition, the Commission called upon the assistance of the

⁵⁸ Ibid. , 4.

⁵⁹ "Early Regional Efforts," *United Nations Mission in Haiti*; [report on-line]; <http://www.gmu.edu/departments/t-po/resource-bk/mission/unmih.html>; internet; accessed 28 May 2003.

⁶⁰ Many of the details of these two paragraphs are taken from Ibid., and *United Nations Mission in Haiti*; [report on-line]; http://www.un.org/Depts/dpko/dpko/co_mission/unmih.htm; internet; accessed 28 May 2003.

⁶¹ Brody, "International Aspects," 233.

⁶² AI, *Haiti: Still Crying Out*, 42.

Argentine Forensic Anthropology Team to conduct a forensic audit of human rights abuses, but then was required to assign some of its staff to assist the Forensic Team. All of this took resources away from the main thrust of the Commission: investigations.

The CNVJ's Final Report, too, was the subject of much anxiety. "There were too many competing visions [for how it would turn out]," said one of the senior commission members. Some felt that the Report should represent a cross-section of cases that the Commission had looked at. Others wanted to focus entirely on several large cases. In the end, the Report looked mainly at the larger cases that the Commission considered. The final version was written only in French.⁶³ This decision effectively excludes the vast majority of the Haitian audience, many of whom cannot read, and most of whom speak only Créole. The Report, therefore, was aimed mainly at Haitian elites. It was never meant for the consumption of ordinary Haitians.

Security Concerns

Moreover, nearly everyone realized that the existing police and judicial bodies were inadequate to assist with the work of the Commission. Some even called the political changes brought in by Aristide a "sham reform"⁶⁴ because so much of the existing apparatus remained in place. Some of the state apparatus had been replaced by appointees of Aristide's regime, although the "revamping of the judicial system was slow and inadequate."⁶⁵ "The legal system was weak at best, predatory at worst. ...Police forces [were still] new and inexperienced... and Haitians' confidence in their justice system [was] as low as ever."⁶⁶

All of the commissioners with whom I spoke noted the presence of militia and paramilitary forces as having been cause for great alarm for their own personal safety. Former soldiers and *tontons macoute* had yet to be disarmed.⁶⁷ One commissioner put it this way: "There was a feeling of impunity and insecurity. There were very strong feelings of that." Another commissioner was more blunt about the experience of serving on the commission, saying, "I can't speak for everybody, but I can say that excessive prudence was the rule. Mme Boucard received many, many death threats. Regularly."

As a result, the public hearings which had been part of the initial proposal put forward at the ICHRDD meetings in Montreal were vetoed. "Public hearings weren't possible because we couldn't guarantee the safety of the victims [in coming forward.]" The CNVJ was greatly affected by these set-backs. Commissioners were not able to investigate significant amounts of information, while those who came forward could not be called upon to testify openly.

Time

When Aristide returned to Haiti, one of his first acts was the appointment of the Commission. One of the Commissioners described Aristide's sense of the need for a Commission to be appointed. "I think there was a tremendous feeling that Haiti had to confront the past. This was a mechanism that was used. President Aristide had been ousted for three years. There was a period of military rule. In that time the number of atrocities and extra judicial killings rose

⁶³ Ibid., 8.

⁶⁴ "Haiti: Justice and Impunity," *Haiti Net* 3.18 (17 Jun. 1995); available from <http://www.hartford-hwp.com/archives/43a/092.html>; internet; accessed 20 Oct. 2002; 4.

⁶⁵ AI, *Haiti: Still Crying Out*, 11.

⁶⁶ Reed Brody, "International Aspects of Current Efforts at Judicial Reform: Undermining Justice in Haiti," in *The (Un)Rule of Law and the Under-Privileged in Latin America*, eds. Juan Mendez, Guillermo O'Donnell, and Paulo Sérgio Pinheiro. (Notre Dame: University of Notre Dame Press, 1998) 228-229.

⁶⁷ Ibid., 229.

substantially. I think the establishment of a Commission came at the right time. Yes there was this feeling that they had to confront the past.” At the same time, most of the diaspora community was still living outside the country, and had not yet returned. “Judicial reform had not yet taken root.”

International experts in the field of transitional justice agree that allowing too much time to elapse between the appointment and conclusion of a truth commission can cause the commission to lose momentum.⁶⁸ Initially, the work of the Haitian Commission was expected to take six months. Early on, however, there was speculation that this short period would not be enough.⁶⁹ Six months turned into nine. The work of the Commission, minus the final report, was finally submitted on 5 February, 1996, despite the numerous delays and constraints detailed above. It had taken ten months.

Some of the delay was attributable to the difficulties of accommodating the busy schedules of the international commissioners. The external commissioners and international staff admitted that they simply did not have enough time to spend on the work of the Commission. Two of the Haitian commissioners had returned from their homes in Montreal, and held jobs and commitments in both Canada and Haiti at the same time. The daily workings of the CNVJ, too, were hampered by constraints.

Another of the facets of the Haitian CNVJ which, in many ways, acted as a constraint, was the international nature of the composition of the Commission. By the end of the Commission’s life, one half of the commissioners were “foreign” and travelled back and forth from their full-time jobs elsewhere in North America to Haiti. Many of the national and international commission staffers felt that the external commissioners, as a result of their absence for at least half the time, were not involved enough in the Commission. “They had no degree of understanding of the national politics of Haiti,” said one international member of the investigations team.

The weakness in the Commission appeared to start at the top: Françoise Boucard had had to assume responsibility for both the internal and external activities of the Commission. Those involved in the commission variously reported that Boucard seemed that she might have been incompetent, and never fully in control. Her role comprised many functions, including fund-raising and general management. Perhaps as a result, the Commission itself was disorganized and poorly managed.⁷⁰

The head of the investigations side also came under criticism. The Director of Investigations was Bertha Santoscoy, the Haiti Specialist from the Inter-American Human Rights Commission, on loan from the OAS. Santoscoy maintained her position at the OAS at the same time as she attempted to coordinate the Commission’s investigative efforts. As a result, Santoscoy was not able to spend much time in Haiti. She admitted, “It was difficult to wear both hats.”

Consequently, there seemed to be no coordinated strategy. In the end, each of the commissioners chose to focus on a specific facet, and each of the rest of the investigation team worked within these different lines of questioning. Additionally, because the management of the CNVJ was so chaotic, the commissioners wound up trying to accomplish what were essentially operational tasks.

One of the commission’s staff recalled:

⁶⁸ See Priscilla Hayner, *Unspeakable Truths* (New York: Routledge, 2003).

⁶⁹ “Haiti: Justice and Impunity,” 5.

⁷⁰ Catholic Institute for International Relations, *Haiti: Building Democracy*, 23.

The commissioners [could have been freed] from these kinds of operational things sufficiently that the commissioners might have grappled with the strategic vision. Feed them data, but don't require them to do things. They will do it. Commissioners who are involved in the day to day things, that is all they think about. That is all they do, happily. When you get involved with running a commission you become overwhelmed by hundreds and thousands of things that are incredibly urgent and they are really not important. Like you have got to get vehicles because you can't get the team over there, so make calls around to get the vehicles, the radios, the security control, hundreds and hundreds of things that are really, really urgent. We can't get the data until we get out in the field, we can't come back from the field, until we go to the field, so we need vehicles.

She continued:

For commissioners to be doing things like that is a death sentence for a commission. That is one of the things that I think that kind of gripped the Haitian Commission from above, with Françoise in particular, not the other commissioners. Certainly Patrick Robinson never found a vehicle for anybody. But Françoise in particular being involved in that kind of thing was devastating. It is not because Françoise doesn't understand this is because she didn't have any help. She had to do it because there was no one else for months. If the commission was going to move she had to do it, so she got trapped and then she couldn't let go of that role when Jean Claude came on board, and then it was too late for her to kind of step back and you know, that would have required super human effort that wasn't forth coming. Which I don't really hold her responsible for, I mean it really was a failure of the whole project not of certain individuals to pull through.

The Commission spent more time than they had planned on the investigations portion of their work. Initially, they had hoped to have approximately 2,000 respondents, but eventually they heard from more than 8,700. One international consultant reported that they were sometimes "surprised to learn that the people of Haiti wanted to talk and tell the investigators what had happened to them." The staff of the Commission then meticulously documented the abuses reported by the respondents, and prepared a statistical analysis of the observable trends, paid for by the AAAS.

The preparation of the Final Report also took significantly longer than had been planned. But the imminent departure of President Aristide at the expiration of his term as President at the beginning of February 1997, meant that the Commission staff had no choice but to expedite the writing process. The first draft of the Report had a circulation of only 75 initial copies. But it was this version of the Report which was presented to Aristide on 6 February 1997, as he again left Haiti for exile. Eighteen months later, a second version of the report with additional appendices and other information was prepared.

Funding

As are many truth commissions, the Haitian commission was chronically short of funds. Haiti, had undergone decades of resource-depleting conflict. The Duvaliers, who had governed from the mid-1950s until 1986, had stolen more than USD \$1 billion.⁷¹ The people of Haiti remained

⁷¹ Catholic Institute for International Relations, *Haiti: Building Democracy*, 4.

poor. In 1994, as Cédras and his supporters prepared to leave, the conditions were described as follows:

Amid this atmosphere of hope lingered reminders of the harshness of everyday life in Haiti. In the cities, the Haitian military and its paramilitary affiliates continued to abuse Aristide supporters when the opportunity presented itself. Hunger abounded and literally compelled Haitians to loot a food warehouse. The rural areas were devoid of the political and administrative infrastructure needed to restore, with any degree of efficiency, basic services such as water, electricity, and schools.⁷²

Amid such conditions, allegations of widespread corruption at the highest levels were rampant. In 1994, the United States brokered the deal which would push Cédras out and allow Aristide to return. To entice Cédras to step down from power and leave Haiti, the Americans announced a program under which, for example, they would rent the homes owned by Cédras for USD \$5,000 per month. They also allowed more than 600 Haitian military officers access to their bank accounts which contained hundreds of thousands of dollars in stolen money. In addition, they planned to pay off those Haitian soldiers who would not be recruited into the “new” police service because of their past record of repression. In all, the U.S. planned to spend USD \$5 million on such initiatives.⁷³

Corruption had become an entrenched part of everyday life in Haiti, even for those outside the upper echelons of power. An IGO staffer described the bribery and corruption:

It has just been a way of life so long there that, me getting your attention as a result of you paying me X number of dollars doesn't really mean anything, it is just like an understanding, I expect something, you expect to give me something and we are both comfortable with that arrangement. I guess an example would be your telephone. I remember when I went into the city and lived in this new apartment. There was a dentist who owned this, and we didn't have any phones. He was just putting the apartments together and we wanted a phone line of course, and he said okay, I think I can get you a phone line that you can share between the two apartments, which was not a problem. He knew the director of the phone company in Haiti. So that was going to be easy, or so he thought. But I guess he had been away from Haiti too long, because he forgot something. He did know the director who said yes I think I can look after it. But three or four weeks after we still didn't have our phone lines because the director of the telephone company is not the man who controls the line going from the pole to your house. What had to happen was, we had to find the man who works at the telephone lines. Then it was easy. He just takes out somebody's line who lives further up the hill and you get it. Maybe three or four or five months later your phone is gone again and you wonder why and you have to go back to him and, okay, he pulled yours off for somebody else so now it is your turn again to pay again to get one back. They don't think that it is right, they know that it is not right, but they accept that that is the way it is, seemingly in every activity.

It was in this environment that the Haitian Commission was established. The Commission was given a USD \$2.5 million operating budget, cobbled together from money given by the United Nations and the OAS, along with donations from members of *La*

⁷² Irwin P. Stotzky, *Silencing the Guns in Haiti* (Chicago: University of Chicago Press, 1997), 40.

⁷³ Alex Dupuy, *Haiti in the New World Order: The limits of the democratic revolution* (Boulder: Westview, 1997), 160.

Francophonie, including Canada.⁷⁴ But almost from the beginning, Madame Boucard, the chair of the Commission, complained that she was short of funds.⁷⁵ The task of fund-raising fell first to Mme Boucard, and later to Jean-Claude Icart, who joined the Commission already in progress. “We had great difficulty in finding money.”

The Commission had needs which had to be met in order to operate. Certain items, including transportation, phone lines, radios and equipment had to be found. One international consultant recalled the following scenario.

There are material concerns too. You know, when I arrived at the Commission, the Commission didn’t have a photocopy machine, they had been promised a machine from the beginning of the operation, I think the Commission arrived, the photocopier arrived while I was there. Then it was a matter of, you know, having it function, because I think a part of missing for the preparation of several copies of the document and so on. So, I mean, materially, you can imagine if you have to leave your offices to go downtown to make a photocopies and come back and use the fax to do photocopies. You now, it’s really living in another world, you can’t be too cheap under those circumstances and meet deadlines.

The international community, it seems, was slow to come forward with the resources required by the Commission. Agencies like the ICHRDD set certain conditions which had to be met before any money could be given. This including ensuring an adequate amount of international representation on the Commission, for example. Presumably, other international agencies donating money had similar processes.

The Commission had other needs as well. The salaries of staff, both Haitian and international, had to be paid. The salaries and travel expenses for both international commissioners and executive members had to be met. Investigative teams had to be transported to the field to carry out their investigative work. Specialized teams, including the Argentine Forensic Anthropology Team, expected to be paid as well.

Eventually, the Commission was funded by a number of sources. The ICHRDD gave funding and expertise, and also helped the CNVJ to procure funding throughout its existence. The American Association for the Advancement of Science (AAAS) and OAS each provided both specialized personnel and additional funding. The AAAS, for example, paid for the work of the Argentine Forensic Anthropology Team. The United States funded its own programs, including justice initiatives and policing.⁷⁶ The United Nations paid some of the salaries.

Between the Commission and the Government of Haiti, the rest of the financial needs had to be met. The CNVJ bore the majority of salary and transportation costs. The salary of an international investigator was 60,000 gourdes per month.⁷⁷ The government was left to pick up the rest of the costs, from the scant 6 per cent of the national budget that was allocated to Justice issues.⁷⁸ Indeed, other agencies operated concurrently with the truth commission in Haiti, augmenting the system of transitional justice that the CNVJ was trying to implement. Among these, agencies such as USAID and MICIVIH carried out their own programming. And IGOs

⁷⁴ Canada gave CAD \$350,000 to the Commission. CIDA, “Haiti: Canadian Peacebuilding Experience,” [report online]; http://www.acdi-cida.gc.ca/cida_ind.nsf/0/fe1aa41ae95989648525698b00665cbb?OpenDocument#6; internet; accessed 27 May 2003.

⁷⁵ “Haiti: Justice and Impunity,” 3.

⁷⁶ Brody, “International Aspects,” 233.

⁷⁷ At the time of writing, this converts to approximately \$1,700 USD.

⁷⁸ “Elements of a Conjunction,” 3.

including the Royal Canadian Mounted Police implemented programs as well. In the end, the Government of Haiti and the Commission itself were simply unable to adequately fund the Commission's work.

Conclusions

As truth commissions go, the CNVJ was relatively unsuccessful in its attempt to uncover the truth about past events. Certainly, it was unable to bring about the kind of societal acknowledgement that I once posited that it might. To be sure, other much more successful commissions had operated in earlier years in neighbouring countries, including truth commissions in Argentina and Chile, yet the models they provided were not consulted.

The commission faced a number of overwhelming difficulties. Aristide's second flight from Haiti, corresponding as it did with the presentation of the Report to him, effectively silenced any fanfare that might otherwise have been expected. Although the Report is now widely available on-line, it is safe to say that many Haitians have no access to it, and have never read it—if they know about it at all.

The institutional constraints faced by the Commission were by no means small. Indeed, issues of capacity, funding, and time have seriously impeded other larger, better-resourced commissions including commissions appointed in Guatemala and South Africa.⁷⁹ The existence of the Haitian commission, though, was decidedly shakier from the onset. And the coalescing of these limitations severely hampered its work, and its ultimate success.

Political will, too, proved equally devastating. Perhaps most surprising is that, as compared with other truth commissions such as that appointed in Uganda in 1986,⁸⁰ this ought not to have been the case. The high level of interest expressed by international NGOs and IGOs alike, and the tremendous interest in Haiti by the United States, should have guaranteed outright that the Haitian commission would be carefully assisted in its aims and objectives. Yet this international involvement instead led to intense complications and competition.

Although a truth commission, in and of itself, cannot hope to bring about social restoration, it ought to be able to foster some level of acknowledgement that could in turn support initiatives toward democracy and justice. Yet it seems that the absence of supportive political will, combined with the institutional failures of the Commission, have resulted in the failed memory of the majority of Haitians. There is little evidence at all of any lasting impact of the Commission.

⁷⁹ Joanna R. Quinn and Mark Freeman, "Lessons Learned: Practical Lessons Gleaned from Inside the Truth Commissions of Guatemala and South Africa," *Human Rights Quarterly*, 25.4 (Nov. 2003): 1117-1149.

⁸⁰ Joanna R. Quinn, "Constraints: The Un-Doing of the Ugandan Truth Commission," *Human Rights Quarterly*, 26.2 (May 2004): 401-427.