

option, it is one far down the path. The ICC has just begun to try its first cases, other mechanisms are still being experimented with, and new options are not now being entertained. But, this long look down the path might show us where we possibly ought to be heading.

NOTES

¹ In fact, After World War I, an international war crimes commission recommended the creation of an international tribunal to try, in addition to war crimes, 'violations of the laws of humanity', but the US representative objected to the reference to the laws of humanity on the grounds that they were not precise enough for criminal law (see Cryer et al. 2007: 187).

² Although distinct in characteristics, these categories do not represent pure temporal succession.

REFERENCES

- Cryer, Robert, Hakan Friman, Darryl Robinson and Elizabeth Wilmshurst** 2007. *An Introduction to International Criminal Law and Procedure*. Cambridge: Cambridge University Press.
- Dickinson, Laura** 2003. The Promise of Hybrid Courts. *The American Journal of International Law* 97 (2): 295–310.
- Nuremberg Trial Proceedings** 2008. *Vol. 1: Charter of the International Military Tribunal*. Section I. Article 1. Available online at: <<http://avalon.law.yale.edu/imt/imtconst.asp>>.
- Tutu, Desmond** 1999. *No Future Without Forgiveness*. Toronto: Doubleday.
- United Nations** 1998. *Rome Statute of the International Criminal Court*. Rome: United Nations. Available online at: <<http://untreaty.un.org/cod/icc/statute/rome fra.htm>>.

KIRSTEN J. FISHER, Ph.D.

THE CENTRE OF EXCELLENCE IN GLOBAL GOVERNANCE RESEARCH

UNIVERSITY OF HELSINKI

kirsten.fisher@helsinki.fi

TRUTH COMMISSIONS AND THE END OF HISTORY

• TIMO KALLINEN •

Transitional justice refers to a set of judicial initiatives that have been used in so-called post-conflict societies in transition from war to peace or from authoritarian rule to democracy. By the turn of the millennium, transitional justice had become a dominant global model and the list of countries that have undertaken some form of transitional justice is large and constantly growing. Truth commissions are a popular form of transitional justice. They are defined as investigative bodies that have been mandated by their sponsor governments to clarify controversial historical events and contribute to

criminal justice efforts, reparations for victims, development of stable public institutions, and national reconciliation (Freeman 2006: 40–87). What is known to the general public as a paradigmatic case of the truth commission is, of course, the Truth and Reconciliation Commission of South Africa set up in 1995. It was only after the South African experience that the idea of a truth commission holding public, victim-centred hearings became the norm (*ibid.*: 24–25).

Some scholars have argued with certain optimism that the recent wave of truth-telling processes, apologies and demands for reparations signal a real change in the global political order, the emergence of a new morality and a triumph of human rights discourse. It is seen as a final stage in constituting the Western liberal democratic model globally. According to this view, we have not reached the end of history yet, but we can see it. When even the last ‘rogue states’ have adopted democracy and human rights, willingly or unwillingly, and rendered accounts of their criminal pasts, there will not be situations in the future that demand confessions and apologies (see Sundar 2004: 147–149). And yet we know very well how certain groups of people are in a seriously disadvantaged position to get their claims and petitions considered or even recognized. Similarly, in many countries that have undergone such processes, the victims of past crimes are not satisfied with the end result and do not see justice being served. The danger is, as critical commentators have pointed out, that the outcome of these truth-telling and reparation projects is ‘a self-congratulatory liberal understanding that allows real and ongoing inequalities and injustices to go unchallenged’ (*ibid.*: 148). In this short essay I wish to discuss two points that challenge this liberal understanding. The objective is by no means to suggest that institutions that seek truth and justice are useless. What is questioned is the certain Eurocentrism entailed in the triumphalist history.

Firstly, it should be understood that, historically, truth commissions were established to deal with forms of political violence that resulted from neo-colonial relationships. Although transitional justice models date back to the Nuremberg Trials of the 1940s, truth commissions emerged as an important weapon against political violence as late as the 1970s and 80s. The Commission of Inquiry into the Disappearance of People in Uganda established in 1971 is sometimes mentioned as the first truth commission (see Hayner 2002: 305), but they seem to become more popular only after *Comisión Nacional de Investigación de Desaparecidos* of Bolivia was inaugurated in 1982 (see Freeman 2006: 318–325). Also a great majority of commissions have operated in the so-called Third World, the former colonies of Western superpowers. For example, between 1982 and 2005 there were only two European truth commissions (Germany and former Yugoslavia). The others were in Latin America and the Caribbean (12), Africa (9), and Asia (4) (Freeman 2006: 318–325). In my opinion, these facts should be considered bearing in mind those views according to which the first truth commissions were created in order to combat a new form of violence that had developed in the political climate of the late Cold War era. To be precise, at the time, some authoritarian Third World regimes supported by the West could not resort to open violence anymore when dealing with opposition and dissidence, without risking the loss of the support of their ‘Free World’ allies. Instead, they developed deniable forms of repression and violence, such as disappearances and death squads. Thus, people who sought justice had first to reveal the clandestine violence by acknowledging and verifying the previously silenced stories of the

victims before they could publicly establish the accountability of the political and military leaders (Shaw 2005: 2). Of course, we know that the Western powers, their intelligence services in particular, were not only aware of, but sometimes actively involved in some of the crimes that took place. One could then conclude that truth commissions have been a sort of response to an era when political violence had to 'go underground' so that the relationship between the Third World violators and their 'First World' sponsors could be maintained in publically accepted ways. So, on the one hand, we could agree with the triumphalists and say that the emergence of truth commissions is a sign of new global awareness about human rights, but on the other, we must also acknowledge that they are a reaction to atrocities engendered by a situation where the West actively propagates human rights, but abandons them in practice when political or economic expedience is seen to require it.

Secondly, I would like to briefly address some of the problems that the global proliferation of the truth-telling model encounters in the so-called post-colonial societies. The idea of human rights as well as the key concepts of the human rights discourse were formulated in the post-Enlightenment West and are deeply rooted in Western culture. Introducing these ideas to non-Western societies, where the huge majority of truth commissions have operated, and translating the related concepts into local languages is no simple task. This is particularly difficult in those societies where the language of the former colonizers is still the official language used in courts and administration, but where a significant part of the population does not read or write it. Even when some parts of the discourse advocated by local or foreign human rights activists find their way into popular vocabularies, the interest they are made to serve might be very different from the original. In such situations there is also a risk that educated elites become the 'gatekeepers' of the domain of human rights, deciding which grievances to include and which to exclude (see Englund 2006). Therefore, if accessibility and non-discrimination are pursued genuinely, one has to start by asking how the idea of truth commission could be made communicable in a local cultural and language context. Conversely, it should also be asked how local, culture specific ideas about violence, victimhood and truth can be communicated to a global audience that uses the vocabulary of the human rights discourse. For example, truth commissions are said to focus on 'severe acts of violence or repression' (Freeman 2006: 14), which invokes a question of the standard of severity. Human rights law tends to speak about violence as a theft or removal of the victim's humanity. From this follows an economic logic that measures and compares violence in 'actuarial terms' of loss, magnitude and compensation (Feldman 2003: 70). Looking at it this way, violence is the same everywhere, it is just that in some places there is more of it than in others. However, the objective of violence is not merely to deprive, inflict pain or exterminate, but also to send messages and conjure up memories, and therefore what is considered severe violence, and indeed political violence, by the victims or the public is a very complicated matter. Nonetheless, such local and historical meanings of violence cannot be ignored if one wishes to go beyond the level of symptoms and explore the connections between specific acts of violence and the structural violence and ideology behind them (Feldman 2002: 259–261).

REFERENCES

-
- Englund, Harri** 2006. *Prisoners of freedom: Human Rights and the African Poor*. Berkeley: University of California Press
- Feldman, Allen** 2002. Strange Fruit: The South African Truth Commissions and the Demonic Economies of Violence. *Social Analysis* 46 (3): 234–264
- Feldman, Allen** 2003. Political Terror and the Technologies of Memory: Excuse, Sacrifice, Commodification, and, Actuarial Moralities. *Radical History Review* 85: 58–73.
- Freeman, Mark** 2006. *Truth Commissions and Procedural Fairness*. Cambridge: Cambridge University Press.
- Hayner, Priscilla B.** 2002. *Unspeakable Truths: Facing the Challenge of Truth Commissions*. New York: Routledge.
- Shaw, Rosalind** 2005. *Rethinking Truth and Reconciliation Commissions: Lessons from Sierra Leone*. Washington DC: United States Institute of Peace.
- Sundar, Nandini** 2004. Toward an Anthropology of Culpability. *American Ethnologist* 31 (2): 145–163.

TIMO KALLINEN, Ph.D.
SOCIAL AND CULTURAL ANTHROPOLOGY
DEPARTMENT OF SOCIAL RESEARCH
UNIVERSITY OF HELSINKI
timo.kallinen@helsinki.fi