

CHAPTER 5

Truth-Telling and Displacement:
Patterns and Prospects

Megan Bradley

In the aftermath of conflict, repression, and large-scale human rights abuses, survivors have a right to know the truth about the violations inflicted on them, their families, and their communities.¹ In recent decades, more than forty truth commissions have been established around the world to investigate atrocities and support transitions from conflict to peace.² Often directly affected by the crimes that these commissions seek to expose, refugees and internally displaced persons (IDPs) have a major stake in the success of transitional justice processes, which can shape the stability of post-conflict communities as well as the prospects for safe, dignified, and durable solutions to displacement. However, in many cases displaced persons have not been recognized as critical stakeholders in truth-telling processes, and truth commissions have often failed to substantively address forced migration as a human rights violation.

In this chapter, I examine efforts to address displacement through truth-telling processes and to engage the displaced as key players in truth commissions. I first identify frameworks and principles supporting the inclusion of displacement in truth commission mandates and analyze the ways in which different truth commissions have incorporated displacement into their reports and recommendations. I then explore the direct involvement of refugees and IDPs in truth commissions, highlighting international frameworks and principles that may inform efforts to facilitate their participation, obstacles to their equitable engagement, and innovations that have helped to overcome these barriers. This analysis suggests that while many truth commissions have historically failed to devote sufficient attention to forced migration and have struggled to meaningfully engage refugees and IDPs, displacement is now increasingly recognized as a significant concern meriting the attention of such institutions. At the same time, displaced populations are increasingly being acknowledged by the international community as important stakeholders who not only have a right to participate in transitional justice initiatives but can also make valuable contributions to the success of truth-telling processes. Finally, I discuss the relationship between truth-telling and the resolution of

displacement, arguing that while it is important not to overinflate expectations of truth-telling processes, the strategic and timely implementation of truth-telling mechanisms may support the provision of durable, dignified solutions to refugees and IDPs while also advancing the broader goals of transitional justice processes, such as the recognition of past abuses, the promotion of accountability for violations, and the restoration of trust between neighbors and between citizens and the state.

ADDRESSING DISPLACEMENT IN TRUTH-TELLING PROCESSES: FRAMEWORKS AND PRINCIPLES

Priscilla Hayner offers a widely accepted definition of a truth commission as an institution that: “(1) is focused on past, rather than ongoing, events; (2) investigates a pattern of events that took place over a period of time; (3) engages directly and broadly with the affected population, gathering information on their experiences; (4) is a temporary body, with the aim of concluding with a final report; and (5) is officially authorized or empowered by the state under review.”³ While I focus in this chapter predominantly on official truth commissions, there are many other types of truth-telling processes in which displaced persons may also have a stake, including commemorations,⁴ exhumations,⁵ and the revision of school curricula.⁶ Trials also have a significant truth-telling function, which, in conjunction with the removal of offenders from return communities, may play an important role in opening up durable solutions for refugees and IDPs.⁷ It is important to recognize not only the diversity of approaches to truth-telling but also the connections between truth commissions and other forms of transitional justice. For example, truth commissions may serve as a stepping stone toward trials, commemorations, or the provision of compensation for survivors. Including displaced persons and their concerns in the focus of truth commissions may help ensure that refugees and IDPs benefit from the other forms of redress that often flow from the recommendations of truth commissions.

As truth commissions are ad hoc institutions, the architects of each of these bodies must make difficult decisions about the crimes that will be investigated and the particular populations the commission will seek to engage. However, there are a number of crosscutting international frameworks and principles that support the equitable participation of displaced persons in the work of truth commissions and the inclusion of forced-migration issues in the mandates of commissions in countries affected by large-scale displacement.

While most of the frameworks linking displacement and truth-telling processes focus on IDPs rather than refugees,⁸ the logic that supports addressing internal displacement through truth-telling processes also applies to refugees (although some elements of refugee situations can complicate matters, such as when refugees remain outside national borders during truth-telling, making engagement and participation, as well as political dynamics, more complex.)

First, the 2004 report of the UN secretary-general “The Rule of Law and Transitional Justice in Conflict and Post-conflict Societies” underlines the importance of “comprehensive” rule-of-law and transitional justice strategies that “pay special attention to abuses committed against groups most affected by conflict, such as . . . displaced persons and refugees, and establish particular measures for their protection and redress in judicial and reconciliation processes.”⁹

Second, the Guiding Principles on Internal Displacement, developed by the UN Commission on Human Rights, provides strong grounds for recognizing IDPs’ central stake in the work of truth commissions. According to Guiding Principle 16, “All internally displaced persons have the right to know the fate and whereabouts of missing relatives.” It also indicates, “The authorities concerned shall endeavor to establish the fate and whereabouts of internally displaced persons reported missing.” Guiding Principle 28 also backstops the view that truth commissions should both actively engage displaced populations and substantively address forced migration as a human rights violation: “Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavor to facilitate the reintegration of returned or resettled internally displaced persons.”¹⁰ Knowing the truth about the human rights violations at the root of their displacement is a vital precondition to a dignified return for displaced persons. Similarly, as I will discuss later in this chapter, honest recognition of the abuses that forced refugees and IDPs from their homes may play an important role in enabling sustainable and just reintegration processes.¹¹

Third, the Framework on Durable Solutions for Internally Displaced Persons, developed by the former representative of the UN secretary-general on the human rights of IDPs, offers focused recommendations on maximizing the positive linkages between peace processes, transitional justice, and the resolution of displacement. The Framework recognizes that durable solutions “should be a specific goal of peace agreements” and calls for peace agreements

to tackle “the specific needs of IDPs, including . . . reconciliation and peace-building . . . [and] remedies for violations suffered.”¹² Furthermore, it acknowledges that “community reconciliation and confidence-building mechanisms are often necessary, in particular where IDPs and the resident population or different groups within the IDP population are seen as having been associated with opposing sides in the conflict, but now live side by side.”¹³ Perhaps most important for advocates wanting to see truth commissions respond more effectively to forced migration, the Framework asserts that displaced persons “who have been victims of violations of international human rights or humanitarian law, including arbitrary displacement must have full and non-discriminatory access to effective remedies and access to justice, including, where appropriate, access to existing transitional-justice mechanisms, reparations and information on the causes of violations.”¹⁴

Complementing these provisions, transitional justice expert Pablo de Greiff offers a general account of the attributes of well-designed reparations programs for the survivors of large-scale human rights violations, which I would argue, could also be applied to the development of truth-telling processes. The principles de Greiff identifies support the notion that it is important both to include forced migration in the investigatory mandates of truth commissions and to ensure that displaced persons themselves are able to participate in truth commissions and benefit from any other forms of redress, such as compensation, that may emerge as a result of commissions’ recommendations.¹⁵

According to de Greiff, the three primary goals of reparations programs are to (1) recognize past wrongs and victims’ individual worth, (2) build civic trust, and (3) develop social solidarity, all with a view to returning individuals to the status of citizens within trusting, trustworthy, and empathetic political communities.¹⁶ To accomplish these goals, reparations programs must be appropriately *comprehensive* and *complete*. While comprehensiveness refers to the specific types of crimes these programs attempt to redress, completeness denotes an initiative’s ability to “cover, at the limit, the whole universe of potential beneficiaries.” De Greiff argues that it “goes without saying that completeness is a desirable characteristic in a reparations program.” However, when the actors involved in a conflict have carried out a litany of abuses, from murder and torture to ethnic cleansing, forced sterilization, and rape, it may be difficult to address each type of crime in a meaningful manner. Yet “all things considered, comprehensiveness is a desirable characteristic. It is better, both morally and practically, to repair as many categories of crime as feasible. . . . Leaving important categories of victims unaddressed not only deprives a transitional administration of the gains in legitimacy that it might accrue by establishing

a comprehensive reparations program but it also virtually guarantees that the issue of reparations will continue to be on the political agenda.”¹⁷

De Greiff’s arguments on comprehensiveness and completeness give rise to a range of persuasive reasons to consider refugees and IDPs an “important category of victim” in the context of truth-telling initiatives launched in the aftermath of violence that has caused large-scale displacement.¹⁸ First, in many cases the uprooting of people is the result of violations, such as torture and rape, that have traditionally been at the center of truth commission investigations. Second, refugees and IDPs often continue to be subjected to grave human rights abuses even after they have fled their communities, as belligerents may attack displaced persons’ camps in order to intimidate the displaced, discourage their return, and quell militants who may seek shelter and regroup in civilian camps. Third, forced migration itself represents a serious abuse that merits attention in its own right. For many displaced persons, losing their homes and enduring forced exile causes significant suffering that should be recognized in the context of efforts to develop comprehensive narratives of a community’s or nation’s experiences of repression and conflict. Fourth, displaced populations often have particular reintegration needs and justice claims (particularly relating to lost property); incorporating these concerns into the recommendations developed by truth commissions may fortify efforts to ensure that they are taken seriously and dealt with effectively by transitional governments and their international supporters.

However, labeling displaced persons “victims” for the purpose of truth-telling processes raises a host of challenges. Refugees and IDPs are clearly not only victims but also survivors of human rights violations. The potentially disempowering effects of “victimhood” discourses are well documented, and it is arguably more productive, accurate, and respectful to stress displaced persons’ resiliency rather than their victimhood. Indeed, many displaced individuals and communities reject the victim label and may even refuse to identify themselves as refugees, owing to that term’s close connotation with ideas of helplessness and lack of political agency.¹⁹ *Displaced persons* and *victims* may even in some cases be made into mutually exclusive legal categories. For example, the Colombian government has instituted a legal distinction between “victims” of paramilitary violence, who have a right to access redress through transitional justice mechanisms, and the country’s four million registered IDPs. This definitional maneuver limits the government’s responsibility for redressing this large number of potential claimants, who in many cases have been victimized not only by paramilitary violence but also by state mining and agribusiness policies.

For conflicts, such as the Liberian civil war, where the majority of citizens were directly affected by displacement, the extent to which it is helpful and appropriate, from a transitional justice standpoint, to define the majority of a country's population as victims is an open question. Counting refugees and IDPs as victims to be included in truth-telling processes may raise expectations for participation and tangible outcomes, such as compensation, that cannot ultimately be realized and may exacerbate competition between different types of victims, particularly when the distribution of material benefits results from the recommendations of truth commission reports. This leads to a general question about capacity: to what extent will a truth commission have the expertise and resources to address a problem on the scale of massive displacement? It will of course depend on the commission in question, but as with other matters, such as socioeconomic development, the more truth commissions expand their mandates, the greater the risk of institutional overload, watered-down recommendations, and unmet expectations.

Given these considerations, identifying displaced persons as victims of interest in truth-telling processes becomes a much more contentious decision. However, as I demonstrate in the following section, it is now increasingly common for truth commissions to be mandated to engage with displaced populations as an important category of victims. Despite the risk of competition between victims and the challenges associated with prioritizing different victim groups and ensuring that the victimhood discourse does not undercut displaced persons' agency and dignity, this is ultimately a positive development. If displaced persons are not recognized as critical stakeholders in truth-telling processes, the narratives and recommendations that emerge from these initiatives will inevitably be incomplete, consigning the displaced to remain on the margins of their societies.

TRENDS IN TRUTH COMMISSION MANDATES, REPORTS, AND RECOMMENDATIONS

Historically, the crime of forced migration and the abuses endured by displaced populations have not been included in truth commission mandates and have not figured prominently in the reports and recommendations issued by these institutions. However, as I demonstrate in the following section, this trend is gradually changing.

MANDATES

A truth commission's mandate shapes the extent to which it can effectively address particular human rights violations, such as arbitrary displacement,²⁰ although some truth commissions may address displacement as a specific human rights concern or as a broader contextual factor without being specifically mandated to do so. Many early truth commissions were charged with very narrow mandates that precluded investigation of displacement. For example, the Argentinean and Chilean truth commissions focused on “disappearances” and torture, discounting the experiences of flight and exile that many dissidents endured in order to escape these fates. South Africa's Truth and Reconciliation Commission (TRC) did not have a mandate to examine displacement, despite the fact that the apartheid system was fundamentally predicated on forced migration, which relegated millions of black South Africans to infertile lands. Instead, the TRC examined “gross human rights violations,” defined as “killing, abduction, torture, and severe ill-treatment.”²¹ Critics such as Mahmood Mamdani argue that by excluding apartheid practices that affected ordinary South Africans, the TRC proffered a “compromised truth” that “has written the vast majority of victims out of history.”²²

Despite the exclusion of displacement from the mandates of these early truth commissions, it appears that the trend is now toward broader mandates amenable to addressing a wider range of abusive practices and human rights violations, including forced migration. This broadening of mandates poses challenges of its own, as truth commissions are expected to accomplish more without parallel increases in budgets or time frames.²³ For example, truth commissions that are mandated to investigate displacement will likely have to engage with a much larger population of survivors, who may be geographically dispersed and difficult to contact. Refugees in protracted displacement situations may have taken on the language of their host communities and may not speak the working language of the truth commission, necessitating the use of translators. Nonetheless, Hayner argues, “as a general rule, terms of reference should be sufficiently broad and flexible to allow investigation into all forms of rights abuses, leaving to the commission the decision of what specific cases or practices to investigate and report.”²⁴ There is no ideal truth commission, and what is preferable in terms of scope and powers for a commission will depend on many factors, including the political context in which the commission operates. However, as argued earlier, it is in the interests of survivors and transitional societies more broadly for truth commissions to strive for comprehensiveness and completeness, which requires that they be

empowered not only to compile technical details but also to investigate how and why violations such as forced migration occurred.

The flexible approach to truth commission mandates advocated by Hayner does not guarantee that forced migration concerns will be addressed adequately. Indeed, while many recent, broadly mandated truth commissions have had the opportunity to investigate displacement, they have approached this challenge “in an ad hoc or constricted manner, and without a conscious strategy.”²⁵ For example, the Liberian truth commission addressed the widespread displacement that characterized the country’s civil war, but it lacked a conscious strategy for engaging IDPs and ensuring that their contributions and concerns were reflected in the final commission reports. However, several recent and ongoing truth commissions have specifically incorporated forced migration and related crimes into their mandates. Morocco’s Equity and Reconciliation Commission (2004–5) was mandated to do the following: “Assess, research, investigate, arbitrate and make recommendations about gross human rights violations . . . [including] forced disappearances, arbitrary detention, torture, sexual abuse and deprivation of the right to life, as a result of unrestrained and inadequate use of state force and coerced exile.”²⁶ Various bodies, including the truth commissions for Mauritius (2009–present), the Solomon Islands (2009–present), Ghana (2003–4), and Kenya (2009–present), have concertedly focused on the dispossession of land. The Solomon Islands Truth and Reconciliation Commission is mandated to investigate “the destruction of property, deprivation of rights to own property and the right to settle and make a living.”²⁷ Timor-Leste’s Commission for Reception, Truth and Reconciliation (Comissão de Acolhimento, Verdade e Reconciliação de Timor-Leste—CAVR) was also mandated to investigate displacement but suffered from blind spots in its treatment of the issue: although it specifically aimed to investigate forced migration and contribute to the resolution of displacement through the return and reintegration of IDPs and refugees from West Timor, the commission failed to engage or address in detail the situation of the many refugees who sought asylum outside the Indonesian archipelago.²⁸ The factors that lead to the formal inclusion of forced migration in truth commission mandates vary; however, it appears that in general when forced migration and the dispossession of land represent significant, current concerns for the international community and local elites, commissions are more likely to be directed to investigate these issues. When the displaced and dispossessed have no prominent backers, or when displacement crises have been sustainably resolved without the establishment of a truth commission, there is much less pressure for truth-telling initiatives to tackle these concerns.

Ensuring that truth commissions are mandated to investigate displacement has important implications for gender equity and the equal treatment of different age groups. While both men and women are subjected to abuses such as extrajudicial executions and arbitrary imprisonment, which have historically been the focus of truth commissions, these violations disproportionately affect young and middle-aged men. The majority of those uprooted, on the other hand, are women, children, and elderly people. By purposefully mandating truth commissions to investigate displacement, the architects of these bodies can ensure that their work more comprehensively reflects the experiences and suffering of the entire population.²⁹

REPORTS AND RECOMMENDATIONS

Reports are the major tangible outcome of truth commissions and can have a definitive impact on the construction of post-conflict national narratives. Consequently, the acknowledgment and examination of displacement and exile in truth commission reports may significantly affect whether the experiences and suffering of refugees and IDPs are broadly recognized as a critical part of a conflicted country's history.

Of the thirty-two truth commission reports publicly released to date, at least nine of them address displacement, if only briefly,³⁰ and at least eight were prepared by commissions operating under restricted mandates that precluded examination of displacement. Several of the reports that address displacement do so in commendable detail. For example, the reports for Liberia and Sierra Leone indicate that forced migration was the most pervasive human rights violation in these interlinked conflicts, accounting for 36 percent of reported violations in Liberia and almost 20 percent of reported abuses in Sierra Leone.³¹ *Chega! The Final Report of the Commission for Reception, Truth and Reconciliation in East Timor* addresses displacement in extensive detail and finds that forced migration resulted in more deaths than any other factor during Indonesia's occupation of Timor-Leste.³² Guatemala's Commission for Historical Clarification (Comisión para el Esclarecimiento Histórico—CEH) focused on the social conditions surrounding the displacement of swaths of the country's indigenous population, and its report specifically recognizes the suffering and stigma endured by the displaced, as well as the detrimental impact of state discrimination on return and reintegration. The CEH report also documents more than a dozen cases of occupation of refugee lands.³³ Many of these reports address displacement as a consequence of other human rights violations, such as killing, torture, and rape, as a violation in and of itself, and as

a condition that rendered victims more vulnerable to further abuses, such as exploitation and violence in refugee camps.

Truth commission reports often include recommendations for reforms and reparations programs; however, Hayner notes that those “countries that have crafted a reparations program independent of a broader truth-telling exercise have found a much cooler reception from victims.”³⁴ Therefore, integrating the issue of forced migration into the work of truth commissions may help ensure that the recommended reparations programs include and are effective for displaced beneficiaries. Various commissions have made specific efforts to craft recommendations that respond to displaced persons’ specific concerns, such as the need for property restitution or land reform, the acceptance of dual nationality for those who have obtained another passport while in exile, the recognition of foreign qualifications, and the acceptance of the diaspora’s participation in peacebuilding and development activities. Ghana’s National Reconciliation Commission, for example, recommended the restitution of confiscated property,³⁵ while the report of the Guatemalan CEH advanced perhaps the most comprehensive set of recommendations to date relevant to redressing and resolving displacement.

The CEH report set a clear remedial standard, stating that the government must undertake “measures for the restoration of material possessions so that, as far as possible, the situation existing before the violation [is] re-established, particularly in the case of land ownership.”³⁶ The report also called for financial compensation for the most serious injuries, as well as psychological rehabilitation; medical, legal, and social services; and moral and symbolic reparations. Although these different forms of redress were not, for the most part, specifically employed with a view to supporting the resolution of displacement, many of these remedial tools were highly relevant to the needs and concerns of the displaced.³⁷ However, implementation of reparations has faced numerous delays and obstacles. After extensive negotiations, the Reparations Commission and National Reparations Program were agreed on in 2003, but implementation did not actually begin until 2005, and the program has been drastically underfinanced: approximately US\$3.6 million was to be allotted annually over ten years, significantly less than the US\$48 million that advocates argued was required. Furthermore, in most of the years following 2005, the actual allocation within the national budget did not come close to the \$3.6 million that was promised. According to the director of the National Reparations Program, some thirty thousand victims have received compensation since the program began,³⁸ but the amounts have been extremely limited, with cases of extrajudicial executions and disappearances receiving less than

US\$3,000. The National Council of Displaced Guatemalans (Consejo Nacional de Desplazados de Guatemala—CONDEG) states that no IDPs have received settlements through the program, despite the fact that forced migration is one of the crimes eligible for compensation.³⁹

In addition to individual reparations, the CEH report called for collective redress initiatives in war-affected communities that would “promote reconciliation, so that in addition to addressing reparations [they] ... favor the entire population, without distinction between victims and perpetrators” and other community members.⁴⁰ This approach fit with the Guatemalan government’s strategy of providing assistance to the displaced alongside the broader landless population, rather than through targeted programs.⁴¹ However, these attempts to provide redress and assistance without taking into account the particular experiences, claims, and concerns of the potential beneficiaries resulted in “neglect of the special needs of displaced persons, and an overall lack of justice and restitution for the displacement that they suffered.”⁴² More broadly, this approach to collective redress raised significant normative problems: although the reincorporation of perpetrators into society is essential to post-conflict transformation, transitional justice processes must make a moral and legal distinction between the actions of offenders and the offended; they should strive to rectify injustices experienced by victims, rather than reap benefits for the abusers.⁴³

CONSULTATION AND PARTICIPATION OF DISPLACED PERSONS IN TRUTH-TELLING PROCESSES

As Diane Orentlicher, the United Nations independent expert on impunity, attests, the establishment of a truth commission “should be based upon broad public consultations in which the views of victims and survivors especially are sought.”⁴⁴ Historically, however, debates on the creation and operation of truth commissions and other transitional justice initiatives have left out IDPs, refugees, and other members of the diaspora. Yet as I suggest in the following section, a range of internationally negotiated frameworks and principles underpin the view that displaced persons are among the central stakeholders that must be engaged in truth-telling processes. At the same time, the involvement of displaced populations in truth commissions in countries including Liberia, Sierra Leone, and Timor-Leste offer insights that may inform efforts to engage refugees and IDPs in future truth-telling processes.

FRAMEWORKS AND PRINCIPLES INFORMING THE ENGAGEMENT OF DISPLACED PERSONS

A range of international frameworks and principles bolster the view that refugees and IDPs should have the opportunity to participate actively in truth-telling processes, from the consultation stage to the implementation of recommendations flowing from truth commission reports.⁴⁵ First and foremost, the United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, which recognizes that truth-telling processes may be an important aspect of efforts to remedy injustices, states that the principles must be applied “without any discrimination of any kind or on any ground, without exception.”⁴⁶ It is therefore unacceptable to exclude potential participants on the basis of arbitrary factors such as their being outside the country or internally displaced.

The Guiding Principles on Internal Displacement and the Framework on Durable Solutions for Internally Displaced Persons also backstop IDPs’ right to be included in truth-telling processes. Principle 22 of the Guiding Principles says that IDPs have the right to “participate equally in community affairs” and in “governmental and public affairs.”⁴⁷ Principle 28.2 also speaks to the issue of participation: “Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration.”⁴⁸ Since truth commissions bear on community, governmental, and public affairs and may have significant bearing on return and reintegration processes (discussed later), IDPs clearly have a strong claim to participate actively in them. Indeed, as principle 28.2 suggests, it is incumbent on those responsible for truth commissions to institute special measures, if needed, to ensure that these bodies are accessible to displaced populations. This view is echoed in the Framework on Durable Solutions, which states that IDPs “need to be fully informed about existing remedies,” such as truth commissions, “and should be involved in their design, implementation and evaluation.”⁴⁹ As the Framework indicates, involving the displaced in these initiatives “contributes to providing a greater sense of justice and dignity and helps in redressing the relationship between the victims and the State.”⁵⁰ The Report of the Secretary-General on the Rule of Law and Transitional Justice also recognizes refugees and IDPs as key stakeholders in transitional justice processes and calls for authorities to do the following:

Recognize and respect the rights of both victims and accused persons, in accordance with international standards, with particular attention

to groups most affected by conflict and a breakdown of the rule of law, among them children, women, minorities, prisoners and displaced persons, and *ensure that proceedings for the redress of grievances include specific measures for their participation and protection.*⁵¹

PARTICIPATION IN TRUTH COMMISSIONS

IDPs, refugees, and other diaspora groups have engaged in truth commission processes in a range of ways—“as conceivers of the process, statement givers in the data collection process, advocates for justice or . . . as participants in all phases.”⁵² Displaced and diaspora populations have helped to establish truth commissions in countries such as Haiti, where the admittedly abortive National Truth and Justice Commission (1994–96) was created in part through the work of exiled Haitians.⁵³ Refugees and IDPs from countries such as Guatemala and Liberia helped to gather testimonies from other survivors, which were then fed into truth commission reports.⁵⁴ In various cases, displaced persons have also served as witnesses in public truth commission sessions. The participation of displaced persons has been particularly extensive in commissions such as the CAVR, which held hearings specifically focused on forced migration, with testimony from those displaced internally and across borders. The CAVR’s community-level “reception function” used the truth-telling process to facilitate the return and reintegration of displaced low-level offenders, who participated as confessors seeking the opportunity to make amends and return to their homes; community members, many of whom were returnees themselves, served as decisionmakers responsible for determining both whether the offender was telling the truth and the forms of redress he or she would have to make before being absolved of past crimes and welcomed back into the community.⁵⁵

It is difficult to assess the significance for displaced persons of these different approaches to participating in the work of truth commissions. In the last section of this chapter, I examine the potential significance of truth-telling processes, including truth commissions, for the resolution of displacement. But beyond potentially facilitating the attainment of durable solutions, has participation in truth commissions proved to be personally meaningful for the displaced? Has it contributed to reconciliation on interpersonal, community, or national levels? The answers to such questions will of course vary among cases and people. In Guatemala, many victims indicated that they found testifying before the CEH and attending the release of the truth commission report to be powerful experiences. However, since many refugees and IDPs returned to

remote regions of the country, their opportunities to participate were typically “brief and superficial,” limited not only by their remote location but also by fear of reprisals.⁵⁶ Some CEH investigators who hiked into the remote highlands to interview displaced civilians found that many people did not realize the war had ended or that a truth commission had been established. This experience underscores that the active and meaningful participation of the displaced is contingent upon effective outreach and awareness-raising activities. Once they were informed about the goals of the CEH, many displaced Guatemalans were eager to participate; indeed, the commission lacked the capacity to record the testimonies of all those who wanted to register their experiences.⁵⁷

When truth commissions have limited resources to carry out their mandates, collective testimonies that present communities’ experiences are an important way to make participation accessible to as many survivors as possible. Although refugee and IDP camps are typically temporary communities that disband when their residents have access to durable solutions, such as voluntary return or local integration, these communities often endure significant abuses, such as cross-border military attacks and infiltration by armed elements. Enlisting current and former residents of these camps in the production of collective testimonies may be a valuable avenue for increasing the participation of displaced persons and ensuring that the unique experiences of these impermanent communities are included in the historical record.

PARTICIPATION IN OTHER FORMS OF TRUTH-TELLING

Beyond truth commissions, displaced persons have also participated actively in truth-telling processes such as the exhumation, identification, and reburial of the bodies of those killed in genocidal violence. In the aftermath of the Srebrenica massacre in Bosnia, the information obtained through exhumation and identification processes played an important role in establishing the truth about this event. Many refugees and IDPs from Srebrenica returned, even if only temporarily, to participate in the reburial of their family members, which was an important way of publicly marking the genocide that took place there in July 1995.⁵⁸ In Turkey, IDP groups such as the Saturday Mothers, who have successfully advocated for the exhumation of clandestine graves and the identification of the remains of disappeared family members, have also been pushing—so far without success—for the establishment of a national truth commission to examine abuses against the Kurdish population. Despite major political opposition to the creation of a truth commission in Turkey, the information gained through these exhumations adds credence to IDPs’ calls for a

more comprehensive investigation of the government's involvement in crimes such as displacement, torture, murder, and disappearances.⁵⁹

The return process itself can also be a powerful act of truth-telling. For example, before settling down on the land set aside for them, the first group of collectively organized Guatemalan refugees to return from Mexico undertook a three-week, cross-country journey by caravan to raise awareness of their experiences and their goal of reclaiming their homeland and to renegotiate their relationship with the Guatemalan state. The "grand tour" was both a "symbolic reappropriation of citizenship" and an astute strategy based on the returnees' recognition that their security depended on "popular support and visibility in (the very limited) public opinion."⁶⁰ Before the returnees' cross-country tour in 1993 (four years prior to the establishment of the CEH), many Guatemalans indicated that they had no idea of the scope and severity of the violations inflicted on the country's indigenous communities during the war, suggesting that the caravan had an important truth-telling function, one that paved the way for the country's official truth commission.

Refugees and IDPs have also participated in commemoration efforts that acknowledge experiences of displacement and other human rights violations. In some cases, commemorative activities such as the creation of memorials grow out of the recommendations of truth commissions; in others, they are instigated independently by the members of displaced communities and their supporters; but in both instances, they serve an important truth-telling function, as they direct public attention toward histories of forced migration and abuse. The preserved sections of the Berlin Wall where East Germans were killed while attempting to flee to the West is one of the most well-known examples of a memorial linked to the flight of refugees. In the early euphoria after the fall of East Germany, large segments of the wall were ripped down before authorities recognized that its preservation was essential to telling the history of the divided city and remembering the victims of the Communist regime. The Palestinian Ministry of Development and Planning has taken heed of this near-oversight by planning, in the event of a solution to the Israeli-Palestinian conflict, to preserve certain refugee camps in Gaza and the West Bank as memorials to the refugees' losses and resilience. The Israeli nongovernmental organization (NGO) Zochrot is already involved in complementing these plans by erecting small memorials in Israel recognizing the Palestinian villages that were abandoned in 1948 and subsequently razed, while the descendants of Palestinians displaced from the village of Lifta in 1948 are campaigning publicly and in court to halt the proposed development of the site as an upscale housing project. While the former residents and their families realize that the Israeli

government will not restore their properties to them, they want the ruins to stand as a “site of memory.”⁶¹ In Cape Town, the District Six Museum commemorates the more than sixty thousand black South Africans who were forcibly relocated to the barren Cape Flats when the apartheid government declared District Six to be a “white” neighborhood. The museum aims to “keep alive the memories of District Six and displaced people everywhere” and was developed with the active participation of the families of the displaced.⁶²

These examples demonstrate that commemorative activities, including the creation of memorials and museums, serve as a form of truth-telling about both different experiences of displacement and governments’ responses to forced migrants at different phases of the displacement cycle. Displaced populations and the descendants of the displaced participate in these commemorative activities in a variety of ways. For example, the displaced may be involved in initiating and designing commemorative projects, participating in visits to and services at commemorative sites, and serving as staff or facilitators at memorials and museums, communicating their own stories of displacement and the experiences of their communities. Further research is required to better understand how such commemorative activities may be made as meaningful as possible for the survivors of displacement and other human rights violations whose histories are being recognized.

OBSTACLES TO PARTICIPATION

Despite clear calls for their participation, the actual engagement of refugees and IDPs in the work of truth commissions has generally been lackluster. In some instances, refugees have not been involved because participation in the process was purposefully limited to those within the country, as in the case of the Brazilian truth commission.⁶³ Even if displaced persons are not technically barred from participating, however, they may lack national identity documents that confirm their eligibility to participate in truth commission hearings. Furthermore, the physical inaccessibility of truth commission meetings can be another significant obstacle. Displaced persons who have sought refuge outside the country or in remote regions may not be able to travel to the cities where truth commissions typically meet. While some recent commissions have convened “satellite” hearings in countries with large diaspora populations and have sent investigators to gather testimony in refugee camps, these activities depend on the willingness of host states to provide access to those within their borders. In contexts where relations between refugees, host states, and states of origin are strained, such access may not be forthcoming.

Problems of impoverishment and social marginalization in displaced communities mean that even if refugees and IDPs can physically access truth commission hearings, they may not feel comfortable participating or may simply be too focused on making ends meet to be able to participate. As survivors of human rights violations often committed by state agents, refugees and IDPs may be fearful or distrustful of official institutions such as truth commissions and may be reluctant to “forego their anonymity” by testifying.⁶⁴ Indeed, testifying before a truth commission may provoke reprisals in divided return communities and may compel witnesses to flee their homes anew. To date, attacks against witnesses have been a more pressing concern during formal trials, but without effective precautions and protections, truth commission witnesses can also be intimidated, attacked, or forced to flee. This may be a significant deterrent for refugees and IDPs struggling to resolve their initial displacement.

Lack of appropriate outreach and effective civil society engagement represent two of the foremost obstacles to the participation of displaced persons in truth commissions. In many cases, information about truth-telling processes may not be widely distributed outside the country or in remote areas where IDPs may be living. As pointed out earlier, this was a problem in Guatemala. Furthermore, as I will discuss, engaging humanitarian, peacebuilding, and development actors who work closely with displaced populations may be essential to effective outreach to forced migrants. Equally, local and national civil society organizations may play a central role in crafting and executing effective, innovative outreach strategies. For example, in light of the CAVR’s emphasis on return and reintegration, concerted efforts were directed toward enabling the participation of refugees in West Timor in the commission’s work. To reach out to this group, the CAVR sent eighteen representatives from a range of NGOs into the refugee camps in West Timor for six months to raise awareness of the CAVR process using tools such as radio programs tailored to address the refugees’ concerns.⁶⁵

Civil society organizations composed of refugees and IDPs and dedicated to advocating on their behalf may play critical roles not only in terms of outreach but also in first getting displacement on truth commission agendas and then promoting the implementation of truth commission recommendations related to forced migrants’ concerns. For example, Peru’s national truth commission investigated displacement after concerted lobbying from displaced persons’ organizations and civil society groups such as the National Committee for the Displaced (Mesa Nacional de Desplazados—MENADES).⁶⁶ However, organization and mobilization among displaced populations is often

limited because of factors such as fear, government repression, and lack of resources and training. In countries such as Colombia, organizational efforts among the displaced are marked by a serious tension: IDPs organize in order to advocate their rights and thereby increase their collective security, but by challenging the state, paramilitaries, and powerful corporations, they become more insecure because of threats and violence from these actors.⁶⁷

Events in Liberia demonstrate the importance of organizing early in order to ensure that the concerns of displaced persons are addressed in both peace negotiations and truth-telling processes. Because internal displacement in particular was so ubiquitous during the war, no civil society group represented the IDPs in the Liberian peace negotiations. Rather, the assumption was that because such large numbers were affected by displacement, the concerns associated with forced migration would naturally be addressed in the process. In practice, this assumption did not hold: while Liberian refugees were effectively represented in the peace negotiations, and special efforts were made to engage them in the national truth commission, those for whom internal displacement was particularly prolonged and problematic did not have their concerns concertedly addressed. After the Liberian IDPs were marginalized in the peace negotiations, it became difficult to meaningfully integrate their concerns in the truth-telling process. This case underlines the fact that displacement does not entail a uniform level of vulnerability; responding effectively to those who have not recovered from the insecurities associated with displacement necessitates early organization to communicate these concerns and ensure that they are taken seriously.⁶⁸

Although the lack of organized groups dedicated to facilitating the participation of displaced persons in truth commissions is a serious obstacle, it is also important to recognize the obstacles that may emerge when organized groups of refugees and IDPs compete against one another for attention and assistance. For example, the success Guatemalan refugees had in collectively negotiating their return from Mexico and obtaining redress through national restitution and truth-telling processes generated resentment in the much larger IDP population, which did not benefit from equally “generous” assistance and redress policies.

Even when they are well-organized and represented by respected organizations such as Mama Maquín in Guatemala, refugee and IDP women may encounter significant obstacles to their participation in truth-telling processes. In particular, their meaningful participation has sometimes been limited by blinkered conceptions of the contributions they may make to truth-telling.⁶⁹ As Susan Harris Rimmer argues, when refugee women do participate in truth

commissions, their “script” has been limited because they are simply not asked a sufficiently broad range of questions that elicit important information about their gendered experiences of displacement.⁷⁰ When interviewing female refugee witnesses, bodies such as the CAVR have tended to focus narrowly on issues such as sexual and gender-based violence, rather than exploring women’s experiences of the broader range of abuses to which the displaced are often exposed or the strategies displaced women employ to adapt and survive in these circumstances.⁷¹

The negative effect of these obstacles on the participation of refugees and IDPs in the work of truth commissions has been exacerbated by the current ad hoc approach to involving them. Lessons learned about overcoming these hurdles and effectively incorporating displaced and diaspora communities have not been compiled or systematically shared, forcing each new commission to reinvent the wheel.

INNOVATIONS TO SUPPORT THE PARTICIPATION OF REFUGEES AND DISPLACED PERSONS

Various innovations have helped to overcome the obstacles discussed here and facilitate the participation of displaced persons and formerly displaced persons in the work of truth commissions. Even though it did not address forced migration per se, the first Chilean truth commission broke new ground in advertising internationally to seek contributions from exiles. The Chilean, Argentinean, and Ecuadorian commissions built on this kind of outreach by allowing members of the diaspora to testify at embassies and consulates worldwide. Chile’s National Commission on Political Imprisonment and Torture (2003–5) accepted written submissions through more than forty Chilean consulates in different countries, discovering that many victims had never before shared their stories in detail.⁷² Outreach by the Argentinean National Commission on the Disappeared (1983–84) also prompted various survivors to return to the country to testify in person.

Returning from abroad or testifying at a formal state institution, such as an embassy or consulate, may be emotionally daunting or financially prohibitive for many refugees. The creation of “remote hearings” in communities with numerous diaspora members is an apposite response to this challenge. For example, the Liberian truth commission held hearings in St Paul, Minneapolis, and in the United Kingdom, where there are large Liberian diaspora communities. Paraguay’s Truth and Justice Commission (2004–8) convened public hearings in Argentina, as many Paraguayan exiles sought shelter there. Such

efforts may bring risks, though. “In one hearing that took place in Argentina,” Hayner writes, “the ambassador of Paraguay to Argentina was unexpectedly named as having collaborated with the Stroessner regime. As a direct result, he was quickly dismissed from his post.”⁷³ This incident reflects the potential shortcomings of facilitating the participation of exiles through embassies and consulates, institutions that are not at arm’s length from the government and that may employ individuals who have not been carefully vetted to ensure that they do not have ties to abusive regimes.

As discussed earlier, some commissions, such as the CAVR, have held special hearings on forced migration, which may increase the active participation of refugees and IDPs by demonstrating strong interest in their experiences and perspectives. Several commissions, including the bodies for Guatemala, Liberia, Timor-Leste, and Sierra Leone, actively sought out the perspectives of refugees and IDPs by dispatching investigators to interview witnesses in refugee camps and remote IDP settlements, and the final report of Sierra Leone’s truth commission was informed by 175 statements from refugees in Nigeria, Guinea, Gambia, and Ghana.⁷⁴

The Liberian truth commission, in partnership with the Georgia Institute of Technology, has been at the vanguard of efforts to use new technologies to increase the participation of poor and displaced persons and members of the diaspora in truth-telling processes. The Liberian commission boasted the “world’s first truly interactive TRC web site,” which could be used by members of the public to submit formal statements, upload news and memorials, and even apply for amnesty. Videos of the truth commission proceedings are also available to watch online, and a Mobile Story Exchange System that traveled around the country was used to record and share statements.⁷⁵ In the abstract, these innovations may cost-effectively facilitate the participation of refugees and IDPs. However, serious hurdles and concerns remain. First, many displaced and impoverished Liberians who could hypothetically benefit from these tools lack access to computers and Internet services. Second, the use of technology to gather statements raises important concerns about the protection of witnesses, defamation, the blurring of lines between official and unofficial truth-telling initiatives, and the “dehumanization” of truth-telling processes.⁷⁶ Indeed, Liberians and Sierra Leoneans have proved very hesitant or simply unable to use the online testimony mechanisms developed by their national truth commissions. Despite “extensive pretesting, outreach to diaspora communities and security guarantees, the [Liberian Truth and Reconciliation Commission’s] online statement taking generated only a few statements. . . . The Sierra Leone web-based statement process generated

none,” demonstrating that “even in today’s tech-savvy environment personal interaction remains the most powerful tool for investigating human rights violations.”⁷⁷

Despite the limitations of these high-tech tools, the Liberian commission nonetheless stands out for its innovative efforts to develop and execute a concerted diaspora engagement strategy, in cooperation with an overseas human rights NGO, the Advocates for Human Rights (the Advocates). Although the TRC had no official mandate for diaspora engagement, this partnership was highly successful, resulting in more than 1,600 statements taken from Liberians living in the United States, the United Kingdom, and a refugee camp in Ghana, as well as in official public hearings in the United States. The diaspora project raised its own funds and published its own report, *A House with Two Rooms*, and also fed its findings into the official report of the Liberian TRC. The commission was motivated to engage the diaspora because Liberians living overseas were believed to have played a pivotal role in starting and financing the conflict, and because the commissioners were optimistic that the diaspora could help fund reparations for survivors. Indeed, the final report of the truth commission recommended that Liberians living overseas donate at least one dollar a month to the Reparations Truth Fund, “as the beginning of [their] contribution as citizens of Liberia to the economic and social development of their motherland.”⁷⁸ This process yielded recommendations of special interest to those outside Liberia, such as formal acceptance of dual citizenship and allowing diaspora members to vote in national elections. The process also underlined the importance of truth commissions not adhering too tightly to definitions of refugees and IDPs when they set out to engage the displaced. Although refugees and IDPs should generally be defined as important categories of victims to be engaged in truth-telling processes, it is important to recognize that those who leave a war-torn country on a largely voluntary basis—for example, to pursue education or economic opportunities—may also be negatively affected by the conflict in their state of origin and may thus have a strong stake in the success of truth commissions. Since refugees and IDPs are known to have experienced human rights violations, when commissions have limited resources for engaging with uprooted or nonresident populations, it may be broadly advisable to focus first and foremost on reaching out to these groups. Nevertheless, developing a holistic strategy that could engage Liberians who migrated for a variety of reasons proved effective in this case and has already sparked the interest of Zimbabwean, Somali, and Kenyan diaspora groups who wish to build on the Liberian diaspora project’s approach to advancing truth-telling processes in their own countries.⁷⁹

Taken in total, these initiatives demonstrate that there is considerable scope for creativity and innovation with a view to facilitating the engagement of displaced persons in the work of truth commissions. Relatively modest initial outreach efforts have given way to thoughtful and sophisticated initiatives such as the Liberian diaspora project; however, further steps are needed to make truth commissions more accessible and responsive to the concerns of displaced persons. First, there is a need for more strategic assistance to facilitate forced migrants' participation, such as small grants to enable travel to truth commission sessions and more satellite hearings in refugee camps and diaspora communities. There is also a need for more tailored outreach efforts that explain the purpose of truth commissions and how displaced persons may participate. Effectively facilitating the participation of displaced persons and substantively addressing forced migration as a human rights violation requires knowledge of both the transitional justice process and the dynamics of displaced and host communities. More strategic use of intermediaries who have in-depth knowledge of both truth-telling processes and displaced communities could advance the achievement of these goals. For example, displaced communities could nominate liaisons to represent their concerns, and they could be integrated into the staff of the relevant truth commission. In nominating such liaison officers, it would be essential to ensure equitable representation of IDPs and refugees in different host states. Finally, there is room for greater innovation in facilitating exchanges between refugees and IDPs who have met with some success in participating in past truth-telling processes and those who are struggling to be heard in contemporary efforts. By sharing their experiences and strategies, refugees and IDPs who have effectively engaged in transitional justice processes may inform and inspire their counterparts in other countries, giving them a clearer sense of what they may expect and demand.⁸⁰

PARTICIPATION OF HUMANITARIAN, DEVELOPMENT, AND PEACEBUILDING ACTORS IN TRUTH-TELLING

Many of the agents most closely involved with displaced populations, including humanitarian, development, and peacebuilding actors, have not historically been deeply involved in transitional justice processes such as truth commissions. As efforts to incorporate forced migration and displaced populations into the work of truth commissions become more systematic, these actors may have important roles to play in advising truth commissions on engaging refugees and IDPs and addressing the substantive issues associated with displacement. Because of concerns about maintaining neutrality and access to needy

populations, humanitarian actors such as the International Committee of the Red Cross have often been extremely reluctant to share information from the field with national and international criminal justice efforts. However, for some humanitarian, development, and peacebuilding organizations, sharing information with truth commissions on the scope and conditions of displacement may be less problematic than cooperating with trials, as truth commissions do not typically impose penalties on individual offenders and are therefore subject to less concerted opposition from authorities who may “punish” organizations by limiting access.

Among humanitarian, development, and peacebuilding actors, the Office of the UN High Commissioner for Refugees (UNHCR) has played a particularly important role in facilitating the work of truth commissions in a variety of post-conflict contexts. In Sierra Leone, the national truth commission and UNHCR worked together to facilitate refugees’ participation in the process.⁸¹ In Timor-Leste, UNHCR and other actors such as the International Organization for Migration cooperated with the CAVR on efforts to promote return, reintegration, and reconciliation, a natural fit in light of the CAVR’s mandate to support the resolution of displacement.⁸² The insights UNHCR gained through these and other experiences have not yet been collected and integrated into the organization’s operational handbooks for post-conflict settings, but doing so could help ensure more systematic and effective support for truth-telling processes.⁸³

Beyond supporting formal truth commissions, humanitarian, peacebuilding, and development actors may help facilitate so-called coexistence activities that bring together members of different ethnic groups in divided return communities, which may open up more informal truth-telling opportunities. For example, in Burundi UNHCR has been involved in establishing a new village called Muriza, which provides a place where displaced, landless Hutus and Tutsis may settle peacefully together. The hope is that providing a concrete example of how Hutus and Tutsis may live together will help set the stage for the successful operation of the national truth commission and tribunal.⁸⁴ UNHCR also supported a range of coexistence activities in Rwanda and Bosnia designed to bring together members of opposing groups in divided return communities. These activities often involved income-generating initiatives and bringing members of different groups together to socialize or pursue education in shared spaces. Research on coexistence and income-generating projects in Bosnia suggests that these activities may have a positive effect on reintegration and peacebuilding in return communities. Although they are not truth-telling initiatives per se, such projects can create “space for dialogue” that

can be used to generate deeper, shared understandings of what happened during the war and may thus be complementary to more traditional transitional justice mechanisms such as truth commissions.⁸⁵

One of the positive potential outcomes for humanitarian, peacebuilding, and development actors of supporting truth-telling processes is the establishment of an ethos of open discussion with different stakeholders, which may helpfully inform not only truth-telling efforts but also the design and implementation of durable solution strategies and projects intended to improve conditions in post-conflict communities. This development of a culture of dialogue was evident in Timor-Leste, yet experiences there also underlined the risk that community members may gradually develop a kind of discussion or reconciliation “fatigue,” resulting in a situation in which dialogue is simply a matter of form, rather than a meaningful exercise.⁸⁶ Another risk is that participation in decisionmaking and dialogue processes may be seen as a substitute for tangible accomplishments in tackling critical challenges. For example, in Guatemala the leadership of the UN peacebuilding mission (MINUGUA) reflected that the “imperative on participation and consensus-building has at times slowed the implementation process, enabling the Government and other State institutions to evade their responsibilities and substitute dialogue for action.”⁸⁷ If humanitarian, peacebuilding, and development actors already juggling a range of complex demands are to be convinced to contribute to truth commissions, the proponents of these processes will need to demonstrate that such undertakings can move beyond just talk and have a significant positive effect on primary goals such as the resolution of displacement.

IMPLICATIONS OF TRUTH-TELLING FOR ENDING DISPLACEMENT

The Framework on Durable Solutions for Internally Displaced Persons makes some commonsense arguments about the role of transitional justice mechanisms such as truth commissions in resolving displacement:

Securing effective remedies for the violations ... which caused displacement, or which occurred during displacement, may have a major impact on prospects for durable solutions for IDPs. Failure to secure effective remedies for such violations may cause risks of further displacement, impede reconciliation processes, [or] create a prolonged sense of injustice or prejudice among IDPs, and thereby undermine the achievement of durable solutions.⁸⁸

The Framework goes on to indicate:

In some situations, it is therefore necessary in order to achieve durable solutions to formally address past violations by holding perpetrators accountable, providing victims with reparations in a formal sense, (including compensation), and/or providing information on the causes of displacement. This would be particularly important in cases where IDPs became victims of war crimes or crimes against humanity, where they remain at risk from the perpetrators of violations or abuse, or where they themselves feel that formal justice must be done to enable them to physically, socially and emotionally overcome their displacement experience.⁸⁹

Indeed, in addition to formal court proceedings and legal sanctions, truth commissions may play a valuable role in enabling refugees and IDPs to “overcome their displacement experiences” and benefit from a durable solution, be it resettlement, local integration, or voluntary return.

Further empirical research is needed to fully explain the practical links between truth-telling processes and the resolution of different displacement situations. As a first step toward understanding the connections between these processes, my aim in this section is to consider the possible ways in which truth-telling initiatives may affect efforts to resolve displacement, and to reflect on how truth commissions may best contribute to this goal. Achieving durable solutions to displacement has not typically been an explicit goal of most transitional justice actors, who have more often adopted goals such as recognizing and redressing injustice and building social trust. However, it is clear that these goals may be intimately connected to the resolution of displacement, and in particular to the long-term sustainability of return and local integration. Realizing solutions such as return and reintegration may require that the narratives of host and displaced populations be recognized, as a first step toward kindling social trust among the members of divided or fragmented societies. For humanitarian, peacebuilding, and development actors, the possibility that initiatives such as truth commissions may contribute to the resolution of displacement represents one of the most persuasive reasons to cooperate with transitional justice processes.

TRUTH-TELLING AND DURABLE SOLUTIONS

To the limited extent that humanitarian, peacebuilding, and development actors have considered the relationship between truth-telling and durable

solutions, they have tended to focus attention on the potential link between transitional justice and the “preferred” solution of voluntary return. This is evident in the work of UNHCR staffers⁹⁰ and in the 2004 Report of the Secretary-General on Transitional Justice and the Rule of Law.⁹¹ The Timorese CAVR is the sole truth commission to date to explicitly support the resolution of displacement; its efforts in this regard focused predominantly on supporting return and reintegration in displaced persons’ communities of origin. By facilitating a local process through which perpetrators of “less serious” violations could acknowledge their crimes, carry out reparative acts identified by the community, and then return home, the CAVR contributed to resolving the displacement of both former militia members and refugees,⁹² including approximately ten thousand former militia members and low-level offenders displaced in West Timor. At the same time, the participatory nature of the process and the fact that it was rooted in traditional customs arguably strengthened governance structures at the local level, which in turn facilitated reintegration and community reconstruction processes. Unfortunately, the CAVR’s focus on supporting return and reintegration, which the political leadership saw as imperative to the stability of the fledgling state, effectively deprioritized other goals, such as ensuring accountability for sexual and gender-based violence.⁹³ This underlines the difficulty of ensuring that no elements of truth commission mandates are sacrificed when these institutions become involved in the complex task of supporting durable solutions to displacement.

The potential links between truth-telling, resettlement, and local integration have received even less attention than the connections between truth-telling and return, though truth-telling processes may also have an important role to play in making these solutions viable and acceptable for displaced communities. Reflecting on the longstanding displacement of the Palestinian refugees, Rashid Khalidi argues that solutions for the refugees “must be grounded in the difficult process of accepting the truth. This includes both the truth about what happened in 1948 and the truth about what is attainable [sixty] years later.”⁹⁴ In cases such as the Palestinian refugee situation, truth-telling processes may perhaps lead to recognition of the refugees’ narratives and their claim in principle, if not in practice, to their lost lands. This type of recognition is perceived by many observers to be essential to unlocking this entrenched conflict. Such acts of truth-telling and recognition may make it more socially acceptable for the refugees to accept durable solutions other than repatriation to their original homes, such as moving to a newly independent Palestinian state or remaining in host states such as Jordan. Acknowledgment of the refugees’ narrative and rights claims (again, in principle if not in practice) may

also increase their willingness to accept compensation in lieu of restitution, in amounts that Israel can realistically finance.⁹⁵

Truth-telling may also facilitate the equitable integration of refugees into host societies while durable solutions are being negotiated. For example, the Lebanese-Palestinian Dialogue Committee (LPDC) is a high-level initiative launched in 2005 with a view to reforming the country's longstanding policies of discrimination against the Palestinian refugees sheltered within its borders. While not a truth commission, the LPDC is based on the recognition that regardless of the duration of the refugees' stay in Lebanon, dialogue is needed to improve community relations. The LPDC dialogue focuses on critical forward-looking issues such as arms control, livelihoods, and conditions in the camps, but it is premised on the acknowledgment of historical and contemporary truths about the relationship between the refugees and their host state, such as the fact that

the living conditions of the refugees within the camps are dire and unacceptable, and that the lack of opportunities available to the refugees is an impediment to their welfare and their right to live a dignified and prosperous life under the rule of law. . . . By recognizing this we have turned a new leaf on a difficult and painful past full of mistakes on all sides and for which both the Lebanese and Palestinians have paid too high a price. We are looking towards a brighter future under the rule of law for all people living on Lebanese soil.⁹⁶

These examples suggest that truth-telling processes may facilitate the realization of durable solutions to displacement in a variety of ways. First, truth-telling processes may acknowledge and affirm displaced persons' narratives and experiences. Such acknowledgment and acceptance may make it more socially and politically acceptable for refugees to choose solutions other than a return to their original homes (which in many cases have been occupied by other families for decades), and may improve relations between displaced persons and their neighbors, whether in host or return communities. This is particularly important in cases where animosity toward refugees and IDPs has developed among the nondisplaced, who may feel betrayed by those who escaped, leaving them to bear the brunt of the conflict.⁹⁷ Second, truth-telling processes may improve relations between displaced persons and their states. Formal recognition of the wrongs endured by refugees and IDPs may help reposition the displaced as full, rights-bearing members of the political community whose claims for protection and assistance must be taken seriously and treated equitably.⁹⁸ Such reform of relations between the state and its displaced

citizens is essential to ensuring that solutions to displacement are truly durable. Third, by producing recommendations relevant to the pursuit of durable solutions, truth commission reports can support efforts to resolve displacement in accordance with respect for human rights. For example, by developing recommendations on issues such as housing, land distribution, and property restitution, truth commission reports can help ensure that refugees, IDPs, and returnees can access resources and services essential to rebuilding their lives. Even when truth commissions do not specifically address forced migration or engage displaced populations, recommendations on issues such as security sector reform, lustration, and equal rights for marginalized and minority citizens may be highly significant for displaced persons. Like their nondisplaced conationals, refugees and IDPs have vested interests in broad processes of state reform and accountability, and not only in targeted responses to the problem of displacement.

Truth-telling processes often fail to contribute to the pursuit of durable solutions because of a lack of equitable participation of displaced populations in truth-telling initiatives, lackluster political commitment to implementing truth commission recommendations, and poor timing. Truth commissions often do their work *after* large-scale return or resettlement has already begun, thus reducing their potential positive influence on early phases of the durable solutions process, though they may still contribute to reintegration and reconciliation processes in return communities. Indeed, the potential positive effects of truth-telling processes may have on the resolution of displacement are most likely to pertain to the long-term, sustainable (re)integration of displaced persons.⁹⁹ Nonetheless, better timing of transitional justice initiatives, including the prompt creation of truth commissions, could potentially augment their positive effects on the pursuit of durable solutions.

Truth-telling processes, traditionally focused on the nation as a whole, could arguably further increase their effectiveness by more concertedly examining the regional dynamics of conflict and displacement and engaging a wider range of actors from across the affected region. Although reforming the state and increasing citizens' ability to trust their government are vital goals that require a strong focus on the role of the state and its agents in conflict and human rights abuses, many recent and ongoing protracted displacement crises in areas such as the Balkans in Europe and the Great Lakes region of Africa have a definitively regional character, with a wide range of governments, non-state actors, and agencies involved in instigating displacement and perpetrating abuses against the displaced.¹⁰⁰ In many of these cases, the displaced themselves represent important regional actors who may be involved

in transborder political movements, economic networks, and armed conflicts. While the barriers to effective regional transitional justice processes are formidable, expanding truth-telling processes to engage and take into account the role of actors throughout the region may be an important step toward increasing the relevance of these processes for the displaced and may be particularly important when the displaced are likely to integrate locally, rather than return to their countries of origin.¹⁰¹

As has already been discussed, truth commissions can also negatively affect efforts to resolve displacement by fostering competition between groups, particularly when the recommendations are expected to translate into tangible benefits, and by identifying the displaced as victims, which may lead them to develop unrealistic expectations of the process. Furthermore, in some contexts, public truth-telling about past injustices is not inherently valuable or meaningful. Speaking about past wrongs and grievances may be deeply disturbing for survivors and may generate anger and even violence on the part of perpetrators who oppose the truth-telling process. If the narratives produced by national truth commissions do not reflect displaced persons' own conceptions of the truth, the entire process may be alienating, resulting in greater disenfranchisement of the displaced from the political community, rather than the reestablishment of refugees and IDPs as respected, rights-bearing citizens. Similarly, if the truth-telling process is geared toward promoting a particular durable solution such as return, rather than opening up a range of choices to refugees and IDPs regarding the resolution of displacement, the process may ultimately be frustrating and disempowering, rather than helping to mend relations and restore to the displaced a stronger degree of control over their lives.

INSIGHTS FROM CASES WITHOUT FORMAL TRUTH-TELLING PROCESSES

In considering the potential impact of truth commissions on the resolution of displacement, it is also important to reflect on cases where there has been no official truth-telling process. For example, peacebuilding and the resolution of displacement in Mozambique is widely considered to have been a success, despite the fact that the egregious atrocities that characterized the war and prompted the massive uprooting of the civilian population were not tackled head on by formal national or international institutions. Edward Green and Alcinda Honwana argue that in the Mozambican cultural context, "to talk and recall the past is not necessarily seen as a prelude to healing or diminishing pain. Indeed, it is often believed to open the space for the malevolent forces to intervene."¹⁰² In a similar vein, a detailed UNHCR study on the Mozambican

repatriation operation concluded that “despite the intensity of the Mozambican conflict, the many atrocities which took place during the war and the enormous amount of social dislocation which it generated, there has been a remarkable absence of revenge and recrimination since the conflict came to an end. While War Crimes Tribunals and Truth Commissions may have an important role to play in other war-torn societies, the Mozambican experience demonstrates that some communities may be capable of reconciliation without such formal structures.”¹⁰³ This is not to say that there was no redress process in post-conflict Mozambique. In this instance, redress was typically mediated at the local level, where, Carolyn Nordstrom argues, Mozambicans fought an extraordinary “war against violence” by creatively drawing on spiritual traditions and indigenous medicine to treat, in the words of a Mozambican *curandeiro* (traditional healer), the “rash on the soul” caused by conflict.¹⁰⁴ Although these traditional approaches did not necessarily involve explicitly articulating the nature and scope of past abuses, in some cases they nonetheless had an important truth-telling function, as it was through these traditions that community members were able to recognize and come to terms with legacies of violence and reintegrate former community members, including perpetrators and displaced survivors of egregious human rights violations such as rape. There are, however, inevitable limitations to customary approaches to promoting post-conflict reconciliation and dealing with the legacy of war. Religious or spiritual reconciliation rituals do not resonate universally, and many Mozambicans cannot simply “erase” their traumatic memories, as customary practices often require.¹⁰⁵ In the longer term, a lack of formal recognition of the crimes that took place during the war may also foster denial and further social unrest, suggesting that room may remain for formal truth-telling processes in Mozambique.¹⁰⁶

In other cases such as Bosnia, where there has been no official truth-telling process and where war crimes trials are criticized as far removed from the reality of local citizens, the negative implications for the pursuit of reconciliation and durable solutions to displacement have been stark. Minority returnees have been subject to attacks and rampant discrimination, as well as flagrant denial or even celebration of the violations inflicted on them. For example, the Serb-run concentration camp of Trnopolji has reverted to being a primary school. However, local Serbs rescheduled the school’s annual celebrations to commemorate the day Trnopolji was transformed into a camp and invited former Bosniak prisoners to attend the party, underscoring the persistent animosity between Serb residents and Bosniak returnees.¹⁰⁷ Establishing a truth commission for Bosnia would not necessarily have avoided these cruelties,

but by challenging ethno-nationalist myths and explicitly denouncing the intercommunal violence that characterized the war, a truth commission could potentially make such malicious actions less socially acceptable. Even today, years after the large-scale return of displaced persons to Bosnia and Herzegovina, an official renunciation of the atrocities that took place at Trnopolji could embolden some of the more open-minded locals to reach out to their neighbors, thus advancing the ongoing process of reintegration.

CONCLUSION

More research is required to fully understand the links between truth-telling processes, accountability for forced migration, and the resolution of displacement. While many past truth commissions have not investigated forced migration as a human rights violation, this issue is gradually being incorporated into the work of these institutions. Furthermore, important steps have been taken to facilitate the participation of refugees and IDPs in truth commission activities at all stages of the process. Nevertheless, an ad hoc approach persists both to addressing forced migration as a substantive concern and to engaging displaced persons in truth-telling processes; significant obstacles remain to be overcome to ensure that truth commissions respond to displacement as effectively as possible.

First, there is a need to raise awareness among transitional justice actors of the importance of incorporating displacement into truth commission mandates, reports, and recommendations and the value of making truth-telling processes accessible to displaced and diaspora populations. Second, a more systematic approach is required to engaging humanitarian, peacebuilding, and development actors that are closely involved with displaced populations in the work of truth commissions; compiling and communicating the lessons that organizations such as UNHCR have learned in the course of their involvement with truth-telling processes would be an important first step toward more informed, consistent, and effective engagement of these actors. Third, more concerted, tailored efforts are needed to inform displaced populations of truth-telling processes and support their involvement. Mechanisms such as satellite hearings and the use of truth commission investigators to collect testimony in displaced persons' camps represent important steps in this direction; other potentially positive steps could include appointing liaisons from displaced communities to work directly on the staff of national truth commissions. Fourth, more information sharing is needed on a range of levels,

between international transitional justice experts, national truth commission staff, civil society advocates, and displaced populations who have participated directly in truth-telling processes. Exchanges between these actors should ensure that insights gained through the work of truth commissions are incorporated into contemporary efforts, rather than leaving new initiatives to reinvent the wheel.

Fifth, where possible, truth-telling initiatives and other transitional justice processes involving displaced populations should be designed and implemented in a harmonized manner, ideally with a view toward supporting durable solutions to displacement. For example, property restitution, a matter of critical concern to refugees and IDPs, is often managed through administrative mass claims processes that do not give displaced claimants or secondary occupants the opportunity to express their perspectives or concerns. While this leads to greater efficiency in processing claims, it arguably cuts short opportunities to use the property restitution process as a vehicle for interpersonal or communal reconciliation. Addressing land claims issues through the work of truth commissions may create a valuable opportunity for stakeholders to air their grievances and generate some degree of consensus around the legitimacy of different claims and productive approaches to post-conflict land reform (although land issues tend to be complicated and highly contentious, so there is a risk of this leading not to consensus but division, depending on how the matter is handled). Similarly, high-level tribunals may be used in concert with grassroots conflict resolution techniques, such as those pioneered by the CAVR to support the resolution of displacement by permanently removing war criminals from return communities while enabling low-level offenders to make amends for their actions upon returning to their homes.¹⁰⁸ Truth commission recommendations should also be closely connected to lustration policies, which ensure that the architects of large-scale displacement and human rights violations cannot access positions of power from which they could repeat their crimes.

These recommendations represent only a small fraction of the ways in which truth commissions could more effectively engage with displacement. Making good on them is admittedly challenging, because of competing priorities and limited financial resources and capacity in post-conflict environments, as well as the difficulty of timing transitional justice processes so that they effectively support efforts to resolve displacement. Truth commissions are often established after large-scale return processes have already taken place and thus may not have any effect on the early and volatile stages of the reintegration process. However, pursuing accountability for forced migration, supporting reconciliation, and crafting solutions to displacement are

long-term, nonlinear processes.¹⁰⁹ Even if their work unfolds years after governments have declared displacement crises to be resolved, truth commissions may still affect ongoing reintegration and settlement processes. Perhaps one of the thorniest unresolved questions surrounding the timing of transitional justice initiatives is how truth-telling processes may contribute to the resolution of longstanding conflicts and protracted displacement. Cases such as the Colombian IDP and Palestinian refugee situations will arguably never be resolved until the protagonists accept or at least recognize displaced persons' narratives of injustice and struggle. These cases bring the contentious, changing nature of "truth" into sharp relief and underscore the critical importance of having realistic expectations of the contributions truth commissions may make to resolving displacement: these institutions may play a pivotal role in denouncing past injustices and establishing inclusive national narratives, but they will never be able to establish universally accepted truths or tell the full stories of the suffering and resilience of refugees, IDPs, and other survivors of war and atrocity. Yet despite these challenges and limitations, it is increasingly clear that including forced migration in truth commission mandates and creating space for displaced persons to share their experiences promises to enrich the work of these institutions and may in turn enhance their contributions to peace and reconciliation.

NOTES

- 1 United Nations Commission on Human Rights, Report of the Independent Expert to Update the Set of Principles to Combat Impunity, Diane Orentlicher: Addendum, E/CN.4/2005/102/Add.1, February 8, 2005; Office of the United Nations High Commissioner for Human Rights, *Rule-of-Law Tools for Post-conflict States: Truth Commissions* (Geneva: OHCHR, 2006).
- 2 Priscilla Hayner, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* (London: Routledge, 2010), 6.
- 3 *Ibid.*, 11–12.
- 4 Eitan Bronstein, "The *Nakba* in Hebrew: Israeli-Jewish Awareness of the Palestinian Catastrophe and Internal Refugees," in *Catastrophe Remembered: Palestine, Israel and the Internal Refugees*, ed. Nur Masalha (London: Zed Books, 2005); Laleh Khalili, "Grass-Roots

- Commemorations: Remembering the Land in the Camps of Lebanon,” *Journal of Palestine Studies* 34, no. 1 (Autumn 2004): 6–22; Laleh Khalili, “Commemorating Contested Lands,” in *Exile and Return: Predicaments of Palestinians and Jews*, ed. Ian Lustick and Ann Lesch (Philadelphia: University of Pennsylvania Press, 2005).
- 5 Craig Evan Pollack, “Returning to a Safe Area? The Importance of Burial for Return to Srebrenica,” *Journal of Refugee Studies* 16, no. 2 (June 2003): 186–201.
 - 6 Elie Podeh, “The Right of Return versus the Law of Return: Contrasting Historical Narratives in Israeli and Palestinian School Textbooks,” in Lustick and Lesch, *Exile and Return*.
 - 7 Monika Nalepa, “Reconciliation, Refugee Returns, and the Impact of International Criminal Justice: The Case of Bosnia and Herzegovina,” in *Nomos LI: Transitional Justice*, ed. Melissa Williams, Rosemary Nagy, and Jon Elster (New York: New York University Press, 2012).
 - 8 International refugee law does not specifically address the right of refugees to participate in institutions such as truth commissions. *The Handbook on Voluntary Repatriation* put out by the Office of the UN High Commissioner for Refugees (UNHCR) does not address the potential connections between truth-telling processes and the resolution of displacement through return, while UNHCR’s *Handbook for Repatriation and Reintegration Activities* makes only passing reference to truth-telling, directing field officers to consider whether women have the opportunity to participate in truth and reconciliation processes, while overlooking the broader issues of whether displaced populations in general are involved in truth-telling activities, and whether these initiatives are relevant to the concerns of the displaced. UNHCR, *Handbook on Voluntary Repatriation: International Protection* (Geneva: UNHCR, 1996); and *Handbook for Repatriation and Reintegration Activities* (Geneva: UNHCR, 2004).
 - 9 United Nations Security Council, “The Rule of Law and Transitional Justice in Conflict and Post-conflict Societies,” Report of the Secretary-General, S/2004/616, August 23, 2004.
 - 10 United Nations Commission on Human Rights, “Human Rights, Mass Exoduses and Displaced Persons: Addendum—Guiding Principles on Internal Displacement,” Report of the Representative of the Secretary-General, Mr. Francis M. Deng, E/CN.4/1998/53/Add.2, February 11, 1998 (“Guiding Principles”).
 - 11 Megan Bradley, “Back to Basics: The Conditions of Just Refugee Returns,” *Journal of Refugee Studies* 21, no. 3 (2008): 285–304.
 - 12 Brookings-Bern Project on Internal Displacement, *IASC Framework on Durable Solutions for Displaced Persons* (Washington, DC: Brookings Institution / University of Bern, April 2010), 25.
 - 13 *Ibid.*, 26.
 - 14 *Ibid.*, 42.
 - 15 Pablo de Greiff, “Repairing the Past: Compensation for Victims of Human Rights Violations,” in *The Handbook of Reparations*, ed. Pablo de Greiff (Oxford: Oxford University

- Press, 2006); and “Justice and Reparations,” in *Reparations: Interdisciplinary Inquiries*, ed. Jon Miller and Rahul Kumar (Oxford: Oxford University Press, 2007).
- 16 De Greiff, “Justice and Reparations,” 154–67.
- 17 De Greiff, “Repairing the Past,” 6–13. While de Greiff is particularly interested in financial reparations, his framework is applicable to a wider range of remedial activities, including truth commissions.
- 18 Redressing displacement in a comprehensive way may require a range of measures including truth-telling, criminal justice, compensation, and land restitution processes. In particular, concerted pressure and support from international actors may play a critical role in ensuring that displacement is tackled as a crime, and that all those with similar claims can access redress on an equitable basis.
- 19 Many Mizrahi Jews who migrated to Israel from Arab countries—often under duress—reject attempts to label them “refugees” and negotiate reparations on their behalf from Arab governments, seeing these efforts as a derisive reinterpretation of their history, in which they are cast as hapless refugees who came to Israel under duress, rather than as active supporters of Zionism. For example, former Knesset speaker Yisrael Yeshayahu has insisted, “We are not refugees. [Some of us] came to this country before the state was born. We had messianic aspirations.” At a Knesset meeting on the issue, Israeli Mizrahi Ran Cohen declared, “I have this to say: I am not a refugee . . . I came at the behest of Zionism, due to the pull that this land exerts, and due to the idea of redemption. Nobody is going to define me as a refugee.” Yehouda Shenhav, “Hitching a Ride on the Magic Carpet: Any Analogy between Palestinian Refugees and Jewish Immigrants from Arab Lands Is Folly in Historical and Political Terms,” *Haaretz*, August 8, 2003. For more on this issue, see Yehouda Shenhav, “The Jews of Iraq, Zionist Ideology, and the Property of the Palestinian Refugees of 1948: An Anomaly of National Accounting,” *International Journal of Middle East Studies* 31, no. 4 (November 1999): 605–30; “Ethnicity and National Memory: The World Organization of Jews from Arab Countries (WOJAC) in the Context of the Palestinian National Struggle,” *British Journal of Middle Eastern Studies* 29, no. 1 (May 2002): 27–56; and “Arab Jews, Population Exchange, and the Palestinian Right of Return,” in *Exile and Return: Predicaments of Palestinians and Jews*, ed. Ian Lustick and Ann Lesch (Philadelphia: University of Pennsylvania Press, 2005). See also Michael Fischbach, “Palestinian and Mizrahi Jewish Property Claims in Discourse and Diplomacy,” in Lustick and Lesch, *Exile and Return; Jewish Property Claims against Arab Countries* (New York: Columbia University Press, 2008); and “Palestinian Refugee Compensation and Israeli Counterclaims for Jewish Property in Arab Countries,” *Journal of Palestine Studies* 31, no. 1 (Autumn 2008): 6.
- 20 While forced migration may in some cases be legally permissible, for example, to enable the construction of critical infrastructure projects or to remove populations from areas at extreme risk of natural disaster, arbitrary displacement is prohibited in agreements including the Fourth Geneva Convention of 1949 (article 49) and the African Union

- Convention on the Protection and Assistance of Internally Displaced Persons in Africa (article 3.1.a).
- 21 Hayner, *Unspeakable Truths*, 76–77.
- 22 Mahmoud Mamdani, “Reconciliation without Justice,” *Southern African Review of Books*, no. 46 (December 1996): 3–6; Hayner, *Unspeakable Truths*, 76–77. The South African Truth and Reconciliation Commission did address the broad history of forced removals in the introduction to its final report. Truth and Reconciliation Commission of South Africa, *Truth and Reconciliation Commission of South Africa Report*, 5 vols. (Cape Town: TRC of South Africa, October 29, 1998), <http://www.justice.gov.za/trc/report/index.htm>.
- 23 Laura A. Young and Rosalyn Park, “Engaging Diasporas in Truth Commissions: Lessons from the Liberia Truth and Reconciliation Commission Diaspora Project,” *International Journal of Transitional Justice* 3, no. 3 (November 2009): 341–61.
- 24 Hayner, *Unspeakable Truths*, 76.
- 25 Susan Harris Rimmer, “Reconceiving Refugees and Internally Displaced Persons as Transitional Justice Actors” (New Issues in Refugee Research Papers, Research Paper no. 187, UNHCR, April 2010), 1.
- 26 Hayner, *Unspeakable Truths*, 267.
- 27 Solomon Islands, Truth and Reconciliation Commission Act, 8th National Parliament, August 28, 2008, art. 5.b.
- 28 Susan Harris Rimmer, “Women Cut in Half: Refugee Women and the Commission for Reception, Truth-Seeking and Reconciliation in Timor-Leste,” *Refugee Survey Quarterly* 29, no. 2 (March 2010): 102–3.
- 29 Hayner, *Unspeakable Truths*, 85; Harris Rimmer, “Women Cut in Half,” 85. For a more detailed discussion of gender, displacement, and transitional justice, see Lucy Hovil, in this volume.
- 30 This includes the truth commission reports for Liberia, Timor-Leste, Indonesia and Timor-Leste, Morocco, Ghana, Sierra Leone, Peru, Guatemala, and South Africa (which has a brief discussion of forced removals). This list of publicly released truth commission reports is drawn from Hayner, *Unspeakable Truths*.
- 31 Liberia Truth and Reconciliation Commission, *Liberian Truth and Reconciliation Commission Consolidated Final Report* (Monrovia: Liberia TRC, 2009), www.trcofliberia.org/reports/final-report; Sierra Leone Truth and Reconciliation Commission, *Witness to Truth: Report of the Sierra Leone Truth and Reconciliation Commissions*, 5 vols. (Accra: GPL Press, 2004), www.sierra-leone.org/TRCDocuments.html.
- 32 Commission for Reception, Truth and Reconciliation in Timor-Leste, *Chega! Final Report of the Commission for Reception, Truth and Reconciliation in East Timor* (Dili: CAVR, 2005), www.cavr-timorleste.org/en/chegaReport.htm.
- 33 Guatemalan Commission for Historical Clarification, *Guatemala: Memory of Silence* (Guatemala City: CEH, 1999), <http://shr.aaas.org/guatemala/ceh/report/english/toc.html>;

- Paula Worby, *Lessons Learned from UNHCR's Involvement in the Guatemalan Refugee Repatriation and Reintegration Programme (1987–1999)* (Geneva: UNHCR, 1999), <http://www.crid.or.cr/digitalizacion/pdf/eng/doc13135/doc13135.pdf>.
- 34 Hayner, *Unspeakable Truths*, 166.
- 35 Ghana National Reconciliation Commission, *National Reconciliation Commission Report* (Accra: NRC, 2004), http://www.ghana.gov.gh/index.php?option=com_content&view=category&layout=blog&id=59&Itemid=208.
- 36 Guatemalan CEH, "Recommendations," *Guatemala: Memory of Silence*, sec. 3, para. 9.a.
- 37 Guatemalan CEH, *Guatemala: Memory of Silence*, 6.
- 38 Martín Arévalo (director, National Reparations Program), in discussion with Cristian Correa of the International Center for Transitional Justice, June 2010.
- 39 Carlos Martín Beristain, "The Legacy of Genocide in Guatemala: Memory and Psychosocial Recovery in Affected Communities," in *Dealing with the Past in Post-conflict Societies: Ten Years after the Peace Accords in Guatemala and Bosnia-Herzegovina*, ed. Jonathan Sisson (Bern: Swisspeace, 2007), 41; Internal Displacement Monitoring Center, "Guatemala: Ten Years after Peace Accords, Key Provisions Benefiting the Displaced Remain Unimplemented," (Internal Displacement Profile, IDMC, Geneva, June 9, 2006), [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/097DoD136EE4FD7BC12571860046E2A6/\\$file/Guatemala%20-June%202006.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/097DoD136EE4FD7BC12571860046E2A6/$file/Guatemala%20-June%202006.pdf).
- 40 Guatemalan CEH, *Guatemala: Memory of Silence*, 6.
- 41 While researchers such as Vicky Tennant suggest that efforts to support return and reintegration are most effective when they support the displaced and nondisplaced alike, thereby promoting reconciliation, the Guatemalan government's strategy was contentious. Arguably, the government's goal was to conflate the displaced and nondisplaced populations, allowing it to claim in relatively short order that the country no longer had an IDP population with specific rights and concerns. Vicky Tennant, "Return and Reintegration," in *Post-conflict Peacebuilding: A Lexicon*, ed. Vincent Chetail (Oxford: Oxford University Press, 2009).
- 42 Yodit Fitigu, "Forgotten People: Internally Displaced Persons in Guatemala," (RI Bulletin, Refugees International, Washington, DC, July 12, 2005), 3, <http://www.internal-displacement.org>.
- 43 For a detailed discussion of the challenges associated with collective redress programs and attempts to link development and transitional justice, see Pablo de Greiff and Roger Duthie, eds., *Transitional Justice and Development: Making Connections* (New York: Social Science Research Council, 2009).
- 44 UN Commission on Human Rights, Principles to Combat Impunity.
- 45 As with provisions underpinning the view that truth commissions should address displacement as a substantive issue, the majority of frameworks that support the direct engagement of displaced persons in truth-telling processes pertain to IDPs, rather than

to refugees. However, as mentioned earlier, the logic supporting the participation of IDPs in truth-telling processes also applies to the involvement of refugees, although there may be additional complications with the latter.

- 46 United Nations General Assembly, Resolution 60/147, “Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law,” A/RES/60/147, March 21, 2006, principle xi.
- 47 UN Commission on Human Rights, “Guiding Principles,” principle 22.
- 48 *Ibid.*, principle 28.2.
- 49 Brookings-Bern Project on Internal Displacement, *Framework on Durable Solutions*, 45.
- 50 *Ibid.*, 46; Bradley, “Back to Basics.”
- 51 UN Security Council, “Rule of Law and Transitional Justice,” para. 64.f; emphasis added.
- 52 Young and Park, “Engaging Diasporas,” 349.
- 53 *Ibid.*, 348; Hayner, *Unspeakable Truths*, 54.
- 54 Arafat Jamal, *Refugee Repatriation and Reintegration in Guatemala: Lessons from UNHCR’s Experience* (Geneva: UNHCR Evaluation and Policy Analysis Unit, 2000); Young and Park, “Engaging Diasporas.”
- 55 See the following section entitled “Truth-Telling and Durable Solutions” for a more detailed discussion of the CAVR’s reception function. See also Luiz Vieira, “The CAVR and the 2006 Displacement Crisis in East Timor: Reflections on Truth-Telling, Dialogue and Durable Solutions” (paper prepared for ICTJ / Brookings Project on Transitional Justice and Displacement, 2012).
- 56 Paul Seils, “Reconciliation in Guatemala: The Role of Intelligent Justice,” *Race and Class* 44, no. 1 (July 2002): 36.
- 57 However, in many cases IDPs who had spent years hiding in the Guatemalan highlands were simply too frightened to emerge and participate in the work of the CEH, fearing retaliation from a state that had provided ample evidence of its hostility toward those who dared to speak up about human rights violations.
- 58 Craig Evan Pollack, “Returning to a Safe Area? The Importance of Burial for Return to Srebrenica,” *Journal of Refugee Studies* 16, no. 2 (June 2003): 186–201.
- 59 Dilek Kurban, “Reparations and Displacement in Turkey: Lessons Learned from the Compensation Law” (paper prepared for ICTJ / Brookings Project on Transitional Justice and Displacement, 2012).
- 60 Finn Stepputat, “Repatriation and the Politics of Space: The Case of the Mayan Diaspora and Return Movement,” *Journal of Refugee Studies* 7, no. 2–3 (1994): 178; Beate Thoresen, “The Return of Guatemalan Refugees: Two Years After,” *Migration World* 23, no. 5 (1995).
- 61 Eitan Bronstein, “The *Nakba* in Hebrew: Israeli-Jewish Awareness of the Palestinian Catastrophe and Internal Refugees,” in *Catastrophe Remembered: Palestine, Israel and the Internal Refugees*, ed. Nur Masalha (London: Zed Books, 2005); Yolande Knell, “Legal

- Battle over an Abandoned Palestinian Village,” BBC News, May 29, 2011, <http://www.bbc.co.uk/news/world-middle-east-13373719>.
- 62 See the District Six Museum website at <http://www.districtsix.co.za/frames.htm>. Other examples of commemorative activities related to displacement include the creation of the Africville Museum in Nova Scotia, Canada, to acknowledge the expulsion of four hundred black Nova Scotians from their community between 1964 and 1967 to make way for a bridge to service the predominantly white city of Halifax. See “Halifax Council Ratifies Africville Apology,” CBC News, February 23, 2010, <http://www.cbc.ca/news/canada/nova-scotia/story/2010/02/23/ns-africville-halifax-council.html>. In the same city, a new memorial marks the refusal of the Canadian government to provide shelter to the Jewish refugees aboard the MS St Louis. Having been refused entry to Canada, the United States, and Cuba, the ship returned to Europe, where more than 250 of its passengers were murdered in concentration camps. See “Halifax’s Pier 21 Designated National Museum,” CBC News, February 7, 2011, <http://www.cbc.ca/news/canada/nova-scotia/story/2011/02/07/ns-pier-21-immigration-museum.html>.
- 63 Rhodri C. Williams, “The Contemporary Right to Property Restitution in the Context of Transitional Justice,” (ICTJ Occasional Paper Series, International Center for Transitional Justice, New York, 2007); de Greiff, “Justice and Reparations.”
- 64 Harris Rimmer, “Reconceiving Refugees,” 2–3.
- 65 Clara Ramírez-Barat, *Making an Impact: Guidelines on Designing and Implementing Outreach Programs for Transitional Justice* (New York: ICTJ, 2011), 26.
- 66 Rafael Barrantes Segura, “Reparations and Displacement in Peru” (paper prepared for ICTJ / Brookings Project on Transitional Justice and Displacement, 2012).
- 67 Roberto Vidal-López, “Truth-Telling and Internal Displacement: The Case of Colombia” (paper prepared for ICTJ / Brookings Project on Transitional Justice and Displacement, 2012).
- 68 Awa Dabo, “In the Presence of Absence: Transitional Justice and Displacement in Liberia” (paper prepared for ICTJ / Brookings Project on Transitional Justice and Displacement, 2012). The conditions that may facilitate the effective organization of displaced persons vary according to political, cultural, and historical contexts. In countries such as Colombia, governmental recognition of displaced persons as victims entitled to different forms of redress has had a catalytic effect on organization within the displaced community, as IDPs have mobilized themselves to maximize the potential benefits of this status. See Roger Duthie, in this volume; and Donny Meertens, “Forced Displacement and Gender Justice in Colombia: Between Disproportional Effects of Violence and Historical Injustice” (paper prepared for ICTJ / Brookings Project on Transitional Justice and Displacement, 2012). Cases such as Guatemala that involved high levels of strategic mobilization and participation of displaced populations in the pursuit of both durable solutions and transitional justice underscore that the active organization and engage-

ment of forced migrants may develop over the course of a protracted displacement situation, and may benefit from the support of international backers. Initially, many displaced persons may be preoccupied with basic survival, unaware of their rights, and afraid to raise their voices in opposition to violent political actors. Donors and civil society organizations can support the gradual emergence of displaced persons' organizations by providing early and strategic support to fledgling refugee and IDP leaders. In Guatemala, human rights training for the displaced proved a critical contribution, as this prepared the displaced to express their concerns in a discourse understood by the international community and equipped them with clear standards to use in lobbying their government. The Guatemalan case further suggests that displaced persons' organizing flourishes when UN agencies, NGOs, and other actors involved in protection and assistance efforts do not merely consult with the displaced on program design and delivery but provide a platform from which the displaced may advance overtly political goals. Reclaiming this approach would not recreate the high levels of mobilization and participation that characterized the Guatemalan case but could help the international community encourage the emergence of well-organized refugee and IDP groups that might then actively contribute to peace processes, the negotiation of durable solutions, and transitional justice.

- 69 Hovil, in this volume.
- 70 Harris Rimmer, "Reconceiving Refugees," 8.
- 71 Susan Harris Rimmer, *Gender and Transitional Justice: The Women of East Timor* (London: Routledge, 2010); "Reconceiving Refugees"; and "Women Cut in Half."
- 72 Hayner, *Unspeakable Truths*, 46, 61.
- 73 *Ibid.*, 63.
- 74 Young and Park, "Engaging Diasporas," 348–49.
- 75 Shawn Pelsinger, "Liberia's Long Tail: How Web 2.0 Is Changing and Challenging Truth Commissions," *Human Rights Law Review* 10, no. 4 (December 2010): 736–37.
- 76 *Ibid.*, 736–42.
- 77 Young and Park, "Engaging Diasporas," 355.
- 78 Liberia Truth and Reconciliation Commission, *Consolidated Final Report*, vol. 2 (unedited version), 238, para. 19.4; Young and Park, "Engaging Diasporas," 344.
- 79 Young and Park, "Engaging Diasporas"; Hayner, *Unspeakable Truths*, 67. For a valuable critique of the Liberian diaspora's involvement in the truth-telling process, see Jonny Steinberg, "A Truth Commission Goes Abroad: Liberian Transitional Justice in New York," *African Affairs* 110, no. 438 (2010): 35–53.
- 80 For an example of an exchange project linking Guatemalan and Burmese refugee women, see Inter Pares, "Building the Road Home," *Inter Pares Bulletin* 25, no. 4 (September 2003).
- 81 Young and Park, "Engaging Diasporas."

- 82 Jayne Huckerby, “Transitional Justice and Treatment of Refugee Returnees Suspected of Criminal Offences: East Timor and Beyond” (Center for Human Rights and Global Justice Working Paper, Transitional Justice Series no. 9, NYU School of Law, 2004).
- 83 Harris Rimmer, “Women Cut in Half,” 95–96.
- 84 Thijs Bouwknegt, “Muriza Seeks Reconciliation between Hutu and Tutsi in Burundi: Truth and Justice in the Long-Term?” Radio Netherlands Worldwide, October 6, 2008, <http://www.rnw.nl/international-justice/article/muriza-seeks-reconciliation-between-hutu-and-tutsi-burundi-truth-and-j>. For a discussion of the significant flaws associated with this endeavor, see Hovil, in this volume.
- 85 Huma Haider, “(Re)Imagining Coexistence: Striving for Sustainable Return, Reintegration and Reconciliation in Bosnia and Herzegovina,” *International Journal of Transitional Justice* 3, no. 1 (March 2009): 110.
- 86 Vieira, “The CAVR and the 2006 Displacement Crisis.”
- 87 United Nations General Assembly, “United Nations Verification Mission in Guatemala,” Report of the Secretary-General, A/59/307, August 30, 2004.
- 88 Brookings-Bern Project on Internal Displacement, *Framework on Durable Solutions*, 43.
- 89 *Ibid.*, 43.
- 90 See for example, Steven Wolfson, “Refugees and Transitional Justice,” *Refugee Survey Quarterly* 24, no. 4 (2005): 55–59.
- 91 UN Security Council, “Rule of Law and Transitional Justice.”
- 92 Naomi Roht-Arriaza, “Reparations in the Aftermath of Repression and Mass Violence,” in *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*, ed. Eric Stover and Harvey M. Weinstein (Cambridge: Cambridge University Press, 2004), 133–34; Harris Rimmer, “Reconceiving Refugees,” 85–103.
- 93 Harris Rimmer, “Reconceiving Refugees,” 4–6; and “Women Cut in Half,” 85.
- 94 Rashid Khalidi, “Attainable Justice: Elements of a Solution to the Palestinian Refugee Issue,” *International Journal* 53, no. 2 (Spring 1998): 252.
- 95 Rex Brynen, “Financing Palestinian Refugee Compensation” (paper presented at the Workshop on Compensation for Palestinian Refugees, International Development Research Centre, Ottawa, July 14–15, 1999).
- 96 See Lebanese-Palestine Dialogue Committee, “Background,” About LPDC, <http://www.lpdc.gov.lb/About-Lpdc/BackGround.aspx>.
- 97 Duthie, in this volume; Haider, “(Re)Imagining Coexistence,” 99.
- 98 Peru’s national Truth and Reconciliation Commission (Comisión de la Verdad y Reconciliación—CVR) played an important role in acknowledging the rights of the displaced and destigmatizing the IDP population, who were often assumed to sympathize with Shining Path “terrorists.” Barrantes Segura, “Reparations and Displacement in Peru.” Colombia does not yet have a comprehensive national truth commission, though various truth-telling initiatives launched by the government and by civil society actors

have examined the country's internal displacement crisis, drawn attention to the pervasive human rights violations inflicted on Colombian IDPs, and backstopped calls for enhanced protection for this population. Truth-telling initiatives such as the Historical Memory Group, launched in accordance with the 2005 Peace and Justice Act, challenge discrimination against IDPs and underscore that the displaced are citizens entitled to full respect for their rights under Colombian and international law. The conclusions these truth-telling initiatives reached when peace was achieved about the development, scope, and characteristics of Colombia's displacement crisis may feed into the work of a formal truth commission and may serve as the foundation for a rights-based approach to enabling durable solutions, including the repossession of lost lands and the provision of compensation for past abuses. Vidal-López, "Truth-Telling and Internal Displacement."

- 99 For a discussion of the links between transitional justice and reintegration processes, see Duthie, in this volume.
- 100 James Milner, "Refugees and the Regional Dynamics of Peacebuilding," *Refugee Survey Quarterly* 28, no. 1 (2009): 13–30.
- 101 For a discussion of the proposed regional truth-seeking commission for the Western Balkans (RECOM), see Iavor Rangelov, "A Regional Approach to Justice? Rethinking EU Justice Policies in Conflict and Transition" (Policy Brief, European Policy Centre, May 2011), http://www.epc.eu/documents/uploads/pub_1272_a_regional_approach_to_justice.pdf.
- 102 Edward Green and Alcinda Honwana, "Indigenous Healing of War Affected Children in Africa," *IK Notes* 10 (July 1999).
- 103 Jeff Crisp et al., "Rebuilding a War-Torn Society: A Review of the UNHCR Reintegration Programme for Mozambican Returnees," *Refugee Survey Quarterly* 16, no. 2 (1997): 28.
- 104 Carolyn Nordstrom, *A Different Kind of War Story* (Philadelphia: University of Pennsylvania Press, 1997), 144.
- 105 Alcinda Honwana, "Sealing the Past, Facing the Future: Trauma and Healing in Rural Mozambique," in *The Mozambican Peace Process in Perspective*, ed. Jeremy Armon, Dylan Hendrickson, and Alex Vines (London: Conciliation Resources, 1998).
- 106 Victor Igreja, "Memories as Weapons: The Politics of Peace and Silence in Post-conflict Mozambique," *Journal of Southern African Studies* 34, no. 3 (September 2008): 539–56; Victor Igreja, Beatrice Dias-Lambranca, and Annemiek Richters, "Gamba Spirits, Gender Relations, and Healing in Post-Civil War Gorongosa, Mozambique," *Journal of the Royal Anthropological Institute* 14, no. 2 (2008): 353–71.
- 107 International Crisis Group, *The Continuing Challenge of Refugee Returns in Bosnia and Herzegovina*, Europe Report no. 137 (Brussels: ICG, 2002): 25.
- 108 For a discussion of the links between criminal prosecutions and displacement, see Federico Andreu-Guzmán, in this volume.

- 109 Elizabeth Ferris, “Internal Displacement, Transitional Justice, and Peacebuilding: Lessons Learned” (paper presented at the Seminar on Internal Displacement and the Construction of Peace, Bogotá, 2008).