

Truth Commissions (TCs)

TCs, also commonly known as truth and reconciliation commissions (TRCs) are independent, official mechanisms that investigate and report on human rights violations that occurred in the past, and make recommendations regarding ways to address them. The basic functions of a TC usually include one or more of the following. TCs:

- clarify and acknowledge past events and actions;
- respond to the needs and interests of victims;
- contribute to justice and accountability;
- outline institutional responsibility and recommend reforms; and
- promote reconciliation and reduce tensions resulting from past violence.

TCs can establish an accurate, detailed, and impartial history of past violations that has been previously hidden or denied. This record can counter the denials and fictitious or exaggerated accounts of the past, and bring the true scale and impact of a violent past to public consciousness. TCs can conduct specific inquiries and help establish the location of missing victims who may have been forcibly disappeared or secretly buried. More specifically, truth commissions can achieve:

1. **accountability of perpetrators.** TCs can promote varying levels of criminal and civil accountability for perpetrators of human rights violations. They can gather, organise, and preserve evidence that can be used in prosecutions. They can also build a case for, and recommend alternative forms of, accountability such as civil liability, removal of officials from office, restitution, or community service schemes that may be more appropriate for certain types of perpetrators or violations.
2. **public debate.** TCs can help to stimulate public debate about the wide variety of moral, political, and legal issues that must be addressed during a transition process by encouraging public participation in a truth commission's outreach activities. TCs can also serve as impartial, public arbiters if and when members of the previous regime distort events of the past. TCs can encourage a culture of nonviolent and deliberative engagement on issues that may be deeply contentious.
3. **a public platform for victims.** By providing a public platform for victims to speak in their own voices, TCs put victims at the centre of the transition process. This helps victims to heal and gives them a sense of personal vindication. It can also educate the public about the human impact of past crimes and thus build support for further victim-centred transitional justice initiatives such as reparations programmes.
4. **victim reparations.** TCs can build a case for compensation for past abuses and for ongoing psychological, physical, and economic injuries suffered by victims. They can also establish effective definitions and categories of "victim" for the purpose of financial reparations. Commissions can also make creative and appropriate suggestions regarding symbolic reparations such as memorials, reburials, and commemorative ceremonies. TCs may help restore victims' dignity by working in a manner that acknowledges and is sensitive to the harm suffered by victims.
5. **legal and institutional reforms.** Through their investigations, TCs can provide evidence of how particular institutions, individually and collectively, failed to protect human rights in the past. They can recommend specific legal and institutional reforms such as strengthened civilian oversight of security institutions; tenure and disciplinary rules for the judiciary; redesign of electoral and political systems; land reform; and new human rights training programmes for security forces.

6. **reconciliation.** TCs promote tolerance and understanding when conflicting parties hear each other's grievances. As Archbishop Tutu, chairperson of the South African TRC explained, the truth does not necessarily facilitate reconciliation, but reconciliation can only be built on a foundation of truth. TCs may incorporate reconciliation measures or, in their final report, recommend practical measures to reintegrate certain offenders and disaffected groups into society.
7. **democratic transition.** TCs can signal a formal break with a violent past and a transition to a more peaceful and democratic future. If successful, TCs can contribute to a culture of accountability and weaken anti-democratic forces.

Statement taking

Statement taking is the primary means TCs use to gather information. Statements provide data about what happened: the number of people affected by the conflict and in what ways. Statements are a basis for other TC activities like research, investigations, public hearings, recommendations, and the final report. When the identity of a person needs to be confidential, statement taking is done in private. Special attention should also be given to the possibility of victims' re-experiencing trauma and to the verification of statements.

Public hearings

Hearings are public events where victims tell their stories. They may provide victims the opportunity to confront their abusers, and allow abusers to make a public apologize. As with statement taking, security and confidentiality are major challenges for public hearings. If the security situation is weak and the safety of victims, witnesses, or perpetrators is at risk, public hearings should not be held or concrete protection measures should be introduced. Public hearings are beneficial because they can:

- provide opportunities for victims to foster empathy from the public;
- provide the public an opportunity to acknowledge past abuses;
- educate the public about events and raise public consciousness of critical issues;
- create a structure of accountability for past abuses; and
- encourage national debate among members of civil society and policymakers.

The main lessons from a TC process

Countries can learn to:

- respond to the needs and interests of victims. Intensive consultation with the victims and other stakeholders is very important before forming a truth commission.
- be transparent and participatory in the selection of commissioners. This is important so that credible and effective persons can be selected, and the victims and other citizens feel that the commission is legitimate. For example, in Timor-Leste, names of candidates to serve as commissioners were collected from all the people.

Future TCs could learn some important lessons from international experiences.

- A TC should have a broad mandate that allows it to investigate individual abuses, establish patterns of human rights violations, name perpetrators, facilitate reconciliation for less serious crimes, and make recommendations to the government regarding reparations, prosecutions, institutional reforms.
- In many international experiences, after the TC submits its final report, governments have been reluctant to implement its recommendations. Therefore, TCs should give specific attention to networks and mechanisms that will support implementation of its recommendations after the TC completes its work.

For more information, visit
www.asia-ajar.org