



United States Department of State  
**TRANSITIONAL JUSTICE INITIATIVE**  
**TRUTH COMMISSIONS**



*This policy paper series was developed to reflect U.S. policy understanding of a range of transitional justice (TJ) mechanisms related to peace-building, accountability, human rights, and reconciliation in post-conflict and post-authoritarian transitions. They were created by the State Department's Office of Global Criminal Justice, Bureau of Democracy, Human Rights, and Labor, Bureau of International Narcotics and Law Enforcement Affairs, Bureau of Conflict and Stabilization Operations, and USAID's Center for Excellence on Democracy, Human Rights and Governance.*

**WHAT IS A TRUTH COMMISSION?**

A truth commission is a non-judicial TJ mechanism designed to investigate and report on past situations involving large-scale and often systematic atrocities. They are impartial and independent institutions that are often, but not always, government-sponsored and may be of national, international, or mixed composition. They may be created by the State itself or under the auspices of the United Nations.

More than 30 countries across the globe have created truth commissions, including Peru, Guatemala, Argentina, Brazil, Canada, Timor-Leste, Thailand, Sierra Leone, South Africa, Liberia, Kenya, Côte d'Ivoire, Morocco, and the Solomon Islands. While truth commissions share some common features, each is unique, reflecting important contextual differences.

**WHAT TRUTH COMMISSIONS DO**

Truth commission mandates vary, but they are generally empowered to collect statements from a broad array of stakeholders including victims, witnesses, and perpetrators; collect information and documentation of past abuses; conduct public hearings; identify patterns and practices of abuse; uncover the root causes of violence; and issue a public report with recommendations for future action to help prevent recurrence of violence and promote peace and stability. Truth commissions aim to generate an accurate record of what happened during a conflict or period of repression in order to provide a measure of justice for victims, prevent a recurrence of violence, reform institutions that enabled abuses, and create conditions to promote reconciliation, peace, and stability.

**KEY ADVANTAGES OF TRUTH COMMISSIONS**



**Focus on victims.** Truth commissions focus on victims' needs rather than on punishing perpetrators. They are non-judicial bodies that may make recommendations but do not themselves have the mandate or power to prosecute perpetrators.



**Establish an official historical account.** Competing narratives about what took place, where and when events occurred, and who was involved often emerge after periods of abuse. Truth commissions, by aggregating and analyzing large amounts of data, can more accurately address these issues and dispel revisionist accounts of violence.



**Cover a broad spectrum of actors and periods of time.**

When violation of the law is the rule rather than the exception—as it is during times of large-scale systematic abuses—criminal justice mechanisms are often not able to provide accountability in every case in which it may be warranted. Truth commissions are designed to provide an opportunity for a wide range of victims to come forward and tell their stories so that the society can hear from a diverse base of those affected and can take steps to address a broad range of abuses and a large number of victims and perpetrators.



**Uncover patterns of abuse.** Crimes such as sexual violence and torture can go underreported due to the prosecutorial need for victim statements and the stigma these acts place on victims who come forward. Truth commissions can be given the authority to engage with victims under conditions of anonymity and confidentiality. Thus commissions can make findings that sexual violence or torture occurred without needing to identify particular victims. Based on these findings, they can make recommendations to address the needs of victims and institute relevant reforms to prevent recurrence of such abuses.

**GUIDING PRINCIPLES**

**Transparency, independence, and impartiality.** For a truth commission to promote justice, peace, and stability, it must be viewed as legitimate. It therefore should be designed and implemented in a way that demonstrates that it is free from political manipulation, treats all sides fairly, and is open to public scrutiny. A commission should have autonomy to control its resources, conduct inquiries, build relationships, and make recommendations. It needs a mandate and methodology that permits it to investigate all relevant parties and issues. It should conduct its business and manage its finances in a way that is transparent. Finally, it should be empowered to make its final report and recommendations public.

**Consultation.** A process of consultation with a wide array of stakeholders—including civil society organizations, victims’ groups, women, youth, and marginalized groups—is essential at all stages of the commission’s design, establishment, and operation. Consultation promotes stakeholder buy-in and ownership. It also educates the community about the process, helps set expectations, and increases participation in the truth-seeking process.

**Complementarity.** Truth commissions are most effective when they complement, rather than replace, other justice mechanisms. Revealing the truth about atrocities may frustrate victims and embitter local populations if it is not accompanied by steps to punish perpetrators, address the needs of victims, and promote institutional reforms.

**Context.** Each truth commission should be context-specific, reflecting local culture, needs, strengths, and opportunities.



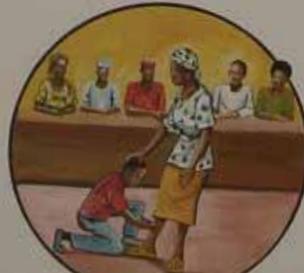
THE VICTIMS, THOSE WHO DID BAD  
THEM AND WITNESSES CAN REPORT  
THEIR STORY TO THE TRC



REPORT THE MATTER TO THE TRC  
AND TELL THE TRUTH



THE TRC WILL INVITE PERSON  
PERSONS MENTIONED IN YOUR REP



## KEY CONSIDERATIONS IN DESIGN AND OPERATION

- **Temporal, geographic, and substantive scope.** Architects of a truth commission must determine the scope of the commission's work in terms of start and end dates, geographic scope, and types of abuses. This context-specific decision can become politicized.
- **Number, composition, and selection of commissioners and staff.** Staffing a commission raises a number of pressing questions. How many commissioners should the commission have? How representative of different stakeholder groups should they be? Should there be some international commissioners? What process should be used to choose the commissioners, who should be involved in that process, and in what capacity? What process should be used to ensure the commissioners and staff are chosen in a way that contributes to the credibility of the commission but helps avoid it being confused with a judicial process? Many truth commissions include respected local figures as well as international members in order to lend legitimacy to the process and provide a unifying force.
- **Powers with respect to cooperation and access.** What powers will the commission have to induce cooperation from all relevant actors? Will it be able to subpoena witnesses and testimony? Will it have access to confidential government documents? What recourse will there be for those who refuse to comply with the commission's requests? It is important to recognize the limitations of what powers can reasonably be expected to be enforced in the given context to ensure that the commission does not spend a disproportionate amount of limited resources attempting to enforce compliance.
- **Amnesties.** Few truth commissions have been empowered to recommend amnesty from prosecution, and only one has had the power to award amnesty. Considering amnesty in relation to a truth commission requires a determination of what types of crimes the commission might amnesty, and under what conditions. It is also important for the society to identify what it seeks to achieve with a potential amnesty provision, the risks of allowing perpetrators to enjoy impunity, and whether there are other ways to achieve the desired goals without an amnesty. Moreover, it must be determined whether amnesties for the crimes in question are permitted under applicable law, as well as how to ensure that victims are consulted in any amnesty process.



- **Standard of proof.** If the commission is going to make factual findings, what will be the operative standard of proof? Something short of a penal standard is usually employed, such as a requirement that it is more likely than not that a particular fact is true.
- **Naming names.** Should the commission name perpetrators in its reports given that the standard of proof employed and legal protections available are often less rigorous than in a criminal trial? If the commission does decide to name names, what processes will be in place to ensure that named perpetrators have a right of reply before their names are published?
- **Do no harm.** Preparations need to be taken to mitigate the possibility that the commission might re-traumatize victims and witnesses, or that the commission's activities will reignite conflict or reinforce historical divisions, e.g. through providing psycho-social support and working with civil society organizations that facilitate and reinforce constructive dialogue. The commission also needs to be transparent with participants about its ability to provide witness and victim protection, so that those who engage do so with knowledge of potential risks.
- **Implementing recommendations.** From the outset, those designing and implementing commissions need to consider how the commission's recommendations will be implemented and by whom. Should the commission's mandate include time and resources after the publishing and dissemination of the report to focus on promoting the implementation of its recommendations? Should a separate body be designated or created to promote the implementation of the commission's recommendations? Would it be legal to make the commission's recommendations mandatory?
- **Budgeting and resources.** The time and resources it takes to set up a brand new commission, hire the staff, find offices, establish all its systems and policies, and do the work of documenting some of the most sensitive issues in a society's recent history, means that the commission does not have the time to focus on fundraising. The funds necessary to achieve the commission's mandate need to be committed (although not necessarily made available all at once) at the time of the commission's establishment so it can appropriately budget for its activities and focus on its work. The commission should also have autonomy to control the allocation of its resources, but should manage its finances in a way that is transparent to allow for public monitoring and oversight.