

Truth Commissions

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Truth commissions are temporary bodies tasked by governmental or international agencies to investigate specific periods of human rights abuses and violations of international human rights law. The first such body was established by Idi Amin Dada in Uganda in 1974, but it was not until the 1980s and early 1990s that the work of these commissions became established as a fairly common practice in countries experiencing periods of transition from dictatorial to democratic regimes in practically every region of the globe. They have therefore most commonly been discussed within the context of the field of *transitional justice*, formed around the same time, which seeks to “produce theories and practices that will help to restore the rule of law, to do justice to victims of state violence, and to bring to an end “cultures of impunity” in countries where young democracies are striving to emerge after years of rule by authoritarian regimes” (Sitze 2013, 2). The difference between truth commissions and official courts of justice can be defined both in terms of their goals, as well as their jurisdiction. Whereas judicial justice, embodied in institutions such as the International Criminal Court, aims to punish individual perpetrators of human rights violations and is granted legal power to prosecute and sentence them for their crimes, transitional justice embodied in individual truth commissions aims primarily at creating accurate records of past events as a strategy of reshaping collective memory, stimulating legal and institutional reforms and ensuring political stability as the preconditions for a “more just political order in the present” (Arthur 2009, 323). Consequently, due to their interest in the collective nature of human rights violations, and in order to navigate volatile political situations and ensure social peace, truth commissions often renounce claims to punitive measures against individuals and offer amnesty in return for testimonies about past crimes.

The ability of truth commissions to produce historical truths uncontaminated by political motives is sometimes called into question because they are called upon to investigate violence sanctioned by previous regimes in moments of political transition, leaving them open to accusations of being used to legitimize the new regimes. In an important early comparative study of the work of fifteen truth commissions, Priscilla B. Hayner remarks on the function that truth commissions play in transitional periods in terms of affirming changes in the governments’ observation of human rights, as well as legitimizing the authority of new state power (Hayner 1994, 608). In this sense, truth commissions may become liable to manipulation by governments as political tools of self-legitimation rather than reflecting actual change (Hayner 1994, 608). Onur Bakiner’s more nuanced and sophisticated analysis of truth commissions provides a view of these institutions as inherently political, describing them as “sites of contestation over material and symbolic resources” and as a political stage “on which the complexity of interests, incentives, and values associated with nation building and truth telling is played out” (Bakiner 2016, 3). An important point of Bakiner’s analysis is the idea that the very notions of truth, justice, reconciliation and memory are to be seen as contested rather than straightforward terms, where the very ability to define them carries power (Bakiner 2016, 3).

Beyond their ability to create accurate historical records, truth commissions are often examined in terms of their effectiveness in producing accountability. The main questions asked in relation to their work concern their role in helping to establish responsibility for human rights violations and their effectiveness in fostering reforms that protect human rights. Transitional justice scholars like Patricia Hayner tend to see the work of truth commissions in a positive light, assessing their contribution to the improvement of human rights as a “middle road between prosecutions and impunity, instability and insecurity” (Olsen et al. 2010, 458). Other studies show that these bodies do not have a positive

function unless they are accompanied by trials and amnesties due to their lack of institutional or judicial authority (Olsen et al. 2010, 458). According to Olsen et al., the potential of truth commissions to promote human rights verges on their being accompanied by further actions including prosecuting human rights violations, passing human rights legislation, and founding permanent investigative bodies (Olsen et al. 2010, 460). Judging the effectiveness of the commissions based solely on their willingness to promote human rights norms in their reports and recommendations is problematic because it offers no guarantee that those recommendations will be implemented or successful.

Another source of debate on truth commissions revolves around their reconciliatory function, which is usually implied if not explicitly stated, as in the case of South Africa's Truth and Reconciliation Commission. Reconciliation takes on the task both of healing the victims of human rights violations, as well as bringing together nations divided by the nature of these collective crimes. Katrien Klep discusses reconciliation as a mode of creating relations between the individual and society (Klep 2012, 260). In this sense, it is often framed as a mode of bridging the violent past with a future based on a recognition of human rights. Scholars such as Greg Grandin, who have a critical view of transitional justice, focus on the ritual role that reconciliation plays in solemnizing "the distinction between political liberalism and diverse forms of violent, unrepresentative regimes" (Greg 2005, 46). Analyzing the work of truth commissions in Latin America, Grandin makes a claim that these institutions serve to legitimize the newly instated regimes as democracies by narrowing the conception of democracy to "political and legal rights rather than on social ones", which obscures neoliberal policies that go against the "social-democratic principles of development and welfare" (Grandin 2005, 47). Grandin's intervention is vital because it challenges the implied moral weight of transitional justice and the function of truth commissions within its framework. It also requires us to question the function of the global discourse on human rights that informs the work of commissions and shapes their existence, as well as helping shape the master narratives about historical events that they are required to produce.

And yet, truth commissions do carry a subversive potential that goes unrecognized in Grandin's analysis of the political motives behind the narratives of reconciliation. According to Onur Bakiner "commissions are neither fully subversive nor fully docile", which allows their work to occasionally become disruptive to the aims of those hoping to use them for political goals (Bakiner 2016, 3-4). Katrien Klep positions truth commissions within a broader context of the "ongoing negotiation and contestation of the official narrative" (Klep 2012, 260). Analyzing the challenges to the findings of the truth commission in Chile by social organizations of the victims' family members, human rights advocates and others, Klep asserts that reconciliation should be understood precisely as arising from this process of contestation, in a relational process of collective memory-making (Klep 2012, 260-261). In that sense, truth commissions must also be accorded a certain degree of political power outside their official purpose through their unanticipated effects as well as their ability to trigger social mobilization.

Truth Commissions in chronological order (Hayner 2011, xi-xii):

Uganda I (1974)

Bolivia (1982-1984)

Argentina (1983-1984)

Uruguay I (1985)

Zimbabwe (1985)

Uganda II (1986-1995)

Philippines (1986-1987)

Chile I (1990-1991)

Nepal (1990-1991)

Chad (1991-1992)

Germany (1992-1998)

El Salvador (1992-1993)

Sri Lanka (1994-1997)

Haiti (1995-1996)

South Africa (1995-2002)

Ecuador I (1995-1996)

Guatemala (1997-1999)

Nigeria (1999-2002)

Uruguay II (2000-2003)

South Korea I (2000-2004)

Panama (2001-2002)

Peru (2001-2003)

Federal Republic of Yugoslavia (2001-2003)

Ghana (2002-2004)

Timor-Leste (2002-2005)

Sierra Leone (2002-2004)

Chile II (2003-2005)

Paraguay (2004-2008)

Morocco (2004-2005)

Greensboro, North Carolina, USA (2004-2005)

Democratic Republic of the Congo (2004-2005)

Indonesia and Timor-Leste (2005-2008)

South Korea II (2005-)

Liberia (2006-2009)

Ecuador II (2008-2010)

Mauritius (2009-)

Solomon Islands (2009-)

Togo (2009-)

Canada (2009-)

Kenya (2009-)

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