

**The Turn to Truth:
Trends in Truth Commission Experimentation**

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Abstract

Interest in cross-national comparison of transitional justice mechanisms has grown recently, as has the study of truth commissions in particular. However, as is true of many emerging areas of research, progress has been hampered by significant gaps in data and by a lack of consensus as to what constitutes the universe of cases. To address this problem, this article introduces the most comprehensive truth commission database we know to be in existence. First, we describe the process of collecting information on truth commission cases and outline our logic in determining what cases to include in the database. Then, we briefly discuss the attributes of truth commission cases included in the database and explain our reasoning regarding their inclusion. Finally, we use the data to provide an overview of patterns and trends in the use of truth commissions.

Introduction

In a relatively short period of time, transitional justice has moved from the margins to the mainstream of global politics. This shift is the result of a host of structural and normative changes of the late- and post-Cold War periods. Structurally, democratic transitions and the resurgence of civil wars have created internal security crises, while increasingly active organizations have devoted significant energy to containing and rectifying the fallout of regime instability. Normatively, the expansion of human rights has drawn attention to the plight of victims of repression, and a budding “rule of law movement” has pushed for accountable domestic governance (Pistor, 2005). In other words, there is an increase in both the supply of transitions and the demand for justice. Or as legal scholar Ruti Teitel (2003: 89) puts it, the early 21st century “can be characterized as steady-state transitional justice.”

A central concern for many fragile, conflict-ridden societies is a problem often referred to as the transitional dilemma: how to address human rights abuses and political failures in a country’s past while simultaneously building peace. This problem has led to the development of different approaches such as truth-telling, reparations, vetting, and legal accountability. These approaches were initially innovated out of necessity in countries like Argentina, Chile, and South Africa, where few blueprints existed. As these experiments proliferated, a lively debate ensued about the relative merits of these approaches. While influential, these discussions were waged primarily on theoretical and normative grounds. Only recently has transitional justice moved from a stage of experimentation and speculation to institutionalization and reflection upon past experience.

The move toward reflection has been fueled in part by an expanding global network of practitioners and scholars. Groups like the International Center for Transitional Justice (ICTJ)

and the Center for the Study of Violence and Reconciliation (CSV) have become tremendous sources of knowledge for states considering whether to address a violent past. However, though the world of practice has begun to move ahead self-reflexively, researchers have not made use of the growing body of data to examine the circumstances under which transitional justice can and should emerge and the consequences for having done so. Most existing work is descriptive in nature, interpreting the experience of single cases (Buergethal, 1994, Tomuschat, 2001), describing the nature of specific mechanisms (Sarkin, 1999, Bass, 2000, Nalepa, 2003, Stahn, 2001), or problematizing a number of assumptions (Chapman and Ball, 2001, Kelsall, 2005). Though there is great value to this work, the scholarly field is still one dominated by theoretical speculation and hypotheses, not systematic empirical tests (Mendeloff, 2004: 358, 361). With the exception of a handful of studies (Kim and Sikkink, 2007, Brahm, 2006, Gibson, 2002, Gibson, 2004, Sikkink and Walling, 2007), we lack significant evidence as to whether truth commissions, prosecutions, or any other mechanisms contribute to such ends as reconciliation, peace, or democratic consolidation.

More importantly, there is confusion over what constitutes the universe of cases, in terms of what qualifies as a particular transitional justice mechanism. This problem is particularly acute in research on truth commissions. As noted by Brahm (2007), “[v]irtually no two compilations of truth commission experiences around the world are identical.” If we hope to move forward with empirical research, it is necessary to first determine the appropriate population of truth commission cases. In this article, we advance the study of truth commissions in concrete ways. Specifically, we introduce a definitive list of truth commission cases. In compiling the dataset, we build on previous work, most notably that of Priscilla Hayner, Eric Brahm, and David Backer. However, this dataset aims to provide considerably more detail on each case than is

presently available. This is the first step toward conducting systematic, cross-national research into both the conditions under which truth commissions are most likely to emerge and their effectiveness in bringing about a range of outcomes.¹ In this article, we provide an overview of the project in four steps. First, we define what is signified by the term “truth commission.” Second, we establish a set of inclusion criteria, which we use as a guideline for delineating which bodies qualify as a truth commission. Third, we present three case studies to demonstrate how our inclusion criteria are applied. Finally, we use the dataset to highlight a number of patterns and trends in the global use of truth commissions.

What Is a Truth Commission?

Little reflection has been devoted to defining what a truth commission is. A symptom of this problem is that different studies have produced dissimilar lists of truth commissions (Hayner, 1994, Hayner, 2002, Backer, 2006, Dancy and Poe, 2006, Kim, 2007, Bronkhorst, 2004). Similarly, organizations have produced their own overlapping, but discrepant and incomplete, catalogs of truth commission cases. A number of factors account for this (Brahm, 2007). To be sure, part of the reason is that these lists have been produced at different points in time. In addition, in seeking to highlight this global trend, some observers have drawn attention to very early discussions of creating a truth commission, many of which never come to realization. Differences also reflect varying degrees to which the global media and activist communities have been engaged in national truth commission projects. In the absence of much information, cases may be overlooked or misinterpreted. Without seeking to minimize the significance of these empirical challenges, a fundamental obstacle has been a blurring of conceptual boundaries as to what defines a truth commission.

The lack of consensus on the universe of truth commissions is regrettable, given that empirical research requires that subjects be classified before comparing them. Without clear definitions, the field runs the risk of reaching conflicting or ambiguous conclusions due to different samples that may either fail to include relevant cases or be polluted by extraneous ones. The remedy to this situation is to update, using empirical evidence, already existing definitions and then to articulate a core set of inclusion criteria which, when applied, allow researchers to determine whether an institution qualifies as a truth commission.

A truth commission has been roughly defined as “an official investigative body that documents a pattern of past human rights abuses” (Hendy, 2005: 527) or as “an official body, often created by a national government, to investigate, document, and report upon human rights abuses within a country over a specified period of time” (Teitel, 2003: 78). Although these definitions approach the essence of the truth commission experience, they are too vague to distinguish truth commissions from other kinds of human rights institutions such as prosecutor’s offices. In fact, the label “official” is ambiguous enough to potentially warrant the inclusion of nongovernmental investigations into either their own behavior, as was the case with the African National Congress (ANC) in South Africa, or into government misdeeds, as has been the case in countries such as Brazil, Uruguay, and Russia.

Other, more specific definitions accentuate the distinctness of the transitory and context-specific nature of the truth commission experience, but remain unsatisfactory at the operational and empirical levels. Some examples include:

1. [a body] created in a postconflict situation to examine past atrocities, issue findings of responsibility, and make future-oriented recommendations designed to foster and consolidate democracy and a human rights culture (Borer, 2005).
2. [an] officially sanctioned, temporary, non-judicial investigative body...granted a relatively short period for statement-taking, investigations, research and public

hearings, before completing their work with a final public report (Office of the United Nations High Commissioner for Human Rights, 2006: 1).

There are three problems with current definitions. First, they unnecessarily delimit the range of experience by including empirical elements that are not shared by all commissions. For example, definition [2] specifies that a truth commission conducts public hearings. However, outside of sub-Saharan Africa, public hearings have been quite rare, at least until the South African Truth and Reconciliation Commission (TRC)'s use of them attracted so much global attention.

Second, many definitions use vague terms. Definition [2], for instance, lists that a truth commission is given a “relatively short period” of time to complete its work. This is not particularly helpful when attempting to categorize experiences given that there is quite a range in length of operations. In addition, the “postconflict situation” in definition [1] could be interpreted in a variety of ways. The term transitional justice originally emerged because these bodies were usually established in the context of regime change. However, truth commissions in Ghana and Paraguay, for example, occurred well after conflicts within the country had ended. Furthermore, does postconflict mean after civil war, after a violent regime is ousted, after a massacre has occurred, or all of the above?

Third, some definitions include outcomes in their descriptions. For example, definition [1] specifies that truth commissions are intended to promote democratic consolidation and human rights. It is not clear whether truth commissions are all established with such intentions (Hayner, 2002, Wilson, 2001). Scholars argue that some are meant to privilege a certain national history, or to demonize the *ancien regime* in the interest of consolidating power (Gardin, 2005). Nor are democratic consolidation and human rights protection necessarily the only goals

conceivable. The goals of truth commissions are often shrouded or left open to speculation and, for this reason, intended outcomes should not be considered when defining what they are.

These three criticisms point to the need for a definition that is both more accurate and inclusive of a wider range of experience. A good definition would be based on empirical regularities that have already been in existence, rather than an ideal type. The most frequently used definition is provided by Priscilla Hayner in her 2002 seminal work, *Unspeakable Truths*. Hayner provides a model for how we might construct an operational definition based on congruities in observed data. In her words, truth commissions:

refer to those bodies that share the following characteristics: (1) truth commissions focus on the *past*; (2) they investigate a pattern of abuses over a period of time, rather than a specific event; (3) a truth commission is a temporary body, typically in operation for six months to two years, and completing its work with the submission of a report; and (4) these commission are officially sanctioned, authorized, or empowered by the state... [emphasis in the original] (Hayner, 2002: 14)

The focus on the past means that truth commissions do not investigate on-going human rights abuses as human rights ombudsman might. In addition, truth commissions analyze a pattern of abuses over time, meaning that human rights abuses are not isolated events. Furthermore, they have a limited amount of time in which to conduct their investigation. Finally, it must also be noted that truth commissions are a product of the state, from which they gain their authority.

However, Hayner's definition, too, has its potential shortcomings. For example, the emphasis on the completion of a report seems needlessly limiting. Although most, if not all, truth commissions have been established with the goal of producing a final report, a number have not succeeded (e.g. Bolivia, Federal Republic of Yugoslavia). Where public hearings were conducted, the report may, in fact, be less important in terms of promoting change, as Hayner (2002) herself notes. A slightly more refined version of Hayner's definition is one that places the

submission of a report as a goal of truth commission work, not a necessary qualification. In the end, the completion and publication of a report is another source of variation in truth commission experience rather than a defining characteristic. As a result, Bronkhorst's definition is the most useful and serves as the foundation for this study:

“A temporary body, set up by an official authority (president, parliament) to investigate a pattern of gross human rights violations committed over a period of time in the past, with a view to issuing a public report, which includes victims' data and recommendations for justice and reconciliation [Emphasis in original] (Bronkhorst, 2004).”

Building upon and slightly modifying this definition, we advance the following criteria:

1. The mechanism was a newly established and temporary commission.
2. It was officially sanctioned by the state.
3. Its mandate includes investigative powers.
4. It actually began operating.
5. It investigated a pattern of abuses to personal integrity rights that occurred over a period of time, some of which were perpetrated by state actors.

These inclusion criteria do not speak to the approach employed by the truth commission in its investigation, nor do they include the intended effects since it is likely that the goals are multitudinous (and in many cases undisclosed).

Even with these more specific criteria, there is some potential ambiguity when applied in the case selection process. For example, scholars and activists have varied in their interpretation of official sanction for the commission. Second, those constructing lists of truth commissions differ in their interpretation of what constitutes a pattern of abuses. Third, it remains unclear whether a truth commission should be a phenomenon unique to the immediate transitional period. In order to address these persistent difficulties, we further develop each of the five criteria in the next section. All of this aside, we recognize that researchers using the database may have different goals in mind that may warrant a more expansive definition. As such, where

available, we have included data on a broader range of human rights investigations as an extension of the truth commission database to provide a foundation for researchers interested in more historically-oriented commissions, investigations that are narrower in focus, and those conducted by NGOs.

Inclusion Criteria

Newly Established Temporary Commission

Empirical researchers may choose to study truth commissions comparatively as either a dependent variable or as an independent variable. But in order to convert the truth commission concept into a variable, it is necessary to separate these “bodies” or “mechanisms” as independent events. It is possible for governments to pursue truth-telling and truth-seeking without ever having established a truth commission. For instance, permanent, non-independent, or partisan government agencies might be given these tasks.² This would not meet the minimum criteria, which is an autonomous collection of individuals granted official authority to accomplish specified tasks. A test of whether a case is a truth commission, therefore, is whether it is free-standing, having been provided with its structure by a mandate. The mandate outlines a commission’s terms of reference: what types of human rights violations it is to investigate from what period of time, how it is to conduct the investigation, and what powers it has to do so. All truth commissions have specific documented mandates, distinguishing them from other forms of investigation.

The temporary nature of truth commissions is another core component distinguishing them from other bodies. Transitional justice is something that takes place in a socio-temporal space that is by nature transient (Teitel, 2000). Likewise, mechanisms meant to pursue justice in

transition are a bridge between the past and the future, both backward-looking and forward-looking (Teitel, 2000, Rama, 2002). However, the pursuit of justice enabled by the transition may be a long process that spans years or decades. By making temporariness a criterion for inclusion, we necessarily exclude commissions or bodies that are permanent fixtures of the political landscape. In some instances, governments have employed existing government institutions like attorney generals or ombudsmen to investigate the past. As such, the investigation may be temporary, but the investigator is not. While not suggesting these investigations are without merit, government investigations lack the independence of a truth commission.³ What is more, because the investigation of past violations is merely one element of the institution's work, which may extend to crime in general, they are more likely to lack the high profile that is a hallmark of the truth commission.

Officially Sanctioned by the State

Transitional justice mechanisms, investigations in particular, might be employed by non-state actors such as civil society and church groups. In many cases, this occurs as a response to the perceived inadequacy of state action. Investigations by the Archbishop of Sao Paulo and the World Council of Churches in Brazil, Servicio Paz y Justicia (SERPAJ) in Uruguay, and Paraguay's Proyecto Nunca Mas are all prominent examples of extensive nongovernmental investigations. These investigations, however, are generally not considered truth commissions. Because much of the theoretical speculation revolves around the ability of *the state* to meet the challenges of transition, it is necessary to limit the range of experiences to those that are state-sanctioned. So again, we consider a truth commission to be a body, *given authority by the state*. An analogy might demonstrate the importance of focusing on state-sanctioned bodies: non-

governmental efforts to promote truth-telling or truth-seeking are to truth commissions the same as informal courts making civil verdicts are to state judicial institutions. Just as informal courts create challenges to the legitimacy of the state judiciary (Galanter and Krishnan, 2003, Widner, 2001), non-governmental efforts can sometimes produce results that are counter-productive. These alternative attempts made by civil society are clearly important – in fact, practitioners are focusing more and more on the role of civil society – but they must be treated as conceptually separate from state-sanctioned institutions (Backer, 2003).

In our data, we treat truth commissions as *official* if they are established by parliamentary law or by presidential decree. While the classification of some nongovernmental investigations is fairly straightforward, many other cases frequently described as truth commissions have owed their existence in significant part to intergovernmental organizations. The United Nations (U.N.) has been particularly active in promoting truth-seeking projects in places like El Salvador and Guatemala, where it was part of peace negotiations. This we consider to be a third form of official sanction. Truth commissions established via peace accord have an official quality to them because they are agreed to by the current government and opposition forces, many of which will also figure prominently in the post-conflict government. One recent example of this is in Sierra Leone, where parliament enacted the Truth and Reconciliation Commission Act in 2000 to fulfill the terms of the U.N.-brokered Lome Peace Accords.

Mandate of Investigative Powers

We have discussed the importance of having a new state-established, temporary mandate, but have not yet discussed the mandate itself. In the previous section, we argued that publication of a report should not be considered a necessary component of truth commission activity. Rather,

the focus should be on the *aim or intention* to produce a report on the incidents of the past. The problem with operationalizing and coding intent, however, is that it is not easy to discern whether intent was, in fact, present. One obvious way to tell is whether the publication of a report is included in the legal mandate. Take, for example, the mandate for the Guatemalan Commission for Historical Clarification, articulated in the peace accord signed in Oslo in June 1994. Item II, under the purposes section of the mandate, reads as follows:

II. To prepare a report that will contain the findings of the investigations carried out and provide objective information regarding events during this period covering all factors, internal as well as external (Commission for Historical Clarification).

On the other hand, not all truth commission mandates stipulate that a report must be published. For instance, the mandate for the commission in the Philippines, established by Executive Order No. 163 by President Corazon Aquino, included the following guidelines, among others:

- (1) Investigate, on its own or on complaint by any party, all forms of human rights violations involving civil and political rights;
- (2) Adopt its operational guidelines and rules of procedure, and cite for contempt for violations thereof in accordance with the Rules of Court.

This mandate provides for powers to investigate human rights violations, performed in accordance with whatever procedures the commission deems necessary. Absent, though, is specific mention of a report to be published. Yet, the case in the Philippines is generally considered by observers to be a truth commission, even though it disbanded and failed to publish a report (Hayner, 1994).

In light of cases such as these, a less stringent standard for operationalizing intent to report would be the incorporation of a clause mandating that the commission perform an investigation. We argued that “investigation” implies the publication of a report, or at least some form of pronouncement of findings. Mandates provide specific guidance on how the

investigation is to be conducted. Some truth commissions have been specifically asked to seek out mass graves or provide a venue for victims to tell their stories, whereas the mandate of others has not specified such things.

Began Operating

Some discrepancy in different compilations of truth commission data is attributable to different implicit criteria for determining when a truth commission is considered to have come into existence (Brahm, 2007: 17-18). Many lists of truth commission cases have been assembled to demonstrate how common the phenomenon has become globally. As such, reference is often made to places in which public discussions of a truth commission may be ongoing. For example, Hayner (1994) mentions discussions in Malawi and Mexico. Similarly, at the time they were writing, Chapman and Ball (2001) believed the prospects for a truth commission in Cambodia and Colombia to be good. Empirically, some studies have relied on the date that the presidential decree was issued or the legislature passed the law outlining the need for a truth commission to mark the existence of a truth commission (Dancy and Poe, 2006). For a number of reasons, however, a commission may not come to be. A more conservative approach is to use the first day of the truth commission's operation. The amount of time between these two might be larger than expected, due to government bureaucratic delays, political insecurity, or public debate. In Liberia, for instance, two years passed between the Arusha Accords and parliamentary passage of the truth commission law in 2003. The eventual beginning of the commission was delayed a further two years due to renewed fighting around the country. Favoring the beginning of operation is more helpful because, if the mechanism has not begun to function, its chances of exerting empirically observable effects are lowered for obvious reasons. While we give

preference to the latter method for counting truth commission initiation, where possible the dataset reports on all steps in the gestation process thereby allowing the research question to dictate which is the appropriate criteria for including cases.

A Pattern of Abuses over Time

A key substantive characteristic of truth commission work is the investigation of a pattern of human rights abuses over a period of time. However, a “pattern of human rights abuses over time” is riddled with terms that need greater specification. One definition of human rights violations that we might use comes from the U.N. Office of the High Commissioner for Human Rights: “a governmental transgression of the rights guaranteed by national, regional, and international human rights law and acts and omissions directly attributable to the state involving the failure to implement legal obligations derived from human rights standards.” Though it is important to emphasize that violations occur at the hands of the state, and agents of the state, this definition is too sweeping for those human rights violations addressed by truth commissions. Those that are typically investigated are physical or bodily integrity rights, such as the right to life and the right to be free from torture. These are referred to as non-derogable rights which cannot be suspended even in exceptional circumstance or emergencies.⁴ We adopt the Cingranelli and Richards (1999: 407) definition of physical integrity rights, which are the “entitlements individuals have in international law to be free from arbitrary physical harm and coercion by the government,” which includes extra-judicial killing, torture, disappearance, and political imprisonment. Choosing to operationalize the subject of the investigation in this way is why we exclude cases like Niger’s 1992-3 Human Rights Commission of the National Conference, which only explored the history of governmental corruption.

We must also deal with the temporal element of the investigation, which is included in all previous definitions of truth commissions. They investigate human rights violations *over a period of time*. We take this to indicate that the job of truth commissions is to examine patterned, systematic abuses of human rights, not isolated events. Most truth commissions have, in fact, examined the full length of a civil war or the entire tenure of a brutal regime. This makes sense given the claim made by one scholar that truth commissions act as a “bureaucratic response to bureaucratic murder” (Teitel, 2000: 77). The bright line between “isolated event” and “patterned abuse” is not always clear, however, and, therefore, judgment is somewhat arbitrary. We postulate that, for human rights violations to have been “systematic,” they must have taken place in more than one single day. Though this may seem somewhat absurd, this rules out cases where one single event – such as a massacre or assassination – is being investigated.

In summary, the operational definition of “investigation of a pattern of human rights abuses over time” that we advance has three components. First, the investigation must substantively cover violations of physical integrity rights. This excludes a whole range of investigations that might take place with institutional characteristics similar to truth commissions but with entirely distinct subject matter (e.g. U.S. congressional commissions into pre-9/11 intelligence failings, the Iran-Contra affair, and the Kennedy assassination). Second, the investigation must cover abuses that take place at the hands of state agents, likely under the previous regime. While a truth commission may also examine the actions of opposition groups, individual dissidents, or terrorists, to do so exclusively would fundamentally alter the type of investigation. Third, there must have been more than one day of human rights violations that are being investigated.

Applying the Criteria

The purpose of highlighting both definitional and operational elements of truth commissions thus far has been to support a broader empirical project. That project involves applying these criteria to the historical record to more systematically generate a definitive set of truth commission cases. After applying our criteria, we have settled on a list of 37 truth commission cases (see Appendix 1). Many of these cases are so commonly accepted among both scholars and practitioners as examples of truth commissions that demonstrating how our criteria apply to them would be an unnecessary exercise. Instead, we have chosen three lesser-known investigations to profile, so that we may show how our inclusion criteria work in practice. For the three cases, we have chosen Grenada, an oft-cited truth commission better considered as a related, but distinct type of investigation; South Korea, a truth commission case that has been commonly overlooked; and Tajikistan, a non-truth commission case that has been mistaken for one previously.

Grenada 2001

Shortly after Grenada attained independence from the United Kingdom in 1974, civil conflict emerged between the government and the leftist New Jewel Movement (NJM). In 1979, the NJM, led by Maurice Bishop, launched a successful revolution against the government. Not long after gaining power, the NJM splintered and disaffected NJM members overthrew the Bishop government in 1983. Large demonstrations ensued and, after Bishop briefly gained his freedom, he was captured and executed by the army. Less than a week after Bishop's execution, the United States invaded and the pre-revolution constitution was restored. Eighteen individuals from the revolutionary government and the army were later tried for their part in the murder of

Bishop and seven others. Fourteen were sentenced to death, three to 45 year prison sentences, and one was acquitted. The death sentences were eventually commuted to life and those in prison became known as the “Grenada 17.” Afterward, the past was largely forgotten until the start of the 21st century.

In September 2001, Grenada’s governor-general, Sir Daniel Williams, inaugurated the Grenadan Truth and Reconciliation Commission (TRC) to examine “political events” that had occurred between 1976 and 1991. As such, the net was cast wider than human rights violations. Despite the appearance of looking at a broad pattern of abuses, it focused on a few select events, particularly the violence surrounding the 1983 coup. Thus, the investigation was much narrower. It held a number of meetings around the country and was granted the power to recommend amnesty for those who assisted with the investigation. On top of its investigative function, the TRC was also tasked with reviewing the convictions of the Grenada 17.

The commission submitted its final report to the government in March 2006, which in turn sent it to parliament three months later. The report became publicly available about three months after that. In its report, the TRC suggested a number of symbolic measures to help facilitate healing and reconciliation in Grenada. Furthermore, it urged the government to actively search for the remains of those executed in 1983 and to grant the Grenada 17 a new trial. Upon the report’s public release, the government suggested that public input should be solicited in some way to determine how to act upon the TRC’s recommendations. However, there has been little progress in this regard.

The Grenadan TRC is not a well-known investigation, but it frequently shows up on more recent lists of truth commissions. However, its inclusion, which appears largely based on the name given it by the Grenadian government, is problematic for a number of reasons. By the time

it was created, the rhetoric of truth and reconciliation had become powerful around the world. This is not to suggest that uncovering truth and facilitating reconciliation were not goals of the investigation. However, the case differs from our definition in a number of respects thereby leading us to conclude that it is best omitted from a list of truth commission cases. As we saw, it had a fairly narrow set of events to examine. What is more, it did not confine itself specifically to human rights violations.

South Korea 2000

Transitional justice efforts in South Korea have gone largely unnoticed by the rest of the world. One such unexplored case is the National Committee for Investigation of the Truth about the Jeju April 3rd Events (4.3 Committee). The Jeju events refer to a series of communist-led armed uprisings and counterinsurgency that occurred between 1948 and 1954 in Jeju, Korea, which resulted in an estimated 15,000 to 30,000 deaths. The armed uprising and counterinsurgency led to a prolonged guerrilla war and the process was extremely brutal, including mass arrest and detention, forced relocation, torture, rape, indiscriminate killing, and many large-scale massacres. After fifty years, the government finally established the 4.3 Committee in 2000 to (1) collect and analyze domestic and foreign evidence related to the events, publish a report, and establish an archive and (2) identify and honor the victims and their family members. The special act actually established three central institutions – the 4.3 Committee (Article 3), 4.3 Working Committee (Article 4), and Task Force for the Report (Article 6 and 7). First, the 4.3 Committee was designated as the highest deliberative organization. Second, the 4.3 Working Committee was designed to carry out practical business entrusted by the 4.3 Committee, such as (1) accepting applications from victims and family, (2)

providing initial screening of victims, (3) administering a financial and medical subsidy program. Third, the Task Force for the Report was given two years to research and analyze evidence in order to prepare and publish an official report.

The report was officially approved in 2003, and 15,095 victims have been registered so far. In total, 78 percent of individual cases were attributed to state agents such as police, military, and paramilitary organizations, 12 percent by the armed left, and 9 percent remain unidentified. With the release of the report, President Roh Moo Hyun made an official apology and participated in a memorial service. The commission is still functioning as it screens victims and engages in a project of reparation and commemoration. Based on the criteria outlined above, the 4.3 Committee, which has been overlooked in international scholarship thus far, clearly falls within our categorization of a truth commission since it is a newly-established temporary body sponsored by an act of the National Assembly and functions independently under the Office of the Prime Minister. It was designed to investigate severe and gross human rights violations, especially personal integrity rights such as killing, torture, and disappearance that occurred on Jeju island over seven years. Finally, it aimed to write an official report and to create an archive.

Tajikistan 1998

After the Soviet Union broke apart, the resultant power vacuum in Tajikistan created the environment for a grizzly civil war between paramilitary organizations representing those aligned with the government run by former Communists and a number of mostly Islamic and pro-democratic opposition groups. The Tajik government that was in power during the civil war, from May 1992 to early 1993, was supported by Russian military aid and former Soviet troops still stationed in the country. The civil war was bloody, “with summary executions and the

“mutilation of victims shockingly common” (United States Institute of Peace, 1995). Tens of thousands were killed in the fighting, and hundreds of thousands fled to neighboring Afghanistan. Human rights violations were perpetrated by all sides of the conflict. On June 27, 1997, the General Agreement on the Establishment of Peace and National Accord in Tajikistan was signed, after three years of “inter-Tajik” talks that took place under the auspices of the U.N. During this three-year period, fighting continued, especially on the Tajik-Afghan border. The Agreement between Tajik President Rakhmonov and the leader of the United Tajik rebels contained a number of documents, including the establishment of a Commission of National Reconciliation (CNR). Its mandate was outlined in the Protocol on the Main Functions and Powers of the Commission on National Reconciliation, which was signed on December 23, 1996.

Although the CNR has been included in some prior lists of truth commission cases (Dancy and Poe, 2006), it does not conform to the criteria outlined above. It is easy to confuse the name and intended goals of a commission with its actual functional properties. The main purpose of the CNR was the “attainment of national reconciliation... through the creation of an atmosphere of trust and mutual forgiveness, and the institution of a broad dialogue among the various political forces in the country.” The CNR was mandated by a peace agreement and was temporary, adjourning its last meeting in 2000, thus meeting the first criterion for inclusion in our dataset. Passed into law in 1997, it was officially sanctioned by the government, and it had a large number of mandated powers, including monitoring the peace agreement, implementing measures related to the return of refugees, amending legislation regulating political parties, formulating possible changes to the constitution, reforming non-inclusive government institutions and the electoral systems, managing the disarmament of militant groups and the

repatriation of prisoners of war, and overseeing the adoption of a Reciprocal Pardon Act (an amnesty for former combatants).

With respect to our definition, the glaring omission in the duties of the CNR was the lack of focus on investigating former human rights abuses. The CNR, then, would not perform the fundamental substantive task that characterizes truth commission work. Thus, it should not be included in a study of truth commissions. This is a relatively stark example of how it might be possible to misread the nature of a mechanism. Because it is called the Commission for National Reconciliation, at first sight, it appears to be akin to other truth commissions. Upon deeper examination, however, it becomes obvious that the CNR was more an institution of transitional governance, comprised as it was of members from the former government and the opposition.

Examining Variation Across Cases

Enumerating which cases count as truth commissions is more than an academic exercise. Our larger endeavor is to contribute to the study of transitional justice by constructing a detailed dataset to facilitate future empirical studies. Whether truth commissions are being studied as a dependent or independent variable, variations across cases must be noted. These differences remain within the truth commission family, but this variation might be a point at which scholars could subdivide the dataset for their own purposes or to create better policy recommendations as to how a truth commission might be best structured to achieve intended goals. In the remainder of the article, we present a number of sources of variations and trends in truth commission practice.

Name

Analyzing the names of these bodies reveals a few interesting observations. First, names can serve as a source of confusion and possibly over-inclusiveness in constructing truth commission lists. There is wide variation in the names: some make use of the “commission of inquiry” designation, while others employ some combination of the terms “truth,” “justice,” and “reconciliation.” For instance, the name of the Ghanaian truth commission, a case that clearly falls within the parameters of inclusion, was called the “National Reconciliation Commission.” This name is identical to the commission established in Tajikistan, which, as we have seen, had widely divergent duties. Second, the names of the commissions might convey something about the changing understanding of their purpose. Seven of the truth commissions contained the word “disappeared” in their titles, and all but one, Algeria, came before 1994. This likely reflects the early frequency of truth commissions in Latin America, where disappearance was a widely practiced and high-profile crime. On the other hand, 12 contained the word “reconciliation,” ten of which came in the year 2000 or after. The first two to make use of this term were Chile in 1990 and South Africa in 1995. The subsequent explosion of this term’s use reflects the prominence of the South African example. Only 15 cases contained the word “truth” in their titles, and again, this practice started with Chile in 1990. Overall, these patterns in commission naming provide a crude reflection of normative evolution.

Number of Years Covered by Investigation

(Figure 1 about here)

Another source of variation, illustrated in Figure 1, is the length of the period of human rights violations that are investigated. There is no uniform model outlining how many years

should be covered by an investigation, though they typically focus on the abuses that took place during the duration of a particular regime or civil conflict. Our data shows that countries have investigated human rights violations of a mean duration of 20 years with the standard deviation of 14.5 years. It appears that there is an upward trend in the number of years of human rights violations being investigated. In other words, the exposed “patterns of gross human rights violations” are getting longer and longer over time. This further suggests emerging norms that past wrongs need to be addressed.

Number of Years between Abuses and Investigation

(Figure 2 about here)

Truth commissions can be established shortly after a period of human rights abuses or after the passage of many years between the end of violations and establishment. Figure 2 reveals these variations in the timing of truth commission establishment. Conventional wisdom is that states establish truth commission immediately after the end of the violence since many prominent truth commissions in Latin America and Africa were established immediately after transitions. As expected, most countries established truth commissions within two years of a transition. However, there are some countries that have established truth commissions after more than five years (e.g. South Korea, Uruguay, and Panama). Hayner reserves the term “historical truth commissions” for those that investigate a period of time extending into the distant past. The case she highlights is Germany, which conducted a series of academic conferences and hearings that recounted the history of abuses associated with the German Democratic Republic.⁵

These cases raise the question of whether examination of historical events should be considered a different phenomenon. Brahm (2007), for instance, argues that “investigations [that]

took place decades after the events in question... amount to qualitatively different phenomena.”

Though this assessment may be correct, it is difficult to *a priori* establish a particular length of time between the abuses and the investigation that would separate truth commissions from more historically-oriented commissions, mostly because quite a large degree of variation exists and, increasingly, truth commissions are being established after greater gaps in time as seen in South Korea. The growing frequency with which historical wrongs are investigated provides additional evidence for an international truth-seeking norm.

Conclusion

The dataset is an important step forward, but a work in progress. Data from lesser known cases are still lacking and, therefore, revisions may be necessary. As more data are uncovered, additional points of comparison can be examined: trends related to funding, the conduct of public hearings, a range of issues related to truth commission reports, and the composition and relative independence of commissioners, to cite some examples. Our data hint at some of these points, and other patterns which remain under-developed and, thus, important areas for future research into truth-seeking forms of transitional justice.

One pattern that appears to be emerging is countries making use of truth commissions at multiple points in time. Uganda, Uruguay, Nepal, and Sri Lanka are all examples of this phenomenon. This is potential evidence that countries are repeating or redoubling their previous efforts at transitional justice. What is more, it suggests that less than optimal experiences do not necessarily sour a country on the truth commission idea. What we are witnessing in these cases is the non-linearity of transitional justice. In many places, efforts at transitional justice are followed by the resumption of conflict or the emergence of new political problems that demand similar or

reconceptualized transition justice approaches. In reference to Sri Lanka, the ICTJ makes a more general point about this difficulty: "...the country is characterized by multiple related but distinct cycles of conflict that need to be engaged at multiple levels, across different historical periods. This does not mean that there is no transition, but that transitions are non-linear."⁶ The challenge for quantitative researchers posed by the non-linearity of a country's transitional history is that it will complicate empirical efforts to test the effectiveness of institutional mechanisms using pooled cross-sectional time-series analysis. Empirical studies must control for repeated instances of transitional justice mechanisms in the same country.

A second pattern is the presence of what Louis Bickford (2007) refers to as unofficial truth projects (UTPs). These projects either take place at the sub-state level or are carried out by civil society organizations, both of which make them unlike the official truth-telling initiatives discussed in this article. Examples of UTPs include not only Brazil's *Nunca Mais*, Uruguay's SERPAJ mentioned earlier, but also Guatemala's REMHI, Zimbabwe's *Breaking the Silence*, Northern Ireland's *Ardoyne Commemoration Project*, and the Greensboro, North Carolina Truth and Reconciliation Commission (Bickford, 2007). The presence of UTPs demonstrates a growing demand for transitional justice, even in countries where the state has shown little interest in providing recompense for victims of human rights violations. Even further, UTPs might be evidence that a country is undergoing liberalization, as civil organizations mobilize to confront troubled periods of history. What remains to be seen, however, is whether the establishment of UTPs is a developing trend in transitional justice, or a cluster of isolated cases. Also unclear is the relationship between these efforts and those initiated at the state level.

Future research should keep current by noting new developments that occur in these areas, but it should also look toward more comprehensive analyses based on the data that has

already been obtained. So far, scholars have attempted to examine the relationship between truth commissions or trials and dependent variables of interest, like democratic institutional development, the rule of law, and compliance with human rights norms. However, previous studies have lacked rigor, focusing narrowly on the effects of particular transitional justice mechanisms in isolation. However, mechanisms like truth commissions are normally embedded within larger processes that include other forms of transitional justice. For example, many times truth commissions are instituted prior to trials (e.g. Argentina) or are established concurrently with reparations programs (e.g. South Africa).

In cases where different types of transitional justice mechanisms operate simultaneously, it may be impossible to separate the effects of one type from the other. Sikkink and Walling (2007) make this point in reference to trials and truth commissions: "...use of multiple and changing transitional justice mechanisms contradicts the notion that bargains in the post-transitional period are stable and dichotomous. It also makes it very difficult to isolate the impact of any particular factor on later developments." What this means for empirical research is that it is irresponsible to assume the independence of events in reference to transitional justice mechanisms. To counteract such an erroneous assumption, scholars should consider the relationships between transitional justice mechanisms. For example, in countries that have used more than one mechanism, like truth commissions and reparations, are the combined effects more promising?

Furthermore, scholars need to make use of detailed data to account for the institutional variation within types of transitional justice mechanisms. For example, though they share common features, no two truth commissions are the same. Some have been disbanded in mid-investigation and some have failed to produce reports, while others have been prolific and widely

publicized. Though it is a great challenge, studies should attempt to incorporate these variations. As an example, using the data we have collected, it may be possible to generate an interval measure of truth commission institutionalization that captures varying degrees of development and operative maturity.

These two prescriptions for future research can be subsumed within a larger call for comprehensiveness – a call which has been sounded by practitioners. In the world of practice, a move is taking place away from formulaic “one-size-fits-all” models for responding to justice demands in post-conflict situations to a more holistic approach. The United Nations has supported a conceptualization of transitional justice that emphasizes the notion of “institutional interdependence.” In other words, transitional justice mechanisms can and should support one another in the process of producing desired outcomes. For example, Pablo de Greiff, Director of ICTJ's Research Unit argues that the effectiveness of remunerative efforts is in some ways tied to whether they exhibit “external coherence.” By this he means that they are “...designed in such a way as to bear a close relationship with other transitional mechanisms...” (de Greiff, 2006: 11) Academic research has not adopted this holistic theoretical framework. Because scholars are still stuck in the trappings of the old disaggregated approach, where they attempt to assert the effects of a singular institutional mechanism on a constellation of outcomes of interest, they have not theorized the internal functionality of institutions, the interactions between those institutions, nor the combined effects that various institutions exert. The new frontier of research on transitional justice will involve comprehensive, institutional models informed by holistic theory, but before this frontier can be explored, more sophisticated data will be needed.

In presenting our truth commission dataset, we hope to spur the development of richer studies in this direction. By distinguishing truth commissions from other types of human rights

investigatory bodies, we do not mean to suggest either that other bodies are not worthy of study or that a truth-seeking agenda should be given special privilege. On the other hand, what we intend to show is how concerted data collection efforts will benefit research on and the practice of transitional justice by pointing us toward key generalizations and by allowing us to provide a richer account of variation and its effects. Only armed with well-constructed data can we move toward making more confident assessments of the world's attempts to address the wrongs of the past.

¹ Parallel efforts are underway with respect to other transitional justice measures such as the Transitional Human Right Trials Database Project by Hunjoon Kim, Kathryn Sikkink, and Carrie Walling (Sikkink and Walling, 2007, Kim and Sikkink, 2007); the Transitional Justice Database Project at the University of Wisconsin; and the Amnesty and Pardon Database under construction by Louise Mallinder at the Queen's University Belfast.

² In South Korea, there have been many examples where national police and state information agencies established internal units in order to investigate past human rights violations and suspicious deaths.

³ Honduras is one such case that has been interpreted by some as amounting to a truth commission. In 1993, the National Commissioner for the Protection of Human Rights in Honduras began investigating disappearances from 1980-1993, with the help of the Honduran Documentation Center and the Committee for the Relatives of the Disappeared of Honduras, a national NGOs. The Commissioner, Leo Valladares Lanza, whose position was permanently created by Presidential Decree No. 26-92 on June 8, 1992, presented a report on disappearances in 1993 (Center for Justice and International Law, 1993).

⁴ See the International Covenant on Civil and Political Rights (ICCPR), Article 4 (2). In addition, disappearance is not in the ICCPR, and the prohibition on arbitrary imprisonment (Article 9) is not one of the non-derogable rights. Thus, all physical integrity rights, as defined by Cingranelli and Richards are not all non-derogable.

⁵ Other commission investigations that are historical in nature include the 1982 U.S. Commission on Wartime Relocation and Internment of Civilians, the Canadian Royal Commission on Aboriginal Peoples, the Australian Human Rights and Equal Opportunity Commission, and the U.S. Advisory Committee on Human Radiation Experiments 1994-1995.

⁶ "Sri Lanka," The International Center for Transitional Justice. Available at <http://www.ictj.org/en/where/region3/627.html>

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Figure 1. The Number of Years Investigated by Truth Commission by Year of Establishment

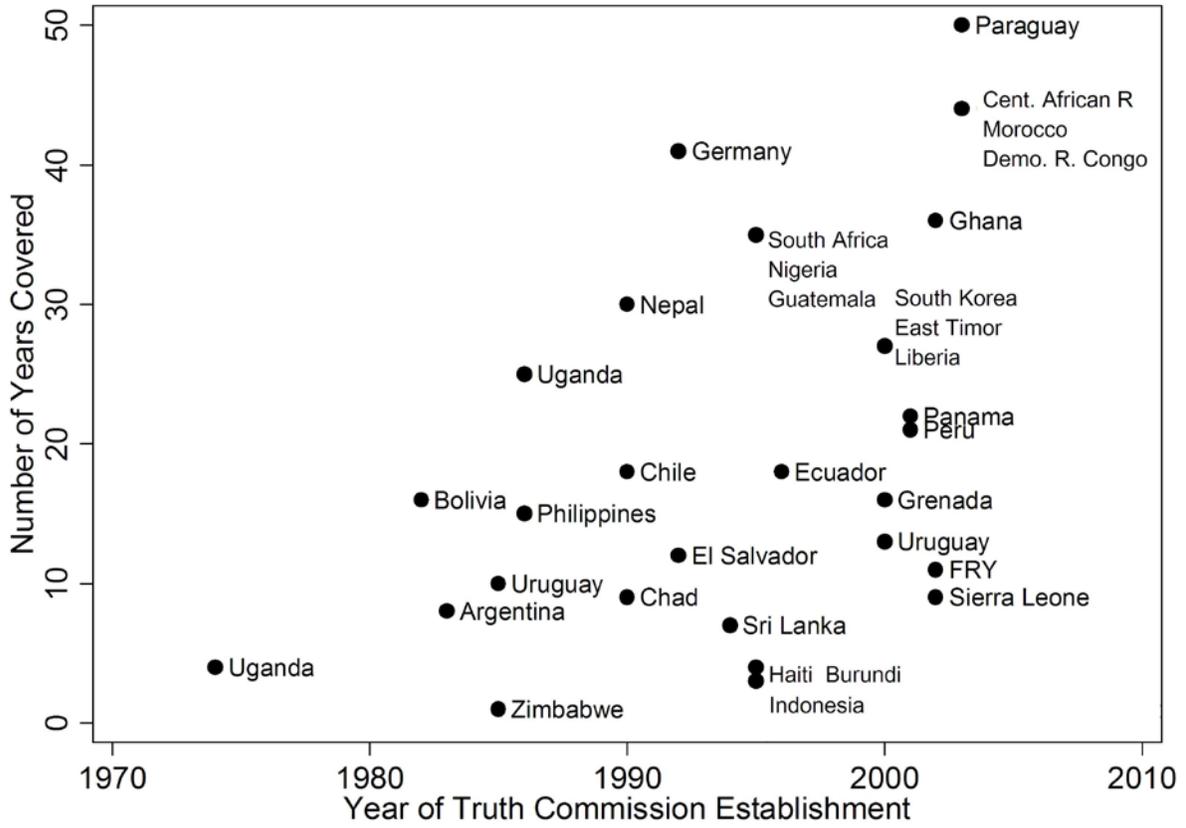
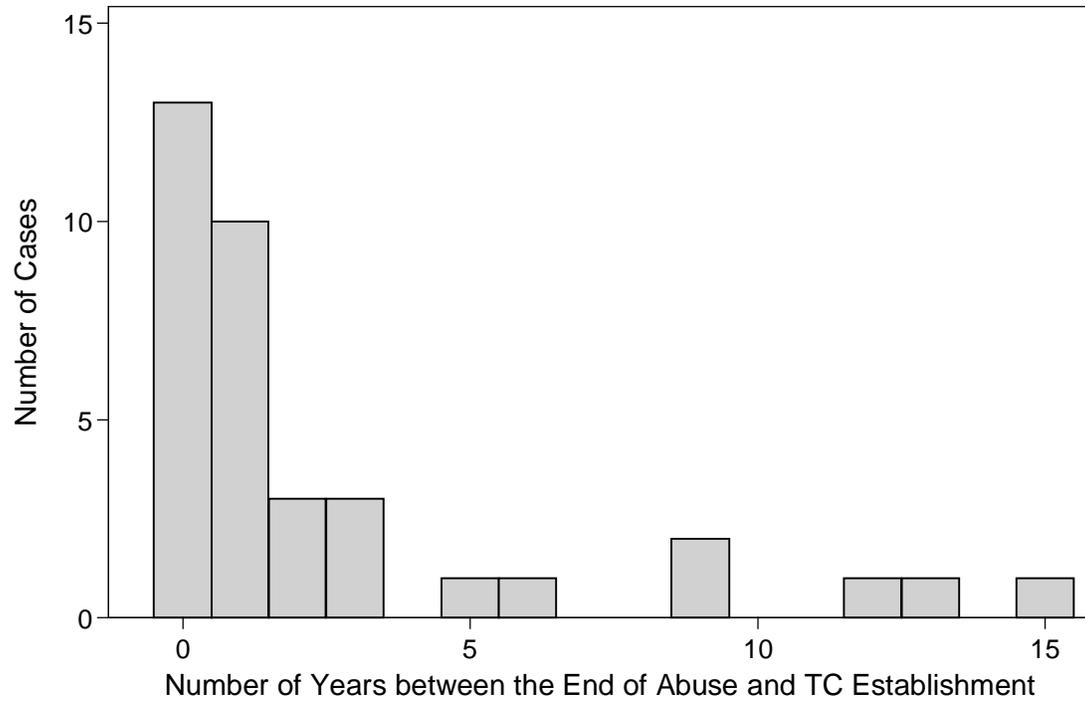


Figure 2. The Number of Truth Commissions by the Year of Establishment



Appendix 1. A List of Truth Commission in the World

Country	Truth Commission	Created	Duration	Mandate	Report
Uganda	Commission of Inquiry into the Disappearances of People in Uganda since 25 January, 1971	President	1974	1971~1974	Yes
Bolivia	National Commission of Inquiry into Disappearance	President	1982~1984 (24 months)	1967~1982	No
Argentina	National Commission on the Disappearance of Persons	President	1983~1984 (9 months)	1976~1983	Yes 1985
Uruguay	Investigative Commission on the Situation of Disappeared People and Its Causes	Parliament	1985 (7 months)	1973~1982	Yes 1985
Zimbabwe	Commission of Inquiry	President	1985	1983	No
Philippines	Presidential Committee on Human Rights	President	1986~1987	1972~1986	No
Uganda	Commission of Inquiry into Violation of Human Rights	President	1986~1995	1962~1986	Yes 1994
Nepal	Commission of Inquiry to Locate the Persons Disappeared during the Panchayet Period	Prime Minister	1990~1991	1961~1990	Yes 1991
Chile	National Commission on Truth and Reconciliation	President	1990~1991 (9 months)	1973~1990	Yes 1991
Chad	Commission of Inquiry on the Crimes and Misappropriations Committed by the Ex-President Habré, His Accomplices and/or Accessories	President	1990~1992	1982~1990	Yes 1992
Germany	Commission of Inquiry for the Assessment of History and Consequences of the SED Dictatorship in Germany	Parliament	1992~1994	1949~1989	Yes 1994
El Salvador	Commission on the Truth for El Salvador	Peace accord	1992~1993 (8 months)	1980~1991	Yes 1993
Sri Lanka	Commissions of Inquiry into the Involuntary Removal or Disappearance of Persons	President	1994~1997	1988~1994	Yes 1997
Haiti	National Commission for Truth and Justice	President	1995~1996 (10 months)	1991~1994	Yes 1997
Burundi	International Commission of Inquiry	UNSC	1995~1996	1993~1995	Yes 1996
South Africa	Truth and Reconciliation Commission	Parliament	1995~2000	1960~1994	Yes 1998
Ecuador	Truth and Justice Committee	Ministry	1996~1997 (5 months)	1979~1996	No
Guatemala	Commission to Clarify Past Human Rights Violations and Acts of Violence That Have Caused the Guatemalan People to Suffer	Peace accord	1997~1999 (19 months)	1962~1996	Yes 1999
Nigeria	Commission of Inquiry for the Investigation of Human Rights Violations	President	1999~2001	1966~1999	Yes 2002
Indonesia	Commission for Human Rights violations in East Timor	National Human	1999	1999	Yes 2000

		Rights Commission			
Uruguay	Peace Commission	President	2000~2001	1973~1985	Yes 2002
South Korea	National Committee for Investigation of the Truth about the Jeju April 3 rd Event	Parliament	2000~	1947~1954	Yes 2004
South Korea	Presidential Truth Commission on Suspicious Deaths	President	2000~2002	1961~1990	Yes 2002
Uruguay	National Peace Commission	President	2000~2003	1973~1985	2002
Panama	Truth Commission	President	2001~2002 (15 months)	1968~1989	Yes 2002
Peru	Truth and Reconciliation Commission	President	2001~2003 (24 months)	1980~2000	Yes 2003
Timor Leste	Commission for Reception, Truth and Reconciliation	UNTAET	2001~	1974~1999	Oct. 2005
Serbia and Montenegro	Commission for Truth and Reconciliation	President	2002~2003	1991~2001	No
Ghana	National Reconciliation Commission	Parliament	2002~2004	1957~2001	Yes 2004
Sierra Leone	Truth and Reconciliation Commission	Peace accord	2002~	1991~1999	Yes 2004
Central African Republic	Truth and Reconciliation Commission	President	2003 (6 weeks)	1960~2003	
Paraguay	Truth and Justice Commission	Parliament	2003~2006	1954~1989	
Algeria	Ad Hoc Inquiry in Charge of the Question of Disappearances	President	2003~2005	2002	2005
Democratic Republic of Congo	Truth and Reconciliation Commission	Peace accord	2004~		
Indonesia/ Timor Lest	Commission on Truth and Friendship (CTF)	Presidents	2004~	1999	
Morocco	National Commission for Truth, Equity, and Reconciliation	King's royal decree	2004~2005	1956~1999	2005
Liberia	Truth and Reconciliation Commission	Parliament	2005~	1979~2003	