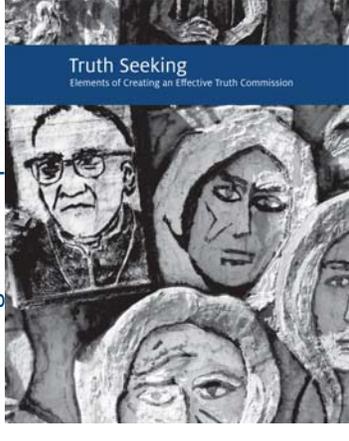


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Chapter 10

The Final Report and Afterlife of a Truth Commission

“The Final Report speaks of shame and dishonor, but its pages also record acts of courage, selfless gestures and signs of dignity that show us that human beings are essentially magnanimous. The report tells of people who did not renounce the authority and responsibility conferred upon them by their neighbors; who stood up to abandonment to defend their families, transforming their work tools as a weapons; who were unjustly imprisoned; who assumed their responsibility to defend the nation without violating the law; who refused to be uprooted and defended life. They are to be found in the core of our memory.”

Preface, Final Report, Truth and Reconciliation Commission of Peru, 2003

Contents of a Final Report

The work of a truth commission culminates in the publication of a final report, the official written record of the commission's work and findings. It should be an important reference tool for scholars, policy makers, and historians for years to come.

The majority of the report will consist of the commission's findings, that is, conclusions and descriptions of historical events. Another significant section of the commission will be devoted to its policy recommendations.

Additionally, the final report should include:

- The commission's mandate, terms of reference, authorizing charters, procedural rules and any other relevant laws
- Background information on the commission members and an explanation of how they were chosen
- A description of the role of the government or other public or private institutions in the establishment and operations of the commission
- A clear explanation of the methodology used during testimony and investigations
- A list of the documents and evidence that gave rise to conclusions, relevant laws, and analysis of the failings within the institutional and social structures that led to events. If resources allow, transcripts of testimonies can be included in an appendix, in a separate published report, or on the internet
- A list of victims or perpetrators, except when identities have been withheld for safety, procedural or other reasons

Structure of a Final Report

The structure of the final report will vary depending on the circumstances of the conflict being addressed and the mandate of the commission. But it is important that the basic components are included in a clearly organized and comprehensive manner. The final report of the Sierra Leone truth commission dedicated the entire first volume to explaining its mandate, creation and management of the commission, and its methodology.⁵⁷ There may be additional information that would be valuable for explaining the content or framework of a final report that should be included in the report. Chile's 1990 commission included the full text of its authorizing decree in the opening section of its final report.⁵⁸

The largest section is typically the findings. An explanation of the historical context in which events took place can be organized in different ways: chronologically, as if relaying a story; by type of human rights violation; or by geographic region where events occurred:

- In Argentina, the National Commission on the Disappeared organized its report both geographically, addressing violations committed in different detention sites, and thematically to show patterns of criminal behavior.⁵⁹
- The Historical Clarification Commission of Guatemala offered a historical and analytical perspective,⁶⁰ identifying the underlying structural causes of the conflict, the evolving nature of violence over time, institutional responsibilities, and the social and institutional consequences. In addition, it integrated a number of "exemplary cases" with explanations to assist the reader in understanding the experience of victims and the methods of the perpetrators.

57 *Witness to Truth: Final Report of the Sierra Leone Truth and Reconciliation Commission* [Sierra Leone], 2004. See vol. 1.

58 Final Report of the National Commission on Truth and Reconciliation, "Rettig Report" [Chile], February 1991.

59 *Nunca Más: Report of the National Commission on the Disappearance of Persons* [Argentina], Editorial Universitaria de Buenos Aires, 1986.

60 *Supra* note 24.

- The Peruvian Truth and Reconciliation Commission structured chapters around a series of questions:⁶¹ “What happened? Why did it happen? What were the consequences of what happened? What must we do to address those consequences and avoid this to happen again?”

Recommendations usually appear in a separate section following findings, although some commissions, like Chile’s report,⁶² have chosen to break up the recommendations by category into sections that include related historical and contextual information. Many reports are accompanied by extensive appendices, which may include the full text of authorizing legislation, lists of victims, historical timelines, or selected testimony. These appendixes can be published after the primary volumes, but every effort should be made to release the information in a timely fashion.

Writing and Compiling the Final Report

Writing a final report is a complex process that requires coordinating research, bringing together multiple disciplines, and building consensus among the commissioners. Successful report-writing requires:

- A deadline for data-gathering activities to ensure that analysis is not altered by an influx of new information
- Consistency in research, based on clear procedures, guidelines, and objectives communicated before data is gathered
- Clear and uniform editing standards and firm drafting deadlines, particularly for commissions with international staff and several working languages. Deadlines should provide adequate time to ensure thorough investigations, analysis, drafting, editing, reviewing, and formatting

Because the final report will likely have many authors, it is important that writing style and standards are set from the start to ensure consistency and readability. Editors need to watch carefully for contradictions or inconsistencies from one section to the next.

Releasing the Final Report

A commission should publish its final report in both print and online. The report should also be simultaneously presented to the head of state and any other institutions involved in authorizing the commission, such as legislative and judicial bodies, and, if appropriate, the United Nations and other international organizations.

Although the final report is produced by an independent commission, the government should treat the document as a government report that will become part of its official record. The final report can be published in the government gazette or congressional record and evaluated in a special sitting of parliament or the national assembly (ideally within six months of publication) to debate the government’s response and consider any further action it may wish to take.

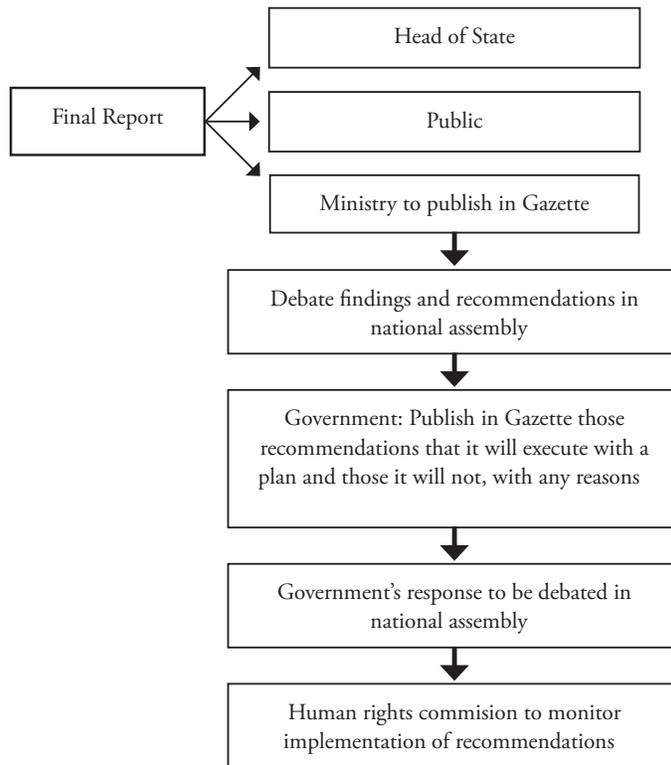
It is important that the commission’s legal mandate provide it with the authority and resources necessary to release the report in a dignified, official setting. If the commission is not authorized to release the report directly to the public, in certain political circumstances, its impact may be affected. At first, the government of Timor-Leste declined to make public the final report of the Timor-Leste Commission on Reception, Truth and Reconciliation, not even sharing it with parliament.⁶³ This created enormous frustration among victims and the general public. The report was later published, only after serious riots by former combatants demonstrated the persistence of factors of violence in the country.

The presentation of a final report can be a highly emotional and historic occasion. In Guatemala the report was presented to government and civil society leaders in the National Theater. It was the first time in the history of Guatemala that an official body recognized that genocidal acts had been committed against indigenous peoples.

61 *Supra* note 38.

62 *Supra* note 58.

63 Commission for Reception, Truth and Reconciliation in East Timor, *Chega! Final report of the Commission for Reception, Truth and Reconciliation in East Timor*, 2005.

Table 2: Presenting a Final Report

Ensuring Messages Reach the Widest Possible Audience

Due to the variety of audiences—policy makers, legislators, educators, researchers, victims, and others—consideration must be given to the different media and venues that could be utilized to maximize the report’s impact. As far as the commissions resources will allow (or in cooperation with major media outlets), the complete final report and shorter versions should be provided to the public for free.

In the months following publication, findings can be presented on television and radio programs, and commissioners should make themselves available for interviews and other press events. The report should be free for access and reproduction. In South Africa, the report’s publication was entrusted to a private academic publisher, operating under market conditions, which resulted in limited and expensive editions of the printed version.

For communities that do not have access to the internet or media outlets, books can be made available to schools and religious meeting places; or in small villages without any public buildings, a general store or other central gathering place. Audio versions could be broadcast through community radio stations.

The report should be translated and available in all commonly spoken languages, including indigenous languages, as well as the official state languages. A simplified, “children’s edition” should be written and made available in schools along with suggested lesson plans to assist teachers in presenting difficult material to children. Other communication materials can greatly increase a commission’s reach and impact, including:

- Videos and audio recordings
- Slide shows and photography collections
- Museum exhibits
- Graphic novels
- Online content
- Music and theatre performances

Commissions should consider other creative ways to effectively and memorably present the material. Peru's Truth and Reconciliation Commission created a photography exhibit in the National Museum and published a volume of photographs to coincide with the release of their final report.⁶⁴ In Timor-Leste, the Commission for Reception, Truth, and Reconciliation created a radio program as well as both illustrated and video versions of the report, and continues to maintain a public museum and library.⁶⁵ The Sierra Leonean commission developed a child-friendly version of its report for use in schools.⁶⁶

These publications and exhibits can be prepared after the formal presentation of a report, but should be available within six months, while the commission is still promoting its findings.

Acceptance of the Findings and Implementation of Recommendations

While the commission must be independent of the government, it is important that it maintains a positive relationship with the government in order to ensure it will engage actively with the report, receive it in a public event, and respond diligently.

It is usual for the executive branch of a government to receive the final report and begin the process of implementing its recommendations, although all branches of government should be involved in ensuring implementation is carried out.

The government receiving the report has an obligation to ensure that any person whose rights are violated is provided with a remedy, and it should carefully consider the options presented by the commission. While a commission's recommendations are not legally binding, the government should explain its reasons for not following certain recommendations.

Civil society should have the opportunity to express its position on major recommendations proposed by the commission and to campaign or advocate for the government to give closer attention to certain issues.

Monitoring implementation

A government's progress towards implementing recommendations should be monitored and reported on. The following bodies can fulfill this role:

- The highest human rights authority, such as an ombudsperson, ministry or commission
- A successor organization to the truth commission, established by law
- Civil society organizations

Civil society organizations, such as academic institutions and non-profit and legal organizations, are likely to have a permanent or long term presence, following the commission and be familiar with the social, legal, or economic problems of their society. An interesting example is Sierra Leone's civil society network on the truth commission, which created a system to monitor the government's responsiveness to the truth commission's recommendations. The network corresponded directly with government agencies to receive progress reports.

Whatever status monitors may have, they should be rigorous in monitoring the performance of government agencies in the implementation of recommendations. Reports summarizing progress should be published at regular

64 Supra note 38.

65 Timor-Leste Commission for Reception, Truth and Reconciliation, *Dalan ba Dame* (Road to Peace) Video, 2005.

66 Sierra Leone Truth and Reconciliation Commission, Truth and Reconciliation Commission Report for the Children of Sierra Leone (Child friendly version), 2004.

intervals and include discussions of what the government has failed to accomplish and any suggestions for implementing recommendations.

Dissolving a Truth Commission

The publication of the final report usually marks the formal conclusion of operations, although it is advisable for a commission's mandate to allow it to continue working for another three to six months, to ensure basic outreach and dissemination are completed and the commission's assets and archives are handed over to any successor institution.

During this period, the commission will likely need to address:

- *Disposal of assets, such as offices, vehicles, and equipment, in accordance with law.* Any materials on loan from public institutions will be returned. Any additional or surplus materials acquired with external funds could be donated, if the mandate allows for it.
- *Hand over of commission's accounting books, disposal of any remaining public funds, and closure of bank accounts, in accordance with law.* Publication of a comprehensive final accounting report for public scrutiny.
- *Organization and classification of the commission's archives.* The commission will generate massive amounts of documentation, including sensitive materials, such as a database of testimonies, early report drafts, and communications. Applicable legislation varies from country to country, but the commission should organize its archive, ensure its preservation, and produce a system of access that complies with relevant laws on privacy, management of evidence, protection of victims, and freedom of information.
- *Finalization of contracts.* Depending on the legal status of the staff members (full-time employees, consultants, government contractors, sub-contractors), the commission administration will need to ensure that all labor obligations have been complied with and that any pending issue, like labor disputes, are delegated to the appropriate authorities on dissolution of the commission.
- *Hand over of protection cases to the relevant authorities.* If the commission obtained protection and other services, such as legal, health, or economic assistance, for victims or witnesses, it will have to ensure that such programs are adequately continued if appropriate.

Tasks for a Successor Institution

The end of the commission should not mean the end of all outreach activities. Responsibility for the continuing dissemination and maintenance of the commission's materials should be set out in the authorizing mandate, usually taking the form of a successor institution. This may be a new office on the site of the original commission or an existing institution capable of fulfilling this role, such as a historical archive or academic institute. In the latter case, it is important to ensure that it is an independent body, like a human rights ombudsman, with the ability to successfully engage with civil society and state institutions.

The scope and nature of the any follow-up activities should be defined by the commission and agreed on by the successor organization. Some of the tasks entrusted may include:

- Providing all interested parties with a copy of the report. The successor institution should ensure that all relevant state authorities receive copies of the final report, its executive summary, and any necessary annexes as well as responding to any additional inquiries on specific areas of the report
- Ensuring that media receive the report and any supporting materials as well as responding to specific questions on all aspects of the report

- Ensuring that victims and their representative organizations receive copies of the report and, when possible and appropriate, recognition for their participation in the work of the commission
- Ensuring that national and international civil society, including donors, humanitarian agencies, and governmental human rights bodies, receive copies of the report

While the work of the successor organization will vary, depending on the circumstances and resources available, it should ensure that the archives remain accessible to the public and that the final report and other materials are kept available, either in print or electronic form. Proper consideration should be given to protecting the identities of witnesses who may be endangered by their testimony or for the protection of files used by prosecutorial authorities.

If resources allow, it could also involve the maintenance of memorial spaces or educational programs. A good example is Timor-Leste, where the president authorized the creation of a Post-CAVR Technical Secretariat, which operates under the executive branch of government.⁶⁷ The secretariat has four primary responsibilities: 1) to complete the CAVR's technical tasks, such as finishing financial audits and publishing additional copies of the final report; 2) disseminating the final report and other published materials to the public; 3) managing the Comarca Balide heritage site, a former prison now converted to a public space, and 4) maintaining the commission's archives.

Setting the Groundwork for Exhumations, Commemoration, and Public Access to Witness Statements

While a commission's findings have no legally binding power on their own, the final report is likely to be the most comprehensive and authoritative record of the events yet created. As such, it will be the starting point for future civil actions. The information within the communications and publications will also be highly influential: the way that events are portrayed—and which events are included—will affect what legal remedies lawmakers make available to victims and which victim's groups will be included in reparations and other recovery programs.

Some countries may establish a formal mechanism for victims to receive reparations, usually through an administrative court or agency. Providing reparation is a way for a government to officially recognize that a victim has suffered a human rights violation and is entitled to a financial remedy as compensation. Victims may need to prove that they are a member of a group entitled to reparations or produce some kind of evidence indicating that they suffered harm. A country may also allow for victims to bring civil suits for monetary damages against individual or institutional perpetrators.

Comprehensive reparations encompass measures of satisfaction for the victims, such as the issuing of formal apologies by the highest national authorities, creating a day of commemoration, consecrating a public space, or creating sites of conscience. Any activities must be undertaken with dignity, sincerity and solemnity. In Canada and Australia, the governments have offered solemn apologies for abuses committed in the past to indigenous populations in special sessions of parliament.⁶⁸

All information obtained by the commission on sites of illegal burial should be handed over to the appropriate authorities to ensure the exhumation and identification of the deceased and to ensure that families and communities can mourn in accordance with their customs and rituals.

It is important to be mindful that while the lifespan of a commission is brief, the issues raised and the information dispersed throughout the country will be the foundation of further discussions, inquiries, court cases, and the long and slow process of national healing for years to come.

67 Commission for Reception, Truth and Reconciliation in East Timor Website, Homepage, www.cavr-timorleste.org/. Last visited on March 13, 2013.

68 Prime Minister of Canada Website, "Prime Minister Harper offers full apology on behalf of Canadians for the Indian Residential Schools system," June 11, 2008, www.pm.gc.ca/eng/media.asp?id=2149. *Apology to Australia's Indigenous Peoples*, Prime Minister Kevin Rudd, MP, Australia, February 13, 2008.



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Eduardo González and Howard Varney, eds., *Truth Seeking: Elements of Creating an Effective Truth Commission*. (Brasília: Amnesty Commission of the Ministry of Justice of Brazil; New York: International Center for Transitional Justice) 2013.

75 pages.

This publication is also available in Arabic, French, Portuguese, and Spanish.

