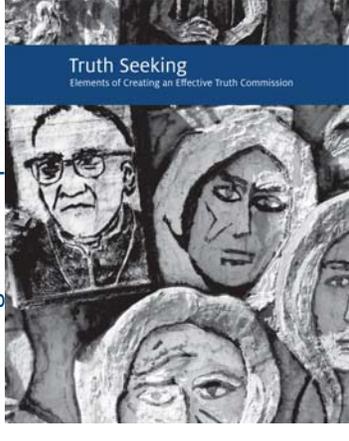


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Chapter 5

A Critical Moment: Setting Up the Truth Commission

“Through attributing responsibility for the different causes of the conflict, and the many violations of human rights committed throughout it, we create accountability and state unequivocally that we reject impunity. With this knowledge and understanding we vow to build a society that will be able to prevent such causes and violations from recurring.”

“Witness to Truth, Report of the Sierra Leone Truth & Reconciliation Commission,” Volume 1, 2004

An effective preparatory phase will assist and facilitate the commission's deployment and operations. In Timor-Leste, extensive consultation in the country's 13 districts led to the formation of partnerships in each to support the work of the commission's local offices. Unless decisively addressed, weaknesses in the preparatory phase will be sorely evident.

Failure to review and understand the legal mandate may affect the design of the inquiry and the hiring of research staff. The Kenyan Truth, Justice and Reconciliation Commission did not realize until late in the process that its research had failed to obtain the best information on addressing economic crimes. The productive deployment of the commission's forces, then, assumes a strong and effective preparatory phase. If critical preparatory tasks are incomplete, the commission will waste energy solving problems as they emerge.

- Commissioners must review the legal mandate in order to establish a common understanding of its main components and objectives. They should invest time in clarifying any divergent interpretations or doubts, and develop consensus and compromise on important issues.
- Commissioners must conduct initial outreach with important partners, especially victims, to learn their views on the legal mandate, and their expectations, suggestions, or demands regarding the process. Frank and open discussions are more likely to occur in small, private, focused meetings that allow commissioners to develop rapport and common understanding with these individuals and groups.
- Commissioners must develop the terms of reference and hire essential personnel. Essential staff include senior officers who will establish and manage administrative, research, and outreach systems. The speed of the hiring process will depend on the mandate and the regulations applicable to public institutions. However, the government should provide all necessary procedural assistance to support and facilitate the initial hiring phase. If government personnel are seconded to the commission, it is important that they answer only to the commissioners for the duration of their service.

The government should provide the support necessary to ensure that the commission's initial tasks are carried out effectively and efficiently. Authorities should provide adequate financial and logistical support to a commission, including assistance to locate suitable offices. Where necessary, a commission should be permitted to solicit and obtain financial and expert support from the civil society and international community.

Standards, Policies, Procedures, and Work Plans

Once essential personnel have been hired, the commissioners must develop standards, policies, and procedures that will ensure proper governance and operations. These could include:

- A manual of functions, clarifying the commission's rules regarding decision-making, governance, and administration
- An organizational chart clarifying lines of reporting between commissioners and staff, the division of labor, and any operational deployment throughout the country
- A work plan, including the projected use of time, calculations of human and material resources needed, and a budget developed in accordance with appropriate government procedures
- Investigative and research plans that propose basic methodological approaches and specify forms of interdisciplinary cooperation
- Outreach and education plans for communicating the commission's mandate and operations to the public
- A declaration of principles and commitments governing the relationship between the commission, other public institutions, citizens, and civil society, including victims' groups

The preparatory phase is characterized by staff working in small teams and reporting directly to the commissioners and/or the commission's executive committee. Any delays in completing important tasks during this phase can cause anxiety and lead to a general loss of confidence in the commission's ability to carry out its mandate. Prolonged delays will also compromise the commission's operations and other phases of work.

Budgets

It is important for government to appreciate the operational requirements of a commission before allocating funding. Decisions on allocating funds for a commission have often fallen on parliament (as part of annual budget planning) or the executive (as part of their discretionary funding). In some cases, governments have allocated financial resources to commissions before they have started operations; however, allocating a budget too soon can jeopardise the commission's independence and may restrict operations.

A reasonable approach would be to ensure that the commission's first funding allocation is provisional, in order to support its initial phase, and make all subsequent funding subject to adjustment to reflect commissioner decisions.

Some commissions have used special funds separate from any standard parliamentary budget process or funding from international donors. More than 50 percent of the budget for Peru's Truth and Reconciliation Commission was recovered from secret foreign bank accounts held by corrupt officials.⁴⁰ Commissions in Sierra Leone and Timor-Leste were largely funded by international donors.

As a public institution, a truth commission should respect best practices of governmental transparency. Allocating resources for salaries, operational activities, and capital investments must closely follow the objectives and functions of the commission, as established by the mandate and the commission's work plans.

Because commissions often operate under difficult economic conditions, such as in post-war or post-dictatorship contexts, it is important that they be regarded as a frugal and austere institution, focused on operational activities. Salaries should be appropriate for experienced professionals—and not perceived as lavish.

Budgetary categories generally fall into four main categories:

- *Salaries* for commissioners and staff in program units, established upon review of the legal mandate; typically both legal and interdisciplinary social-science expertise; statement-taking and data processing expertise; victim support; public communication, outreach, and education support; and administrative support.
- *Operations* to complete research, outreach, and communication activities. This typically includes statement-taking, creating data management systems, outreach campaigns, organizing and publicizing hearings, and producing publications. These activities can require extensive travel within the country.
- *Capital investments* to furnish offices with equipment and vehicles.
- *Administrative expenses* and financial costs associated with the rental of space, banking, record keeping, and auditing.

Early Public Awareness and Sensitization

Efforts to communicate and educate the commission's mandate to the public should continue throughout the preparatory phase in collaboration with partners and civil society organizations. These efforts should inform the public of their rights and opportunities to access and participate in the commission's investigations.

⁴⁰ See, for example, Law No 28.476 of Peru on the Special Fund for the Administration of Money Illegally Obtained from the State (Ley del Fondo Especial de Administración del Dinero Obtenido Ilícitamente en Perjuicio del Estado), March 22, 2005, Art. 8 (g).

The commission should develop a strategic communication plan that identifies target audiences; sets clear goals and short-, medium- and long-term actions to achieve these objectives; and evaluates its effectiveness.

A range of media can be used to create awareness and build momentum, including radio, TV, press, songs, drama, and posters. Printed media can be distributed at outreach events and through civil society networks and local contacts. Commissioners should visit provinces and outlying districts to raise awareness of the commission's work and consult with important partners on issues of truth, accountability, and reconciliation.

Other effective public outreach activities include town hall-style meetings, where commissioners and staff can discuss the commission's activities and respond to questions. Consultative meetings and training programs can be held with victims, ex-combatants, police, military, parliamentarians, religious leaders, teachers, women, children, youth, and others. This is best done in small groups, with an emphasis on discussion and participation. Conferences are an effective way to focus attention on specific issues while bringing together different groups with similar interests. Partner organizations can also be trained and encouraged to conduct their own outreach and education activities among members.

Mapping and Background Research

Commissions often attempt to estimate the nature and extent of violations before they begin operations by conducting a preliminary mapping project that helps to identify potential challenges and assess needs. This involves the collection and analysis of information from different sources, including documents, witness interviews, and consulting with field experts.

Mapping provides a macro view of the conflict, taking into account:

- The nature and extent of incidents that took place
- When and where incidents occurred (to develop a sense of the scale of violations)
- Who the victims are
- The likely identity of perpetrators
- A chronological overview of events, province by province
- Any existing justice, reconciliation, and victim support initiatives
- Potential leads or sources of evidence
- Any patterns of abuse

When properly executed, mapping enhances the objectivity and effectiveness of the commission, enabling it to make strategic decisions based on preliminary indications of actual events, rather than on speculation. It also allows the commission to make realistic estimates for resource allocation, develop a coherent approach to statement taking, and identify themes for investigation and research.

Mapping can be carried out by a civil society organization with the necessary expertise, often supported by the United Nations or another institution with necessary resources.

After mapping violations, a commission can begin background research to develop a strong foundation for more coherent research and investigation during the later operational phase. Background research could include:

- Establishing important sources of information, documents, and reports—those that are either confidential and in the public domain:

- Government (justice, human rights, military, and police authorities)
 - United Nations, major international human rights bodies, and diplomatic missions
 - National and international media
 - Nongovernmental organizations (human rights bodies, unions, religious groups, aid agencies, and victims' associations)
- Holding meetings with representatives of organizations to present the commission's plans and objectives, and to seek partnerships
 - Collection and analysis of documents
 - Consulting with different national and international experts to evaluate research and strategic decisions

Exploring Local Customs

During the preparatory phase, the commission should learn how different affected groups are accustomed to dealing with human rights violations, punishment, accountability, and reconciliation. These studies are usually carried out by experts, such as social anthropologists, psychologists, and historians. They should provide guidelines on how to integrate local ethnic, religious, cultural, and other social processes and institutions into the commission's work, in a manner that is responsive to diverse traditional beliefs and customs, such as those of indigenous peoples, and secures their free, prior, and informed consent.⁴¹

Support and Advisory Groups

If permitted by the mandate, development partners, the international community, and civil society groups could form support networks to monitor, advise, and provide technical assistance to the inquiry. The Canadian Truth and Reconciliation Commission is advised by a committee of indigenous elders, who meet with commissioners and staff. The Sierra Leonean commission was monitored by a network of human rights organizations. The Peruvian commission established a network of victim groups to solicit advice during the development of its reparations policy.

⁴¹ Supra note 26.



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