

IN DEPTH

Truth Commissions' Impact Assessment

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Truth commissions (TCs) have become a recurrent mechanism for states to deal with and address past human rights violations in the aftermath of conflict or state repression under authoritarian rule. Transitional justice experts and the United Nations estimate that more than forty commissions have been established in different countries and regions in the past forty years. Often these commissions are established with high expectations. According to the 2004 report of the United Nations Secretary General, TCs are expected to help post-conflict societies establish the facts about past human rights violations, foster accountability, preserve evidence, identify perpetrators and recommend reparations and institutional reforms. Despite these expectations, literature of the past decade has raised doubts regarding the impacts of TCs, pointing at the need for more empirical research. Research has focused, mainly, on the impacts at a societal and state level, and specifically their impact on outcomes such as human rights and democracy. More recently, literature has started focusing on the impact as processes. In this brief article, first, I review some of the literature assessing the impacts of TCs on human rights and democracy. Second, I reflect on the avenues that an assessment of impact of TCs as processes could open.

TCs' impact on democracy and human rights

Studies assessing these impacts have reached very different conclusions. One of the earliest quantitative studies finds a significant positive relationship between post-authoritarian regimes in Latin America that have established a TC since 1979 and their level of electoral democracy¹. In another study, the authors arrive to very different conclusions when they assess the impacts of trials, TCs and amnesties on democracy

and human rights. With regards to commissions, they find there is no evidence to suggest TCs improve democracy and they even find a negative relationship between TCs and human rights². These results coincide with a separate study by Brahm who finds that TCs have had negative consequences on human rights and they have no impact on democracy³. Kim and Sikkink reach very different results. Their study assesses the impact of human rights trials and TCs in “repression”, defined as torture, summary execution, disappearances, and political imprisonment. Their findings suggest that the use of human rights prosecutions and TCs contribute to lessening repression⁴. The previous analysis shows disagreement among these studies. These differences could be the result of lack of consensus on the overall number of TCs due to divergences on what constitutes a TC.

“ There is strong disagreement among studies assessing the impacts of Truth Commissions in outcomes such as democracy or human rights ”

Qualitative studies have also researched the impacts of TCs on democracy and human rights. Barahona de Brito et al. find no direct correlation between TCs and trials and democratic improvement⁵. Another study finds that TCs have had a positive effect on democracy in countries where a prodemocracy coalition holds power in a fairly well institutionalized state⁶. This study also claims that TCs are most likely to be useful ‘when they provide political cover for amnesties and when they help a strong, reformist coalition to undertake the strengthening of legal institutions’⁷. In his assessment of TCs’ impacts on democracy and human rights in South Africa, Chile, El Salvador, and Uganda, Brahm finds that TCs are relatively ineffectual in promoting democracy although they have positive influence on human rights in the four cases⁸.

As is the case with quantitative studies, there are disagreements among these qualitative studies. A challenge to assess impacts of TCs is that most studies end with the immediate aftermath of the release of the commission’s final report and hence we have little sense of the longer-term effects of TCs⁹. Another challenge qualitative

studies face is how to isolate the effects of TCs from an ongoing transition. In a context of transition from authoritarianism to democracy or from war to peace a decrease in human rights violations would be expected even if a TC had not existed. To isolate the effects of TCs, recent studies have started to trace causality between a commission and its alleged impacts. Particularly, through tracing whether or not TCs' recommendations have been implemented. Recommendations appear as the causal chain that link a TC with a variation in an outcome of reference, such as democracy or human rights.

The impact of commissions as processes: taking into account civil society participation

Recent critiques to research on the impacts of transitional justice mechanisms emphasize an excessive focus on preconceived outcomes rather than on the process and how this process links to an outcome. Simon and Gready join others in advocating for a change from transitional to transformative justice. Transformative justice would propose, among other measures, a focus on civil society participation in the design and implementation of transitional justice mechanisms¹⁰. For Gready and Robins, transformative justice and transformative participation require more focus on process, on the interface between process and outcomes and on mobilization, and less focus on preconceived outcomes. Such mobilization can take place around court proceedings, truth commissions or reparations advocacy, or simply around the needs of victims and citizens. It can seek to support, shape or contest such mechanisms¹¹.

Considered as processes, TCs allow for sustained mobilization and participation from victims and broader civil society. If we examine TCs as processes, we can clearly distinguish three different chronological stages with different degrees of public engagement. This public engagement generates relationships and interactions among different groups within society, particularly, among those groups that were affected by the armed conflict.

“ The vertical relationships TCs generate between victims and civil society with the governing regime are particularly important ”

The first stage would comprise the time before the establishment of a TC and it includes the period of discussions, negotiations and consultations leading to its establishment. Consultations with victims and civil society on the characteristics of a future TC has been a persistent aim of the United Nations and human rights organizations working in transitional settings. Here victims and civil society can play a very important role in advocating for a commission with a concrete mandate, a transparent and public process to appoint commissioners or any other relevant aspects. During this stage, TCs generate vertical relationships between civil society and the governing regime. Much less explored is the relationship between TCs and victims and civil society during the two following stages. The second stage would comprise the time since the commission starts its work and up to the submission of its final report, when it ceases to exist. During the time of operations, victims, representatives from civil society interact with the TC providing information about violations that have taken place. The third stage, starts with the period after the submission of a TC's final report, which contains the recommendations. Here TCs generate a vertical relationship between civil society and the governing regime, when civil society pressurizes the government to implement TCs' recommendations.

The relationships TCs generate should allow a broad range of participants to feel being part of a process and not just observers. Particularly important are the vertical relationships TCs generate between victims and civil society with the governing regime. Lederach identifies the lack of connection between grassroots and high-level political processes of negotiation, what he calls the vertical gap, as the single most significant weakness in peacebuilding processes¹². A TC can fill this gap by empowering people in their interaction with state representatives and generating meaningful relationships. This entails the need for the governing regime to be responsive to the citizens'

demands. The transition from the old regime, which has lost legitimacy, to a new regime, entails opening up the state apparatus to the citizens, specifically to those who suffered violations from the state.

To conclude, there is strong disagreement among studies assessing the impacts of TCs in outcomes such as democracy or human rights. Recent literature has started emphasizing the need to integrate a focus on the impacts that TCs have as processes. Such an approach would take into account victims and civil society participation in TCs. Specifically, whether or not victims and civil society are empowered in their interactions with the government before the establishment of a TC, during its work and as a result of the recommendations compiled in a TC's final report. Before, its establishment, victims and civil society would be empowered if governments establish a TC with a mandate, powers and commissioners according to their demands. During the time of operations, victims would be acknowledged and empowered if a TC collects their statements about violations they have suffered. After the submission of the report, victims and civil society would be empowered if their mobilization leads the government to implement the commission's recommendations. Overall impact would be assessed on the basis of whether or not a TC has rendered governments accountable to victims and civil society demands.

1. KENNEY, C. D. & SPEARS, D. E. 2005. Truth and Consequences: Do Truth Commissions Promote Democratization? *2005 Annual Meeting of the American Political Science Association*.
2. OLSEN, T. D., PAYNE, L. A. & REITER, A. G. 2010. The Justice Balance: When Transitional Justice Improves Human Rights and Democracy. *Human Rights Quarterly*, 32, 980-1007.
3. WIEBELHAUS-BRAHM, E. 2010. *Truth commissions and transitional societies: the impact on human rights and democracy*, New York, Routledge.
4. KIM, H. & SIKKINK, K. 2010. Explaining the deterrence effect of human rights prosecutions for transitional countries. *International Studies Quarterly*, 54, 939-63.
5. BARAHONA DE BRITO, A., GONZALEZ-ENRIQUEZ, C. & AGUILAR, P. 2001. *The Politics of Memory: Transitional Justice in Democratizing Societies*, Oxford, Oxford University Press.

6. SNYDER, J. & VINJAMURI, L. 2004. Trials and Errors: Principle and Pragmatism in Strategies of International Justice. *International Security*, 28, 5-44.

7. SNYDER, J. & VINJAMURI, L. 2004. Trials and Errors: Principle and Pragmatism in Strategies of International Justice. *International Security*, 28, 5-44.

8. WIEBELHAUS-BRAHM, E. 2010. *Truth commissions and transitional societies: the impact on human rights and democracy*, New York, Routledge.

9. WIEBELHAUS-BRAHM, E. 2010. *Truth commissions and transitional societies: the impact on human rights and democracy*, New York, Routledge.

10. LAMBOURNE, W. 2009. Transitional Justice and Peacebuilding after Mass Violence. *The International Journal of Transitional Justice*, 3, 28-48.

11. GREASY, P. & ROBINS, S. 2014. From Transitional to Transformative Justice: A New Agenda for Practice. *The International Journal of Transitional Justice*, 8, 339-61.

12. LEDERACH, J. P. 2012. The origins and evolution of infrastructures for peace: A personal reflection. *Journal of Peacebuilding & Development*, 7, 8-13.

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