

Truth Commissions

and Their Contributions to Atrocity Prevention

Executive Summary

Introduction

As transitional justice (TJ) as a process has developed and normalized over the last several decades, it has increasingly been linked by practitioners and policymakers not only to confronting and offering redress for human rights violations in the past, but also to the prevention of future abuses. To date, however, this preventive aspect of transitional justice has largely been taken for granted; few have attempted to evaluate if and exactly how transitional justice serves as a preventive force. **This report seeks to address this gap by asking an important question: how and when can one of the key transitional justice mechanisms, the truth commission, contribute to mass atrocity prevention?**

A truth commission (TC) is a temporary, independent institution established to investigate a series of human rights violations that occurred over a specific period of time, with the goal of publishing a final report that details these findings and recommends steps forward. Since the first truth commission in 1974, a series of best practices have focused on strengthening the procedural aspects of truth commissions, rather than increasing their capacity to contribute to atrocity prevention or the non-recurrence of violence. **In other words, there has been ample focus on building truth commissions to investigate well and thoroughly the past and to meet the needs of victims in the**

present, but not nearly enough research exists on how truth commissions can contribute to the prevention of recurrence in the future.

Approach

Over the last two decades, scholars and practitioners have become increasingly adept at assessing which risk factors most put a society at risk to experience genocide or other forms of mass atrocity. This research has resulted in an array of risk assessment models that outline these risk factors for mass atrocity. If we know the risk factors that most commonly contribute to genocidal violence, we can measure preventive impact by evaluating if and how an initiative contributes to mitigating one or more of these commonly accepted risk factors.

This research takes as its hypothesis that truth commissions are not always or inherently preventive. We can say, however, that when truth commissions contribute to mitigating one or more of the risk factors associated with mass atrocity violence, they are playing a preventive role, in addition to the other work they are doing to rebuild a traumatized society.

We have taken a mixed-methods approach to this research, evaluating both quantitative and qualitative data to measure if and how truth commissions can impact the mitigation of mass atrocity-related risk factors. For the quantitative research, we began by drawing together a

list of 50 truth commissions. Within this set of truth commission cases, we also created a subset of 34 “legitimate” truth commissions that met a higher standard of best practice. Next, we compiled a list of 54 negative cases: countries that had experienced at least one year of internal political or ethnic violence after 1974 (the year of the first truth commission), in which that violence had come to an end, but no truth commission had been implemented afterwards.

Having clearly drawn our experimental and control groups, we pulled an array of known risk indicators for mass atrocity violence from three respected risk assessment models. We culled through these models to identify all risk factors that could potentially be impacted by the presence of a truth commission and found fifteen risk factors that fall into three broader categories: governance, economic conditions, and social fragmentation. For all 104 cases, we gathered quantitative data on 26 risk indicators that coincided with these factors.

In addition to this quantitative analysis, this research also included a hefty qualitative component. We selected eight specific truth commissions from seven different countries to examine in greater depth. For each country, an expert completed an in-depth questionnaire that asked if and how the truth commission contributed to mitigating various specific risk factors. This qualitative data served both as means to support and explain quantitative results and to uncover other potential ways that truth commissions can reduce risk that may not show up in the statistical indicators.

Findings

We began by measuring differences between positive and negative cases of truth commis-

sions in the Atrocity Forecasting Project model out of Australia National University. This is a model that measures overall risk that a genocide or politicide will occur within a country within a five-year period. We found that all cases—both negative and positive—saw an overall reduction of risk. **Cases that implemented a truth commission, however, saw a 46.1% greater reduction in overall risk, on average over time, compared with those cases that did not implement a truth commission.**

Now that we have measured overall risk, we turned to differences between truth commission cases and non-truth commission cases on the full array of risk indicators. Our findings are as follows:

- Twelve indicators were analyzed to measure differences in democratization processes in cases without truth commission, those with truth commissions, and those with legitimate truth commissions. **Cases with truth commissions scored, on average, 2.93 points higher on the Polity IV Scale than those without. When the set was narrowed to only include legitimate truth commissions, these cases scored 5.22 points higher—a highly significant difference.**
- **There was also a statistically significant difference between negative cases and legitimate TC cases on nine other indicators, including measures of civil liberties, rule of law, egalitarian democracy, and access to justice, among others.**
- **Legitimate TC cases demonstrated statistically significant increases in civil society participation and participatory democracy.**
- **Legitimate TC cases also presented statistically significant increases in legislative**

and judicial constraints on the executive, which have been shown to serve as a mitigating factor for atrocities.

- **Qualitative data relating to governance supported the above findings, while also revealing some impacts that may not be obvious from the quantitative data, including the ability for truth commissions to respond to the risk factor of systematic state-led discrimination.**
- **We found no connection between truth commissions and mitigating risk factors relating to economic conditions.** As such, according to this research, at least, it seems as though mitigating risks relating to economic conditions is a job best suited for other mechanisms of transitional justice—perhaps reparations and institutional reforms—rather than truth commissions.
- **Qualitative data revealed several ways that specific truth commission have responded to risk factors related to social fragmentation, including identity-based social divisions and unequal access to basic goods and services.**
- **Quantitative data reveals a statistically significant difference between negative cases and legitimate TC cases when it comes to the political empowerment of women and women’s civil liberties.**

Whether the truth commissions themselves are causing risk reduction or if the implementation of a truth commission is indicative of a society that is taking the right steps to reduce risk generally speaking, **it is evident that, on average, societies that implement a truth commission, especially legitimate truth commissions, see higher levels of positive risk reduction over**

time compared to those societies that do not on a number of indicators. This conclusion does warrant several important caveats.

First, it is unlikely that truth commissions alone are responsible for all the risk reduction we have found. Periods of transition in the aftermath of mass atrocity are particularly politically and socially complex times full of risk and opportunity. It is improbable that any one mechanism for dealing with past abuses can singlehandedly mitigate all the risk that led to mass atrocities. Furthermore, asking so much of any one mechanism is certain to lead to disappointment. Instead, it seems clear that success is most evident when multiple mechanisms work in a complementary fashion to address all these risks.

Second, as we hope to show through the qualitative data, truth commissions may have a significant impact on some risk factors, even if the numbers do not show this impact. For instance, in Canada we see a vast array of policy and programs being implemented in response to the final recommendations of the TRC. To date, however, these changes are not so evident in the quantitative data. The lack of movement in the numbers, however, may have more to do with the fact that we only have access to nationwide numbers that do not reflect change at more local levels. Indigenous peoples represent less than 5% of Canada’s population. As such, even if these communities do experience positive changes, national numbers may not reflect those changes so well.

Finally, and perhaps most importantly, the results here measure how risks have been reduced in societies that have implemented truth commissions, and it clearly finds that societies with truth commissions, on average, see an in-

creased reduction of certain risk factors compared to those without truth commissions. Such is the reality even though, to date, truth commissions have not explicitly been set up with risk reduction in mind. As we mentioned at the beginning of this report, best practices relating to truth commissions to date have focused largely on the procedural aspects of the commissions, rather than their preventive capacity. **If truth commissions could be contributing so significantly to risk reduction even when they have not been explicitly constructed to do so, the question becomes: how much more could they reduce risk if an atrocity prevention lens were actively incorporated into the founding and implementation of truth commissions?**

Guiding Principles

Based on this research, we offering 14 guiding principles for how truth commissions can be shaped with an atrocity prevention lens, in the hopes of increasing their preventive impact beyond where it already may be.

- 1. Risk assessment should be incorporated within the truth commission's mandate.** By asking commissioners not only to evaluate structural risk factors from the past, but also which risk factors continue to exist, the truth commission could take on a more future-oriented valence.
- 2. Broad mandates can provide more freedom to commissioners, but this requires commissioners who are willing to think big.** Every truth commission has a mandate it is established to investigate. This mandate outlines the types of crimes and the period of time to be evaluated by the commission. Broader mandates provide more political space in which commissioners can maneu-

ver, leading to more creative choices and potentially more productive outcomes.

- 3. Just because certain issues have been dealt with through other mechanisms does not mean the truth commission should not also confront these issues.** Even if certain aspects of human rights abuses are being addressed explicitly by other transitional justice mechanisms, the truth commission can still support and reinforce those efforts.
- 4. The truth commission's structure should reflect the risks and challenges that it is likely to face.** Every truth commission is operating within a political environment that will shape its capacity and its success. When they are established, these realities must be actively considered, and their structural capacities should help overcome any challenges these realities may present.
- 5. The mainstreaming of traditionally excluded groups needs to happen from the very beginning, not as an afterthought.** If one of the central goals of a truth commission is to respond to the abuses faced by a group that has been historically excluded in some way from political life, efforts must be made from the very beginning to include those groups within the structure and mandate of the truth commission.
- 6. Working groups and/or special sessions and hearings with specific identity groups can help to address identity-specific risk and to gather solutions from impacted stakeholders.** These processes of inclusion can provide novel opportunities to consult with traditionally excluded groups, who can help to identify identity-specific risk that may not be so evident from the outside.

7. **Women should be approached as more than victims of sexual crimes.** Women are also statistically more likely to be victims of socio-economic crimes during periods of mass violence. By acknowledging and investigating this reality, truth commissions can also shine a light on structural risk factors relating to gender inequalities, opening avenues for these risk factors to be addressed through subsequent policy measures.
8. **Commissions should evaluate and respond to economic risk factors that may prevent excluded groups from participating, and actively work to mitigate that risk throughout implementation, thus increasing participation.**
9. **The recommendations process can also involve other stakeholders, not only commissioners.** We recommend that the process of drafting final recommendations can and should also involve other stakeholders, in particular members of victimized populations, who are better equipped to articulate exactly what they would like to see change in response to the abuses they have suffered.
10. **Recommendations can be framed in a way that asserts risk and presents recommendation as a mitigator of that risk.** Framing the recommendation as an answer to a still-present threat may increase a sense of urgency to respond to its call.
11. **Sometimes vague recommendations leave open more space over a longer period for innovative public policy when it comes to prevention.**
12. **If it's not seen, it doesn't exist.** Not allowing for the commissioners and staff to also have

a hand in disseminating and educating the public about their findings is a missed opportunity, particularly when it comes to prevention.

13. **Some sort of follow-up mechanism is necessary.** It has become increasingly clear that some mechanism is necessary to monitor and promote the implementation of final recommendations after the truth commission has come to an end.
14. **Follow-up mechanisms should look not only at implementation, but at risk, as well.** Once this follow-up mechanism exists, it should incorporate a prevention lens in its mandate from the beginning. Rather than only evaluating the implementation of final recommendations, this mechanism should also have the mandate to perform consistent risk assessments of the given country, asking which risks from the past still exist and which new risks are emerging.

Conclusion

It is our hope that this research has demonstrated that, rather than only articulating the factors that have contributed to violence, truth commissions, in the ways they are structured and implemented, present opportunities for reversing or mitigating various of these factors, as well. By applying an atrocity prevention lens to truth commissions from the beginning, we can only dream of how much more they can contribute to the non-recurrence of violence that, in the end, is the hope of all who enact this and other transitional justice mechanisms.