

RESEARCH REPORT

# Reports That Transform

## Reporting Truth and Making Impact

October 2024



**Cover Image:** United Nations Assistant Secretary General Alvaro de Soto (left) receives a report of Guatemala's Historical Clarification Commission titled "Memory of Silence" from Otilia Lux de Coti, a member of the commission, during a ceremony at the capital's National Theater on February 25, 1999. (Reuters)

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Howard Varney

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### **About ICTJ**

The International Center for Transitional Justice works across society and borders to challenge the causes and address the consequences of massive human rights violations. We affirm victims' dignity, fight impunity, and promote responsive institutions in societies emerging from repressive rule or armed conflict as well as in established democracies where historical injustices or systemic abuse remain unresolved. ICTJ envisions a world where societies break the cycle of massive human rights violations and lay the foundations for peace, justice, and inclusion. For more information, visit [www.ictj.org](http://www.ictj.org)

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## Introduction

These guidelines seek to assist those writing final reports of a truth commission or other large inquiry to deliver reports that accurately reflect the truth and make credible findings and persuasive recommendations. A final report is the ultimate deliverable of years of painstaking work. Each inquiry is invariably judged by the quality of its final report.

This manual draws on real-life experiences from multiple truth commissions and includes extracts and examples from operational documents. It offers guidance to team managers, investigators, researchers, and report writers working directly on large inquiries.

Large inquiries are often overwhelmed by the sheer volume of information and data that they collect. Translating such data into an accessible report is a huge challenge. This document is aimed at assisting practitioners to overcome these obstacles and produce impactful reports that deliver answers and help to transform society.

Writing a final report for a large inquiry requires careful planning. It is an incredibly labor intensive and complex exercise because it involves transforming raw data, primary materials, and information from statements, interviews, and hearings into a readable report. It requires a core group of skilled and dedicated personnel who are willing to work beyond the call of duty to get the job done.

A commission's final report should do more than set out a record of its work and what occurred during the period covered by its temporal mandate. It should inspire people to do better, to ascribe to new values, and to build a new humane and caring society.

A diagram of a typical truth-seeking cycle is set out in Figure 1 below. There are no bright lines or clear distinctions between these steps, and there is generally considerable overlap between steps 2 to 5.



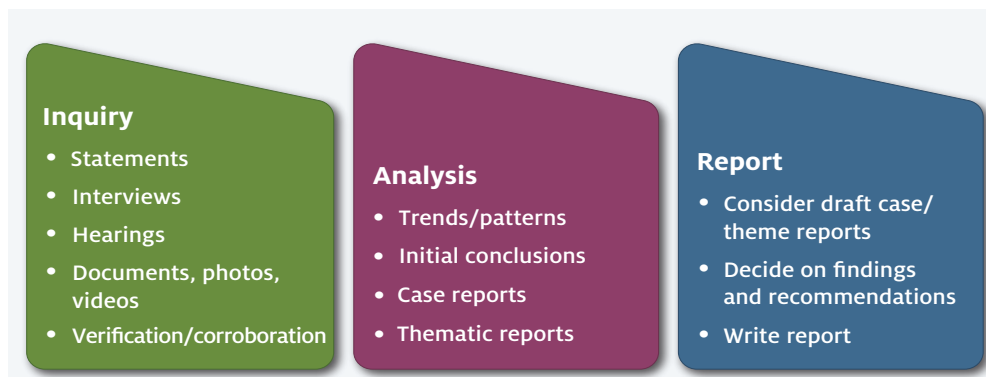
Photo 1: The Sierra Leone Truth and Reconciliation Commission's final report, shortly before its handover to the United Nations Security Council on October 27, 2004. At the handover, Sierra Leone's then-Deputy Foreign Minister, Mohamed Lamin Kamara, described the report as both documenting his country's ugly past and shining a light toward a promising future. (Howard Varney/ICTJ)

Figure 1: Truth-Seeking Cycle



The flow chart in Figure 2 sets out the main activities involved in inquiry, analysis, and reporting.

Figure 2: Typical Fact-Finding Flow Chart



These guidelines are not intended for reading in a single sitting; rather, they are intended as a resource that staff and commissioners can turn to as they face specific challenges during the last phases of a truth commission’s life. They deal primarily with:

- How to make sense of the mountain of data collected.
- How to analyze raw data.
- What key questions to ask and resolve in a final report.
- How to convert the data into a readable and useful final report.
- How to organize the report-writing phase.

- How to make findings and recommendations.
- What report formats are typically utilized.

### Time Is the Enemy

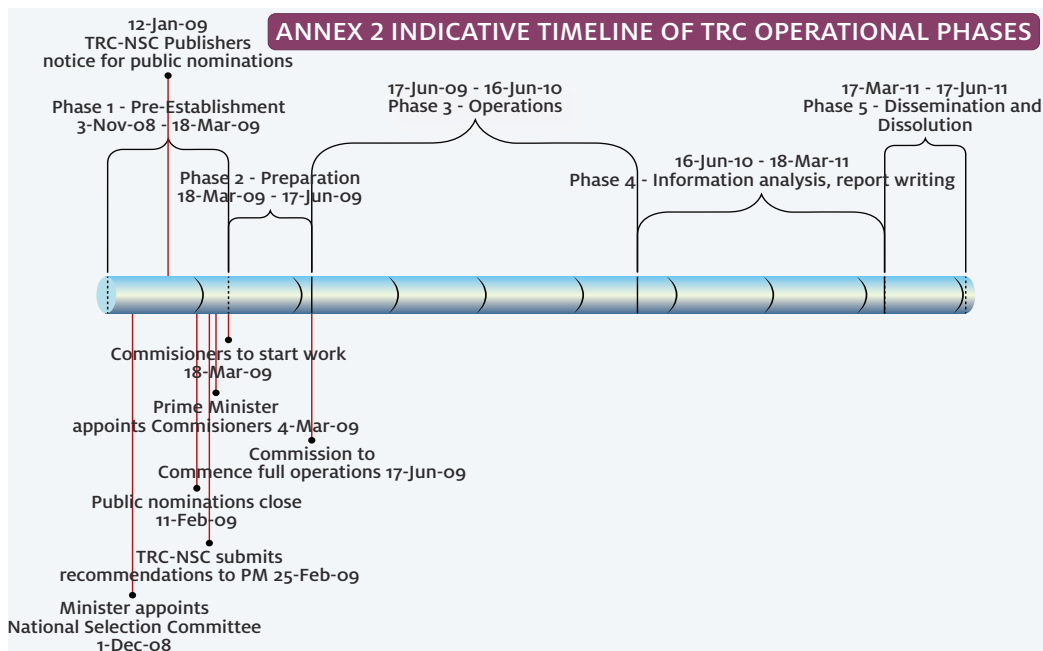
Virtually all truth commissions and fact-finding bodies underestimate the effort and time needed to collate and analyze information and write the final report. Inevitably they run out of time during their last phases. Most commissions seek extensions in order to complete their work. The planned timeline in Figure 3 of the Solomon Islands Truth and Reconciliation Commission gives an indication of the compressed schedule of a typical truth commission.

Such activities require considerable time to plan and implement. It is likely that at least six months is required. Only when the commission and its staff strategize and plan the final report writing will it be able to determine exactly how much time is needed and what personnel and resources are required.

During the closure period it is likely that the full complement of staff and commissioners will not be required and only a reduced number of staff need to be retained. The Truth and Reconciliation Commission of Canada, for example, took a full year to finalize its report, retaining only a small group of staff and one commissioner tasked with writing the report.

Table 1 sets out the planned timetable of the Sierra Leone Truth and Reconciliation Commission (Sierra Leone TRC) from the end of hearings in August 2003 to its closure in April 2004. It is sobering that none of the deadlines in the timetable were met. Its final report was meant to be finalized in early December 2003 and handed to the Sierra Leone president in mid-January 2004. However, report writing continued into April 2004, and the report was only handed over to the president in October 2004.

**Figure 3: Solomon Islands TRC’s Eight-Month Information Analysis and Report Writing Timeline**



Source: Solomon Islands Government, “Action Plan to Establish the Truth and Reconciliation Commission,” December 3, 2008.

**Table 1: Sierra Leone TRC’s Report-Writing Timetable**

**THE TRUTH AND RECONCILIATION COMMISSION**



Outline of Activities Until Submission of Report

DATE	ACTIVITY	BENCHMARK	COORDINATION
August 11–15, 2003	Break	Rest period after hearings (including travel time for staff willing to do so)	Executive Secretary
August 19–23, 2003	Presentations by thematic groups	First draft of report, even if sections are still incomplete	Chief, Information Management
August 25–29, 2003	Report-writing conference	Establish linkage between all thematic groups, agree on issues to cover in the final report plus annexes	Chief, Information Management
September 1–30, 2003	Researchers and investigators continue work on their themes, with much more supervision by commissioners. The period of September 25–29 will be devoted to presentations on the report. This time, presentations will be made by commissioners in charge of thematic groups. Presentations will include substantive outputs of the database.	Production of substantive report draft, including the introduction and section on methodology	Chief of Admin and Logistics
October 1–30, 2003	Researchers and Investigators to conclude work on their themes. A final presentation on the report will be made in the week of October 20–25 by commissioners in charge of the themes. End of contract of researchers and investigators, with one or two researchers possibly remaining to assist with final editing and production.	Production of second substantive report draft. All other issues remaining to be done by researchers and investigators will be flagged and carried out by the Chief of Information Management, assisted by subunit heads	Chief, Information Management
November 1–30, 2003	Engagement of copy editor to work on final version of report.	Unit heads work with copy editor on final report, including corrections where necessary.	Chief, Information Management
November 1–30, 2003	Engagement of editor to produce a child-friendly version of the report within five weeks.	Use of pictures and other media to produce engaging version of the report for children	Chief, Information Management; and Chief, Media and Public Education
November 1–30, 2003	Production of an executive summary of no more than 150 pages.	An easy-to-read report that would be printed in thousands of copies and distributed both locally and internationally	Executive Secretary; and Chief, Information Management
December 1–6, 2003	Discussion and agreement on final report, including children’s version and executive summary.	Acceptance of final version of report by commissioners	Executive Secretary; and Chief, Information Management <i>(continued)</i>

December 6–31, 2003	Last-minute corrections, if any, and submission of report for printing.	Final overview to ensure that all issues are dealt with and nothing is left undone	Executive Secretary Chief, Information Management, and Chief of Admin and logistics
December 6–31, 2003	Engagement of picture editor and other professionals for various aspects of producing the final report.	An attractive and people-friendly report	Chief, Information Management and Chief of Media and Public Education
January 15–20, 2004	Planning for public reading and presentation of report, including to the president.	Active participation of civil society in presentation of report to different groups and communities	Executive Secretary; Chief, Information Management; Chief, Media and Public Education
January 20, 2004, or Day of Report's Submission	Simultaneous reading of highlights of executive summary at different centers and districts throughout the country by civil society groups and commission partners.	Ensure awareness of the report and completion of commission's mandate	Executive Secretary, all unit heads
January 30, 2004	Workshop on access to information and materials on the commission after winding down.	To make commission's data accessible to relevant institutions and persons	Executive Secretary & Chief Information Management.
January 30–April 30, 2004	Wind down of commission.	Disposition of assets and materials, excluding confidential information, as contained in the TRC Act	Executive Secretary

Box 1 depicts the planned phases of the Commission for Reception, Truth and Reconciliation in East Timor (more commonly known by its Portuguese acronym, CAVR) from start-up to report writing. The target dates were not met, and report writing continued well into 2005.

### Box 1: CAVR's Global Program Design

Period I Feb-Apr 2002	: Installation Phase
Period II May-July 2002	: Installation Phase
Period III Aug-Oct 2002	: Maximum Operations
Period IV Nov 02-Jan 2003	: Maximum Operations
Period V Feb-Apr 2003	: Maximum Operations
Period VI May-July 2003	: Maximum Operations
Period VII Aug-Oct 2003	: Maximum Operations
Period VIII Nov 03-Jan 2004	: Scaling-down Regional Offices / Finalising RO's work
Period IX Feb-Apr 2004	: Report Writing
Period X May-July 2004	: Report Writing and Follow-up

Source: Commission for Reception, Truth and Reconciliation in East Timor, "Operational Document," January 2002.

## **Gearing Up for Report Writing**

Before report writing begins in earnest, decisions need to be made about winding down most of the commission's operational activities. Aside from hearings and statement taking, stock needs to be taken of the commission's research and investigative and other activities, which must be phased down and ultimately stopped. A timetable will need to be set for ceasing these operations.

As will be seen in the sections below, some staff members will prove to be crucial for the report-writing stage and others less so. Most staff members involved in statement taking and hearings will not necessarily be required for the report-writing stage. It is likely that some or most researchers and investigators will play a role in report writing. Researchers and investigators will have been involved in the collection and analysis of information and likely have generated internal reports, so they will be well placed to assist with preparing initial draft chapters.

Those who have the best "feel" for the evidence will be staff members who were involved in the hearings and interviews. They will likely best relate the stories that they have heard and highlight the more relevant perspectives. This is particularly true for promoting a gender-sensitive approach in writing the report. The formulation of the report should not only focus on the technical extraction and processing of data but also on capturing key narratives and voices.

The commission will want to retain those staff members who have proven themselves to be adept at analysis, information management, and writing. Those individuals who do not have such skills or who have performed poorly in this regard can be phased out of the commission once their current or outstanding tasks are completed. Certain key staff such as info-tech specialists and database and archives managers will play an important support role during report writing. Naturally, the commission will need to retain enough staff members to keep the commission offices running, such as cleaners, security guards, and the like.

The commission will probably want to establish a core group or coordinating committee comprising the executive secretary and some commissioners and key senior staff to oversee the phased winding down of operations and gearing up for report writing.

## Dealing with the Data

One of the most labor intensive and challenging tasks of any truth commission is to extract and analyze relevant data and information from different sources with the ultimate purpose of including the most pertinent data in the final report.

Such data will include both primary and secondary sources and the full range of information collected by the commission since its inception. If the commission established an information management system for both hard and soft versions of collected information, it will make the work of the analysts and writers considerably easier. This typically comprises an information flow for both hard and digital data, involving a physical archive and a database. This will allow for the quick extraction of relevant information and interrogation of data.

The analysis of information should happen in tandem with truth-seeking steps such as statement taking, hearings, interviews, and collection of documents and audio-visual materials. If this takes place, then the commission will save time for the next phase of its operations. If this does not or did not happen, then a way must be found to fast track this complex process.

### Dealing with the Statements

The statement-taking process should deliver a considerable amount of raw data that, following analysis, will point to important trends and patterns in abuses and events from across the country during the entire mandate period of the commission. The commission will need to work out a process for what to do with the information in each statement.

Some commissions are required to produce an impartial historical record of violations but are not necessarily required to investigate each statement that discloses a human rights violation. Typically, commissions enjoy wide discretion in deciding which violations, abuses, and events to investigate in depth. Such investigations should be complete, at an advanced stage, or close to finalization before the report-writing stage commences.

- If a commission is obliged to provide answers with respect to all complaints of violations, it will place a heavy burden on the commission.
- Even when there is no obligation to fully investigate each statement, it does not necessarily absolve the commission from doing basic fact checking and verification of the alleged facts. If the commission is going to rely on the statements for determining victim status for possible qualification for reparations, it is duty bound to carry out basic verification unless it

defers this task to a future body. At a minimum, where a human rights violation is alleged to have taken place, the commission must be satisfied that it in fact happened. This can be a time-consuming exercise. This proved to be among the most onerous tasks of the South African Truth and Reconciliation Commission (South African TRC). Note the remark in the South African TRC's final report:

Once the statements had been entered onto the database, it was the task of a team of investigators to corroborate the basic facts of each matter according to a standard list of corroborative pointers . . .

Corroborating the evidence gathered in more than 20 000 statements received in the two years between 14 December 1995 and 14 December 1997 proved one of the greatest challenges faced by the Commission. Many of the statements consisted simply of a story told by a particular victim and contained no supporting documentation or evidence on the basis of which the Commission could make a defensible finding. The onus was, therefore, on the Commission itself to attempt to locate relevant evidence or documentation in order to corroborate each victim's statement . . .

It is clear from the above that the corroboration of statements was an extremely difficult and time-consuming task. It was complicated by the large numbers of statements involved and because each statement, on average, referred to between two and three victims. The Human Rights Violations Committee was, as a result, faced with the task of corroborating over 50 000 individual cases. The enormity of this task cannot be overemphasised.<sup>1</sup>

- If murder, for example, is alleged, the commission should endeavor to secure a death certificate, a post-mortem report, or other corroborating evidence confirming the death happened and in the alleged manner. Similarly, when torture and/or detention is alleged, investigators should attempt to secure medical documents or other evidence indicating that the alleged acts occurred. It should be said that the absence of such evidence should not in itself be a ground for dismissing the case. There may be good reasons why there is no recoverable documentation, in which case, investigators should look for other indicators, like contextual support.
- The Sierra Leone TRC faced its own challenges in relation to corroboration, as seen in an extract from its final report (Box 2).

### Box 2: Excerpt from the “Methodology and Process” Chapter of the Sierra Leone TRC's Final Report

Statement takers were asked to corroborate material information received in the statements. For instance, if a statement giver mentioned witnesses, victims or perpetrators who were part of the events described in the narrative, statement takers were required to try to find the named persons and corroborate the information given. If the named persons resided in another District, they were to request the District Co-ordinator there to ensure that follow-up interviews were conducted. Statement takers were also tasked to collect any supporting document that statement givers wished to bring to the attention of the Commission. They were to make a special note if they identified a site of interest, such as a massacre or torture site, or a mass grave. This information was subsequently used for further investigations. *(continued)*

<sup>1</sup> See South African TRC, *Final Report*, “Information Management System,” paras. 21–23, <http://sabctrc.saha.org.za/reportpage.php?id=10924&t=corroboration&tab=report>

The Commission also used its official database as a tool for corroboration. Events were coded according to location, time and the actors involved. Common links between the statements could therefore be identified and several accounts of the same event could be examined together.

In practice, several problems arose with regard to corroboration. Many statement givers who mentioned the names of witnesses did not know their whereabouts. Full details about witnesses were often missing. For instance, people who were abducted together by armed factions often hardly knew each other and were only bound by their common experiences. Many witnesses had moved, sometimes from displaced camps back to their communities. Time constraints prevented the conduct of extensive corroboration activities.”<sup>2</sup>

- In approximately 40 percent of the cases recorded by the National Commission on Political Imprisonment and Torture of Chile (“Valech Commission”) that were determined as valid, investigators lacked any corroborating documents. However, satisfactory verification took place by cross-referencing case details with other cases that had occurred in the same place and when similar practices were experienced. The commission also searched for victims from the same group to ascertain whether they had sustained similar violations. It assessed the likelihood of occurrence of violations by comparing them with an aggregation of factors, such as date and time, place, story, and victim profile. In addition, the commission consulted reliable sources, such as trusted informants and human rights defenders who had worked in the region at the time.<sup>3</sup>
- Although Tunisia’s Truth and Dignity Commission (TDC) took some 60,000 complaints alleging gross human rights violations over its four-year operational mandate (which was extended),<sup>4</sup> it was only able to investigate and corroborate a fraction of them: 174 cases. Arguably, the TDC was under a legal obligation to uncover the truth about all the complaints it had received, given that its enabling law, the Organic Law on Establishing and Organizing Transitional Justice, guaranteed the rights of all citizens to know the truth about violations through a determination of the relevant facts.<sup>5</sup>

One of the biggest challenges facing truth commissions in their later phases is ensuring that **transcriptions** of hearings and interviews are available to analysts and writers in an accurate and readable format. Because this is such an intensive, painstaking task, it is inevitably delayed, which in turn holds up the important analysis and report-writing phases. Often analysts and writers must work without all of the transcripts that they need. Compiling and checking transcripts should take place soon after an audio recording is made. Those involved in the events in question are best placed to check the accuracy of the first drafts. Note this excerpt from the Sierra Leone TRC’s final report:

There was limited storage space within the Commission’s offices. Statements were locked up in safes and drawers pending the establishment of a database

2 See Sierra Leone TRC, *Witness to Truth: Final Report of the TRC* (2004), vol. 1, ch. 5, [www.sierraleonetrc.org/index.php/view-report-text-vol-1/item/vol-one-chapter-five?category\\_id=19](http://www.sierraleonetrc.org/index.php/view-report-text-vol-1/item/vol-one-chapter-five?category_id=19)

3 See Valech Commission, *Informe de la Comisión Nacional sobre Prisión Política y Tortura* (2005) 39–47, <https://bibliotecadigital.indh.cl/handle/123456789/455?show=full>

4 Tunisian Truth and Dignity Commission, *Final Report* (2019), “executive summary (English translation), [www.ivd.tn/rapport/doc/TDC\\_executive\\_summary\\_report.pdf](http://www.ivd.tn/rapport/doc/TDC_executive_summary_report.pdf). See also Lilia Blaise, “Tunisia Commission Releases Final Report on 50 Years of Dictatorship,” *The New York Times*, March 28, 2019, [www.nytimes.com/2019/03/28/world/africa/tunisia-president-commission-report.html](http://www.nytimes.com/2019/03/28/world/africa/tunisia-president-commission-report.html); and Olfa Belhassine, “Tunisia Truth Commission Report (Part I): Dissected Oppression,” *JusticeInfo.net*, April 30, 2019, [www.justiceinfo.net/en/truth-commissions/41290-tunisia-truth-commission-report-part-1-dissected-oppression.html](http://www.justiceinfo.net/en/truth-commissions/41290-tunisia-truth-commission-report-part-1-dissected-oppression.html)

5 Republic of Tunisia, Organic Law No. 2013-53 Establishing and Organising Transitional Justice, 2013, arts. 2–4, [www.ohchr.org/Documents/Countries/TN/TransitionalJusticeTunisia.pdf](http://www.ohchr.org/Documents/Countries/TN/TransitionalJusticeTunisia.pdf)

for the Commission. The coding and entry of the statements into the database continued well into the report writing phase. The Commission had to rely on the entries in the statement taking forms as most statement takers were unable to transcribe the audiotapes of their statements. Hundreds of hours of audiotapes remain waiting to be transcribed. This shortcoming seriously impacted on the ability of the researchers, investigators and report drafters to complete their tasks.<sup>6</sup>

### From Statements to Findings<sup>7</sup>

Each Commission adopts its own procedures for extracting information from statements for purposes of analysis and writing the final report. This is a potentially complex process because oftentimes a commission takes thousands of statements containing a huge number of individual factual items that have to be considered. A methodical process is needed to manage the extraction and analysis of information in order to draw sensible conclusions.

Set out below is the approach adopted by the South African TRC, which involved several phases in the **information flow**, from statement taking to making findings:<sup>8</sup>

1. Statement taking
2. Registration
3. Data processing
4. Data capture
5. Corroboration
6. “Pre-findings”<sup>9</sup>
7. National findings

The **registration process** for statements involved:

- Collection at regional offices
- Registration in the commission database
- Duplication (photocopy)
- Storage of originals in strong rooms

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6 See Sierra Leone TRC, *Witness to Truth*, “Management and Operational Report,” para. 22, [www.sierraleonetr.org/index.php/view-report-text-vol-1/item/vol-one-chapter-four?category\\_id=19](http://www.sierraleonetr.org/index.php/view-report-text-vol-1/item/vol-one-chapter-four?category_id=19)

7 A useful technical resource is Patrick Ball, Herbert F. Spierer, and Louise Spierer, *Making The Case: Investigating Large Scale Human Rights Violations Using Information Systems and Data Analysis*, American Association for the Advancement of Science, 2000, <https://hrdag.org/wp-content/uploads/2013/01/MakingtheCase-2000-fulltext.pdf>

8 See South African TRC, *Final Report*, “Information Management System,” <http://sabctr.c.saha.org.za/reports/volume1/chapter6/subsection2.htm>. For an overview of the information management system of Kenya’s commission, see Truth, Justice and Reconciliation Commission, *Final Report*, 2013, vol. 1, 89–96. <https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1000&context=tjrc-core>

9 A “pre-finding” is a preliminary finding.

In the **data processing** phase:

- Each regional office employed a team of data processors to:
  - analyze statements to identify violations;
  - categorize statements into one of the violation types defined in the enabling law;
  - generate a narrative summary to help with the corroboration of findings process;
  - identify the nature of each violation, date, place, and consequences for victims; and
  - note organizational affiliations of victims and alleged perpetrators.
- Each violation was captured in the database as a separate act, which allowed analysis of:
  - the number and types of violations suffered by each victim over time, and
  - the categories of victims and perpetrators.

In the **data capture** stage, the details of each violation were entered into the database.

The **corroboration** stage involved investigators and researchers carrying out multiple tasks:

- **Investigators** verified the basic facts of each statement by checking, among other sources:
  - court records
  - inquest documents
  - death certificates
  - medical records
  - police reports
  - newspaper clippings
- **Researchers** conducted literature searches and field trips to produce briefings on affected areas.
- Corroborative material and background research assisted commissioners to:
  - determine whether statements were true on a balance of probabilities and
  - make findings.

The **pre-finding** stage involved:

- The Human Rights Violations Committee making regular pre-findings from
  - information in statements
  - corroborative material
  - background research

- Making pre-findings involved:
  - rejecting statements of alleged violations as untrue
  - rejecting statements for falling outside of the mandate
  - sending statements back for further investigation
  - finding statements true on a balance of probabilities.
- If a pre-finding confirmed the truth of a statement that *implicated a named perpetrator*, the named were:
  - sent a letter advising that they had been adversely implicated and a finding against them could be made,
  - and informed of their right to respond to the allegation.



Photo 2: Volume 1 of the South African Truth and Reconciliation Commission's final report.  
(Howard Varney/ICTJ)

For the **national findings** stage,

- pre-findings had to be approved at a central level and recorded in the database,
- the National Findings Task Group helped to facilitate the process by regularly:
  - meeting to ensure that the policy on findings was applied consistently, and
  - reviewing samples of each region's findings to ensure findings conformed to the agreed-on standards.<sup>10</sup>

### Role of the Database in Shaping the Final Report

The database has a particularly important role to play in shaping the final report. It should be able to help analysts to answer key questions about the trends and patterns arising from the commission's temporal mandate period. It is often central to the truth-seeking exercise, as noted in the South African TRC's report:

The Commission's database was the backbone of the information flow. All human rights violations statements and amnesty applications were loaded onto the database.<sup>11</sup>

<sup>10</sup> See "Making Findings" section below for more information.

<sup>11</sup> See South African TRC, *Final Report*, vol. 1, ch. 11, subsec. 3, "The Database," paras. 8–17, <http://sabctrc.saha.org.za/reportpage.php?id=12621&t=database&tab=report> and vol. 6, sec. 5., ch. 7, subsec. 3, "The Commission's Database," paras. 17–22, <http://sabctrc.saha.org.za/reportpage.php?id=12572&t=database&tab=report>

It is important to ensure that filling out the statement-taking form is more than a check-the-box exercise. The form should include space for including narratives that can disclose important experiences.

The database should be operational *before* the commencement of statement taking to allow for the simultaneous analysis of collected information and identification of leads. Note these lessons learned from the Sierra Leone TRC:

The database was not established until well into the statement taking exercise. This late start meant that much of the statement taking process was denied the benefits of informed feedback from the ongoing analysis of the information . . .

While databases are established to capture “who did what to whom, when, where, why and how,” they could certainly do more. If the database used by the Commission had a bigger section for narratives and captured those well, and the design of the forms for capturing the statistics had allowed for the inclusion of human-interest angles and not just numbers and statistics, the Commission would have been able to quickly identify and select cases for hearings and saved a lot of time in addition.<sup>12</sup>

A powerful search engine was particularly useful for researchers in Chile’s Valech Commission to quickly extract statements and other items of information with particular words or collection of words. When researchers needed to provide examples of certain practices, such as “torture by asphyxiation,” they could search the database using those words or similar words describing restricted breathing techniques and retrieve all such cases occurring in all locations and relevant time periods. Such searches are particularly important when statements or interviews are collected using the “free narration” approach, which encourages individuals to tell their stories in their own words.

Typically, the database should be able to assist the commission in making sense of a large number of incidents that involve many victims, violations, perpetrators, role players, and other facets. A multi-relational database will allow connections to be made between data in different tables, fields, and categories of information. It should be able to identify what is common and different among the accumulated data and, importantly, match perpetrators to violations.

The database should be the commission’s most authoritative information source for establishing what happened to whom. Because it contains raw data for analysis, it ought to yield interesting case studies through identified patterns. It ultimately provides the *where* and *when* of patterns and trends in violations.

The primary questions that the database should be able to answer include:

- Is there evidence of systematic efforts to commit human rights violations?
- Is there evidence of systematic targeting through the perpetration of any human rights violations against any:
  - vulnerable groups,
  - ethnicities,
  - religious groups,

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<sup>12</sup> See Sierra Leone TRC, *Witness to Truth*, vol. 1, ch. 4, “Statement Taking Report,” [www.sierraleonetr.org/index.php/view-report-text-vol-1/item/vol-one-chapter-four?category\\_id=19](http://www.sierraleonetr.org/index.php/view-report-text-vol-1/item/vol-one-chapter-four?category_id=19)

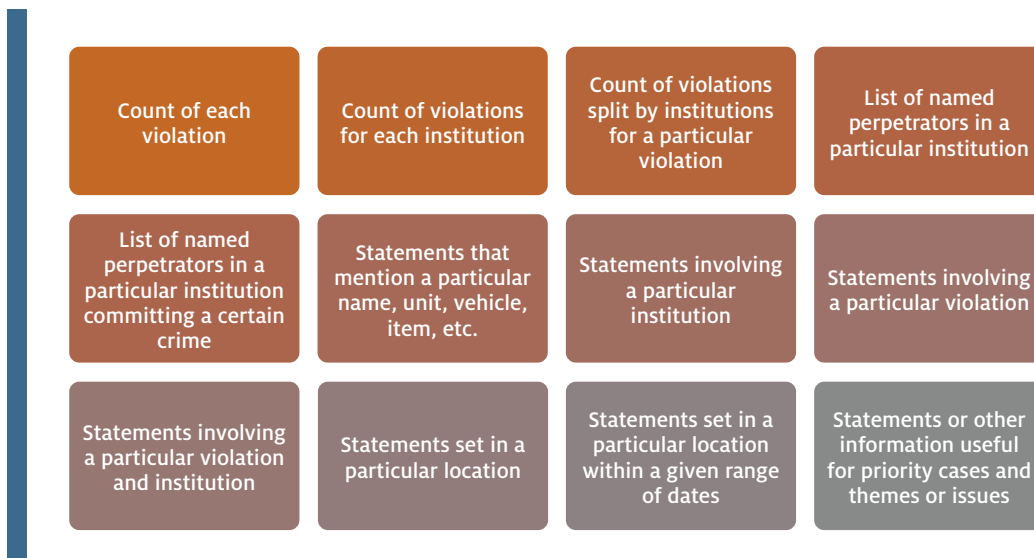
- political factions or organizations?
- Which perpetrators or perpetrator groups were responsible for any such targeting?
- In what proportions did the different human rights violations occur in different districts?
- Which perpetrator groups bear the most responsibility for human rights violations during the mandate period?
- What political, legal, or administrative bodies facilitated or allowed the violations to occur?

The database should have an indexing system that enables researchers and investigators to access statements and other information according to specific criteria. Examples of analytical queries include:

- What is the typical age of a victim of a violation in an area?
- What group targeted workers to the greatest degree?
- How much did gender feature in the violations?

Some of the more specific information that a database can provide is set out in Figure 4.

**Figure 4: Typical Information That a Database Should Provide**



### Data Analysis Can Enrich the Report<sup>13</sup>

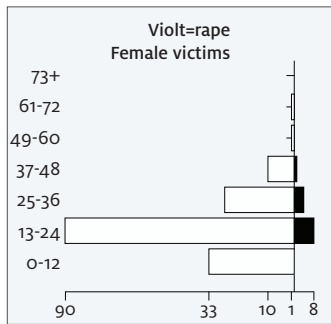
Data analysis can help researchers to identify key issues and the types of violations and patterns of behavior that lent the mandate period its defining character. It can assist report writers to:

<sup>13</sup> This section is based on a presentation made by former SL TRC Researcher Gavin Simpson, titled “Nature of the Conflict,” at a report-writing workshop on August 25, 2003. All the examples in this section are drawn from the presentation “The Nature of the Conflict in Sierra Leone” accessible on the YouTube channel of Truth and Reconciliation Commission for Sierra Leone: <https://www.youtube.com/watch?v=iUTkFn4yfwY>. Simpson also authored the “Nature of the Conflict” chapter in the Sierra Leone TRC final report. Sierra Leone TRC, *Witness to Truth*, vol. 3a, ch. 4, [https://www.sierraleonetr.org/index.php/view-report-text-vol-3a/item/volume-three-a-chapter-four?category\\_id=3](https://www.sierraleonetr.org/index.php/view-report-text-vol-3a/item/volume-three-a-chapter-four?category_id=3)

- acknowledge the full array of violations and abuses,
- establish systematic violations over time and place,
- focus on extraordinary violations,
- answer the question “why it happened,” and
- interrogate popular myths that shape the understanding of the past.

The report ought to make use of **graphs** to assist with the interpretation of data. Graphs help to illustrate the concentrations of acts against types of victims and demonstrate trends in the incidence of violations. Examples from the Sierra Leone TRC are depicted in Figures 5 to 9.

**Figure 5: Incidence of Rape**



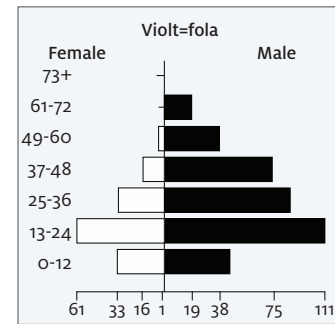
Source: Sierra Leone TRC, *Statistical Report*, October 5, 2004.

**Figure 6: Incidence of Forced Recruitment**



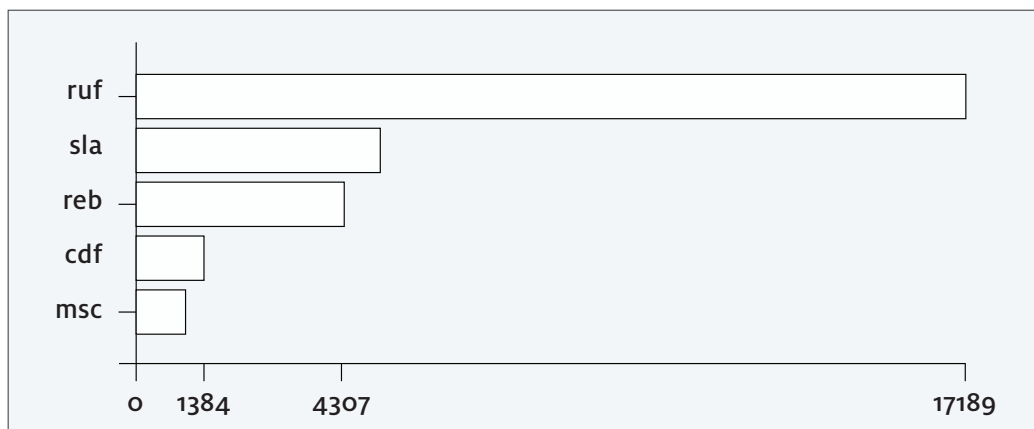
Source: Sierra Leone TRC, *Statistical Report*, October 5, 2004.

**Figure 7: Incidence of Forced Labor**



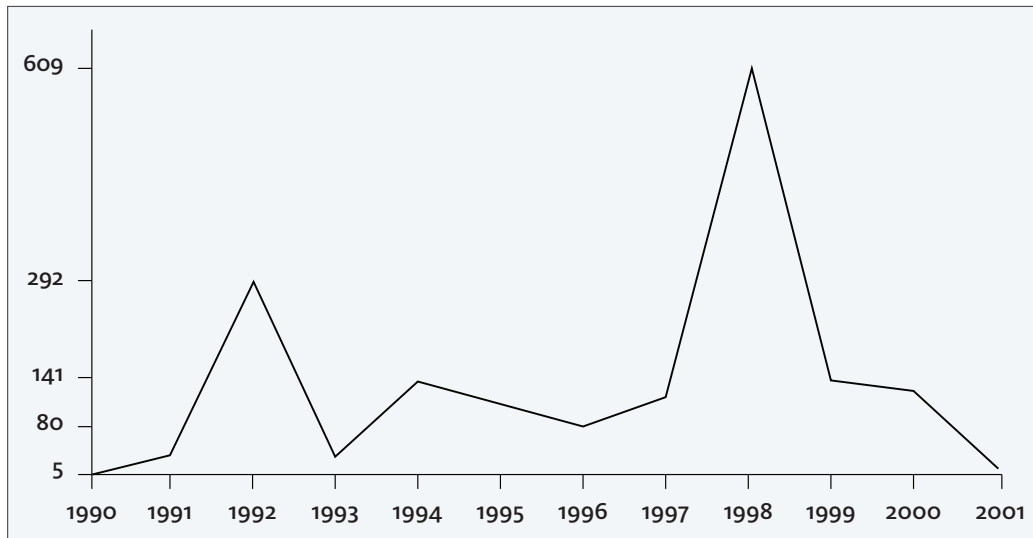
Source: Sierra Leone TRC, *Statistical Report*, October 5, 2004.

**Figure 8: Overall Factional Responsibility**



Source: Sierra Leone TRC, *Statistical Report*, October 5, 2004.

**Figure 9: Abuses in the Town of Kono: 1990–2001**



Source: Sierra Leone TRC, Statistical Report, October 5, 2004.

The analysis of the data can highlight **extraordinary practices and types of violations** and the impact and harms sustained that warrant focus in the report, perhaps by way of monographic studies.<sup>14</sup> Examples from Sierra Leone include:

- perpetual cycles of forced displacement,
- subverting the social hierarchy (impact on the elderly, affluent, and high social status),
- “victim-perpetrator” phenomenon,
- “de-institutionalization” (unravelling the traditional social fabric),
- impact on infrastructure and loss of human resources.

Data analysis can shed light on the **identities of those responsible** for violations, including different factions, and uncover:

- the composition, character and conduct of different factions,
- various myths relating to perpetrator identity and character,
- who was really doing what (with information from primary sources).

An interrogation of the **composition, character, and conduct of different factions** can:

- provide insight into each group and the role it played,
- ascertain the dynamics of relationships, if groups collaborated,
- reflect relationships with external factions.

<sup>14</sup> A monographic study is a work written by a specialist on one subject or one aspect of a topic.

In order to understand the **nature of violations**, several factors could be analyzed, such as the:

- basis of ideology behind perpetrator groups,
- structure and recruitment methods of groups,
- leadership and command responsibility,
- codes of conduct and internal discipline,
- geographical spread and strategically important locations,
- unity or loyalty among rank and file (or lack thereof),
- type and source of weaponry,
- explicit policy directives on certain types of violations,
- “justifications” given for systematic violations,
- evidence of patterns or common practices,
- “operationalizing” campaigns of violations,
- use of propaganda and media to affect perceptions.

Ultimately, **primary sources** must be used to establish “**who did it**” in order to assist in explaining **why** they did it. This requires close consideration of the evidence of key players who participated in the perpetration of abuses and first-hand witnesses who observed them.

The commission ought to offer **explanations** in its report as to “**why it happened.**” This could be done through specific sections that explain, for example:

- systematic violations
- concentrations of particular acts
- violations against particular types of victims
- violations committed at a particular time
- violations committed in a particular place
- extraordinary types of violations
- role of ethnicity
- role of political affiliation
- role of gender
- sexual abuses
- role of children and youth
- bearing out of pre-existing grudges

Within the report, these explanations are probably best offered in a **consolidated chapter** that deals with the nature and character of the period of repression. The chapter should:

- unpack the different violations,
- address the impact of the violations on families, communities, and various vulnerable groups,
- interrogate why certain people were targeted for abuse,
- identify key perpetrator personnel and groups and explain their roles,
- describe perpetrator responsibility through the different phases of the repression or conflict, and
- endeavor to develop an understanding of what was behind the violations.<sup>15</sup>

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<sup>15</sup> See, for example, SL TRC, *Witness to Truth*, vol. 3a, ch. 4, [www.sierraleonetr.org/index.php/view-report-text-vol-3a/item/volume-three-a-chapter-four?category\\_id=3](http://www.sierraleonetr.org/index.php/view-report-text-vol-3a/item/volume-three-a-chapter-four?category_id=3)

## Report-Writing Phase

The final report is sometimes described as the main deliverable of a truth commission. It is bequeathed to the nation to acknowledge the past and pave the way for a better future. It ought to include:

- a summation of all relevant facts covering the full temporal mandate period
- an accurate and impartial historical record of the mandate subject matter
- findings and recommendations

A commission's final report should not only provide clear analysis, but also speak for the victims and give them a voice. See excerpts from some final reports below.

- Extract from the preface of *Hatun Willakuy*, an abridged version of the Peru's Truth and Reconciliation Commission's final report (2003):

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 stood up to abandonment to defend their families . . . 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.<sup>16</sup>

- First recommendation of the Sierra Leone TRC's final report, *Witness to Truth* (2004) set out in Box 3.

### Getting Organized

The **research department** plays a key role in writing the report (as referred to above). It is presumed that by the time the report-writing phase starts, the researchers have already completed considerable work on their projects or are in the process of finalizing them, including:

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<sup>16</sup> Truth and Reconciliation Commission of Peru, *Hatun Willakuy: Abridged Findings of the Final Report* (English translation), 2013. *Hatun Willakuy* is a Quechua expression meaning "the great story," which signifies the enormity of the events recounted by the truth commission.  
[www.ictj.org/sites/default/files/ICTJ\\_Book\\_Peru\\_CVR\\_2014.pdf?\\_ga=1\\*1kf8tvi\\*\\_ga\\*NzgoMTYyMTY1LjE2OTYwMTO5Mjg.\\*\\_ga\\_LV6YN41M5N\\*MTY5NjAxNDkyOC4xLjAuMTY5NjAxNDkyOC42MC4wLjA](http://www.ictj.org/sites/default/files/ICTJ_Book_Peru_CVR_2014.pdf?_ga=1*1kf8tvi*_ga*NzgoMTYyMTY1LjE2OTYwMTO5Mjg.*_ga_LV6YN41M5N*MTY5NjAxNDkyOC4xLjAuMTY5NjAxNDkyOC42MC4wLjA).

### Box 3: First Recommendation of the Sierra Leone TRC Final Report on Human Dignity, Paras. 46–52

#### THE PROTECTION OF HUMAN RIGHTS

*In the new years to come*

*We would strive to live side-by-side in our rebirth*

*Jumping in the glowing sun, seeing the seas from the hill tops from behind palm trees*

*Saying “Kunafo burma”—Never again.*

Extract from the poem “*On my Rebirth*” by Paul James Allen

Under this heading, the Commission seeks to promote the creation of a human rights culture in Sierra Leone. A rights culture is one in which there is knowledge and recognition of the basic rights to which all human beings are entitled. A rights culture demands that we respect each other’s human rights, without exception.

#### Human Dignity

Everyone has inherent dignity and the right to have their dignity respected and protected.

The conflict constituted a denial of humanity to all Sierra Leoneans. Thousands upon thousands of victims were subjected to inhuman brutality. Humans were treated as non-humans. Human life was disrespected. Sierra Leone must reject this violent and cruel past.

The Commission identifies a need for individual and national restoration of dignity. This requires individual and collective action. Each and every Sierra Leonean bears responsibility for this. . . . This responsibility endures forever.

A failure to respect the rights of others stems ultimately from a failure to respect oneself. Self-respect or self-dignity is not possible when one undermines or destroys the dignity of others. Those who maintain their dignity, notwithstanding conditions of extreme poverty and deprivation, set examples for us all. We need look no further than the ghettos of Freetown or the villages of the provinces for such examples. ....

Every person has the right to live as a human being and to experience life as part of a community and the nation. The new Sierra Leone must recognize and cherish the individual value of all persons, regardless of their differences. It is up to all Sierra Leoneans to give meaningful content to the right to human dignity.

The Commission recommends, as its first imperative recommendation, that the right to human dignity be enshrined as a fundamental right in the Constitution of Sierra Leone 1991.

- analysis and contextualization of all collected data, evidence, and information
- evaluating primary data in light of existing material and research
- generating regional or district chronologies of human rights abuses
- analyzed statements and categorized according to each theme
- considered and analyzed other gathered information, such as

- submissions made by various institutions
- evidence received at hearings and interviews
- evidence received in other processes
- archival material
- transcriptions of investigative enquiries
- reports of experts
- secondary material, including contextual research
- Reports on strategic research themes, to explain the causes and nature of the repression or conflict

Typically, a reader of a truth commission report will expect to see the following:

- **Reconstruction of facts:** *“Who did what to whom, how, when and where?”*
- **Explanation of the facts:** *“Was this planned and carried out by a structure? Was it isolated or commonplace?”*
- **Interpretation of facts:** *“Why did this happen? What did they want? How was it experienced? How is it remembered? What consequences followed?”*

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

- fairly strict deadlines for data gathering to ensure that the commission’s analysis is not altered by an influx of additional information, and
- firm drafting deadlines and clear and uniform writing style and editorial standards.

Typically, those planning the production of a final report will look at the commission’s mandate for guidance. An example is the enabling statute of the Gambian Truth, Reconciliation and Reparations Commission (TRRC), which provided the following guidance:

- **What happened?** (Nature of facts: systems and patterns)
  - create an impartial historical record of abuses and violations between 1994 and 2017
  - establish the fates of the forcibly disappeared
  - identify persons and entities involved in violations
  - establish whether violations were the product of deliberate planning,
  - identify victims
  - investigate the destruction of evidence<sup>17</sup>

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<sup>17</sup> Republic of the Gambia, Truth, Reparations and Reconciliation Act (No. 9 of 2017, sections 13–14, <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/110052/136738/F687920459/GMB110052.pdf>)

- **Why did it happen?** (History, political environment, nature of society, and perspectives: logic, intentions, and objectives of agents)
  - **Context:** investigate the nature, causes, and extent of the repression, including antecedents and circumstances that led to violations.<sup>18</sup>
- **Vision for the future**
  - **Forward looking:** Promote healing and reconciliation
  - address impunity
  - prevent repetition by making recommendations for reforms<sup>19</sup>

### Report-Writing Workshop

A good starting point is to hold an initial workshop to take stock of where a commission is in its operations and start seriously planning for the report-writing phase. There is much to discuss. What will the report comprise? Will its contents be defined largely by the commission's legal mandate? How will the report be produced? What methodological approach will be employed? An overview of a report-writing workshop held by the Sierra Leone TRC is set out in Box 4.

What to do at the **first report-writing workshop:**

- **BRAINSTORM!**
  - Unpack the **mandate**, get on the same page.
  - What does our data tell us?
  - What answers do we have?
  - What is our **theory of the conflict/tensions?**
- Present everything found so far by all teams.
- BRAINSTORM more!
- Agree on the **basic structure of the report.**
- Devise a **report-writing plan.**

**Workshop sessions** could include:

- Unpack the mandate (as mentioned above).
- Debate the proposed **framework for the report.**
- **Review the themes** in work groups. (This will take the bulk of the time.)
- Report back in plenary (to agree on boundaries).

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<sup>18</sup> Ibid. at section 13(b).

<sup>19</sup> Ibid. at sections 13(a)(i)–(iv).

**Brainstorm sessions** could include:

- Brainstorm in no particular order:
  - Ideas around the **theories of the conflict**
  - Possible causes: What allowed the violations to occur?
  - What are the enduring **consequences** of the conflict or authoritarian system?
- Identify **statements and questions** that arise during discussion for the purpose of posing the **BIG questions that the commission may wish to answer in its report.**
- Find categories to make sense of all the arising ideas, statements, and questions. Place them into categories, such as:
  - structural causes
  - triggers
  - fueling factors

The outcome of such a workshop exercise held by the Sierra Leone TRC is set out in Table 2.

**Table 2: Organizing the Factors to Explain the Sierra Leone Conflict**

<b>Structural causes</b>	Greed and corruption	Bad governance	System of chiefs and access to land	Access to resources
<b>Triggers</b>	Political rivalry	Foday Sankoh	Libya and Gadhafi	Charles Taylor
<b>Fueling factors</b>	Diamonds	Ruling elite	Availability of weapons	Disaffected youth

A report-writing workshop can also tackle how lawyers, sociologists, historians, psychologists, anthropologists, and other professionals involved in writing the report will interact. Questions to explore include:

- How do they conceive of “objectivity” and reach conclusions?
- How do they understand “facts,” “norms,” “causality”?
- Who will referee differences?

#### Box 4: Overview of Sierra Leone TRC's Two Report-Writing Workshops

After the conclusion of the TRC's hearings on August 5, 2003, a report-writing workshop and conference attended by all of the commissioners and TRC staff was held at the Sierra Guest House from August 26–30, 2003. The commission grappled with the question of what its report was meant to achieve and the philosophical approach it would take in relation to the final report. This was followed by a report-writing conference that took place at the Lakka Beach Hotel from August 30 to September 3, 2003.

At these conferences, each of the themes constituting the final report was unpacked to deal with issues such as meaning, context, content, resources, impact, time frame, and outcome. The commission grappled with the question of how to reflect its mandate and the peculiarities of its experiences in its final report. Other important issues that engaged the commission at the conferences included the question of reparations and how to hold perpetrators accountable. The discussions were open and free flowing. While the commissioners had final responsibility for the report's conclusions, they sought the views of TRC staff on what would be appropriate, fair, and legal.

PowerPoints presented by researchers at the conferences included: Sierra Leone TRC Mandate, Theories of the Conflict in Sierra Leone, the Nature of the Conflict in Sierra Leone, Mapping of the Conflict, The Conflict in Sierra Leone: A Statistical Approach, Military and Political History of the Conflict, Economy of Sierra Leone, Mineral Resources in Sierra Leone, and Vision for Sierra Leone.<sup>20</sup>

Researchers proposed findings and recommendations based on the work that they had done, in consultation with their thematic groups. Based on the feedback they received during the meetings, each researcher conducted more research and/or provided further justification for proposed conclusions. This process continued until the commissioners were satisfied that all issues had been thoroughly and objectively analyzed, including the roles of the different actors.

#### Organization and Control<sup>21</sup>

It needs to be decided who will do the writing and who will manage the process. Specialist bodies are sometimes created comprising select senior staff and commissioners to manage the process. In some commissions, an existing research unit will take control, while in at least one commission the commissioners took exclusive control over the process. Examples of who led the report-writing process include:

- **Peru:** Editorial committee and a specialized team
- **Sierra Leone:** Editorial committee and some commissioners
- **East Timor:** Editorial committee
- **Morocco:** The commissioners
- **Kenya:** Research unit and some commissioners

<sup>20</sup> Sierra Leone TRC, "Shaping the Final Report: Working Presentations." These presentations can be viewed at <https://www.sierraleonetr.org/index.php/video-photos/shaping-the-final-report-working-presentations>

<sup>21</sup> Aspects of this section are drawn from Eduardo Gonzalez, "Final Report—Planning in Advance," PowerPoint Presentation to the Liberian TRC in Monrovia, June 2006.

Should research units be transformed into writing units, or should new writers be brought in, or perhaps a combination of both?

- In Peru all research units were preserved and transformed into writing units.
- In Sierra Leone, East Timor, and Kenya all units were downsized and writers were brought in to assist existing researchers.

The advantage of keeping the report-writing process in-house is that the writers are already familiar with the material, whereas new writers must learn all of the information from scratch, which is time consuming. Also, outside writers are sometimes “unknown quantities” and can be disruptive. However, where there is a shortfall in skilled and experienced writers within the commission, bringing in outside writers can sometimes add value.

Typically, the editorial committee or controlling body will manage the process, including setting a timeline for drafting, organizing peer review, editing, and approval. This body will also set a standard writing and editorial style and common terminology.

### **Structure of Report**

Those involved in researching and writing are likely to have the best sense of the most appropriate structure for the report. At its most basic, a truth commission report typically includes the following chapters:

- Executive summary
- Foreword by commission chair
- Introduction
- Basic concepts, methodology, start-up
- Story of the period of conflict or repression
- Thematic chapters
- Findings
- Recommendations
- Annexes

Several truth commissions have adopted a rote, unimaginative approach to report writing, of simply assigning a chapter to each topic listed in the legal mandate. This has resulted in commissions devoting lengthy chapters to each violation type, which can make for tedious, often unilluminating reading. Indeed, few readers take the time to trawl through long, dense chapters. In addition, it is well known that most violations do not take place in isolation; they are often linked to other violations that need to be contextualized. Therefore, assigning a different chapter to every violation type inevitably results in considerable repetition and duplication of effort.

However, some violation types may be so pervasive that they define the character of the conflict or repression, thereby warranting closer scrutiny and perhaps their own chapters. Nevertheless, the whole story or history of the conflict should first be set out in chronological order. This is best done in defined temporal phases through which the main themes and issues of the period

of repression or conflict become apparent. Such a chapter helps to record important history and in some cases rewrite history. An example is the “Military and Political History of the Conflict” chapter in the Sierra Leone TRC’s report.<sup>22</sup> Such a chapter is well complemented by a chapter that focuses on the nature, character, and extent of the conflict by examining all violations, actors, and impacts on individuals, groups, and society.<sup>23</sup>

A survey of selected truth commission report structures reveals some similarities and differences among them. Table 3 reflects some of the commonalities in report structures, while Table 4 sets out some of their differences.

**Table 3: Commonalities Among Truth Commission Report Structures**

Final Report Structure
Introduction
Summary of report
Creation of the commission / objectives of the commission
Methodology and process (such as rules of procedure, investigation, and units)
Activities of the commission <ul style="list-style-type: none"> <li>• Context-specific political, geopolitical, economic, and social context</li> <li>• Events and pertinent violations in different time periods</li> <li>• Special investigations and hearings</li> </ul>
Findings and Conclusions
Recommendations
Appendices

**Table 4: Some Differences Among Truth Commission Report Chapters**

Chapter Title	Country
“Difficulties in the Commission’s work”	Burundi
“The Challenge of Reconciliation” <sup>24</sup>	Canada
“Applicable Law”	El Salvador - East Timor
“The Most Urgent Recommendations” <sup>25</sup>	Chile <i>(continued)</i>

22 Sierra Leone TRC, *Witness to Truth*, vol. 3a, ch. 3, [www.sierraleonetrc.org/index.php/view-report-text-vol-3a/item/volume-three-a-chapter-three?category\\_id=3](http://www.sierraleonetrc.org/index.php/view-report-text-vol-3a/item/volume-three-a-chapter-three?category_id=3)

23 Sierra Leone TRC, *Witness to Truth*, vol. 3a, ch. 4, [www.sierraleonetrc.org/index.php/view-report-text-vol-3a/item/volume-three-a-chapter-four?category\\_id=3](http://www.sierraleonetrc.org/index.php/view-report-text-vol-3a/item/volume-three-a-chapter-four?category_id=3)

24 See Canada Truth and Reconciliation Commission, *Final Report*, vol. 6, “Canada’s Residential Schools: Reconciliation,” 2015, [www.trc.ca/assets/pdf/Volume\\_6\\_Reconciliation\\_English\\_Web.pdf](http://www.trc.ca/assets/pdf/Volume_6_Reconciliation_English_Web.pdf)

25 Report of the Chilean National Commission on Truth and Reconciliation (Notre Dame, Indiana: University of Notre Dame Press, 1993), vol. I/II, Foreword, xxi–xxii, [www.usip.org/sites/default/files/resources/collections/truth\\_commissions/Chilego-Report/Chilego-Report.pdf](http://www.usip.org/sites/default/files/resources/collections/truth_commissions/Chilego-Report/Chilego-Report.pdf); and Valech Commission, *Informe*, <https://bibliotecadigital.indh.cl/handle/123456789/455>

“Prioritization of Recommendations” <sup>26</sup>	Sierra Leone
“Overview of Conclusions and Recommendations after Introduction” <sup>27</sup>	Guatemala
“History of Violations Included in Annexes”	Liberia
“Main Findings and Lessons Learned” <sup>28</sup>	Georgia
“Calls to Action” <sup>29</sup>	Canada



Photo 3: The five volumes of Chega!, the final report of the Timor-Leste Commission for Reception, Truth and Reconciliation. (Howard Varney/ICTJ)

Some truth commissions, like Peru’s,<sup>30</sup> did well in highlighting certain narratives and case studies that convey the personal dimensions of the different experiences endured. The Valech Commission in Chile inserted illuminating short and accessible sections highlighting the methods of torture employed and the consequences of such torture.<sup>31</sup>

### Report-Writing Cycle

Typically, report writing commences in earnest when data gathering is complete or mostly complete. As mentioned above, analysis of the data and related research should commence in tandem with data collection.

In reality, report writing may have commenced earlier, because investigators should have already written reports of the cases they have investigated (case reports) and researchers should have compiled reports on thematic issues (thematic reports). Typically, case and thematic reports evolve over time as more information is collected and further analysis is done. They will prob-

26 See Sierra Leone TRC, *Witness to Truth*, vol. 2, ch. 3, [www.sierraleonetr.org/index.php/view-report-text-vol-2/item/volume-two-chapter-three?category\\_id=20](http://www.sierraleonetr.org/index.php/view-report-text-vol-2/item/volume-two-chapter-three?category_id=20)

27 Guatemala’s Commission for Historical Clarification, *Guatemala Memory Of Silence Tz’inil Na’ab’al: Report of the Commission for Historical Clarification* (1999), “Conclusions and Recommendations,” <https://hrdag.org/wp-content/uploads/2013/01/CEHreport-english.pdf>

28 See Independent International Fact-Finding Mission on the Conflict in Georgia, Report, vol. II1, ch. 7, [www.mpil.de/files/pdf4/IIFFMCG\\_Volume\\_II1.pdf](http://www.mpil.de/files/pdf4/IIFFMCG_Volume_II1.pdf)

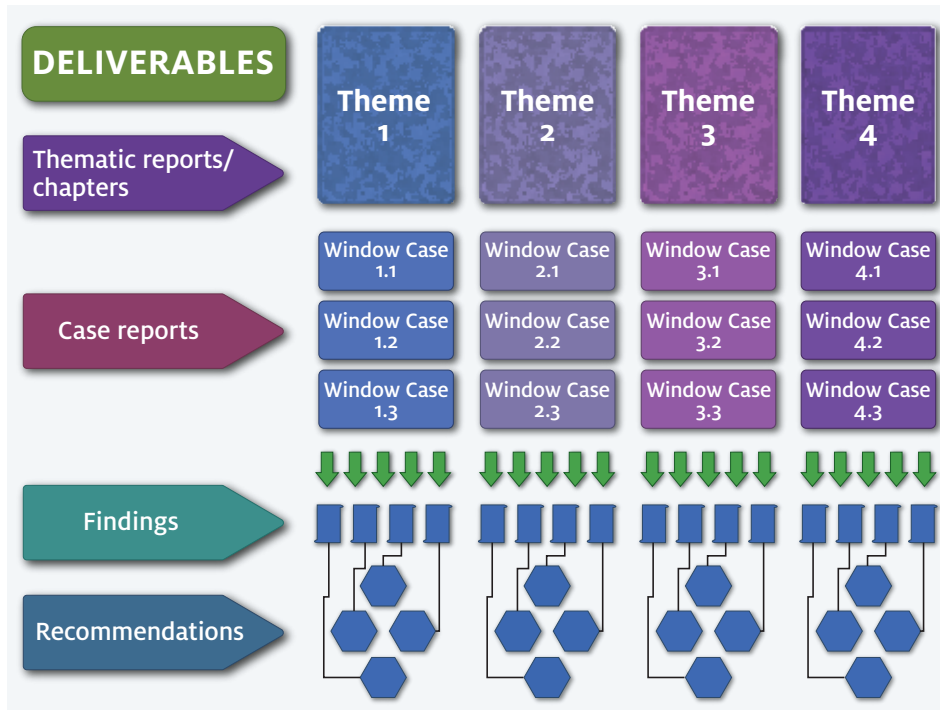
29 Truth and Reconciliation Commission of Canada, “Calls to Action,” 2015, [www2.gov.bc.ca/assets/gov/british-columbians-our-governments/indigenous-people/aboriginal-peoples-documents/calls\\_to\\_action\\_english2.pdf](http://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/indigenous-people/aboriginal-peoples-documents/calls_to_action_english2.pdf)

30 Peru Truth and Reconciliation Commission, *Informe Final De La Comisión De La Verdad Y Reconciliación, Perú* (2003), [www.usip.org/publications/2001/07/truth-commission-peru-01](http://www.usip.org/publications/2001/07/truth-commission-peru-01). See also *Ibid.* at vol. 9, [www.usip.org/sites/default/files/file/resources/collections/commissions/Peru01-Report/Peru01-Report\\_Volg.pdf](http://www.usip.org/sites/default/files/file/resources/collections/commissions/Peru01-Report/Peru01-Report_Volg.pdf)

31 See Valech Commission, *Informe*, <https://bibliotecadigital.indh.cl/handle/123456789/455>

ably form the genesis of the different chapters of the final report and provide the basis for making findings and recommendations, as illustrated in Figure 10.

**Figure 10: Transforming Thematic and Case Reports into findings and recommendations**



Thematic and case reports are typically transformed into chapters and monographic studies. They form the basis of a Commission’s Findings and Recommendations.<sup>32</sup>

Typical phases of report writing include:

1. Write first drafts.
2. Revise and edit drafts.
3. Review and approve revised drafts.
4. Publish approved texts.

**Writing first drafts** of chapters and sections should be done by those involved in the actual research and investigation of the subject matter in question. Initial drafting requires detailed knowledge of the subject matter and the ability to quickly fact check and retrieve information as needed.

<sup>32</sup> Since truth commissions and fact-finding bodies are typically unable to investigate all violations falling within their mandate, they often focus on a small number of cases that are representative of the broader universe of cases. These select cases are sometimes referred to as “window cases.” Investigating window cases involves undertaking original fact-finding as it relates to important and emblematic events, dynamics, and violations. The selected cases are referred to as window cases as they shed light on not only the individual cases themselves, but the typical nature and character of such cases and their wider context.

**Drafts** normally go through multiple iterations. The first drafts could first be subject to peer reviews by colleagues knowledgeable on the subject matter. This may result in the draft being referred back to the drafters for adjustments and rewriting. Once peer review and any reworking are complete, the draft can be transmitted to the editorial committee for review. The editorial committee must ultimately consider drafts in terms of their:

- general soundness and consistency with hypotheses, and
- internal consistency across themes and teams.

The editorial committee may send the draft back to the writers with fresh directions. In that case, the process starts again with a peer review of the subsequent draft. It may be that the committee will direct other remedial measures, such as replacing the writer or recruiting additional writers to assist.

Once the editorial committee has approved a chapter, it goes to the commissioners for **final approval**. The commissioners may wish to engage in a division of labor, with certain commissioners focusing on certain chapters. Commissioners should call in members of the editorial committee and the writers themselves to clarify any issues.

If commissioners are unhappy with any aspect of a draft, they may refer it back to the editorial committee, which may, in turn, refer it back to the writers, and the cycle begins again. The report is ultimately approved when all chapters have been formally approved by all or a majority of the commissioners. (See below, in respect of dissenting or minority reports.)

The publications stage, or perhaps more accurately, the **pre-publication stage**, involves several tasks, including:

- proofreading and checking “writing style” (like rhetorical tone)
- maintaining an editorial style (grammar, syntax, method of quotations, footnotes, tables, boxes, numerals, etc.)
- grouping chapters into physical volumes
- preparing indexes
- preparing annexes

Care must be taken to hire recognized and experienced **proofreaders and copy editors**. Copy editing is one of the most important tasks in finalizing the report; it cannot be left to unskilled personnel. The Sierra Leone TRC hired a lawyer who was not a professional proofreader or copy editor to carry out this task. Instead of carrying out copy edits, the lawyer provided entirely inappropriate comments on the substance of the report, though, in fact, it could not be changed. Considerable expenditure and time were wasted in this exercise. The first edition of the report was finalized without professional copy editing. Only the second edition received professional copy editing and proofreading.

Once the report has been approved by all commissioners, **no substantive changes may be made** to it. In Sierra Leone, following approval of the report by commissioners, substantive alterations to certain findings were made under the guise of editing. This was done without seeking a meeting of the commission for approval. Although objections to the unauthorized adjustments were raised, the printing went ahead. Then the print run was stopped and the

entire report had to be double-checked again for alterations. Copy editing that had not been done previously was carried out. This delayed the ultimate publication of the report by several months and wasted considerable funds. Fresh funds had to be raised independently to pay for checking, copy editing, and printing the report.

### Political Interference

Commissioners and those leading fact-finding missions must have the courage to resist political interference in their work. Because the subject matter of investigations often deals with politically sensitive matters, it is possible that powerful individuals and groups will seek to manipulate the outcomes. Falsifying a report betrays the very essence of truth seeking. It also amounts to corruption because the real facts are concealed and the truth is misrepresented. Such conduct commits a fraud against the people.

In Kenya, following the final approval of the final report of the Truth, Justice and Reconciliation Commission (TJRC), the Office of the President refused to grant a meeting to the commissioners for the official handover of the report until the commission furnished an advance copy to it and the Ministry of Justice. Nobody outside of the commission was permitted under law to receive an advance copy.

Nonetheless, an advance copy was provided, whereafter **political pressure** was applied to the commissioners to adjust certain parts of the “Land” chapter, in which members of the president’s family had been implicated in violations. Eventually, most of the commissioners buckled under the pressure and effected the desired changes. The three international commissioners (The Hon. Gertrude Chawatama, Amb. Berhanu Dinka, and Prof. Ronald C. Slye) refused to make the changes and issued a dissenting report that described how adjustments had been made to chapter two of Volume 2B after it had been formally approved.<sup>33</sup>

The adjustments and deletions to the TJRC’s final report were made without any legal authority. Individuals inside and outside of the TJRC who orchestrated them violated their oaths of office and infringed several provisions of the TJRC law and the commission’s own binding procedures.<sup>34</sup> Most seriously, they gravely undermined the independence of the commission, which was protected under national and international law.<sup>35</sup>

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33 Kenya TJRC, *Dissenting Report* (2013), <https://digitalcommons.law.seattleu.edu/tjrc-core/8/>

34 Republic of Kenya, Truth, Justice and Reconciliation Act (2008), sections 7(5), 14, 21, 23, and 48(1).

35 See *Amicus Curiae Submissions of ICTJ*, in Constitutional Petition 286 of 2013 before the High Court of Kenya (2013), paras. 87–113, <http://ictj.org/sites/default/files/ICTJ-Submissions-Amicus-HighCourt-Kenya-2013.pdf>

## Making Findings and Recommendations

Two of the most important functions of a truth commission are making findings and producing recommendations. A truth commission's findings and recommendations represent the ultimate deliverables of its work.

A commission is required to make findings on the subject matter comprising its mandate. Commissions investigating violence and abuses are generally required to make findings on the causes, nature, and extent of violations and abuses. This sometimes includes the authority to identify individuals and groups responsible for human rights abuses. This may include making determinations on whether such violations were the result of deliberate planning, policy, or authorization. The findings are the main conclusions of the commission, following full consideration and testing of all the facts before it.

The recommendations are the advice that the commission wishes to provide to the head of state, executive, legislature, and other bodies. They should be based on the commission's findings. They should address the causes and shortcomings that gave rise to the violations and subject matter under investigation.

### The Nature of Truth Commission Findings

Most truth commissions, by necessity, devote their energies to compiling the essential story of the conflict. While specific cases are investigated, such cases generally serve to describe the greater story or are events that in themselves defined the nature and course of the conflict.

The Sierra Leone TRC described its "Findings" chapter as the:

summation of the main conclusions that emerged from the process of establishing the "factual or forensic" truth<sup>36</sup> of the conflict. At times this summation accords with some of the "personal or narrative truths," namely the truth as understood or related by individual participants, victims and witnesses. The findings also, at times, accord with the "social truth" or that truth that is generally accepted by large segments of the population. At other times, the conclusions to be found in the Findings chapter depart fundamentally from the different narrative truths and formerly accepted social or popular truths. In so doing, the findings of the Commission have debunked certain popular "truths" and may contribute to the creation of a new social truth . . . .<sup>37</sup>

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<sup>36</sup> Conclusions based on an empirical fact-finding approach.

<sup>37</sup> Sierra Leone TRC, *Witness to Truth*, vol. 2, ch. 2.

Sometimes commissions are required to determine whether human rights violations constitute infringements of applicable domestic laws, and the international laws,<sup>38</sup> that were in force at the time of the violations.<sup>39</sup> Even where a commission is required to make such determinations, it should not restrict its findings to violations of applicable law. Responsibility may also be assigned when a commission finds that conduct transgresses generally accepted human rights standards.<sup>40</sup> These standards should be set out in the commission's report.<sup>41</sup>

The findings of a commission do not amount to a pronouncement of guilt or innocence, nor do they constitute punishment in the formal sense. However, credible findings set out the roles played by individuals, factions, institutions, and governments to be forever recorded in history. History will be guided by such findings in judging and assessing the conduct of such role players. Those who orchestrated acts of violence and cruelty against defenseless civilians should be held to account in the public record.

In publicly identifying human rights violators, a commission invites the world at large to closely scrutinize their conduct. The fitness of perpetrators of serious human rights violations to hold positions of authority is likely to be questioned. Those responsible for serious crimes, especially genocide, crimes against humanity, and war crimes may become the subject of domestic and international investigations.

### Methodology of Findings

The findings of a commission are based on the evidence and information gleaned from data and the evidence collected from statements, investigations, research, interviews, and public and closed hearings. Depending on its legal mandate, a commission may make findings concerning the roles played in the conflict by governments, groups, factions, and individuals.

At the end of a commission's inquiry, investigators and researchers are required to place their reasoned conclusions, backed by tested facts, before the commissioners. Once the commissioners have considered the proposed findings, the research and investigation teams should be required to appear before the commissioners in a series of internal workshops to defend their draft findings. During these workshops, the commissioners can interrogate the findings, facts, and reasons and debate them before reaching final conclusions.

**Standard of proof:** Commissions normally employ a “**balance of probabilities**” test in making their findings. This is a less strenuous standard than the criminal test of “beyond a reasonable doubt,” but it nonetheless requires rigorous testing and full consideration of the facts.

The findings of the commission should be detailed in its final report, which must reflect the full facts on which each finding is based, along with the commission's analysis of such facts and its reasons for each finding. All sources of facts that it relied on must be disclosed in the report. If a source is confidential, it must be stated in the report that the source cannot be identified due to confidentiality. A commission that makes a finding without setting out a basis for it breaks the cardinal rule of fact finding. Not only are such findings unreliable, but they tend to discredit all other findings and the work of the commission.

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38 These would include the Geneva Conventions and other international instruments and the laws and customs of war.

39 This was the approach taken by the CAVR. See CAVR, *Chega!*, ch. 8, [www.cavr-timorleste.org/en/chegaReport.htm](http://www.cavr-timorleste.org/en/chegaReport.htm)

40 These are generally the standards contained in the major international human rights instruments.

41 See CAVR, *Chega!*, ch. 8, [www.chegareport.org/chega-products/](http://www.chegareport.org/chega-products/)

The Geneva Academy of International Humanitarian Law and Human Rights published a study of standards of proof in fact-finding missions and inquiries.<sup>42</sup> It found that there is a range of practice and that standards of proof can be divided into four categories:

1. **Reasonable suspicion:** Grounds for suspicion that the incident in question occurred, but other conclusions are possible. The classic expression used is, “*It may be reasonable to conclude . . .*”
2. **Balance of probabilities** (sufficient evidence): More evidence supports the finding than contradicts it. Classic expression used is, “*It is reasonable to conclude. . .*”
3. **Clear and convincing evidence:** Very solid support for the finding; significantly more evidence supports the finding and limited information suggests the contrary. Classic expression used is, “*It is clear . . .*”
4. **Overwhelming evidence:** Conclusive or highly convincing evidence supports the finding. Classic expression used is, “*It is overwhelmingly clear; it is undeniable . . .*”

The most common standard of proof used by fact- and truth-finding bodies is the balance of probabilities. Most fact-finding bodies using this standard explicitly state that they are not acting to the standards of a criminal prosecution but that their corroboration and fact-finding processes have been rigorous.

**Use of evidence:** The commission should consult as many different sources as possible and devise guidelines on how different types of evidence are weighted. Every piece of evidence that is accepted for inclusion in the commission’s findings should attain a minimum threshold in terms of its relevance, probative value, and reliability. While it is possible to rely on only one direct and reliable source of evidence, it is preferable to rely on more than one. If the commission relies on a piece of evidence for an important conclusion, it should give reasons for why it finds that evidence reliable and how it contributes to the finding.

## Making Findings of Responsibility

It is especially important to set out the evidence of findings that assign individual and group responsibility for abuses, an outcome commonly called “naming names.” A finding of individual or group responsibility may only be made when there is a decision to do so by all or a majority of the commissioners. In assessing whether to attribute responsibility, it is sufficient to apply the balance-of-probabilities standard. Where confidential sources were relied on or where notice and/or an opportunity to reply could not be provided to the implicated individual, a higher standard of proof should be applied in order to ensure procedural fairness.<sup>43</sup>

**Forms of liability:** A commission can make a finding of individual responsibility based on direct or circumstantial evidence or command responsibility. **Direct evidence** is where a commission can make a finding based on evidence from those who were direct witnesses, authenticated documentary evidence, video footage, and/or audio recordings. **Circumstantial evidence** is where no direct evidence is available but, following a consideration of undisputed or proven facts, only one conclusion may be reasonably drawn in the circumstances. Under **Command responsibility**, commanders, supervisors, or leaders who exercised actual control over subordi-

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<sup>42</sup> See Stephen Wilkinson, *Standards of Proof in International Humanitarian and Human Rights Fact-Finding and Inquiry Missions*, Geneva Academy of International Humanitarian Law and Human Rights, 2014, [www.geneva-academy.ch/joomlatools-files/docman-files/Standards%20of%20Proof%20in%20Fact-Finding.pdf](http://www.geneva-academy.ch/joomlatools-files/docman-files/Standards%20of%20Proof%20in%20Fact-Finding.pdf)

<sup>43</sup> Mark Freeman, *Truth Commissions and Procedural Fairness* (New York: Cambridge University Press, 2006), 314.

nates may be held responsible for violations committed by their subordinates if no attempt was made to stop, prevent, or punish such acts.

**Procedural fairness:** When a commission has decided to *name individuals or groups*, the procedural rights of those named must be respected following due process of law. The commission must make a reasonable effort to provide notice to those persons it intends to implicate and name. Individuals so informed should have the opportunity to reply orally or in writing to the allegations within a reasonable time period before the commission makes its findings. They must be given an opportunity to bring any additional evidence to the commission's attention. The commission should not draw any adverse inference from a failure to respond to allegations. The commission should refrain from publishing individual or group names when there has not been a good faith effort to follow these procedures and the harm to the implicated persons or parties would be substantial and irreversible.<sup>44</sup>

The commission has an obligation to investigate any new and credible contradictory or exculpatory information received from individuals or groups who have been implicated. The extent of any further investigation may be assessed considering the likelihood of the individual or group being named in the final report and the weight of the existing evidence against the individual or group.<sup>45</sup>

The precise nature of the evidence against any named individual or group and the nature of their conduct should be clearly specified in the report. Because it will not be possible to provide an exhaustive list of alleged offenders, it may be advisable to include a disclaimer in the final report to indicate that there is no claim that every perpetrator has been named and that not being named does not necessarily indicate a lack of responsibility.<sup>46</sup>

The commission should emphasize in its final report that its attributions of individual responsibility constitute the commission's findings of fact and do not amount to a conviction in a court of law.<sup>47</sup> The commission should take all necessary steps to ensure that its findings on responsibility are not leaked prior to the publication of the final report.

In striking down an article of the Liberian Truth and Reconciliation Act that made it mandatory for the government to implement the commission's recommendations,<sup>48</sup> the Liberian Supreme Court found that the Truth and Reconciliation Commission (TRC) had violated the due process rights of persons implicated in its final report because the evidence had not been put to them and they had not been afforded the opportunity to respond.<sup>49</sup>

Although the Liberian TRC's final report included a list of the "worst known perpetrators" and recommended their prosecution and permanent removal from public office, the report disclosed no evidence against them.<sup>50</sup> Indeed, most of the implicated individuals were not even mentioned in the body of the report.<sup>51</sup>

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44 Freeman at 315.

45 Ibid.

46 Ibid.

47 Ibid at 316.

48 Liberian Transitional Legislative Assembly, Truth and Reconciliation Commission Act, art. 48.

49 Supreme Court of the Republic of Liberia, *Williams v Minister of Justice, Attorney General, Independent National Human Rights Commission and Government of Liberia*, January 21, 2011.

50 See Paul James-Allen, Aaron Weah, and Lizzie Goodfriend, *Beyond the Truth and Reconciliation Commission: Transitional Justice Options in Liberia*, International Center for Transitional Justice (2010), 10–11, <http://ictj.org/sites/default/files/ICTJ-Liberia-Beyond-TRC-2010-English.pdf>; Nyuan-Bay-jay, Nat, "Commissioners of Liberia's Truth Commission Divided Over Final Report, Others Labelled It 'Witch Hunt,'" *Natlyn's Blog*, July 5, 2009, <http://natlyn.wordpress.com/2009/07/05/commissioners-of-liberia%E2%80%99s-truth-commission-divided-over-final-report-others-labeled-it-%E2%80%99Cwitch-hunt%E2%80%99D/>

51 *African Press Agency*, "Liberian Supreme Court Squashes Truth and Reconciliation Commission Ban on Politicians," January 24, 2011, [www.netnewspublisher.com/liberian-supreme-court-squashes-truth-and-reconciliation-commission-](http://www.netnewspublisher.com/liberian-supreme-court-squashes-truth-and-reconciliation-commission-)

## Merits and Risks of Identifying Specific Individuals in the Final Report

The decision to name names can be controversial, and different approaches to identifying perpetrators have been adopted by past truth commissions. Some truth commission laws require that those responsible for human rights violations be identified, while some prevent the naming of perpetrators.

There are sometimes reasons to justify keeping identities confidential. The names of underage offenders and victims should not be disclosed under any circumstances. The identities of adult victims of gender-based crimes should not be disclosed without their express written consent and only after they have received professional counselling. Occasionally, where a commission works with cooperative “insider witnesses” in order to expose the role of more senior perpetrators, it may keep the names of such witnesses secret in order to protect their safety and well-being.

Some truth commissions have used “implied identification,” where an inference of responsibility or identification through a secondary source is provided. Some commissions list the names of senior officeholders, factions, or groups that committed human rights violations, as in the “Findings” chapter of the Sierra Leone TRC’s report.

At the end of each section addressing the role played by a particular government, faction or group, the names and positions of persons found to have been its key officeholders are listed. In circumstances where a finding related to the actions of the government, faction or group in question, those officeholders were by implication held responsible.<sup>52</sup>

Those individuals have been held to be collectively responsible for violations carried out by members of impugned organizations. Other commissions have published unedited witness transcripts that name perpetrators.<sup>53</sup> Commissions that do so should make it clear that witness testimony does not constitute a finding of the commission.

### Reasons to Name Individuals:

- serves a function of accountability; performs public sanction and gives impetus to future prosecutions;
- provides a sense of vindication to victims who have previously endured denial or silence from authorities; highlights victims’ suffering and gives greater legitimacy to their complaints;
- adds to the specificity and accuracy of the historical record because the final report is a historical document that will be used by future generations as an authoritative resource.

### Reasons to Refrain from Naming Individuals:

- requires time and resources to go through a thorough process of providing implicated individuals with notice and opportunity to respond; may be impracticable;
- may appear arbitrary and unfair to name some but not all of the individuals who were implicated in countries where there has been widespread abuse with many perpetrators. In such circumstances special efforts must be made to investigate those most responsible for human rights violations from all factions, particularly those involved in the planning and orchestration of violations.

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#### [ban-on-politicians](#)

<sup>52</sup> See Sierra Leone TRC, *Final Report, Witness to Truth*, vol. 2, ch. 2, para 4, [www.sierraleonetr.org/index.php/view-report-text-vol-2/item/volume-two-chapter-two?category\\_id=20](http://www.sierraleonetr.org/index.php/view-report-text-vol-2/item/volume-two-chapter-two?category_id=20)

<sup>53</sup> Freeman, *Truth Commissions and Procedural Fairness*, 315.

While the findings of a commission cannot be equated with a court judgment, they nonetheless can be authoritative and persuasive. Adverse findings can have far-reaching effects on those who are publicly named. Such persons may face future prosecution and/or civil and administrative proceedings. Their reputation and standing in the community could be irreparably damaged, and their careers and livelihoods could be seriously impaired.

Implicated persons may have few options for legal recourse because commissioners and staff members are normally indemnified for actions taken in good faith. However, aggrieved persons may approach the courts to set aside the findings and recommendations and/or delete passages from the report.<sup>54</sup> For these reasons, commissions should only name perpetrators if they are fully satisfied that the relevant facts have been proven on the balance-of-probabilities test and procedural fairness has been strictly observed.

### Dissenting Findings

Ideally, commissioners should agree unanimously on the findings and approve the content of the final report on the basis of consensus. However, sometimes commissioners may differ on how evidence should be interpreted and wish to make different findings. Where consensus cannot be reached, findings are usually decided through a majority vote.

A commissioner who disagrees with the contents of the report—or with specific findings—may issue their own dissenting report or statement, which must be appended to the final report. A commissioner may also concur on the findings but for different reasons, which they must explain in a separate report.

Two of the ten commissioners of the Liberian TRC refused to sign the final report and issued dissenting reports. Against adherence to basic procedural fairness, the commission did not publish the dissenting reports.

In Kenya, the majority of the TJRC commissioners refused to publish the dissenting report of the three international commissioners.<sup>55</sup> This refusal violated the commission's own procedures, which reserved a "right to dissent and to prepare a minority position."<sup>56</sup> It also violated the Kenyan Constitution because it amounted to irrational and arbitrary conduct and infringed clauses protecting the freedom of expression, the media, and access to information.<sup>57</sup>

### Organizing the Findings

While the detailed findings of a commission are typically set out in the different chapters of the final report, one chapter should be devoted to compiling a summary of all of the commission's main findings. This provides readers with easy reference to the most important findings.

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54 The major political factions in South Africa all sued the TRC to restrain it from making certain findings or to delete findings published in the report. See South African TRC, *Final Report*, "Legal Challenges to the Publication of the Commission's Report," vol. 6, section 1, ch. 4, <https://sabctrc.saha.org.za/reportpage.php?id=12040&t=legal+challenge&tab=report>; South African TRC, *Final Report*, "Review Proceedings brought by Minister Buthelezi and the IFP," vol. 6, section 5, ch. 4, subsection 3, <https://sabctrc.saha.org.za/reports/volume6/sections/chapter4/subsection3.htm>.

55 Kenya TJRC, *Dissenting Report*, <https://digitalcommons.law.seattleu.edu/tjrc-core/8/>

56 See Kenya TJRC, "Final Procedure for Adopting the Report," April 16, 2013, <https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1002&context=tjrc-operational>

57 See ICTJ, *Amicus Curiae*, paras. 99–101, <http://ictj.org/sites/default/files/ICTJ-Submissions-Amicus-HighCourt-Kenya-2013.pdf>

These findings should be organized under subject-matter headings and parallel the structure of the final report. The findings chapter should commence with the commission's primary findings, which are the central or most critical findings made by the commission. While the Sierra Leone TRC made more than 500 findings under 11 subject headings, it made only 26 primary findings. The primary findings are generally the most publicized findings of a commission.<sup>58</sup>

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58 See Sierra Leone TRC, *Witness to Truth*, vol. 2, ch. 2, [www.sierraleonetrc.org/index.php/view-report-text-vol-2/item/volume-two-chapter-two?category\\_id=20](http://www.sierraleonetrc.org/index.php/view-report-text-vol-2/item/volume-two-chapter-two?category_id=20)



## Making Recommendations

A commission is normally required to make recommendations concerning the reforms and measures needed to achieve its objectives. Recommendations of a truth commission ought to be designed to facilitate the building of a new society based on the values of human dignity, the rule of law, and respect for the rights of all persons.<sup>59</sup> (Figure 11 depicts extracts of contributions to the National Vision for Sierra Leone, which helped to inform the TRC's recommendations.)

**Figure 11: Quotes from Sierra Leoneans on Their Hopes for a Post-Conflict Sierra Leone Preceded Each Category of Recommendations**



**RECOMMENDATIONS**

*I pray never to see again what I saw in my beloved Seirra Leone.*  
Extract from the poem "I Saw" by Mohamed Sekoya  
Poem submitted to the National Vision for Sierra Leone, a project of the TRC.

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- **THE PROTECTION OF HUMAN RIGHTS**  
*In the new years to come  
We would strive to live side-by-side in our rebirth  
Jumping in the glowing sun, seeing the seas from the hill  
tops from behind palm trees  
Saying "Kunafo burma"—Never again.*  
Extract from the poem "On my Rebirth" by Paul James Allen
- **PROMOTING GOOD GOVERNANCE**  
*I want to see a Sierra Leone that is free of the broken bottles  
that cut us into pieces. Broken bottles like tribalism, nepotism,  
favouritism, and sectionalism.*  
Extract from the essay "My National Vision for Sierra Leone"  
by Chinsia E. Caesar

Recommendations should address the specific problems and shortcomings disclosed in the findings.<sup>60</sup> Recommendations that are not linked to specific findings should not be included. The most important recommendations are those that address the underlying causes of conflict or repression for the purpose of preventing the repetition of human rights violations. Measures should also be proposed that address the needs of victims and victim communities as well as measures for healing and reconciliation at the national, community, and individual levels.<sup>61</sup>

59 Alexander Mayer-Rieckh and Howard Varney, *Recommending Change: Truth Commission Recommendations on Institutional Reforms*, Geneva Centre for the Democratic Control of Armed Forces, 2019, 48–50, [www.dcaf.ch/recommending-change-truth-commission-recommendations-institutional-reforms](http://www.dcaf.ch/recommending-change-truth-commission-recommendations-institutional-reforms)

60 Ibid.

61 Ibid.

In making such recommendations, a commission should propose the necessary institutional, administrative, legislative, constitutional, and/or other measures that ought to be introduced to achieve the objects of the recommendations.

### The Importance of Context

Sometimes reforms have already commenced before or during the operational lifetime of a commission. This then requires the commission to assess whether ongoing reforms will succeed in preventing recurrence or whether additional reforms are needed.

Where the commission is satisfied that existing reforms or earlier proposals are satisfactory, it can simply refer to them without repeating them.<sup>62</sup>

Commissions in post-authoritarian contexts tend to recommend the dismantling of “securitized bureaucracies and over-sized security sectors previously responsible for sustaining authoritarian and totalitarian regimes.”<sup>63</sup> In contrast, truth commissions in the aftermath of conflict seek to build firm foundations for a stable democratic state. As depicted in Figure 12, truth commissions are well placed to make informed recommendations but often fail to make appropriate proposals.

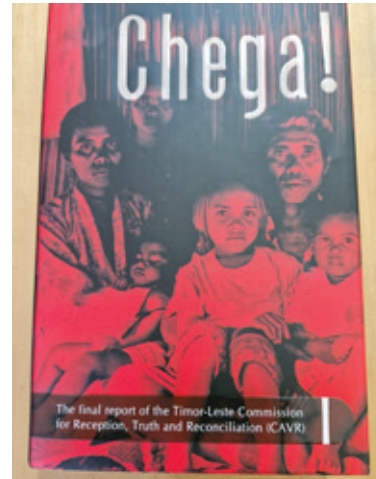
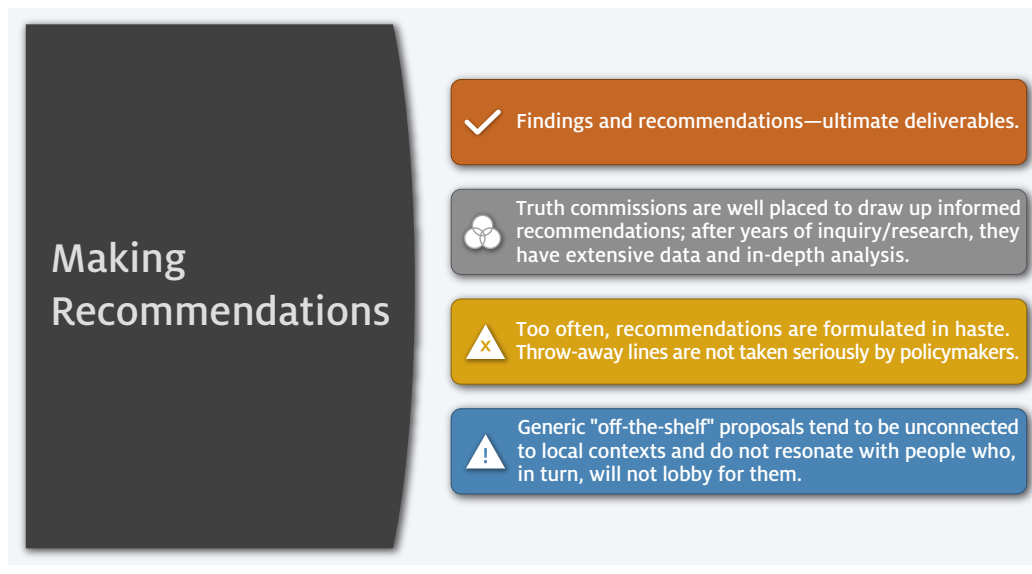


Photo 4: Cover of volume one of Chega!, the final report of the Timor-Leste Commission for Reception, Truth and Reconciliation. (Howard Varney/ICTJ)

Figure 12: Making Truth Commission Recommendations



62 For example, Guatemala’s Commission for Historical Clarification in its final report found that racial injustice and discrimination were underlying causes of the conflict. However, it did not make any recommendations in this regard but urged the implementation of the Agreement on Identity and Rights of Indigenous People (1995), a peace agreement outlining wide-ranging commitments to recognize the identity of Indigenous peoples, to eliminate discrimination against them, and to guarantee their cultural, civil, political, economic, and social rights. See Commission for Historical Clarification, *Guatemala Memory of Silence*, para. 82, [www.aas.org/sites/default/files/migrate/uploads/mos\\_en.pdf](http://www.aas.org/sites/default/files/migrate/uploads/mos_en.pdf)

63 United Nations Development Programme and Geneva Center for Security Sector Governance (DCAF), *Public Oversight of the Security Sector: A Handbook for Civil Society Organizations* (2008), [www.dcaf.ch/sites/default/files/publications/documents/CSO\\_Handbook.pdf](http://www.dcaf.ch/sites/default/files/publications/documents/CSO_Handbook.pdf)

## Organizing the Recommendations

Some truth commissions organized their reports by themes (such as the protection of human rights, women, children, and land) and developed their recommendations around those themes, including making recommendations by theme.<sup>64</sup> Other commissions developed chapters specifically devoted to measures like institutional reform.<sup>65</sup> The basic aims of making recommendations are set out in Figure 13.

**Figure 13: Broad Aims of Truth Commission Recommendations**



Generally, recommendations of truth commissions are formulated in direct response to the commission's findings. They can be both specific and general. Earlier truth commissions tended to formulate recommendations of a more general nature. Over time, commissions made more detailed findings, resulting in more specific recommendations. For example, following repeated violations of the rights of detainees by medical personnel, the South African TRC recommended that medical documentation should explicitly deal with torture. Moreover, the South African TRC recommended vetting of some medical personnel.<sup>66</sup>

## Expanding Mandates

In recent years, the scope of truth commission mandates has significantly expanded, in terms of both substance and function.<sup>67</sup> The broadening of mandates has resulted in more complex, extensive analyses of events, which in turn has led to a significant expansion in both the length of commission reports and the number of their recommendations. For instance, the English version of the El Salvador commission's final report is 202 pages, including 15 pages of

64 Examples include the truth commissions in Kenya, Sierra Leone, South Africa, and Thailand.

65 Examples include the titles of the following chapters: "Institutional Reforms" (Peru), "Suggestions in the Institutional and Legal Area to Assure that Human Rights Remain in Force" (Chile), "Institutional Reforms to Prevent the Repetition of Such Acts" (El Salvador), "Human Rights at Home: Promoting and Protecting Human Rights Through Effective Institutions" (Timor Leste), and "Measures to Strengthen Democratic Process" (Guatemala).

66 Mayer-Rieckh and Varney, *Recommending Change*, 17.

67 ICTJ and Kofi Annan Foundation, *Challenging the Conventional: Can Truth Commissions Strengthen Peace Processes?* (2014), [www.ictj.org/publication/challenging-conventional-can-truth-commissions-strengthen-peace-processes](http://www.ictj.org/publication/challenging-conventional-can-truth-commissions-strengthen-peace-processes)

recommendations,<sup>68</sup> while Peru’s TRC report is almost 8,000 pages long, with nearly 200 pages of recommendations.<sup>69</sup> The Sierra Leone commission compiled 108 pages of recommendations, encompassing 118 topics under 17 subject headings.<sup>70</sup>

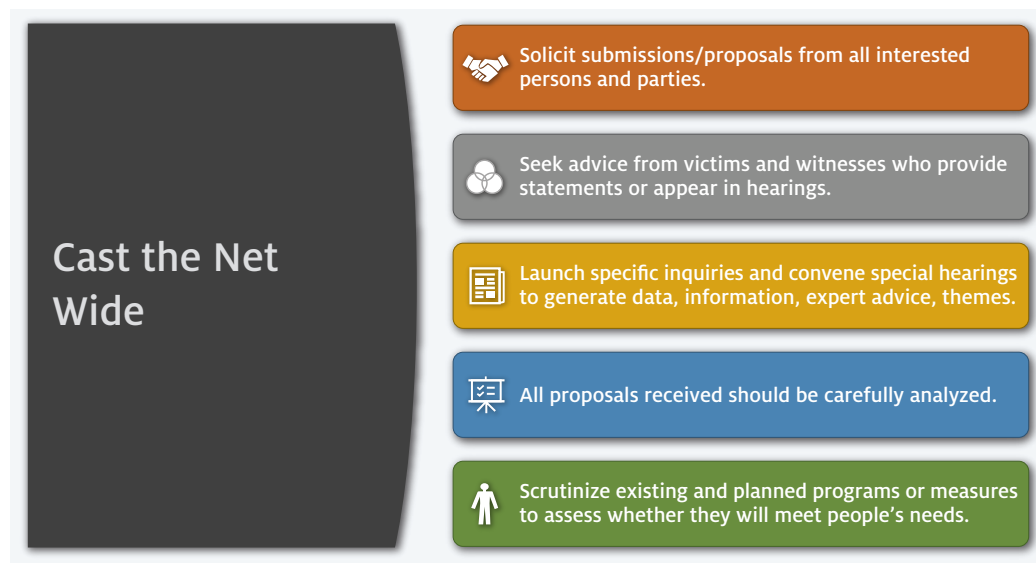
The mandates of truth commissions have widened beyond the traditional fact-finding function of clarifying individual cases and have become “an undertaking to understand comprehensively root causes, circumstances, factors, context and motives of countrywide situations of repression and/or violence.”<sup>71</sup> Early truth commissions focused largely on violations of civil and political rights, and their recommendations predominantly related to constitutional and legal reforms of the security sector and judiciary. More recent truth commissions have begun to formulate recommendations addressing the underlying causes of conflict, such as economic, ethnic, or racial marginalization and discrimination (as in the Sierra Leonean and Kenyan truth commissions).

### Recommendations Approach

A commission should be mindful of its responsibility to make recommendations that are capable of being implemented. It must consider what measures it deems are possible and realistic in the circumstances. This means considering the resources and capacity available to the government in question. However, it does not mean holding back from making recommendations that a government may not want to implement.<sup>72</sup>

Figure 14 sets out examples of how to best formulate appropriate recommendations by casting the net as wide as possible.

**Figure 14: Generating Appropriate Recommendations**



68 Commission on the Truth for El Salvador, *From Madness to Hope: The 12-year War in El Salvador, Report of the Commission on the Truth for El Salvador* (2001), 170, [www.usip.org/sites/default/files/file/ElSalvador-Report.pdf](http://www.usip.org/sites/default/files/file/ElSalvador-Report.pdf)

69 Truth and Reconciliation Commission of Peru, *Informe*, [www.usip.org/publications/2001/07/truth-commission-peru-01](http://www.usip.org/publications/2001/07/truth-commission-peru-01); see also *Ibid.* at vol. 9, [www.usip.org/sites/default/files/file/resources/collections/commissions/Peru01-Report/Peru01-Report\\_Vol9.pdf](http://www.usip.org/sites/default/files/file/resources/collections/commissions/Peru01-Report/Peru01-Report_Vol9.pdf)

70 Robinson and Varney, “Principle 12: Advisory Functions of the Commissions,” in Frank Haldemann and Thomas Unger (eds), *The United Nations Principles to Combat Impunity: A Commentary* (2018), 144.

71 Human Rights Council, *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Pablo de Greiff*, UN Doc. A/HRC/24/42, August 28, 2013, para. 40, [https://www.ohchr.org/sites/default/files/HRBodies/HRC/RegularSessions/Session24/Documents/A\\_HRC\\_24\\_42\\_ENG.doc](https://www.ohchr.org/sites/default/files/HRBodies/HRC/RegularSessions/Session24/Documents/A_HRC_24_42_ENG.doc)

72 Mayer-Rieckh and Varney, *Recommending Change*, 48–50.

A commission ought to solicit submissions and proposals for recommendations from all interested people and parties, including those who appear before it. When appropriate, it should convene special hearings or specific inquiries for the purpose of soliciting data, information, and expert advice on subject matters or themes on which it wishes to make recommendations, as depicted in Figure 15 and Tables 5 and 6.

### Figure 15: Formulating Recommendations with Local Participation and Transparency

- Several truth commissions have adopted a participatory approach to support the recommendations process:
  - Soliciting proposals for recommendations through written submissions, and
  - Convening special hearings to obtain expert advice on thematic areas.
- In **Guatemala**, the truth commission convened a conference of 400 stakeholders, including legislators and key civil society leaders, to draft the commission’s recommendations.



Table 5: Categories of Recommendations Proposed to the Sierra Leone TRC

Below is a summary of recommendations (61 pages) submitted to the TRC broken down by subject area. The subject areas are:	
• Status of children	• Reform of the army
• Children and mining	• Reform of the police
• Education and training of youth	• Economy
• Status of women	• Employment and housing
• Human rights	• Mineral resources
• Judicial reform	• Health services
• Address corruption	• Media
• Political reform and governance	• Finance and banking
• Reform civil service	• Reconciliation
• Citizenship	• Reparations and restitution
• Security	• National vision

Source: Sierra Leone TRC, *Witness to Truth*, 2004.

**Table 6: Examples of Recommendations on Children Proposed to Sierra Leone TRC**

Category	Recommendation	Declarant	Date	Pg
<b>STATUS OF CHILDREN</b>				
Child protection committee	Provide resources to help establish Child Protection Committee throughout the country to monitor and report on incidents of child abuse and other child protection issues.	Ministry of Social Welfare Gender and Children's Status	June 17, 2003	23
Develop policy	Develop a policy on children, Allocate more funds to the Ministry to implement child protection programs.	Ministry of Social Welfare Gender and Children's Status	June 17, 2003	23
Juvenile justice	Improve the juvenile system so children in conflict with the law are adequately care for and protected.	Ministry of Social Welfare Gender and Children's Status	June 17, 2003	23
Remand homes	Construct remand homes and schools in Bo, Kenema, and Makeni to address increase in juvenile delinquencies in the region.	Ministry of Social Welfare Gender and Children's Status	June 17, 2003	23
Provinces	Reconstruct the Ministry's offices in the provinces.	Ministry of Social Welfare Gender and Children's Status	June 17, 2003	23
Improve status of children	Create mechanism to guard against abuse of children.	SLPP (Dr. Harding National Secretary General), Theme: Governance		19
Improve status of children	Government should define what child is (set age) to clarify laws related to children.	Gross Child Rights Violations Network (GCRV), Ms. Conteh	June 17, 2003	5
Detention	Provide separate facilities for adults and children offenders.	GCRV	June 17, 2003	5

Source: Sierra Leone TRC, "Operational Document," September 2003.

### **Making Good Recommendations**

In addition to only making recommendations that are capable of being implemented, a truth commission should make recommendations that:

- are specifically linked to a particular finding;
- are directed to a specific officeholder, local or international organization, or country;
- identify the problem or issue that the recommendation is intended to address;
- indicate how the recommendation will address the problem or issue;
- contain sufficient specificity, direction, and guidance, so the party charged with implementing it can do so easily; and
- indicate how soon each recommendation should be carried out.

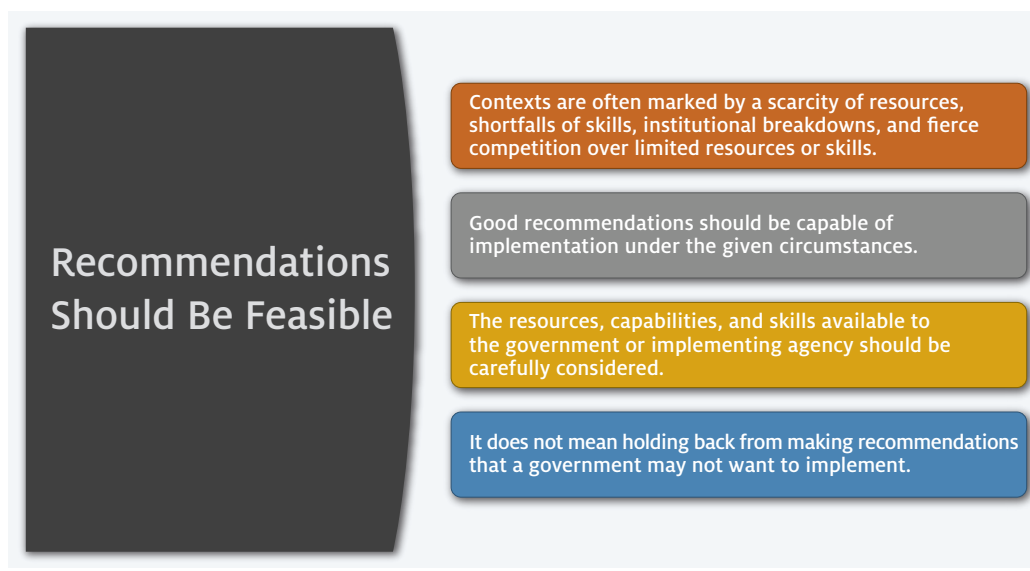
Truth commissions are well placed to draw up informed recommendations. After years of inquiry and research, they possess extensive data and in-depth analysis about past violations, their direct and structural causes, and the impact on society. However, too often truth commission recommen-

dations are formulated in haste and constitute little more than throw-away lines that are not taken seriously by policy makers. Recommendations that are generic, ready-made proposals tend to be disconnected from the local context and/or specific findings. Such recommendations are unlikely to resonate with members of the public, who in turn will not lobby for their implementation.<sup>73</sup>

All proposals for recommendations should be carefully analyzed and considered by the commission. Truth commissions should also scrutinize existing and planned programs and measures to assess whether they will meet the needs of the people. Alexander Mayer-Rieckh and Howard Varney, in the report *Recommending Change: Truth Commission Recommendations on Institutional Reforms*, offered the following guidelines for making good recommendations.<sup>74</sup>

**Recommendations should be adapted to the context.** Socio-economic factors, conflict dynamics, structural architectures, power relations, and other contextual conditions vary from one truth commission to the next. Accordingly, there can be no formulaic response to preventing serious violations from happening again. Rather than applying a generic toolbox approach, recommendations should be developed in response to the context in which the violations occurred. Before making a recommendation, careful analysis is needed to establish what violations took place, why they occurred, how they were implemented, what effects they had, and how they can be best prevented in the future. In analyzing the causes and effects of violations, significant attention must be paid to the perspectives of victims,<sup>75</sup> specifically of female and child victims.<sup>76</sup> Their perspectives provide insights into the causes and effects of violations as well as what it takes to prevent them from recurring.<sup>77</sup> Figure 16 outlines how to keep recommendations feasible, realistic, and practical.

Figure 16: Making Feasible Recommendations



73 Mayer-Rieckh and Varney, *Recommending Change*, 48–50.

74 *Ibid.*

75 UN Economic and Social Council, *Study Concerning the Right to Restitution, Compensation and Rehabilitation for Victims of Gross Violations of Human Rights and Fundamental Freedoms: Final Report*, Theo van Boven, Special Rapporteur, UN Doc. E/CN.4/Sub.2/1993/8, July 2, 1993, para. 133.

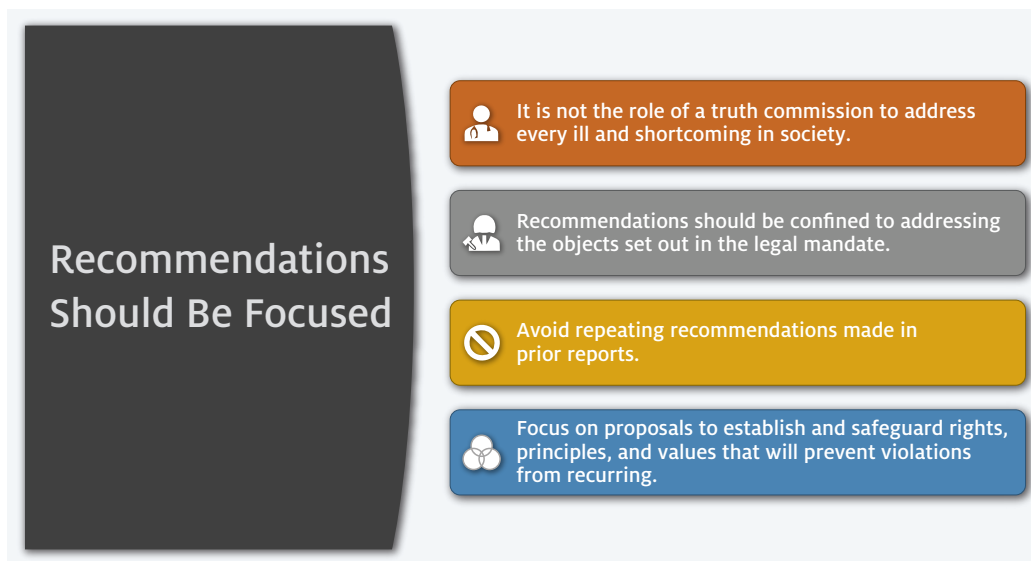
76 UN Economic and Social Council, *Promotion and Protection of Human Rights: Impunity*, “Independent Study on Best Practices, Including Recommendations, to Assist States in Strengthening Their Domestic Capacity to Combat All Aspects of Impunity, by Professor Diane Orentlicher,” UN Doc. E/CN.4/2004/88, 27 February 2004, para. 9.

77 UN Economic and Social Council, *Promotion and Protection of Human Rights: Impunity*, “Report of the Independent Expert to Update the Set of Principles to Combat Impunity, Diane Orentlicher,” U.N. Doc. E/CN.4/2005/102, February 18, 2005, para. 7.

**Recommendations should be feasible.** The contexts in which truth commissions operate are often marked by a scarcity of resources, a shortfall of skills, a breakdown of institutions, and fierce competition over limited resources and skills. In making recommendations, those crafting recommendations should carefully consider the resources, capacities, and skills available to the government or implementing agency.

**Recommendations should be specific.** Recommendations should start by identifying the problem, not the solution. This is best done by identifying the specific finding or issue to be addressed and giving an example of the problem to be tackled. It should be indicated how the recommendation will address the problem. Recommendations that are persuasive and address specific problems are likely to resonate with stakeholders, who may in turn advocate and lobby for their implementation. Commonplace and vague recommendations are easily ignored. Where possible, commissions should formulate uncomplicated, technical, quick-impact, and low-cost solutions. Recommendations that are addressed to specific officeholders and have measurable short, medium, or long-term goals will help to facilitate implementation and monitoring.<sup>78</sup> Figure 17 illustrates how to best keep recommendations focused

**Figure 17: Making Focused Recommendations**



**Recommendations should pay particular attention to both structural and root causes.** The in-depth analysis performed by truth commissions places them in a unique position to identify the methods and means used to commit violations as well as their structural and root causes. Truth commissions should make good use of this analysis and recommend measures to disable abusive institutions and address underlying causes. In doing so, truth commissions should consider various forms of violence, injustice, and exclusion and formulate recommendations that aim to build peaceful, just, and inclusive societies, in accordance with UN Sustainable Development Goal 16, which urges efforts to “promote peaceful and inclusive

<sup>78</sup> Robinson and Varney, “Principle 12: Advisory Functions of the Commissions,” 144–145. See also Sierra Leone TRC, *Witness to Truth*, vol. 2, ch. 3, paras. 13–15, [www.sierraleonetrc.org/index.php/view-report-text-vol-2/item/volume-two-chapter-three?category\\_id=20](http://www.sierraleonetrc.org/index.php/view-report-text-vol-2/item/volume-two-chapter-three?category_id=20)

societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.”<sup>79</sup>

## Prioritizing Recommendations

Not all recommendations can be implemented at the same time.<sup>80</sup> Some recommendations are more urgent than others. Truth commissions should rank recommendations in order of their priority, which will depend on various factors. For instance, certain measures may be prioritized because they address socio-economic root causes of the repression or conflict and can prevent recurrence in the long term. Other measures may be a priority because they disable abusive structures, thereby ensuring quick impact and non-recurrence in the short term. Some measures could be prioritized because they lend themselves to immediate or short-term action, such as the repeal or amendment of certain problematic laws.<sup>81</sup>

Some measures may be prioritized because they enable other reforms or because they are politically acceptable, while recommendations that seek to address deep underlying causes of repression or conflict, such as racism, marginalization, centralization of wealth, patriarchy, and sexism, may be long-term political objectives. Historic injustices that have been entrenched over decades, and even centuries, require dynamic solutions generated through participation, research, and negotiation.<sup>82</sup>

Recommendations may be grouped together based on their importance and urgency. In order to assist with implementation, a commission should clearly identify which recommendations require immediate action and which are more long-term goals. The Sierra Leone TRC organized its recommendations from “imperative” to “seriously consider,” as shown in Table 7.

**Table 7: Sierra Leone TRC’s Methodology for Prioritizing Recommendations**

CATEGORY	IMPLEMENTATION	TIME	FOLLOW-UP AND MONITORING
Imperative	Critical	Immediate or as soon as possible	Frequent and close scrutiny
Progressive implementation	Put building blocks in place	Less stringent but still within a reasonable time	Ongoing monitoring
Seriously consider	Seriously evaluate	None	Occasional monitoring

Source: Sierra Leone TRC, *Witness to Truth*, vol. 2, ch. 3, 2004.

- The Sierra Leone TRC’s **imperative** category included recommendations that it believed were of critical importance and ought to be implemented immediately or as soon as possible. These recommendations tended to establish and uphold rights and values. It called for the enactment of an “omnibus bill” to address those measures that could be implemented by mere repeal or amendment of existing legislation or parts thereof.

<sup>79</sup> United Nations Dept. of Economic and Social Affairs, Sustainable Development Goal 16, <https://sustainabledevelopment.un.org/sdg16>. See also UN General Assembly, *Transforming Our World: The 2030 Agenda for Sustainable Development*, GA Res. A/RES/70/1, October 21, 2015.

<sup>80</sup> Mayer-Rieckh and Varney, *Recommending Change*, 50.

<sup>81</sup> *Ibid.*

<sup>82</sup> *Ibid.*

- The **progressive implementation**, or “work towards,” category was for recommendations that the government was expected to first put in place necessary building blocks in order to make the ultimate fulfilment of the recommendation possible. No time stipulation was made for these recommendations, although the commission expected recommendations in this category to be implemented within a reasonable time period. These recommendations required in-depth planning and marshalling resources to ensure their fulfilment.
- The commission also made recommendations for the **serious consideration** of the government. In this category there was no obligation to implement the recommendations, but the government was expected to thoroughly evaluate them.

Finally, the Sierra Leone TRC made recommendations directed at bodies other than the government. These included nongovernmental bodies or members of the international community. In these circumstances, the commission **called on** the body in question to implement the recommendation.<sup>83</sup>

### Recommendations to Address Findings

Because recommendations are meant to address issues disclosed by the findings, in particular, the underlying causes of the conflict, they may potentially cover a wide range of issues. Some commissions focus on remedying wrongs committed against vulnerable groups, such as women, children, the war-wounded, the sexually abused, and war widows. Potential topics include measures to:

- protect human rights and establish the rule of law
- reform the judiciary and criminal justice system
- reform previously abusive institutions such as the police and army
- promote good governance and fight corruption
- address the misuse of land and mineral resources
- advance the rights of women, children, and youth
- address shortcomings in the role of external actors
- provide reparations to redress the wrongs suffered by victims
- promote reconciliation
- archiving and disseminating the final report
- follow-up and monitoring of the implementation of the commission’s recommendations

Perhaps the most controversial recommendations are for specific sanctions against those found to be responsible for human rights violations. These include recommendations to investigate and prosecute perpetrators (“justice recommendations”) and recommendations to bar or remove such persons from public office (“public office recommendations”).

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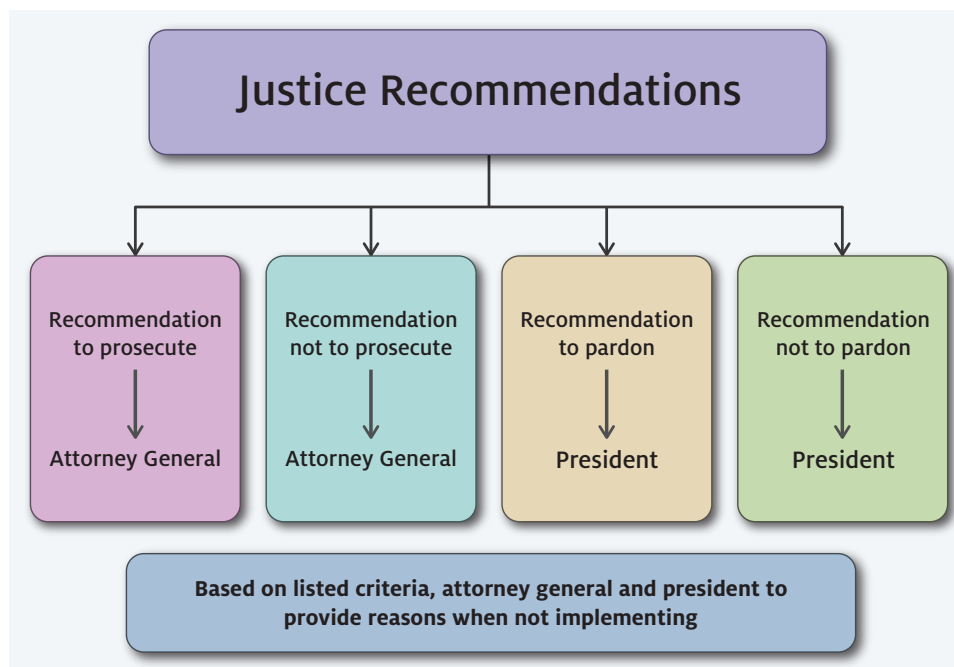
83 Sierra Leone TRC, *Witness to Truth*, vol. 2, ch. 3, paras. 13–15.

## Justice Recommendations

Some 21 truth commissions have recommended prosecutions or taken steps to support the prosecutions of perpetrators.<sup>84</sup> The Peruvian TRC (2001–2003) set up a Special Investigations Unit to collect evidence for purposes of future prosecutions. It concluded an agreement with the Prosecutor’s Office for the transfer of cases to courts, after which it referred 59 cases. The Ombudsman Office reported that by the end of 2007, seven of these cases had resulted in convictions.<sup>85</sup>

In 2002, when the South African TRC concluded its amnesty process, the commission submitted its two-volume final report to the president and handed over a list of 300 names to the National Prosecuting Authority for investigation and prosecution, although political interference in these cases has resulted in few of them being taken forward.<sup>86</sup> A commission may recommend prosecutions or pardons for implicated individuals, as set out in Figure 18.

Figure 18: Making Justice-Related Recommendations



As discussed above, a truth commission ought to recommend cases for prosecution in appropriate circumstances. Similarly, a commission may recommend appropriate cases to the head of state for the exercise of their pardon power. In certain circumstances a commission may deem it necessary to recommend that certain cases are not appropriate for prosecution or pardon. Suitable criteria should be developed to help guide the commission in making such recommendations. Such **criteria** should be widely publicized. They could include:

- the nature and gravity of the offence, including whether the offence constitutes a crime against humanity, war crime, or any other crime of international concern that the government in question is obliged to prosecute under its international law obligations;

84 Amnesty International, *Commissioning Justice: Truth Commissions and Criminal Justice* (2010).

85 M. Reed Hurtado, “Informative Note on the Situation of Human Rights Criminal Cases in Peru,” Bogotá, February 14, 2008.

86 *Rodrigues v National Director of Public Prosecutions and Others* [2021] 3 All SA 775 (SCA), para. 26.

- whether perpetrators have acknowledged their role, the implications of their actions, and made full disclosure of all relevant facts, including facts of other violations of which they have direct knowledge;
- whether the offence was politically motivated;
- whether the offence was committed for personal gain or gratification or out of malice, ill will, or spite;
- whether the offence was proportional to the political objective pursued and whether there was a sufficiently close relationship between the offence and such objective;
- whether the offender is cooperating or has undertaken to cooperate with relevant law enforcement authorities in further investigations and possible prosecutions,
- whether the offender has engaged or consulted with the relevant victims and, where feasible, compensated the victims or made serious attempts to do so;
- whether the offender benefited materially from the offences, and if so, whether they have made restitution of their ill-gotten gains.

Where the head of a prosecuting authority declines to implement a justice recommendation, reasons ought to be provided for not doing so within a specified or reasonable amount of time.

### **Public Office Recommendations**

Where a commission is of the view that persons found to be responsible for human rights violations are not fit to hold public office, it should make such recommendations.

Public office recommendations are made for the purpose of promoting accountability and addressing corruption and bad governance. A commission could employ the same or similar criteria as proposed in respect of the justice recommendations for making such recommendations.

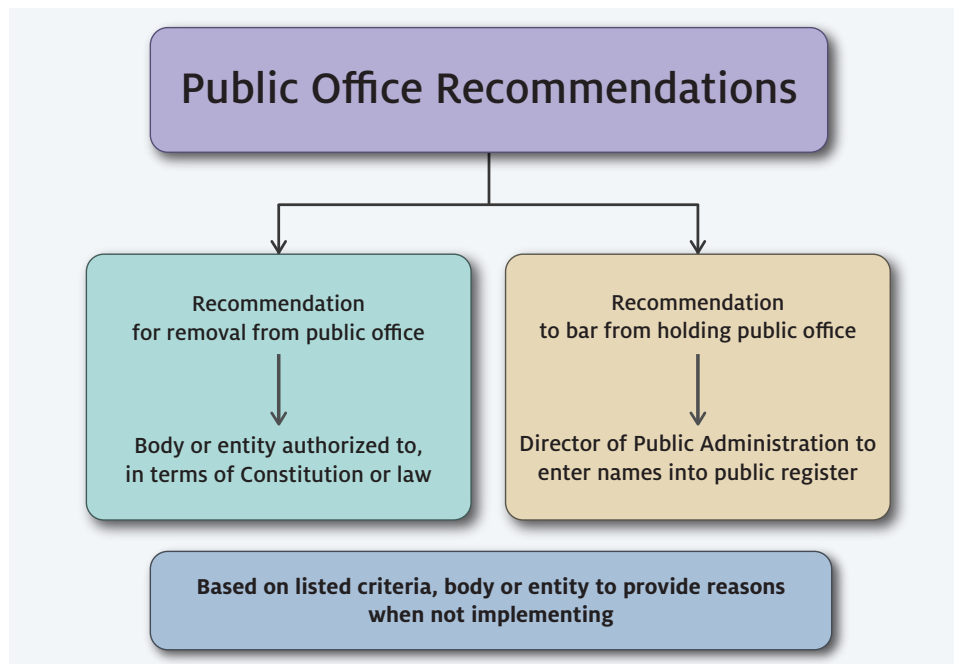
Such recommendations typically involve recommending that certain individuals be removed or barred from public office, with or without conditions. A recommendation for the removal of a person from public office should be made to the entity authorized by the constitution, or by law, to appoint and remove a person from public office. Where the body or entity in question declines to implement such a recommendation, it should be required to provide reasons to the head of state, national assembly, and/ or national human rights commission within a specified time.

A recommendation to bar a person from holding public office should be made to the head of the public service, who should be required to enter such details into a public register. Where the public service or a department decides to employ such a person notwithstanding such a recommendation, it should be required to provide reasons to the head of state, national assembly, and/or national human rights commission within a specified time.<sup>87</sup> The approach is set out in Figure 19.

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<sup>87</sup> Making public office recommendations should not be confused with vetting or screening programs, which ought to be routinely carried out by public-sector employers, particularly in post-conflict settings.

**Figure 19: Making Public Office-Related Recommendations**



### Enforceability of Recommendations

Recommendations are by definition nonbinding because compelling the legislature, the executive, and/or the judiciary to implement a commission’s recommendations would be offensive to the principle of the separation of powers that most countries respect. A recommendation is ultimately nothing more than advice.<sup>88</sup>

However, governments are typically obliged to “undertake to give due consideration” to recommendations.<sup>89</sup> Moreover, states are obliged under international law to carry out investigations of human rights abuses. Their response to past abuses must encompass commission findings and recommendations, victims’ needs, and the need for criminal justice.<sup>90</sup> Successful implementation of recommendations will depend on a variety of factors, including the practicality and specificity of the recommendations, the government’s resources and institutional capacity, and the existence of the political will to act.<sup>91</sup>

Recommendations that are specific and feasible, with measurable short-, medium-, or long-term goals, will be easier for governments to implement and outside organizations to monitor. Recommendations that resonate with people are likely to be the subject of mobilizing and lobbying by civil society. Such recommendations are more likely to be implemented by governments.<sup>92</sup>

88 Mayer-Rieckh and Varney, *Recommending Change*, 51–55.

89 UN Commission on Human Rights, “Promotion and Protection of Human Rights: Report of the Independent Expert to Update the Set of Principles to Combat Impunity, Diane Orentlicher, Addendum,” E/CN.4/2005/102/Add.1, principle 12.

90 *Ibid.* at principle 19.

91 Office of the United Nations High Commissioner for Human Rights, *Rule of Law Tools for Post-Conflict States* (2006), 31, [www.ohchr.org/Documents/Publications/RuleoflawTruthCommissionsen.pdf](http://www.ohchr.org/Documents/Publications/RuleoflawTruthCommissionsen.pdf)

92 See Sierra Leone TRC, “Recommendation Matrix,” [www.sierraleonetrc.org/index.php/resources/recommendations-matrix](http://www.sierraleonetrc.org/index.php/resources/recommendations-matrix). See also *The Economist*, “Sierra Leone’s Corruption Problem a Mortal Enemy: The Government Is Having Some Rare Success in Trying to Eradicate an old Sore,” November 19, 2009.

In Sierra Leone, various civil society groups mobilized around certain recommendations, particularly those relating to women, children, and youth and combating corruption.<sup>93</sup> As a result, in the general election that followed the release of the report, the opposition party incorporated implementing such recommendations into its election manifesto and, following its election, implemented certain recommendations.<sup>94</sup>

## Implementation and Monitoring

While governments cannot be compelled to implement the recommendations of truth commissions, they should nonetheless be held accountable for their response, or lack thereof, to the commission's findings and recommendations.

Commissions could recommend that the government's response should set out the specific recommendations that it intends to implement, along with a high-level plan and strategy for their implementation. The response should also set out the specific recommendations that the government has declined to implement, along with the reasons.

Commissions could also recommend that the parliament or national assembly/congress convene a special sitting within a specified number of days of the government's response to consider and debate the government's response and consider any further action, if any, that the assembly may wish to take.<sup>95</sup> Such an approach is set out in Figure 20.

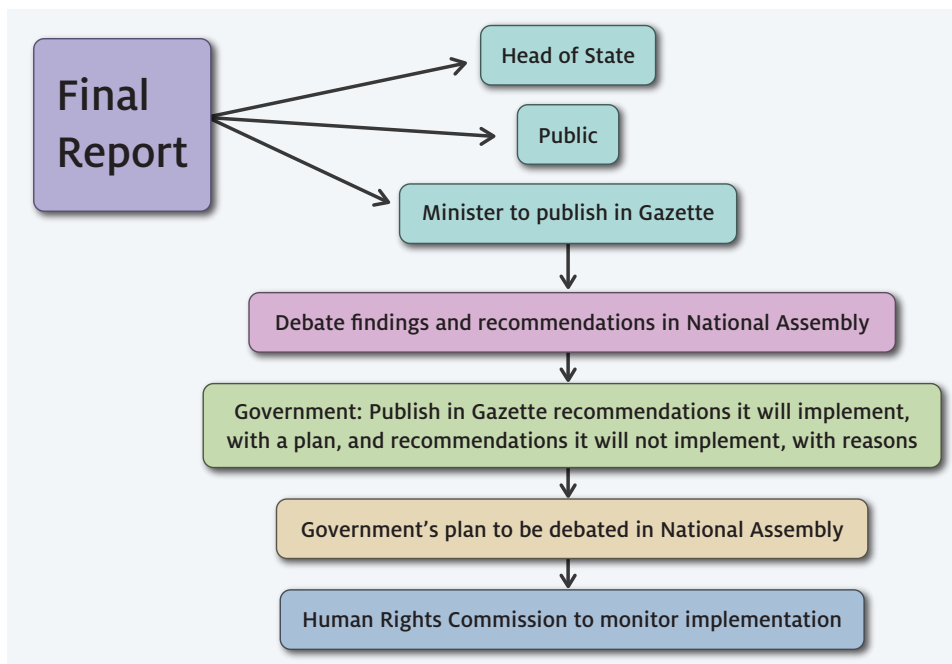
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93 In Sierra Leone, local hip-hop, reggae, and other musicians compiled an album of songs dedicated to the promotion of the TRC recommendations. Sierra Leone's number one youth radio show hosted two dedicated programmes on the project. The top internet cafe in Freetown, a prime 24-hour urban hangout, offered the "Witness to Truth" DVD for its clientele to view free of charge. [www.thepatrioticvanguard.com/cd-on-trc-recommendations-to-be-launched-saturday](http://www.thepatrioticvanguard.com/cd-on-trc-recommendations-to-be-launched-saturday)

94 Recommendations from the TRC implemented by the Sierra Leone government include the creation of the National Human Rights Commission following an open nomination process; the adoption of a binding Code of Conduct for Judges and Magistrates; enactment of laws to further the realization of women's rights (the three pieces of legislation commonly referred to as the Gender Justice Acts) and child rights (the Child Rights Act); granting independent power of prosecution of corruption cases to the Anti-Corruption Commission; provision for the disclosure of financial interests for senior public officials; provision of free primary-school education; the abolition of corporal punishment in schools; and a landmark law that reserves 30 percent of public and private jobs for women. See Sierra Leone TRC, "Recommendation Matrix," [www.sierraleonetrc.org/index.php/resources/recommendations-matrix](http://www.sierraleonetrc.org/index.php/resources/recommendations-matrix)

95 In Sierra Leone, the TRC Follow-Up Project persuaded the Clerk of Parliament to set aside one day in the parliamentary calendar on which no other business but the TRC report and recommendations would be considered. An unprecedented Special Session of the Sierra Leone Parliament on the TRC Report and Recommendations was held on November 14, 2005.

Figure 20: Responding to Truth Commission Recommendations



Some legal mandates for truth commissions, such as those of Sierra Leone, Liberia, and Kenya, required the establishment of “follow-up committees” or a body to monitor or carry out the implementation of the commission’s recommendations.<sup>96</sup> These are impractical measures. Pablo de Greiff, the first UN special rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, noted that such bodies are hamstrung because “agencies and ministries are not under their authority” and “in the face of recalcitrant attitudes, they prove to be feeble.”<sup>97</sup> Official monitoring is best carried out by an existing statutory body, like a national human rights commission that is likely to have the resources and authority to monitor human rights and related developments.

A human rights commission or similar monitoring body could be required to publish periodic reports at least once a year, setting out the findings of its monitoring efforts. All organs of state should be required to respond timeously to each request made by a monitoring body in pursuance of its obligations.

Ultimately it is up to a vigilant civil society to monitor and scrutinize the government’s performance in implementing the recommendations of a truth commission. Such monitoring ought to be driven by specialist nongovernmental groups and civil society groups. Such organizations can focus on the recommendations with the most impact on their programs and constituencies. Focused lobbying can target relevant government departments, ministries, and legislative committees and individual members of the legislature. Innovative ways

96 Any legal provision requiring that a follow-up committee or other body implement recommendations is likely to be unconstitutional. Section 49 of the Kenyan Truth, Justice and Reconciliation Act (2008), which required the setting up of an “implementation committee.” Section 46 of the Liberian TRC Act required that the “Independent National Human Rights Commission shall be seized with the responsibility to ensure that all the recommendations contained in the Report of the TRC are implemented.” The Liberian Supreme Court struck down the requirement that all recommendations be implemented.

97 *de Greiff Report*, para. 77.

of monitoring include publishing periodic scorecards that assess and score the government's performance in respect of the implementation of selected recommendations. Mayer-Rieckh and Varney conclude the following:

Recommendations of truth commissions inevitably encounter resistance from various quarters within and outside government. Nonetheless, where the recommendations resonate with society at large, they can act as an 'enabler' by exposing institutional responsibility and placing pressure on the political establishment to act. Recommendations which attract strong civil society support will have greater chances of a successful implementation . . . Truth commissions should not be expected to provide blueprints for the building of perfect future societies. However, they are well placed to help facilitate the creation of more humane societies which uphold human dignity and respect the rule of law. Ultimately truth commission recommendations must stand for themselves. Those that speak to the needs of the people are likely to provide focal points around which civil society can mobilise. In so doing policy makers are made aware of the political cost in not addressing issues pertinently raised by truth commissions.<sup>98</sup>

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98 Mayer-Rieckh and Varney, *Recommending Change*, 57.

## Report Formats

In addition to completing its final report, a commission ought to produce and distribute summaries of the report. Such versions should include an easy-to-read, “story-type” version for the general public and simplified versions for students, perhaps making use of graphics, photographs, and cartoons.<sup>99</sup> Consideration should also be given to creating audio and video versions, perhaps in collaboration with organizations experienced in producing audio-visual products.

Consideration should be given as to whether there is a need to translate the report (or parts of it) into other languages.

Some truth commissions, such as those in East Timor and Sierra Leone, have produced shorter versions of their final report aimed at target audiences such as children and scholars.<sup>100</sup> For instance, the Sierra Leone TRC created a publication for children, and the Truth and Reconciliation Working Group published a version for secondary school students.

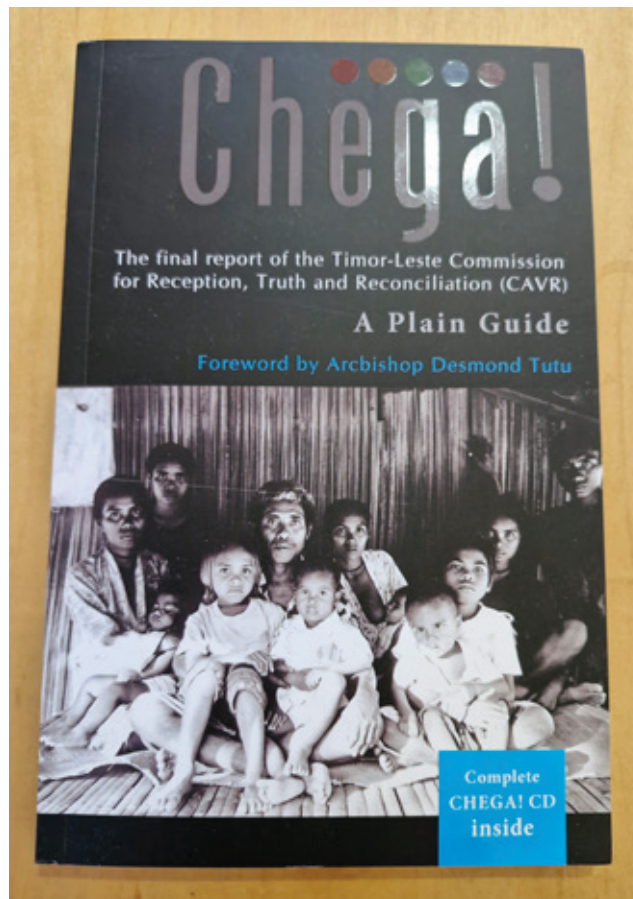


Photo 5: Cover of the plain guide to the final report of the Timor Leste Commission for Reception, Truth and Reconciliation. (Howard Varney/ICTJ)

<sup>99</sup> See, for example, the popular versions of the report produced by the Sierra Leone TRC, which included versions for secondary school students, children (in collaboration with UNICEF), and a video version (in collaboration with WITNESS), Sierra Leone TRC, “Popular Reports Files,” [www.sierraleonetr.org/index.php/view-the-final-report/popular-reports](http://www.sierraleonetr.org/index.php/view-the-final-report/popular-reports)  
<sup>100</sup> Ibid.

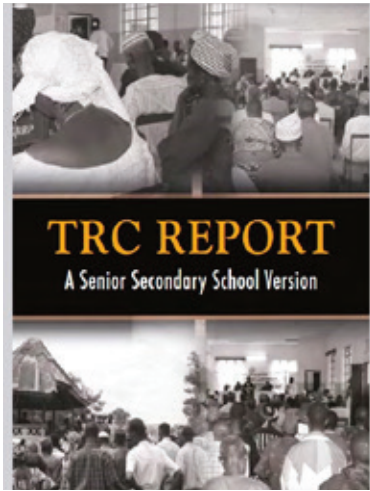


Photo 6: The cover of the senior secondary school version of the TRC Report, Truth and Reconciliation Working Group, published in 2005. (Sierra Leone TRC)



Photo 7: The cover of the child-friendly version of the TRC Report, published in 2004. (Sierra Leone TRC)



Photo 8: The Sierra Leone TRC produced a video version of its final report. (Howard Varney/ICTJ)

The publication of shorter popular versions is now seen as best practice. The Final Report of the Timor Leste Commission for Reception, Truth and Reconciliation (CAVR) titled *Chega!* was converted into a short, easy-to-read, “Plain Guide.” A five-part comic book version of the report aimed at young people was produced by Asia Justice and Rights.<sup>101</sup>



Photo 9 to 13: The covers of the comic book version of *Chega!*, the final report of the Timor Leste Commission for Reception, Truth and Reconciliation. (Asia Justice and Rights)

101 Asia Justice and Rights, Secretariado Tecnico Pos-CAVR, and INSIST Press, *Chega!* Comic book 1–5, [www.chegareport.org/download-chega-products-2/](http://www.chegareport.org/download-chega-products-2/)

The final report of the Peruvian TRC was disseminated in summary versions as leaflets and included in newspapers with national circulation. An estimated 600,000 copies of a short popular version were disseminated. The Peruvian TRC also created a photojournalist project called “The Visual Legacy,” which resulted in an image bank comprising some 1,700 photographs; an exhibit of some 200 photos that toured the country; and a book of collected photographs titled *Yuyanapaq: To Remember*,<sup>102</sup> which noted, “The images don’t change, but the eyes that see them do.”<sup>103</sup>

Following the closure of the Truth and Reconciliation Commission of Canada, the National Centre for Truth and Reconciliation (NCTR) was established at the University of Manitoba to carry on the TRC’s truth-seeking mission. The NCTR established several innovative online memory projects, including an online exhibit titled “Residential Schools Timeline,” which includes original documents and photographs,<sup>104</sup> and an online National Student Memorial Register to honor the children who never returned home.<sup>105</sup> The NCTR created an online interactive map that displays information about residential schools, historical events, and TRC hearings, with links to relevant information and documents.<sup>106</sup> It has also held virtual events to allow current students to learn firsthand from Residential School Survivors, Elders, Knowledge Keepers, artists, and leaders from nations and cultures across the country.<sup>107</sup>

*Nunca más: informe final de la Comisión Nacional sobre la Desaparición de Personas* (1984), the final report of the Argentinian truth commission known as the National Commission on the Disappeared, proved to be a best seller in Argentina. It was republished twice by publishing houses in the United States and Europe. Short by final report standards at only 463 pages, it was written in an accessible style, as shown in the extract in Box 5.

### Box 5: Excerpt from Introduction to *Nunca más*, the Final Report of Argentina’s National Commission on the Disappeared

#### A. General Introduction

Many of the events described in this report will be hard to believe. This is because the men and women of our nation have only heard of such horror in reports from distant places. The enormity of what took place in Argentina, involving the transgression of the most fundamental human rights, is sure, still, to produce that disbelief which some used at the time to defend themselves from pain and horror. In so doing, they also avoided the responsibility born of knowledge and awareness, because the question necessarily follows: how can we prevent it happening again? And the frightening realization that both the victims and their tormentors were our contemporaries, that the tragedy took place on our soil, and that those who insulted the history of our country in this way have yet to show by word or deed that they feel any remorse for what they have done.<sup>108</sup>

102 See Peru TRC, “Presentation: The Visual Legacy,” [www.cverdad.org.pe/ingles/apublicas/p-fotografico/index.php](http://www.cverdad.org.pe/ingles/apublicas/p-fotografico/index.php)

103 See Deborah Poole and Isaías Rojas Pérez, “Memories of Reconciliation: Photography and Memory in Post-war Peru,” *After Truth* 7.2 (2010): <https://hemisphericinstitute.org/en/emisferica-72/7-2-essays/e72-essay-memories-of-reconciliation-photography-and-memory-in-postwar-peru.html>

104 See: <http://nctr.ca/exhibitions.php>

105 See National Centre for Truth and Reconciliation, “Memorial,” <https://memorial.nctr.ca/>

106 See National Centre for Truth and Reconciliation, “Interactive Map,” <https://nctr.ca/records/view-your-records/archival-map/>

107 See National Centre for Truth and Reconciliation, “Education,” <https://education.nctr.ca/>

108 See National Commission on the Disappeared (Argentina), *Nunca más: informe final de la Comisión Nacional sobre la Desaparición de Personas* (1984), [http://www.desaparecidos.org/nuncamas/web/english/library/nevagain/nevagain\\_004.htm](http://www.desaparecidos.org/nuncamas/web/english/library/nevagain/nevagain_004.htm)

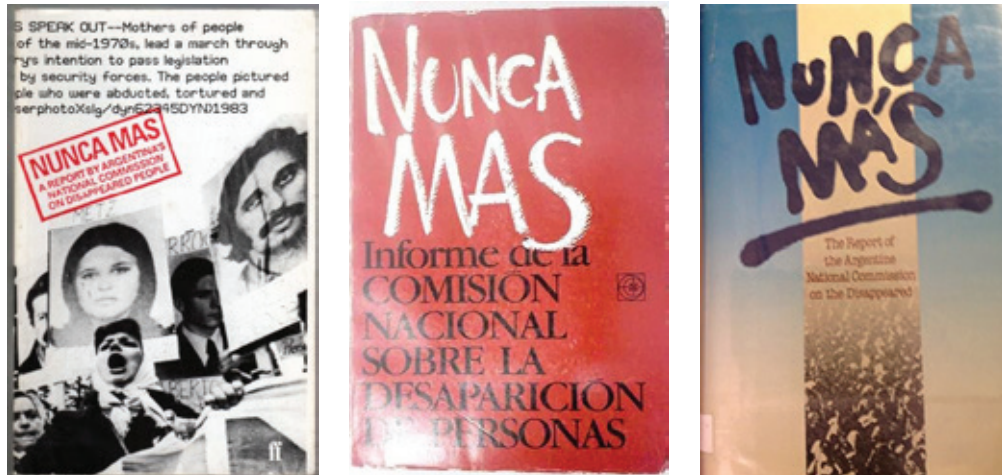


Photo 14 to 16: The published versions of the final report of Argentina's National Commission on the Disappeared, *Nunca Más*, became a national bestseller. (Editorial Universitaria de Buenos Aires)

South Africa's national public broadcaster, the South African Broadcasting Corporation (SABC) produced a six-part audio compact disc collection called *South Africa's Human Spirit: An Oral Memoir of the Truth and Reconciliation Commission*. This six-hour documentary transports the listener through public hearings at which survivors—victims, perpetrators, and others—testified about gross human rights abuses. Well-known musicians, storytellers, poets, former political prisoners, and several commissioners thread the story of South Africa's past with music, song, poetry, and commentary.



Photo 17: Cover of the compact disc collection *South Africa's Human Spirit*, a six-part oral memoir of the Truth and Reconciliation Commission, produced by SABC in 2000. (Howard Varney/ICTJ)



Photo 18 to 19: CD One of South Africa's Human Spirit (Howard Varney/ICTJ)

Commissioners and senior staff are probably best placed to engage in outreach and public education on the final report, particularly on the findings and recommendations. Commissioners and staff could address public gatherings and appear on radio and TV shows to discuss and debate about the report. Another option is to hold national roadshows, including workshops, where community members are invited to discuss the report. National vision type projects could be pursued to generate a national conversation on the past and the future.<sup>109</sup>

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<sup>109</sup> See, for example, Sierra Leone TRC, *National Vision for Sierra Leone*, [www.sierraleonetr.org/index.php/national-vision-for-sl](http://www.sierraleonetr.org/index.php/national-vision-for-sl)



## Conclusion

Transforming data into a final report is a daunting, time-consuming task. It almost always takes longer than expected. Sufficient time should be dedicated to analyzing the information, making findings, developing strong and actionable recommendations, and presenting the final report in formats that are accessible to as many people as possible.

A strong report with actionable recommendations will serve as an important tool for directing future reforms and advocacy efforts. A credible report that explains what happened to people will resonate with readers, making it more likely that the public and civil society will mobilize around the findings and recommendations. The final report ought to be one of the most significant legacies of any truth commission or fact-finding body. It will hopefully stand as an enduring reference point when people seek guidance on how to rebuild their nation and prevent violations from recurring.

# ICTJ

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