

Research Brief

Truth-Telling and Displacement: Patterns and Prospects

June 2013

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Refugees and internally displaced persons (IDPs) have often been directly affected by the crimes truth commissions seek to expose, and have a major stake in the success of transitional justice processes, which can shape the stability of post-conflict communities as well as the prospects for safe, dignified, and durable solutions to displacement. However, in many cases displaced persons have not been recognized as critical stakeholders in truth-telling processes, and truth commissions have often failed to substantively address forced migration as a human rights violation. This paper examines the importance of—and obstacles to—including issues of forced displacement in truth-seeking processes.

Addressing Displacement in Truth-Telling Processes: Frameworks and Principles

There are a number of crosscutting international frameworks and principles that support the equitable participation of displaced persons in the work of truth commissions and the inclusion of forced migration issues in their mandates. The *Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-conflict Societies* (2004) recognizes displaced persons and refugees as among the groups most affected by conflict, to whom rule of law and transitional justice measures should pay special attention. The *Guiding Principles on Internal Displacement* (1998) affirms the right of IDPs to information about missing relatives, and also backstops the view that truth commissions should both actively engage displaced populations and substantively address forced migration as a human rights violation, as knowing the truth about the human rights violations at the root of their displacement is a vital precondition to a dignified return for displaced persons.

In addition, the *Framework on Durable Solutions for Internally Displaced Persons* (2010) acknowledges the need for community reconciliation and confidence-building mechanisms, especially where IDPs are perceived to be associated with opposing sides in the conflict from those they now live among. It also asserts that displaced persons who have been victims of rights violations must have full and non-discriminatory access to effective remedies and justice, including transitional justice measures and information on the causes of violations, which truth-seeking processes may uncover.

Research Project

Transitional Justice and Displacement

From 2010–2012, the International Center for Transitional Justice and the Brookings-LSE Project on Internal Displacement collaborated on a research project to explore the relationship between transitional justice and displacement. It examined the capacity of transitional justice measures to address displacement, engage the justice claims of displaced persons, and support durable solutions, and analyzed the links between transitional justice and the interventions of humanitarian, development, and peacebuilding actors. For more information on the project, please visit www.ictj.org/our-work/research/transitional-justice-and-displacement and www.brookings.edu/idp.

Trends in Truth Commission Mandates, Reports, and Recommendations

Historically, the crime of forced migration and the abuses endured by displaced populations have not been included in truth commission mandates, and have not figured prominently in the reports and recommendations issued by these institutions. Given the scale of forced displacement in many conflicts, the extent to which it is helpful or appropriate, from a transitional justice standpoint, to define such a large number of people as “victims” is an open question. Counting refugees and IDPs as victims to be included in truth-telling processes may raise expectations for participation and tangible outcomes, such as compensation, that a truth commission may lack the capacity to realize, and may exacerbate competition between different types of victims. However, if displaced persons are not recognized as critical stakeholders in truth-telling processes, the narratives and recommendations that emerge from these initiatives will inevitably be incomplete, consigning the displaced to remain on the margins of their societies. Thus despite the risks and challenges involved, it is now increasingly common for truth commissions to be mandated to engage with displaced populations.

Reports are the major tangible outcome of truth commissions and can have a definitive impact on the construction of post-conflict national narratives. Consequently, the acknowledgement and examination of displacement and exile in truth commission reports may significantly affect whether the experiences and suffering of refugees and IDPs are popularly recognized as a critical part of a conflicted country’s history. Of the 32 truth commission reports publicly released to date, at least nine address displacement (at least briefly); several do so in commendable detail. For example, the reports for Liberia, Sierra Leone, and Timor-Leste addressed the extreme pervasiveness of forced migration, and Guatemala’s Commission for Historical Clarification (CEH) focused specifically on the social conditions that surrounded displacement of indigenous populations, the stigma they endured, and the detrimental impact of state discrimination on return and reintegration. In many of these reports, displacement is addressed as a result of other human rights violations, such as killings, torture, and rape, as a violation in and of itself, and as a condition that rendered victims more vulnerable to further abuses, such as exploitation and violence in refugee camps.

Critically, truth commission reports often include recommendations for reforms and reparations programs. Integrating the issue of forced migration and displaced persons themselves into the work of truth commissions may help ensure that the recommended reparations programs include and are effective for displaced beneficiaries. For example, various commissions have crafted recommendations that respond to the need for property restitution or land reform, the acceptance of dual nationality for those who obtained another passport while in exile, the recognition of foreign qualifications, and the acceptance of the diaspora’s participation in peacebuilding and development activities.

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Consultation and Participation of Displaced Persons in Truth-Telling Processes

IDPs, refugees, and other diaspora groups have engaged with truth commissions in a range of ways and in various phases of the process, helping to establish commissions in countries such as Haiti, gathering testimony from other survivors for commissions in Guatemala and Liberia, and serving as witnesses and decisionmakers in hearings in Timor-Leste. However, active and meaningful participation of the displaced is contingent upon effective outreach and awareness-raising activities; for example, in Guatemala, investigators who hiked into the remote highlands found that many people did not realize that a truth commission had been established, but were eager to participate once they were informed of its goals. Local and national civil society organizations, particularly those composed of displaced persons, may play critical roles in outreach efforts. In addition, when commissions have limited resources to carry out their mandates, collective testimonies that present communities' experiences may help make participation opportunities accessible to as many survivors as possible.

Unfortunately, despite clear calls for their participation, the actual engagement of refugees and IDPs in the work of truth commissions has generally been lackluster. In some cases, such as the Brazilian truth commission, participation was purposefully limited to those within the country. In other instances, displaced persons may lack required national identity documents, or truth commission sessions may be physically inaccessible to those living outside the country or in remote regions. In light of these challenges, commissions including those in Liberia and Paraguay have held "satellite" hearings in countries with large diaspora populations, or sent investigators to gather testimony in camps; for example, the final report of Sierra Leone's commission was informed by statements from refugees in Nigeria, Guinea, Gambia, and Ghana. Adopting a different strategy to enable participation, commissions in Chile, Argentina, and Ecuador allowed members of the diaspora to testify at embassies and consulates worldwide.

Humanitarian, development, and peacebuilding actors may be also able to share information on the scope and conditions of displacement with truth commissions, and to help facilitate refugees' participation in truth-seeking processes. Supporting truth-telling processes may in turn benefit these actors by establishing an ethos of open discussion with different stakeholders, which may usefully inform their design and implementation of durable solutions strategies and projects in post-conflict communities.

Implications of Truth-Telling for Ending Displacement

In general, truth-telling processes may facilitate the realization of durable solutions to displacement in a variety of ways. First, truth-telling processes may acknowledge and affirm displaced persons' narratives and experiences, which may improve relations between displaced persons and their neighbors, whether in host or return communities. Second, truth-telling processes may improve relations between displaced persons and

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their states. Formal recognition of the wrongs endured by refugees and IDPs may help reposition the displaced as full, rights-bearing members of the political community of the state, whose claims for protection and assistance must be taken seriously and treated equitably. Third, by producing recommendations relevant to the pursuit of durable solutions, truth commission reports can backstop efforts to resolve displacement in accordance with respect for human rights. In addition, while the barriers to effective regional transitional justice processes are formidable, expanding truth-telling processes to engage and take into account the role of actors throughout the region could arguably further increase their effectiveness and relevance to the displaced.

However, truth commissions can also negatively affect efforts to resolve displacement by raising expectations and fostering competition between groups, particularly when the recommendations truth commissions produce are expected to translate into tangible benefits. Furthermore, if the narrative a commission produces does not reflect displaced persons' own conceptions of the truth, or if a truth-telling process is geared toward promoting a particular durable solution rather than opening up a range of choices to refugees and IDPs, the process may ultimately be alienating and disempowering, rather than helping to mend relations and restore to the displaced a stronger degree of control over their lives.

Conclusion

While many past truth commissions have not investigated forced migration as a human rights violation, a gradual trend is evident towards the incorporation of this issue into the work of these institutions. Furthermore, important steps have been taken to facilitate the participation of refugees and IDPs in truth commission activities at all stages of the process. Nevertheless, an ad hoc approach persists both to addressing forced migration as a substantive concern and to engaging displaced persons in truth-telling processes; significant obstacles remain to be overcome in order to ensure that truth commissions respond to displacement as effectively as possible.

ICTJ and the Brookings-LSE Project on Internal Displacement wish to thank the Swiss Federal Department of Foreign Affairs and the Canadian Department of Foreign Affairs and International Trade, which provided the funding that made this project possible.

Research Brief Series

ICTJ Research Briefs summarize longer studies prepared as part of research projects conducted by ICTJ's Research Unit. This set of briefs on transitional justice and displacement summarizes the chapters of *Transitional Justice and Displacement* (Social Science Research Council, 2012), edited by Roger Duthie.



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The Brookings-LSE Project on Internal Displacement promotes the human rights of internally displaced persons and their protection and assistance, in particular by supporting the work of the UN Special Rapporteur on the Human Rights of Internally Displaced Persons. It conducts research and works with governments, regional bodies, civil society and international organizations to promote more effective responses to internal displacement. For more information, visit www.brookings.edu/idp.