

# Uncovering the Truth: Examining Truth Commission Success and Impact

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While there is growing interest in examining what long-term impact truth commissions have on society, our understanding has been hampered by a number of empirical problems. Specifically, most studies focus on a small biased subsample of cases, rely on anecdotal evidence and normative conviction, and fail to follow the truth commission's legacy beyond its immediate reception. What is more, although a range of purposes have been put forward for truth commissions, there is little consensus on what criteria might be used to assess them. These issues are further compounded by a growing chorus of critics who see truth commissions as either ineffectual or dangerous. This article fleshes out the nature of these problems and outlines how a multimethod strategy might be effective in addressing them. Furthermore, it suggests two potential means of assessing the impact of truth commissions, specifically their effect on subsequent human rights practices and democratic development. The article concludes by suggesting how some problems with this strategy can be overcome by further iterations of a multimethod approach.

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## Truth Ascendant

At the dawn of the twenty-first century, the truth commission<sup>1</sup> has become a staple of postconflict peacebuilding efforts. Particularly in those instances where political transitions came about through negotiation rather than due to outright victory by one side of the conflict, the truth commission has become an attractive option

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<sup>1</sup>The most widely held definition of truth commissions, which is also adopted here, is “bodies set up to investigate a past history of violations of human rights in a particular country—which can include violations by the military or other government forces or armed opposition forces” (Hayner, 1994:558). In another piece, Hayner (2001:14) delineates four main characteristics of truth commissions. First, they focus on the past. The events may have occurred in the recent past, but a truth commission does not examine contemporary crimes as a human rights ombudsman would. Second, truth commissions investigate a pattern of abuse over a set period of time rather than a specific event. This excludes investigations of a particular incident, such as the commission established to look into postelection violence in Côte d’Ivoire in 2000. In its mandate, the truth commission is given the parameters of its investigation both in terms of the time period covered as well as the type of human rights violations to be explored. Third, a truth commission is a temporary body, usually operating over a period of 6 months to 2 years although there have been significant outliers. They complete their work by submitting a report to the government that documents their findings. Fourth, truth commissions are officially sanctioned, authorized, or empowered by the state. This removes from consideration nongovernmental inquiries, such as that coordinated by the Archbishop of Sao Paulo and the World Council of Churches in Brazil. Often, official status allows the commission to enjoy greater access to information, greater security, and increased assurance that its findings will be given more serious consideration. Official sanction from the government may also be important for victims because it represents an acknowledgment of past wrongs and a commitment to address the issues and move on.

(Pion-Berlin 1994; Hayner 1999; Barahona de Brito, Aguilar, and Gonzalez Enriquez 2001). In these delicate situations, truth commissions have come to be seen as a valuable tool to balance demands for accountability for past human rights abuses with the fact that perpetrators often retain some influence over the course of the transition. By early 2006, over two dozen countries have created truth commissions in an attempt to put the past behind them. For a list of truth commission cases, see Brahm (2004), Hayner (1994), Bronkhorst (1995), Hayner (2001), International Center for Transitional Justice (n.d.); United States Institute of Peace (n.d.). Many other countries, including Afghanistan and Iraq (International Center for Transitional Justice 2004; International Center for Transitional Justice and Human Rights Center of the University of California at Berkeley 2004; HENDY 2005), are still contemplating such a step as part of their transitions.

Many within the “justice cascade” (Lutz and Sikkink 2001), a global network that is part activist and part epistemic community, have become enthusiastic proponents of the truth commission model. Despite the model’s growing favor, however, our knowledge of the effects of truth commissions is actually quite limited. A number of dependent variables have been suggested for where we might see an impact, but most are difficult to operationalize. In addition, much of what we do know about truth commissions comes from a small subsample of cases, most notably South Africa’s Truth and Reconciliation Commission (TRC), which raises questions about the generalizability of truth commission expectations. What is more, many of these claims rely on normative conviction and anecdotal evidence. Finally, while many human rights advocates have become sold on truth commissions, these transitional justice mechanisms have been increasingly criticized as either ineffectual substitutes for prosecution or as potentially destabilizing forces in the midst of delicate transitions. In sum, the truth commission literature suffers from definitional ambiguity, the imprecise measurement of what are often abstract concepts, and a reliance on anecdotal evidence and perceptions to judge the impact of truth commissions (Mendeloff 2004).

This article suggests some preliminary steps that might be taken to clarify this picture. After specifying what I mean by the impact of a truth commission, I flesh out the nature of these empirical problems as well as the controversy over whether truth commissions are beneficial for society. From there, I make the case for a multimethod approach to begin to address these issues. In particular, I put forward human rights and democracy as viable areas in which to seek evidence of truth commission impact.

### **Truth Commission Success and Impact**

As the number of countries experimenting with truth commissions increased in the 1990s, the challenge of evaluating this transitional justice tool soon emerged. Initially, interest focused largely on whether a truth commission could be considered a “success.” By success, I refer to the degree to which a commission fulfilled the duties assigned to it. Given variation in commission structure and powers, the environment in which they operate, and the nature of the crimes they are to investigate, some assert that the success of each truth commission should be judged on its own terms (Chapman and Ball 2001). In many respects, this is true. For instance, it is difficult to disentangle the truth commission from the political environment into which it is born. What is more, each commission has had a slightly different set of tasks based on past and present circumstances and somewhat different mandates by which to complete their work. Therefore, depending on the extent to which the truth commission accomplishes what the mandate has instructed it to do, it could be considered a success.

Yet, at the same time, the truth commission literature has long outlined a series of diverse purposes for which truth commissions are created. Thus, one can

distinguish between success, the fulfillment of the commission's mandate and the public issuance of a report documenting its findings, and the commission's impact, namely whether the experience resulted in substantive change. With respect to the former, on a basic level, truth commissions are often viewed as a success simply by virtue of completing their work. In itself, this is no small feat. Bolivia and the Philippines, for example, closed down early, having been either stifled by lack of funds or the commissioners having resigned in disgust at the lack of cooperation they were receiving. Even if the commission completes its investigation, the final report is then put in the hands of the government. Although it has become much less common as truth commissions have attracted more attention, examples such as Haiti and Uganda's CIVHR illustrate that there is no guarantee the report will be given a wide release. At the same time, even where reports have been suppressed, it still may be seen as a success in that the commission's mere existence focuses domestic and international attention on the cause of human rights (Hayner 2001).

Beyond these criteria of success, a frequent concern of truth commissions is determining the fate of individual victims. Therefore, the extent to which it does so may make a truth commission a success. Of course, each truth commission does this to varying degrees. Some have opted to find out as much as possible about as many cases as possible. In other instances, commissions have focused on a smaller number of representative cases for extensive investigations in order to provide a picture of the range of abuses committed. Clearly, the nature of the mandate given the commission can limit the scope of crimes open to investigation and consequently the "truth" produced. A more basic problem with using this as a form of judging success is that the true extent of human rights abuses often remains in dispute. The true scale has been clouded by propaganda from all sides during the conflict and the subsequent fog of history. As a result, if one would like to assess truth commissions based on how much information they uncovered, it is not clear what the baseline would be.

Another important question related to success has been whether truth commissions fulfill legal and moral obligations. Many argue that truth commissions are consistent with international human rights norms (Cohen 1995; Popkin and Roht-Arriaza 1995; Mendez 1998; Roht-Arriaza 1998; Villa-Vicencio 2000; Kamali 2001; Stahn 2001). Specifically, emerging legal principles support the contention that states have at least a general obligation to investigate and prosecute those responsible for human rights violations (Pasqualucci 1994; Mendez 1997, 1998). Although truth commissions do not directly do this, in contrast to much of international law developed since World War II, recent innovations have focused on a more victim-centered approach. In fact, following on the Inter-American Court on Human Rights' decision in the *Velasquez Rodriguez* case in the late 1980s, it is often argued that states have an obligation to victims to seek the truth about the past independent of any obligation to punish those responsible for gross human rights violations.<sup>2</sup>

Other literature in this area is rooted in political philosophy. Here, the goal has been primarily to evaluate how truth commissions have fulfilled moral obligations to victims and created conditions for individual and societal reconciliation (Minow 1998; Rotberg and Thompson 2000). The legal retribution offered through trials has a number of shortcomings in this regard so it is argued. Trials are backward looking rather than promoting social renewal (Tutu 1999). What is more, their adversarial nature makes it less likely they will help restore fractured relationships (Amstutz 2005). They may, in fact, provoke further violence and risk democratic rule (Nino 1996:188). Trials also appear less effective in dealing with systematic

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<sup>2</sup>The *Velasquez Rodriguez* case originated in Honduras. In its 1987 judgment, the Inter-American Court on Human Rights affirmed that governments party to the American Convention on Human Rights had an obligation to prevent human rights abuses, but if they do occur, to investigate violations of human rights, prosecute those responsible for the crime, and provide adequate compensation to victims.

injustice and collective offences (Amstutz 2005). Finally, pursuing legal accountability may be morally inappropriate and practically difficult where crimes have been widespread and occurred long ago. A prosecutorial strategy can be viewed as unfair because it is virtually impossible to try everyone. Furthermore, it is often lower level perpetrators rather than the leadership that are held accountable.

The restorative justice approach, by contrast, emphasizes transforming anger, resentment, and vengeance to build community particularly by emphasizing reconciliation (Zehr and Mika 1998; Kiss 2000). By focusing on the underlying causes of conflict and human rights abuses such as rules and practices rather than on individual perpetrators, restorative approaches like truth commissions may be better able than trials to facilitate needed political and cultural change and to pay more attention to the needs of victims (Mamdani 2001:272–273). Much of the literature in this vein, therefore, makes the case for truth commissions based on ethical grounds.

Finally, an emerging area of inquiry focuses more directly on impact, namely, what sort of empirically verifiable effects a truth commission has in the transitional context (see, e.g., Ensalaco 1994; Hayner 1994; Pion-Berlin 1994; Bronkhorst 1995; Green 1996; Kaye 1997; Gairdner 1999; Chapman and Ball 2001; Hayner 2001; Tepperman 2002). Often, these empirical studies describe the circumstances under which the truth commission was created. Although there still is often insufficient observation of the truth commission in operation (Hayner 2000), accounts frequently describe how the commission conducted itself and describe the initial reception to the commission's findings. These case studies and small N comparisons, however, have generally focused on a handful of the most well-known and well-regarded truth commissions. Lessons about truth commissions, therefore, are drawn from a biased sample of cases. Much of this literature, too, is dominated by former commissioners and staff, so there is the potential for bias or blind spots in their analysis (Hayner 2000). What is more, because much of this literature is written by members of the international human rights community who frequently move on to the next hotspot shortly after the commission is over, we are left with little sense as to whether truth commissions are a mere blip historically or help put society on a new trajectory. While many purported effects have been suggested, there is a dearth of empirical evidence to support claims of the potential consequences of truth-seeking (Mendeloff 2004). Despite their growing popularity, not only is there no consensus on what the long-term political and social consequences of truth commissions are but there is not even agreement as to whether the expected consequence is positive or negative.

### **The Positive Power of Truth?**

The growing popularity of truth commissions has not generated consensus as to whether they are beneficial. In general, there has emerged three varieties of critiques in the literature. The first is generally supportive of truth commissions, arguing they are superior to other transitional justice mechanisms in a number of respects such as providing redress for victims, deterring future would-be abusers, and providing the basis for social and individual healing (Minow 1998; Boraine 2000). Because truth commissions have independent value in the eyes of supporters, the focus is often on how tweaking the process with certain revisions could make future examples even better. While the proliferation of knowledge about truth commission experiences has led countries to increasingly contemplate them to confront a troubled past, their growing popularity has attracted greater scrutiny. The second group views truth commissions as weak substitutes for prosecution (Brody 2001). In a world where international criminal tribunals, hybrid courts, and an emergent International Criminal Court provide greater possibility for the prosecution for human rights abusers than ever before, truth commissions are

useful only insofar as they contribute to the possibility of criminal prosecution, something that historically has been a rarity. Finally, there is a third critique that sees transitional justice mechanisms writ large as potentially dangerous because they may foment divergent interpretations of history rather than producing one narrative, generate resentment on the part of victims, and insecurity on the part of alleged perpetrators (Snyder and Vinjamuri 2003). The remainder of the section will flesh out these three arguments. First, however, I will briefly discuss how truth commission effects might vary at different levels of analysis.

#### *Individual Versus Societal Impact*

The purported benefits of truth commissions have been wide ranging, from providing healing for victims and their families to promoting peaceful coexistence to helping instill a new democratic order in which human rights are valued and the rule of law reigns supreme. As these examples suggest, these expectations range from the micro to the macro. On the one hand, some accounts emphasize the therapeutic value of truth-telling for individuals who lived through the traumatic period (Hamber 2001). This is particularly true for those who were the victims of human rights abuses. In this view, truth commissions provide victims with official acknowledgment of their suffering that, many argue, is empowering and/or cathartic (Hayner 1994; Goldstone 1995; Popkin and Roht-Arriaza 1995; Ash 1997; Minow 1998; Kiss 2000; Chapman 2001; Hayner 2001; Abrams and Hayner 2002; Bronkhorst 2003; Freeman and Hayner 2003; Quinn 2003). For many victims, repressing memory does not work and can have deleterious physical and psychological consequences (Herman 1997). However, these findings are largely based on clinical conditions where victims have access to extended treatment. Truth commissions, by contrast, often provide victims with only a few minutes to tell their story and no follow-up support after their testimony (Hamber 1999). Under such conditions, there is contradictory anecdotal evidence that truth can rekindle anger and trigger posttraumatic stress. Individual reaction to the experience of appearing before a truth commission is, in fact, highly variable (Hamber 1998). Similarly, perpetrators seem to have divergent feelings about coming forward to commissions. What is more, it is not clear whether those not directly affected by the violence are influenced in the same way to say nothing of the passive beneficiaries of the violence.

Aside from these issues, there is the practical problem of data for individual-level analysis. A number of important studies have begun to examine the impact of truth commissions on individual perceptions through surveys and focus groups rather than the anecdotal evidence that has been the norm (Gibson 2004b). However, the lack of longitudinal data prevents establishing a baseline to know individual perceptions before the truth commission, thereby limiting our ability to assess its impact. Systematically collected data are also virtually nonexistent outside of the South African context aside from some sporadic polling conducted by local organizations. While studies could (and should) be conducted for future truth commissions, at this stage it is difficult to gauge the impact of past truth commissions on individuals.

Other claims about truth commissions focus on a societal impact. Truth commissions lack the time and resources to investigate fully the fate of all victims and many survivors are disappointed by little compensation. Combined with the fact that individuals psychologically respond to trauma in different ways, individuals have responded in very different ways to the truth commission process (Theissen 1999, 2002; Hamber 2001). However, at the aggregate level, truth-seeking may allow societies to put the past behind them and produce a forward-looking politics. Most supporters of truth-seeking suggest that a truth commission can contribute to a broader national project of (re)establishing accountability to political institutions, help to build a human rights culture, and ultimately restore trust to a shattered

society (Gairdner 1999; Chapman and Ball 2001; Hayner 2001). As such, truth commissions are as much as anything about nation-building in which exposing the gruesome details of the past helps to usher in a new democratic era and advance the cause of human rights through peaceful coexistence (Wilson 2001).

Truth commissions may accomplish national-level effects by identifying the institutions (and sometimes the individuals) responsible for the crimes of the past and produce recommendations to ensure that such conditions do not recur in the future. Publicity surrounding the commission's work may generate pressure for institutional reform and may tarnish elites associated with crimes and, as a result, sap them of their political power. By contrast, the lack of accountability may set a bad example for human rights abusers in terms of establishing the rule of law or supporters of alleged perpetrators may reject the so-called truth produced by the commission. A truth commission seems unlikely to have much of an impact unless they produce recommendations (Popkin and Roht-Arriaza 1995; Gairdner 1999). However, although it has been argued that the implementation record of truth commission recommendations is not good (Hayner 1996a), this has not been explored systematically nor has the question of whether the implemented recommendations have made a substantial difference in the future. In sum, while pursuing the individual level and national level are both worthy and necessary endeavors, at present, we are better equipped to address the question of society-wide effects.

#### *Truth Commissions: Good, Bad, or Otherwise?*

Another empirical problem in the truth commission literature is that there is no agreement as to whether truth commissions are beneficial for societies in transition. While most consider them positive, truth commissions have been criticized as both ineffectual and as disruptive with respect to delicate political processes. None, however, have marshaled overwhelming evidence and much seems driven by normative conviction. This section will flesh out the arguments and the following will suggest a way forward in adjudicating among them.

#### *The Positive Power of Truth*

For many, truth commissions hold great intuitive appeal. While truth commissions provide no legal punishment for perpetrators and often are unable to examine each case thoroughly, they represent some form of accountability for human rights abuses when historically this has been rare the world over. The alternative to truth commissions is often not conducting trials, but doing nothing at all. The information uncovered may be used in future trials as has been true in Chile, for example, but there is no guarantee of this at the time of the commission. While prosecution remains desirable for most truth commission supporters, sometimes, there are practical reasons to forego trials. For instance, perpetrators often remain too influential after the transition, the number of crimes committed too large, or the judicial system has either been co-opted or decimated during the recently ended conflict to make trials a feasible possibility (Greenawalt 2000; Chapman and Ball 2001).

Even where trials are a possibility, truth commissions may be superior in some ways (Hayner 2000). Trials, for example, focus on the deeds of individual perpetrators. Whereas this leads trials to take events out of social context, truth commissions seek to identify patterns of abuses. In some cases, truth commissions are able to determine the fate of loved ones, but generally the purpose is to reveal the institutional failings that allowed the crimes to occur. This broader view of human rights abuses taken by truth commissions allows them to recommend institutional changes to prevent a recurrence of these crimes, whereas a trial focuses on the

details of a specific incident. What is more, truth commissions may reach a broader group of both perpetrators and victims than lengthy trial procedures (Goldstone 1996). For the broader society, the details uncovered may provide an education for the public (Ash 1997; Abrams and Hayner 2002). As a result, pressure for change may increase and social norms evolve. As such, truth commissions may contribute to accountability and repair for past crimes while at the same time setting the stage for a brighter future.

Exactly how truth commissions contribute to rebuilding society is conceived in a variety of ways. Impact might be realized in terms of reconciliation or at minimum acknowledgment and healing (Ash 1997; Abrams and Hayner 2002), deterrence by discrediting perpetrators (Kaye 1997; Abrams and Hayner 2002), advancing democracy by strengthening the rule of law (Gairdner 1999; Hayner 2001; Freeman and Hayner 2003), or to demonstrate a commitment to human rights (Ensalaco 1994; Abrams and Hayner 2002). The basis for such conclusions, however, is not entirely clear. In many respects, they are built on the moral conviction that addressing the needs of victims needs greater attention, but it does not logically follow that individual-level benefits of truth-seeking translate to the national level. What is more, truth commission supporters often claim success if tensions are reduced in some way (Schiff 2002). This is problematic because it is not always clear that the commission has actually led to the reduction of tensions. The issue of causation, in particular, deserves greater attention.

### *The Inconsequential Truth*

Some argue, by contrast, that truth commissions are weak substitutes for criminal trials. Critics are puzzled by the interest in truth commissions because they represent a step backward from the long-standing goal of prosecution (Fitzpatrick 1995; Brody 2001). Whereas in the past the option for victims may have been truth-seeking or nothing, truth commissions are “increasingly seen by abusive governments as a soft option for avoiding justice” (Brody 2001). These critics argue that, given the growing international acceptance of bringing human rights crimes to justice, the deals with the devil that truth commissions represent are no longer necessary. However, for the international community, too, truth commissions hold appeal because they represent a low-cost, “feel-good” solution to a potentially messy transitional state (Brody 2001).

Truth commissions, in this view, are largely toothless. Generally, the more truth commission powers resemble courts, the more favorably they are viewed by this school of thought. However, the time limit built into the truth commission mandate generally prevents them from being completely thorough in their investigations. In addition, despite official status, truth commissions often face restricted access to evidence. They also have no enforcement powers to see their will done. Therefore, they are useful only insofar as they contribute to the possibility of criminal prosecution, something that historically has been a rarity. Others have noted that the demand for truth-telling often reappears in states that have conducted truth commissions (Mendez and Mariezcurrena 2003), suggesting that truth commissions in and of themselves do not provide closure. Although some conceive of truth commissions as part a more comprehensive transitional justice strategy (Mendez 1997), truth commission findings have rarely been used in criminal proceedings (Abrams and Hayner 2002). More generally, the head of Guatemala’s truth commission commented at the time of its completion that, of the truth commissions established thus far, “few of them have truly printed their hallmark on the life of the nation concerned” (Tomuschat 2001:235).

It should be noted, too, that this position rests as much upon normative conviction as that of the truth commission supporter. There remains to be any analysis of national-level effects that is remotely methodologically sophisticated. Those who

favor trials, therefore, often appeal to notions of prosecutorial justice in their criticisms of truth commissions, whereas supporters look to restorative justice ideas. Although this is an important question, it does not help address the issue of whether truth commissions have had a substantial impact on transitional societies for good or ill.

### *Dangerous Truths*

Contrary to those who argue that truth commissions have not made situations worse (Abrams and Hayner 2002), some see truth commissions as dangerous. At the individual level, there is anecdotal evidence that truth can rekindle anger and trigger posttraumatic stress among victims. At the aggregate, truth commissions may generate resentment and insecurity.<sup>3</sup> For victims, lack of punishment may seem a travesty of justice and for perpetrators the proceedings may be threatening to reputations and social position, thereby leading both sides potentially to extra-constitutional tactics in support of their interests. After all, “truth” has been the cause of much violence historically (Dimitrijevic 2002). There is skepticism that a truth commission can put to rest the competition over writing history between different sides of the conflict, between victim and perpetrator. “While truth commissions play an important fact-finding role in national reconciliation processes, current evidence suggests that the ability of truth commissions to put the past to rest by making it a matter of public record is illusory. Indicative of the fact that truth commissions by themselves have been unable to bring closure is that . . . a rash of new trials addressing government-sponsored criminality has recently broken out . . .” (Lean 2003:170). For victims, too little has been done and for perpetrators, and perhaps bystanders, too much. In such a situation, neither may be prepared to back down.

For victims and human rights activists, truth commissions may be objectionable in that they do fault to the rule of law and are unfair. If society is to open a new era, constructing the rule of law is often an important component. However, what kind of start is it if perpetrators are let free? By foregoing punishment, it may reinforce the notion that some people are above the law and reduce the incentives for others to play by the rules.

For perpetrators, even the limited accountability offered by truth commissions may be too much and they are often in a position of power to act upon their insecurities. Some commissions have “named names” of suspected perpetrators in their final report. Although there has rarely been any direct consequence of this, incidences of vigilante justice have not been unheard of. As an alternative, therefore, some argue for amnesia based on the argument that it facilitates democratization and the rule of law by removing the incentive for the powerful to obstruct the process (Huntington 1991; Booth 2001). Whereas political observers tend to view amnesia as sometimes appropriate, political philosophers and human rights activists rarely accept this suggestion. Still, amnesties have been a common means to reduce the threat felt by perpetrators during transitional periods. Some argue that it is a result of these amnesties rather than the truth commission per se that is responsible for the apparent success of truth commissions (Snyder and Vinjamuri 2003:19–20).

This position also awaits greater scrutiny. Of the rare empirical studies, the criticism of truth commissions as dangerous has been leveled against the practice of transitional justice in general (Snyder and Vinjamuri 2003). Although they argue that truth commissions are likely to be less disruptive than trials, they remain dangerous in and of themselves. In sum, each of these contentions is to be taken

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<sup>3</sup>At the same time, Snyder and Vinjamuri (2003) argue that trials are even more inflammatory.



seriously, but none have garnered overwhelming evidence in their favor. In the next section, I will outline one potential path to help resolve the controversy.

### **A Multimethod Approach to Truth Commission Impact**

A multimethod approach holds promise to address a number of the empirical holes in our understanding of the society-wide effects of truth commissions. First, as of now, the transitional justice literature lacks a broad, cross-national assessment of the consequences of utilizing a truth commission. Of the case studies and comparative work that do exist, the vast majority is concentrated on a small subset of the over two dozen truth commissions we have seen around the world. A cross-national time-series approach can fill a significant void, therefore, by exploring whether the truth commission model in general helps countries make a decisive break with the past in areas such as democratic practice and human rights protection. Quantitative analysis is also useful in that it allows one to isolate truth commission effects by controlling for other variables likely to have an influence on the outcomes of interest as well as antecedent conditions that may produce both the commission and the dependent variable.

While quantitative approaches are useful in determining whether truth commission effects observed from a small subset of (generally perceived successful) cases hold true for the broader class of truth commissions, large-N studies are generally less effective in providing a more nuanced view of concepts like human rights and democracy and process tracing precisely how truth commission impact has been realized (for a general methodological discussion, see Tarrow 2004; George and Bennett 2005). The fact that prior qualitative works on truth commissions typically end their analysis with the immediate reception to the commission's final report may actually under-represent the impact of truth commissions in transitional circumstances. As a result, case-study research is needed to outline commission recommendations and trace the degree to which governments have acted upon them. From there, the case studies can also help evaluate whether these changes, and the truth commission experience more broadly, have had a substantial effect on the behavior of government institutions as well as elite and public attitudes.

Precisely what that impact is is a final question to consider. The literature on truth commissions does provide a number of clues regarding their expected effects, but most have not been operationalized or explored across a range of cases. What is more, many of these suggestions are of methodologically complicated criteria such as reconciliation, justice, or healing (Little 1999; van der Merwe 1999; Villa-Vicencio 2000; Avruch and Vejarano 2002; Freeman and Hayner 2003). In short, there is little agreement on the best measures, nor have any of these been applied across a range of cases. The remainder of this section will make the case for democracy and human rights protection as two useful metrics to deepen our knowledge of truth commission impact and to address the controversy over whether truth commission impact is positive. Furthermore, I suggest some different types of evidence that could be applied to the task.

#### *Contributions to the Democratization Process*

Truth commission recommendations have varied, but in general have focused on reforming political institutions and providing reparations in the form of symbolic memorials, social services, and, less commonly, money for victims and their families. For the purposes of understanding the contribution to the democratization process, recommendations related to political institutions are of particular relevance because, unlike reparations, they impact all of society. Truth commissions typically make reform recommendations to prevent the repetition of past crimes and, thereby, identify ways to help former opponents live side by side peacefully (Popkin

and Roht-Arriaza 1995; Kaye 1997; Minow 1998; Hayner 2000; Kiss 2000; Rotberg 2000; Abrams and Hayner 2002).

Recommendations have frequently targeted similar sets of institutions in order to establish norms of accountability. Significant reforms of the military, particularly in terms of bringing it more firmly under the control of the civilian government, have been common recommendations and also would be an important contribution to democratization. Similarly, truth commissions often identify the need for police reform. In addition, the crimes often occurred (or rather there were no sanctions for them) because the judiciary was not independent of other organs of government. Therefore, reforms strengthening the legal system are important. Commissioners also often note the need to dismiss the leadership of these institutions to make a break with the past. As a result, reforming these institutions and purging tainted leadership would go a long way toward building a more democratic system.

It is because of this that truth commissions are frequently asserted to facilitate democratization (Minow 1998; Gairdner 1999; Teitel 2000; Freeman and Hayner 2003; Quinn 2003). More specifically, the common forms that recommendations have taken are consistent with efforts to promote democratic governance. Commissions are alleged to contribute in part by facilitating the removal of enclaves of authoritarian power and by helping to create democratic alternatives to authoritarian governance (Gairdner 1999). If done in an even-handed way, the commission is likely to indicate to different social groups that the government is committed to giving each a voice. They are, in fact, also often created as part of a larger government effort to inculcate democratic values (Boraine and Levy 1995; Gutmann and Thompson 2000; Chapman and Ball 2001). As a result, commissions may contribute to political stability by both (re)building a sense of shared destiny among groups giving them a stake in the “national project” and through shaming perpetrators, thereby depriving them of support that might otherwise encourage them to protect their interests through extra-constitutional means.

Existing cross-national data on democracy are not perfectly tailored to the task of evaluating truth commissions, but they provide a means to examine general patterns. One study has found a statistically significant positive relationship between having conducted a truth commission and Polity’s democracy measure among Latin American countries (Kenney and Spears 2005). A theoretical explanation for the finding, however, is more problematic. Polity’s measure focuses generally on the degree to which political institutions both facilitate and constrain open political competition and the free and fair adjudication of disputes in a court of law.<sup>4</sup> Truth commissions, though, have contributed little to the construction of the postconflict political system such as electoral rules and checks on executive power, which often take shape as part of the transition itself before the commission. In terms of institutional change with respect to democracy, truth commissions seem best positioned to at best make the judiciary more robust and influence civil–military relations, two areas that are reflected in Polity only marginally.

Another possibility in terms of a widely available democracy measure that allows for broad cross-national comparison is Freedom House. While Freedom House also

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<sup>4</sup>Marshall and Jagers (2002) conceive of institutionalized democracy “as three essential, interdependent elements. One is the presence of institutions and procedures through which citizens can express effective preferences about alternative policies and leaders. Second is the existence of institutionalized constraints on the exercise of power by the executive. Third is the guarantee of civil liberties to all citizens in their daily lives and in acts of political participation. Other aspects of plural democracy, such as the rule of law, systems of checks and balances, freedom of the press, and so on are means to, or specific manifestations of, these general principles. We do not include coded data on civil liberties.” This is contrasted with institutionalized autocracy, namely “the presence of a distinctive set of political characteristics. In mature form, autocracies sharply restrict or suppress competitive political participation. Their chief executives are chosen in a regularized process of selection within the political elite, and once in office they exercise power with few institutional constraints. Most modern autocracies also exercise a high degree of directiveness over social and economic activity, but we regard this as a function of political ideology and choice, not a defining property of autocracy.”

pays attention to institutional factors, its political rights indicator provides a broader perspective than Polity.<sup>5</sup> Ultimately, Freedom House's measure is also imperfect, but it gets closer to more cultural attributes of democracy that truth commissions might be best positioned to influence. Thus far, studies using Freedom House's measure, however, have found that countries utilizing truth commissions do not appear to be any better or worse than other transitional societies in their subsequent democratic practice (Brahm 2006).

Case studies provide the opportunity for a more nuanced view of truth commission contribution to the democratization process. First, one can trace the consequences of reforms, where relevant. For example, does the judiciary provide a more significant check on executive power and are the security services subservient to civilian authorities? Second, if truth commission investigations have prompted the removal of perpetrators from positions of authority and weakened their power base, the democratic transition likely stands a greater likelihood of succeeding. In El Salvador and Chile, for example, there has been some progress in implementing truth commission reforms related to the judiciary and the military. However, what has been more significant than legal reform itself has been the elevation of new leadership of these institutions that have different ideas about their appropriate role in society. Although in most countries, the tainted leadership usually have not faced punishment, they have sometimes been eased into retirement as a result of truth commission revelations. Most dramatically, the investigation of Chile's Rettig Commission ultimately contributed to the erosion of authoritarian enclaves after its findings facilitated the wave of criminal charges in the wake of Pinochet's London arrest. For most truth commissions, however, the contribution to democracy appears more marginal.

Using democracy as a means of assessment also has the benefit of providing clearly divergent outcomes should truth commission critics prove correct. For instance, if truth commissions are destabilizing, one would expect them to have a negative relationship with democracy. Perpetrators who feel threatened by the commission may take extra-constitutional steps to protect themselves and their interests. By contrast, should truth commissions in fact be weak and inconsequential, one would expect there to be no relationship between having engaged in truth-seeking and future prospects for democratization.

#### *Contributions to Human Rights Practices*

For many, of central import to a truth commission's mission is to help instill the practice of protecting human rights (Ensalaco 1994; Kaye 1997; Steiner 1997; Minow 1998; Gairdner 1999; Bhargava 2000; Boraine 2000; Kiss 2000; Chapman and Ball 2001; Hayner 2001; Abrams and Hayner 2002). "[T]he expressed intent of most truth commissions is to lessen the likelihood of human rights atrocities reoccurring in the future" (Hayner 1994:609). Even where not explicitly stated, many of the positive functions that truth commission supporters point to are related to changing human rights practice. The commission's work sheds light on past abuses and seeks to end the pattern of impunity. While they do not have prosecutorial power to punish those responsible for past crimes, commissions are designed to reveal how past violations of human rights were carried out. The reason for doing so is to recommend reforms to prevent repetition in the future. Their final reports outline institutional reforms that support the rule of law and

<sup>5</sup>As the methodology section of its website describes, ultimately Freedom House is interested in measuring freedom "by assessing two broad categories: political rights and civil liberties. Political rights enable people to participate freely in the political process. This includes the right to vote and compete for public office and to elect representatives who have a decisive vote on public policies. Available at <http://freedomhouse.org/template.cfm?page=35&year=2005> (accessed November, 15, 2006).

accountability. It has, in fact, been argued that truth commissions may be more effective than trials by focusing on institutions rather than on individual perpetrators (Minow 1998, 2000).

The work of truth commissions may go beyond moral condemnation to real reform, but they need support from politicians to do so. Truth commissions may achieve their impact in part by providing “a pressure point around which civilian society and the international community can lobby for change in the future” (Hayner 1994:609). Commission recommendations often target judicial reform and structural change within the military and police in order to prevent a repetition of past human rights abuses. What is more, the commission’s findings can discredit institutions and individuals found responsible for crimes (Abrams and Hayner 2002). Individuals rarely face jail time or pay restitution, but in principle the revelations harm their image and they may suffer social stigma. Some argue that this allows truth commissions to have a deterrent effect by demonstrating to would-be human rights abusers that they will be held accountable for their actions. While there is ambivalence as to whether commissions make abuses less likely in the future (Hayner 1996a), it appears that truth acceptance helps to build support for human rights, suggesting there should be some sort of longer-term benefit in this regard (Gibson 2004a).

Beyond an examination of implementation records in the immediate aftermath of a commission’s report, there has been little assessment of truth commission consequences for human rights. Cross-national measures provide an opportunity to fill this gap and draw preliminary conclusions as to whether countries that have utilized truth commissions do better in terms of respecting the human rights of their citizens compared with other countries attempting a democratic transition. The Cingranelli and Richards (CIRI) Human Rights Data Set provides a new and important means of examining the aftereffects of truth commissions.<sup>6</sup> CIRI provides a yearly evaluation of countries’ protection of a range of different human rights based on annual human rights reports produced by the U.S. State Department and Amnesty International. Of particular interest for this study are annual assessments of the protection of “Physical Integrity Rights,” which is an index composed of separate measures of the protection of rights to freedom from extra judicial killing, disappearance, torture, and political imprisonment. Coding is based on the frequency of these practices reported in a country-year.<sup>7</sup> The measure holds appeal for its focus on a narrow band of human rights closely related to a truth commission’s mission. If truth commissions in fact have desirable consequences for human rights, the resulting increased accountability and institutional change would likely be reflected in changes in these practices.

As with democracy, case studies help specify the mechanisms through which these effects on human rights are realized. Qualitative data, therefore, are crucial in any assessment of a truth commission’s contribution to an environment in which human rights are respected. Tracing the implementation record of reforms is an important first step, but this does not necessarily mean that the new rules are followed. Fortunately, local and international human rights NGOs have often been important watchdogs providing periodic updates on whether countries are adhering to human rights commitments. Truth commission reports often serve as benchmarks to which NGOs hold governments accountable. While truth commission

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<sup>6</sup>The primary source of information for coding human rights practices comes from U.S. State Department Country Reports on Human Rights Practices. For “Physical Integrity Rights,” coders also used Amnesty International’s Annual Report, which was treated as authoritative if there were contradictions in the two reports. For more information on CIRI, see <http://ciri.binghamton.edu/>.

<sup>7</sup>For more on CIRI’s coding, see [http://ciri.binghamton.edu/documentation/web\\_version\\_7\\_31\\_04\\_ciri\\_coding\\_guide.pdf](http://ciri.binghamton.edu/documentation/web_version_7_31_04_ciri_coding_guide.pdf) (accessed November 15, 2006).

effects may be forward-looking in this regard, their work may also contribute to achieving legal accountability for past human rights abuses.

There have been some rare instances in which truth commissions have contributed to further accountability for past human rights abuses. Truth commission investigations in Argentina and Chile have laid the foundations for more recent trials for past deeds. However, more often than not, truth commissions mark the end of efforts to deal with the past, not the beginning. More common has been some progress in reforming governmental institutions to help curb future human rights abuses. In cases like El Salvador and Chile, reforms in military training, the bolstering of rights protections, and a more effective judicial system to protect rights have been realized in part through the recommendations provided by the respective truth commissions. Few truth commission countries would be considered unmitigated human rights successes, but in a number of instances truth commission reports appear to have provided reform blueprints that have had varying degrees of success. As with the democracy dimension, there is a strong need, particularly related to lesser-known truth commission cases, for studies of posttruth commission experience.

Human rights are also useful as a means of assessment because truth commission criticism leads to divergent expectations. Whereas supporters would argue that the investigations will have positive consequences for changing government practices, critics expect otherwise. If truth commissions are dangerous and threaten stability as some assert, it will likely be under circumstances where the truth commission has proven too effective in facilitating achieving accountability for past human rights abuses. Perpetrators may be all too willing to resort to human rights violations to defend themselves. By contrast, if truth commissions are too weak to achieve much, one would expect no relationship. Thus far, statistical findings suggest reason for cautious optimism with respect to truth commissions and future human rights practices (Brahm 2006).

### **The Path Ahead**

This article has provided an overview of some of the most significant gaps in the empirical study of truth commissions. The over-reliance on a handful of well-known cases leaves us with potentially biased findings that could be helped by a more broadly cross-national analysis. At the same time, even for the more well-known cases, our understanding of the means through which truth commissions might affect postconflict society remains weak. There is a need to trace how commission recommendations, if implemented, have affected developing institutions and norms. Even with these modest beginnings, however, a number of further complications suggest themselves. First, the nature of truth commissions is such that it complicates attributing any effect to the commission. Second, there remains a need to better understand what differences in truth commissions are significant in terms of making desirable outcomes more likely.

#### *Issues of Causality and Endogeneity*

Given their relative weakness and the fact that they are themselves a product of the transition, it is a formidable challenge to isolate what effects the truth commission itself has produced. First, truth commissions are endogenous to the transition process. A commission's creation is a reflection of preliminary moves to establish a more democratic system that respects human rights. Therefore, it needs to be distinguished whether the truth commission or preexisting background conditions are responsible for the outcome. The second issue is that truth commissions are temporary bodies with relatively weak powers. As such, they rely on moral suasion, pressure from civil society and the international community, and the political will of

politicians to see most of their impact realized. Hayner concludes that “political realities and outside actors should be recognized for the failure or success of a commission’s long-term impact, as much as the work of the commission itself” (Hayner 2000:370). As such, it is crucial to inquire whether the outcome with respect to democracy or human rights would have been possible without the truth commission.

There are a variety of methodological approaches to deal with these problems. Statistically, one option would be to use two-stage least-square regression, which allows one to control for variables that may cause both the independent variable of interest, in this case a truth commission, and subsequent democratic and human rights practice. The balance of forces at the time of the transition is frequently implicated as the most important variable in explaining where truth commissions are likely to emerge (Zalaquett 1989; Pion-Berlin 1994; Barahona de Brito, Aguilar, and Gonzalez Enriquez 2001). Truth commissions have been more likely in cases where the balance of forces is relatively even. The nature of the transition may also shape the nature of postconflict democracy and human rights. In addition, the diffusion of the truth commission idea, particularly in Latin America and sub-Saharan Africa, leads one to expect that truth commission will be a more likely choice for transitional countries in these regions. Variation in the nature of the violence preceding the transition, by contrast, appears less important in shaping transitional justice.<sup>8</sup>

With respect to the qualitative angle, two strategies would help to build confidence that the truth commission is in fact having demonstrable effects in posttransitional societies. First, case studies allow the researcher to chronicle the extent to which the truth commission’s findings have been acted upon. Often, the commission’s impact is built upon its ability to carve out a legacy through its report, which serves as an authoritative moral voice and as a focal point for continued pressure from domestic and international actors to achieve a more peaceful, democratic society. From there, given that civil society can use the commission’s recommendations to hold the government accountable, one can trace whether institutional reforms have actually had significant effects on the behavior of political elites, security personnel, or the mass public.

A second tactic is to construct a sort of quasi-experiment in which a truth commission country is compared with a country with similar antecedent conditions where the truth commission option was not chosen. Particularly as these countries often face parallel posttransition challenges, this quasi-experimental approach allows one to see whether having conducted a truth commission has helped the country deal more effectively with these issues. For example, should a truth commission country prove to have a significantly better human rights record than an equivalent noncase, this would lend support for the utility of commissions, provided the commission’s recommendations in this area were enacted.

#### *Truth Commission Variation and Impact*

Following definitions laid out by Hayner and others, the strategy outlined here has treated truth commissions as of one category. This may not be adequate. There has been variation in truth commission experience around the world. It is unclear, though, whether these differences matter in terms of the prospects for truth commissions to have a substantial impact on postconflict society. While there has been some discussion regarding the shape of an ideal truth commission (Hayner 1996b;

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<sup>8</sup>The scope of the violence appears to be relatively insignificant in shaping how the past is dealt with. Truth commissions have been created to deal with government repression in which a few thousand have been killed on the one hand to civil wars in which tens of thousands died. In addition, studies have found that ethnic-based conflicts were no more likely to lead to a truth commission than other forms of conflict. See Dancy and Poe (2006).

Shea 2000; Abrams and Hayner 2002; Freeman and Hayner 2003), there is often little attention to the ends to which such a model might be ideal. There are a few points of variation that deserve further exploration in this regard and may need to be incorporated into future analyses of truth commission impact. In particular, it could help to treat truth commissions in a more sophisticated manner than as a dummy variable in statistical analysis.

#### *The Nature of the Commission's Mandate*

A truth commission's mandate governs precisely what it is to do. Many argue that a commission's mandate should be sufficiently broad to allow it to cover the full range of human rights abuses that occurred in the past (Hayner 1994). In practice, truth commissions have varied in terms of the types of crimes they are instructed to investigate, when those crimes occurred, and the amount of time it has in which to conduct its work. As a result, many truth commissions have had significant restrictions on the range of crimes open to investigation. For example, Chile's Rettig Commission was only granted the authority to investigate human rights abuses that resulted in the death of the victim. However, this initial investigation has spawned further efforts to examine the past, suggesting that a restrictive mandate may as likely be a catalyst for further action as it is a missed opportunity. In other instances, the mandate has been drawn too broadly, potentially leaving time and resources spread too thin. Chad's commission, for example, was also authorized to look into corruption charges in addition to human rights abuses. On the whole, it seems as if in the long run, overwhelming a commission is more problematic than restricting it.

#### *Truth Commission Funding*

The importance of adequate funding has frequently been noted in the truth commission literature. Well-funded truth commissions seem likely to be better able to hire more staff and, consequently, to investigate a greater number of cases and do so more thoroughly. As a result, the truth revealed will likely be more comprehensive. For truth commission advocates, the more comprehensive the truth, the more likely the society is to enter a new, more positive era. Given competing demands of rebuilding, however, funding is often limited for truth commissions. In practical terms, funding appears important for society-wide impact, but only to a point. While budgetary problems forced Uganda's CIVHR to close for extended periods and the Chadian commission was forced to take up residence in a former detention center, the cases of El Salvador and Chile suggest that extremely large budgets like South Africa's are not necessary for real social change. The larger budget would appear to make it more likely, however, that details could be revealed surrounding more individuals, thereby providing a potential alternative justification for extremely well-funded truth commissions.

#### *The Truth Commission's Composition*

The identity of those asked to serve as commissioners has also been implicated as significant for how the commission's work will be received. Commissions that have been more one-sided, in other words composed only of representatives of the victors, seem less likely to provide the basis for moving forward in peaceful co-existence and more likely to descend into a kangaroo court. It appears, however, that commissioners have generally taken their work seriously and tried to reach reasonable conclusions. Where there is the appearance of bias, it is more the result of how the government has used the truth commission. Faced with such a possibility, many countries have turned to neutral, well-respected members of society to make up their truth commission. While these individuals are generally untainted

by the prior conflict and, therefore, are perceived to provide an unbiased account of the past, they may lack the political sway to make action on commission recommendations more likely. Other countries like Chile have created truth commissions made up of representatives of all sides of the conflict, which may lend it wider credibility (Weissbrodt and Fraser 1992). Finally, some have opted for foreign commissioners. A commission composed of international figures may lend legitimacy and authority (Kaye 1997) and may be the only workable option if the sides are too polarized as was the case in El Salvador. However, foreigners often lack local knowledge and may leave the truth commission without an advocate within the country.

### *The Public Nature of the Commission*

Another important element of whether a truth commission has a strong effect on society is likely to be the degree to which it connects to the public. First, truth commissions have varied in the degree to which their operations were open to public observation. It has been more common for African commissions to conduct public hearings, although the South African example has made this option more popular the world over. Even where not public, the media has often kept the public in touch. Populations have typically observed commissions with rapt attention. While holding public hearings has been popularized by South Africa and puts the public in touch with day-to-day operations, this does not mean that a truth commission without public, proceedings cannot connect with the public provided the final report is widely distributed (Hayner 1994).

Therefore, the degree to which the commission's findings are accessible by the public seems most crucial for a stronger impact. As a "costly signal" on the part of the government demonstrating a commitment to deal with the past (Pion-Berlin 1994), the more open the process is, the more costly the signal is likely to be and consequently, governments may be more likely to act on the truth commission's findings. As such, the more widely available the commission's report, the more likely it is to have a decisive impact on society. Many countries have worked to distribute reports widely, sometimes in shortened form, to the population. Sometimes, the reports have been printed in newspapers and placed on the Internet. In other instances like Uganda, by contrast, while the government did not completely suppress the report, it made no effort to make the details publicly available.

### *Naming Names*

In addition, truth commissions have varied on the question of whether perpetrators should be publicly identified. This is still relatively rare, but some commissions like El Salvador's have actually named individuals responsible for crimes in their final report if sufficient evidence could be mustered. This is controversial because truth commissions do not have the ability to protect the rights of the accused nor have the standards of evidence a trial would. What is more, it may invite vigilante attacks. While this is an important ethical question to be considered when a truth commission is being constructed, it is not clear that it is of great importance in terms of a truth commission's impact. After all, a truth commission's highlighting of institutional roles leaves little question of responsibility when that institution's leadership can be readily identified.

### *The Application of Amnesty*

A final source of potential variation is the power to grant amnesty. Thus far, only South Africa's TRC has possessed it so there is, in fact, little variation. In principle, a truth commission's ability to grant amnesty should entice perpetrators to come



forward and tell what they know. In exchange for immunity from prosecution, victims would gain a fuller sense of what happened to them or their loved ones. However, even in South Africa, the TRC's amnesty power was undercut in part by acquittals in concurrent court proceedings, which eliminated the incentive for perpetrators to come forward.

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