

# Archives for a Peaceful Future

# Essential

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Cover picture

Archives of the Truth and Reconciliation Commission (TRC) in Sierra Leone. Copyright: Andreas Nef

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Archives for a Peaceful Future

A Guidance Note for Working with the Archives of Truth Commissions in Dealing with the Past Contexts

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## “A Truth Commission cannot overcome a society’s divisions. It can only winnow out the solid core of facts upon which society’s arguments with itself should be conducted”.<sup>2</sup>

Truth commissions are an important mechanism for any society dealing with past serious human rights violations which have occurred during a civil war, an authoritarian regime or invasion and occupation. As a temporary, officially sanctioned truth-seeking body, truth commissions investigate and document past human rights violations and establish an official narrative about what happened. At the end of their mandates they are left with a huge amount of collected and created records which provided the basis for, and document the work of, the truth commission and thus form part of its legacy.

The authors of this note take an holistic approach to dealing with the past<sup>3</sup> in which the archives of a truth commission can be seen as an integral part of a broader and long term process which does not simply terminate with a truth commission’s final report nor involve only one transitional justice mechanism. Therefore all of the records contained within a truth commission’s archive are a crucial part of a country’s historical memory and national heritage. By showing how the truth commission worked and handled its documentation, their archives support its legitimacy and the acceptance of its findings. In doing so, they constitute an example for society at a time of transition towards democracy, accountability and the rule of law. A truth commission’s archives are also an important source of information for work to

- 1 We thank Elisabeth Baumgartner, Tobias Affolter, Trudy Huskamp Peterson, Patrick Walsh and all other workshop participants of 17th May 2013 for sharing their insights and providing valuable feedback and comments on an earlier draft of this guidance note.
- 2 Ignatieff, Michael (1996) *Articles of Faith. Index on Censorship*, 25, p. 113.
- 3 See *Dealing with the Past* (2012) *A Conceptual Framework for Dealing with the Past. Holism in Principle and Practice. Dealing with the Past Background Paper*, swisspeace.

implement the truth commission’s recommendations and for subsequent transitional justice mechanisms such as prosecutions, reparation programs, vetting efforts and memorialization initiatives. In this sense, when the truth commission finishes its work, its legacy and contribution to dealing with the past<sup>4</sup> is only just beginning. While truth commissions are an instrument for establishing the right to truth, archives relating to human rights violations are also vital for the right to know and thus are “drawing upon history to prevent violations from recurring in the future”.<sup>5</sup> Preserving the materials testifying to human rights violations make perversion, amnesia, revision or negation of history, violence and oppression more difficult. In addition, the preservation and accessibility of the whole archive ensures that not only that which is mentioned in the final report will be remembered, but also allows victims, future generations, researchers or persons contesting the report to make their own interpretations and conclusions.<sup>6</sup> Decisions about the appraisal, management and accessibility of a truth commission’s archive are thus part of the broader set of choices which a society in transition must make about how to reckon with its past.

This guidance note is one output from the research project *Archives and Records of Truth Commissions* and builds on an original study by Trudy Huskamp Peterson in which she detailed the current status of the archives of truth commissions, *Final Acts: A Guide to Preserving Records of Truth Commissions* (2005).<sup>7</sup> Drawing on a methodology of desk based research, questionnaires and interviews detailed in the annex, this note provides guidance regarding archival issues to two main audiences. Firstly, to dealing with the past practitioners and experts who are involved in the establishment, funding, design and work of a truth commission as well as in the dissemination of its findings and the future use of its archives. Secondly, this note is addressed to archivists who work with truth commissions. As such, it provides specific considerations and reflections for truth

- 4 See *Dealing with the Past*, 2012, op. cit.; Secretary General (2010) *United Nations Approach to Transitional Justice Guidance Note of the Secretary-General*; and Secretary General (2004) *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies UN Secretary-General Report*, S/2004/616.
- 5 Joinet, Louis (1997) *Revised Final Report. Question of the Impunity of Perpetrators of Human Rights Violations (Civil and Political)*. E/CN.4/Sub.2/1997/20. E/CN.4/Sub.2/1997/20/Rev.1. See also Orentlicher, Diane (2005) *Report of the Independent Expert to update the Set of Principles to Combat Impunity*, E/CN.4/2005/102; Office of the High Commissioner for Human Rights (2006) *Rule-of-Law Tools for Post-Conflict States: Truth Commissions*, Doc HR/PUB/06/1; Office of the High Commissioner for Human Rights (2011) *Report of the Office of the United Nations High Commissioner for Human Rights on the seminar on experiences of archives as a means to guarantee the right to the truth*, A/HRC/17/21; Bickford, Louis, Patricia Karam, Hassan Mneimneh and Patrick Pierce (2009) *Documenting Truth*. New York: International Center for Transitional Justice
- 6 Peterson, Trudy Huskamp (2005) *Final Acts: A Guide to the Preserving Records of Truth Commissions*. John Hopkins University Press, p. 2.
- 7 Peterson 2005, op. cit.

commissions' archives which may differ from 'normal' archives due to the sensitive nature of some records and the post-conflict or fragile transitional context in which they operate.

While this guidance note does not provide guidance on archival techniques, it presents factors which need to be considered when managing and preserving the records of a truth commission in the long term. Moreover, the guidance note will provide reflections on issues of access, outreach and further use to ensure the best chance for truth commissions' archives to contribute to the non-recurrence of human rights violations, reconciliation and dealing with the past. While archival standards and guidelines aim to provide model practices they often need to be adapted, since the mandate and work of truth commissions can differ and in each political context there are different choices to be made. However, this guidance note presents some general considerations, key principles, options and questions for those setting up or working with a truth finding mechanism such as a truth commission. While some of these considerations might seem obvious, they all require sufficient time, specific expertise and secure funding to be carried out. Moreover, collaboration and exchange between professional archivists and those involved in truth-seeking is a must in broader attempts to deal with the legacy of past human rights violations and to build a peaceful society.

## 2 Records management and long-term preservation of truth commissions' archives

From the beginning of their mandate, truth commissions create and receive a large amount of material. The created records will relate to their administrative life as well as to their substantive truth-seeking and truth-telling work. They may include written and oral forms of testimonies from victims, those who are accused of being perpetrators, minutes of public hearings and meeting notes, as well as reports and recommendations. In addition, the published final reports which present a condensed version of these materials, conclusions and recommendations, and often consist of several hundred pages, belong to the records created by a truth commission. Moreover, truth commissions receive and collect records from individuals, non-governmental institutions and state bodies.

All these records can be of various types, including paper and electronic documents, audio and video recordings, photographs, maps, artefacts or even artistic objects. Since truth commissions investigate serious human rights violations, the records contain personal and sensitive information regarding the identity of victims, presumed perpetrators, and their families, informants and witnesses. As the records constitute the basis upon which a truth commission elaborates its findings, conclusions and recommendations, the professional appraisal and preservation of documents is of crucial importance. Since a truth commission establishes social, institutional and individual responsibilities, those responsible for past crimes might contest the work and findings of the commission. These individuals may still be politically powerful and thus there might be a risk that the records of the truth commission will be destroyed. This risk is particularly acute, if a truth commission recommends criminal prosecutions and/or names presumed perpetrators nominally, or refers in its report to confidential lists of presumed perpetrators. However, more often, records are also lost through natural disasters and/or bad infrastructure, due to lack of human and financial resources.

Archival planning should take place in advance of the creation and collection of the first materials. Such planning should consider questions, such as: who will be responsible for records management and preservation, allocation of space for short-term storage, what will happen to the records once the mandate of the truth commission is completed, where they will be kept in the long term, and how they may be used in the future. Ideally, these decisions should already be included in a truth commission's law and mandate<sup>8</sup> or internal regulations and detailed in a mandatory archival policy as part of the internal working procedures of the truth commission.

Professional archivists should be consulted or hired before and during the work of the truth commission in order to elaborate an archival policy and archival system. This includes the whole life cycle of a record from its creation to its final preservation. However, the work of a truth commission and the transition environment in which it operates pose particular challenges compared to the records management and planning of other (public/governmental) archives. Therefore, dealing with the past practitioners and archivists engaging with truth commissions should take into account the following specific considerations regarding records management and long term preservation of a truth commission's archives:

Appraisal: Not all records need to be kept in the long term and decisions must be made regarding what to preserve in the archives of the truth commission. Created and received documents, which are relevant to understanding how the truth commission worked and how it reached its conclusions contained the final report, must be included in the archives. Documents received from other institutions should be copied or a reference to their location should be included in the truth commission's archives, since all records used

by the commission become part of the construction of memory, history and truth in that society. Private archival donations must be handled with care and the legal situation regarding the originals and their use should be clarified through an agreement with the donor. The archival policy should provide clear guidance on separating private and personal documents from those which are the property of the commission and which therefore should be included in the archives. Notes and reflections of commissioners can provide further information on particular cases of human rights violations and/or make decisions and conclusions more comprehensible. Therefore, they constitute an important element of the material legacy of the truth commission. Decisions to destroy some records during the appraisal process should to be publicly announced, because of the sensitive and potentially divisive nature of the archival material. By making such decisions transparent and providing time for public reaction and debate the legitimacy of a truth commission and its choices would be increased. Moreover, users of truth commissions' archives such as victims, persons accused of human rights violations and their lawyers, prosecutors, and researchers could then be aware of what kind of information they could access under what conditions.

Sensitive information: Truth commissions handle particularly sensitive information due to the nature of their mandate, for example information which details crimes committed, harm done, violations suffered and the identity of victims and their families. Records may also include names of possible perpetrators and/or allegations of human rights violations; this content could be used to incite hatred and revenge. Regarding personal records, one option is to offer to the subject of the record the possibility to add a cross reference explaining his/her understanding of the content of the record.<sup>9</sup> Moreover, truth commission archives might not be complete and more material and testimonies might be recorded,

8 Cf. González, Eduardo (2013) Drafting a Truth Commission Mandate: A Practical Tool. New York: International Center for Transitional Justice.

9 Cf. Joinet 1997, op.cit. Principle 17.

captured for posterity and made available as historical or educational resources. Cooperation between different archives, mutual promotion and cross-referencing would provide a wider picture of the past and attract more public use of these related resources. In order to guarantee safety and integrity of the original material, the commission's archival policy should establish specific guidelines for handling sensitive information as well as for how subsequently added material should be stored. This includes measures against attrition and pollution such as the loss of records and the corruption of the original collection through addition of new materials.<sup>10</sup>

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The South African History Archive (SAHA) compiled a directory with archival sources relating to the South African Truth and Reconciliation Commission.<sup>11</sup> It describes the collection and gives details about the institution holding these sources and their access policy. As such, this directory provides a list with information on where all the records and documents relating to South Africa's Truth and Reconciliation Commission and Apartheid regime can be found.

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Sensitization of truth commission staff for record management and archival issues and archival policy: In truth commission work there will be a great variety of documentation such as oral and written testimonies, video footage, photographs and possible artifacts. Not only should staff have experience in handling this variety of material in their daily work, but they should have specialized training in handling and dealing with disturbing and sensitive material. All staff members should be familiar with the archival policy and get professional instructions on records management from the beginning of their work on.

10 Bickford et al. 2009, op. cit. p. 22.

11 SAHA (2007) Guide to Archival Sources relating to the South African Truth and Reconciliation Commission. SAHA, Braamfontein, edition 2007.

Permanent custodial institution: After the truth commission finishes its work its archives should be held by a permanent and trusted custodian. In a transition context this is a complex issue. On the one hand state archives, such as the National Archives, seem to be the appropriate custodian since they are the evidential body for public records and they provide long term preservation. On the other hand the custodian must not be associated with the violence committed or harm done. Since the state has often been implicated in human rights violations state institutions, such as the Ministry of Justice or the National Archives, may not be trusted to guarantee that the archives of a truth commission will be preserved and protected. In this sense the symbolic value of the location chosen for the archives is important and must be taken into consideration. It should be noted that it may be difficult to reach a consensus amongst different divided actors as to which custodians can be trusted. The custodial institution must be capable of handling sensitive information and addressing the particular issues associated with a truth commission's archives, in particular specific access policies. National Archives in post-conflict contexts are often weak and may be unable to deal with the specific needs of truth commissions' archives and potential users. Another institution may be chosen for an interim period while awaiting a final decision (and possible transfer to the National Archives). Or in the case where the records are necessary for follow-up work such as criminal prosecutions, reparation programs, memorialisation projects or vetting processes, a reparation commission, human rights commission, a museum or documentation centre or the office of an Ombudsman can become the custodial institution. Finally, considerations of access and outreach must certainly be made when choosing a custodian, and must not be marginalized by security concerns.

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In Timor Leste, the Truth and Reconciliation Commission (CAVR) and the Post-CAVR Secretariat that serves as the custodial institution for the commission's archives are located in the historic prison site in Dili. The prison, with cells where resistance figures were detained and tortured and with graffiti on the walls, can be considered in itself as an archive. The symbolic location adds significantly to the CAVR archives by physically witnessing what is contained in the (paper) archives and by attracting visitors who may not otherwise come to visit the archives. While Timorese chose an historic site associated with suffering, Sierra Leone has chosen a location symbolizing justice and dealing with the past. Currently, the Peace Museum, which will also hold the archives of the truth commission, is being transferred to the buildings of the former Special Court for Sierra Leone in Freetown.

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Protection: The buildings holding the archives must be protected against natural disasters, including fires and floods, and environmental factors that are potentially harmful such as humidity or dust. In addition, since truth seeking and truth telling are rarely consensual exercises, individuals or groups who are accused of being perpetrators and/or those who wish to contest the truth commission and its work might represent a danger to the archives. Robust security measures against unwarranted intrusions and destruction of records or (parts of) the archives must be put in place.<sup>12</sup> A secure digital repository or copy located either in the country or abroad should be considered as a protection measure. Security issues present a particular challenge in truth commission contexts which are often characterized by damaged infrastructure, power cuts, low level of technology and poverty.

### 3 Access to archives of a truth commission

Since the archives of truth commissions are central resources for a society's right to know they must be made available, now and in the future. The final report of a truth commission contains a condensed picture of what happened and usually does not describe in detail any single human rights violation. Accessing the truth commission's archives ensures the opportunity to learn more about the violence and crimes that have taken place during the period covered by the truth commission's mandate. Moreover, by searching the archives, victims or their families might find information regarding what happened to themselves or their loved ones. Because of this archives must be accessible. However, not every record is appropriate for access by a broader public. Records might contain personal details about individual victims and perpetrators, unsubstantiated allegations, information that would jeopardize the safety of former truth commission staff or include items that the commission promised would not be released until a certain period of time has passed. Deciding access policies in the case of information which contains details about individual victims and perpetrators is complicated.

An access policy should clearly state who can access which kinds of records. As such, the purpose of an access policy is to define the balance between the right to know as well as freedom of information and the rights of individuals to protect information about themselves.<sup>13</sup> The access policy must be in line with national archives or information laws and regulations in so far as they exist and apply to the records of the truth commission. However, since the needs for access to archives of a truth commission may be different from other archives, specific legislation regulating this access should exist. Such rules could be contained in the law creating the truth commission. It should be clear that such specific rules form a *lex specialis* to the general archives law and thus prevail.

<sup>12</sup> Cf. Joinet 1997, op. cit. Principle  
<sup>14</sup>.

<sup>13</sup> Peterson 2005, op. cit. p. 93.



In order to elaborate an access policy, dealing with the past practitioners and archivists working with truth commissions should take into account the following specific considerations:

Who can access the archives: Even though access to the archives of a truth commission is important, not all groups of persons might be granted equal access to all records, not least because of the protection of privacy and related rights of the persons named in the records. If there are different levels of access this needs to be clearly explained and publicly communicated, ideally through an access policy. Since a truth commission's archives constitute an important source of information on past crimes, it is particularly important that victims and their families, but also prosecutors, judges and defense lawyers have access to the documents.

Which records can be accessed and the length of time that certain records are closed for the public generally depends on the nature of the records and the national policy on privacy.<sup>14</sup> For truth commission archives deadlines set by general archival law might not be appropriate and decisions must be taken on a case by case basis. To make records available for the public, the truth commission or its successor body need to classify them.<sup>15</sup> As a general principle, documents that have already been public, such as recorded public hearings, should be accessible for the public. In order to ensure their accessibility, different storage areas with different access rules for records containing national security information, especially sensitive information or unclassified records, can be considered.<sup>16</sup>

Dealing with access requests: While the access policy sets the general principles, accessing the records depends on whether individual access requests are treated in a favorable manner. Clear legal frameworks and procedures, including the access policy, set the

limits for gatekeepers of the archives. However, it should be possible to easily adapt and revise these procedures including declassification of non-public records when conditions change such as with the death of a person the need for privacy might be reduced. Ideally the competency for the decision on requests should be with the truth commission's archives itself rather than with an executive body which might be less involved in the daily archival issues or the already dissolved truth commission. Regarding victims' statements, victims should be included in decisions on access, since these statements should not be the sole property of the state. Authorization over use of the records should only be used in order to monitor and not for reasons of censorship. A clearly formulated and publicly elaborated access policy and procedures ensure that access is granted in a non-arbitrary way and that sensitive information is protected.

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In order to promote the widest possible access to the CAVR archives of Timor Leste while at the same time protecting the rights of individuals who have provided information, a sophisticated access policy was written. In 2005, professional archivists and experts were engaged to help establish the archives in conformity as much as possible to international archival standards. The access policy, which can be downloaded from the [Post-CAVR website](#) outlines principles and conditions of access, user categories and types of records, restrictions and timely availability of records. However, access is granted on a case-by-case basis and the executive director tends to approve access requests on a very restricted basis. This highlights a possible disjuncture which may arise in transitional and fragile contexts between access in policy and access in reality.

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<sup>14</sup> Peterson 2005, op. cit. p. 93.

<sup>15</sup> Peterson provides a detailed overview of access criteria regarding different types of records including investigative, program and administration records. Furthermore, she describes the four different types of reviews that are required to make records available for public users: 1) separating those records that have already been made public from those that have not been, 2) reviewing non-public records according to predetermined criteria for their declassification, 3) reviewing records and files about a victim to provide access to the victim, his/her family and authorized agents, and 4) reviewing items with security markings to determine whether they can now be declassified. (Peterson 2005, op. cit, appendix B, p. 91ff and p. 49f).

<sup>16</sup> Peterson 2005, op. cit. p. 48.



Physical access to the archives: In order to guarantee access for victims and the population at large, archives should be located in the country which was the subject of the truth commission. However, this should be considered against the alleviation of risks; if the risk is too high that the archives might be destroyed, archives or a (digital) copy might be better secured outside the country. On the other hand, for archives set up under the auspice of the United Nations or archives held and located outside the country the lack of access often constitutes a significant problem. If the archives are centralized in one city, often in the capital, they might not be accessible for the rural population due to high transportation and living costs in the capital. One might envisage the building of decentralized centers from which persons can access at least the digitized or paper copies of the original records.

Examining the records: The custodial institution holding the archives of the truth commission should provide the necessary finding aids, reference service procedures and technical facilities to examine the different types of records, in particular electronic, audio and video recordings. A good, preferably electronic, directory allows users to see what information and records are in the archives. The archival institution can post finding aids, helpful information and scanned documents on their website as a relatively cheap access measure. Moreover, the website of the truth commission can be linked and preserved as it was when the commission closed. Since studying records documenting such crimes might be quite emotional, the provision of quiet, private places might be advisable. Special attention might be given by the staff to victims and families of disappeared visiting the archives. Moreover, the physical placement of the archives, including the place to consult the records, should be in a building or building complex without a reputation that would discourage public access.<sup>17</sup>

<sup>17</sup> Peterson 2005, op. cit. p. 33.

## 4 Further use of truth commissions' archives

Archives of a truth commission can play a crucial role in outreach and dealing with the past initiatives that follow the commission's work. The archives of the truth commission provide evidence of the way the commission carried out its mandate and the sources used by the commission to form narratives and draw conclusions. As such, the records received by other holdings and those created by the truth commission will form part of a national history and memory. Such archives are an important source for research into the general history of the period which was examined by the commission, and thus for other dealing with the past processes and mechanisms, such as criminal prosecutions, reparation programs, vetting processes and memorialisation projects. However, these other transitional justice mechanisms have potentially differing requirements with regard to standards of proof or the quality and organization of individual records and archives. The role that archives of a truth commission can play in other transitional justice mechanisms certainly depends on the particular sequencing of these various mechanisms. For example, archives of truth commissions can be of greater use in prosecutions if the commission precedes criminal trials or reparation initiatives. While a truth commission is first and foremost responsible for investigating human rights violations, writing a final report, disseminating its findings and preserving its archives, questions of outreach and the future use of a truth commission's archives by other transitional justice mechanisms have implications which can already be considered in the commission's decisions regarding record management. Knowing basic principles of international criminal procedural law may allow the truth commission to accordingly organize certain confidential, non-public information. On the other hand, a truth commission can also base its work on existing archives of other dealing with the past mechanisms if it succeeds them. In either case, access, preservation and privacy regulations of a truth commission's archives need to be respected.

In Sierra Leone, the Truth and Reconciliation Commission (2002 – 2004) operated in parallel to the Special Court for Sierra Leone (2002 – present). Neither institution had clear rules or defined roles to govern their interactions. This meant that the area of information sharing was particularly complicated, and there were debates over whether the TRC should make testimonies and documents available to the Special Court. Fear of prosecution by the Special Court might have kept former combatants from participating and testifying in the TRC.<sup>18</sup> Consequently, the TRC stressed in its final report that any change to the legislation so as to enable access to confidential information would have “disastrous consequences” for witnesses by breaching their right to privacy and possibly exposing them to reprisal or prosecution, and for perpetrators by setting a precedent for future investigative work. Hence, the TRC recommends “that Parliament should never authorise access by criminal justice mechanisms, either directly or indirectly, to information in the archives of the Commission that was provided on a confidential basis”.<sup>19</sup>

Outreach is a combination of materials and activities to communicate, raise awareness and promote understanding of the goals, work and findings of a truth commission. In this regard, the archives of a truth commission provide information on its work in order to demonstrate the transparency of the process and to further enhance its legitimacy. This information should be arranged, presented and explained in a way so that users can easily understand how the commission worked, even without prior detailed knowledge of its internal organization and administration. In addition to the final report, examples of violent events but also of resistance to the violence should be available, in order to further illustrate, personalize, localize and communicate the findings, lessons of the past and

18 Dougherty, Beth K. (2004) Searching for Answers: Sierra Leone's Truth & Reconciliation Commission. *African Studies Quarterly*, Vol 8, Issue 1, p. 44.

19 Truth and Reconciliation Commission (TRC) (2004) *Witness to Truth: Report of the Sierra Leone Truth and Reconciliation Commission*, vol. 3b, chapter 6, art. 68.

recommendations formulated by the truth commission. The finding aids can facilitate this by allowing for a thematic search. Moreover, in contrast to the final report, archives of a truth commission contain non-written material such as videos, audio recordings or objects, through which illiterate users can also be reached. Outreach programs certainly must respect privacy and confidentiality regulations when using the archives of a truth commission. The archival institution holding the records of the truth commission should play an active role in disseminating the findings of the commission and should closely collaborate with civil society organizations or other actors and elaborate together with them the outreach programs and activities. Donors should be aware that the use of the archives, outreach and the active promotion of access to truth commission archives forms an important part of the legacy of a truth commission and that long term financial support is needed for this important work.

Prosecutions and judicial accountability: Since truth commissions investigate human rights violations and past crimes, their archives constitute an important source of information for prosecuting and holding judicially accountable those who are responsible for these acts. Thus prosecutors, judges, defence lawyers, victims and their families, their legal representatives or assisting organizations need to have access to the sensitive and classified records in the archives in order to prepare cases,<sup>20</sup> find evidence and establish responsibilities. In addition, accused persons also should be able to rely on the truth commission's archives in order to prepare their defence. Finally, access by international and mixed/hybrid tribunals, as well as foreign domestic prosecutorial and judicial authorities investigating crimes under the principle of universal jurisdiction should be guaranteed. In order to use the records in prosecutions, the provenance of the records and the chain of custody must be documented in accordance with a strict protocol. However, the probative value<sup>21</sup> of

20 Peterson, Trudy Huskamp (2004) *Truth and the Records of Truth Commissions*. *Studien und Quellen* 30, p. 6.

21 Bickford et al. 2009, op. cit. p. 14.

the records depends not only on how the violations have been documented, but also on the legal system in place which determines the standards of proof and the use of different types of evidence.

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The documents of the former political police form the backbone of the preparation of the criminal case against the former Chadian dictator before the Extraordinary African Chambers in Dakar, Senegal. Together with the records of the Chadian Commission of Inquiry into the Crimes and Misappropriations Committed by Ex-President Habré, His Accomplices and/or Accessories (Commission d'Enquête du Ministère Chadien de la Justice sur les Crimes du Régime de Hissène Habré), they were found by staff of Human Rights Watch in the buildings of the former political police. A local victims association has been allowed to clear the offices, sort and organize the documents and make copies of them. Copies of the archives of the political police and the truth commission are now stored at the offices of Human Rights Watch. In particular, the interviews with former accomplices of Hissène Habré conducted by the truth commission might be used as evidence in the case against Habré.

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**Reparations:** Since a truth commission investigates patterns of human rights violations and collects testimonies from victims, its archives constitute an important source of information for reparation programs. Information on who suffered (who will be the recipient of reparations) and what harm has been done (what will be repaired, respectively what categories of victims should be compensated)<sup>22</sup> should be contained in the truth commission archives. Staff working on reparation programs should be able to access the archives or even serve as an interim custodial institution in order to define the violations to be compensated and identify the categories of victims which will qualify for

22 Cf. Bickford et al. 2009, op. cit. p. 15.

reparations. Moreover, based on the archives and the work of the truth commission, reparation programs can decide on the form of reparations that will be most beneficial and context relevant. Victims and their families should have access to the archives of the truth commission since this could help them to make their claims (of eligibility) for reparations if their cases are officially documented.

**Vetting and institutional reforms:** Archives of truth commissions can be used for vetting programs and reforms of the institutions that allowed gross human rights violations to take place. Similarly to prosecution efforts, archives can provide information on responsibilities of individual state and administrative representatives, in particular if the truth commission was able to access other state archives, such as those of the police, army or other security services. Moreover, through documenting state structures and systems which allowed systematic human rights violations, archives may contain crucial information about which (parts of) state institutions need to be reformed in order to build up an administration and state structures in a way that the repetition of such violations does not occur and that protects and guarantees the security of all citizens.

**Memorialization:** Including individual testimonies, photographs and other documents, the archives of truth commissions provide an enormous source for memorialization initiatives remembering and honoring victims such as museums, documentation centers, monuments or memorials. Such initiatives should have access to the archives and be allowed to make use of the records. Even the physical location of the archives might itself be a place of remembrance. The archival institution can organize public visits and public remembrance ceremonies. Parts of the archives containing public records can be made accessible for guided tours.

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Memoria Abierta is an initiative of different Argentinean human rights organizations, which makes accessible documentation on the military dictatorship for the purposes of research and the education of future generations. Memora Abierta presents material of the CONADEP archives, such as photos and written documents, in its on-line archives.

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Education: As truth commissions draw lessons for the future, they are an important element in educating a society and future generations. The institution holding the archives of a truth commission should facilitate the access for those designing civic education and/or historical curricula. Documents, such as photos or testimonies, can be included in school books; however, the choice should respect privacy and confidentiality regulations and be adapted to the age of the students. Moreover, teachers and students can examine the past by looking into the archives and learning about national history and heritage. In this case finding aids ideally allow for a thematic search and support should be provided to explain and contextualize particular records.

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As one of its recommendations the Truth and Reconciliation Commission (Comisión de la Verdad y Reconciliación, CVR) in Peru proposed that reform of the education sector be grounded in human rights. In 2003 the Recordándonos project, which was a joint initiative of the CVR and the Ministry of Education, began to develop new curriculum and workbooks for primary and secondary level. The Recordándonos materials are based on the final report and contain photographs and statements assembled by the CVR. In addition a state commissioned text book for the fifth level of secondary school was developed and is taught as part of the social sciences program in all state secondary schools.<sup>23</sup>

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Because truth commissions investigate sensitive periods of history, it might be wise to provide skilled staff to guide teachers and students in such work.

Historical research: As archives of truth commissions belong to the national heritage of a country, they are crucial sources for researching history and should be consulted when examining the historical period which the commission dealt with. Therefore truth commission archives must be described and preserved, if they are to be used for academic research in the future.<sup>24</sup> However, researchers might not only want to look at one archival source, but contextualize their findings with other archives or sources from other institutions. Finding aids should clearly indicate which records have been generated by the commission itself and which records have been obtained from other institutions, while the archive's staff could provide information on other existing collections. It is important to remember that access rules must also be followed; archives should not provide privileged access to certain user groups, such as academic researchers, but ensure public access which is as inclusive as possible.

23 Paulson Julia, Truth Commissions and National Curricula: The Case of Recordándonos in Peru, in: Children and Transitional Justice. Truth-Telling, Accountability and Reconciliation, edited by Sharanjeet Parmar, Mindy Jane Roseman, Saudamini Siegrist, p. 327 ff.

24 Peterson 2004, op. cit. p. 6.



## 5 Ways forward

Archives of truth commissions document an historical period of violence and constitute an important part of a society's national heritage. Containing information on human rights violations, perpetrators and victims, truth commissions' archives, as with other archives on the same violent period, are central for the right to know, the right to justice, the right to reparations and the guarantee of non-recurrence. Engaging with the topic of truth commission archives from a dealing with the past perspective is thus a necessity. Through our data collection we have seen that this is slowly happening. Increasingly the archives of truth commissions are planned for in the laws establishing commissions, and addressed in their final reports as part of a commission's legacy. In addition they are also being used in broader dealing with the past processes through inclusion in human rights centers and peace museums. However, there has been an insufficient amount of either empirical or conceptual work on this to date. This guidance note provides one source of information on working with and thinking about truth commission archives from a dealing with the past perspective.

It is hoped that this guidance can be used in different country contexts where truth commissions are operating or being set up, both by archivists and dealing with the past practitioners. It provides considerations which should be taken into account with regard to the records management and preservation process, development of access policies and the further use of truth commissions' archives. It includes some illustrative examples of how truth commissions in different countries have addressed these issues. However, we do not suggest a "tool box" for truth commission archives, because it is not desirable to have one single model for every context we encourage archivists working with truth commission staff and dealing with the past experts to reflect on the choices which have to be made and to collaborate together where possible. Exchanges between archivists and truth commission staff could be

## Ways forward

organized where skills can be shared and experiences with different countries compared. Different experts can work together to translate guidelines and best practice advice into multiple languages and to identify knowledge gaps to be addressed such as the technical, symbolic, psychological and political impacts of different ways of working on and with truth commission archives.

## Annex: Methods and results of the research project

This guidance note is one output from the research project 'Archives and Records of Truth Commissions' which is part of the joint project 'Archives and Dealing with the Past' of swisspeace, the Human Security Division of the Swiss Federal Department of Foreign Affairs, and the Swiss Federal Archives. The research project aimed at finding out about what truth commissions do with their documentation and what kinds of archives have been established, understanding the links between truth commissions' archives and dealing with the past processes in a given society and developing best practices and lessons learnt regarding the use of truth commissions' archives.

The starting point and basis of the research was provided by an earlier study by Trudy Huskamp Peterson published in 2005: *Final Acts - A Guide to Preserving the Records of Truth Commissions*. *Final Acts* detailed the current state of archives of truth commissions which had completed their work by the time of the study. Between July 2012 and May 2013 the authors of this guidance note collected data on selected cases from Peterson's 2005 study as well as on new cases of truth commissions which had completed their mandate after 2005. From Peterson's sample we have excluded commissions of inquiry, such as the "International Commission of Inquiry" in Burundi, the German "Enquête-Kommission Aufarbeitung von Geschichte und Folgen der SED Diktatur" or the "Commission on Inquiry to Find the Disappeared Persons during the Panchayat Period" in Nepal. Selected cases from Peterson's 2005 study include: Argentina, Bolivia, Chad, Chile, Ecuador (1996), El Salvador, Guatemala, Haiti, Nigeria, Panama, Peru, South Africa, South Korea (2003), Uganda and Uruguay. New cases which completed their mandate after 2005 include the truth commissions in Democratic Republic of Congo, Ecuador (2007), Ghana, Honduras, Liberia, Morocco, Paraguay, Sierra Leone, South Korea (2005) and Timor-Leste. Furthermore, the sample only

## Annex: Methods and results of the research project

takes into account official, state-sanctioned truth commissions and does not consider unofficial truth commissions, such as those established by non-governmental organizations or churches (for example Honduras), commissions that have been transformed into permanent human rights bodies (for example Rwanda), disbanded (for example Serbia and Montenegro) or those which were still ongoing in early 2013 (such as Ivory Coast, Kenya, Solomon Islands or Mauritius).

Before collecting data we conducted a literature review on archives and dealing with the past and familiarized ourselves with the details of Peterson's 2005 study. The digital collection on individual truth commissions provided by the United States Institute of Peace was helpful in this regard. Such background work informed our empirical data collection which was done using the methods of questionnaires in English, French and Spanish, and semi-structured interviews conducted with staff from national archives, embassy staff, former commissioners and academic experts. We collected data on the legal framework in which the truth commission operated, on its records, the custodial institution of its archives, on the access rules and the use of the archives. This includes an analysis of the laws or decrees establishing the truth commission and its final report regarding references made to what should happen to the records and the archives.

In addition to the guidance note, the results of the research project will be presented as case descriptions which will be published on the [website of the 'Archives and Dealing with the Past' project](#) and the [swisspeace website](#). These case descriptions include updates on selected cases from Peterson's 2005 study for the countries where there were significant new developments or where we have new information. For truth commissions that terminated their work after the

publication of Final Acts we provide a full description of the case according to the available data.

Further work on this topic and outputs of the research project can also be found on the above websites or swisspeace can be contacted in the following way:

Sandra Rubli (project researcher for 'Archives and the Records of Truth Commissions')

Briony Jones (project coordinator for 'Archives and the Records of Truth Commissions')

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## About the Authors

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holds a MA in Political Science from the University of Berne, Switzerland (2007). She joined swisspeace in August 2006 and worked as research assistant for FAST International. From September 2007 to April 2008 she was a research analyst for FAST International, responsible for Burundi, DRC, Ethiopia and Somalia. Since November 2008, she has been working as researcher for KOFF, the Dealing with the Past Program and has been writing her PhD thesis. Her research analyzes the links between transitional justice, dealing with the past and the post-conflict state-formation process in Burundi. She conducted extensive fieldwork in Burundi.

### Briony Jones

is currently the Research Fellow for the Dealing with the Past Programme at swisspeace. She is currently leading a Swiss National Science Foundation project on 'Resistance to Transitional Justice? Alternative Visions of Peace and Justice'. In addition, she coordinates a project on the archives of truth commissions, and is a Co-Investigator with the University of Oxford for the ESRC funded project 'Ways of Knowing after Atrocity: A Knowledge Exchange on Methods used to Formulate, Implement and Assess Transitional Justice Processes'. Her research interests include reconciliation, citizenship, the politics of transitional justice and qualitative research methods. She has field experience in Sri Lanka, Uganda and Bosnia-Herzegovina.

## About swisspeace

swisspeace is an action-oriented peace research institute with headquarters in Bern, Switzerland. It aims to prevent the outbreak of violent conflicts and to enable sustainable conflict transformation.

swisspeace sees itself as a center of excellence and an information platform in the areas of conflict analysis and peacebuilding. We conduct research on the causes of war and violent conflict, develop tools for early recognition of tensions, and formulate conflict mitigation and peacebuilding strategies. swisspeace contributes to information exchange and networking on current issues of peace and security policy through its analyses and reports as well as meetings and conferences.

swisspeace was founded in 1988 as the "Swiss Peace Foundation" with the goal of promoting independent peace research in Switzerland. Today swisspeace engages about 40 staff members. Its most important clients include the Swiss Federal Department of Foreign Affairs (FDFA) and the Swiss National Science Foundation. Its activities are further assisted by contributions from its Support Association. The supreme swisspeace body is the Foundation Council, which is comprised of representatives from politics, science, and the government.