

After the Conflict is Over:



Truth and Reconciliation Commission

The Truth and Reconciliation Commission (TRC) was established to investigate crimes committed during the apartheid era in South Africa. The commission oversees three committees dealing with the following areas:

Human Rights Violations (HRV) Committee

The task of the HRV Committee was to investigate human rights abuses that took place between 1960 and 1994, based on statements made to the TRC. The Committee established the identity of the victims, their fate or present whereabouts, and the nature and extent of the harm they have suffered; and whether the violations were the result of deliberate planning by the state or any other organization, group or individual. Once victims of gross human rights violations are identified, they are referred to the Reparation and Rehabilitation Committee.



Reparation and Rehabilitation (R&R) Committee

The enabling act empowered the R&R Committee to provide victim support to ensure that the Truth Commission process restores victims' dignity; and to formulate policy proposals and recommendations on rehabilitation and healing of survivors, their families and communities at large. The envisaged overall function of all recommendations is to ensure non repetition, healing and healthy co-existence. A President's Fund, funded by Parliament and private contributions, has been established to pay urgent interim reparation to victims in terms of the regulations prescribed by the President.

Amnesty Committee (AC)

The primary function of the AC is to consider that applications for amnesty were done in accordance with the provisions of the Act. Applicants could apply for amnesty for any act, omission or offence associated with a political objective committed between 1 March 1960 to 6 December 1993. The cut-off date was later extended to 11 May 1994. The final date for the submission of applications was 30 September 1997. Being granted amnesty for an act means that the perpetrator is free from prosecution for that particular act.

The work of the Amnesty Committee of the Truth and Reconciliation Commission still continues today. Read transcripts, submissions, policy documents, and more from all three committees of the commission at www.doj.gov.za/trc

The 1995 *Promotion of National Unity and Reconciliation Act*, which set up the commission, states that the commission's aims are to investigate and provide "as complete a picture as possible of the nature, causes and extent of gross violations of human rights".

Amnesty may be granted "to those who make full disclosure of all the relevant facts relating to acts associated with a political objective committed in the course of the conflicts of the past". It is open to perpetrators from both sides of the apartheid divide. Applications have come from police, black militants, right-wing activists and others.

Facts about the commission:

- The commission is concerned with activities that happened in the period from 1 March 1960 until 10 May 1994, the day of President Mandela's inauguration.
- Chaired by Archbishop Desmond Tutu, hearings began in April 1996.
- The commission has received over 7,000 applications for amnesty.
- The TRC has rejected more than 4,500 of these applications, and has so far granted around 125 amnesties.
- It has heard testimony from over 21,000 victims of apartheid.
- The commission completed its work on 31 July 1998, except for ongoing amnesty investigations, which will continue until next June.
- The publication of a 3,500 page report of findings in October 1998 marks the culmination of the commission's work.

Timeline:

1995

- South Africa's Truth and Reconciliation is set up under the 1995 Promotion of National Unity and Reconciliation Act to investigate crimes committed during the apartheid era.

1996

- Hearings begin in April 1996 amid a swarm of international television cameras. The hearings that follow, chaired by Archbishop Desmond Tutu, see victims of the apartheid authorities, their widows and their mothers, break down in tears as they give their testimony.
- F.W. De Klerk appears before the Commission in August 1996, and begs forgiveness for the years of apartheid rule.
- In a breakthrough for the commission, top apartheid-era police general Johan van der Merwe admits in October 1996 that he ordered sabotage attacks including blowing up the Johannesburg headquarters of the South African Council of Churches in 1988.

1997

- The commission announces in June 1997 that Winnie Madikizela-Mandela is being subpoenaed to appear in connection with amnesty applications by her former guards, nicknamed the Mandela United Football Club. Led by her, they stood accused of kidnap and murder.
- Winnie Madikizela-Mandela, giving evidence for the first time to a Commission hearing in Johannesburg in December 1997, describes evidence against her as 'ludicrous' and says the Commission is a "mud-slinging exercise".
- Former South African President, PW Botha ignores a summons to appear before the Commission in December 1997. "Clearly the appeals of various people - including the President of this

country - have not prevailed and Mr PW Botha has seen fit not to appear," says Archbishop Tutu. "We will let the law take its course."

1998

- In testimony in March 1988 on the death of black leader Steve Biko in 1977, police officers who interrogated him admit they beat him but still say his death was accidental.
- South African scientist Daan Goosen tells the Commission in that the apartheid government considered trying to develop a bacteria which would kill only blacks.
- Former Law and Order Minister Adriaan Vlok tells the commission in July that he received orders from former South African President PW Botha to engineer the bombing of the South African Council of Churches in 1988.
- The commission finds that testimony from Adriaan Vlok that South Africa's last white president, F.W. de Klerk knew of illegal operations against black groups, contradicts accounts given to the commission by Mr de Klerk himself.
- Winding up the hearings, the Commission hears testimony from Dr Wouter Basson in July 1998, who headed a government chemical and biological weapons programme during the apartheid era.
- The commission ends its work in July 1998 after more than two years of hearings and investigations into human rights violations committed during the apartheid era.
- Former South African President PW Botha is found guilty in August 1998 of contempt for ignoring a summons to appear before the Commission to answer allegations that he led a state-sponsored strategy to silence and harass anti-apartheid activists while in office. His lawyers appeal against the fine and suspended one-year jail sentence.
- A leaked document from the Commission in October 1998 implicates the ANC in human rights abuses and torture.
- A day before it is due to be released, the report is legally challenged by F.W. de Klerk forcing the TRC to remove a section that implicated him in a series of bombings.
- Just hours before the final report is to be published the ANC fails in a court bid to prevent its publication.

FYI: Other Truth & Reconciliation Commissions have been set up around the world: Argentina, Chile, El Salvador, Fiji, Ghana, Guatemala, Liberia, Morocco, Panama, Peru, Sierra Leone, South Korea, East Timor, and the United States.

Based on your understanding of the mandate and findings of South Africa's Truth and Reconciliation Commission, is this an appropriate way to deal with this type of situation after the conflict is over?

- Describe how it was effective in South Africa.
- Describe its shortcomings in South Africa.
- List appropriate circumstances where TRCs may be appropriate.
- List circumstances where TRCs would not be appropriate (and identify what *would* be appropriate).
- Do you think the TRC was the way to go in South Africa?

Key findings of the final report:

On apartheid and the state

- The most serious culprit of the apartheid years is the South African state itself, according to the Truth and Reconciliation Commission.
- "The state, in the form of the South African government, the civil service and its security forces, was, in the period 1960-94 the primary perpetrator of gross violations of human rights in South Africa and, from 1974, in southern Africa," the TRC report states.
- "In the application of the policy of apartheid, the state in the period 1960-90 sought to protect the power and privilege of a racial minority. Racism therefore constituted the motivating core of the South African political order, an attitude largely endorsed by the investment and other policies of South Africa's major trading partners in this period.
- "A consequence of this racism was that white citizens in general adopted a dehumanising position towards black citizens, to the point where the ruling order and the state ceased to regard them as fellow citizens and largely labelled them as the enemy. This created a climate in which gross atrocities committed against them were seen as legitimate."



On the liberation movements

- The report emphasises the legitimacy of the liberation movement struggle against apartheid, but holds the ANC other liberation movements accountable for violations of human rights.
- "The ANC and its organs as well as the PAC and its armed formations...committed gross violations of human rights in the course of their political activities and armed struggles, for which they are morally and politically accountable," the report says.
- The commission noted it was ANC policy that the loss of civilian life should be avoided, but said operations by its armed wing uMkhonto weSizwe "ended up killing fewer security force members than civilians".
- In the case of the Pan-Africanist Congress (PAC) - a liberation movement which split from the ANC over ideological differences - the report focusses on the activities of its armed wing, Apla, which targeted white civilians and black leaders loyal to the government.

On big business

- The TRC report proposes a series of taxes on business corporations to offset apartheid's legacy of poverty. It recommends a wealth tax and a one-off levy on personal and corporate income.
- It also proposes "each company listed on the Johannesburg Stock Exchange to make a once-off donation of one percent of its market capitalisation," and "a retrospective surcharge on corporate profits extending back to a date to be suggested".

On the media

- The TRC distinguishes the role of the English-language media under apartheid from that of the Afrikaans media, but finds both guilty of "the racism that pervaded most of white society".
- "The management of the mainstream English language media often adopted a policy of appeasement towards the state, ensuring a large measure of self-censorship.

- "The Afrikaans media, with rare exceptions, chose to provide direct support for apartheid and the activities of the security forces, many of which led directly to gross violations of human rights.

On PW Botha

- The report names gross violations of human rights committed by agents of the South African state during the period that Mr Botha was president. These include:
- "The deliberate and unlawful killing and attempted killing of persons opposed to the policies of the government within and outside South Africa"
- "The widespread use of torture and other forms of severe ill treatment against such persons"
- "The forcible abduction of such persons who were resident in neighbouring countries"
- The report concludes that "by virtue of his position as head of state and chairperson of the State Security Council [an inner executive group of ministers in the late 1980s], Botha contributed to and facilitated a climate in which the above gross violations of human rights could and did occur and as such is accountable for such actions."

On Mangosuthu Buthelezi

- Mr Buthelezi "is held to be accountable as a leader" of the Inkatha Freedom Party for all the violence committed by the its members. The TRC identifies a "systematic pattern" of murder and attacks by the IFP against its opponents, and also accuses the IFP of working in collusion with South African state security forces.
- The report says that between 1982 and 1994, IFP supporters caused the deaths of about 3,800 people, in KwaZulu-Natal province alone, against only 1,100 caused by ANC supporters.

On Winnie Madikizela-Mandela

- The findings against Ms Madikizela-Mandela centre on the establishment of the Mandela United Football Club (MUFC), which the TRC says developed into a vigilante unit operating from Ms Madikizela-Mandela's two homes in Soweto.
- "The commission finds that the MUFC was involved in a number of criminal activities, including killing, torture, assaults and arson. The commission find that Ms Mandela was aware of the criminal activity and the disquiet it caused in the community and deliberately chose not to address the problems emanating from the football club."
- The TRC concludes that Ms Madikizela-Mandela "is accountable, politically and morally, for the gross violations of human rights committed by the MUFC" and "herself was responsible for committing such gross violations of human rights."

On prosecuting offenders

- The TRC recommends that where there is evidence that an individual has committed a gross violation of human rights, and where amnesty has not been sought or has been denied, then prosecution will be considered.
- Evidence gathered by the commission that could be used in prosecution will be made available to prosecutors.
- It tells attorneys general to pay "rigorous attention" to the prosecution of police personnel who are found to have assaulted, tortured or killed.
- "In order to avoid a culture of impunity and to entrench the rule of law, the granting of general amnesty in whatever guise should be resisted," the report warns.