

A Comparative Study of World's Truth Commissions

—From Madness to Hope

Professor Bishnu Pathak^{1*}

¹ Senior Commissioner, Commission of Investigation on Enforced Disappeared Persons, Kathmandu, Nepal

* Professor Bishnu Pathak, E-mail: pathakbishnu@gmail.com

Received: May 27, 2016

Accepted: June 9, 2017

Online Published: June 29, 2017

doi:10.22158/wjssr.v4n3p192

URL: <http://dx.doi.org/10.22158/wjssr.v4n3p192>

Abstract

The objective of this paper is to explore the initiatives and practices of different countries in truth seeking. Many countries during the post-conflict, colonial, slavery, anarchical and cultural genocide periods establish the Truth Commissions to respond to the past human wrongdoings: crimes and crimes against humanity. Enforced Disappearances (ED), killings, rapes and inhumane tortures are wrongdoings. Truth Commission applies the method of recovering silences from the victims for structured testimonies. The paper is prepared based on the victim-centric approach. The purpose reveals the piecemeal fact-findings to heal the past, reconcile the present and protect the future. The study covers more than 50 Commissions in a chronological order: beginning from Uganda in 1974 and concluding to Nepal in February 2015. Two Commissions in Uruguay were formed to find-out enforced disappearances. Colombian and Rwandan Commissions have established permanent bodies. The Liberian TRC threatened the government to submit its findings to the ICC if the government failed to establish an international tribunal. The Commissions of Bolivia, Ecuador, Haiti, former Yugoslavia and Zimbabwe were disbanded, and consequently, their reports could not be produced. No public hearings were conducted in Argentina and former Yugoslavia. It is noted that only 8 public hearings in Ghana, 8 national hearings in East-Timor and 15 in Brazil were conducted. Moroccan Commission held public hearings after signing the bond paper for not to disclose the names of the perpetrators whereas Guatemala did not include the perpetrators' names in the report. The Shining Path's activists are serving sentences based on civil-anti-terrorist court, but Alberto Fujimori is convicted for 25 years. Chadian Commission worked even against illicit narcotics trafficking. The UN established its Commissions in Sierra Leon, El Salvador and East-Timor, but failed to restore normalcy in Kosovo. Haiti prosecuted 50 perpetrators whereas Guatemala prosecuted its former military dictator. The Philippines' Commission had limited investigation jurisdiction over army, but treated the insurgents differently. In El Salvador, the State security forces were responsible for 85 percent and the non-state

actors for 15 percent similar to CIEDP, Nepal. The TRCs of Argentina, East-Timor, Guatemala, Morocco, Peru and South Africa partially succeeded. Large numbers of victims have failed to register the complaints fearing of possible actions. All perpetrators were controversially granted amnesty despite the TRC recommendation in South Africa. The victims and people still blamed Mandela that he sold out black people's struggle. Ironically, the perpetrators have received justice, but the victims are further victimized. As perpetrator-centric Government prioritizes cronyism, most of the Commissioners defend their respective institution and individuals. Besides, perpetrators influence Governments on the formation of Truth Commission for 'forgetting the victims to forgive the perpetrators'. A commission is a Court-liked judicial and non-judicial processes body, but without binding authority except Sierra Leone. Transitional Justice body exists with a five-pillar policy: truth, justice, healing, prosecution and reparation. It has a long neglected history owing to anarchical roles of the perpetrators and weak-poor nature of the victims. Almost all TRCs worked in low budget, lack of officials, inadequate laws and regulations, insufficient infrastructures and constraints of moral supports including Liberia, Paraguay, Philippines, South Africa, Uganda and Nepal. The perpetrators controlled Governments ordered to destroy documents, evidences and testimonies in their chain of command that could have proven guilty to them.

Keywords

truth commission, disappearance, victim, perpetrator, human rights violations or abuses, freedom and transitional justice

1. Introduction

Truth Commission is generally a semi-judiciary body that investigates, reveals and responds to a pattern of past (rather than ongoing) human wrongdoings mostly either by the State or non-State actors. Often, the State party tries hard to crush the armed conflict by force in the name of resolving or transforming the conflict, but the non-State party often retaliates proportionately. It assists to cooperate for just peace-harmony reculturizing the traumatized community or society (Pathak, 2016). Truth Commissions have been established, are being established and will be established based primarily on three notions: Let's forget the victims to forgive the perpetrators; let's not forget the victims and forgive the perpetrators; and let's not forget the victims and not forgive the perpetrators, too. These notions apply to both restorative and retributive justices.

The first notion works by letting go the past human wrongdoings or hurts healing (developing empathy towards) ourselves, families, communities, nation and the entire world. The second notion works by not letting go the past hurts healing alone, but providing justice to each victim and or family even in the form of compensation, however, forgiving the perpetrators. The third notion prioritizes by not letting go the past hurts without a thorough investigation of truth on punitive human rights violations or abuses

(Pathak, 2005) and ensuring justice healing or transforming the victim's past hurts by prosecuting the identified perpetrators for the dignified lives (Pathak, August 29, 2015) of the victims based on the approach of transitional justice. Practically, the world experiences that the victims or survivors receive less justice as they belong to general, weak and poor people. Victims often are from marginalized, vulnerable and disadvantaged groups. But, perpetrators are often the powerful people and such elites establish the truth commissions. Thus, transitional justice system often applies to *sanalai ain, thulalai chain* (Acts and regulations apply only to the poor, but elites or perpetrators are exempt from them).

Transitional justice (Cochran-Budhathoki et al., September 1, 2007) is a notion of political crisis resolution or transformation. It often applies when the regime or system changes from conflict and moves forward towards the peaceful, prosperous, harmonious (Pathak, March 24, 2013) and democratic culture. It generally pertains in post-conflict period in which outgoing constitutional and legal measures are not smoothly functioning or existing and another new system is not fully being applied or introduced. The principal purpose of the transitional justice is therefore healing the past, reconciling the present and protecting the future. Thereby, the healing, in some cases, coincides with judicial (criminal prosecution) and non-judicial processes. Moreover, the non-judicial process tends to result in compensation, reparation and non-recurrence.

Transitional Justice Commission exists with five-pillar policy: Truth, justice, healing, prosecution and reparation. Truth seeks to identify the cause, nature and extent of a grave human rights violations or abuses gathering information through victims, alleged perpetrators' friends, witnesses, institutions and public (confidential) hearings. Justice is a form of fairness for the welfare and harmony in society. Justice enhances stability through reculturation (Note 1) rebuilding trust among the greater populace repairing and healing a fractured societal system. In the case of prosecution, the prosecutor moves the perpetrator's case forward for legal proceedings (criminal trial or charge) accusing breaking of law through excessive use of force. Reparation is a kind of action tending to compensate those whose rights were violated or abused in the past crimes, crimes against humanity and cultural genocide by providing cash or kind (payment or assistance).

Truth Commissions generally apply to investigate the violations or abuses (Hayner, 2001). Commission is a form of official truth seeking (Hayner, 2011), but it has some unique characteristics: Focuses on past atrocities and recommends for future peace and progress ignoring the present situation; is established for a short-term period to ascertain the factual and socio-political truths; investigates a pattern of punitive human rights violations or abuses; identifies the perpetrators and recommends for prosecution based on testimonies, information of the victims, witnesses and public hearings; serves as a substitute to the broader concept of justice; submits its report to the concerned authority for further judicial action, healing and reparation. However, Transitional Peace Government sanctions such report fearing of possible actions of it. Some scholars argue that the concept of Truth Commission deludes

(Thapa, March 2017) for restorative and retributive justices. The principle of such Commission tends to humanity, neutrality, impartiality, independence and punitive violations and abuses. Such Commissions need to have some powers: summon persons, including government officials, to appear before the commission; get inspection permission at prisons, military barracks and exhumation without prior notice; obtain official cooperation to ensure the security of proceedings, offices, victims and witnesses (Gonzalez, 2013). The Commission accesses the right to truth, but often criticizes as perpetrators of the crimes may go unpunished. As a counter effect, such trend generally encourages to establish the culture of impunity.

The objective of the study is to explore how different countries through official truth seeking commissions responded to the past wrongdoings during the post-conflict, colonial, slavery and anarchical and cultural genocide periods. Each Commission gathers documents and evidences or testimonies to examine and evaluate a complete truth of punitive human rights violations or abuses by appraising the cause, nature, degree and pattern of such acts. It recommends the concerned authority or the government to prosecute the perpetrators repairing or healing the damages, pay respect to the victims or survivors ensuring justice and reform institutions for eliminating the chance to repeat or occur such conflict in the future.

Truth Commissions' larger aims are to respect and promote national reconciliation and unity in diversity either granting amnesty to perpetrators or bringing those responsible perpetrators under the judicial custody over the crimes and crimes against humanity committed, purging of perpetrators from the concerned (security) institutions, ensuring justice to the victims providing reparations, building memorials and assisting physical and psychological healing, reducing conflict highlighting fundamental human rights and humanitarian law (Finucane, 2010) and gaining the support of the international community (Pathak, May 18, 2015). The goals of the Truth Commissions are to maintain the record of what had happened and preserve evidences; foster accountability (Filho, February 2012); provide a platform for the victims to tell their stories; recommend legislative and structural changes to avoid such repetition; and establish accountability for the perpetrators (Popkin et al., 1995).

The paper, based on the reflection of the author's three decades long involvement in dealing with the punitive human rights violations or abuses, analyzed the cause (of conflict) and effect (of truth commission) relationship. It means, this paper has been prepared based on the lessons-learnt centric approach, in which the author dialectically engages with the experiences and data from various quarters such as interpretations of peace accords, transitional peace or justice, transitional security, and use of international human rights for human security (Pathak, September 2013) and their domestications. Moreover, the personal learning and experiences are reflected either through literature reviews, exchanging-sharing and (participating) observation. Therefore, the study purely follows both the theoretical underpinnings and the practical approach of truth seeking for the advocacy of

victims-centric perspectives.

The research area covers more than 50 Truth Commissions that have been formed across the continents. The Truth and Reconciliation Commissions (TRCs) established countries are: Algeria, Argentina, Australia, Brazil, Bolivia, Bosnia-Herzegovina, Cambodia, Canada, Chad, Chile, Columbia, DR Congo, East Timor, Ecuador, El Salvador, Fiji, Germany, Ghana, Guatemala, Haiti, Honduras, India, Kenya, Kosovo, Liberia, Mauritius, Morocco, Nigeria, Nepal, Panama, Paraguay, Peru, Philippines, Poland, Rwanda, Sierra Leone, Solomon Islands, South Africa, South Korea, Sri Lanka, Togo, Tunisia, Uganda, United States, Uruguay, (former) Yugoslavia, Zimbabwe and others. The study observes the best practices applied for the specific transitional justice bodies and calculates the specific results of them. This comparative study builds on freedom (human security) perspectives.

2. Freedom to Establish Truth Commission

Some scholars argue that the term Truth Commission is misleading and inaccurate as its results of reconciliation hardly be reflected (Thapa, 2017). There are several Truth Commissions formed across the globe to identify the truths of punitive human rights violations or abuses. All of them have almost the same objectives and functions (Ladisch, Undated), but are set up for different causes and in different names. They can be categorized into several patterns as following:

(i) Disappearance Commissions: Uganda (Commission of Inquiry into the Disappearance of People I, www.usip.org/publications/1974/06/truth-commission-uganda-74), Bolivia (National Commission of Inquiry for Forced Disappearances, www.usip.org/publications/1982/10/truth-commission-bolivia), Argentina (National Commission on the Disappeared, www.usip.org/publications/1983/12/truth-commission-argentina), Uruguay (Investigative Commission on the Situation of Disappeared People and Its Causes I, Hayner, 2011), Nepal (Commission of Inquiry to Locate the Persons Disappeared during the Panchayat Period I, www.usip.org/publications/1990/01/commission-inquiry-nepal-90), Sri Lanka (Commissions of Inquiry into the Involuntary Removal or Disappearance of Persons, Pathak, 2016), Colombia (National Commission for the Search of Disappeared Persons, www.usip.org/publications/2016/07/colombias-peace-accord-missing), Honduras (Committee of Relatives of the Disappeared, www.webcitation.org/5idm4TSu0?url=http://www.cofadeh.org/html/historia/historia_ingles.htm) and Algeria (Ad Hoc Inquiry Commission in Charge of the Question of Disappearances, United States Institute of Peace, September 21, 2003).

(ii) Truth Commissions: Chile (National Commission for Truth and Reconciliation, Pathak, 2016), South Africa (Truth and Reconciliation Commission, www.hrw.org/legacy/backgrounder/africa/truthandjustice.htm), Yugoslavia (Yugoslav Truth and

Reconciliation Commission or Truth and Reconciliation Commission for Serbia and Montenegro, United States Institute of Peace, February 2002), Peru (Truth and Reconciliation Commission, Hayner, 2011), Sierra Leone (Truth and Reconciliation Commission, Kelsall, May 2005), East-Timor (Commission for Reception, Truth and Reconciliation, United States Institute of Peace, February 2007), Liberia (Truth and Reconciliation Commission, Thapa, 2017), Canada (Truth and Reconciliation Commission, Walker, February 11, 2009), Ghana (National Reconciliation Commission, Valji, September 2006), United States (Greensboro Truth and Reconciliation Commission, Wesley et al., 2008), South Korea (Presidential Truth Commission on Suspicious Deaths, Sang-bun, April 2004), South Korea (Truth and Reconciliation Commission II, Hanley, August 3, 2008), Paraguay (Truth and Justice Commission I, Hayner, 2002), Brazil (National Truth Commission, Custódio, Rafael, April 27, 2015), DR Congo (Truth and Reconciliation Commission, reliefweb.int/report/democratic-republic-congo/global-and-inclusive-agreement-transition-dr-congo-inter-congolese), Solomon Islands (Truth and Reconciliation Commission, Mollica, January 7, 2017), Panama (Panama Truth Commission, United States Institute of Peace, January 1, 2001), Australia (Truth and Reconciliation Commission, Vijayarasa, 2007), Fiji (Truth and Unity Commission), Rwanda (National Unity and Reconciliation Commission, United States Institute of Peace, March 1, 1999) and El Salvador (Commission on the Truth (Note 2)).

(iii) Truth-Justice Commissions: Haiti (National Commission for Truth and Justice, www.usip.org/publications/1995/04/truth-commission-haiti), Ecuador I (Truth and Justice Commission, www.usip.org/publications/1996/09/truth-commission-ecuador-96), Kenya (Truth, Justice and Reconciliation Commission, Kenya Transitional Justice Network, August 2013), Mauritius (Truth and Justice Commission, United States Institute of Peace, February 9, 2012), Togo (Truth, Justice and Reconciliation Commission, Sarkin et al., April 4, 2017).

(iv) Committees-Commissions: Philippines (Presidential Committee on Human Rights, Executive Order No. 8, March 18, 1986), Uganda (Commission of Inquiry into Violations of Human Rights II, www.usip.org/publications/1986/05/truth-commission-uganda-86), Nigeria (Human Rights Violations Investigation Commission or Judicial Commission for the Investigations of Human Rights Violations, Amnesty International, December 2000).

(v) the Other category of Commissions are: Chad (Commission of Inquiry into the Crimes and Misappropriations Committed by Ex-President Habré, Hayner, 2011), Germany (Commission of Inquiry for the Assessment of History and Consequences of the SED Dictatorship I, Laws, Ruling and Reports, May 14, 1992), Guatemala (Commission for Historical Clarification, www.usip.org/publications/1997/02/truth-commission-guatemala), Germany (Study Commission for the Overcoming of the Consequences of the SED Dictatorship in the Process of German Unity II, United States Institute of Peace, July 1995), Uruguay (Commission for Peace II, Allier, Eugenia,

October 2006), Zimbabwe (Zimbabwe Commission of Inquiry into the Matabeleland Disturbances, www.usip.org/publications/1983/09/commission-inquiry-zimbabwe), Ecuador (Truth Commission to Impede Impunity II, www.usip.org/publications/2007/05/truth-commission-ecuador-07), Morocco (Equity and Reconciliation Commission, Opgenhaffen et al., November 2005 and Human Rights Watch, November 2005), Poland (Institute of National Remembrance, ipn.gov.pl/en) and Tunisian (Truth and Dignity Commission, UNDP, June 9, 2014).

It is to be noted that the first Commission was formed in 1974 in Uganda and last one on Commission of Investigation on Enforced Disappeared Persons (CIEDP) in February 2015 in Nepal. The Commission of Inquiry into the Disappearance of People in Uganda (United States Institute of Peace, 1974) was formed for six months (January-July 1971), Bolivian National Commission of Inquiry for Forced Disappearances (Human Rights Watch, December 1992) for 21 months (October 1982-June 1984) and Argentinean National Commission for the Disappeared (Crenzel, July 2008) for nine months (December 1983 to September 1994) without their names as 'truth', but formed to clarifying the fates and whereabouts of the disappeared persons.

Other Truth Commissions in respective chronological order are: Honduras (1982), Zimbabwe (September 1983) for 12 months, Uruguay I (April 1985) for 7 months, Philippines (March 1986) for 11 months, Uganda II (1986) for 8 years, Chile (May 1990) for 9 months, Nepal I (July 1990) for 9 months, Chad (December 1990) for 17 months, Germany I (May 1992) for 24 months, El Salvador (July 1992) for 8 months, Sri Lanka (December 1994) for 6 years (Note 3), Haiti (April 1995) for 11 months, Germany II (July 1995) for 36 months, South Africa (December 1995) for 7 years, Ecuador I (September 1996) for 5 months, Guatemala (Rotberg, 2000) (February 1997) for 24 months, Rwanda (March 1999) a permanent body, Nigeria (June 1999) for 36 months, Colombia (2000) a permanent national body (Council on Hemispheric Affairs, May 16, 2017), Uruguay II (August 2000) for 24 months, South Korea I (October 2000) for 24 months, Panama (January 2001) for 36 months, Peru (July 2001) for 25 months, East Timor (February 2002) for 45 months, and former Yugoslavia (March 2002) for 12 months.

Others are: Sierra Leone (November 2002) for 24 months, Ghana (January 2003) for 21 months, DR Congo (July 2003) for 43 months, Algeria (September 2003) for 18 months, United States (2004), Paraguay (June 2004) for 50 months, Morocco (December 2004) for 12 months, South Korea II (December 2005), Liberia (February 2006) for 40 months, Ecuador II (May 2007) for 28 months, Canada (June 2008) for seven and half years, Mauritius (February 2009) for 33 months, Togo (February 2009), Solomon Islands (April 2009), Kenya (August 2009) for 30 months (Hayner, 2011) and Brazil (September 2011) for 39 months. South Korea II and Solomon Islands are yet to accomplish their tasks. The Tunisian Truth and Dignity Commission is the second last which was established in December 2013 for four years with the possibility of one year extension (UNDP, June 9, 2014). The CIEDP in

Nepal was the most recently (is the last one) formed truth commission, it was initially formed for two years in February 2015 and later extended for one more year.

It is to be noted that Ecuador Commission I was the shortest Truth Commission that worked for 5 months only, whereas Uganda Commission II was the longest which worked for 8 years (Canadian TRC worked for seven and a half years). Moreover, every post-conflict country has full freedom to establish the truth commission, provide mandate and duration. The tenure of most of the Commissions have been extended till three times more than the first proposed duration, such as the TRCs of South Africa, Guatemala, Ecuador, Paraguay, Togo and among others. Paraguay's Truth and Justice Commission's duration ended in December 2005 but was extended until August 2006 and later until August 2008 (United States Institute of Peace, June 1, 2004).

The International Criminal Court is a permanent body whereas Colombia and Rwanda have established permanent Commissions (Sarkin, 1999). El Salvador's Truth Commission included a permanent UN diplomatic security personnel assigned to protect the commissioners and the office (Macro, November 12, 1997). There was a strong voice to form a National Commission for the Search of Disappeared Persons during the armed conflict in El Salvador. On January 27, 2017, responding to a much awaited call from the conflict victims, the President of El Salvador announced that his government shall establish a National Commission for the Search of Disappeared Persons that would investigate the incidents between 1980-1992. That historic decision brings renewed hope to the families of 10,000 disappeared persons because they may finally know the fate of their loved ones (DPLF, February 6, 2017).

Six countries (i.e., Ecuador, Germany, Nepal, South Korea, Uganda and Uruguay) have formed the truth commissions twice in different occasions to materialize the victims' needs and address the voices of the people through transitional justice mechanism.

3. Freedom for Setting up Truths Mandate

A Truth Commission is formed through a different aspect of a legal structure or an official mandate within certain parameters. A legal framework is necessary to enable an effective truth-seeking body that comprises mainly the objectives, normative and policy orientations; description of the facts or crimes; and power, prerogatives and procedures entrusted to the commission (González, June 2013).

Uganda Commission I perused to investigate the cases of the disappeared persons during the junior army officer Idi Amin Government (1971-1974) tenure (www.usip.org/sites/default/files/resources/collections/truth_commissions/Uganda74-Report/Uganda74-Report_sec1.pdf). But, Uganda Commission II investigated extrajudicial killings, arbitrary arrests and detentions between 1962-1986 (Peterson, 2005). In the case of Bolivia, investigations on enforced disappeared persons were conducted for the period of 18 years (1964-1982) when military junta

overthrew the elected President in 1964 (Hayner, 1994). Zimbabwe investigated the killings of political dissidents and other civilians in the Matabeleland region in 1983 and gathered testimonies from villagers (Hayner, 2001). Likewise, Argentina examined the facts of disappearance cases that happened during the dirty wars (1976-1983) and it uncovered the facts of exhumation, coup d'état military Juntas (Argentine National Commission on Disappeared, 1986). Similarly, the Uruguay Commission I also identified the enforced disappeared persons during the military rule (1972-1983) (Stern et al., 2010). The Commission for Peace as the Uruguay Commission II was formed to investigate the fates and whereabouts of the estimated 200 disappearances that had happened between 1973-1985. It means, two Commissions in Uruguay were formed in two different occasions to work on the same issue of enforced disappearances (eaaf.typepad.com/pdf/2002/15Uruguay.pdf).

The Philippines investigated the complaint cases of the Enforced Disappearances (ED), extrajudicial killings, massacres, tortures and other forms of human rights violations that had taken place since 1972 (Executive Order No. 8, March 18, 1986). Chile focused its investigation on punitive human rights violations or abuses that occurred during the General Pinochet (1973-1989) regime (United States Institute of Peace, October 4, 2002). The enforced disappearance cases of Nepal Commission I were also investigated to identify the fates and whereabouts of those ensued during the autocratic Panchayat regime (1950-1990) (www.usip.org/publications/1990/01/commission-inquiry-nepal-90). The CIEDP is established as Nepal Commission II on recommendation of the Recommendation Committee headed by the former Chief Justice in February 2015 (www.ciedp.gov.np/ne/). The CIEDP mostly handled the cases of disappearance of the decade long armed insurgency, called People's War (Pathak, December 14, 2008). Chad established the Commission to investigate the killings, disappearances, tortures and other forms of gross human rights violations. Chad has also been a first Commission including illicit narcotics trafficking committed during 1982-1990 (Farah, November 27, 2000). Similarly, El Salvador probed the cases of grave human rights violations or abuses during 1980-1992 and recommended methods of promoting national reconciliation. It was chaired by the former Colombian President Belisario Betancur (Buergethal, October 1994).

Germany launched the Commission I for the East German Communist Government, which practiced between 1949-1989 on the course to document human rights violations or abuses. It assessed the historic, ideological, politico-economic and societal features of the dictatorship including the misuse of environmental resources (Human Rights Watch, April 1995) whereas the Germany Commission II investigated the practices of the East German government's 1949-1989 regimes (United States Institute of Peace, July 1, 1995). Haiti identified human rights violations or abuses taken place during the three-year period (September 1991-September 1994) where the elected President Jean-Bertrand Aristide was overthrown by the military coup d'état (Benedetti & Fanny, 1996). In the case of the Ecuador Commission I, 176 cases of gross human rights violations or abuses between 1979-1996 were

investigated and the report was submitted to the judiciary with evidences and to provide reparations to the victims (Hibbitts, May 6, 2007). But, the Ecuador Commission II examined the enforced disappearances, killings and tortures perpetrated during the 1980s with special focus on 1984-1988 students and social movements committed by the ex-President León Cordero (Amnesty International, October 1991).

Guatemala studied grave human rights violations or abuses that occurred during 36 years long internal conflict (1960-1996) (Sieder, 2011). Sri Lanka also formed an enforced disappeared persons Commission to investigate the whereabouts of the missing persons between January 1, 1988-December 1994

(www.usip.org/sites/default/files/file/resources/collections/commissions/SriLanka-Charter/SriLanka-Charter_AP-6-N-214-97.pdf). South Africa investigated serious human rights violations or abuses that included disappearances, killings, torture those were perpetrated during the 30 Apartheid regimes (March 1964-May 1994) (www.usip.org/publications/1995/12/truth-commission-south-africa). It had the mandate to hold special public hearings focusing specific sectors, institutions and individuals. Controversially, the TRC was also empowered to grant amnesty to the perpetrators (Boraine, 2001). Although, the TRC completed its task on time, the amnesty committee continued its work on its applications it had received until mid-2001 (www.hrw.org/legacy/background/africa/truthandjustice.htm).

Former Yugoslavia formed a Commission for finding out the social, inter-communal and political conflicts that occurred during 1980-2000. The Commission documented its duties and responsibilities to establish a cooperation in neighboring countries' Commissions (Zupan, 2006). Peru investigated human rights violations including extrajudicial killings and disappearances committed by the State, the Shining Path and the Túpac Amaru Revolutionary Movement during May 1980-November 2000 (United States Institute of Peace, July 2001). The mandate of Nigeria was to scrutinize the cause, nature and extent of human rights violations, including extrajudicial killings and to identify and determine the role of the perpetrators during January 1966-May 1999 (Amnesty International, December 2000). Sierra Leone investigated the cases of human rights violations (1991-2002) providing the TRC as a common forum for both victims and perpetrators, where Special Court was there to seek justice for people who had suffered from atrocities in the past (Thapa, 2017). It aimed at recommending the policies to facilitate reconciliation and prevent future violations (Kelsall, May 2005). Loma Accord had a mandate to establish TRC to provide a blanket amnesty through the Disarmament, Demobilization and Reintegration (DDR) program (Pathak, September 13, 2011). Disagreeing with the DDR program, Revolutionary United Front abducted 500 UN Peacekeepers in 2000 (Thapa, 2017).

In the case of Kenya, the Commission was established to investigate the records of gross human rights violations or abuses from independence 1963 to power-sharing peace agreement 2008; to explain the

causes of violations; and to recommend prosecution of the perpetrators and reparations for the victims (Kenya Transitional Justice Network, August 2013). The Colombian Government formed a commission to investigate the cases of more than 63,800 people who had officially been reported missing. The office of the Prosecutor General stated that the investigation was needed for 45,154 persons who were thought to be buried in mass graves (www.icmp.int/where-we-work/the-americas/latin-america-and-the-caribbean/colombia/).

Unlike many other truth commissions, Mauritius Commission registered the complaints of the dispossession of land and determined suitable measures to extend the descendants of slaves and indentured laborers. It attempted to cover the period of 370 (1638-2008) years (Mauritius, November 2011). The Canadian Truth and Reconciliation also had a different story of investigation. The study was conducted to see the patterns of human rights abuses on the students in Indian residential school during 1870s-1996. The commission was established to acknowledge the Indian Residential Schools' experiences, impacts and consequences; to provide cultural safety setting; to promote and facilitate public truth and reconciliation events; to promote public educational awareness in Indian Residential Schools; to create an historical record and to support commemoration of the former students and the victims' families (Walker, February 11, 2009).

Ghana established the Commission to promote national reconciliation completing historical record of human rights violations and abuses, namely killings, disappearances, abduction, detention, torture, and ill-treatment and seizure of property during the unconstitutional government between March 6, 1957-January 6, 1993 (Valji, September 2006). However, the United States of Greensboro TRC examined the context, causes, sequence and consequence of the events that happened on November 3, 1979 for the purpose of healing, reconciliation, respecting and recognizing people's feelings and transformation for the community (Wesley, 2008).

South Korea also formed two Commissions. South Korea Commission I stressed upon looking into the death of citizens in South Korea between 1975-1987 and the report, which identified the perpetrators for prosecution, was submitted to the President. The victims filed complaints requesting for investigation (Sang-bun, April 2004). South Korea Commission II investigated the incidents of Korean history (1910-1993) that occurred from Japan's occupation over Korea and ended the authoritarian rule after the election of President Kim Young-sam in 1993 (Truth and Reconciliation Commission, 2005). Paraguay was mandated to provide a historical record of human rights violations or abuses that had practiced during the military officer's dictatorship (1954-1989) and to contribute for the prosecution of the perpetrators of the crimes that occurred during the period (Hayner, 2002).

In Brazil, the Commission investigated and compiled the facts of human rights violations or abuses that had done by the military regime during 1964-1985 (Custódio, April 27, 2015), but DR Congo investigated and promoted consolidation of the national unity; examined the political, economic, and

societal conflicts between the country's independence in 1960-2003 (peace agreement signed). The commission was expected to provide reparation to the victims (Hayner, 2010). Solomon Island's Commission concentrated its works to promote national unity and reconciliation so as not to repeat the ethnic conflict that had happened during January 1998-July 2003. Togo Commission examined broad historic patterns of human rights violations or abuses (Daly et al., 2007) during the dictatorial rule that started in 1958 and continued till the first-post independence election in 2005 (Sarkin et al., April 4, 2017).

Honduras's Committee of the Relatives of Disappeared investigated 184 cases of enforced disappeared persons that occurred in 1981 (Amnesty International, 1998). Panama Commission studied human rights violations or abuses perpetrated during the military dictatorships (1968-1989) (United States Institute of Peace, January 1, 2001). Algeria's Ad Hoc Commission identified and determined the fate of people who were disappeared between 1992-1999 and drafted a reparations plan for the families of the disappeared (United States Institute of Peace, September 21, 2003).

4. Freedom at Researching the Truths

Under various names, the truth commissions are occasionally set up by the State Authority emerging from the periods when countries faced internal conflict, civil war and autocratic as well as dictatorship regimes in the past. Every Truth Commission has a political implication for truth-seeking, perpetrator identification, justice (to the victims) and reconciling the divided or past confronted societies or communities. Having political implications Onur Bakiner said: "constantly make choices when they define such basic objectives as truth, reconciliation, justice, memory, reparation, and recognition, and decide how these objectives should be met and whose needs should be served" (2016). The results of the truth commissions are based on the concrete objectives with a proper methodology (collection of structured testimonies through open-ended questionnaires) and actors involved in them, but the results are different from one another due to the variation of post conflict contexts, identity of community, political governance, democratic exercise and leadership willpower.

The report of the Ugandan Commission I has identified 308 cases of ED persons. It recommended to set up Public Security Unit and National Investigation Bureau to work on behalf for the ED. However, the report was not made public. The first Truth Commission recommended to reform security forces and train them on human rights and humanitarian standards (www.usip.org/publications/1974/06/truth-commission-uganda-74). However, the Ugandan Commission II recommended to repeal the law that allowed detention without trial. It also recommended to develop human rights education curricula in schools, university and training courses in the security forces. Public hearings were also conducted. The Commission was interrupted in 1987 owing to financial constraints (www.usip.org/publications/1986/05/truth-commission-uganda-86). The

Bolivian Commission was terminated before the end of its tenure, however, 155 cases of disappearances were documented. The Commission also identified some gravesites of the disappeared persons. No final report was produced after the commission was disbanded. Nonetheless, the former dictator Luis García Meza has been serving a 30-year prison sentence from 1995 (www.usip.org/publications/1982/10/truth-commission-bolivia).

The final report of the Zimbabwe Commission could not be produced fearing of sparking violence over human rights abuses. Against the Government's decision, two NGOs produced a report on *Breaking the Silence, Building True Peace* in 1997 (The Catholic Commission for Justice and Peace in Zimbabwe and The Legal Resource Foundation, October 2001) only interviewing the victims (Ball, April 15, 1998). The unofficial report documented that more than 2,000 people were killed by the state security forces. In addition, mass graves were discovered. It also recommended to initiate a national reconciliation process and offer a compensation package to those of affected victims (www.usip.org/publications/1983/09/commission-inquiry-zimbabwe). In 1988, President Robert Mugabe granted a general amnesty to the ruling party cadres and security forces who were responsible for the massacre at Matabeleland (Carver, 1989).

The final report of Argentina stated 8,960 cases of disappearance, but 10,000 to 30,000 victims were estimated. A large number of victims did not register the complaints in the Commission fearing of possible action from the army. The then *de facto* President General ordered to destruct the testimonies or documents that could have proven guilty within the army chain of command (Czitrom, January 2002). The Commission did not hold public hearings, but collected 7,000 statements from the survivors. Only 5 generals were imprisoned. The report recommended for providing reparations to the victims; making judicial reforms; and giving human rights education to the army (www.usip.org/publications/1983/12/truth-commission-argentina).

Uruguayan Commission I documented 164 cases of disappearances. Because of repressive actions of the Uruguayan armed forces and political pressures, the final report was changed and never announced publicly. It was granted limited mandate to investigate the enforced disappeared persons (Hayner, 2011). After 11 years of military rule, the Commission was formed by the Uruguayan Parliament. The report of Uruguayan Commission II handed to the Supreme Court identified 38 disappeared persons comprising 32 Uruguayan and 6 Argentinean. The State security forces were responsible in most of the cases of disappearance (www.usip.org/publications/2000/08/truth-commission-uruguay). The President officially acknowledged of disappearances and the report was widely disseminated. The Commission's power was limited that allowed statements from those who voluntarily agreed to make a submission (Allier, October 2006). In 2006, former President Juan Maria was arrested on the charge of killings. Uruguayan courts approved his and his foreign minister's trial for 30 years in 2010 (Hayner, 2011).

In the Philippines, Aquino's trusted chairman José Diokno drafted the specific mandate that limited its

investigation jurisdiction of what had violated the civilian rights by the army or its agents in the past, but insurgents crimes could directly be dealt by the courts. On the one hand, the army put hurdles on the committee's work, Diokno died of lung cancer in February 1987. In January 1987, while the military shot at the peaceful demonstration in Manila and extrajudicially killed more than dozen of civilians, all members of the committee tendered resignation (Ibid). Thus, the committee was dissolved without any work or report. The committee was established without budget and staff, but quickly received large volume of complaints from the victims.

The Chilean final report recorded 3,428 cases of violations or abuses including 979 ED, 2,298 killings and others. Most of the ED taken place during 1973-1974 as a planned strategy for repression by the military government. Augusto Pinochet was arrested in Great Britain in 1998 on the charge of violating International Human Rights Law, but the Court granted him amnesty. Pinochet was kept under house arrest on the charges of corruption in 2004, but died in 2006 (Pathak, 2016). The Commission recommended to establish a National Corporation for Reparations and Reconciliation, Human Rights Legislation and Ombudsman.

The report of Nepal documented 35 cases of ED persons of which 5 of them were extrajudicially killed (Pathak, May 18, 2015). The perpetrators were neither identified nor any reparation was provided to those affected victims or their families. The report was made public in 1994 as a result of massive pressure from the public. Nepal Commission II of Investigation on Enforce Disappeared Persons (CIEDP) was established in February 2015 and is functional now.

Chad's Habre is known as the African Pinochet (Searcey, May 30, 2016). The report documented that approximately 40,000 people were extrajudicially killed and the perpetrators were trained by foreign governments. In July 2006, Senegal announced to prosecute Habre in Senegal for human rights abuses during his regime (Hayner, 2011). In August 2008, Habré was convicted (in absentia) for crimes against humanity and sentenced to death by the Chad's Criminal Court (www.usip.org/publications/1990/12/truth-commission-chad). Belgium pressured the International Court of Justice (ICJ) to force Senegal either to extradite Habré to Belgium or to proceed with the trial, but the request was denied by the ICJ (Morgan, May 28, 2009). Moreover, the African Union urged Senegal to extradite Habré to Belgium in June 2011 (www.vadvent.co.uk/international/15017-african-union-press-senegal-to-extradite-habre.html). Habre was arrested by the Senegal police on June 30, 2013 (Nossiter, June 30, 2013). On May 30, 2016, Habre was found guilty of 40,000 killings, rapes and others and was thus sentenced to life imprisonment by the African Union-backed court. Thus, Habre became the first former ruler of the case that one country court prosecuted another country ruler for crimes against humanity (BBC, May 30, 2016).

While the Ecuadorian Commission I Congress removed the then President Abdalá Bucaram from office

in February 1997 on accusations of corruption, the Commission I disbanded immediately. Consequently, the report did not get published. The Ecuadorian Commission II documented and reported 456 cases allegedly responsible for crimes against humanity. Such cases were recommended for judicial investigations and trials. 155 recommendations were made centering on satisfaction, restitution, rehabilitation, compensation and (guarantees of) non-repetition. It also recommended to establish a mechanism to ensure investigation and prosecution of the perpetrators. It drafted a reparation law for victims which was submitted to the Parliament in June 2010 (www.usip.org/publications/2007/05/truth-commission-ecuador-07). It was estimated that just 1 to 3 percent of the reported killings were punished (A/HRC/17/28/Add.2, May 9, 2011). The final report was published only in 2010. In early 2009, the Commission had called for a public interaction at the Commission with the 200 alleged persons including security forces, but only 40 percent attended. Others asked for more specific details of the accusations against them (Hayner, 2011).

A total of 22,000 complaints were registered, where 60 percent involved extrajudicial killings, 25 percent disappearances, 20 percent torture and others in El Salvador. The State security forces were responsible for 85 percent and the non-state actors for 15 percent. It recommended dismissal of the army officers and civil servants who were responsible for the cause. It also recommended an extensive judicial and legal reform (use of coerced confessions in trials) and security and institutional reforms. It however did not recommend for prosecution to the perpetrators in the lack of law. But, it recommended for reparations: memorials and monetary compensation (Burnett, November 13, 2008). The civilian Government and the security forces rejected the report, though 200 senior officials were removed from the army. While rumors spread of military coup, the Legislative-Parliament passed a general amnesty law (www.usip.org/publications/1992/07/truth-commission-el-salvador).

The German victims severely criticized the dictatorship to ensure justices to them (Forsythe, 2009). It resulted in the establishment of the Commission I of Inquiry on Overcoming the Consequences of the SED Dictatorship in the Process of German Unity. The report was prepared based on the testimonies of witnesses, theoretical and political assessments on the dictatorship (United States Institute of Peace, May 1992). It recommended the use of national holidays, memorials, and documentation centers. It further recommended for exchange and sharing of information with neighboring States in Europe (United States Institute of Peace, May 1992). The Commission II in Germany produced the report in 14 volumes which focused on economic, social, environmental, education, science, culture and daily life policies in East Germany. They stated everyday aspects of repression, blanket discrimination against women and severe restrictions and violent atrocities (United States Institute of Peace, July 1995). They suggested more on reparation for former political prisoners and other victims (McAdams, April 2001). The Haitian Commission report documented over 5,500 testimonies, identified 8,667 victims on sexual violence against women and other forms of human rights violations or abuses. It included the name list

of alleged perpetrators and recommended for prosecution. It was recommended to establish an international tribunal. In November 2000, over 50 perpetrators were prosecuted (www.usip.org/publications/1995/04/truth-commission-haiti). The Supreme Court reversed sentences of 15 ex-paramilitary and FRAPH members in May 2005, but none of them were imprisoned (Quinn, August 18, 2009). Nevertheless, the Commission collected 300 cases and identified unmarked gravesites of a number of victims (www.usip.org/publications/1996/09/truth-commission-ecuador-96). The Commission had worked only for 5 months of its 12 months original mandate.

Guatemala security forces committed acts of genocide to the people of Mayan. About 200,000 including 83 percent from Mayan and 17 percent from Ladino were killed. The State was responsible for 93 percent of human rights violations or atrocities, but the armed insurgents were responsible for 3 percent (Tomuschat et al., February 1999). The Commission was not allowed to include the name of the perpetrators for prosecution in its report. Even though, in 2009, a retired colonel and three formal paramilitaries were prosecuted on the charge of enforced disappearances (www.usip.org/publications/1997/02/truth-commission-guatemala). Former military dictator Jose Montt was prosecuted for genocide and crimes against humanity (Lopez, January 11, 2016). Guatemalan army opposed Peace Accord of 1996 fearing of possible prosecution (Mersky, March 7, 2005). The Commission collected the truth telling of the victims (Sieder, 2011).

Sri Lanka documented 27,000 complaints and investigated over 15,000 cases of enforced disappearances. In the lack of time, 10,136 complaints were transmitted to All Islands Commission which further collected 16,305 disappeared persons. However, All Islands Commission investigated 2,127 cases only. Remaining cases were transferred to Sri Lankan National Human Rights Commission (NHRC). The NHRC denied to conduct further investigation unless they received special directions from the Government (www.usip.org/publications/1995/01/commissions-inquiry-sri-lanka). All four reports stated that excessive powers were used during the violence on anti-government struggles. They recommended compensation and rehabilitation for the victims and survivors. Accordingly, compensation was paid to some of families of the victims (Nesiah et al., 2004).

In South Africa, the TRC collected approximately 21,000 cases of testimonies where 2,000 (9.5%) of them attended at public hearings. No initiatives were taken to collect testimonies and evidences from the victims of countryside. It received 7,112 amnesty applications in which 849 (12%) cases were granted amnesty, but 5,392 (74%) were refused. Remaining 1,015 (14%) were withdrawn. The documents and testimonies were massively destroyed during 1990-1996 by the security forces. The identified perpetrators of gross human rights violations were invited to confess of their past human wrongs in front of public hearings truthfully and those were recorded. Some powerful perpetrators including former Prime Minister P. W. Botha, senior army generals and senior leaders did not attend the public hearings despite repeated invitations. However, all perpetrators were controversially granted

amnesty from both the civil and criminal prosecutions despite TRC's recommendation against it. The amnesty could only be granted to the acts of political objective (truth.wvl.wits.ac.za/cat_descr.php?cat=3).

Former Prime Minister Hendrik F. Verwoerd, the mastermind of apartheid said, "White are the creator of universe". Inkatha Freedom Party refused to participate in the TRC, but became Minister under Mandela's presidency. President Mandela publicly apologized to all victims, but Deputy President (ANC President) Thabo Mbeki stated serious reservations on TRC the report. Reparations are still continuing (Greiff, 2006).

The Commission of former Yugoslavia was created and outlined its mandate in March 2001, but the office was inaugurated in February 2002 only. In February 2003, Yugoslavia was formally dissolved and transformed into Serbia and Montenegro. Moreover, the Commission got disbanded while the Office of the President of Yugoslavia no longer existed. The new government denied to reinstate the Commission. Previously, the Commission had a plan to fully cooperate with International Criminal Tribunal for Former Yugoslavia where Former President Slobodan Milosevic was taken into custody in Hague on the charges of war crimes, crimes against humanity and genocide (Freeman, October 2004). No report was produced as the Commission never registered complaints from the victims, never conducted interviews and public hearings (Ilic, April 23, 2004). The Commission was much criticized both in land and abroad (Hayner, 2011).

The Commission of Peru documented 69,280 cases of extrajudicial killings including disappearances along with 4,600 burial sites (Ibid) where the Shining Path was responsible for 54 percent and State security forces notably Alberto Fujimori were responsible for 44.5 percent. A great majority of the victims were poor indigenous peasants who had been socio-economically marginalized from generations (United States Institute of Peace, July 2001). The Constitutional Tribunal in 2004 confirmed the right to know the truth and whereabouts of the disappearance cases. The report recommended to call for collective reparations and national reconciliation acknowledging and accepting multiethnic and multilingual country. As a corollary, reparation act was passed in July 2005 (Toledo, July 20, 2009), but the process was much slowed. The Shining Path's leaders and cadres were sentenced based on civil-anti-terrorism court (Theidon, 2007). Former President Alberto Fujimori was convicted for 25 years (AFP-JiJi, December 22, 2016). His aide de camps have faced the similar consequences. However, Peru did not prioritize prosecution.

Nigerian Commission documented 10,000 complaints of testimonies, but 155 cases were publicly heard, approximately 35 cases forwarded to the police headquarters for further investigations, the remaining were sent to a ministerial commission for settlement. Apart from military, powerful and rich people encouraged coup d'état. It reported that some Ministers attempted to protect the perpetrators. The victims were recommended for compensation (Yusuf, 2007). Nine bodies were exhumed from the

gravesites in 1999 (United States Institute of Peace, June 14, 1999). Though the report was never officially published for the public, it recommended to review internal disciplinary procedure to security forces and reform them and their academic institutions (Ibid).

During the armed conflict in Sierra Leone, children as young as 8-year old were recruited as soldiers and girls were forced either to be domestic servants or sex slaves (Human Rights Watch, 2000). Lome Accord in Sierra Leone stated to establish a TRC in 90 days, but was approved only in 2000 passing the TRC Act by the Parliament (ICTJ, 2010). The Commission submitted its report to the President on October 5, 2004 and the President presented it to the UN Security Council on October 27, 2004.

Both the State forces and the non-state armed revolutionaries were found responsible for human rights violations against civilians. The report's recommendations were legally binding. Its recommendations were to fight against corruption, creation of a new bill of rights to constitutional process, strengthening the parliament, independence of judiciary, control over security forces, inclusion of youth and women in decision-making process among others. In November 2007, UN and country's Human Rights Commission pressured the Government to produce the implementation of the TRC's recommendations strategy. Then, the TRC and UN sponsored a War Crime Tribunal (Special Court for Sierra Leone) following Loma Accord (Migyirka, 2008). The National Commission for Social Action was formed focusing on reparation programs (Hayner, December 2007). The TRC act provided one year timeframe, but extended for another year (United States Institute of Peace, November 1, 2002). The establishment of the National Human Rights Commission, Anti-corruption Commission as well as the Trust Fund was the other strength of the TRC in Sierra Leone. However, it was slow functioning and unsuccessful in collecting the statements from all the victims and perpetrators with insufficient funding and time contributing to inadequate recommendations, especially on reconciliation (Thapa, 2017).

Moroccan Commission documented the fates and whereabouts of 742 enforced disappeared persons, but did not mention individual or institutional perpetrators responsible for such human rights violations or abuses. Even on the public hearings, victims signed an agreement not to identify individual or institutional perpetrators. The financial, medical and psychological reparations were distributed between 9,000-16,000 victims within 18-month (Hayner, 2011). However, 250 staffs from both the government and NGOs were mobilized for community reparation programs (International Center for Transitional Justice, 2009). Medical care and vocational trainings were provided to the victims and families. No trials took place against the alleged perpetrators, rather they continued to hold high-level of government positions. The Commission recommended to provide economic compensation to the victims (Chaouki, June 2004). However, the victims were remained unsatisfied as the government denied to provide reparations on past crimes during the reign of Hassan II (Laplante, Fall 2015).

East-Timor Commission conducted 8 national hearings with 1,048 research interviews and collected 7,760 complaints registrations or individual statements from the victims. A total of 102,800 Timorese

were either killed or died from conflict induced starvation and illness owing to Indonesian occupation. Indonesian Minister of Defense, chiefs of military and police were named as principal perpetrators. It recommended to set up reparations and memorials for victims and to conduct further investigation of mass graves to identify the fates and whereabouts of the disappeared persons. Those involved in less-serious crimes shall apologize, but to agree either to undertake community service or make symbolic reparatory payments or public apology. These arrangements were facilitated or monitored directly by the Commission or by the Regional Commissioners. Those perpetrators who were involved in serious human rights violations shall not be included into reconciliation process (CAVR, 2015). The crimes against humanity committed by the Indonesian authorities have not been addressed yet as they did not show any interest to implement the Commission's report (International Center for Transitional Justice, February 23, 2016).

The Commission mobilized 300 staffs including a dozen of international advisors. The special hybrid court convicted 84 persons of low-level defendants only. The UN led crimes unit issued a warrant to arrest Indonesian army general Wiranto, but Timorese leadership objected it. Thus, the UN leaves prosecution part to the Timorese Attorney General (Hayner, 2011).

The TRC of Liberia was established with a working plan for October 2005 to September 2008, but changed its dates later (Truth, June 2009). The TRC identified the major root causes of the conflict. A total of 124 perpetrators including 8 leaders were recommended for prosecution where 38 perpetrators were pardoned stating for minor crimes, but amnesty to all former child combatants. For facilitation, National "Palava Hut (Note 4)" forum was established to initiate dialogues and to rebuild the broken relationships for justice and national reconciliation in the countryside. The Hut was continued for 3-5 years. Based on the report recommendation, Extraordinary Criminal Court was established. Liberia also established Reparation Trust Fund. The Government guaranteed social, economic, cultural, civil and political rights to all. The TRC could not function properly owing to limited budget, officials, time for hearings, sufficient infrastructures and suitable methods of implementation. The TRC recommendation has not been a binding authority. Thus the Government failed to follow up the TRC's recommendation (Aning et al., April 2011). The rebel leader Charles Taylor influenced the TRC.

The Liberian TRC was much criticized for its inability to address Taylor's (Note 5) offenses in Liberia. While Taylor's offense was decided as not committed in Liberia, but in Sierra Leone, the Liberian Supreme Court ruled not to provide testimony about Taylor's trial (United States Institute of Peace, February 2006). The Commission recommended reparations for victims, institutional changes and amnesty for perpetrators who did not commit human rights violations. The entire purpose was to contribute to the national unity, reconciliation and healing (Kenya Transitional Justice Network, August 2013). The final report presented at the parliament in May 2014 had collected 42,465 statements and 1,828 memoranda from the victims (Ndungú, May 2014). The Commission threatened the government

of submitting its findings to the ICC (International Criminal Court) if the government failed to establish the tribunal (Note 6).

As per the Colombian Commission as of May 2016, the victims registered ED complaints more than 45,000 cases, but indirect victims may go up to three times more. National Institute for Forensic Medicine puts the total number of missing persons at 111,588 including more than 22,000 of these classified as forced disappearances, where men constitute 88 percent (www.usip.org/publications/2016/07/colombias-peace-agreement-missing).

Mauritius Commission documented the impacts of economic colonization, slavery and indentured servitude and working condition of sugar estates (Truth and Justice Commission, November 2011). Putting the national reconciliation policy at the center, it recommended to memorialize slavery that also includes inclusive history and culture, protect heritage, prioritize to have a social equality (less racist and elitist society), encourage democratic public life, empower needy populations such as Mauritians of African and Malagasy origin and increase economic and social justice (United States Institute of Peace, February 9, 2012).

In 2006, Canada negotiated the Indian Residential Schools Settlement Agreement among the federal government, representatives of former students at residential schools, the Assembly of First Nations, Inuit representatives and several church organizations (Walker, February 11, 2009). It was estimated that 150,000 children were forced to attend residential schools. The TRC collected testimonies of 6,000 (dead) aboriginal children who were taken away from their families, and buried in unmarked graves without noticing their parents. There were 31,970 serious sexual assault resolved cases and 5,995 claims still in progress (Schwartz, June 2, 2015). The TRC received 6,750 statements from the witnesses. It recommended 94 recommendations for changes in policies and programs (Ibid). However, there had been huge voices to move forward from apology to judicial action (CBC News, June 2, 2015). It is recognized as integrated part of cultural genocide (Truth and Reconciliation Commission of Canada, 2015). There had been a high hopes with TRC that it will repair the relationship between the aboriginal people and the rest of Canada, but it failed (Walker, June 1, 2015). On June 2008, the then Prime Minister Stephen Harper apologized for the role of past government administration in the residential schools (Statement of apology to former students of Indian Residential Schools, June 11, 2008).

Ghanaian Commission collected testimonies from 2,129 victims where 79 were identified as perpetrators. The perpetrators included former President John Jerry Rawlings, Ex-National Security Advisor and senior army officials (Ghana National Reconciliation Commission, 2004). It conducted more than 2,000 public hearings to conclude the process. Law enforcement institutions-armed forces were responsible for the highest percentage of human rights violations or abuses. A comprehensive reparation package including public apology, memorial and monetary compensation for 3,000 victims were recommended,

but resulted in implementation failure due to the lack of funding. The report was also not disseminated among the needy ones (Odartey-Wellington et al., April 2006). The final report was submitted in October 2004 and the Government of Ghana made it public in April 2005 (United States Institute of Peace, January 14, 2003).

The United States Communist Workers Party chanted slogans against the Ku Klux Klan (extremist or white supremacy) and American Nazi Party that resulted in deaths of five anti-Klan or Nazi demonstrators. The police had full knowledge of the event, but did not attend there on the communist protest. People suffer from psychological trauma, depression, anger and fear that exacerbated race and class tensions. The report widely condemned Klan, Nazi and Greensboro Police Department (Beitler et al., 2013). The commission recommended Greensboro Police to announce public and private apologies and reparations to the victims and survivors. The report further recommended to launch some anti-racist programs (Greensboro Truth and Reconciliation Commission, May 25, 2006).

Paraguayan Commission collected 2,059 testimonies, 14,000 documents and conducted eight public hearings from the complaints of 19,862 arbitrary detentions, 18,772 cases of torture, 59 victims of summary executions, 336 forced disappearances and a total of more than 128,000 victims of the military regime (United States Institute of Peace, June 1, 2004). It recommended continuing search for the enforced disappeared persons and to establish public genetics database and to include the report in the curriculum of public schools. The Commission suspended its investigations as the government stopped funding in December 2007 (Ibid).

South Korea Commission I concluded that the dictatorial regimes had been responsible for 52 cases of victims' families. It recommended legal actions against the confirmed perpetrators (United States Institute of Peace, October 1, 2000). The commission was comprised of nine members for each of the two terms. South Korea Commission II estimated that tens of thousands of people were extrajudicially killed in the summer of 1950 (Hanley et al., August 3, 2008). The victims included a wide range such as political prisoners, civilians killed by the US forces and civilians who were allegedly collaborating with the communist North Korea or local communist parties (Sang-Hun, December 3, 2007). The Commission investigated the cases based on victim families' complaint registration (petitions). It further recommended a number of cases for formal prosecutions. The prosecution to military dictator Alfredo Stroessner failed as he died in exile in August 2006 (Gunson, August 17, 2006). Among 1,200 petitioners to reparations, only 400 victims received payments (US Department of State, 2007).

Brazil decided to establish the Truth Commission in December 2009, but as the army threatened the then President Silva, it was postponed till the end of 2011 (Filho, February 2012). The Commission conducted 15 public hearings (Report of the National Truth Commission, December 10, 2014). The report stated that 434 people were either killed or disappeared by the actions of the military regime (Paulo, December 10, 2014). It identified 337 perpetrators (Taylor, December 10, 2014) and

recommended for judicial action. It did not recommend for reparation as there was no any provision of it in the Statute. It had at first two years tenure which was later extended for another 14 months. The report has 29 recommendations (Custódio, April 27, 2015) for right to memory, truth and justice.

DR Congo Commission prepared 84 pages report and submitted without concrete findings, but general recommendations only. The Commission was politicized by both the national and international conflicting actors. Many Commissioners who were directly involved in the conflict were selected in order to defend their respective side of the conflicts. The ICC charged war crimes and crimes against humanity to the former Vice President Jean-Pierre Bemba and accused Thomas Lubanga, rebel leader of recruiting child soldiers. Lubanga is currently on trial before the ICC in The Hague (Naughton, 2014). However, the finding recommended to form another Truth Commission, but it has not been materialized yet.

Solomon Islands' Commission was the first of its kind in the Pacific Islands region (RNZ, April 30, 2009). The public hearing started in March 2010. The inclusion of youth hearings at the TRC provided with a forum to construct their justice narratives, distinct from children (Mollica, January 7, 2017). The TRC demonstrated the idea that societal reconciliation was not possible without State-level forgiveness for amnesty among the victims of the Solomon Islands community. Unlike South Africa and El Salvador, the community explicitly opposed amnesties for ex-combatants arguing that without justice, forgiveness alone is unlikely to achieve reconciliation. Many ex-combatants hoped to benefit from the proposed amnesty laws, but that went in vain (Jeffery, January 7, 2017). On April 28, 2013, the final report was unofficially released (fearing of ethnic tension). The report gave comprehensive and proper recognition to the victims. However, it did not provide enough space to forgive the perpetrators and forget the victims (Cain, May 1, 2013).

Togo Commission included the populations of Sierra Leone, South Africa, East-Timor and Guatemala. The final summary report with 309 pages was submitted (Domegni, July 31, 2016). The Commission did not have mandate to analyze the electoral violence of 2005 and 2011 where hundreds of people were killed (Worldwide Movement for Human Rights, October 25, 2011). The perpetrators were not testified, neither the amnesty granting of immunity from the prosecution was there. It requested the witnesses and the alleged perpetrators to attend for questionings, but in vain. Togolese transitional justice is little known because of under-researched process (Sarkin et al., April 4, 2017). It had a duration of 18-months, which was later extended up to 38 months. However, the final three reports were submitted after 53 months only. The Commission provided 68-recommendations. And following the recommendation, the Government has created High Commission for Reconciliation and Strengthening of National Unity (Rwanda Eye, May 31, 2016).

The Honduras civilian Government was elected in 1981, but human rights violation was continued due to strong military tie with the US CIA, US military bases (Cohn et al., June 11, 1995) and Chile, during

the presidency of the dictator Augusto Pinochet. The Panama report concluded that military regime was responsible for human rights violations or abuses of the victims during its dictatorship between 1968-1972. A total 110 of the 148 cases were documented (United States Institute of Peace, January 1, 2001). The commission recommended to conduct systematic excavations at 40 cases of suspected graves and advised Office of Special Prosecutor to take legal action against those suspected of committing those atrocities (www.highbeam.com/doc/1G1-87075877.html). The Fijian Commission was proposed to empower to grant amnesty to the perpetrators who were involved in Fiji coup in 2000, and compensation to the victims between May 19, 2000-March 15, 2001.

The Rwandan report revealed that political and socio-economic issues were more responsible for the divisions and fundamental differences between Hutus-Tutsis. The bad governance, the culture of impunity and social injustices also played a pivotal role of such successive ruling cliques (Manga, 2008). The International Criminal Tribunal for Rwanda (ICTR) and domestic trials were initiated only after the 1994 genocide. The Commission however did not relate to prosecutions. The Tunisian Commission received over 62,000 submissions and heard testimonies from about 11,000 people (ICTJ, November 17, 2016). The Commission held its first public hearing in Tunis on November 17, 2016.

5. Freedom of Avoiding People's Voices

There have been a great debates and pressures on whether to establish Truth Commissions respecting the voices of the people including victims, survivors and their families. Such voices are often disrespected while there have been Governments and Legislative-Parliaments led by the perpetrators. Besides these, such autocratic regimes do not even pursue the pressure of international community to establish Truth Commissions. A few of the examples are: Indian controlled Jammu-Kashmir, Bosnia-Herzegovina and Kosovo.

In the case of India (Jammu-Kashmir), the Association of Parents of Disappeared Persons (APDP) estimated that 8,000 people have been disappeared in Kashmir alone since 1990s. Most of the enforced disappeared persons were arrested and taken away by the Indian army. In 2011, a State-based human rights commission investigated and revealed the facts that hundreds of bodies of men (unidentified militants) were buried in unmarked graves at 38 places in north Kashmir (Bazaz, January 11, 2017). Among the 2,000 bodies, the report stated that 574 were identified as those of local residents. It is believed that the unidentified bodies buried in various unmarked graves were of those disappeared persons (Ibid). Around 8,000 to 10,000 cases of enforced disappearances have been reported in Jammu-Kashmir after the freedom movement turned to armed struggle against the Indian rule since 1989 (apdpkashmir.com/international-human-rights-day-is-observed-around-the-globe/). However, the Truth Commission has been a daydream of the people there. Indian Government shows no interest of such establishment to provide justice to the victims and prosecute the concerned officials.

Several initiatives for Bosnia-Herzegovina were conducted to establish a national TRC during 1997-2006 but they failed to implement it (Dragovic-Soso, 2016). Despite the considerable international efforts to create a TRC for Bosnia, all attempts failed because of political resistance, institutional rivalry between the ICTY (International Criminal Tribunal for the Former Yugoslavia) and the TRC project, and the TRC project's lack of legitimacy with Bosnia's victim associations (Ibid). The failed attempt of TRC in Bosnia provides important lessons for ongoing truth-seeking in post-conflict societies. While international voices were strong enough to establish a TRC there, Bosnian citizens especially victims refused international intervention (Fischer, 2007). International pressure is not enough to establish the Truth Commission if internal political will dares to reject it. No single theoretical concept explains why Bosnia-Herzegovina is unable to create a Truth and Reconciliation Commission, but multiple functional and institutional concepts and vested interests left impact there (Kramm, Undated).

The polls of 2002 indicated that 65 percent of Kosovo Albanians and 57.5 percent of Kosovo Serbs believed these two communities cannot live together (Riinvest and Prims-Research, May 2002). Those feeling motivated further when the majority Kosovo Albanians attacked on the minority Kosovo Serbs in March 2004. That sudden attack was known as no less than ethnic cleansed where large numbers of Serbians were killed, thousands were forced to leave their homes, schools and health care centers as attackers fired, demolished and destroyed them (www.b92.net/eng/news/politics.php?yyyy=2015&mm=03&dd=17&nav_id=93505). Even 11 years afterwards, the Serbs of six towns and ten villages who were driven out of their homes have not returned (Ibid). Some critique that reconciliation between two these Kosovo Albanians and Serbs cannot live together, but the concerned officials and authorities are mistaken as "reconciliation is not for people who love each other; it is for people who hate each other" (Sverrisson, January 2006).

There is a need to establish a Truth Commission for reunion through reconciliation though even the United Nations Interim Administration Mission in Kosovo (UNMIK), one of the longest running political and territorial mission did not work that much for the role to establish a Truth Commission there. Even the European Union and other concerned actors are not happy with the UNMIK role. The UNMIK has failed to protect the Kosovars, building a stable political system and independence of Kosovo. Moreover, it completely failed to work for truth-seeking to ensure justice and reparation to the victims and prosecute the perpetrators (Doninck, April 17, 2015).

6. Concluding Analysis

Ironically, the issue of TRC means empowering the perpetrators and granting amnesty to them in the name of reconciliation, for instance, South Africa. South Africa apartheid (known as systematic exclusion, segregation and denigration to the great black majority) was ended (enjoy freedom) in empty

stomach. The white descendent had been preparing 'diamond cuts diamond' policy where Mandela had been given a birth, prepared, developed and used against the black in the name of national unity, reconciliation and amnesty. A large number of victims still blame that Mandela sold out black people's struggle (News24, June 13, 2012). Many people still demand strict justice and punishment to the perpetrators (Hayner, 2011). The TRC requested President Mandela to call a National Summit on Reconciliation (Truth and Reconciliation Commission, 1998). The South African TRC had been unsuccessful in finding all truths as it could not cover all the geographical areas of the country due to insufficient financial resources, human capitals and time and translator and leaders' attitude for amnesty to the perpetrators. The religion 'Christianity' also played a pivotal role to make the victims further sufferers.

The (alleged) perpetrators had been given the opportunity of being forgiven for their past crimes and atrocities simply by telling their stories. The international community including the United Nations was largely in favor of the (alleged) perpetrators as most of them were the white descendants and all victims were black from the poor country.

The author on *World's Disappearance Commissions: An Inhumanious Quest for Truth* (2016) writes, "The TRC has failed to bridge the gap between the black and white communities ... Rather than providing restorative justice to the conflict victims, the TRC worked in favor of the (alleged) perpetrators. The grievances and emotions of the witnesses of the victims were not properly reflected due to inter-lingual rendition of mimic translators".

Sooner or later, South Africa may face communal or sectoral violence (resourceful vs penniless) again between the inhabitants of countryside populace versus urban centers as most of the resources are still controlled either mostly by the white decedents or less by a new black barons. The new barons and resourceful reside in the developed and/or developing centers. The insecurity is being spread now. The resented black inhabitants extrajudicially killed 600 security forces in South Africa in 2016 alone. The pardoning process of the security forces even in serious crimes and crimes against humanity leaves another fertile ground for violence to erupt. The same message also spreads across the entire continent. Why had almost all Truth Commissions not been victim-centric or failed to accomplish their tasks? First, the Commissions were established as per the mandate of the peace accord or agreement. Many of the Peace Accords neither mentioned clear guidelines nor did they explicitly mention the policies of the formation of the truth commissions. Second, the Legislative-Parliament in the form of TRC Act or Presidential Decree was proclaimed based on the objective of the accord. If accord itself failed to show an apparent roadmap of transitional peace, how could the Act or Decree determine the comprehensible path of Commission's objectives, duties and responsibilities, methodology for investigations and recommendations? Third, following the statutory requirements, the Commissioners were nominated or selected. The Government and mainstream political parties prioritize to pursue cronyism or *ramro*

hoina hamro (not professionals, but near and dear ones) Commissioners. Such indoctrinated Commissioners primarily acted thoroughly how and what their party or leaders instructed them to perform.

Fourth, such Commissioners or Commissions often did not receive much cooperation even from the like-minded individuals or institutions. Competent professionals felt either humiliation or jealousy as they were deprived of getting appointed on the prestigious positions. More so non-competent Commissioners tried hard to defame the Commissions on the support of some individuals (donors and victims) and institutions with vested interest. It is to be noted that some of the victims who appear as new barons because of the punitive human rights violations or abuses of their family member did not wish the success of such Truth Commissions. Fifth, the alleged perpetrators who still hold the senior most positions intimidated the victims and survivors, on the one hand. On the other hand, the evidences and testimonies were demolished on the instruction from the top level of its chain-of-command. Sixth, the Truth Commissions often encountered legal constraints or limitations to conduct smooth truth seeking for justice operation. Seventh, some of them were terminated on their half ways of works such as in Bolivia, Ecuador, Haiti, former Yugoslavia and Zimbabwe. Lastly, the Commissions often encountered deficit of staffs, budget, (amendment of) laws and regulations on time, and time constraints, such as in Liberia, Paraguay, Philippines, South Africa and Uganda.

Notwithstanding, Nepal's 75-district offices of the Chief District Officer (CDO) requested all concerned victims or survivors and others to submit their complaints of punitive human rights violations or abuses. The complaints registration was thoroughly investigated by the Local Peace Committee (LPC) (Note 7) established on August 19, 2007 and sent to the Ministry of Peace and Reconstruction (MoPR) recommending for relief support. Based on the recommendation, the MoPR was to provide immediate relief to the conflict victims. The victims were encouraged to submit their original documents and/or testimonies at the CDO offices. Some real victims and a few faked victims including activists of the powerful parties and near and dear ones of the Government institutions received relief support quickly. However, the large majority of the countryside victims were deprived of receiving any support from the Government. Moreover, in many instances, the Government intentionally destroyed all original documents and/or testimonies of the victims which were filed against the powerful leaders and senior security officials. Thus, the victims suffered a lot to submit their documents or testimonies in registering complaints at the transitional bodies, such as the Commission of Investigation on Enforced Disappeared Persons, and the Truth and Reconciliation Commission in Nepal.

The world experiences of armed conflict show that the conscious people of the concerned country have been struggling against the colonial, apartheid and racist dimensions from generations. Nepal's Maoist launched People's War had been a politico-ideological warfare. However, the transitional bodies (i.e.,

truth commissions) were formed, are formed and are being formed on the motto to promote just peace-harmony, unity and reconciliation discovering the truths of punitive human rights violations or abuses; advocating for justice identifying the victims and the perpetrators; prosecuting-convicting to the perpetrators through Criminal Court; providing reparation and/or compensation to the victims; healing the victims' families to community and society; protecting the victims, witnesses and Commissioners and their staffs; and recommending institutional reforms. However, the Truth Commissions urge(d) the Transitional Government to adopt a victim-centric approach promulgating or amending the Victim and Witness Protection Law, the Transitional Punishment Act, the Crimes Humanitarian Law, the Retrospective Law, the Interim Relief or Reparation Act, and the Disappearance Status and Punishment Act among others for the sake of dignified victims' lives. However, these measures have not been ensured to almost all Truth Commissions.

Para-India controlled Prime Minister of Nepal is now in dilemma whether to continuously support Nepal's transitional justice. India fears that peaceful, progressive, developed, coexisted and harmonious nation shall truly prevail and Nepal stands as a sovereign nation in words and spirits and shall maintain a balanced foreign policy between the two giant neighbors. Indian establishment wants to see a "weak Nepal" forever to make Nepal's leaders puppets of its power, politics, property and privilege in the name of security, whereas China favors to see a stronger Nepal. China firmly believes that none of the western countries and neighbors shall play to "encircle China to secede Tibet" from developed and strong Nepal. India worries that once the transitional justice Commissions accomplish their tasks successfully, most of its trusted leaders and senior security officials (perpetrators) shall be penalized and the victims shall receive justice and reparation. Thus, two transitional justice bodies at a same time have not been receiving moral, technical, financial, infrastructures and programmatic supports from the international communities. The vested interests (encircle China and watch India from the land of Nepal) of the international community do not wish for the accomplishment of the peace process in Nepal on time.

It is to be noted that the invitation to forget the victims is not an invitation to forgive the perpetrators. The invitation of forget can never be the invitation of forgive. The forgiveness against the wishes of the victims or survivors or their families are against the norms and objectives of fundamental human rights and humanitarian law. More than that, it is against the ethics of *dharma* and *dharmastra*.

Before the formation of the Truth Commissions, the victims or survivors and families had have intense emotional 'madness' (psychosocially, politically and economically) or prognosis having the lost or inhumane degrading treatment of their loved ones. With the establishment of the Truth Commissions, the victims have some sort of diagnostic feeling *nahunu bhanda ... mama niko* (something is better than nothing) in the hope of therapy through justice, healing, prosecution and reparation. Hope makes everything possible and beautiful. Hope dreams the light despite all of darkness (madness). In the case

of victims, HOPE is Humanitarian On Perpetrator Ends. Thus, hope has been a prognosis, diagnosis and therapy (Galtung, 2016) similar to the treatment to the victims.

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Notes

Note 1. The reculturation passes several stages: Reinsertion, Repatriation, Resettlement, Rehabilitation, Reconciliation and Reintegration (Pathak, April-June 2013).

Note 2. On January 27, 2017, responding a much awaited call from conflict victims, President Salvador

Sánchez Cerén of El Salvador announced that his government shall establish a National Commission for the Search of Disappeared Persons that had occurred between 1980 and 1992. That historic decision brings renewed hope to the families of the 10,000 disappeared persons that they may finally know the fate of their loved ones (DPLF, February 6, 2017).

Note 3. Three Zonal Commissions were formed for January 1995-September 1997 and “All Island” Commission was for 1998- 2000, two years (US Institute of Peace, January 1, 1995).

Note 4. Palava Huts were common in rural communities due to the lack or absence of courts, resources, lawyers and penal institutions and security institutions.

Note 5. While Charles Taylor became President, multiple atrocities were committed against both the Liberians and Sierra Leone people. The Sierra Leone Special Court charged committed by Taylor (Sirleaf, Undated).

Note 6. On the other side, Kenya ratified the Rome Statute of the ICC in 2005 with jurisdiction over war crimes, crimes against humanity and genocide. If country fails to act crimes against humanity, the ICC would be activated. In November 2009, the court gave a verdict to investigate 6 prominent former authorities who are responsible for the crimes against humanity during the post-election violence in Kenya. Kenya decided to send four of them to ICC trial. The Waki Commission Report. October 15, 2008. African Centre for Women, Information & Communications Technology.

Note 7. LPC is a generic structure that is formed at the level of a district and lower levels in municipality and village aiming to encourage and facilitate inclusive peacemaking-peacebuilding processes (Odendaal et al., 2008). LPCs are implemented as part of a national peace process which often include 23-member Committee at each district comprising 12-representatives from existing mainstream parties, 11-Civil Society. Representatives of Civil Society consists of one-third women, conflict victims and marginalized groups (Dhungel, Undated).