

Truth and Reconciliation Commission, South Africa

South African history

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Desmond Tutu

Desmond Tutu received the Nobel Prize for Peace in 1984 for his role in the opposition to apartheid in South Africa. He became South Africa's first black Anglican bishop in 1985, and he retired as archbishop...

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Alternative Titles: TRC, Truth and Reconciliation Committee

Truth and Reconciliation Commission, South Africa (TRC), courtlike body established by the new [South African](#) government in 1995 to help heal the country and bring about a reconciliation of its people by uncovering the truth about [human rights](#) violations that had occurred during the period of [apartheid](#). Its emphasis was on gathering evidence and uncovering information—from both victims and perpetrators—and not on prosecuting individuals for past crimes, which is how the commission mainly differed from the [Nürnberg trials](#) that prosecuted Nazis after [World War II](#). The commission released the first five volumes of its final report on Oct. 29, 1998, and the remaining two volumes of the report on March 21, 2003.





Truth and Reconciliation Commission, South Africa

Members of South Africa's Truth and Reconciliation Commission—including Dr. Alex Boraine (second from left), deputy chair; Archbishop Desmond Tutu (centre), chair; and Rev. Bongani Finca (right), commissioner—at the commission's first hearing, April 1996, East London, S.Af.

Image: Benny Gool—Oryx Media/Desmond Tutu Peace Centre

Background

The unbanning of the liberation movements and opposition political parties in 1990 by Pres. [F.W. de Klerk](#), the release from prison of [Nelson Mandela](#), and the lifting of the state of emergency in [South Africa](#) paved the way for a negotiated peace settlement between the [apartheid](#) regime and those who fought against it and brought an end to the struggle against colonialism and apartheid that had lasted in South Africa for more than 300 years. The negotiations resulted in the establishment of a date for the country's first democratic elections and for an [interim](#) constitution to be enacted. A major obstacle to finalizing the interim constitution was the question of accountability for those guilty of gross human rights violations during the years of apartheid. It became clear during the negotiations that the political right and many in the security forces were not loyal to President de Klerk and posed a major threat to stability in the country. They demanded that President de Klerk issue them a blanket [amnesty](#) for past actions. The dominant view among the liberation movements at the time, however, was that there should be accountability for past crimes, along the lines of the [Nürnberg trials](#).

Those negotiating for the apartheid regime insisted that a guarantee of general amnesty be written into the interim constitution. Without it, it is unlikely that the apartheid government would have given up power. The strength of the amnesty deal was that it was part of a package of [initiatives](#) contained in the interim constitution that set the country on the road to becoming a democratic, [constitutional](#) state. This included a strong and justiciable bill of rights. The terms of the amnesty were to be decided on by the country's first democrat  elected government once elected in 1994.

Establishment and mandate of the commission

The Truth and Reconciliation Commission (TRC) was born of a spirit of public participation, as the new government solicited the opinions of South Africans and the international community regarding the issue of granting amnesty as well as the issue of accountability in respect to past violations and reparations for victims. Civil society, including human rights lawyers, the religious community, and victims, formed a coalition of more than 50 organizations that participated in a public dialogue on the merits of a truth commission. This consultative process lasted a year and culminated in the legislation, the Promotion of National Unity and Reconciliation Act 34 of 1995 (the Act), that established the TRC.

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The Act provided for the establishment of a TRC made up of 17 commissioners. The commission was tasked with investigating human rights abuses committed from 1960 to 1994, including the circumstances, factors, and context of such violations; allowing victims the opportunity to tell their story; granting amnesty; constructing an impartial historical record of the past; and drafting a reparations policy. Finally, the TRC would compile a final report, providing comprehensive accounts of the activities and findings of the commission together with recommendations of measures to prevent future violations of human rights.

In order to achieve these objectives, the Act established three committees: the Human Rights Violations Committee, the Reparations and Rehabilitation Committee, and the Amnesty Committee. The commissioners were selected through an open countrywide nomination process and publicly interviewed by an independent selection panel comprising representatives of all the political parties, civil society, and the religious bodies in the country. Nelson Mandela, then president of South Africa, appointed Archbishop Desmond Tutu as the chair of the commission and Alex Boraine as the deputy chair.

The primary focus of the commission was on victims. It received more than 22,000 statements from victims and held public hearings at which victims gave testimony about gross violations of human rights, defined in the Act as torture, killings, disappearances abductions, and severe ill treatment suffered at the hands of the apartheid state. Those who had suffered violations at the hands of the liberation movements—by members and leaders of

such groups as the [African National Congress](#), the [Inkatha Freedom Party](#), and the [Pan-Africanist Congress](#)—also appeared before the commission. The commission received more than 7,000 amnesty applications, held more than 2,500 amnesty hearings, and granted 1,500 amnesties for thousands of crimes committed during the apartheid years.

An important feature of the TRC was its openness and transparency. The public hearings held by the TRC ensured that South Africans became aware of the atrocities that had been committed during the apartheid years.

Challenges and limitations

The TRC was confronted by a number of challenges, as it was not accepted by all parties to the conflict. The top echelons of the military did not cooperate with the commission. It was mainly the foot soldiers in the security forces and those who were already imprisoned or were facing charges who applied for [amnesty](#). Senior politicians in the former government and senior leaders in the security forces did not apply. In the case of the liberation movements, the members argued that as they had conducted a “just war,” they were not required to apply for amnesty because their actions did not [constitute](#) gross violations of [human rights](#). It took considerable effort to persuade them to participate in the amnesty process.

A key weakness of the commission was that it did not focus sufficiently on the policies or [political economy](#) of apartheid. The failure to examine the effect and impact of apartheid policies resulted in the need for the perpetrators, or the “trigger-pullers,” to bear the [collective](#) shame of the nation and let those who benefitted from apartheid [escape responsibility](#). The link between racialized power and racialized privilege became obscured.

The legacy of the commission was also compromised as the post-Mandela government was slow to implement the TRC's recommendations, including the reparations program. By the end of the first decade of the 21st century, few of the commission's recommendations had been implemented, and there had been few prosecutions of individuals who failed to apply for amnesty or who were refused amnesty by the TRC. Furthermore, a number of high-ranking officials from the security forces, including former minister of law and order Adriaan Vlok, were given suspended sentences through a plea-bargain process under new prosecutorial guidelines ostensibly meant to facilitate prosecutions. The failure to prosecute disillusioned many victims and encouraged the view that the government had strengthened impunity and that the beneficiaries of apartheid had escaped accountability for their actions.

Assessment

Despite these challenges and limitations, the TRC was internationally regarded as successful and showed the importance of public participation in such processes, including the initial decision-making process leading up to the establishment of a truth commission. The hearings of the TRC attracted global attention, as it was the first commission to hold public hearings in which both victims and perpetrators were heard. While amnesties are generally considered inconsistent with international law, the South African TRC provided some basis for

considering conditional amnesties as a useful compromise, particularly if they help to secure perpetrator confessions.

The South African TRC represented a major departure from the approach taken at the [Nürnberg trials](#). It was hailed as an innovative model for building peace and justice and for holding accountable those guilty of human rights violations. At the same time, it laid the foundation for building reconciliation among all South Africans. Many other countries dealing with postconflict issues have instituted similar [methodologies](#) for such commissions, although not always with the same [mandate](#). The South African TRC has provided the world with another tool in the struggle against impunity and the search for justice and peace.

Desmond Tutu

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