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# AMNESTY INTERNATIONAL

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## Checklist for the establishment of an effective truth commission

### General Principles

1. A truth commission should be included in a broader, long term, comprehensive action plan to uphold the right of victims of past human rights violations to obtain truth, justice and reparation. Such an action plan should also include prosecutions, mechanisms to ensure reparation, vetting, and legislative, institutional and other reforms. A truth commission is not and should not be considered as a substitute for judicial processes to establish individual criminal responsibility.
2. The establishment and functioning of a truth commission must respect, protect and promote human rights. In particular, a truth commission should: clarify, as far as possible, the facts about past human rights violations; provide the information it gathers into continuing and new investigations and criminal and civil judicial proceedings; and formulate effective recommendations for providing full reparation to all the victims and their relatives.
3. All those concerned, including national and international civil society organizations, victims, human rights defenders and persons belonging to minorities and vulnerable groups should be fully involved in the discussions on the establishment, mandate and powers of a truth commission, as well as in the selection of its members.

### Competence, independence and impartiality

4. Members of a truth commission should be selected on the basis of their competence in human rights and other relevant fields, proven independence and recognized impartiality. The composition of a truth commission should reflect a fair balance of women and men and pluralism in the society.

### Mandate and powers

5. The mandate of a truth commission should cover the range of human rights violations and abuses that occurred during the period under investigation, including but not limited to crimes under national and/or international law. In particular, the investigations should concern cases of past violations and abuses committed by all sides involved (including state agents and non-state actors) as well as violations of international humanitarian law, if applicable.
6. A truth commission should be mandated with the powers and authority to gather all information it considers relevant, including the power to compel the production of information and the attendance of persons as and when necessary.
7. As part of its work, a truth commission should gather information indicating individual criminal responsibility. It should forward such information (on a confidential basis) to the relevant prosecution authorities for further investigation, with a view to bringing suspected perpetrators of crimes under international law to justice in fair proceedings without delay.
8. A truth commission should not have the power to recommend amnesties or similar measures of impunity with respect to crimes under international law.
9. As a matter of principle, all aspects of the work of a truth commission should be made public. So far as possible, the media and public should be given access to the proceedings and to the

information on which the commission bases its findings. However, confidentiality may be required to protect the rights of individual victims and witnesses and the rights of suspected perpetrators.

### **Respect, protection and promotion of the rights of victims and their families**

10. A truth commission should ensure that, in all aspects of its work, victims are treated with respect for their dignity and with humanity. Particular care should be taken to ensure that they are not re-traumatized as a result of their participation in the process.
11. To ensure the protection of victims and witnesses who may be at risk as a result of their participation in the process, a truth commission should establish a comprehensive, long-term and effective victim and witness protection program.
12. A truth commission should take special measures to assist victims and witnesses, especially those that are traumatized, children, elderly or victims of sexual violence, in presenting views and concerns, registering their case, participating and giving testimony.

### **A fair procedure**

13. The procedure before a truth commission should be fair. In particular, the commission should:
  - exclude granting “use immunity” or any other form of immunity for crimes under international law;
  - ensure that witnesses, alleged perpetrators, or others who may be implicated have the right to legal counsel and a right to reply;
  - respect the right of suspected perpetrators of crimes to be presumed innocent until and unless they are proven guilty beyond a reasonable doubt according to law in separate criminal proceedings which comply with international law and standards.

### **Public information; final report and recommendations**

14. Throughout its operations a truth commission should regularly disseminate information about its work, through a range of media, languages and formats to ensure the information is accessible to all interested sections of the public.
15. The results of a truth commission’s investigations and its recommendations should be officially proclaimed, published and widely disseminated without undue delay.
16. In addition to measures of restitution, rehabilitation, compensation and satisfaction, the commission should recommend a broad range of other reparations for victims. These include measures that would prevent repetition of past violations, such as reforming laws, administrative procedures and practice; strengthening the justice system; and promoting human rights education. Recommendations for reparation should never be seen as a substitute for bringing perpetrators of crimes under international law to justice or preclude victims from also seeking compensation through the courts.

*This Checklist is based on Amnesty international, Truth, justice and reparation: Establishing an effective truth commission (AI Index POL 30/009/2007), June 2007, to which reference should be made for a more detailed discussion.*