

THE CONFLICTING ROLES OF TRUTH COMMISSIONS IN AFRICA: EVIDENCE FROM NIGERIA

Oluwatosin R. Ifaloye^{1*}, Sheriff F. Folarin² & Moses M. Duruji³

¹Department of Political Science and International Relations, Covenant University, Nigeria,
oluwatosin.ifaloye@stu.cu.edu.ng

²Department of Political Science and International Relations, Covenant University, Nigeria,
sheriff.folarin@covenantuniversity.edu.ng

³Department of Political Science and International Relations, Covenant University, Nigeria,
moses.duruji@covenantuniversity.edu.ng

*Corresponding Author

Abstract

Nigeria's Human Rights Violations Investigation Commission is also known as the Oputa Panel was established in 1999 to investigate gross human rights violations that occurred between 15th January 1966 when the civilian government was overthrown and 28th May 1999 when the military quit the political scene for democratic rule. This paper aims to evaluate the role Oputa panel played in promoting reconciliations and the image of the Obasanjo administration in Nigeria. The establishment of this commission raised expectations of accountability for Nigerians but faced diverse challenges during its operation and after the commission had carried out investigations, the report was submitted to the government. The report was not released to the general public and its recommendations were not adopted. This implies that the process did not establish collective truth and did not lead to the adequate promotion of victim-centred justice since recommendations for compensations and retribution were not addressed. This paper is purely qualitative and data were secondarily derived and analysed thematically. It found that despite the commission's vast mandate, close ties between the former authoritarian regimes and the newly elected Obasanjo administration negatively influenced the effectiveness of the commission. The absence of adequate commitment to the process and the annulment of the commission after submitting its report proved that it was not solely a mechanism for reconciliation but used as a tool to increase the legitimacy of a new regime constituted of old members. As a result of this kind of conflict, this paper recommends that African countries setting up truth commissions should use truth commissions alongside other mechanisms of transitional to achieve better results.

Keywords: Human rights, Nigeria, Oputa Panel, Transitional Justice, Truth Commissions

1. INTRODUCTION

1.1 Background to the Study

Since the late 1950s when African countries began gaining independence, a number of them were ruled by undemocratic and oppressive leaders and so that era was characterised by severe human rights violations,

ethnic warfare and political instability (Folarin, 2013). In the process of moving from repression to democracy or from war to peace, several African countries such as South Africa, Rwanda, Sierra Leone, Nigeria, Ghana, Kenya and Gambia established truth commissions for either democratic transition or post-conflict reconstruction to achieve peace and justice for victims of human rights violations and promote reconciliation (Fombad, 2008).

Despite the various establishments of truth commissions in Africa, there have been differences in the extent of success experienced by these commissions. Particularly concerning the role of truth commissions as a mechanism of victim-centred transitional justice, for promoting human rights values and the rule of law in society (African Union, 2013). The Nigerian truth commission was established as part of a transition from military rule to democracy and to investigate state-sponsored human rights violations that occurred during the military rule in Nigeria. It was a ray of hope for many Nigerians due to various challenges caused by the prolonged military interference in Nigerian politics (Ade'Agbude & Etete, 2013). This paper argues that although the Commission had a broad mandate the commitment of the administration of President Olusegun Obasanjo did not match up with mandate it gave the commission.

2. CONCEPTUAL CLARIFICATIONS

2.1 The Concept of Transitional Justice

Central to the theme of this paper is the concept of transitional justice. As it is in many cases concerning finding one universally accepted definition of international relations, it is important to highlight that there is also no unanimity among scholars on the definition of transitional justice. For Boraine, the term 'transitional' signifies that the old order is dying but that the new order has not yet been born (Boraine, 2006). While to Bickford, the transition in this context is associated with societies, which following the dissolution of repressive rule, are preceding towards a more legitimate form of governance and/or peace (Bickford, 2004). According to the Secretary-General of the United Nations (UNSG) in his report to the United Nations Security Council (UNSC), the term 'justice' is defined as An ideal of accountability and fairness in the protection and vindication of rights and the prevention and punishment of wrongs (UNSG. 2004).

Teitel's restricted definition describes transitional justice as the perspective of justice that is related with political change, as revealed through the phenomenology of essentially judicial methods of addressing the misconducts of past authoritarian regimes (2003). This definition is restricted because it tags the concept of transitional justice primarily to the transition from repression to democracy. Mani's definition covers restoring justice in the context of peacebuilding (Mani, 2002: 17). Mani's definition is also a limited one because it only views transitional justice through the lens of post-conflict reconstruction. To capture the usefulness of Transitional Justice in cases related to democratic transition and post-conflict peace, Olsen, Payne and Reiter (2010) defined transitional justice as the collection of mechanisms that are intended to address past human rights infringement following times of political unrest, oppression, or armed conflict.

Various transitional justice mechanisms have been employed around the world to accomplish healing and reconciliation. Examples of transitional justice mechanisms which include; retribution, lustration, compensation, reparation, institutional reforms and Truth Commissions. This paper is focused on truth commissions as a mechanism of transitional justice.

2.2 The Concept of Truth Commission

Although the literature on the subject of truth commissions continue to grow immensely, scholars still have no generally accepted definition of a truth commission. Many observers indeed agree that truth commissions investigate and report gross human rights violations that occurred during an authoritarian rule or armed conflict. Yet, they have diverse perspectives on other characteristic and functions of a truth commission. Mark defines a truth commission as an independent, victim centred and *ad hoc* commission of inquiry established by the state essentially to investigate and report the primary causes and consequences of a vast but comparatively recent of grave violence or authoritarianism which took place during conflict or repressive rule, and to make recommendations to correct the past and prevent such from occurring again. In consonance with this definition, the purpose of a truth commission is not limited to investigation and report but equally extends to correction and preventing such from occurring again (Freeman 2006).

Priscilla Hayner's definition of a truth commission is one that is commonly used, she defines a truth commission as a body that is established to investigate former human rights violations that occurred in a particular state; this may comprise of violations by the state's military or other armed opposition forces. In another publication, Hayner (2002) elaborates on four characteristics that distinguish a truth commission. First, she states that a truth commission investigates past human rights violations. This means that they do

not emphasise that are ongoing. Second, they inquire into the continued pattern of human right violations instead of a particular occurrence. Third is that human rights are temporary and not permanent bodies. Lastly, truth commissions are official bodies that are authorised and empowered by the state. In the second edition of her books, she adds a fifth feature of a truth commission which is that they engage broadly and directly with the affected population to gather information on their past experiences. Also, she adds that they are temporary bodies that conclude with a final report. Yet, she maintains that it is difficult to define precisely what makes something a truth commission (Hayner 2011).

Usami (2015) argues that although Hayner's definition helps to identify some significant characteristics of a truth commission, he argues that she excluded some notable elements of a truth commission and that the stated characteristics are too narrow. For instance, Hayner's definition does not display the application of a truth commission to both repression and conflict situations. He argues that this feature is what distinguishes a truth commission from a historical commission such as the Commission on Wartime Relocation and Internment of Civilians established in the United States in 1982 which was established to investigate cases of the imprisonment and forceful relocation of Japanese Americans during the Second World War. She equally omits that truth commissions are relatively autonomous bodies that are relatively independent of governmental control.

2.3 Purpose of a Truth Commission

In this section, we will examine the purpose of a truth commission by reviewing the literature on truth commissions. This will outline the roles that a truth commission should play to develop a set of benchmarks upon which the Nigerian truth commission can be weighed.

To Hayner, a truth commission is crucial to states that are striving to either deny or accept a history of severe human rights abuses that occurred during a specific regime. She argues that the primary role of a truth commission is authorised fact-finding to establish a detailed report of the country's past. She equally adds that truth commissions are established to address the needs of affected victims; promote accountability and justice; delineate the responsibilities of the government and appropriate institutional reforms, and to encourage reconciliation among involved parties (Hayner, 2011).

For Brahm (2007), the primary purpose of a truth commission is to fulfil the mandate that has been ascribed to it and to present its findings by presenting a report that contains its recommendations to the government. He argued that since truth commissions are quasi-judicial bodies and cannot give out justice like law courts, the government's implementation and acceptance of the reports and recommendations on both retributive, non-retributive and institutional reforms are crucial to weigh the effectiveness of the commission in establishing the truth and bringing about justice.

For Webber (2012), a truth commission has three unique roles. The first is to reveal the truth with the hope that the revelation of past abuses will hinder same from occurring in the future; the second role is to give victims the opportunity to share their stories as a starting point for justice to either be accepted or denied so as to attest to the new values of the society; while the third role is to inculcate these values through repentance on the part of the officials of the previous regime and sometimes through motions of forgiveness and reconciliation by the victims.

From the above review, it is clear that a truth commission seeks to restore the dignity of victims of human rights violations through its activities and prevent future occurrences through its recommendations. Hence, for a truth commission to be termed effective, they should be victim-centred and prevent future occurrences of such human rights violations through their recommendations.

3. THE OPUTA PANEL AND ITS MANDATE

Nigerian Human Rights Violations Investigation Commission was established right after the inauguration of the new democratic government of President Olusegun Obasanjo in 1999. It became a symbol of hope for democracy and a sharp contrast from the series of authoritarian regimes that governed the state for almost thirty years (Yusuf, 2013). The establishment of the commission triggered a positive media image and reception from the public.

The Nigerian truth commission was established as part of a transition from military rule to democracy. Nigeria's Human Rights Violations Investigation Commission also known as the Oputa Panel was established in 1999 and given the mandate to investigate and report all severe human rights violations that happened from 15th January 1966 when the military deposed the democratically elected government and 28th May 1999 when the military quit the political scene for democratic rule (Bickford, 2007; Ibhawoh, 2019).

The commission was also mandated to recommend appropriate compensations for victims of such abuse. At the time when the military subverted the Nigerian constitution and replace it with military decrees, human rights and civil liberties were grossly violated. Several citizens were killed, tortured, kidnapped, harassed and hindered from political participation (Gberevbie & Oviasogie, 2013). As a result, over 10,000 people submitted their petitions to the commission across the six geo-political zones of the country (Zwanbin, 2017).

The commission had a theoretically powerful mandate, but it was not adequately equipped with the resources to carry out the mandate. The government did not make available the necessary budgetary supply to finance the commission but gave it the liberty to seek donations from external donors to realise its objective (Yusuf, 2007). In its final report, the commission expressed that the absence of the required budgetary supplies from the federal government frustrated its work (HRVIC 2002: 27). The external funding received by the commission was not sufficient for the operations of the commission and the commission had to suspend its operations for a period due to insufficient funding. In the end, the commission was only able to address 150 cases out of the 10,000 petitions that it received (Guaaker, 2009).

After close to thirty years of military rule in Nigeria, the return to democratic rule was highly anticipated by the populace. The Human Rights Violations Investigation Commission became a test of the new administration's commitment to democratic rule and ability to disengage itself from the influence of the military. Although the President helped retire several high ranking military officials such as Olagunsoye Oyinlola and Barnabas Gemade that could have been interested in disrupting the newly established democracy (Adejumobi, 2001). Yet, many of these officers acquired enough financial resources and influence to become active in politics again. Still, there were no laws that hindered the retired officers from becoming active in national politics. Consequently, many of them trooped into national politics (Agbese and Udogu, 2005). Some became "godfathers" to civilians seeking political offices while others sought political offices for themselves. For example, Prince Olagunsoye Oyinlola became a democratic governor in Osun State after his retirement while Barnabas Gemade became a senator. This meant that military retirees possessed both executive and legislative power. This has ultimately placed a limit on the potentials of the Nigeria's democracy and the impact of the Nation across the world (Folarin & Folarin, 2018)

In light of this, Dike (2003), President Obasanjo's administration was half-hearted in its commitment to the new democratic project. This was also evident in the administration's commitment to the Human Rights Violations Investigation Commission that it established. The President eventually annulled the commission after the reports were submitted and did not implement the recommendations of the commission which included the persecution of some high ranking military officers.

4. CONCLUSION

The process of transitional justice represents the genuineness of a country's commitment to democracy and to move away from repression. Dealing intently with those who contributed to human rights violations will establish the difference between the old regime and the new government. Therefore, considering the absence of financial support from the government, insufficient time allocation and the continuous influence of the military in Nigerian politics, this paper concludes that the Oputa panel played a larger role in promoting the legitimacy of the Obasanjo administration and creating a positive image for that administration than it did in contributing towards the promotion of human rights values in Nigeria.

The Nigerian case is not necessarily a unique one in Africa, other African countries have established truth commissions which have caused others to question why the commission was established in the first place. One example is that of the 1986 Ugandan commission where the truth commission was grossly underfunded and the commission's work was completed in 1995 when its contributions were no longer valued by the people. This shows that the work of the truth commission can be severely affected and hindered by political factors. It is in light of this that this paper recommends that countries should not depend solely on truth commissions as a mechanism of transitional justice but they should be combined with other mechanisms such as criminal persecutions, lustration and reparation programmes to have maximum impact on the society.

5. ACKNOWLEDGEMENT

The article is a subset derived from the ongoing PhD thesis of Ifaloye, O. R. (2019) on Truth commissions in Africa and the role of promoting Victim-Centred Justice: Evidences from Nigeria (Doctoral Thesis, Covenant University, Ota, Ogun State, Nigeria). I especially appreciate my co-authors who are my supervisors - Professor Sheriff Folarin and Dr. Moses Duruji for their immeasurable guidance all through this work. I also

appreciate Covenant University for the publication fee of this article.

REFERENCE LIST

- Ade'Agbude, G., & Etete, P. I. (2013). Ethical leadership, corruption and irresponsible Governance: Rethinking the African dilemma. *Mediterranean Journal of Social Sciences*, 4(6), 481-488.
- Adejumobi, S. (2001). Guarding the Guardian? The Obasanjo Regime and Military Reform in Nigeria. *Development Policy Management Network Bulletin*, 13(3), 17-19.
- African Union, (2013). *Peace, Justice, and Reconciliation in Africa: Opportunities and Challenges in the Fight against Impunity*. International Peace Institute.
- Agbese, P. O., & Udogu, E. I. (2005). Taming of the Shrew: Civil-Military Politics in the Fourth Republic. *Nigeria in the Twenty-First Century, Strategies for Political Stability and Peaceful Coexistence*.
- Bickford, L. (2004). Transitional justice. *The encyclopedia of genocide and crimes against humanity*, 3, 1045-1047.
- Bickford, L. (2007). Unofficial truth projects. *Human Rights Quarterly*, 994-1035.
- Boraine, A. L. (2006). Transitional justice: A holistic interpretation. *Journal of International Affairs*, 17-27.
- Brahm, E. (2007). Uncovering the truth: Examining truth commission success and impact. *International Studies Perspectives*, 8(1), 16-35.
- Dike, V. E. (2003). *Nigeria and the politics of unreason: A study of the Obasanjo regime*. Adonis & Abbey Pub Limited.
- Folarin, O. M., & Folarin, S. F. (2018). A Strategic and Prescriptive Approach to Nation-Building and National Development in Nigeria. *Astra Salvensis*.
- Folarin, S. (2013). Africa's leadership challenges in the 21st century: A Nigerian perspective. *African Journal of Political Science and International Relations*, 7(1), 1-11.
- Fombad, C. M. (2008). Transitional justice in Africa: the experience with truth commissions. *Hauser Global Law School Program*.
- Freeman, M. (2006). *Truth commissions and procedural fairness*. Cambridge University Press.
- Gberevbie, D. E., & Oviasogie, F. O. (2013). Women in governance and sustainable democracy in Nigeria, 1999-2012. *Economics & Sociology*, 6(1), 89-107.
- Hayner, P. B. (2002). *Unspeakable truths: Facing the challenge of truth commissions* (Vol. 21). New York: Routledge.
- Hayner, P. B. (2011). *Unspeakable truths: Facing the challenge of truth commissions*. 2nd Edition. New York: Routledge.
- Ibhawoh, B. (2019). From Rights Commissions to Truth Commissions: Human Rights and the Politics of Regime Legitimation in Africa. In R. Izarali, O. Masakure, and B. Ibhawoh (Eds.), *Expanding Perspectives on Human Rights in Africa*, New York: Taylor and Francis.
- Mani, R. 2002, *Beyond Retribution: Seeking Justice in the Shadows of War*. Cambridge: Polity Press.
- Olsen, T., Payne, L., & Reiter, A. (2010). Transitional justice in balance. *Comparing Processes, Weighing Efficacy*. Washington, DC: US Institute of Peace.
- Teitel, R. G. (2003). Transitional justice genealogy. *Harvard Human Rights Journal*, 16, 69-94.
- United Nations' Secretary-General. (2004). *The Rule of Law and Transitional Justice in Conflict and Post-conflict Societies: Report of the Secretary-General*. United Nations Security Council.
- Usami, M. (2015). Defining Truth Commission. *Journal of Social Sciences*, 2(1), 56-61.
- Webber, J. 2012. "Forms of Transitional Justice". Chap. In *Transitional Justice*, edited by R. Nagy, M. S. Williams, and J. Elster. New York: New York University Press.

- Yusuf, H. O. (2013). Human Rights Violations Investigation Commission, the Oputa Panel (Nigeria). *Encyclopedia of Transitional Justice (Cambridge University Press, 2013)*, 161-165.
- Zwanbin, E. (2017). The Challenges of Transitional Justice in Nigeria: Echoes from the Oputa Panel, 1999. *Journal of Language, Technology & Entrepreneurship in Africa*, 8(2), 73-91.