

The Truth Commission's recommendations¹⁸⁹ had several themes. One was overcoming the overwhelming centralization of judicial power in the Supreme Court, which had facilitated manipulation of the justice system. It therefore recommended the creation of an independent National Council of the Judiciary whose mandate would include the appointment and monitoring of judges. Another theme was the reinforcement of judicial due process, and it called for the invalidation of extrajudicial confessions, the presumption of innocence, enforced maximum time-limits for judicial detention, more effective remedies of habeas corpus and amparo, and reform of the system of administrative detention. A third theme was the increased professionalism of the judiciary, including improved training and improved salaries for judges to enhance their independence.

Quite apart from issues of justice and confidence building, 'truth' mechanisms also meet another critical requirement for human rights institution building, ie. the identification of individual human rights violators. In other words, if one is going to create or strengthen such institutions as the military, the police, or the judiciary, there is a need to ensure that those who have violated human rights in the past are either excluded from positions where they can violate human rights, or are rehabilitated. Rehabilitation is the recognition that there are degrees of culpability for past abuses, and that many individuals who have been pulled into the insidious downwards spiral of human rights violations,¹⁹⁰ are eminently capable of being rehabilitate. Rehabilitation is also a recognition that wholesale firing of security forces, armies, or government departments, is not always political or functionally feasible.

Even when it is politically possible, there are many times when there are just not enough qualified people to replace those involved in past violations. For example, recent efforts to create a new Haitian police force have recognized that they need the skills of both the existing police and Haitian military. However at a minimum, there must be mechanisms to identify and preclude the worst abusers from future public service, particularly police and military. It should be noted that if such "mechanisms are not established in the negotiated accords, it is highly unlikely that they can be created following the settlement."¹⁹¹ A good example of this was a creative solution for the need to cleanse the El Salvadorean military. The Peace Accords created an Ad Hoc Commission "to review the records of military officers with a mandate to recommend dismissal of those associated with human rights abuses, corruption or incompetence."¹⁹² It came up with a list of 103 officers for discharge or transfer. The government did not fully comply with their commitment to act, but it was a partial answer.

¹⁸⁹ *From Madness to Hope: The 12-year war in El Salvador*, Report of the Commission on the Truth for El Salvador, UN Doc. S/25500, 1 April 1993.

¹⁹⁰ For an good video in this regard see *Your Neighbours Son*, produced by Amnesty International (Danish Section) and a Danish/Swedish consortium, that looks at how young men were incrementally transformed into military torturers during the Greek military regime of 1967-74.

¹⁹¹ p.12, *Haiti: Human Rights and Efforts to Restore Democracy*, Washington Office on Latin America, 7 June 1993.

¹⁹² p.31, *Human Rights and UN Field Operations*, Human Rights Watch, op.cit.