

The Road to the Truth: Lessons from South Korea's Truth Commissions

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I. INTRODUCTION

Modern South Korean history has been plagued by social and political upheavals.¹ Up until 1987, South Korea (“Korea”) suffered through decades of Japanese colonial rule, U.S. occupation, the Korean War, and over two decades of authoritarian rule.² The Korean people suffered unspeakable tragedies under foreign occupiers and their own government.³ In response, Korea launched various transitional justice measures to right the wrongs committed against their own people.⁴ Among them, truth commissions became the prominent method of transitional justice.⁵ Truth commissions are non-judicial bodies meant to uncover the truths surrounding the atrocities committed against the victims and their families.⁶ They are described as “temporary, official inquiries established to determine the facts, causes, and consequences of past human rights violations” and have other nation specific characteristics.⁷ Despite the countless obstacles they faced, Korean truth commissions have withstood the test of time and have proven themselves a formidable force in the country’s quest for justice.⁸

The objective of this article is to examine lessons from Korean truth commissions by exploring their evolution from 1948 to the present day. Part II examines two primary characteristics of South Korean truth commissions that distinguish them from other nations. Particularly, this section focuses

¹ See, e.g., TRUTH & RECONCILIATION COMM’N, S. KOR., TRUTH AND RECONCILIATION: ACTIVITIES OF THE PAST THREE YEARS 1, 60–65, 70–101 (2009), <https://justicespeaking.files.wordpress.com/2010/01/trc-report.pdf> [hereinafter TRUTH AND RECONCILIATION: ACTIVITIES OF THE PAST THREE YEARS]; JEJU 4.3 PEACE FOUND., THE JEJU 4.3 INCIDENT INVESTIGATION REPORT 303–401 (Dec. 2003), https://web.archive.org/web/20150921114226/http://www.jeju43peace.or.kr/report_eng.pdf [hereinafter THE JEJU 4.3 INCIDENT INVESTIGATION REPORT].

² Andrew Wolman, *Looking Back While Moving Forward: The Evolution of Truth Commissions in Korea*, 14 ASIAN-PAC. L. & POL’Y J. 27, 32–36 (2013). South Korea officially democratized in 1987, ending over two decades of brutal military rule. *Id.*

³ See TRUTH AND RECONCILIATION: ACTIVITIES OF THE PAST THREE YEARS, *supra* note 1, at 60–65, 70–101.

⁴ See, e.g., *id.* at 3; THE JEJU 4.3 INCIDENT INVESTIGATION REPORT, *supra* note 1, at 39–45.

⁵ See Wolman, *supra* note 2, at 30 (stating that Korea has an “extraordinarily long and important tradition of truth-seeking exercises”).

⁶ *In Search of the Truth: Creating an Effective Truth Commission*, ICTJ (2020), <https://www.ictj.org/sites/default/files/subsites/in-search-of-truth/>.

⁷ *Id.*

⁸ See, e.g., TRUTH AND RECONCILIATION: ACTIVITIES OF THE PAST THREE YEARS, *supra* note 1, at 60–65, 70–101; THE JEJU 4.3 INCIDENT INVESTIGATION REPORT, *supra* note 1, at 303–401.

on how Korean truth commissions focus on a broad range of issues and they utilize a victim-centered approach.⁹

Part III analyzes the successes and failures of South Korean truth commissions. Since World War II, Korea has implemented ten truth commissions.¹⁰ This article focuses on five truth commissions that collectively addressed seventy years of Korean history: The Japanese colonization of Korea (1910-1945), the U.S. occupation of Korea (1945-1948), the Korean War (1950-1953), and authoritarian rule (1961-1988).¹¹ First, this section begins with the Truth Commission on Anti-Nation Activities (“Anti-Nation Commission”).¹² The Korean government established the Anti-Nation Commission in 1948 to investigate and prosecute human rights abuses that occurred during the Japanese colonization of Korea from 1910 to 1945.¹³ Second, this section explores the contributions of the National Committee for Investigation of the Truth about the Jeju 4.3 Events (“Jeju Commission”).¹⁴ From 2000 to 2002, the Jeju Commission investigated the deadly Jeju Uprising instigated by the Rhee Syngman government during the U.S. occupation of Korea.¹⁵ Third, this section examines the mandate of the Truth and Reconciliation Commission of Korea (“TRCK”).¹⁶ From 2005 to 2010, the TRCK investigated the 1950 Bodo League Massacre and the 1951 Geochang

⁹ See TRUTH AND RECONCILIATION: ACTIVITIES OF THE PAST THREE YEARS, *supra* note 1, at 24; *Roh Attends Memorial for Jeju Massacre Victims*, CHOSUNILBO (Apr. 3, 2006), http://english.chosun.com/site/data/html_dir/2006/04/03/2006040361023.html.

¹⁰ Hun Joon Kim, *Truth Commissions in South Korea: Lessons Learned*, MIDDLE EAST INST. (Dec. 20, 2013), <https://www.mei.edu/publications/truth-commissions-south-korea-lessons-learned> [hereinafter Kim, *Truth Commissions in South Korea*].

¹¹ See Wolman, *supra* note 2, at 33 n.35; James I. Matray, *Hodge Podge: American Occupation Policy in Korea, 1945-1948*, 19 KOREAN STUD. 17, 17 (1995); *Korean War*, HISTORY (Nov. 9, 2009), <https://www.history.com/topics/korea/korean-war>; Kim Tong-Hyung, *South Korea's History of Bad Presidential Endings Grows*, ASS'N PRESS (Apr. 6, 2018), <https://apnews.com/article/f4de2c758f70450583bdf1539e3fa3bd>.

¹² 반민족행위처벌법 [Special Act for Punishment of the Anti-Nation Activities], Law No. 13, Dec. 7, 1948., art. 9, (S. Kor.) [http://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EB%B0%98%EB%AF%BC%EC%A1%B1%ED%96%89%EC%9C%84%EC%B2%98%EB%B2%8C%EB%B2%95/\(00013,19481207\)](http://www.law.go.kr/%EB%B2%95%EB%A0%B9/%EB%B0%98%EB%AF%BC%EC%A1%B1%ED%96%89%EC%9C%84%EC%B2%98%EB%B2%8C%EB%B2%95/(00013,19481207)); see Kuk Cho, *Transitional Justice in Korea: Legally Coping with Past Wrongs After Democratization*, 16 WASH. INT'L L.J. 579, 588 n.42 (2007).

¹³ Special Act for Punishment of the Anti-Nation Activities, Law No. 13 art. 1; see Cho, *supra* note 12, at 588.

¹⁴ See THE JEJU 4.3 INCIDENT INVESTIGATION REPORT, *supra* note 1, at 52–65.

¹⁵ *Id.* at 3–4; Choe Sang-hun, *Memories of Massacres Were Long Suppressed Here. Tourists Now Retrace the Atrocities*, N.Y. TIMES (May 28, 2019), <https://www.nytimes.com/2019/05/28/world/asia/south-korea-jeju-massacres.html>.

¹⁶ *Truth Commission: South Korea 2005*, U.S. INST. PEACE (Apr. 18, 2012), <https://www.usip.org/publications/2012/04/truth-commission-south-korea-2005>.

massacre.¹⁷ Finally, this section examines the activities of the Gwangju Congressional Committee (“Gwangju Commission”) and the Presidential Truth Commission on Suspicious Deaths (“Presidential Commission”).¹⁸ The Gwangju Commission was established first in 1980, and the Presidential Commission in 2000.¹⁹ Both truth commissions investigated the atrocities committed against the Korean people during the authoritarian regimes of Park Chung-hee (1963-1979) and Chun Doo-hwan (1980-1988).²⁰

Part IV explores the lessons that can be learned from South Korean truth commissions. This section argues that the primary lessons from Korean truth commissions include the power of fervent public involvement, the benefits and detriments of active government involvement, and the importance of realistic mandates.²¹ Part V examines the future of South Korean truth commissions. This section provides suggestions on how to improve Korean truth commissions. The primary issues of Korean truth commissions include presidential interference, lack of positive accountability, and failure to properly address the story of comfort women.²² This section recommends that the Korean government limit

¹⁷ TRUTH AND RECONCILIATION: ACTIVITIES OF THE PAST THREE YEARS, *supra* note 1, at 11, 47.

¹⁸ In Sup Han, *Kwangju and Beyond: Coping with Past State Atrocities in South Korea*, 27 HUM. RTS. Q. 998, 1004 n.17 (2005), <https://www.jstor.org/stable/pdf/20069818.pdf>; *Truth Commission: South Korea 2000*, U.S. INST. OF PEACE (Oct. 1, 2000), <https://www.usip.org/publications/2000/10/truth-commission-south-korea-2000>.

¹⁹ *Truth Commission: South Korea 2000*, U.S. INST. OF PEACE (Oct. 1, 2000), <https://www.usip.org/publications/2000/10/truth-commission-south-korea-2000>.

²⁰ Han, *supra* note 18, at 1003; A HARD JOURNEY TO JUSTICE: FIRST TERM REPORT BY THE PRESIDENTIAL TRUTH COMMISSION ON SUSPICIOUS DEATHS OF THE REPUBLIC OF KOREA 35–45 (2004) [hereinafter A HARD JOURNEY TO JUSTICE].

²¹ HUN JOON KIM, THE MASSACRES AT MT. HALLA: SIXTY YEARS OF TRUTH SEEKING IN SOUTH KOREA 46 (2014); *What Are Truth Commissions?*, ICTJ 9–10 (2013), <https://ictj.org/sites/default/files/ICTJ-Book-Truth-Seeking-Chapter2-2013-English.pdf>; see, e.g., Hunjoon Kim, *Seeking Truth after 50 Years: The National Committee for Investigation of the Truth about the Jeju 4.3 Events*, 3 INT’L J. TRANSITIONAL JUST. 406, 407–14 (2009) [hereinafter Kim, *Seeking Truth after 50 Years*].

²² See Paul Hanley, *Transitional Justice in South Korea: One Country’s Restless Search for Truth and Reconciliation*, 9 U. PENN EAST ASIA L. REV. 138, 161 (2014); Andrew Pollack, *New Korean Leader Agrees to Pardon of 2 Ex-Dictators*, N.Y. TIMES (Dec. 21, 1997), <https://www.nytimes.com/1997/12/21/world/new-korean-leader-agrees-to-pardon-of-2-ex-dictators.html>; THE JEJU 4.3 INCIDENT INVESTIGATION REPORT, *supra* note 1, at 647–56; Mark A. Nathan & Eon Joo Park, *Final Recommendations of the Truth and Reconciliation Commission, Republic of Korea*, 19 BUFF. HUM. RTS. L. REV. 77, 85–95 (2013); TRUTH AND RECONCILIATION: ACTIVITIES OF THE PAST THREE YEARS, *supra* note 1, at 1–137.

executive interference, emphasize positive accountability, and form a truth commission to address the comfort women issue.

II. CHARACTERISTICS OF SOUTH KOREAN TRUTH COMMISSIONS

Like many truth commissions across the world, South Korean truth commissions have their own unique characteristics.²³ This section explores two of those distinct characteristics: the scope of issues covered by the truth commissions and how the truth commissions use a victim-centered approach.

A. *South Korean Truth Commissions Cover a Wide Range of Issues*

South Korean truth commissions cover a vast range of issues, that address everything from brutal massacres to the international introduction of taekwondo to South Korea's national prestige.²⁴ The use of truth commissions in this manner indicates that Korean truth commissions play the dual role of providing restorative justice to Koreans affected by cruel atrocities committed by their own government or by foreign powers, while also providing a platform for evaluating the country's national prestige.²⁵ The wide scope of issues are characteristics uncommon in other truth commissions, such as South Africa²⁶ and Peru.²⁷

B. *South Korean Truth-Commissions are Victim-Centered*

As non-judicial bodies, South Korean truth commissions are victim-centered because they aim to establish factual narratives of past events.²⁸ In particular, Korean truth commissions focus on "restoring the honor" (*myeong-ae hoebok*) of victims who perished as a result of systemic massacres by the Korean government during the post-World War II period, and family members who suffered from stigmatization and discrimination

²³ See discussion *infra* notes 26, 27.

²⁴ TRUTH AND RECONCILIATION: ACTIVITIES OF THE PAST THREE YEARS, *supra* note 1, at 24. Taekwondo is an art of self-defense that originated in Korea. Steven D. Capener, *The Making of a Modern Myth: Inventing a Tradition of Taekwondo*, 56 KOREA J. 61, 62 (2016). It is recognized as one of the oldest forms of martial arts in the world, reaching back over 2,000 years. Wolman, *supra* note 2, at 51.

²⁵ Donald H.J. Hermann, *Restorative Justice and Retributive Justice: An Opportunity for Cooperation or an Occasion for Conflict in Search for Justice*, 16 SEATTLE J. FOR SOC. JUST. 71, 72 (2017). South Korean truth commissions mainly focus on restorative justice. See *id.*; *Roh Attends Memorial for Jeju Massacre Victims*, *supra* note 9.

²⁶ See PRISCILLA B. HAYNER, *UNSPEAKABLE TRUTHS: TRANSITIONAL JUSTICE AND THE CHALLENGE OF TRUTH COMMISSIONS* 27–28 (2d ed. 2011). South African truth commissions tend to focus on bringing about a reconciliation of its people by uncovering the truth about past human rights abuses. *Id.*

²⁷ *Id.* at 35–39. Peruvian truth commissions focused on identifying the direct causes of past human rights violations. *Id.*

²⁸ See *Roh Attends Memorial for Jeju Massacre Victims*, *supra* note 9.

as a result of the massacres.²⁹ In fact, part of the mandate of the Truth and Reconciliation Commission of Korea (“TRCK”) was fostering reconciliation between the perpetrators and victims based on the perpetrator offering repentance to the bereaved family and for the bereaved family to offer forgiveness to the perpetrator.³⁰ For example, the TRCK rehabilitated the reputations of family members who suffered from discrimination by the Korean government for being communist sympathizers by publicizing the grievances of the families and by obtaining an official apology from President Roh Moo-hyun in 2008 for their suffering.³¹

While the victim-centered approach allowed Korean truth commissions to focus exclusively on restoring the honor of the victims, this focus resulted in a problematic lack of attention on the perpetrators.³² For example, the commissions did not publicize the names of the perpetrators and performed only cursory investigations into the causes and consequences of systemic massacres, tortures, and kidnappings by the Korean government.³³ Reasons for the unwillingness of Korean truth commissions to reveal names of perpetrators ranged from saving face to the perpetrators having no choice but to carry out the crimes because “it was the law” at the time.³⁴ In other words, while Korean truth commissions excelled at

²⁹ Benjamin Katzeff Silberstein, *South Korea’s Own History Problem*, DIPLOMAT (Aug. 21, 2014), <https://thediplomat.com/2014/08/south-koreas-own-history-problem/>. The Bodo League Massacre is one such massacre that occurred during the Korean War. The massacre was orchestrated by then-President Syngman Rhee who ordered the deaths of supposed communist sympathizers. It is estimated that the massacre claimed between 100,000 and 200,000 lives. *Id.*; *Korea: The Korean War*, MASS ATROCITY ENDINGS (Aug. 7, 2015), <https://sites.tufts.edu/atrocityEngine/2015/08/07/korea-the-korean-war/> (stating that Syngman Rhee ordered the deaths of “supposed Communist sympathizers” during the Bodo League Massacres); *see also Truth and Reconciliation: Activities of the Past Three Years*, *supra* note 1, at 92–93.

³⁰ TRUTH AND RECONCILIATION: ACTIVITIES OF THE PAST THREE YEARS, *supra* note 1, at 34.

³¹ *See id.* at 12.

³² *See* Hanley, *supra* note 22, at 162 (stating that Korean truth commissions have refrained from publicizing the names of the perpetrators).

³³ *See id.*

³⁴ *Id.* at 158; *see* Choe Sang-Hun, *South Korea Admits Civilian Killings During War*, N.Y. TIMES (Nov. 26, 2009), <https://www.nytimes.com/2009/11/27/world/asia/27korea.html>; *see also* Lee Sunwoo, *Chaemyun—How Much Longer Should it be Saved*, GRANITE TOWER (Sept. 3, 2015), <http://www.thegrانيتower.com/news/articleView.html?idxno=1285>. The concept of “face-saving” (“*chaemyun*”) has multiple meanings in Korean society, ranging from retaining a positive image in the international community to preserving family honor. As the majority of systemic massacres were orchestrated by the Korean government, itself, the government made efforts to cover up their crimes until the country democratized in 1987. Sunwoo, *supra* note 34.

uncovering the historical facts behind atrocities, the focus on victims by the truth commissions failed to provide broader narratives in addressing questions of causation and consequences.³⁵

III. SOUTH KOREA'S TRANSITIONAL JUSTICE: TRUTH COMMISSIONS

Throughout their history, the South Korean people have been brutalized by both foreign powers and their own government through murders, kidnappings, and torture.³⁶ Korea has attempted to right the wrongs of its past through their truth commissions.³⁷ Since the end of World War II, South Korea has had at least ten truth commissions.³⁸ This section covers five out of the ten truth commissions spanning four major time periods: Japanese colonial rule (1910-1945), the U.S. occupation of Korea (1945-1948), the Korean War (1950-1953), and over two decades of authoritarian leadership (1963-1988). In addition, this section analyzes the treatment of the Korean people during that time period and examines how truth commissions have attempted to address those atrocities.

A. *South Korean Truth Commissions and Japanese Colonialism*

South Korea's earliest truth commission was set up in 1948 to address atrocities committed by the Japanese during the Japanese colonial period from 1910 to 1945.³⁹ Japanese colonization of Korea was marked by thirty-five years of ruthless repression of the Korean people by the Japanese government during this time.⁴⁰ According to the late Professor R.J. Rummel, an estimated 670,000 Koreans were conscripted to forced labor and over 60,000 deaths occurred within the period between 1939 to 1945.⁴¹ The Japanese government often reacted with violent "hysteria" when Koreans took to the streets to protest Japanese rule.⁴² For example, during a demonstration that took place in summer 1919, nearly 7,500 Koreans lost their lives, 15,000 were injured, and an additional 45,000 were arrested.⁴³

To address the horrors of Japanese rule, the Korean government enacted the Act for Punishing Anti-Nation Activities in 1948, which

³⁵ See Hanley, *supra* note 22, at 158.

³⁶ See *e.g.*, *id.* at 139, 165.

³⁷ See TRUTH AND RECONCILIATION: ACTIVITIES OF THE PAST THREE YEARS, *supra* note 1, at 3; THE JEJU 4.3 INCIDENT INVESTIGATION REPORT, *supra* note 1, at 39–45.

³⁸ Kim, *Truth Commissions in South Korea*, *supra* note 10.

³⁹ Wolman, *supra* note 2, at 33 n.35.

⁴⁰ See MICHAEL E. ROBINSON, *KOREA'S TWENTIETH-CENTURY ODYSSEY* 4 (2007).

⁴¹ R.J. Rummel, *Statistics of Japanese Democide Estimates, Calculations, and Sources*, HAW. (2002), <https://www.hawaii.edu/powerkills/SOD.CHAP3.HTM>.

⁴² ROBINSON, *supra* note 40, at 48.

⁴³ *Id.*

established the Anti-Nation Commission through a legislative mandate.⁴⁴ The Special Act for the Punishment of the Anti-Nation Activities established this truth commission to investigate and punish Koreans who collaborated with the Japanese occupiers.⁴⁵ The Anti-Nation Commission consisted of ten members, its own enforcement unit, a special prosecutorial office, and a special court.⁴⁶ The Anti-Nation Commission was headed by Kim Sang-deok, a prominent freedom fighter during Japanese rule, while the special court was headed by Kim Byung-roh, the chief judge of the South Korean Supreme Court.⁴⁷ Consisting of sixteen judges, the special court had the authority to sentence collaborators to life imprisonment for their involvement in the suffering of Koreans.⁴⁸ By including a special court and a special prosecutorial office, the Korean government provided the Anti-Nation Commission with a prosecutorial mandate that demonstrated a desire to use truth commissions as a mechanism of retributive justice.⁴⁹ However, the Anti-Nation Commission prematurely closed its doors without completing its mandate due to the corruption that was rampant during the administration of President Syngman Rhee from 1948 to 1960.⁵⁰ The Korean Peninsula was divided along the 38th parallel in 1948, a mere three years since the country became independent from Japan.⁵¹ As a result,

⁴⁴ Special Act for Punishment of the Anti-Nation Activities, art. 9 (S. Kor.).

⁴⁵ *Id.* art. 1; *see* Cho, *supra* note 12, at 588.

⁴⁶ Special Act for Punishment of the Anti-Nation Activities, arts. 9(2), 12(1), 26(1), 27.

⁴⁷ *See* 역사 바로 세우기에 앞서 반민특위 위원장 김상덕 선생을 기린다(2) [Commemorating Kim Sang-deok, Chairman of the Committee for Anti-Nation Activities] THE CITIZENS ARE THE PRESS (Apr. 9, 2019) (S. Kor.), <http://www.newspole.kr/news/articleView.html?idxno=5286>; Han In-sup, 반민종행위자의 처벌과 김병로—반민특위 특별재판부장의 역할을 중심으로 [The Punishment of Anti-Nation Actors and Kim Byung-ro: Focusing on the Role of the Director of the Special Court of the Anti-Nation Special Commission] 57 SEOUL L.J. 105, 106–07 (2016) (S. Kor.) [hereinafter Han, *The Punishment of Anti-Nation Actors and Kim Byung-ro*].

⁴⁸ Han, *The Punishment of Anti-Nation Actors and Kim Byung-ro*, *supra* note 47, at 110; Special Act for Punishment of the Anti-Nation Activities, art. 1.

⁴⁹ *See* Special Act for Punishment of the Anti-Nation Activities, art. 1.

⁵⁰ Hanley, *supra* note 22, at 142–43. Syngman Rhee was elected as South Korea's first President in 1948 with substantial backing from the United States. *Id.* Following their surrender in WWII, Japan was occupied by the Allied Powers, led by the United States. Due to his pro-U.S. stance, the Rhee government followed a policy of repression of "leftist" activity and instituted harsh reprisals against any and all threats by groups with perceived leftist leanings. *Id.*

⁵¹ *See* *Korea as a Colony of Japan, 1910-1945*, ASIA FOR EDUCATORS, COLUM. UNIV. (2021), http://afe.easia.columbia.edu/main_pop/kpct/kp_koreaimperialism.htm;

the Korean Peninsula was highly unstable as the two Koreas struggled to come to terms with a communist regime in the North and a U.S. military government in the South.⁵² Rhee's electoral win to become South Korea's first president after the Korean War was due in large part to his backing by the United States and his adherence to pro-U.S. stances.⁵³ In particular, Rhee's "strongly anti-communist stance" proved a great obstacle for the Anti-Nation Commission.⁵⁴ Due to the Anti-Nation Commission's active involvement in investigating Korean collaborators, the Rhee government accused the Anti-Nation Commission of being a leftist organization that conspired to prosecute its own people.⁵⁵ President Rhee went so far as to order police raids of the Anti-Nation Commission that injured numerous commissioners and destroyed important documents.⁵⁶ The failure of Korea's first truth commission was the result of the gross instability and corruption of leadership that occurred following the Japanese occupation.⁵⁷ Although the Anti-Nation Commission met an unfortunate end, it served as a model for future truth commissions in Korea.⁵⁸ In particular, the fallout of the Anti-Nation Commission revealed the importance of a strong mandate and government support.⁵⁹

Sarah Pruitt, *Why Are North and South Korea Divided?*, HIST. (Jan. 15, 2019), <https://www.history.com/news/north-south-korea-divided-reasons-facts>.

⁵² See *The Potsdam Conference*, KOREAN WAR (2020), <http://thekoreanwar1945.weebly.com/the-potsdam-conference-1945.html>. The 38th parallel is a line that demarcates North Korea and South Korea. *Id.* The line was chosen by the United States at the Potsdam Conference in July 1945, where the then-Soviet Union established a communist regime in North Korea and the United States established its own military government in South Korea. *Id.*; see also William Stueck & Boram Yi, "An Alliance Forged in Blood": *The American Occupation of Korea, the Korean War, and the US-South Korean Alliance*, 33 J. STRATEGIC STUD. 177, 178–80 (2010).

⁵³ Matray, *supra* note 11, at 24–27.

⁵⁴ See Sarah Pruitt, *Why Are North and South Korea Divided?*, HIST. (Jan. 15, 2019), <https://www.history.com/news/north-south-korea-divided-reasons-facts>.

⁵⁵ See '반공 운운한' 운운한 이승만 정권이 진짜 두려워한 것 [Kim Jong-sung, *Running an "Anti-Communist State," What the Syngman Rhee Regime was Really Afraid Of*] OHMYNEWS (May 24, 2020) (S. Kor.), http://www.ohmynews.com/NWS_Web/View/at_pg.aspx?CNTN_CD=A0002642667.

⁵⁶ "반민특위" 구성과 해체 그리고 한계 ["*The Anti-Nation Committee's*" *Composition, Dissolution, and Limitations*], HIST. OF HIST. (Mar. 16, 2019) (S. Kor.), <https://m.blog.naver.com/PostView.nhn?blogId=joonho1202&logNo=221489664147&proxyReferer=https:%2F%2Fwww.google.com%2F>.

⁵⁷ *Id.*

⁵⁸ See Kim, *Truth Commissions in South Korea*, *supra* note 10.

⁵⁹ See *Rule-of-Law Tools for Post-Conflict States*, OFF. OF THE UN HIGH COMMISSIONER FOR HUM. RTS. 2, 6–8 (2006), <https://www.ohchr.org/Documents/Publications/RuleoflawTruthCommissionsen.pdf>.

B. *South Korean Truth Commissions and the U.S. Occupation*

Japanese colonization of Korea ended when Japan surrendered to the United States in 1945.⁶⁰ Soon afterward, the U.S. Army occupied South Korea until the establishment of the Korean government in 1948.⁶¹ During the U.S.'s three-year occupation of Korea, the United States suppressed grassroots state-building efforts, continued collaborating with both Japanese and Korean collaborators, and banned communism.⁶² Public distress from these policies resulted in one of South Korea's deadliest massacres—the 1948 Jeju uprising.⁶³

In January 2000, the National Assembly of Korea (“National Assembly”)⁶⁴ passed the Special Act for the Investigation of the Jeju 4.3 Events and Restoration of the Honor of Victims (“Special Act”).⁶⁵ The legislative mandate established the Jeju Commission to investigate the deadly Jeju Uprising that claimed over 30,000 lives.⁶⁶ The Jeju Commission was headed by the Prime Minister of Korea and comprised of twenty members that included the governor of Jeju, seven ministers, and twelve civil society representatives.⁶⁷ The governor of Jeju was in charge of collecting the evidence needed to investigate the Jeju Uprising and publishing reports on behalf of the Jeju Commission.⁶⁸ The Jeju Commission primarily focused on investigations, the screening of victims, and commemoration projects.⁶⁹ The Special Act mandated the Jeju Commission to focus only on the Jeju Uprising and to finish its investigation in two years.⁷⁰ Although the precise budget is unknown, it has been reported that the Jeju Commission spent “less than \$10 billion” during its two-year

⁶⁰ Matray, *supra* note 11, at 17.

⁶¹ *Id.* at 29–30.

⁶² *See id.* at 18–22; Steuck & Yi, *supra* note 52, at 179.

⁶³ Choe, *supra* note 15.

⁶⁴ The National Assembly is the South Korean equivalent of the U.S. Congress. *Government Stats: Compare Key Data on South Korea & United States*, NATIONMASTER (2021), <https://www.nationmaster.com/country-info/compare/South-Korea/United-States/Government>.

⁶⁵ Kim Dong-Choon, *Korea's Truth and Reconciliation Commission: An Overview and Assessment*, 19 *BUFF. HUM. RTS. L. REV.* 97, 99 (2012) [hereinafter Kim, *Korea's Truth and Reconciliation Commission*].

⁶⁶ THE JEJU 4.3 INCIDENT INVESTIGATION REPORT, *supra* note 1, at 3–6. The “Jeju 4.3 Events” refers to the fact that the Jeju uprising occurred on April 3, 1948. *Id.*

⁶⁷ *Id.* at 49–50.

⁶⁸ *Id.* at 42.

⁶⁹ *Id.* at 41, 458.

⁷⁰ Kim, *Truth Commissions in South Korea*, *supra* note 10.

mandate.⁷¹ The Final Report of the Jeju Commission confirmed systemic massacres, indiscriminate arrests, torture, and summary executions by the Rhee government during the U.S. military occupation of Korea.⁷² The release of the Final Report in 2003 resulted in a public apology from then-President Roh Moo-hyun, the inclusion of the Final Report in Korea's educational curriculum, and the creation of memorials for the deceased.⁷³

Unlike the Anti-Nation Commission, the Jeju Commission had a clear mandate that authorized the Jeju Commission to freely conduct investigations into the Jeju Uprising.⁷⁴ The extensive involvement of the Office of the Prime Minister also showed how proper governmental support helped the Jeju Commission succeed.⁷⁵ The apology from President Roh was particularly significant because it marked the first apology by a head of state for human rights abuses in Korea.⁷⁶ Furthermore, the allowance of the Final Report in high school classrooms allowed for a more neutral understanding of what really happened in the period leading up to the Korean War.⁷⁷

C. *South Korean Truth Commissions and the Korean War*

The Korean War claimed the lives of over 1,000,000 civilians, which made it the deadliest civilian event in Korean history.⁷⁸ During the Korean war, atrocities were committed by the South Korean government against its

⁷¹ *Id.*

⁷² THE JEJU 4.3 INCIDENT INVESTIGATION REPORT, *supra* note 1, at 60–65, 70–101.

⁷³ *President Roh Moo-Hyun Issues a State Apology for the Jeju 4.3 Uprising and Massacre*, JEJU 4.3 FROM TRUTH TO PEACE (Oct. 8, 2018), <http://jeju43peace.org/president-roh-moo-hyun-issues-a-state-apology-for-the-jeju-4%C2%B73-uprising-and-massacre/>. In his apology, President Roh did not acknowledge President Rhee's involvement in the Jeju Uprising. In their Final Report, however, the Jeju Commission did recommend the Korean government issue an official apology to the citizens of Jeju, specifically. President Roh stated, "I accept the committee's recommendation and hold the government responsible and truly extend my official apology for the wrongdoings of past national authorities." *Id.*; Kim, *Seeking Truth after 50 Years*, *supra* note 21, at 407–14.

⁷⁴ *See* THE JEJU 4.3 INCIDENT INVESTIGATION REPORT, *supra* note 1, at 687–704.

⁷⁵ *See id.* at 49.

⁷⁶ Ser Myo-ja & Park Kwang-soo, *Police, Military Apologize for Jeju*, KOREA JOONANG DAILY (Apr. 3, 2019), <https://koreajoongangdaily.joins.com/2019/04/03/politics/Police-military-apologize-for-Jeju/3061407.html>.

⁷⁷ KIM, *supra* note 21, at 154.

⁷⁸ *First U.S. Fatality in the Korean War*, HIST. (July 21, 2010), <https://www.history.com/this-day-in-history/first-u-s-fatality-in-the-korean-war>.

own citizens.⁷⁹ For example, the 1949 Bodo League massacres that occurred during the Rhee presidency claimed the lives of nearly 200,000 South Koreans for allegedly being North Korean spies or communist sympathizers.⁸⁰ Similarly, over 700 lives were lost in the village of Geochang, where the South Korean government unleashed a tirade in the name of “democracy.”⁸¹ The violence carried out by the South Korean government against its own people was appalling, both in its nature and the number of victims.⁸²

In May 2005, the National Assembly passed the Framework Act on Clearing up Past Incidents for Truth and Reconciliation (“the Framework Act”) that established the TRCK.⁸³ The Framework Act mandated the TRCK to investigate human rights violations that occurred between 1910 and 1987 in a span of five years, which included the Bodo League Massacres and the Geochang Massacres.⁸⁴ The TRCK consisted of fifteen commissioners, where eight were recommended by National Assembly members, four were appointed by the President, and three were nominated by the Chief Justice of the Supreme Court.⁸⁵ Additionally, the TRCK’s budget was approximately ₩19.7 billion won (or \$14 million USD), which were divided towards operating expenses and personnel.⁸⁶ In its Final Report, the TRCK determined that the Korean government participated in the murders of over 200,000 Korean civilians during the Bodo League massacres and an additional 700 Geochang villagers.⁸⁷ In addition, the

⁷⁹ See TRUTH AND RECONCILIATION: ACTIVITIES OF THE PAST THREE YEARS, *supra* note 1, at 47.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ See *id.* at 13.

⁸⁴ *Id.* at 5, 24, 47. The Korean government’s decision to focus on seventy-seven years of Korean history stemmed from a desire to improve its standing in the international community and to discern patterns of the causes and consequences of past atrocities so that they do not happen again. The Commission’s 2009 midterm report stated, “The issue of revisiting and clarifying historical events surrounding . . . the darker side of [Korea’s] 20th-century history is being controversially discussed around the world. With such international attention . . . Korea’s own efforts extend beyond one nation and emphasize to the world the importance of settlement.” *Id.* at 5.

⁸⁵ *Id.* at 14.

⁸⁶ *Id.* at 15.

⁸⁷ *Id.* at 47. Although the Final Report did not identify specific people responsible for the massacres, the Final Report acknowledged that the Korean military and the police were involved in the deadly massacres of Korean citizens during the Korean War. Interestingly, the Final Report did reveal the names of some victims, such as victims falsely

TRCK made a total of seventeen recommendations, which included recommendations that the Korean government find “proper burial places” for the remains of the victims massacred during the Korean War, provide for local memorial services for the victims, and attempt to obtain evidence from the United States about incidents during the Korean War.⁸⁸

Although the TRCK made efforts to locate remains from mass graves related to the Bodo League Massacres and the Geochang massacres, the TRCK’s efforts were cut short due to an abrupt change in leadership in 2008, when President Lee Myung-bak came to power.⁸⁹ When established in 2005, the TRCK had the full support of then President Roh Moo-hyun who was committed to using truth commissions as a vehicle for uncovering the violent truths of Korea’s past.⁹⁰ In contrast, President Lee saw truth commissions as an obstacle to his goal of bolstering Korea’s economy.⁹¹ The TRCK’s resources and mandate became even more vulnerable when Lee appointed “new leaders” to the TRCK commission to better serve his policy agendas.⁹²

Like the Jeju Commission, extensive government involvement allowed for the TRCK to liberally conduct investigations into massacres that occurred during the Korean War.⁹³ The TRCK went to great lengths to seek out the truths behind the Bodo League Massacres and the Geochang

accused as Japanese spies during the Japanese occupation. This reveals both the reluctance of Korean society to release the names of perpetrators and Korean society’s determination to use truth commissions purely as a mechanism of restorative justice. *See* Nathan & Park, *supra* note 22, at 85–95.

⁸⁸ Nathan & Park, *supra* note 22, at 93–95.

⁸⁹ Geoffrey Cain, *Is Time Running Out to Dig Up S Korea’s Mass Graves?*, TIME (Nov. 27, 2009), <http://content.time.com/time/world/article/0,8599,1943075,00.html>.

⁹⁰ Prior to becoming President, President Roh was a prominent human rights lawyer and was a key player in supporting Korea’s transition from a military dictatorship to a full-fledged democracy. Choe Sang-hun, *Roh Moo-hyun, Ex-President of South Korea, Kills Himself*, N.Y. TIMES (May 22, 2009), <https://www.nytimes.com/2009/05/23/world/asia/23korea.html?searchResultPosition=1>; Kim, *Korea’s Truth and Reconciliation Commission*, *supra* note 65, at 99–100.

⁹¹ Kim, *Korea’s Truth and Reconciliation Commission*, *supra* note 65, at 108–09. President Lee was the key architect of the Korea-U.S. Free Trade Agreement in 2009. Scott A. Snyder, *KORUS FTA and the Need for the U.S. Trade and Investment Policy*, COUNCIL ON FOREIGN REL. (Sept. 21, 2011), <https://www.cfr.org/blog/korus-fta-and-need-us-trade-and-investment-policy>.

⁹² Kim, *Korea’s Truth and Reconciliation Commission*, *supra* note 65, at 109. Due to disruptions by the Lee government, the Korean government was unable to carry out the recommendations of the TRCK. For example, the TRCK faced obstacles in locating the remains of victims who perished during the Bodo League Massacres. *See id.* at 112–22; Cain, *supra* note 89.

⁹³ *See* Kim, *Korea’s Truth and Reconciliation Commission*, *supra* note 65, at 100–08.

massacres by recovering remains from mass graves and interviewing surviving family members.⁹⁴ However, the TRCK also revealed the flaws of extensive government involvement.⁹⁵ While the TRCK thrived under President Roh, the TRCK experienced a major hurdle under President Lee.⁹⁶ Due to the series of pushbacks by the Lee government, the TRCK ended up closing its doors without completing its mandate, leaving many investigations incomplete.⁹⁷

D. *South Korean Truth Commissions and Authoritarian Rule*

Following the Korean War, South Korea suffered through over two decades of authoritarian rule.⁹⁸ Korea's period of authoritarian rule can be divided into two separate regimes: the Park Chung-hee regime (1963-1979) and the Chun Doo-hwan regime (1980-1988).⁹⁹ Ranging from kidnappings, tortures, and massacres, the Korean people endured unspeakable horrors under the Park and Chun regimes.¹⁰⁰ This section examines both the Gwangju Commission and the Presidential Commissions' response to addressing the atrocities from Korea's authoritarian regime.

1. The Gwangju Commission and Addressing the Gwangju Massacre

In May 1980, the South Korean people took to the streets of Gwangju to protest the authoritarian regime of General Chun Doo-hwan.¹⁰¹ In response, the Korean government sent around 700 paratroopers, who brutally bludgeoned and shot many of the civilians to death over the course of several days of protest.¹⁰² The terror lasted four days and estimates say it

⁹⁴ See generally Cain, *supra* note 89.

⁹⁵ See Kim, *Korea's Truth and Reconciliation Commission*, *supra* note 65, at 108–09.

⁹⁶ *Id.*

⁹⁷ Ashley Rowland & Hwang Hae-Rym, *Time Running Out on South Korea's Truth and Reconciliation Commission*, STARS & STRIPES (Jan. 19, 2010), <https://www.stripes.com/news/time-running-out-on-south-korea-s-truth-and-reconciliation-commission-1.98156>.

⁹⁸ Robert A. Wampler, *How Do You Solve a Problem Like (South) Korea? The Carter Years*, NAT'L SEC. ARCHIVE (June 1, 2017), <https://nsarchive.gwu.edu/briefing-book/korea/2017-06-01/how-do-you-solve-problem-south-korea>.

⁹⁹ *Id.*

¹⁰⁰ See Hanley, *supra* note 22, at 140.

¹⁰¹ Kallie Szczepanski, *The Gwangju Massacre, 1980*, THOUGHTCO. (Jan. 23, 2019), <https://www.thoughtco.com/the-gwangju-massacre-1980-195726>. General Chun Doo-hwan succeeded General Park Chung-hee when Park was assassinated in 1979. Chun's policies were similar to Parks, reigning with terror and fear. *Id.*

¹⁰² *Id.*

claimed more than 2,000 lives.¹⁰³ Among the casualties was a deaf twenty-nine-year-old man named Kim Byung-chul and twenty high school girls who protested in front of their school.¹⁰⁴ Becoming known as the Gwangju Massacre, this event is widely regarded as the nation's most traumatic episode in recent memory.¹⁰⁵ In 1988, the National Assembly set up the Gwangju Commission, which held seventeen hearings by summoning relevant government officials who were involved in the Gwangju Massacre.¹⁰⁶ The Gwangju Commission prompted the National Assembly to "pass[] a new act allowing victim compensation."¹⁰⁷ Chun later appeared before the National Assembly to testify about the massacre.¹⁰⁸ Eventually, in 1996, Chun was found guilty by the Seoul Supreme Court and was sentenced to death.¹⁰⁹ In 1997, the Supreme Court reduced the sentence to life imprisonment.¹¹⁰ However, Chun was pardoned by then-President Kim Dae-jung, reversing Chun's death sentence and setting him free.¹¹¹ Chun's public trial also spoke to a Korean truth commission's ability to influence government action.¹¹² Following the establishment of the Gwangju Commission, the National Assembly passed a reparations law, known as the Act for Compensation for the Victims in the Democratization Movement in Kwangju (the "Special Act").¹¹³ The Special Act was the first piece of legislation that ordered government reparations to victims of state violence.¹¹⁴ From 1990 to 1998, individual reparations were made to more than 4,000 victims with a total amount of ₩210 billion won (or \$175 million USD).¹¹⁵

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ Han, *supra* note 18, at 1004 n.17.

¹⁰⁷ *Id.* at 1004.

¹⁰⁸ *See id.* at 1004–05.

¹⁰⁹ *Id.* at 1008–09.

¹¹⁰ *Id.*

¹¹¹ *See* Pollack, *supra* note 22. In pardoning General Chun, a spokesperson for President Kim stated that the pardon was granted "to promote national reconciliation and rally the nation's energies to overcome the economic difficulties" due to the IMF crisis at the time. However, the Korean people were more skeptical. To the Korean people, the Presidential pardon of Chun revealed the "collusive ties between powerful businessmen and politicians." *Id.*

¹¹² *See generally* Han, *supra* note 18, at 1004–05.

¹¹³ *See* Hanley, *supra* note 22, at 148 n.49.

¹¹⁴ Han, *supra* note 18, at 1004.

¹¹⁵ *Id.* at 1034.

2. The Presidential Truth Commission on Suspicious Deaths and Authoritarianism

In addition to the Gwangju Massacre, another widespread abuse of power occurred during both the Park Chung-hee and the Chun Doo-hwan regimes and involved the mysterious deaths and disappearances of students, activists, and politicians.¹¹⁶ To address the events, the Presidential Commission was created through The Special Act to Find the Truth on Suspicious Deaths.¹¹⁷ The Presidential Commission served two terms—one from October 2000 to September 2002, and another from July 2003 to August 2004.¹¹⁸

The Presidential Commission was mandated to investigate the deaths of “members of the political opposition” who opposed the authoritarian regimes of Park Chung-hee and Chun Doo-hwan between 1975 and 1987.¹¹⁹ The Presidential Commission consisted of nine commissioners, most of whom were legal scholars.¹²⁰ The Head Commissioners were prominent professors from Korea’s best universities, lawyers, and government leaders.¹²¹ The commissioners were nominated by the National Assembly, who chose civilians with no apparent party affiliation in order to preserve neutrality.¹²² In the first term, the Presidential Commission had a budget of ₩11.5 billion Korean won (or \$9.6 million USD), while in its second term, the budget was decreased to ₩4.5 billion Korean won (or \$3.8 million USD).¹²³ In the Presidential Commission’s first term, it received around eighty applications from victims and family members.¹²⁴ Of the cases it investigated, the Presidential Truth Commission identified Korean police, the military, and the Korean Central Intelligence Agency as the perpetrators of violence against the Korean people.¹²⁵ Of the eighty suspicious deaths investigated, only nineteen were determined to have resulted from state violence, thirty cases were deemed undeterminable due to a lack of resources, and thirty-three cases were rejected because they

¹¹⁶ A HARD JOURNEY TO JUSTICE, *supra* note 20, at 123, 203–31.

¹¹⁷ *Truth Commission: South Korea 2000*, *supra* note 18.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*; A HARD JOURNEY TO JUSTICE, *supra* note 20, at 75.

¹²¹ A HARD JOURNEY TO JUSTICE, *supra* note 20, at 74–75.

¹²² *Id.*

¹²³ *Id.* at 76.

¹²⁴ *Id.* at 117.

¹²⁵ *See id.* at 37–38, 43–45.

were “not connected with the democratization movement.”¹²⁶ The commission’s Final Report from the first term recommended the Korean government to continue their efforts to identify perpetrators, issue public apologies to the victims’ families, and urged the National Assembly to pass legislation to pay reparations to bereaved families.¹²⁷ The Final Report stated that the reparations could come in the form of a lump-sum of cash, pensions, medical benefits, and educational benefits.¹²⁸

The Gwangju Commission’s handling of the Gwangju Massacre and the Presidential Commission’s handling of events that occurred during authoritarian rule reveal the positives and limitations of Korean truth commissions.¹²⁹ There are limited opportunities for truth commissions to provide retributive justice, as shown by the pardoning of General Chun.¹³⁰ On the other hand, Korean truth commissions have shown a willingness to compensate victims for their suffering, as the Presidential Commission has done.¹³¹

IV. LESSONS LEARNED FROM SOUTH KOREAN TRUTH COMMISSIONS

Over the years, Korean truth commissions have proven themselves to be an effective mechanism to address the many atrocities that occurred in Korea’s brutal past.¹³² There are many lessons that can be drawn from Korean truth commissions and this section brings those lessons to light. This section examines the power of public involvement, and positives and negatives of government involvement, and the significance of effective mandates.

A. *South Korean Truth Commissions are the Product of Fervent Public Involvement*

Strong and persistent local advocacy has been an important factor in the process of seeking transitional justice in South Korea.¹³³ Since Japanese colonial rule, Korean citizens courageously took to the streets to protest the atrocities committed against them.¹³⁴ This bravery gave the Korean government the motivation to pass legislation that established truth

¹²⁶ *Id.* at 117.

¹²⁷ *See id.* at 480–81.

¹²⁸ *Id.* at 557.

¹²⁹ *See generally* Han, *supra* note 18, at 1040–45.

¹³⁰ *See* Pollack, *supra* note 22.

¹³¹ A HARD JOURNEY TO JUSTICE, *supra* note 20, at 480–81.

¹³² *See, e.g.*, description *supra* notes 29, 77.

¹³³ KIM, *supra* note 21, at 46.

¹³⁴ *See* Szczepanski, *supra* note 101.

commissions to listen to the voices of victims and to learn the truth of what really happened.¹³⁵

The role of local advocacy was central to the establishment of the Jeju Commission.¹³⁶ In particular, two groups of local actors played a key role in the movement: student activists and journalists.¹³⁷ These actors were motivated by the pursuit of truth and to seek justice for atrocities committed against Korean civilians by their own government.¹³⁸ Student activists courageously made the first move.¹³⁹ In 1960, seven students at the Jeju National University formed the Student Association for Investigating the Truth of the Jeju 4.3 Events and conducted their own “on the spot” investigations of the Jeju Uprising.¹⁴⁰ The students’ activism caught the attention of a local newspaper called the “Jeju-Sinbo,” which conducted a more systematic investigation into the Jeju Uprising by obtaining direct testimony from the victims and uncovering the names of the perpetrators.¹⁴¹ However, the investigations came to a halt when General Park Chung-hee took over the government in 1961 and established an authoritarian government, which silenced the voices of the victims for around two decades.¹⁴² Calls to reopen investigations into the Jeju Uprising were heard again in 1995 when students across the country started submitting signed petitions to the National Assembly.¹⁴³ Seven years later, the Korean government passed the Jeju 4.3 Special Act for Investigating the Jeju April

¹³⁵ See generally *id.*

¹³⁶ KIM, *supra* note 21, at 46.

¹³⁷ *Id.* at 42.

¹³⁸ *Id.* at 46.

¹³⁹ See *id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.* at 47.

¹⁴² Brandon L. Santos, South Korean Nationalism and the Legacy of Park Chung Hee: How Nationalism Shaped Park’s Agendas and the Future Korean Sociopolitical Landscape 29, 58 (2018) (MAE: History program thesis, Chadron State College) (on file with University of Nebraska-Lincoln Digital Commons), available at <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1000&context=chadron>; see generally TRUTH AND RECONCILIATION: ACTIVITIES OF THE PAST THREE YEARS, *supra* note 1, at 5. During his regime, General Park drafted a constitution called the “Constitution of Revitalization Reforms” (“*Yushin honpop*”), which suspended the constitution and dissolved the legislature. Park used his newfound authority to silence activists and protestors through methods of torture, kidnappings, and murders. Santos, *supra* note 142, at 29, 58; see generally TRUTH AND RECONCILIATION: ACTIVITIES OF THE PAST THREE YEARS, *supra* note 1, at 5.

¹⁴³ THE JEJU 4.3 INCIDENT INVESTIGATION REPORT, *supra* note 1, at 41–42.

3 Incident and Recovering the Honor of Victims and established the Jeju Commission.¹⁴⁴

The efforts of students and journalists inspired activism across the nation, eventually motivating the National Assembly to establish the Jeju Commission.¹⁴⁵ Student activism nurtured others to become activists and participate in the movement for truth on the Jeju Uprising.¹⁴⁶ The results from the Jeju Commission exceeded expectations, prompting the nation's first public apology from the head of state, the inclusion of the Jeju Commission's Final Report in high school textbooks, and the erection of memorials to commemorate the victims.¹⁴⁷ The Jeju Commission would not have happened without the passionate activism of civilian activists.¹⁴⁸

B. *South Korean Truth Commissions and the Power of Active Government Involvement*

Government involvement in truth commissions is a double-edged sword. On the one hand, active government involvement implies a strong political will to correct the wrongs that have been committed in the past.¹⁴⁹ This means that the government can provide funding and other material resources to help truth commissions complete their mandates.¹⁵⁰ On the other hand, government involvement can be hurtful for a truth commission if the administration is corrupt or unsupported.¹⁵¹ Truth commissions are centered around victims, but if the government is corrupt, it can prevent a truth commission from achieving its goal.¹⁵²

One example of corruption is the failure of the South Korean government to follow through with the recommendations of the Presidential Commission.¹⁵³ One of those recommendations was for the government to enact legislation that would allow for criminal prosecutions of perpetrators who were responsible for the mysterious deaths and disappearances of pro-democracy activists during the reign of General Park and General Chun.¹⁵⁴

¹⁴⁴ Kim, *Korea's Truth and Reconciliation Commission*, *supra* note 65, at 99.

¹⁴⁵ KIM, *supra* note 21, at 47.

¹⁴⁶ *See id.* at 46.

¹⁴⁷ *See* Kim, *Truth Commissions in South Korea*, *supra* note 10.

¹⁴⁸ KIM, *supra* note 21, at 45–47.

¹⁴⁹ *See What Are Truth Commissions?*, *supra* note 21.

¹⁵⁰ *See id.*

¹⁵¹ *See* Kim, *Korea's Truth and Reconciliation Commission*, *supra* note 65, at 108–09.

¹⁵² *See id.* at 122; Cain, *supra* note 89.

¹⁵³ *See, e.g.,* Kuk Cho, *Transitional Justice in Korea: Legally Coping with Past Wrongs After Democratization*, 16 WASH. INT'L L.J. 579, 585–89 (2007).

¹⁵⁴ A HARD JOURNEY TO JUSTICE, *supra* note 20, at 475–76.

In particular, Recommendation 19 of the Presidential Commission's Final Report called for legislation to revise Korea's statute of limitations provisions, which the truth commission identified as a major hurdle to holding perpetrators liable for their crimes.¹⁵⁵ Although several government officials were criminally tried, including General Chun himself, many who tortured and murdered civilians under the rule of General Park and General Chun remain unpunished due to the Korean Criminal Procedure Act.¹⁵⁶ According to the Criminal Procedure Act, crimes such as murder are subject to statutory limitations of only fifteen years.¹⁵⁷ Although the National Assembly drafted two bills that would exclude the statute of limitations, both bills failed to pass in the National Assembly.¹⁵⁸

One of these bills was the 2002 Bill for Revision of the Criminal Procedure Code.¹⁵⁹ This bill followed the recommendation of the Presidential Commission Final Report and excluded the application of the statute of limitations to crimes of treason, murders, and torture, among others.¹⁶⁰ However, the bill failed to pass because National Assembly members "feared that the [law] would not be upheld if deferred before the constitutional court."¹⁶¹ In addition, a bill that would have definitively allowed Korean courts to criminally prosecute followers of General Park and General Chun would have gone against President Kim's interests because he had pardoned General Chun in the name of "reconciliation."¹⁶² The outcome of the 2002 Bill for Revision of the Criminal Code reveals the self-interested nature of the Korean government in refusing to implicate perpetrators responsible for past atrocities for their own personal and political interests.¹⁶³

¹⁵⁵ *Id.* at 475–76, 485–86.

¹⁵⁶ The Korean Criminal Procedure Act, Act No. 341, Sep. 23, 1954, *amended by* Act No. 9765, June 9, 2009, (S. Kor.) *translated in* Korea Legislation Research Institute online database, https://elaw.klri.re.kr/eng_service/lawView.do?hseq=22535&lang=ENG.

¹⁵⁷ Cho, *supra* note 153, at 585–86.

¹⁵⁸ *Id.* at 587–88.

¹⁵⁹ *Id.* at 587.

¹⁶⁰ *Id.*

¹⁶¹ JUSTINE GUICHARD, REGIME TRANSITION AND THE JUDICIAL POLITICS OF ENMITY 67 (2016).

¹⁶² *See* Pollack, *supra* note 22.

¹⁶³ *See generally* Cho, *supra* note 153, at 585–88. In addition, despite Chun's eight-year reign of terror, Chun was named Chairman of the National Statesman Committee after he was removed from the Presidency in February 1988. Chun's considerable influence in Korean politics after his removal reinforced the rampant corruption of the Korean government despite Korea's democratization in summer 1988. *Id.*

The various Korean truth commissions show that active government involvement has both positive and negative implications.¹⁶⁴ For example, the Jeju Commission benefited from government involvement in that it resulted in a public apology from the country's President.¹⁶⁵ The government also helped fund the Jeju Commission so that it could erect memorials to honor the victims of the Jeju Uprising.¹⁶⁶ On the other hand, the TRCK was greatly hindered by a shift in power from a liberal President to a conservative President.¹⁶⁷ Under President Roh Moo-hyun, a left-leaning President, the TRCK thrived with the government providing the TRCK resources to locate the remains of victims from the Bodo League Massacres.¹⁶⁸ However, when power shifted to the right-leaning President Lee Myung-bak in 2008, the TRCK's investigative powers were handicapped by the arbitrary change in membership by Lee.¹⁶⁹ This prevented the TRCK from completing its exhumations of mass graves and future investigations.¹⁷⁰

C. *Korean Truth Commissions and the Significance of Realistic Mandates*

Most South Korean truth commissions are established through legislative mandates.¹⁷¹ Mandates are important because they help clarify a truth commission's purpose.¹⁷² This section explores how mandates help define an investigation's time frame and scope, identify the underlying causes and consequences of a particular atrocity, and offer reparations.

1. The Realistic Scope of Investigations

Korean truth commissions are known to tackle a wide range of issues, but they are also known to cover vastly different time frames.¹⁷³ For example, the Jeju Commission was mandated to investigate only the Jeju

¹⁶⁴ See, e.g., Nathan & Park, *supra* note 22, at 84–95; Cho, *supra* note 153, at 585–86.

¹⁶⁵ *President Roh Moo-Hyun Issues a State Apology for the Jeju 4.3 Uprising and Massacre*, *supra* note 73.

¹⁶⁶ See Kim, *Seeking Truth after 50 Years*, *supra* note 21, at 407–13.

¹⁶⁷ See Kim, *Korea's Truth and Reconciliation Commission*, *supra* note 65, at 108–09.

¹⁶⁸ Hanley, *supra* note 22, at 161.

¹⁶⁹ See Kim, *Korea's Truth and Reconciliation Commission*, *supra* note 65, at 109.

¹⁷⁰ *Id.* at 103–09.

¹⁷¹ See *What Are Truth Commissions?*, *supra* note 21, at 9.

¹⁷² See generally *Rule-of-Law Tools for Post-Conflict States*, *supra* note 59, at 6–8.

¹⁷³ Wolman, *supra* note 2, at 51.

Uprising in two years, while the TRCK was mandated to investigate seventy-seven years of Korean history in five years.¹⁷⁴ The two commissions yielded greatly different results.¹⁷⁵ The Jeju Commission completed its mandate and produced a Final Report that resulted in a series of historically significant events that impact Korean society to this day.¹⁷⁶ To the contrary, the TRCK failed to complete its mandate and published a Final Report which failed to deliver the same far-reaching impacts of the Jeju Commission's Final Report.¹⁷⁷

The results reveal that the narrower a mandate, the more a truth commission can achieve.¹⁷⁸ It has been argued that the Jeju Commission was more successful than the TRCK.¹⁷⁹ The Jeju Commission not only resulted in the nation's first apology from their head of state, but also compensated the families of victims, erected memorials, and even influenced Korea's high school curriculum.¹⁸⁰ In contrast, the TRCK underwent numerous hurdles despite having a longer mandate.¹⁸¹ Unlike the Jeju Commission, the Executive Branch greatly influenced the TRCK's activities where the President of South Korea personally handpicked the TRCK's commission members.¹⁸² On account of this interference, the TRCK was negatively impacted by the abrupt shift in power from President Roh Moo-hyun to President Lee Myung-bak.¹⁸³ The transition in power handicapped the TRCK from completing its mandate in a satisfactory manner.¹⁸⁴ In other words, the Jeju Commission was more successful,

¹⁷⁴ The Special Law for Truth Investigation about the Jeju 4.3 Incident and Honoring Victim, *amended by* Law No. 8435, May 17, 2007, art. 6(1) (S. Kor.), https://web.archive.org/web/20150921114226/http://www.jeju43peace.or.kr/report_eng.pdf (located on p. 688); *Truth Commission: South Korea 2005*, *supra* note 16.

¹⁷⁵ *See, e.g.*, KIM, *supra* note 21, at 153–55; Cain, *supra* note 89; Rowland & Hwang, *supra* note 97.

¹⁷⁶ KIM, *supra* note 21, at 153–55.

¹⁷⁷ *See* Cain, *supra* note 89; Rowland & Hwang, *supra* note 97.

¹⁷⁸ *See, e.g.*, Kim, *Seeking Truth after 50 Years*, *supra* note 21, at 407–13; TRUTH AND RECONCILIATION: ACTIVITIES OF THE PAST THREE YEARS, *supra* note 1, at 14.

¹⁷⁹ Kim, *Truth Commissions in South Korea*, *supra* note 10.

¹⁸⁰ Kim, *Seeking Truth after 50 Years*, *supra* note 21, at 407–13; KIM, *supra* note 21, at 154.

¹⁸¹ *See* Kim, *Korea's Truth and Reconciliation Commission*, *supra* note 65, at 103–10.

¹⁸² TRUTH AND RECONCILIATION: ACTIVITIES OF THE PAST THREE YEARS, *supra* note 1, at 14.

¹⁸³ *See* Kim, *Korea's Truth and Reconciliation Commission*, *supra* note 65, at 108–09.

¹⁸⁴ Kim, *Truth Commissions in South Korea*, *supra* note 10.

because the scope of the investigation was more manageable than the mandate of the TRCK.¹⁸⁵

2. Investigating the Causes and Consequences of Atrocities

While the TRCK's mandate revealed the downsides of longer mandates, there are also benefits.¹⁸⁶ One benefit of a longer time frame is the ability to discern patterns and systemic causes of atrocities that were committed.¹⁸⁷ Identifying the causes and consequences of atrocities committed during Korea's seventy-seven-year history was part of the TRCK's mandate when it was established by the National Assembly.¹⁸⁸ Unfortunately, political turmoil and lack of funding hampered the TRCK's efforts to carry out its mandate.¹⁸⁹ The political turmoil of the TRCK was eerily similar to Korea's first truth commission, the Anti-Nation Commission.¹⁹⁰ The Anti-Nation Commission was also unable to fulfill its mandate due to governmental corruption.¹⁹¹ In other words, while Korean truth commissions have excelled at addressing a comprehensive range of topics and uncovering historical facts, they have fallen short of providing deeper inquiries into historical questions of causation and consequences.¹⁹²

The Presidential Commission was distinct from the previous truth commissions because it identified specific causes of the mysterious deaths and disappearances that occurred during Korea's two decades of authoritarian rule.¹⁹³ One specific cause the commission identified involved Korean criminal law, which limited the statute of limitations to fifteen years.¹⁹⁴ The fifteen-year limitation served as a significant obstacle to prosecuting government leaders and administrators who took part in the tortures, murders, and kidnappings of civilian activists who protested the

¹⁸⁵ *See id.*

¹⁸⁶ *See, e.g.,* TRUTH AND RECONCILIATION: ACTIVITIES OF THE PAST THREE YEARS, *supra* note 1, at 13; Rowland & Hwang, *supra* note 97.

¹⁸⁷ *See generally* TRUTH AND RECONCILIATION: ACTIVITIES OF THE PAST THREE YEARS, *supra* note 1, at 35–101.

¹⁸⁸ *See id.* at 13.

¹⁸⁹ *See* Rowland & Hwang, *supra* note 97.

¹⁹⁰ *See generally* Hanley, *supra* note 22, at 142–43.

¹⁹¹ Han, *The Punishment of Anti-Nation Actors and Kim Byong-ro*, *supra* note 47, at 114–19.

¹⁹² Wolman, *supra* note 2, at 50.

¹⁹³ *See generally* Cho, *supra* note 153, at 597.

¹⁹⁴ The Korean Criminal Procedure Act, Act No. 341 art. 249, Sep. 23, 1954, amended by Act No. 9765, June 9, 2009, (S. Kor.) translated in Korea Legislation Research Institute online database, https://elaw.klri.re.kr/eng_service/lawView.do?hseq=22535&lang=ENG.

authoritarian regimes.¹⁹⁵ In response, the commission recommended the Korean government revise the statute of limitations provision.¹⁹⁶ The National Assembly responded by extending the statute of limitations for murder to twenty-five years in 2007, before eliminating it completely in 2015.¹⁹⁷ The revision of Korea's statute of limitations provision for murder was not only a significant milestone in Korean criminal law jurisprudence but also showcased the power of truth commissions to identify specific causes of atrocities that occurred in Korea's past.¹⁹⁸

3. Offering Proper Reparations to Victims and Bereaved Families

Korean truth commissions have been mandated to provide reparations to surviving victims and family members affected by acts of cruelty by their own government.¹⁹⁹ The most common form of reparations is monetary compensation.²⁰⁰ The Gwangju Commission, for example, was mandated not only to investigate the causes and consequences of the Gwangju Massacre, but were also mandated to pay monetary compensations to the victims who were impacted by the massacre.²⁰¹ In one specific instance, according to the First Term Report of the Presidential Commission, the Gwangju Commission paid a total of ₩46,175,600 Korean won (\$37,522 USD) to the family of Park Tae-jo, who was tortured, imprisoned, and murdered by the Chun government for his involvement in the Gwangju Massacre.²⁰² However, the compensation only covered Park's imprisonment, not his torture or murder.²⁰³ Additionally, the National Assembly passed the Act for Compensation to Persons Victimized in the Gwangju Democratization Uprising ("Gwangju Compensation Act") in 1990, which paid an estimated ₩582,420,589 Korean won (\$522,697 USD) in medical expenses to 858 victims.²⁰⁴ However, some victims refused the

¹⁹⁵ See A HARD JOURNEY TO JUSTICE, *supra* note 20, at 475–77.

¹⁹⁶ See *id.*

¹⁹⁷ *South Korea Removes Statute of Limitations on Murder*, STRAITS TIMES (July 25, 2015), <https://www.straitstimes.com/asia/east-asia/south-korea-removes-statute-of-limitations-on-murder>.

¹⁹⁸ See generally Hanley, *supra* note 22, at 149–64.

¹⁹⁹ See, e.g., TRUTH AND RECONCILIATION: ACTIVITIES OF THE PAST THREE YEARS, *supra* note 1, at 46; THE JEJU 4.3 INCIDENT INVESTIGATION REPORT, *supra* note 1, at 688–89.

²⁰⁰ See, e.g., Hanley, *supra* note 22, at 152–55; Cho, *supra* note 153, at 586.

²⁰¹ See Han, *supra* note 18, at 1032.

²⁰² A HARD JOURNEY TO JUSTICE, *supra* note 20, at 218.

²⁰³ *Id.*

²⁰⁴ Han, *supra* note 18, at 1030–31.

government's compensation package, seeing it as a hasty attempt to bring closure to the Gwangju Massacre without doing proper investigations into the event.²⁰⁵ The Gwangju Commission revealed the limitations of including a reparation mandate as part of the truth commission. One possible solution to this dilemma is for the National Assembly members to recognize what the Korean people actually want.²⁰⁶ It is clear from the victims' response that monetary compensation was insufficient to rectify their suffering as a result of the massacre.²⁰⁷ Therefore, drafters of mandates should pay heed to the responses of the Korean people and recognize that monetary compensations are not always ideal.

V. THE FUTURE OF SOUTH KOREAN TRUTH COMMISSIONS: SUGGESTIONS MOVING FORWARD

Over the decades, Korean truth commissions have shown a capacity to effectively address past atrocity crimes committed against their own people.²⁰⁸ However, Korean truth commissions also have significant limitations that prevent them from fulfilling their duties.²⁰⁹ This section offers suggestions and recommendations on how Korean truth commissions can maintain their effectiveness. To assist truth commissions in accomplishing their mandated goals, the Korean government can work to keep executive power in check and consider implementing positive accountability.

A. *Implementation of Recommendations: Keeping Executive Power in Check*

Although Korean truth commissions have their share of achievements, they have a poor track record of seeing their recommendations get implemented by the Korean government.²¹⁰ Inconsistent executive support is one reason for this trend.²¹¹ Prior to President Lee Myung-bak's ascension to power in 2008, Korean truth

²⁰⁵ See *id.* at 1032.

²⁰⁶ See generally Kim, *Truth Commissions in South Korea*, *supra* note 10.

²⁰⁷ See *id.* Victims of the Jeju Uprising sought legislation that allowed more "commemoration activities." They believed the legislation would represent a more formal recognition than monetary compensation alone. *Id.*

²⁰⁸ See, e.g., *President Roh Moo-Hyun Issues a State Apology for the Jeju 4.3*, *supra* note 73; Kim, *Seeking Truth after 50 Years*, *supra* note 21, at 407–14; Kim, *Korea's Truth and Reconciliation Commission*, *supra* note 65, at 112–22.

²⁰⁹ See, e.g., Kim, *Korea's Truth and Reconciliation Commission*, *supra* note 65, at 109; Kim, *Truth Commissions in South Korea*, *supra* note 10.

²¹⁰ See, e.g., Hanley, *supra* note 22, at 161; Cho, *supra* note 153, at 585.

²¹¹ See Hanley, *supra* note 22, at 161.

commissions thrived.²¹² Under President Kim Dae-jung, both the Jeju Commission and the Presidential Commission were established.²¹³ Known as the “Nelson Mandela of Asia,” Kim established two successful truth commissions and strengthened South Korea’s alliance with their northern neighbor through his infamous Sunshine Policy, for which he earned a Nobel Peace Prize in 2000.²¹⁴ Kim’s successor, President Roh Moo-hyun, continued Kim’s fight for human rights and established the TRCK.²¹⁵ The TRCK experienced great success under President Roh.²¹⁶ In 2003, Roh publicly apologized for the Jeju Uprising.²¹⁷ Five years later, in January 2008, one month before the end of his Presidential tenure, Roh issued a public apology for the 1950 civilian massacres that occurred during the Korean War based on the TRCK’s findings.²¹⁸ This made him the only Korean President to have apologized twice for human rights violations one month before the end of his Presidential tenure.²¹⁹ Roh also extended the mandate of the Presidential Commission, so that the commission could complete investigations on behalf of victims whose cases were left unfinished during the commission’s first term.²²⁰ Furthermore, in accordance with the commission’s recommendations, Roh approved legislation that extended Korea’s statute of limitations for murder from

²¹² See generally Wolman, *supra* note 2, at 38–43.

²¹³ See Kim, *Korea’s Truth and Reconciliation Commission*, *supra* note 65, at 99; HAYNER, *supra* note 26, at 55–56.

²¹⁴ *Obituary: Kim Dae-jung*, AL JAZEERA (Aug. 18, 2009), <https://www.aljazeera.com/news/2009/8/18/obituary-kim-dae-jung>; see Wolman, *supra* note 2, at 39–43; Jesse Min, *The Sunshine Policy of Korea*, STANFORD (Mar. 13, 2017), <http://large.stanford.edu/courses/2017/ph241/min2/>; see also Kim Dae-jung, NOBEL PRIZE (2000), <https://www.nobelprize.org/prizes/peace/2000/dae-jung/facts/>. The Sunshine Policy was the Kim government’s effort at reconciliation with North Korea. The policy was criticized because South Korea was seen as playing into North Korea’s carrot-and-stick strategy of using South Korea’s financial aid to further their nuclear weapons program rather than using monetary aid for humanitarian purposes. Min, *supra* note 214; see also Kim Dae-jung, *supra* note 214.

²¹⁵ See Wolman, *supra* note 2, at 39–43.

²¹⁶ See TRUTH AND RECONCILIATION: ACTIVITIES OF THE PAST THREE YEARS, *supra* note 1, at 12.

²¹⁷ *President Roh Moo-Hyun Issues a State Apology for the Jeju 4.3 Uprising and Massacre*, *supra* note 73.

²¹⁸ *South Korean President Apologizes for 1950 Civilian Killings*, N.Y. TIMES (Feb. 4, 2008), <https://www.nytimes.com/2008/01/24/world/asia/24iht-asia.1.9466314.html>.

²¹⁹ See *President Roh Moo-Hyun Issues a State Apology for the Jeju 4.3 Uprising and Massacre*, *supra* note 73; see Kim, *Korea’s Truth and Reconciliation Commission*, *supra* note 65, at 114–15.

²²⁰ *Truth Commission: South Korea 2000*, *supra* note 18.

fifteen to twenty-five years in 2007, opening the door to criminally prosecuting perpetrators who could not be prosecuted before.²²¹

However, the positive trajectory changed under President Lee.²²² Under Lee's presidency, the fate and trajectory of Korean truth commissions have become bleak.²²³ When Lee took office in 2008, the TRCK was three years into its mandate with active investigations and a commitment to discovering the truth.²²⁴ Lee, however, had a different agenda.²²⁵ Unlike his more liberal predecessors, Lee was a staunch conservative with a vision toward strengthening Korea's economic standing in the international community.²²⁶ Under Lee, trade relations between the United States and Korea thrived with the enactment of the U.S.-Korea Free Trade Agreement in 2012.²²⁷ Lee also implemented an aggressive economic policy known as "MBnomics."²²⁸ The goal of "MBnomics" was to make Korea the seventh-largest economy in the world.²²⁹ Lee's goal directly opposed the TRCK's goals of investigating the human rights atrocities that occurred since the Japanese colonization.²³⁰ In fact, Lee's ambitious economic and political agendas significantly handicapped the TRCK's ability to carry out its mandate.²³¹ In addition to replacing the head of the TRCK with the conservative Lee Young-jo, Lee weakened the TRCK's investigatory powers by cutting its budget.²³² While the TRCK had the option of extending their mandate for an additional two years, the new chairperson

²²¹ *South Korea Removes Statute of Limitations on Murder*, *supra* note 197.

²²² *See* Cain, *supra* note 89; Rowland & Hwang, *supra* note 97.

²²³ Kim, *Korea's Truth and Reconciliation Commission*, *supra* note 65, at 108–09.

²²⁴ *Id.*

²²⁵ *See* Snyder, *supra* note 91.

²²⁶ *See id.*

²²⁷ *See U.S.-Korea Free Trade Agreement*, OFF. OF THE U.S. TRADE REP., <https://ustr.gov/trade-agreements/free-trade-agreements/korus-fta> (last visited Apr. 27, 2021).

²²⁸ Ryu Yi-geun, *MBnomics Architect Says Strategy Hasn't Worked*, HANKYOREH (Feb. 23, 2012), http://english.hani.co.kr/arti/english_edition/e_business/520444.html.

²²⁹ Fukagawa Yukiko, *Behind South Korea's Emotional Response to Abenomics*, NIPPON.COM (June 7, 2013), <https://www.nippon.com/en/in-depth/a02003/>. President Lee's ambitious goal was not met. According to the World Bank, Korea was the 14th largest economy in the world from 2009 to 2013. *S. Korea Ranks 12th in GDP Rankings for Last Year*, YONHAP NEWS AGENCY (July 7, 2019), <https://en.yna.co.kr/view/AEN20190707001500320#:~:text=Korea%20ranked%2014th%20in%20the,in%202017%2C%20the%20data%20showed>.

²³⁰ *See* Hanley, *supra* note 22, at 161; Cain, *supra* note 89.

²³¹ *See* Kim, *Korea's Truth and Reconciliation Commission*, *supra* note 65, at 112–122; Cain, *supra* note 89.

²³² Hanley, *supra* note 22, at 161.

appointed by Lee refused.²³³ This led to the permanent closure of the commission in 2010 without completing their mandate.²³⁴ Part of the TRCK's mandate was to establish a research foundation that would encourage further research related to "clearing up past incidents."²³⁵ However, the TRCK was unable to carry out this mandate after coming under immense pressure from the Lee government.²³⁶ The Lee government also failed to make good faith efforts to implement the TRCK's recommendations.²³⁷ In its Final Report, the TRCK recommended the National Assembly to enact "a special law on compensation and reparations for the civilian massacres that occurred around the time of the Korean War."²³⁸ In fact, President Lee and his administration blatantly "ignored" this recommendation.²³⁹

The struggles of Korean truth commissions continued after President Lee left office.²⁴⁰ The election of Lee's successor, President Park Geun-hye, in 2013 was a watershed moment in Korean politics.²⁴¹ As Korea's first woman President and daughter of the late-General Park Chung-hee, expectations for Park to correct the wrongs that occurred during her father's regime was high.²⁴² These expectations failed to become a reality.²⁴³ Although Park discussed forming a truth commission dealing specifically with human rights violations that occurred during her father's regimen, that never happened.²⁴⁴ In fact, the former chairperson of the TRCK during President Roh's Presidency expressed doubt about whether Park truly wanted to establish such a commission.²⁴⁵ This suggests that

²³³ Hanley, *supra* note 22, at 161.

²³⁴ *Id.*

²³⁵ Framework Act on Clearing up Past Incidents for Truth and Reconciliation, art. 40, May 31, 2005 (enacted by Law No. 7542), https://www.usip.org/sites/default/files/ROL/Framework_Act.pdf.

²³⁶ See Hanley, *supra* note 22, at 161.

²³⁷ See Kim, *Korea's Truth and Reconciliation Commission*, *supra* note 65, at 117.

²³⁸ Nathan & Park, *supra* note 22, at 81.

²³⁹ Kim, *Korea's Truth and Reconciliation Commission*, *supra* note 65, at 117.

²⁴⁰ Hanley, *supra* note 22, at 161.

²⁴¹ *Id.*

²⁴² See Choe Sang-Hun, *South Korean President-Elect Calls for Reconciliation After Tight Race*, N.Y. TIMES (Dec. 20, 2012), <https://www.nytimes.com/2012/12/21/world/asia/park-geun-hye-south-korean-president-elect-calls-for-reconciliation.html>.

²⁴³ See Hanley, *supra* note 22, at 161.

²⁴⁴ *Id.*

²⁴⁵ Wolman, *supra* note 2, at 53–54.

Park's true motivations were to clear her father's name, and not to seek justice for victims who suffered under her father.²⁴⁶ Park's Presidency was defined by broken promises and disappointments, which eventually lead to her impeachment in March 2017.²⁴⁷ President Moon Jae-in was elected to fill in her vacant seat in May 2017.²⁴⁸

Although Korean truth commissions are established through legislative mandates, the President yields considerable power and influence over commissions investigating the truth.²⁴⁹ Therefore, it is imperative that the President's influence be put in check. One solution is to prevent the President from arbitrarily removing and replacing truth commission members.²⁵⁰ This can be done by diversifying the pool of commissioners by including non-Korean members.²⁵¹ The Truth and Reconciliation Commission of Sierra Leone, for example, included international actors in their membership.²⁵² Article XXVI of the Truth and Reconciliation Commission of Sierra Leone stated, "Membership of the Commission shall be drawn from a cross-section of Sierra Leonean society with the participation and some technical support from the International Community."²⁵³ Korean truth commissions could benefit from a similar mandate, as international membership could help ensure independence from domestic influence.²⁵⁴ Moreover, including an additional provision that prohibits future Presidents from arbitrarily switching members without a

²⁴⁶ Hanley, *supra* note 22, at 161.

²⁴⁷ *Id.*; Choe Sang-Hun, *South Korea Removes President Park Geun-hye*, N.Y. TIMES (Mar. 9, 2017), <https://www.nytimes.com/2017/03/09/world/asia/park-geun-hye-impeached-south-korea.html>. President Park was impeached for abuse of power and coercion. Choe Sang-Hun, *South Korea Removes President Park Geun-hye*, N.Y. TIMES (Mar. 9, 2017), <https://www.nytimes.com/2017/03/09/world/asia/park-geun-hye-impeached-south-korea.html>.

²⁴⁸ *Moon Jae-in: South Korea's President with Humble Roots*, BBC (Apr. 26, 2018), <https://www.bbc.com/news/world-asia-39860158>.

²⁴⁹ *See, e.g.*, THE JEJU 4.3 INCIDENT INVESTIGATION REPORT, *supra* note 1, at 689–706; Hanley, *supra* note 22, at 161.

²⁵⁰ *See* Hanley, *supra* note 22, at 161.

²⁵¹ *See, e.g.*, *The Mandate of the Truth and Reconciliation Commission*, SIERRA LEONE TRUTH & RECONCILIATION COMMISSION (2020), https://www.sierraleonetr.com/index.php/view-report-text-vol-1/item/vol-one-chapter-one?category_id=19. "The Act envisioned a Commission composed of four nationals and three non-nationals to enhance the credibility of this process." *Id.*

²⁵² *Id.*

²⁵³ *Id.*

²⁵⁴ *See id.*

compelling reason can prevent truth commissions from meeting the same fate as the TRCK and the Anti-Nation Commission.²⁵⁵

Korean truth commissions should also be more aggressive in requesting extensions to their mandate so that they can complete their investigations.²⁵⁶ Although prolonging the lifespan of a truth commission may be burdensome for the Korean government, granting such requests have proven fruitful, as has been the case with the Presidential Commission.²⁵⁷ In extending the truth commission's mandate, the Presidential Commission has been able to address incomplete investigations and better serve victims whose voices had still not been heard.²⁵⁸

Additionally, the Korean government should include in their mandate a provision that prohibits the President and the National Assembly from ignoring recommendations for political reasons.²⁵⁹ A truth commission's Final Report has meaning if their recommendations are implemented.²⁶⁰ The absence of any good faith efforts to implement the recommendations runs contrary to the core mission of a truth commission, which revolves around restorative justice.²⁶¹ President Lee's treatment of the TRCK and President Park's inaction reinforces a need for the Korean government to take truth commissions seriously.²⁶² Korean society has seen the positive and lasting impacts of truth commissions.²⁶³ The Jeju Commission, for example, showed what remarkable results were possible when the Korean government implemented the commission's recommendations.²⁶⁴ But as the trajectory of Korean truth commissions has been on a downward spiral, including a provision in the mandate that

²⁵⁵ Hanley, *supra* note 22, at 161. Unlike the TRCK where its members were replaced, members of the Anti-Nation Commission were physically harmed and killed by the Rhee government. See Han, *The Punishment of Anti-Nation Actors and Kim Byong-ro*, *supra* note 47, at 116.

²⁵⁶ See Kim, *Korea's Truth and Reconciliation Commission*, *supra* note 65, at 103–04.

²⁵⁷ See generally A HARD JOURNEY TO JUSTICE, *supra* note 20, at 445–525.

²⁵⁸ See *Truth Commission: South Korea 2000*, *supra* note 18.

²⁵⁹ See Kim, *Korea's Truth and Reconciliation Commission*, *supra* note 65, at 117.

²⁶⁰ See *id.*

²⁶¹ *Rule-of-Law Tools for Post-Conflict States*, *supra* note 59, at 2; Bonny Ibhawoh, *Do Truth and Reconciliation Commissions Heal Divided Nations*, CONVERSATION (Jan. 23, 2019), <https://theconversation.com/do-truth-and-reconciliation-commissions-heal-divided-nations-109925>.

²⁶² See Hanley, *supra* note 22, at 161.

²⁶³ See Kim, *Seeking Truth after 50 Years*, *supra* note 21, at 407–13; Kim, *Korea's Truth and Reconciliation Commission*, *supra* note 65, at 112–22.

²⁶⁴ See Kim, *Seeking Truth after 50 Years*, *supra* note 21, at 407–13.

addresses this concern can encourage the government to make good faith efforts to implement a truth commission's recommendations.²⁶⁵

B. *The Utility of Positive Accountability to Korean Truth Commissions*

Korean truth commissions have promoted accountability in a multitude of ways, ranging from criminal trials, undertaking official investigations on behalf of victims, and making their findings public knowledge through their Final Reports.²⁶⁶ But Korean truth commissions can provide further benefits by promoting an additional method of accountability: Positive accountability.²⁶⁷

For example, in 1979, Han Myeong-sook was arrested and tortured for her “pro-democracy activism under the authoritarian rule of General Park Chung-hee.”²⁶⁸ Han’s “crime” was “bring[ing] educational programs to urban laborers and women,” for which she was imprisoned for two years.²⁶⁹ Han would eventually make history in 2006, when she became Korea’s first woman Prime Minister.²⁷⁰ Despite her success, Han’s name is not mentioned in the First Term Report of the Presidential Commission as a victim of the Park regime.²⁷¹ This is ironic in that the First Term Report readily includes the names of pro-democracy activists who suffered under General Park and General Chun, along with brief summaries of what happened to them.²⁷²

Another example dealt with the student protestors at Jeju National University, who played a critical role in the National Assembly forming the Jeju Commission.²⁷³ Although the Jeju Commission’s Final Report revealed

²⁶⁵ See Hanley, *supra* note 22, at 162–66; Kim, *Korea’s Truth and Reconciliation Commission*, *supra* note 65, at 123–24.

²⁶⁶ See Pollack, *supra* note 22; THE JEJU 4.3 INCIDENT INVESTIGATION REPORT, *supra* note 1, at 647–56; Nathan & Park, *supra* note 22, at 85–95; *Truth Commission: South Korea 2000*, *supra* note 18.

²⁶⁷ David Luban, *Remembering Abu Ghraib: Torture Everywhere and the Accountability Gap*, JUST SEC. (Apr. 28, 2014), <https://www.justsecurity.org/9964/remembering-abu-ghraib-1-torture-accountability-gap>. Positive accountability refers to the idea of honoring those people who stood up against governmental atrocities and injustice. It is an idea brought up by Professor David Luban in his article, *Remembering Abu Ghraib: Torture Everywhere and the Accountability Gap*. *Id.*

²⁶⁸ *South Korea Confirms First Female Prime Minister*, VOA (Oct. 31, 2009), <https://www.voanews.com/archive/south-korea-confirms-first-female-prime-minister>.

²⁶⁹ *Pino Cazzaniga, Han Myung-sook, a Christian Woman Now Prime Minister*, ASIANEWS.IT (Apr. 21, 2006), <http://www.asianews.it/news-en/Han-Myung-Sook,-a-Christian-woman-now-prime-minister-5965.html>.

²⁷⁰ *Id.*

²⁷¹ See generally A HARD JOURNEY TO JUSTICE, *supra* note 20, at 449–525.

²⁷² See *id.* at 163–70.

²⁷³ KIM, *supra* note 21, at 46.

the name of the investigative reporter, Shin Du-bang, who published his article on the Jeju Uprising, the Final Report did not reveal the names of the students who also put their livelihoods at risk by protesting in front of their school.²⁷⁴

The failure of Korean truth commissions to properly acknowledge the bravery of those who risked their livelihood to fight against oppressive regimes highlights the lack of positive accountability.²⁷⁵ According to Professor David Luban, criminal accountability is not always the wisest solution—if the government cannot properly hold perpetrators accountable for acts of cruelty, Luban suggests a mechanism that “praise[s] and reward[s] the many people who stood up against official torture during the Bush administration, some of them at personal cost.”²⁷⁶ However, Korean truth commissions have also provided examples of positive accountability.²⁷⁷

One such example is the recognition of freedom fighter, Ahn Jung-geun, who was executed by hanging by the Japanese government for his activism for Korean independence.²⁷⁸ Although regarded a terrorist in his time, he was posthumously awarded the Order of Merit for National Foundation in 1962, the most prestigious award granted by the Korean government to those who exemplified outstanding civil service for Korean society.²⁷⁹ Korean law also mandates the government to provide

²⁷⁴ THE JEJU 4.3 INCIDENT INVESTIGATION REPORT, *supra* note 1, at 39, 473.

²⁷⁵ See generally A HARD JOURNEY TO JUSTICE, *supra* note 20, at 449–525.

²⁷⁶ Luban, *supra* note 267.

²⁷⁷ See, e.g., *Ahn Jung Geun: A Korean Patriot Who Dreamed of Peace in Asia*, UNSUNG HEROS WHO FOUGHT FOR INDEP.! (2020), <http://peacemaker.prkorea.com/ahnjunggeun/>.

²⁷⁸ *Id.* Approximately one year prior to Japan’s annexation of Korea, Ahn assassinated Ito Hirobumi, who was Korea’s Resident-General appointed by the Japanese government. Ahn hoped the assassination would free Korea from Japan’s clutches, but that did not happen. Japan formally annexed Korea in August 1910, but Ahn had been executed in March of that year. Today, Ahn is remembered as a patriot by the Korean public, whereas Japan still regards him a terrorist. *Id.*

²⁷⁹ Yoon Sojung, *Korea Marks 107th Anniversary of An Jung-Geun’s “Patriotic Deed,”* KOREA.NET (Oct. 26, 2016), <https://www.korea.net/NewsFocus/History/view?articleId=141791>. In 2018, the Orders of Merit for National Foundation were posthumously awarded to 128 independence fighters by the Korean government in commemoration of the Day of Patriotic Martyrs. Hyo-ju Son, *Gov’t to Award 128 Patriots on Patriotic Martyrs Day*, DONG-A ILBO (Nov. 16, 2018), <http://www.donga.com/en/article/all/20181116/1544053/1/Gov-t-to-award-128-patriots-on-Patriotic-Martyrs-Day>; Ben Leonard, *Yumi Hogan, Maryland’s First Lady, Receives South Korea’s Highest Civilian Honor*, BALTIMORE SUN (Nov. 19, 2020), <https://www.baltimoresun.com/politics/bs-md-pol-yumi-hogan-south-korea-honor-order-of-civil-merit-maryland-20201119-osjerofnp5cmbomx4dz7x7dmom-story.html>.

compensation to family members of independence fighters,²⁸⁰ and to provide those family members honorable treatment.²⁸¹ The Korean government's treatment of independence fighters shows how positive accountability ties into Korean society's idea of "honor"—if a son or daughter is honored for standing up for justice, then his or her family member is honored in the same way.²⁸²

Because Korean truth commissions focus on restoring the honor of the victims' family members, the concept of positive accountability could be readily applicable in Korea.²⁸³ In fact, positive accountability can make Korean truth commissions stronger by raising awareness of the atrocities that were committed and encouraging the government to correct that atrocity.²⁸⁴ Thus, positive accountability ties in well with Korean society's tradition of sharing societal woes with society as a whole, not just the individual.²⁸⁵

C. *Korean Truth Commissions Should Pay Heed to the Comfort Women Issue*

During World War II, the Japanese Imperial Army created and utilized government-sanctioned brothels that forced over 200,000 women to sexually service Japanese soldiers.²⁸⁶ Known as "comfort women," the

²⁸⁰ Act on the Honorable Treatment of Persons of Distinguished Service to Independence, Jan. 16, 2001, arts. 4, 5, 7 (S. Kor.), *translated in* Korea Legislation Research Institute's online database, http://elaw.klri.re.kr/eng_service/lawView.do?hseq=2250&lang=ENG.

²⁸¹ *Id.*

²⁸² See Ana Singh, *The "Scourge of South Korea": Stress and Suicide in Korean Society*, BERKELEY POL. REV. (Oct. 31, 2017), <https://bpr.berkeley.edu/2017/10/31/the-scourge-of-south-korea-stress-and-suicide-in-korean-society/>. Korea's concept of honor also extends to society as a whole. See 'Nut rage' Incident Could Result in Sanctions Against Korean Air, GUARDIAN (Dec. 16, 2014), <https://www.theguardian.com/world/2014/dec/16/nut-rage-incident-sanctions-korean-air>. In 2014, Cho Hyun-ah, former Vice President of Korean Air and heiress, was publicly shamed for abusing a flight attendant for serving her peanuts in a bag, instead of on a plate. *Id.* Known as the "nut rage" incident, Cho was made to stand on a podium in front of the Korean public and apologize for her actions. Cho's father, the CEO of Korean Air, also released a public apology for his daughter's actions. The "nut rage" incident was an example of how a powerful figure's actions dishonored all of Korean society, not just Cho and Korean Air. *Id.*

²⁸³ See Luban, *supra* note 267.

²⁸⁴ See *id.*

²⁸⁵ See, e.g., Singh, *supra* note 282; 'Nut rage' Incident Could Result in Sanctions Against Korean Air, *supra* note 282.

²⁸⁶ David Boling, *Mass Rape, Enforced Prostitution, and the Japanese Imperial Army: Japan Eschews International Legal Responsibility?*, 32 COLUM. J. TRANSNAT'L L. 533, 541 (1995).

women were recruited by Japanese soldiers against their will through methods of deceit and coercion.²⁸⁷ The majority of them came from Korea, but many others came from China, Indonesia, and the Philippines.²⁸⁸ Over seven decades later, the “comfort women” issue remains a contentious issue with no viable resolution in sight.²⁸⁹

Given the wide scope of the TRCK, it is surprising that the issue of comfort women is rarely mentioned in any of the TRCK’s reports.²⁹⁰ Comfort women are only mentioned in the last six pages of the TRCK’s Final Report under “Web Sites of Other Truth Commissions: Home and Abroad.”²⁹¹ The resources listed were the “House of Sharing (Comfort Women; S. Korea),” “The Korean Council for the Women Drafted for Military Sexual Slavery by Japan,” and the “Truth Commission on Forced Mobilization under Japanese Imperialism, Republic of Korea.”²⁹² Comfort women did not become a focus of the TRCK and were given little regard by the Korean government.²⁹³ This is surprising considering the TRCK mandate covered a seventy-seven-year time span, which included both Japanese colonialism and World War II.²⁹⁴

As indicated in the TRCK’s Final Report, Korea had one truth commission that launched an investigation on behalf of Korean comfort women.²⁹⁵ Known as the Truth Commission on Forced Mobilization under Japanese Imperialism, the commission was formed under President Roh in 2006.²⁹⁶ However, the commission failed to do the comfort women any

²⁸⁷ *Id.* at 557.

²⁸⁸ *See id.* at 541.

²⁸⁹ *See id.*

²⁹⁰ *See generally* TRUTH AND RECONCILIATION: ACTIVITIES OF THE PAST THREE YEARS, *supra* note 1, at 1–137.

²⁹¹ *Id.* at 138–40.

²⁹² *Id.* at 140. The House of Sharing is a nursing home based in Seoul, South Korea established for surviving comfort women. *Id.*; *The House of Sharing (Nanum), Gwangju-si*, WARMAP (2020), <http://www.warinasia.com/the-house-of-sharing-nanum-gwangju-si>. The House of Sharing was built through the contributions of Buddhist organizations and civic groups that includes the Museum of Sexual Slavery by the Japanese Military to educate the public about the truth of what happened to them during World War II. TRUTH AND RECONCILIATION: ACTIVITIES OF THE PAST THREE YEARS, *supra* note 1, at 140; *The House of Sharing (Nanum), Gwangju-si*, *supra* note 292.

²⁹³ *See* TRUTH AND RECONCILIATION: ACTIVITIES OF THE PAST THREE YEARS, *supra* note 1, at 140.

²⁹⁴ *Id.* at 13.

²⁹⁵ *See id.* at 138.

²⁹⁶ MICHAEL BREEN, *THE NEW KOREANS: THE STORY OF A NATION* 165–66 (2017).

justice.²⁹⁷ At the conclusion of their investigations, the commission formally cleared 83 of the 148 convicted Korean war criminals, as they were deemed to be “victims of Japanese imperialism.”²⁹⁸ According to Michael Breen, author of *The New Koreans*, the truth commission decided to clear the eighty-three war criminals because the commission “considered people to be collaborators . . . if they were in certain positions or over a certain rank.”²⁹⁹ Given that the mission of Korean truth commissions has been to restore the honor of victims, it is ironic how the commission treated the war criminals as the victims instead of the comfort women.³⁰⁰ One reason for this injustice could be that the truth commission covered not just the comfort women issue, but also focused on victims of forced labor under Japanese rule.³⁰¹

In the future, Korea should establish a truth commission that deals solely with the comfort women issue, and which looks at both the roles of the Japanese government, military, and Korean collaborators.³⁰² This truth commission could follow the precedent set by the Jeju Commission, which also focused on only one event and yielded remarkable results.³⁰³ Since World War II, comfort women have faced massive obstacles in having their

²⁹⁷ *See id.*

²⁹⁸ *See id.* The 148 Korean war criminals were convicted under the International Military Tribunal for the Far East, or the Tokyo War Crimes Tribunal. *See id.* The tribunal was formed in 1946 to try leaders of the Empire of Japan for war crimes. Criminals were classified as either Class A (crimes against peace), Class B (war crimes), or Class C (crimes against humanity). Most Korean collaborators were classified as either Class B or Class C war criminals. *83 Koreans Wrongfully Accused of War Crimes: Gov't*, HANKYOREH (Nov. 13, 2006), http://www.hani.co.kr/arti/english_edition/e_national/171442.html; *see also* Robert Koehler, *Korean War Criminals Cleared*, MARMOT'S HOLE (Nov. 13, 2006), <https://web.archive.org/web/20120522225940/http://www.rjkoehler.com/2006/11/13/korean-war-criminals-cleared/>; BREEN, *supra* note 296, at 165.

²⁹⁹ BREEN, *supra* note 296. The truth commission formally cleared Class B and Class C Korean war criminals after receiving petitions from family members of Korean collaborators during Japanese rule. The family members argued that most Korean collaborators worked as prison guards or messengers on behalf of the Japanese government, and that they should be treated as victims and not as perpetrators. The commission agreed. Out of the 148 Korean war criminals, the commission determined 83 of them were Class B and Class C criminals and formally cleared them as victims of Japanese colonization. *83 Koreans Wrongfully Accused of War Crimes: Gov't*, *supra* note 298.

³⁰⁰ *See* BREEN, *supra* note 296, at 165.

³⁰¹ Kwon Mee-yoo, *Book on Forced Laborers Under Japanese Rule Published*, KOREA TIMES (Feb. 16, 2010), http://www.koreatimes.co.kr/www/news/nation/2010/02/113_60938.html.

³⁰² *See* Kim, *Seeking Truth after 50 Years*, *supra* note 21, 407–13.

³⁰³ *Id.*

voices heard in international courts,³⁰⁴ U.S. courts,³⁰⁵ and in non-judicial bodies, like truth commissions.³⁰⁶ The TRCK and the Truth Commission on Forced Mobilization under Japanese Imperialism set a dangerous precedent moving forward because the message the Korean government is sending to comfort women is that there is no place in Korean society where their voices can be heard.³⁰⁷ A truth commission that focuses only on comfort women could reverse this message.³⁰⁸ The Korean government appears to lack the political will to tackle the comfort women issue, but it is important for the government to raise awareness of the issue and to provide closure for the surviving comfort women.³⁰⁹ Truth commissions are an ideal forum to send the message that the Korean government condemns the Japanese government's actions during World War II.³¹⁰

VI. CONCLUSION

There is a lot to learn from Korean truth commissions.³¹¹ Korean truth commissions are exemplary in that they focus on restoring the honor of the victims, making them a model of reparative justice. Korean truth commissions have benefitted from strong local advocacy and government

³⁰⁴ Alan Nissel, *Continuing Crimes in the Rome Statute*, 25 MICH. J. INT'L L. 653, 660 (2004). International courts have not been a source of relief for comfort women. For one, the Rome Statute is not retroactive. The Rome Statute was enacted in July 2002, meaning the ICC lacks jurisdiction to review comfort women cases, which occurred during World War II. *Id.*

³⁰⁵ See *Hwang v. Japan*, 413 F.3d 45, 46 (D.C. 2005). *Hwang Geum-Joo v. Japan* was a 2005 D.C. Circuit case where fifteen former comfort women filed suit alleging damages under the Foreign Sovereign Immunities Act ("FSIA"). *Id.* The D.C. Circuit held that the suit raised a nonjusticiable political question, namely, "whether the governments of the appellants' countries resolved their claims in negotiating peace treaties with Japan," and thus that the court was not authorized to hear the case. *Id.*

³⁰⁶ See BREEN, *supra* note 296, at 165–66.

³⁰⁷ See *id.*; TRUTH AND RECONCILIATION: ACTIVITIES OF THE PAST THREE YEARS, *supra* note 1, at 140.

³⁰⁸ See Kim, *Seeking Truth after 50 Years*, *supra* note 21, at 407–13.

³⁰⁹ Josh Smith & Haejin Choi, *South Korea's Surviving 'Comfort Women' Spend Final Years Seeking Atonement from Japan*, REUTERS (Nov. 22, 2018), <https://www.reuters.com/article/us-southkorea-japan-comfortwomen/south-koreas-surviving-comfort-women-spend-final-years-seeking-atonement-from-japan-idUSKCN1NS024>. As of 2018, there were only 25 surviving comfort women in Korea. *Id.*

³¹⁰ See, e.g., Kim, *Korea's Truth and Reconciliation Commission*, *supra* note 65, at 112–22; Kim, *Seeking Truth after 50 Years*, *supra* note 21, at 407–13; KIM, *supra* note 21, at 154.

³¹¹ See generally TRUTH AND RECONCILIATION: ACTIVITIES OF THE PAST THREE YEARS, *supra* note 1, at 140; THE JEJU 4.3 INCIDENT INVESTIGATION REPORT, *supra* note 1, at 39–659; A HARD JOURNEY TO JUSTICE, *supra* note 20, at 445–524.

involvement. Although the latter has been the primary source of the obstacles truth commissions face today, that can be relieved through stronger mandates, positive accountability, and keeping executive power in check. Given the successes of Korean truth commissions, further commissions can provide the ideal forum for comfort women whose voices are still being silenced by the Korean government. To create a successful truth commission for comfort women, the Korean government must first develop a strong political will to tackle the comfort women issue, as they have done with the Jeju Commission with remarkable success.³¹² Although this will be a great challenge, raising awareness of the significant positive contributions of truth commissions to Korean society can encourage the Korean government to establish more truth commissions, and allow the commissions to continue their pursuit of truth and justice. As Korea continues its struggle to free itself from the jackboots of its past, the role of truth commissions will be more important moving forward. Korean truth commissions have resulted in official state apologies, have established memorials and parks, influenced the high school curriculum, and reformed criminal law.³¹³ Korean truth commissions must not be ignored or underestimated, as they have proven themselves as a source of reform.

³¹² See Kim, *Korea's Truth and Reconciliation Commission*, *supra* note 65, at 112–22; Kim, *Seeking Truth after 50 Years*, *supra* note 21, at 407–13; KIM, *supra* note 21, at 154.

³¹³ See Kim, *Seeking Truth after 50 Years*, *supra* note 21, at 407–13; KIM, *supra* note 21, at 154.