

RESEARCH ARTICLE

Navigating “Confidentiality”: Ghana’s National Reconciliation Commission’s “Sensitive” Records in Perspective

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Abstract

This article focuses on Ghana’s National Reconciliation Commission’s (NRC) archival holdings, which hold enormous value as a source for scholarly research but constitute a target of destructive forces, prompting the government to impose restrictive policies to regulate access to them. This article argues that in spite of the prevailing restrictions, opportunities exist for original enquiry into the NRC and Ghana’s human rights history through the piecemeal and selective access offered by the various repositories to researchers.

Résumé

Cet article présente les fonds d’archives de la Commission nationale de réconciliation du Ghana (NRC) et souligne leur valeur en tant que sources historiques. Celles-ci sont actuellement la cible de forces destructrices, ce qui a incité le gouvernement à imposer des politiques restrictives pour en réglementer l’accès. Cet article affirme qu’en dépit des restrictions en vigueur, il existe des possibilités de recherche originale sur la NRC et l’histoire des droits humains au Ghana, grâce à l’accès fragmentaire et sélectif offert aux chercheur-es par les différents dépôts d’archives.

Keywords: reconciliation; archives; human rights; Ghana’s National Reconciliation Commission (NRC); truth commission

Introduction

In the early 1900s, John Mensah Sarbah, the renowned jurist and cultural nationalist of the Gold Coast (now Ghana), expressed alarm that some useful

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colonial court records he had chanced upon inside a box designated as “rubbish” on the premises of the colony’s Supreme Court building in Cape Coast Castle were being used by the court’s groundsmen to fuel their lunchtime cooking.¹ He tipped them for a few bundles, which he used as his source material to write his famous book on Fanti indigenous laws and customs.² His dismay was further worsened by his subsequent discovery that shortly after that initial encounter, a “high official” ordered “the remaining contents of the box” to be “pitched into the sea.”³ This provoked his lament that:

The archives of the Colony have been mostly destroyed. History is sometimes troublesome; historical facts are often embarrassing in West Africa, and nothing so facilitates a spirited, indefinite policy as – a clean foolscap sheet of paper [*sic*].⁴

This incident occurred in the early 1900s, a period of nascent proto-nationalist ferment among the Gold Coast’s elites that hinged on contentions over indigenes’ rights to control aboriginal lands and to govern themselves. The destroyed records contained the colonial authorities’ judicial adjudications on the colony’s domestic land cases, which they preferred to destroy rather than expose to the public for apparent fear that the coastal African elites might exploit their contents as proof-texts of colonial misdealings to bolster their anticolonial sentiments.

Such governmental apprehensions towards state archives in Africa have outlasted the colonial era into the postcolony. For instance, historian David Anderson’s depiction of the British colonial administration’s coupling of burning with covert “smuggling” of records of its “colonial misadventure” out of Kenya on the eve of the country’s independence reflects the colonial regime’s dying wish to rid the archives of embarrassing and self-incriminating contents.⁵ Similarly, Samuel Ntewusu’s account of a military junta’s attempted incineration of Ghana’s national archives in the aftermath of President Kwame Nkrumah’s overthrow in the 1960s illustrates another example of the frantic impulse to destroy or “sanitize” the archives to rid it of all memories of Nkrumah.⁶ These two examples highlight political powers’ obsessions with

¹ Cape Coast became the headquarters of the British colonial administration in 1664 and remained so until 1877, when the British formally moved their seat of government to Christiansborg. See David Owusu-Ansah and Daniel Miles McFarland, *Historical Dictionary of Ghana* (Metuchen, NJ: Scarecrow Press, 1995), xxxi, xxxix.

² The book in question is John Mensah Sarbah, *Fanti National Constitution* (London: Frank Cass & Co., 1968).

³ Sarbah, *Fanti*, xi.

⁴ Sarbah, *Fanti*, xi.

⁵ David M. Anderson, “Guilty Secrets: Deceit, Denial, and the Discovery of Kenya’s ‘Migrated Archive,’” *History Workshop Journal* 80, no. 1 (2015): 142–160; See also Ian Cobain, Owen Bowcott, and Richard Norton-Taylor, “Britain Destroyed Records of Colonial Crimes,” *The Guardian*, April 17, 2012, sec. UK news, <https://www.theguardian.com/uk/2012/apr/18/britain-destroyed-records-colonial-crimes> (accessed 3 March 2023).

⁶ Samuel A. Ntewusu, “The Banana and Peanut Archive of Ghana,” *History in Africa* 44 (2017): 285–294.

archives, as demonstrated by studies such as Michel-Rolph Trouillot's "silenced" archive, Sonia Combe's "forbidden" archive, Jacques Derrida's postulation of the archive as an inevitable target of political "control" and Kirsten Weld's "paper cadaver."⁷

In 2002, the newly elected New Patriotic Party (NPP) government led by President J.A. Kufuor established Ghana's first truth commission, the National Reconciliation Commission (hereafter "the Commission"), with the goal of "establishing accurate, complete and historical record of violations and abuses of human rights inflicted on persons by public institutions and holders of public office" between 1957 and 1993 with the goal of promoting national reconciliation.⁸ It operated as a forum for non-prosecutorial hearings that were televised in real-time. Within eighteen months, witnesses – victims and perpetrators of human rights violations – testified openly about their victimhood or their complicity in various human rights violations in the past.⁹ The investigated categories of human rights violations comprised killings, abductions, torture, disappearances, maiming, detentions without trial and ill-treatment, hostage-taking, violations of property and work rights, and violations of the right to die in dignity. Following the Commission's dissolution, its tomes of documentary and audio-visual materials comprising a five-volume report (hereafter "the report"), witnesses' dossiers, tapes of the televised hearings, and other materials capturing these ghastly violations were disposed of into several libraries and repositories in Ghana, pending purported official plans to catalog, index, and "declassify" them for wider public access. To date, these plans are yet to be implemented. Meanwhile, the records have become a target of "intentional acts of effacement" by unidentified villainous elements, to borrow the words of Samuel F. C. Daly, while they remain cloistered under government-imposed restrictive policies intended to limit and regulate public access to them.¹⁰ The unidentified villainous elements in question are most likely perpetrators who felt publicly disgraced by victims' revealing confessions about their complicity in heinous violations, or their sympathizers.

This article argues that despite the prevailing restrictions, opportunities exist for original enquiry into the Commission's and Ghana's human rights history through the piecemeal and selective access offered to researchers by the various repositories. Since its dissolution, the Commission has sparked scholarly interest, as evidenced by the growing number of articles, books, and dissertations

⁷ Michel-Rolph Trouillot, *Silencing the Past: Power and the Production of History* (Boston: Beacon Press, 2015); Sonia Combe, "Confiscated Histories: Access to 'Sensitive' Government Records and Archives in France," *Studies in Contemporary History*, 10, no. 1 (2013): 123–130; Jacques Derrida, *Archive Fever: A Freudian Impression* (Chicago: University of Chicago Press, 2008); Kirsten Weld, *Paper Cadavers: The Archives of Dictatorship in Guatemala* (Durham, NC: Duke University Press, 2014).

⁸ National Reconciliation Commission Act 611 (2002), Article 3 (1) (a).

⁹ The Commission's statement-taking files use "Complainants" instead of "Witnesses." However, I employ the term "witnesses" throughout this study because it is the conventional legal lexicon as well as a more acceptable legal terminology for referring to victims and perpetrators who testify before a truth commission, a Commission of Enquiry, or a court.

¹⁰ S. F. C. Daly, "Archival Research in Africa," *African Affairs* 116, no. 463 (2017): 316.

devoted to examining various aspects of its work. However, a study specifically devoted to surveying the nature of the Commission's records, their current condition, the repositories in which they are lodged, and the challenges inherent in accessing them is yet to be essayed. This article attempts to fill this gap by drawing on fieldwork research conducted at various libraries and repositories in Ghana between August 2016 and February 2020, coupled with interviews with librarians, archivists, administrators, and key personalities involved in the Commission's work.

This article has a preface and three main sections, each with subsections. A general preface reviews the background of the Commission's work, including a sketch of the genealogy of truth commissions, and explains why African governments in the 1990s and 2000s found truth commissions useful as a tool of accountability. The first section examines the records' vulnerability to destruction and the challenges posed by state-imposed restrictions limiting public access to them. The second section highlights two interconnected threats that provoked the government's concern about public access to the records. These are perceptions about the records' admissibility as courtroom evidence by some victims and perpetrators, as well as widespread public anxieties about the records' capacity to incite reprisals between these actors. Third, far from being an exhaustive guide to the Commission's entire holdings, this article attempts as best as possible to describe the types of records that have been made public, the various repositories where they are housed, the conditions in which they are preserved, and the requirements for gaining permission to access them.

A Brief Genealogy of Truth Commissions

Transitional justice, a concept coined in the 1990s, refers to the processes and mechanisms used by governments to address the legacy of a country's previous human rights violations. Its mechanisms include truth commissions, prosecutions, amnesties, reparations, and institutional reforms.¹¹ Truth commissions, a type of fact-finding mechanism, are "non-judicial or quasijudicial investigative bodies, which map patterns of past violence, and unearth the causes and consequences of these destructive events."¹² Truth commissions have emerged as the most preferred choice by many countries owing to their utility in facilitating truth-telling about past violations. While they may be specifically tailored to different countries' contexts, they generally share certain core activities such as gathering statements from victims and perpetrators, conducting investigations into the causes and consequences of violations, holding public hearings, and publishing a final report summarizing findings and recommendations. The premise often evoked as a basis for establishing a truth commission is the right of victims to know the truth about past human rights violations, which

¹¹ Marian Yankson-Mensah, *Transitional Justice in Ghana: An Appraisal of the National Reconciliation Commission* (The Hague: Asser Press, 2020), 3.

¹² United Nations Security Council Report; https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/transitionaljustice_2021.pdf (accessed 2 April 2024).

implies ascertaining the extent, origin, and nature of previously unknown atrocities and determining who had collaborated in them.

Truth commissions do not pursue or dispense legal retribution or punishment; nor do they follow strict courtroom procedures. They normally function as ad hoc bodies, primarily tasked with uncovering the past to make way for action or redress. For some, truth commissions evoke comparisons with Commissions of Enquiry, a British-inherited legal vehicle for investigating infringements, abuses of office, corruption, and breakdowns in law and order as a form of political accountability. Truth commissions and Commissions of Enquiry have several comparable attributes, but there are some arguments over their perceived differences and functions. However, two distinctions are widely acknowledged as important: first, Commissions of Enquiry are not obliged to specifically address human rights abuses as their mandate. However, they can be used for various purposes, whereas a truth commission is specifically designed to address human rights violations.¹³ Second, and more complicated, truth commissions are intended to investigate large-scale violations. A Commission of Enquiry or a truth commission may investigate specific human rights violations, but a truth commission typically investigates a larger pattern of violations affecting a larger group over time.

Despite some conceptual parallels in ancient cultures, truth commissions are widely considered a new domain of enquiry and a fixture of the human rights discourse of the latter part of the twentieth century.¹⁴ The Allied-sponsored Nuremberg International Military Tribunal (1945–46) and Tokyo Trials (1946) – arguably the two best-known cases of victor’s justice undertaken in the twentieth century – coupled hearings comparable to truth commissions with prosecutions to address wartime crimes. However, the world’s first “and mostly forgotten” truth commission was arguably Idi Amin’s 1974 Commission of Inquiry into Disappearances in Uganda.¹⁵ This was established in response to mounting international pressure to confront the atrocities believed to be associated with Amin’s regime. It was neither allied to any transitional program nor did it operate in any transitional context since it operated under the elbow of its

¹³ See a discussion of their differences in Carla Winston, “Truth Commissions as Tactical Concessions: The Curious Case of Idi Amin,” *International Journal of Human Rights* 25, no. 2 (2021): 18. To understand the work of the Commissions of Enquiry more broadly, see Adam Ashforth, “Reckoning Schemes of Legitimation: On Commissions of Inquiry as Power/Knowledge Forms,” *Journal of Historical Sociology* 3, no. 1 (1990): 1–22; Raanan Sulitzeanu-Kenan, “Reflection in the Shadow of Blame: When Do Politicians Appoint Commissions of Inquiry?,” *British Journal of Political Science* 40, no. 3 (2010): 613–634.

¹⁴ For treatments on the evolution of transitional justice in general, see Paige Arthur, “How ‘Transitions’ Reshaped Human Rights: A Conceptual History of Transitional Justice,” *Human Rights Quarterly* 31, no. 2 (2009): 321–367; Neil J. Kritz, *Transitional Justice: How Emerging Democracies Reckon with Former Regimes: General Considerations*, Volume I (Washington, DC: United States Institute of Peace, 1995); Ruti G. Teitel, *Transitional Justice* (Oxford: Oxford University Press, 2000); Christine Bell, “Transitional Justice, Interdisciplinarity and the State of the ‘Field’ or ‘Non-Field,’” *International Journal of Transitional Justice* 3 (2009): 5–27.

¹⁵ Winston, “Truth Commissions as Tactical Concessions”.

authorizing regime whose transgressions it was tasked to probe. Therefore, it lacked the lenses or a measure of detachment required for an impartial probe. Consequently, its impact and reach were too minimal to significantly influence global discourses on justice and accountability. It was rather the truth commissions established in the post-authoritarian regimes in Latin American countries in the 1980s and the 1990s – Bolivia (1982–84), Argentina (1983–84), and Chile (1990–91) – that kick-started a wave of interest in their use as official bodies for unearthing the gross violations in countries transitioning from violent authoritarian regimes to democracies.

To date, South Africa's Truth and Reconciliation Commission (hereafter TRC), which operated from 1995 to 2002 with the goal of investigating the gross human rights violations of the Apartheid era to promote national reconciliation, remains the most influential truth commission. One of its key patrons was Desmond Tutu, an internationally renowned anti-apartheid clergyman and vocal campaigner for reconciliation and racial inclusiveness, who enunciated the message of forgiveness throughout its operations. More importantly, it operated under the tutelage of Apartheid's most symbolic victim and arguably the twentieth century's most famous ex-convict, Nelson Mandela, who, despite his own ordeals under the Apartheid regime, keenly backed internal calls for reconciliation, thereby reinforcing the legitimacy of the TRC's mandate. A striking feature of the TRC's work was its offer of blanket amnesty to perpetrators conditioned on their willingness to appear before the commission to make a complete, open confession of their atrocities.

More than any other commission in the twentieth century, the TRC received global acclaim and became the standard bearer, inaugurating a resurgence of interest in truth commissions and reinforcing their utility as "a major part of the transitional justice toolkit."¹⁶ The TRC inspired truth commission initiatives globally, almost making accountability for past violations an article of faith in the affirmations of newly elected governments. As noted by one scholar, "announcing the creation of a truth commission," became "a popular way for newly minted leaders to show their democratic bona fides and curry favor with the international community."¹⁷ Inspired by the TRC, numerous African countries transitioning from a repressive past to liberal democracy and desiring to combat impunity, build a culture of accountability, and demonstrate respect for human rights have increasingly established their own truth commissions, often accompanied by reparations and, in some cases, prosecutions to redress past wrongs. In her extensive review of forty truth commissions that operated globally between 1974 and 2009, truth commission expert Priscilla Hayner enumerated at least fourteen truth commissions from Africa.¹⁸ Basing her studies on extensive fieldwork and careful assessment of empirical case studies, she ranked South Africa's and Morocco's amongst five of "the

¹⁶ C. Lawther, *Truth, Denial and Transition: Northern Ireland and the Contested Past* (New York: Routledge, 2014), xiii.

¹⁷ J. D. Tepperman, "Truth and Consequences," *Foreign Affairs* 81, no. 2 (2002): 128.

¹⁸ Priscilla B. Hayner, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* (New York: Routledge, 2011), xi–xii.

strongest” truth commissions and Ghana’s with those of five other African countries amongst twenty “illustrative” truth commissions, signaling the continent’s growing acceptance of official truth-seeking practices after widespread atrocities.

Ghana has a checkered pedigree in the history of African politics. Despite achieving its much-celebrated freedom from colonial domination, which set the benchmark for anticolonial resistance worldwide, its early decades as an independent country were plagued by repressive administrations, both elected and military.¹⁹ By 2000, when the Kufuor administration took office, the country had witnessed four constitutionally elected governments punctuated by several violent military coups and attempted *putsches*, leaving a trail of human rights violations in their wake.²⁰

Shortly after being elected into office, the New Patriotic Party (NPP) government led by President J. A. Kufuor presented a bill to Parliament to establish the Commission. Kufuor asserts that his decision to establish the Commission was based on the ethical principle that accountability for past wrongs was a merited right of victims and a nation seeking to develop the rule of law as the foundation of a genuinely liberal democracy.²¹ For some citizens, the creation of the Commission marked a bold new step in democratic consolidation and accountability. Yet for others, it represented a disguised plot to shame selected military regimes of Ghana’s recent past. The bill generated heated protests from MPs of the opposition National Democratic Congress (NDC) party who perceived it as a proof-text of a grand witch-hunt project targeting their party’s founder, Jerry John Rawlings, a former president who had previously headed two erstwhile military dictatorships: the Armed Forces Revolutionary Council (AFRC) and the Provisional National Defense Council (PNDC). The two regimes cumulatively marked the longest dictatorship in Ghana’s history and bore record as the most abusive in the country since independence. Rawlings was the only former head of state alive at the time of the Commission’s hearings, which unwittingly cast him as the living scapegoat of the country’s past human rights violations. In addition, many of his former collaborators, coup perpetrators, and junta members were also alive and suspected that the proposed official enquiry into their regimes’ violations was targeted at discrediting them too. Notwithstanding the divisions, the bill was eventually passed into an Act that gave the Commission legal standing and clearly defined its mandate and terms of reference.

¹⁹ The military regimes include the National Liberation Council (1966–69), National Redemption Council, (1972–75), Supreme Military Council 1 (1975–78), Supreme Military Council 2 (1978–79), Armed Forces Revolutionary Council (June 1979–September 1979), and Provisional National Defense Council (1981–93).

²⁰ Dennis Austin, *Politics in Ghana, 1946–1960* (Oxford: Oxford University Press, 1964); E. Gyimah-Boadi and Donald Rothchild, “Rawlings, Populism, and the Civil Liberties Tradition in Ghana,” *Issue: A Journal of Opinion* 12, no. 3/4 (1982): 64–69; Mike Oquaye, “Human Rights and the Transition to Democracy under the PNDC in Ghana,” *Human Rights Quarterly* 17, no. 3 (1995): 556–573; Mike Oquaye, *Politics in Ghana, 1982–1992: Rawlings’ Revolution and Populist Democracy* (Accra: Tornado Publications, 2004).

²¹ Interview with J. A. Kufuor, Accra, 20 September 2018.

Aside of the politicized context of the Commission's creation, the weight of the evidence that petitioners presented at the start of the Commission's hearings further aggravated the anxiety of the pro-Rawlings forces toward the Commission's work. The Commission received 4,240 petitions, 84 percent of which concerned human rights violations committed during the AFRC and PNDC periods.²² The remaining 16 percent captured the repressive acts of civilian and military governments from 1957 to 1979, such as the preventive detentions of President Nkrumah's Convention People's Party (CPP) government (1957–66), the termination of the appointments of senior civil servants (known as the "Apollo 568" purges) by Prime Minister Busia's Progress Party (PP) government (1969–72), and the human rights violations of successive military regimes between 1966 and 1979. The clear disparity in the weight of evidence between the pre- and post-1979 years is because Rawlings' tenures were more recent, resulting in more witnesses who were alive and willing to testify than any other period. This explains what appears to be an overwhelming number of testimonies gathered by the Commission about the AFRC and PNDC administrations' atrocities.

After months of hearing testimonies and conducting investigations into numerous violations and allegations, the Commission concluded its hearings in July 2004 and submitted its five-volume report to the president on 12 October 2004.²³ In response, the government released a White Paper that stressed, among other things, the necessity to offer appropriate reparations to victims.

Archiving Truth Commissions Findings

A normative component of a truth commission's operations is the creation of an archive of the records it generates during its operations, which should be preserved as a wealth of knowledge about a country's repressive past. Such records serve the dual function of providing a public memory useful for combating amnesia about a country's painful past while satisfying the witnesses' right to the truth. Documenting major violations of human rights is therefore a vital step in fulfilling these functions. In practice, this requires the creation of "a strong national archival system" to preserve a national memory of the violations.²⁴ In many countries emerging from conflict or repressive rule, such systems are feeble or nonexistent, predisposing the unearthed evidence of human rights violations to being erased or consigned to the dustbins of historical amnesia. However, unlike the TRC's legislation that authorized the transfer of its records into South Africa's National Archives and legalized their status as state intellectual property, the Commission's Act did not specify the exact repository for the disposition and preservation of the Commission's records.²⁵ It rather

²² NRC Report 2004: Vol. 1, Chapter 5, Article 5.0.1.

²³ Yankson-Mensah, *Transitional Justice in Ghana*, 124.

²⁴ United Nations Security Council Report, https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/transitionaljustice_2021.pdf (accessed 2 April 2024).

²⁵ Graham Dominy, "A Long Walk to Justice: Archives and the Truth and Reconciliation Process in South Africa," in *Archives and Human Rights*, ed. Jens Boel, Perrine Canavaggio, and Antonio González Quintana (London: Routledge, 2021), 121.

authorized the Commission to “*give directions* [emphasis added] as to the treatment, storage, safe-keeping and disposal of the information, material, record or document collected, gathered or used by it in the course of its work.”²⁶ Therefore, the Commission, exercising its powers of discretion under this provision, transferred different components of its records into several repositories in the country. For researchers, this arrangement adds the burden of identifying the numerous repositories to the already frustrating challenge of gaining access to the materials once identified.

Problems with Dissemination, Access, and Protection

The White Paper, as already noted, was the government’s official response to the Commission’s report. The White Paper included a directive authorizing the Ministry of Education to distribute copies of the report to all school libraries, with the instruction that useful portions of it be incorporated into school curricula to promote healing and reconciliation.²⁷ Thereby, it became the only document officially sanctioned for release and dissemination in the public domain. That said, the directive appears to have been poorly complied with, leading scholars to lament the report’s scarcity in the public domain.²⁸ My search of Accra’s major public and institutional libraries confirmed this scarcity. For instance, in August 2017, during my search at the George Padmore Research Library on African Affairs in Accra (hereafter Padmore Library), with the assistance of one of its librarians, I found only a hard copy of volume 5 of the report in the library’s holdings.²⁹ This was further exacerbated by the library’s lack of an inventory to confirm its actual holdings. Further, at the Public Records and Archives Administration Department (PRAAD) in Accra, where I continued the search, one of its archivists confirmed their possession of some of the Commission’s holdings but hinted that they remain unavailable for public access due to ongoing work to accession and declassify them first.³⁰ My next destination was the Africana Section of the University of Ghana’s Balme Library (hereafter Balme Library). There I found no printed or bound copies of any of the reports on the open shelves or locked cases, but rather digital copies saved on some reserved computers and selectively offered upon request by a librarian in charge of the digital holdings housed in what is called the “Cold Room.” After interrogating me

²⁶ See NRC Act, Article 19 (7).

²⁷ Government White Paper on the NRC Report presented by the Minister for Justice and Attorney-General, Article 8.3.1, 22 April 2005, Accra.

²⁸ See Felix Odartey-Wellington and Amin Alhassan, “Disseminating the National Reconciliation Commission Report: A Critical Step in Ghana’s Democratic Consolidation,” *African Journal of Political Science and International Relations* 10, no. 4 (2016): 34; Abena A. Asare, *Truth without Reconciliation: A Human Rights History of Ghana* (Philadelphia: University of Pennsylvania Press, 2018), 165.

²⁹ Interview with James K. Naabah, Accra, 10 August 2017.

³⁰ Bright Botwe (personal communication, 11 August 2017). From 2017 to the present, I have subsequently made multiple visits to the PRAAD in pursuit of access to the Commission’s holdings but have received the same response, denying me access.

to determine my identity and the academic nature of my research, he offered me a copy on my flash drive with a strict warning to never disseminate it.

The ruses about pending accessioning and cataloging have contributed to “explaining” the report’s scarcity. But there is more! The Commission’s Executive Secretary, Kenneth A. Attafuah, has recently lamented that under his oversight, the Commission, following its dissolution, distributed copies of the report to the country’s key institutional and public libraries and that their subsequent disappearances may have been deliberately and stealthily instigated by some faceless and ill-motivated villains.³¹ His response emphasizes the documents’ vulnerability to theft and destruction, notwithstanding the rigorous restrictions imposed on access to the Commission’s holdings at the various repositories.

The Balme Library is notable for its strict restrictions regarding public access to and use of its holdings of the Commission’s records. During the summer of 2018, I applied to consult their collections of witnesses’ dossiers. I was subjected to multiple queries from the library’s officials regarding the goals of my research, and when I passed the “test,” I was given access but was further warned to treat the documents as confidential and prohibited from printing, photocopying, scanning, and all forms of digital and electronic reproduction of the documents. I was, however, granted permission to take notes from the dossiers. The rest of my research period was frequently interrupted by a librarian who was specifically assigned to check my notes for any reproduction of witnesses’ statements or their identifying information. My experience confirmed historian Abena Ampofoa Asare’s earlier account of a similarly unpleasant encounter at the Balme Library in 2007, where her “access was limited and closely monitored.”³² She recalls that she was instructed to only “take notes” and was further prohibited from making “photocopies or digital reproductions.”³³ The library staff, she remembers, “kept a close eye on my progress.”³⁴ “In those days,” she recalls, “I would leave the Balme Library feeling disoriented.”³⁵ Our shared experiences reflect the government’s fears about the records’ susceptibility to misuse and destruction by villains, justifying the imposition of protective measures.³⁶

A Trove of Courtroom Evidence or Sensitive Records?

The apprehensive policing around the Balme Library’s NRC records underscores a normative tension between archives and social justice, postconflict

³¹ “Faceless Persons Removed NRC Report from Libraries, Online Portals—Prof Attafuah—MyJoyOnline. Com,” December 21, 2019. <https://www.myjoyonline.com/faceless-persons-removed-nrc-report-from-libraries-online-portals-ae-prof-attafuah/> (accessed 20 July 2023).

³² Asare, *Truth without Reconciliation*, ix.

³³ Asare, *Truth without Reconciliation*, ix.

³⁴ Asare, *Truth without Reconciliation*, ix.

³⁵ Asare, *Truth without Reconciliation*, ix.

³⁶ For a discussion of the state’s unease toward the archives, see Sonja Hegasy, “Archive Partisans: Forbidden Histories and the Promise of the Future,” *Memory Studies* 12, no. 3 (2019): 247–265.

peacebuilding, truth and reconciliation studies, and human rights. Scholars have established a connection between archives and human rights, noting in particular the potential utility of the archives as a source of evidence for the legal adjudication of infringement claims.³⁷ Indeed, as noted by legal historian and archivist Eric Ketelaar, archives retain immense potential as corroborative material for verifying or disproving infringement claims, as well as for assisting in the liberation of individuals wrongfully accused of past violations.³⁸ He argues that because the archives include documented abuses of human rights, citizens who defend themselves can turn to them for evidence. Archives, he argues “have a twofold power: being evidence of oppression and containing evidence required to gain freedom, evidence of wrongdoing and evidence for undoing the wrong.”³⁹ Thus, the archives, he further contends, retain immense value as both “instruments of power” and “instruments of empowerment and liberation, salvation and freedom.”⁴⁰

Before the hearings began, the government’s framers of the Commission’s Act anticipated the danger that any piece of the Commission’s records, particularly witnesses’ testimonies, could be construed as admissible court-room evidence by victims and their families desiring to seek justice in court. Indeed, President Kufuor, the Commission’s architect, stated that he was mindful of the records’ susceptibility to such uses and worked to prevent the entire project from devolving into or being derailed by legal wranglings.⁴¹ To effectively disarm potential litigants, the framers enacted a provision that expressly prohibited the use of the Commission’s archives – oral or documentary – as incriminating evidence in any court of law.⁴² That said, the proscriptive power of that provision has not eliminated the pall of apprehension that still hangs over the records’ vulnerability to misuse by the public. Some librarians and administrators are still apprehensive about the records’ potential to trigger reprisals and dogfights between former perpetrators and victims.⁴³ One librarian at the Balme Library explained that exposing a witness’s personal information, including their addresses, risks offering leads to disgraced former perpetrators who may want to track them out in retaliation for testifying against them at the Commission.⁴⁴

³⁷ See Heather MacNeil, *Trusting Records: Legal, Historical and Diplomatic Perspectives* (Dordrecht: Springer Science+Business Media, 2000); Eric Ketelaar, “The Panoptical Archive,” in *Archives, Documentation, and Institutions of Social Memory: Essays from the Sawyer Seminar*, ed. Francis X. Blouin and William G. Rosenberg (Ann Arbor: University of Michigan Press, 2006), 144–150; David A. Wallace et al., eds., *Archives, Record-Keeping and Social Justice* (New York: Routledge, 2020); Jens Boel, Perrine Canavaggio, and Antonio González Quintana, eds., *Archives and Human Rights* (London: Routledge/Taylor & Francis Group, 2021).

³⁸ Ketelaar, “The Panoptical Archive,” 146.

³⁹ Ketelaar, “The Panoptical Archive,” 146.

⁴⁰ Ketelaar, “The Panoptical Archive,” 145.

⁴¹ Interview with J. A. Kufuor, Accra, 20 September 2018.

⁴² See NRC Act, Article 15 (2).

⁴³ Richmond Osei-Boateng (personal communication, 25 July 2018).

⁴⁴ Despite these fears, there has been no official record of incidents of reprisals fueled by witnesses’ testimonies to date.

Besides the threats of interpersonal violence, it is uncertain what other reasons may have additionally accounted for the restrictions imposed on most of the records. However, we may draw on a recent study highlighting “the political atmosphere in Ghana at the time” of the Commission’s operations for a plausible explanation.⁴⁵ Many former perpetrators who testified before the Commission had become prominent members of major political parties, and in such sensitive positions, they “felt that any information disclosed to the Commission would adversely affect their political credibility.”⁴⁶ Consequently, some used their appearance before the Commission “to save face” instead of honestly admitting their misdeeds.⁴⁷ Others “refuted the allegations made against them” and resorted to rebuttals with “counter-allegations against victims.”⁴⁸ The “high drama” caused in part by the contesting of impunity by perpetrators who testified at the hearings raised public concerns about whether the Commission was intended to reconcile the country.⁴⁹ The need to prevent the Commission’s records from becoming a new source of controversy among politicians, victims, perpetrators, and their sympathizers must have prompted the government to establish conditions for the careful disposition and administration of the records.

The restricted accessibility to the Commission’s records evokes methodological concerns regarding the study of topics defined by Claire Renzetti and Raymond Lee as “intimate, discreditable or incriminating.”⁵⁰ Such topics also include investigations to identify perpetrators of serious human rights violations and their victims using testimonies often generated by public accountability procedures such as a truth commission.⁵¹ The following questions may require answers: “What kinds of records did the Commission produce, what do they actually contain that qualifies them as sensitive content, and where are they lodged?”

The Commission’s Archives: What and Where Are They?

The paper-based component of the Commission’s collections includes the report of the Commission’s findings and witnesses’ registration dossiers. Other valuable documents were produced contemporaneously by other state institutions that facilitated the Commission’s work. They include the Commission’s Act and parliamentary Hansards produced by Parliament, and the government White Paper issued by the Office of the Attorney-General Department. The audio-visual component includes video footage of the Commission’s hearings stored on VHS

⁴⁵ Yankson-Mensah, *Transitional Justice*, 121.

⁴⁶ Yankson-Mensah, *Transitional Justice*, 121.

⁴⁷ Yankson-Mensah, *Transitional Justice*, 121–122.

⁴⁸ Yankson-Mensah, *Transitional Justice*, 122.

⁴⁹ Yankson-Mensah, *Transitional Justice*, 122.

⁵⁰ Claire Renzetti and Raymond Lee, eds., *Researching Sensitive Topics* (Newbury Park: Sage Publications, 1993), ix.

⁵¹ See Olivera Simic, “Research Note - ‘Doing the Research I Do Has Left Scars’: Challenges of Researching in the Transitional Justice Field,” *Transitional Justice Review* 1, no. 5 (2017): 134–168.

tapes. The current locations of these collections, the nature of their contents, and some tips for effectively accessing them are discussed as follows.

National Reconciliation Commission Report (2004), Volumes 1–5 (“The Report”)

The report is a five-volume document of the Commission’s work totaling fifteen hundred pages, which the Commission presented to the government at the end of its hearings. The report sketched the founding of the Commission, noting the historical and social circumstances that engendered human rights violations. It further recounted in chronological order the various administrations, civilian and military, that have governed the country since independence, recapping the human rights violations associated with each regime based on witnesses’ oral testimonies presented before the Commission. These accounts are augmented with statistical details and patterns of violations. The report provides an overview of the various institutions of state and their roles in fomenting or preventing human rights violations in the country. The report is annotated using a serial numbering system that facilitates easy referencing. It concludes with a long list of names of witnesses recommended for the award of a specified range of state-sponsored monetary reparations for their losses, including recommendations for symbolic measures to forestall any recurrence of violations. The Balme Library (Africana Special Collections Center), University of Ghana, Accra (Ghana), offers digital (pdf) copies of the report to researchers upon request, subject to proof of their identities as well as their intended uses of the document. Alternatively, copies may be obtained in pdf format from online sources such as the website of the McMaster University-based *Confronting Atrocity Project*, where copies of the reports of other truth commissions are displayed.⁵²

National Reconciliation Commission Act 611 (2002)

This Act was enacted by Parliament to give the Commission appropriate legal backing. It comprises twenty-seven articles (with several subsections) that clearly define the Commission’s terms of reference, goals, and mandate period of investigation. While outlining the Commission’s operational rules and the legal ambit of its mandate, the Act also spells out the regulations governing the treatment of witnesses (witness protection provisions) as well as the Commission’s obligations toward witnesses and vice versa. Like most parliamentary legislations, it is a very public document that can be accessed on the website of Ghana’s Parliament in pdf format.⁵³ Alternatively, a print version may be obtainable from the library of Parliament House in Accra upon request, subject to satisfactory proof of the researcher’s identity.

⁵² The Confronting Atrocity Project brings researchers, policymakers, and civil society partners together to examine and compare the work, outcomes, and legacies of national truth commissions formed to address historical and ongoing human rights violations. <https://truthcommissions.humanities.mcmaster.ca/truth-commission-reports/>

⁵³ See <http://ir.parliament.gh/handle/123456789/1924> (accessed 2 January 2023).

Republic of Ghana, Parliamentary Debates, Official Report, Fourth Series Vol. 30 No. 39, December 21, 2001, 2901 (Hansards)

Another important document pertinent to the Commission's work is the parliamentary Hansards containing the debates over the bill that gave birth to the Act. These texts represent the actual transcripts of the debates between the ruling majority, the New Patriotic Party (NPP), and the minority, the Rawlings-founded National Democratic Congress (NDC). The texts bristle with partisan squabbles over the initial bill presented to Parliament for debate. The crux of their squabbles was the bill's initial wording and phraseology, which members of the parliamentary minority (the NDC) cited as evidence of a witch-hunt targeting their party's founder, Jerry John Rawlings, and his associates. As sources, they are useful as proof-texts of contentious and partisan parliamentary debates characterized by battle over words and sharp acrimonious exchanges, reflecting a country deeply divided over ways of reckoning with its brutal past.⁵⁴ Researchers seeking to grasp the tenor and drift of the polarized debates that led to the passage of the bill into law may find these texts valuable primary materials. Copies of these documents can be found in the library of Ghana's Parliament House.

NRC Witnesses' Folders

Each of the witnesses' dossiers (paper folders) contains the details of individual petitioners who registered to testify at the Commission's secretariat. Each dossier bears the name of a witness designated as "complainant." Each dossier contains a personal registration form capturing a witness's name and personal details, a handwritten account of their grievances and claims about the types of human rights violations suffered (e.g., murder, abduction, confiscation, torture, arson, etc.), as well as their motivations for seeking to testify. A member of the Commission's Investigations and Research division who was interviewed for this article explained that her team's task required conducting preliminary investigations into petitioners' claims, which involved rigorously ferreting tons of old records, notably newspapers and court records, and digging into the archives in search of reportage to authenticate the petitioners' claims.⁵⁵ The authentication processes were partly required for certifying the eligibility of petitioners to testify as witnesses before the Commission.⁵⁶ Some of the dossiers contain supporting documents such as exhibits of past court papers and judicial rulings, title deeds, certificates of ownership and photographs of confiscated assets (lands, houses, etc.), and newspaper clippings (notably from the state-owned

⁵⁴ A proof-text of the battle over words may be gleaned from one MP's (Papa Owusu-Ankomah) remarks uttered in the heat of the debates as follows: "Mr. Speaker, the honourable Member for Kumbungu...slipped in an expression, which I find most unfortunate – that we must listen to the voice of reason. Certainly Mr. Speaker that expression is offensive. I mean, "the voice of reason," does it mean we do not reason?" See *Republic of Ghana, Parliamentary Debates, Official Report, Fourth Series Vol. Thirty No. 39, December 21, 2001*.

⁵⁵ Interview with Caroline Boateng, Accra, 22 July 2017.

⁵⁶ Interview with Caroline Boateng.

organ *The Daily Graphic*) that previously covered their cases. Some of the documents were attached by some petitioners themselves in support of their claims and petitions for judicial review of perceived travesties of justice, for corroborating infringement claims, or to back claims for reparations and deconfiscations.

As indicated earlier, the librarians in charge of the Balme Library's holdings, citing the confidentiality of these files, forbid researchers from either photocopying/scanning any part of the witnesses' files or noting their identifying information. However, they limit researchers to taking only notes from the witnesses' statements contained in the folders.

NRC Video Files

The video files comprise the raw footage of the Commission's televised hearings, which are currently housed in a special unit labeled as the Ghana Broadcasting Corporation (GBC) Video Library (hereafter GBC-VL), which is located on the premises of the Ghana Broadcasting Corporation (GBC), the state-owned media house in Accra. The videos are preserved on VHS videotapes and are stacked on wooden shelves inside the library's dusty, non-air-conditioned room. Some of the tapes suffer from playback problems and tend to produce fuzzy viewing due to the accumulation of dust on the magnetic tapes.⁵⁷ Each tape containing witnesses' testimonies is captioned with both witnesses' names and the date they testified (e.g., NRC–Accra [Witnesses: Tsatsu Tsikata, Staff Sgt. Anthony C. Apuera], 7-07-2004). Permission to view the videos was granted to me by Mr. Ebenezer Ampaabeng, the Acting Director of Ghana Television, on the condition that I would view them inside the library during working hours under the supervision of the library's staff. The librarians, acting on his orders, selected my requested videos and played them on an old VHS video player during their working hours while I made notes. As sources, the videos are extremely useful for the range of emotions – the grief, tears, gestures, and shock – that witnesses displayed as they recounted their personal tragedies at the hearings. In addition, the testimonies from the video footage illuminated some of the claims and grievances stated in the witnesses' folders. Visitors to GBC's premises are first subjected to preliminary security checks at the main entrance. Access to the library itself requires the prior submission of a formal written request backed by sufficient proof of researchers'/visitors' identities and stated purpose, all of which must be addressed to the Directorate for Television and delivered by hand.

Outside the GBC-VL and Ghana, excerpts of the Commission's videos can be found on YouTube and other digital platforms. A portion of the video footage can be found at the Human Rights Archive, David M. Rubenstein Rare Book and Manuscript Library, Duke University in the United States.⁵⁸

⁵⁷ The gradual deterioration of the videos is said to have caught the attention of the GBC's management, which has initiated a proposed project to preserve the videos on digital clouds. Ebenezer Ampaabeng (personal communication, 19 August 2019).

⁵⁸ See Asare, *Truth without Reconciliation*, 178.

Government White Paper on the NRC Report Presented by the Minister for Justice and Attorney-General, 22/4/05, Accra

The government White Paper is a four-page document composed of thirty serially numbered clauses summarizing the government's concluding findings and recommendations based on its study of the Commission's report. The White Paper contains an explicit official directive asking the Ministry of Education to facilitate the dissemination of copies of the Commission's report in "all school libraries" to make "appropriate parts" a "required reading" by teachers and curriculum developers towards the long-term goal of preventing impunity and a recurrence of abuses in the country's future.⁵⁹ Issued under the "imprimatur" of the then Attorney-General and Minister of Justice, J. Ayikoi Otoo, it recaps the government's avowed goals for reconciliation and contains recommendations for redressing past infringements through reparations. A copy of this document can be found in the documentary holdings of the Office of the Ministry of Justice and Attorney-General's Department, Accra, Ghana. However, access to the Attorney-General's department, like most public institutions, requires proof of the researcher's identity.

Other Ancillary Sources

Other ancillary sources of useful value are the numerous contemporaneous accounts produced by state and nonstate institutions, including newspapers, surveys, and reports by policy analysts and governance experts. The preliminary legislative formulation of the Commission's mandate and the televised hearings became fodder for both the state-owned press between 2001 and 2005, thus making the Commission's hearings one of the most widely reported events in Ghana's recent media history. There are volumes of newspaper collections by the leading organs of the state: *The Daily Graphic* and *The Mirror* housed at the office of the Historical Society of Ghana (THSG) located within the premises of the Institute of African Studies (Old Institute of African Studies buildings), University of Ghana, as well as the PRAAD, Accra. Newspapers covered the Commission's daily hearings, capturing the drama, tensions, and emotions on the floor and highlighting their effects on audiences around the country. These publications, when read alongside the contemporaneous coverage of the hearings by independent online news sources such as *GhanaWeb* and *Modern Ghana*, provide valuable coverage of the exceptionally dramatic and newsworthy moments of the Commission's hearings.

Other useful sources in PRAAD include past and present constitutions, coup makers' speeches, government communications, past Commissions of Enquiry reports, and presidential speeches, which provide appropriate contexts for the numerous human rights abuses. There are also numerous contemporaneous writings by policy analysts and governance experts offering critical reflections on the Commission's work addressed to the public. Such publications include a

⁵⁹ White Paper, Article 8.3.1, April 22, 2005, Accra.

survey conducted ahead of the Commission's hearings by the Accra-based Ghana Center for Democratic Development (CDD), an independent civil society think tank.⁶⁰ As a prelude to the Commission's work, the CDD held an international conference that featured the voices of a diverse array of government, opposition, executive, parliament, judiciary, public agencies, political parties, civil society, religious bodies, and international human rights advocates on ways to "broaden public involvement and support in order to minimize the dangers associated with the reconciliation effort."⁶¹ The conference's proceedings are captured in a report that also contains copies of the verbatim speeches and remarks by the conference's array of speakers.⁶² As sources, they constitute a mine of immense value for understanding the sentiments and ethos of civil society organizations and the government towards the country's reconciliation project. Copies of the survey and the report may be obtained by contacting the librarian at the CDD's Accra office. The CDD further issued a series of syndicated weekly newsletters captioned as *Democracy Watch* (A Quarterly Newsletter of the Ghana Center for Democratic Development) and the *CDD Briefing Paper*, which provided critical commentaries on the Commission's hearings.⁶³

Memoirs and Autobiographies

A slew of valuable autobiographies and memoirs by former military officers containing their recollections of or participation in coup-related violence also exist.⁶⁴ However, mindful of historians' caution about the tendency of writers of memoirs and autobiographies to use their genre of literature in attempts to either win a "bout with the truth"⁶⁵ or deceitfully shield selected aspects of their public lives "behind a screen of self-protective secrecy,"⁶⁶ these writings must be read critically and in tandem with contemporaneous sources detailing the events they describe. Over all, their utility as sources is in part derived from their status as intimate personal recollections of how their authors "engaged with and

⁶⁰ See "Public Opinion on National Reconciliation in Ghana: Survey Evidence" in *CDD-Ghana Research Paper No. 10* (Accra: CDD, June 2001).

⁶¹ *National Reconciliation: International Perspectives*, Proceedings of an International Conference on "National Reconciliation in Ghana," 20–21 June 2001 (Accra: A CDD-Ghana Publication, October 2001).

⁶² *National Reconciliation*.

⁶³ Researchers who miss the newsletters may find a compilation of them in a bound volume: Ghana Center for Democratic Development, ed., *Watching Democracy in Ghana: A Compilation of Articles Published in Democracy Watch, the Official Newsletter of the Ghana Center for Democratic Development, from 1999–2007* (Accra: CDD-Ghana, 2008).

⁶⁴ Such works penned by former soldiers who were involved in, witnessed or became victims of coup-related violence include Kofi Abaka Jackson, *When Gun Rules: A Soldier's Testimony of the Events Leading to June 4 Uprising in Ghana and its Aftermath* (Accra: Woeli Publishing Services, 1999); J. J. Yidana, *Who Killed the Judges? Ghana in Retrospect* (Accra: Bismi Enterprise, 2002); Osahene Boakye Djan, *Call to Duty: The Enforced Restoration of the Constitution in Ghana* (Tema: NewGuide Books, 2007); Daniel Kwadjo Frimpong, *The Military, My Life: 43 Years-5 Months-25 Days* (Tema, Ghana: Digibooks Ghana Ltd., 2023).

⁶⁵ Marc Bloch, *The Historian's Craft* (New York: Vintage Books, 1953), 112.

⁶⁶ Hannah Arendt, *Crises of the Republic: Lying in Politics, Civil Disobedience on Violence Thoughts on Politics and Revolution* (New York: Harcourt Brace Jovanovich, 1972), 10.

commented on⁶⁷ the events within their lives and times. Most of these works were published by local publishing houses and have copies in most public libraries in Ghana, which would not require any institutional subscription to access them.

Finally, it is worth noting that while proof of identity may be required for entry and use of most of these holdings, it is only at the PRAAD that researchers are required to pay a preliminary registration fee plus subsequent costs arising from requests for photocopies and scans. None of the aforementioned libraries and repositories require any form of payment for accessing their holdings. Researchers may, however, be advised to stay alert to librarians' expectations of being tipped for their services.

Conclusion

There are numerous obstacles to accessing the Commission's documents made public by the state, but two of them stand out. The first pertains to the charge and aura of confidentiality that Ghana's government and other repositories have conferred on the Commission's archives. The second has to do with the security-driven restrictions imposed on access to the records. The formal bureaucratic limitations that beset any researcher's access to these repositories may require the need to exploit what Benjamin Talton has termed as "the benefits of building genuine, human relationships with research informants" who include the staff and librarians who work in them.⁶⁸ As noted by Talton, fieldwork research in Ghana, as elsewhere, "is entangled with wider social and historical relations" such that "social blindness and political disinterest" may not aid the researcher's quest to unlock access to key information.⁶⁹ Building relationships with librarians, archivists, and institutional administrators in as friendly a manner as possible, is a potential pathway to easing formal restrictions at the informal and personal level. This article has shown that despite the limitations imposed by both the government and the various repositories, opportunities for researching Ghana's postcolonial human rights history exist in the piecemeal access granted by the staff and workers of the various repositories.

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⁶⁷ Luis White, "Hodgepodge Historiography: Documents, Itineraries, and the Absence of Archives," *History in Africa* 42 (2015): 315.

⁶⁸ Benjamin Talton, "Quenching the Thirst for Data: Beer, Local Connections, and Fieldwork in Ghana," in *Black Subjects in Africa and Its Diasporas: Race and Gender in Research and Writing*, ed. Benjamin Talton and Quincy T. Mills (New York: Palgrave Macmillan, 2011), 132.

⁶⁹ Talton, "Quenching."

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