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Final Recommendations of the Truth and Reconciliation Commission, Republic of Korea

Truth and Reconciliation Commission, Republic of Korea

Mark A. Nathan

Eon Joo Park

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Chapter 1. Overview of the Comprehensive Recommendations

1. Basis for the Recommendations.

During the investigation period from April 25, 2006, to June 30, 2010, among the 11,175 cases that were petitioned, the Commission made a determination on 8,468 verified cases and 508 unverified cases. Although there were minor criticisms of these decisions and their legal foundations, invoking Article 32 of the Framework Act, the Commission recommended that the state take measures to provide relief for victims and to prevent the recurrence [of past atrocities]. The state attempted to enact the “Regulations on Addressing Recommendations Related to Past Affairs” and to establish a “deliberative committee” to effectively address the details of the recommendations for each case.

Article 32 of the Framework Act stipulates that, at the conclusion of its mission, the Commission should make a comprehensive report and present it to the President and the National Assembly (paragraph 2). Article 32 of the Framework Act also states clearly that the Commission should include recommendations under any of the following subparagraphs concerning each case (paragraph 4).

1. Jinsil hwahae wiwonhoe jonghap bogoseo I (Seoul: Jinsil hwahaereul wihan gwageosa jeongri wiwonhoe, 2010). Please note that all footnotes were added by the authors and editors of this translation and are not included in the original TRCK Comprehensive Report cited above.

1. State measures for restoring the damage and honor of victims and sufferers
2. State measures to account for an unverified investigation result to its victim and sufferer
3. State measures for preventing the recurrence of past atrocities
4. Matters relating to the alteration, abolition, and rectification of laws, institutions, policies and customs/practices

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5. Matters relating to legal and political reconciliation measures concerning the perpetrators of past incidents for which the truth has been investigated
6. State measures for national reconciliation and the development of democracy
7. State measures for education and promoting the cultivation of historical consciousness
8. Other measures that the Commission deems necessary to achieve the purpose of this Act

In addition, the Framework Act (paragraph 5), which stipulates "any state agencies that receive these recommendations [under paragraph 4] shall respect and attempt to implement the proposed recommendations," emphasizes the state's responsibility to undertake follow-up measures after the truth has been verified.

In order to achieve reconciliation and social integration, Chapter 4 of the Framework Act, "Measures for the State and the Commission," elucidates the following actions that the state must take: Article 34 (Duties of the State), Article 36 (Damage Rectification and Honor Restoration), Article 37 (Recommendation of Special Release and Rectification for Victims), Article 39 (Reconciliation between the Perpetrator and the Victim or Bereaved Family) and Article 40 (Establishment of a Research Foundation on Past Incidents).

The Commission made comprehensive recommendations for the state and society based on the purpose of the Framework Act as well as its experience and accomplishments. The Commission, moreover, referred to each instance of [previous] domestic truth commissions as well as the achievements and the experiences of foreign truth commissions in order to be able to draft recommendations that reach the level of being more objective and practically possible. Although the Commission, due to a lack of time, missed the process of holding public hearings and getting professional advice, as other foreign truth commissions have done during the drafting of
their recommendations, it is significant that these recommendations were derived from the agreement of all members of the Commission after heated discussions.

2. The Examples of Recommendations from Major Domestic Commissions on Past Incidents.

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Most of the domestic truth commissions completed their activities around December 31, 2010, with the exception of several commissions whose investigation periods were not specified. Among them, the Presidential Truth Commission on Suspicious Deaths, the Commission on Finding Facts and Restoring Honor of April 3 Jeju Incident Victims, and the Ministry of Defense/National Intelligence Service/National Police Agency’s Commissions on Fact-Finding of Past Incidents, offered recommendations or proposals on providing relief for victims and reforming institutions. However, the Presidential Committee for the Inspection of Collaboration with Japanese Imperialism and the Investigative Commission on the Property of Japanese Collaborators, among others, did not make recommendations because there was no [legal] basis requiring them to present recommendations in their final reports.

The following Table 8-1 shows a list of the domestic truth commissions that presented recommendations in their final reports and the main features of those recommendations.

Table 8-1 **Main features of the recommendations found in final reports of domestic truth commissions.**

<table>
<thead>
<tr>
<th>Name of the Commission (activity period)</th>
<th>Main Features of the Recommendations</th>
<th>Notes</th>
</tr>
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</table>
- Make state apologies, make reparations for damage of the bereaved families, hold memorial services, etc.  
- Abolish the Protective Custody System and the National Security Act  
- Reform institutions and conscription system for preventing a recurrence  
- Protect the human rights of prisoners, and complement the arrest warrant system  
- [Guarantee] independence of the military prosecutorial investigative agencies, and establish structures for investigating suspicious deaths in military  
- Publicize human rights and educate [people about] history  
- Punish perpetrators and eliminate the statute of limitations | * Non acceptance of the results (5), mid/long term examination (11), partial acceptance (4), no measurement (3)  
* Evaluated during the second term of the commission |
| Commission on Presidential
| Continuous investigations into unverified cases or those with insufficient investigation results |
|---|---|
| Suspicous Deaths: 2nd term (July 1, 2003 – June 30, 2004) | 16 paragraphs of recommendations |
| - Establish a truth verification institution for a comprehensive settlement of the past |
| - Prepare legislative measures for eliminating the statute of limitations on crimes against humanity and on claims for compensation |
| - Overturn convictions of those involved in democratization movements |
| - Improve institutions for determining causes of deaths, criminal investigation practices, and institutions for preventing suspicious deaths in the military |
| - Carry out state measures for cultivating human rights awareness |
| - Abolish the Security Surveillance Act |
| - Abolish the Research Institute of Public Safety Affairs and the Democracy Research Institute |
| Reconsideration of 10 paragraphs which were not implemented |
| Commission on Finding Facts and Restoring Honor of April 3 Jeju Incident Victims (Aug. 28, 2000 – [no termination date]) | 7 Suggestions to the government (2003.3.29.) |
| - Make state apologies and designate a memorial day |
| - Carry out additional verification, and hold memorial services |
| - Create a peace park, and restore historic sites |
| - Assist with living costs, unearth human remains, etc. |
| The “Fact-finding Report of April 3 Jeju Incidents” drawn up by the planning group, preparing suggestions separately, does not include recommendations |
| - Provide relief for damages, and make apologies on behalf of the Ministry of Defense |
| - Include the spirit of the “5.18 Gwangju Democratization Movement” in the Preamble of the Constitution |
| - [Provide] education about human rights in the military and preserve related documents |
| - Clarify Article 9 of the Martial Law Act |
| Revisiting the existing recommendations |
| - Express regret for certain activities that exceeded the Service’s authority in the past |
| - Maintain political neutrality |
| - Publicize historical materials in the National Intelligence Service’s possession |
| Proposals to the state and citizens |
| - Make a continuous effort to verify abuses of power |
| - Restore honor to the victims and provide procedures for relief |
| Proposals to the National Intelligence Service |
| - Reinforce a nationwide information service |
| - Consider development of an advanced intelligence service |
| [These recommendations and proposals] follow “Recommendations concerning institutional complement for treating the similar cases and preventing their recurrence” |
| National Police Agency’s Commission on Finding the Facts of Past Incidents (Nov. 18, 2004 – Nov. 28, 2007) | Plans for developing the police |
| - Reform the consciousness of human rights among the police: establish a practical human rights education system and protect the human rights of victims of crime |
| - Establish the political neutrality of the police: promote political neutrality through enhancement of a police committee, improve personnel systems, etc. |
| - Improve management of documents |
| - Push ahead with implementation of the recommendations and establish an inspections department |
| Recommendations not from a report on the investigation results, but from a white paper |
3. Case of Foreign Truth Commissions’ Recommendations.

As for the truth commissions of foreign countries, since the establishment of most of the commissions occurred only after reformist and democratic governments had been set up, they were established for the sake of emphasizing a break with the past ruling powers that had perpetrated human rights violations and for promoting national unity. The goal in establishing these truth commissions is judged to be a thorough blocking of any possibility of a recurrence of state crimes in order to prevent the state from abusing human rights in the future. Accordingly, the final report of each country’s truth commission includes efforts to mourn and heal historical wounds and to seek reconciliation befitting the purpose and design of the commission’s establishment.

The following are the recommendations of key foreign truth commissions.

**TABLE 8-2 RECOMMENDATIONS OF KEY FOREIGN TRUTH COMMISSIONS [OMITTED]**


In August and December 2009, the Commission made three proposals to the President and the National Assembly: ‘Enactment of a special law on compensation and reparations for the civilian massacres that occurred around the time of the Korean War,’ ‘Exhumation and burial projects for the civilian victims of massacres that occurred around the time of the Korean War,’ and ‘Establishment of a Research Foundation on Past Affairs.’

The following are the concluding policy proposals that the Commission submitted at that time.

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3. Special Editors’ Note: Table 8-2 aims to reflect the recommendations of seven key foreign truth commissions: South Africa (2002), Chile (1991), Argentina (1985), Peru (2003), El Salvador (1993), Guatemala (1999), and Sierra Leone (2005). It divides the bodies’ respective recommendations into five remedial categories: “punishment for perpetrators,” “organizational reforms and institutional improvements,” “compensation/reparation,” “reconciliation and memorializing/consoling the dead,” and “follow-up measures.” The editors decided to omit Table 8-2 from the translation due to the difficulties of formatting its content for journal publication as well as the general availability of information elsewhere that better captures the complexity and material comprehensiveness of these recommendations.
A. Proposal for the enactment of a special law on compensation and reparations for the civilian massacres that occurred around the time of the Korean War.

On Aug. 21, 2009, the Commission proposed to the President and the National Assembly the enactment of a “Special Law on Compensation and Reparations for the Civilian Massacres that Occurred around the Time of the Korean War.”

The Truth and Reconciliation Commission was launched through an agreement reached by the ruling party and the opposition parties as a way of eliciting reconciliation after revealing the concealed truths in order to contribute to future national unity for Korean society.

In accordance with this objective, the Commission carried out extensive investigative activities into mass killings, the result of which made it possible to bring to light the truth about civilian massacres that had been concealed over the past several decades.

In addition, compensation and reparations are urgently needed for the bereaved families of the victims in order to provide relief for their damages. With regard to their earnest demand for compensation, it is absolutely necessary for the state to first enact a special law on compensation and reparations that embraces their demand with fairness and a consistent standard and principle.

The principle and method of the compensation/reparations are dependent upon the scope and extent of the damage to the victims, sufferers, and their bereaved families. However, their current living conditions will be considered when determining the scope and types of reparations. [p.212] It will be appropriate to provide compensation as a specially fixed amount of consolation money.

It is difficult for the current system and laws [in force] to rehabilitate the long-suffering victims and their bereaved families. Since the state is avoiding reparations based on the rationale that the statute of limitations has expired, even now, when the truth has been ultimately revealed, it can be said that the anguish of the bereaved families instead deepens.

A comprehensive and overall method of relieving damage through the enactment of a special law on compensation and reparations would indicate recognition of the illegal acts committed by the state in the past, acceptance of active responsibility, and achievement of social justice.

The special law would represent a just and proper plan for accomplishing reconciliation and for preventing social conflict and the decline of national power due to separate lawsuits and legislation.
B. Proposal for the exhumation and burial projects for the civilian victims of massacres that occurred around the time of the Korean War.

On Oct. 7, 2009, the Commission submitted to the President and the National Assembly a ‘proposal for the exhumation and burial projects for the civilian victims of massacres that occurred around the time of the Korean War.’

The Commission has exhumed the remains of 1,583 bodies of the victims through exhumation projects, which were conducted for three years from 2007 to 2009. Through these exhumation projects the truth about the massacres came to be revealed and verified. Moreover, the bereaved families, who were unable to retrieve the bodies of their family members for 60 years, were given the opportunity to be free from their anguish, even if only a little bit.

In addition, for the first time in a half century, these state-led exhumation projects opened the way to heal the festering wounds of the past and to lay a foundation for reconciliation and coexistence.

A host of burial places, however, remain untouched, and even those bodies that have been unearthed are being temporarily kept in research rooms of universities. [p.213] For the sake of one’s moral duty as a descendant [of killed ancestors] and in order to lessen the pain of the bereaved families, measures to resolve this unsolved problem are urgently needed.

Therefore, it is time to advance the exhumation projects for the victims of civilian massacres as a long-term government policy. Also, it is necessary for the government not only to express actively its will to implement the exhumation and burial projects, but to establish fundamental, lasting measures for healing the terrible wounds of the past.

It is also necessary to enact a special law relating to exhumations. The special law on exhumations will contribute to efficient implementation of government-led policies concerning the exhumation projects and permanent burials for [victim] remains.

The exhumation and burial projects for the victims of civilian massacres that occurred around the time of the Korean War will ultimately bring about the realization of national unity and reconciliation. Furthermore, the project is a prerequisite for overcoming the wounds of the past and moving towards a hopeful future for Korean society.
C. Proposal for the establishment of a Research Foundation on Past Affairs.

On Aug. 21, 2009, the Commission submitted to the President and the National Assembly a 'proposal for the establishment of a Research Foundation on Past Affairs.'

The Commission has been at least partially able to console the victims and their bereaved families, who had suffered from the historical atrocities committed by the state, by verifying the truth of civilian massacres and gross violations of human rights. The activities that the Commission has carried out are also bringing meaningful progress toward apologies and reconciliation.

Considering that the active period of the Commission's work will soon expire, it is necessary to establish a "Research Foundation on Past Affairs" in order for follow-up measures [to be implemented] in accordance with the truth verifications that have been made, and so that the Commission's achievements can be further developed.

The "Research Foundation on Past Affairs" will contribute to easing deep-rooted resentments built up over several decades, to achieving reconciliation and coexistence, to overcoming divisions [p.214] and uniting the people, and to restoring the state's credibility.

Since it is unavoidably difficult to handle the problems of past affairs in one fell swoop, there is no choice but to solve them step by step, using different methods depending on the issues that arise.

The "Research Foundation on Past Affairs" and the work it undertakes for reconciliation and remembrance, for [maintaining] records and [conducting] research, and for [supporting] investigation/exhumation projects, can be described as the brightest shining achievement that Korean society will have made in our efforts to clear up past incidents. It is believed that the more the state makes persistent efforts for the sake of settling past incidents, the greater the successful results and lessons obtained will be.

The "Research Foundation on Past Affairs" will contribute to building internal cohesion for our society, a true sense of national unity, and a bright future for Korean society.

Chapter 2. Measures for Restoring Honor and Providing Relief for the Victims

Recommendation 1: There is a need for the state to make efforts to restore the honor of victims by, among other things, making widely known the truth about the verified incidents that are not well known.
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The Commission's determination of a verified case indicates that the truth, which had been distorted and concealed for a long time, has been disclosed. The victims of these incidents have had to live with the stigma of being called rebels and spies. Based on the results of truth-verification concerning these incidents, the Commission has recommended that the state make efforts to restore the victims' honor.

Therefore, by respecting the recommendations based on the Commission's truth-verification decisions, it is necessary for the state to continually and widely make known the truth about these incidents to ordinary citizens, in various ways, in order to help restore the victims' honor.

Recommendation 2: There is a need for the state to provide support, such as medical treatment and counseling, to those suffering from aftereffects among victims, and the families of victims, who were killed around the time of the Korean War, or whose human rights were violated.

The Commission confirmed that the injured victims and the survivors of many civilian massacres, such as the 'civilian killings during the Hampyeong Restoration Operation' and the 'U.S. military bombings of the Gokgye Cave in Danyang,' have suffered for a long time since the incidents occurred. Additionally, [the Commission] confirmed that the cause of the victims' physical and psychological pain over a long duration in several cases of human rights violations, like the 'case of the [abducted] boat Taeyeong,' was illegal detention and even [physical] abuse for a considerable period of time at the investigative agencies. It is possible that the victims of human rights violations, even though some were acquitted through retrials, have continued to suffer lingering aftereffects caused by things like [physical] abuse. Accordingly, medical treatment or counseling services are needed to alleviate the physical/psychological pain and aftereffects felt by the victims of civilian massacres and human rights violations, as well as their families.

[p.216]

The precedent for this is Article 9 of the 'Special Act on Fact-finding and Restoring Honor for Victims of the Jeju 4.3 Incidents' and Article 13 of the Enforcement Decree of the same law, both of which stipulate a system to cover the cost of medical treatment. This refers to things like medical

4. Jeju 4-3 sageon jinsang gyumyeong mit huisaeng jamyeong hoebok e gwanhan teukbyeolbeob [Special Act on Fact-finding and Restoring Honor for Victims of the Jeju 4.3 Incidents], Act No. 6117, Jan. 12, 2000, art. 9 (S. Kor.); Jeju 4-3 sageon jinsang gyumyeong mit huisaeng jamyeong hoebok e gwanhan teukbyeolbeob sihaengryung [Enforcement Decree of the Special Act on Fact-finding and Restoring Honor for Vic-
treatment expenses, nursing expenses and the cost of purchasing disability devices for those with lasting injuries among the confirmed victims. Additionally, with regard to the No Gun Ri incident, the provision of medical treatment is clearly spelled out in the 'Special Act on Screening and Restoring Honor for Victims of the No Gun Ri Incident.' Therefore, it is necessary to provide medical and counseling services as soon as possible to those suffering from aftereffects of the civilian massacres and human rights violations.

**Recommendation 3:** There is a need for the state to prepare appropriate plans for giving relief to victims of U.S. military incidents around the time of the Korean War and to make diplomatic efforts with the U.S. government to consider plans to do the same on its side.

The Commission recommended that, for cases where the truth has been verified ("truth-verification"), such as the 'U.S. bombing incident of Sanseong-dong, Yecheon' and the 'U.S. bombing incident of Gigye-cheon, Gyeongju,' the state should actively negotiate with the U.S. government in order to [determine] appropriate measures, such as joint investigations and reparations. The U.S. has, in the past, provided compensation and reparations on a humanitarian level for French civilians who suffered damage during World War I by creating the 'Act to Indemnity for Damages Caused by American Forces Abroad.' Thus, similar compensation and reparations are needed for the victims of the U.S. military incidents mentioned above.

Even though the incidents relating to the U.S. military occurred in wartime, it has been revealed that these incidents resulted from: a violation of the duty to protect civilians, such as not having sufficient awareness of the areas where civilians were living at the time, or not evacuating them; or from a failure to take precautionary measures, such as training [soldiers] to distinguish civilians. Therefore, it is necessary for the state to make diplomatic efforts, such as negotiations with the United States, in order to provide the victims with appropriate relief for damages.

[p.217]
Recommendation 4: There is a need for the state to make diplomatic efforts [with Japan] to lessen the pain and disadvantages of those within Japan who were victimized in the 'Korean-Japanese fabricated spy incidents.'

The Commission’s investigation into the ‘Korean-Japanese fabricated spy incidents’ has revealed that unreasonable prosecutions and guilty convictions were based on fabrications and false confessions that were due to illegal detention and [physical] abuse during the investigative process. Therefore, it recommends that appropriate measures be taken to achieve reconciliation. In particular, in the ‘case of fabricated espionage charges concerning Cha Pung-gil,’ the ‘case of fabricated espionage charges concerning Sin Gwi-yeong and his family,’ and the ‘case of the National Security Law violation of Lee Jong-su, a Korean-Japanese Student,’ the innocence of some victims has even been confirmed through retrials.

However, these victims of fabricated spy incidents are currently being disadvantaged in various forms since the Japanese government revoked their right to special permanent residency [status]. The Japanese government originally granted special permanent residency to Korean-Japanese as a special measure in accordance with the normalization of Korean-Japanese diplomatic relations in 1965; however, as soon as they were arrested in these spy incidents their eligibility [for this special status] was taken away.

It is necessary for the Korean government to restore the honor and relieve the harm of the victims by devoting diplomatic efforts in order to protect the Korean-Japanese, who have been already disadvantaged because of the unlawful [use of] governmental power, from additional damages.

[p.218]

Chapter 3. State Measures for Preventing the Reoccurrence of Past Atrocities

Recommendation 5: There is a need for the state to devise institutional mechanisms for the punishment of perpetrators of mass killings brought to light in the investigation of incidents surrounding the Korean War.

Through the Commission’s process of investigating and determining [the truth about the past], the facts about the mass killings committed by hostile forces, or the military and police around the time of the Korean War, have come to light. These incidents conform to the [definition of] mass killings specified in Article 2 of the ‘Convention on the Prevention and Punishment of the Crime of Genocide’ (which took effect on 12 January

1951, multilateral treaty, No. 1382) that the South Korean government joined on May 22, 2008. These genocidal crimes are excluded from any statute of limitations according to the ‘Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity’ (1968)\(^8\), the ‘Universal Declaration of Human Rights, 1993’\(^9\) and the ‘Rome Statute, 1998.’\(^{10}\) Likewise, in South Korea, the crime of murder committed during a mass killing is excluded from any statute of limitations according to Article 3, Paragraph 2 of the ‘Special Act on Statutory Limitations for Crimes Destroying the Constitutional Order,’\(^{11}\) which was enacted on December 21, 1995.

During the Commission’s process of investigating and determining [the truth about the past], there were a host of debates concerning cases in which [victims], rather than being murdered, were left disabled through bodily harm, and cases in which [victims later] died because of bodily harm and torture. The Commission decided to treat the cases of crippling through injury as seriously as murder. When we consider that the Convention as it currently stands includes, besides murder, inflicting significant physical and psychological damage in the cases of mass killings, the range of crimes that are exempted from statutory limitations should be expanded to match the objectives of the Convention.

[p.219]

Chapter 4. Rectifying and Reorganizing Laws, Institutions, Policies and Customary Practices

**Recommendation 6:** There is a need for the state to use caution when applying the National Security Law,\(^{12}\) as it carries the risk of misuse and abuse.

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Through the Commission's process of investigating and determining the cases involving violations of the National Security Law (including the Anti-Communist Law), the Commission confirmed that the National Security Law had been misused and abused in the past. In particular, in the cases where the truth-verification was determined, such as the 'case of Gwak Jong-dae and Kim Hae-bong's fabricated violation of the National Security Law,' the 'case of fabricated espionage charges against Cha Pung-gil,' and the 'case of fabricated charges against the National Association of Democratic Students and the National Association of Democratic Workers accused of being anti-state organizations (the Hak-rim incident),' the fact that serious human rights violations stemmed from the misuse and abuse of the National Security Law was confirmed. Article 7 (i.e. praising and encouraging), Article 8 (i.e. meeting and communicating), and Article 10 (failure to inform) have been frequently misused and abused, and thus it is necessary [for the state] to henceforth use greater caution when applying the National Security Law in order to prevent its misuse and abuse.

Recommendation 7: There is a need for the state to prepare institutional plans to minimize the restrictions of basic rights, such as preventive custody, residency restrictions, and freezing assets, even when a state of emergency is declared.

Through the Commission’s process of investigating and determining [the truth] concerning the mass killing incidents around the time of the Korean War, including the ‘Yeo-Sun [Yeosu-Suncheon] incident’ and the ‘Jeju Preventive Custody Incident,’ the Commission was able to confirm that the large-scale civilian massacres occurred illegally during a state of national emergency. Additionally, through the process of investigating and determining the ‘Case of the Decree Violation of Im Gu-ho’ it was confirmed that human rights were unlawfully violated when martial law and the Garrison Act were invoked. Part of the reason unfortunate incidents occurred in situations where a state of national emergency, martial law, or the Garrison Act had been proclaimed, is that the relevant laws and institutions were insufficient to prevent civilian massacres or human rights violations.

Minimizing the restrictions to citizens’ basic rights, even during a state of emergency, is a fundamental principle of democratic states today. [p.220] Accordingly, even if a state of emergency is declared, it is necessary [for the state] to prepare plans for minimizing the restriction placed on citizens’ basic rights and, moreover, minimizing the damage to them. Because there is concern that a state of emergency could reoccur as a result of the situation in which a perilous peace has continued due to the ceasefire
agreement [with North Korea], it is necessary [for the state] to prepare immediate plans.

**Recommendation 8:** With regard to secret documents related to national security, measures are needed to make public those documents that no longer affect national security after a fixed period of time. In order to accomplish this, it will also be necessary to supplement the laws related to the Freedom of Information Act as a way of striking a balance between the common good and the people’s right to know.

The Commission dealt with a host of documents classified as secret through the process of investigating and determining [the truth]. Among these types of secret documents, [the Commission] confirmed the existence of some documents that, from the present standpoint, would have no influence on national security even if they were declassified and made public. For instance, in the ‘case of Special Operations Agent (HID) Sim Mun-gyu [charged with being] a double agent,’ since the relevant documents were all classified as secret, the family of the victim did not learn about his execution for over 40 years. Much as the present declassification of these types of secrets would not have any great influence on national security, the same applies to [the declassification of] the lists of names of those who were executed, and the lists of members of the Bodo League that the Commission obtained through its investigations into the civilian massacres around the time of the Korean War. Therefore, it is necessary to supplement the procedures for declassifying secret documents through a revision of the laws currently in force, such as the ‘Official Information Disclosure Act.’

**Recommendation 9:** The state must prepare a supportive plan for enabling the surviving family members to easily create and correct [records] about victims in the Register of Family Relations by revising the ‘Act Concerning the Registration of Family Relations’ and [creating a plan] for removing the fines against those who do so.

[p.221]

The Commission recommended correcting the [old] Family Registry in several cases, including the verified ‘Hampyeong 11th Division incident’ in

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which the court, accepting a request by the victims’ bereaved families, ruled that the Family Registry ("Register of Family Relations, Etc.") be corrected. Aside from this, there were other cases in which [the Commission] recommended that the Family Registry be corrected.

Whereas Article 11 (Creation of a Record in the Register of Family Relations) of the ‘Special Law on Fact-finding and Restoring Honor for the Victims of 4.3 Jeju Incidents’ has made it possible to easily create and correct [records in] the Register of Family Relations “despite provisions in other laws,” the Framework Act Clearing Up Past Incidents for Truth and Reconciliation\textsuperscript{15} has no special provisions related to this. As a result, not only were the bereaved families of the [victims of] civilian massacres and the so-called hostile forces incidents unable to correct the information offered by the truth-verification [process] concerning the victims’ deaths, they were also forced to pay penalties.

Therefore, it is the state’s responsibility to amend the ‘Act Concerning the Registration of Family Relations, Etc.’ in order to easily create and correct [records in] the Register of Family Relations.

**Recommendation 10:** There is a need for the state to prepare ways to improve the reliability of the “system for confirming the cause of death” ("autopsy system").

The Commission’s process of investigating and determining [the truth] concerning suspicious deaths revealed the fact that people frequently did not trust the results of the autopsies conducted by those [working] at the investigative agencies who did not have professional knowledge of forensic medicine. In particular, many people had almost no belief in the results of the autopsies done on people in the labor or student movements who died suddenly. Although this resulted from distrust of the government and the investigative agencies, there was also distrust of those in charge of the autopsies. In light of this, those who possess professional knowledge of forensic medicine (doctors, etc.) are required to participate in the autopsies in order to promote reliability; therefore, it is necessary for the state to supplement the relevant laws, such as the Code of Criminal Procedure, and to expand [its] financial support.

[p.222]

\textsuperscript{15} Framework Act, supra note 2.
Chapter 5. Matters Relating to Legal and Political Reconciliation Measures Concerning the Perpetrators of [Past] Incidents for which the Truth Has Been Verified

Recommendation 11: The state must go further in actively supporting institutional mechanisms for realizing reconciliation by means of perpetrators repenting and victims or their families forgiving.

Reconciliation is a catalyst for settling conflicts among social members, being tolerant of each other, and forming a more unified community. It is possible to achieve reconciliation only when the perpetrators [of past incidents] first confess and apologize. In the 'case of the suspicious death of Nam Hyeon-jin,' where the military police simply concluded that the victim committed suicide [when, in fact], he had done so because of the beatings and abuse [at their hands], it was possible to accomplish truth-verification and reconciliation between the perpetrators and the bereaved families thanks to a conscientious confession and apology on the part of the perpetrators. Reconciliation is accomplished when perpetrators first confess and apologize, and then victims forgive the perpetrators.

However, the process of going from confession to forgiveness is never easy when left in the hands of those who were directly involved. Therefore, the state needs to make an effort to prepare supportive plans at an institutional level for fostering an environment of reconciliation that will lead to courageous confessions.

Chapter 6. State Measures for National Reconciliation and the Development of Democracy

Recommendation 12: There is a need for the state to apologize to victims and their families for its illegal abuse of power.

The state’s official apology contributes greatly to healing the wounds of people who have been hurt by the illegal abuse of power. On the day of the ‘Joint Memorial Service and Mourning Ceremony for the Victims of the Bodo League Incident in Ulsan,’ held on January 24, 2008, the President officially apologized for the Bodo League massacres via a media message, stating “[o]n behalf of this country, I apologize earnestly for the illegal acts committed under governmental authority at that time. I pray for the repose of the souls of the innocent victims and offer my words of condolence to their bereaved families.” For the sake of national unity, reconciliation, and the development of democracy, there is a need for the state to move beyond apologizing for individual incidents, and to apologize to the citizens, in-
cluding the victims and their bereaved families, in a way that embraces all truth-verified incidents in its content.

**Recommendation 13:** There is a need for the state to find proper burial places for the remains of victims of mass killings and to build reconciliation and memorial facilities for all those who were unlawfully killed around the time of the Korean War.

In 2010, the Commission made an effort to build facilities for burying the remains that had been exhumed during the truth-verification activities from 2007 to 2009. Bereaved family associations and governmental institutions generally agreed to carry out a burial plan, including a relics exhibition hall and a memorial hall. This plan, however, was not fully carried out because of such difficulties as securing a location.

The bereaved families, if they wish to do so, should be permitted to lay to rest not only the remains that the Commission exhumed, but also the bodies found by the family associations in the burial facilities. While the reconciliation and memorial facilities will be created as symbols of national reconciliation, encompassing military and police incidents as well as hostile incidents nationwide that occurred around the time of the Korean War, at the same time they need to be utilized as a place for the education of citizens concerning security, human rights, and peace.

**Recommendation 14:** There is a need for the state to make efforts at national reconciliation and unity by providing support for local joint memorial services for all those killed from military and police incidents, or from hostile incidents.

The state’s support for the joint memorial services demonstrates that the state is officially acknowledging its responsibility for failing to fully protect, or disregarding, the right of its citizens to life, despite the fact that the war was a period of emergency. Moreover, it also demonstrates the state’s determination to make efforts to console the wounds of the bereaved families.

There were a lot of cases around the time of the Korean War in which the residents of a certain area were successively victimized by the [North Korean] People's Army, local leftists, and [South Korean] military and police units. Only in certain areas have efforts been made to heal each other's wounds and to restore the community by holding joint memorial services and erecting memorial monuments for all those killed on both the Right and the Left. These areas currently include the Gurim town of Yeongam-gun, Jeollanam-do; Dado-myeon of Naju-gun, Jeollanam-do; and Hampyeong, ...
Jeollanam-do. Therefore, the state needs to provide support by expanding on these precedents in order to accomplish national reconciliation.

Chapter 7. State Measures for Education and Promotion for the Cultivation of Historical Consciousness

Recommendation 15: There is a need for the state to implement vigorous educational and promotional [activities] for the sake of creating a social atmosphere that values a respect for life, peace, and human rights, while at the same time, implement peace and security education that includes content about the tragedies of war.

For the purpose of fostering a climate that values human rights and expressing the state’s willingness to make efforts to prevent a reoccurrence of victims who have suffered from things like civilian massacres or gross violations of human rights, the state needs to actively develop and utilize educational and informational materials mainly about peace and human rights.

Along with these measures, it is necessary for the state to develop educational materials about peace and security that include content about the tragedies caused by war, and to utilize them in order to prevent war and inspire a sense of national security.

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Chapter 8. Other Measures that the Commission Deems Necessary to Achieve the Purpose of this Act

Recommendation 16: There is a need for the state to prepare policies for the victims who did not have the chance to apply [to the Commission], and to support academic research on incidents that were not investigated.

The Commission received petitions for truth-verification for one year, from December 2005 to November 2006, and carried out investigations into some incidents that were enumerated as needed for verification in Article 2, Paragraph 1 of the Framework Act. Through these activities, the Commission was able to investigate not only microscopic truths about individual incidents, but also macroscopic truths encompassing the individual incidents.

However, it seems that there were many bereaved families and victims who did not submit petitions on time because they were not well aware of the Commission’s activities or the process of application. Indeed, some of those who missed the chance to apply asked the Commission to accept additional petitions.
Accordingly, although the state generally shed light on macroscopic facts, the state’s active support for collecting [additional] materials and conducting academic research is needed in order to verify microscopic truths about incidents that the Commission has not investigated for the victims who did not have the chance to apply.

**Recommendation 17:** There is a need for the state to make efforts to get evidence from the U.S., or related countries, about incidents that involved the U.S. military around the time of the Korean War for the sake of unverified truths or for the victims of incidents relating to the U.S. military who did not apply.

A majority of the incidents involving the U.S. military were deemed unverifiable since it was difficult to grasp the details of the incidents due to an inability to obtain documents relating to the military operations of the U.N. forces, the [North Korean] People’s Army, and the Chinese Communist forces. The Commission collected a lot of information through several trips to the U.S., the U.K., Australia, and so forth. This information, however, was not sufficient to judge clearly all of the incidents. Therefore, it is necessary for the state to make diplomatic efforts to request and obtain evidence from related countries in order to bring to light the numerous unverified incidents that involved the U.S. military.