

## Contents

<i>Foreword</i>	<i>page xi</i>
<i>Preface</i>	xiii
<i>Acknowledgments</i>	xix
<i>Abbreviations</i>	xxi

### PART I

<b>1 Truth Commissions</b>	3
Introduction	3
Section 1: Overview of Transitional Justice	4
Section 2: Overview of Truth Commissions	11
Section 3: Distinguishing Truth Commissions from Other Human Rights Investigations	40
Section 4: Distinguishing Truth Commissions from Courts	69
Conclusions	87
<b>2 Procedural Fairness</b>	88
Introduction	88
Section 1: Relevant International Standards	89
Section 2: Selected Domestic Models of Fairness	108
Section 3: Toward a Conception of Procedural Fairness for Truth Commissions	131
Conclusions	154

## viii CONTENTS

## PART II

<b>3 Statement Taking</b>	159
Introduction	159
Section 1: Publicity and Outreach	162
Section 2: Accessibility	168
Section 3: Information on Possible Consequences of Giving a Statement	171
Section 4: Procedures for Taking and Recording Statements	175
Section 5: Receipt and Preservation of Confidential and Anonymous Statements	181
Section 6: Support and Referrals	186
<b>4 Subpoena Power</b>	188
Introduction	188
Section 1: Procedure for Issuing and Serving Subpoenas	191
Section 2: Subpoena Content and Scope	193
Section 3: Enforcement Powers	197
Section 4: Recipient Rights	202
<b>5 Search and Seizure Power</b>	205
Introduction	205
Section 1: Procedure for Issuing Warrants	208
Section 2: Scope of a Warrant	212
Section 3: Procedure for Executing Warrants	215
Section 4: Rights of the Subject of the Search	219
<b>6 Public Hearings</b>	222
Introduction	222
Section 1: Selection and Preparation of Those Who Will Appear	226
Section 2: Notification to Implicated Persons: Timing, Method, and Content	230
Section 3: Nature and Scope of the Right of Reply	235
Section 4: Oaths and Affirmations	240
Section 5: Right to Legal Representation	242
Section 6: Admissible Evidence	245
Section 7: Privileges Based on Contexts and Relationships of Confidentiality	248
Section 8: Use Immunity and the Privilege against Self-Incrimination	251
Section 9: Protective Measures	258
Section 10: Victim Emotional and Psychological Support	265

<b>7 Publication of Findings of Individual Responsibility</b>	268
Introduction	268
Section 1: Types of Evidence	276
Section 2: Standard of Proof	280
Section 3: Notification of Intent to Name: Timing, Method, and Content	284
Section 4: Nature and Scope of the Right of Reply	288
Section 5: Investigation of Replies	290
Section 6: Mode of Naming in a Final Report	291
Section 7: Judicial Review	298
<b>Summary of Recommendations</b>	301
Statement Taking	301
Subpoena Power	304
Search and Seizure Power	306
Public Hearings	308
Publication of Findings of Individual Responsibility	313
<i>Appendix 1: Table of Truth Commissions</i>	317
<i>Appendix 2: Primary Materials on Truth Commissions</i>	327
The Truth and Reconciliation Commission Act 2000 (Sierra Leone)	327
From Madness to Hope: The 12-Year War in El Salvador – Report of the Commission on the Truth for El Salvador (1993) [Excerpts]	339
<i>Appendix 3: Primary Materials on Other Commissions of Inquiry</i>	353
UK Inquiries Act (2005) [Excerpts]	353
Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General (2003) [Excerpts]	376
<i>Index</i>	393