



The
UNIVERSITY
of VERMONT

Vermont Legislative Research Service

<https://www.uvm.edu/cas/polisci/vermont-legislative-research-service-vlrs>



Truth and Reconciliation Commissions

This report examines the different Truth and Reconciliation Commissions that have been created in various countries, states, and cities and how these bodies may fit into the context of the state of Vermont. Truth and Reconciliation Commissions are bodies that have been formed at multiple levels of government as a way to try and heal and move forward from oppressive and harmful policies or actions taken by a government. These organizations offer a space for victims to speak about the harms they suffered in order to help move forward from their trauma. Additionally, the more contemporary models of Truth and Reconciliation Commissions have created reports on their findings as well as recommendations on how to further improve conditions for those negatively impacted as well as helping to educate the general population. These commissions have taken on a variety of different topics with a differing goals and methods. The report begins with a look into two international commissions as well as an overview of the United Nations guidelines on the creation of Truth Commissions. We then look into several state and local level commissions.

International Truth and Reconciliation

South African Truth and Reconciliation Commission for Apartheid

The South African Truth and Reconciliation Commission (TRC) was formed by the Promotion of National Unity and Reconciliation Act, No. 34 in 1995 to deal with the aftermath of apartheid.¹ The TRC was composed of three committees, each focusing on a distinct aspect of apartheid. The Human Rights Violations Committee investigated human rights abuses during apartheid,

¹ Truth and Reconciliation Commission, "The Mandate," in Truth and Reconciliation Commission of South Africa: Volume One (South Africa: Truth and Reconciliation Commission, 1998), 48.
<https://www.justice.gov.za/trc/report/finalreport/Volume%201.pdf>.

holding hearings for victims and gathering submissions from organizations.² Their goal was to identify specific victims and the harm they suffered. Individuals who were subjected to gross human rights violations were then referred to the second committee, the Reparation and Rehabilitation (R&R) Committee. This committee's goal was to support victims, create policy recommendations relating to rehabilitation, and in urgent cases pay reparations to victims.³ The third committee, the Amnesty Committee oversaw applications for amnesty from those who perpetrated offenses during apartheid. The TRC's report, issued in 1998, discussed the number and nature of the victims of apartheid, the background of apartheid, and presented detailed recommendations for continued actions post-apartheid.⁴ Since the final report was issued, President Mandela apologized to all victims of apartheid and in 2006 the government created a program to monitor implementation of the TRC's recommendations.⁵

United Nations Guide to Truth Commissions

In 2006, the United Nations published a guide to establishing national-level truth commissions as a part of the organization's "Rule-of-Law Tools for Post-Conflict States." The document outlines core principles, successful establishment strategies, ideal functions, potential governmental partners, and a guide to evaluating a commission's success.⁶ This guide is designed to be consulted by states that are undergoing a transition to a unified and democratic government after a civil war, authoritarian regime, or another hindrance to democratic rule; it is intended for governments looking to create a national-scale truth commission. It estimates that a commission of this nature could cost between 5 and 10 million dollars.⁷ While the report identifies the best practices for nationwide commissions, the goals that the United Nations defines for these commissions – to reestablish rule of law and to develop the public's trust and confidence in government authority – has potential applications for every level of government. Non-governmental organizations and international actors can play a role in addressing a

² Truth and Reconciliation Commission, "The Mandate," in Truth and Reconciliation Commission of South Africa: Volume One (South Africa: Truth and Reconciliation Commission, 1998), 105. <https://www.justice.gov.za/trc/report/finalreport/Volume%201.pdf>.

³ "The Committees of the TRC," Truth and Reconciliation Commission, accessed February 14, 2021, <https://www.justice.gov.za/trc/trccom.html>.

⁴ Truth and Reconciliation Commission, "Contents" in Truth and Reconciliation Commission of South Africa: Volume Six (South Africa: Truth and Reconciliation Commission, 1998). <https://www.justice.gov.za/trc/report/finalreport/vol6.pdf>.

⁵ "Truth Commission: South Africa," United States Institute of Peace, accessed February 14, 2021, <https://www.usip.org/publications/1995/12/truth-commission-south-africa>.

⁶ United Nations High Commissioner for Human Rights, *Rule-of-Law Tools for Post-Conflict States: Truth commissions* (New York: United Nations, 2006), iii-iv, https://www.un.org/ruleoflaw/files/ruleoflaw-TruthCommissions_en.pdf.

⁷ United Nations High Commissioner for Human Rights, *Rule-of-Law Tools for Post-Conflict States: Truth commissions* (New York: United Nations, 2006), 6.

government's prior wrongdoings through investigation, but all "truth commissions" are established by governments to address their own past failures.

The guide highlights international precedents establishing citizens' right to know about "past abuses" committed by governments.⁸ It explains the necessity of establishing of truth commissions in order to directly reach out to victims to facilitate the process of understanding the "extent," "patterns," "causes," and "consequences" of such violations.⁹ "Ultimately," the report states, "it is hoped that the work of the commission can help a society understand and acknowledge a contested or denied history, and in doing so bring the voices and stories of victims, often hidden from public view, to the public at large."¹⁰ Truth commissions, therefore, must be both comprehensive and context-specific. The United Nations notes that truth commissions should also work to prevent further violations and abuses by providing "specific recommendations for institutional and policy reforms."¹¹ Additionally, Truth commissions should be temporary, as indefinite commissions "lose focus and momentum;" this also allows the commission to publish a comprehensive final report.¹²

The document then highlights important considerations that must be taken into account to address stakeholders' expectations of how the commission will function. Reconciliation, of which a truth commission is only one part, is "usually a very long and slow process."¹³ Therefore, governments must avoid statements or actions that would raise "undue and unfair expectations among the victims that they, or the country as a whole, will or should feel quickly 'reconciled' as a result of knowing the truth about unspeakable past atrocities—or, in some cases, receiving official acknowledgement of a truth that they already knew" when establishing truth commissions.¹⁴ Stakeholders also must have accurate expectations of the direct result of these commissions. While truth commissions often conclude that economic reparations are a

⁸ United Nations High Commissioner for Human Rights, *Rule-of-Law Tools for Post-Conflict States: Truth commissions* (New York: United Nations, 2006), 2.

⁹ United Nations High Commissioner for Human Rights, *Rule-of-Law Tools for Post-Conflict States: Truth commissions* (New York: United Nations, 2006), 2.

¹⁰ United Nations High Commissioner for Human Rights, *Rule-of-Law Tools for Post-Conflict States: Truth commissions* (New York: United Nations, 2006), 2.

¹¹ United Nations High Commissioner for Human Rights, *Rule-of-Law Tools for Post-Conflict States: Truth commissions* (New York: United Nations, 2006), 2.

¹² United Nations High Commissioner for Human Rights, *Rule-of-Law Tools for Post-Conflict States: Truth commissions* (New York: United Nations, 2006), 8, 19.

¹³ United Nations High Commissioner for Human Rights, *Rule-of-Law Tools for Post-Conflict States: Truth commissions* (New York: United Nations, 2006), 2.

¹⁴ United Nations High Commissioner for Human Rights, *Rule-of-Law Tools for Post-Conflict States: Truth commissions* (New York: United Nations, 2006), 2.

necessary future step in the healing process, the commissions themselves are poorly suited to “implement an extensive reparations [program] themselves,” and should thus avoid doing so.¹⁵

The United Nations concludes that three elements must exist within a state for it to be receptive to the establishment of a truth commission. The first element is “political will”: governments and citizens must be willing to encourage, and ideally fund, an inquiry into past abuses.¹⁶ Another essential requirement is that the oppression political conflict to be addressed by the commission has permanently concluded.¹⁷ Finally, victims must have an active interest in taking part in the investigative process and an understanding of how this process will function.¹⁸

Canada

The Truth and Reconciliation Commission of Canada was created in 2007 as part of the Indian Residential Schools Settlement Agreement. The Commission was created to try and move forward from the Indian Residential School system which operated in Canada for decades.¹⁹ The system removed children from their homes and required them to attend federally funded residential schools.²⁰ The Commission worked for over eight years and travelled across the country speaking to more than 6,500 individuals. In addition to conducting interviews and producing a report, the commission also created a historical record of the school system and was provided with more than 5 million records by the Canadian government which are now stored at a Canadian university.²¹ At the end of the report the Commission offered 94 recommendations on ways the Canadian government can remedy their past actions and find ways to have a more positive relationship with the native population.²² In September of this year the Minister of Canadian Heritage has introduced a bill to implement a National Day for Truth and Reconciliation which was included in the Commission’s original recommendations.²³

¹⁵ United Nations High Commissioner for Human Rights, *Rule-of-Law Tools for Post-Conflict States: Truth commissions* (New York: United Nations, 2006), 28.

¹⁶ United Nations High Commissioner for Human Rights, *Rule-of-Law Tools for Post-Conflict States: Truth commissions* (New York: United Nations, 2006), 3.

¹⁷ United Nations High Commissioner for Human Rights, *Rule-of-Law Tools for Post-Conflict States: Truth commissions* (New York: United Nations, 2006), 3.

¹⁸ United Nations High Commissioner for Human Rights, *Rule-of-Law Tools for Post-Conflict States: Truth commissions* (New York: United Nations, 2006), 3.

¹⁹ Government of Canada, “Indian Residential Schools,” last modified February 21, 2019.

²⁰ Government of Canada, “Indian Residential Schools,” last modified February 21, 2019. <https://www.rcaanc-cirnac.gc.ca/eng/1100100015576/1571581687074>.

²¹ Government of Canada. “Truth and Reconciliation Commission of Canada,” last modified December 15, 2020. <https://www.rcaanc-cirnac.gc.ca/eng/1450124405592/1529106060525>.

²² Government of Canada. “Truth and Reconciliation Commission of Canada,” last modified December 15, 2020.

²³ Government of Canada, “Government of Canada Introduces Legislation to Establish National Day for Truth and Reconciliation,” September 29, 2020. <https://www.canada.ca/en/canadian->

In addition, the Canadian government has allocated over \$7 million in order to commemorate the history of the residential schools as well as educating the greater Canadian population of the legacy of the school system.²⁴

Truth and Reconciliation in the United States

This section of the report highlights truth commissions established at the state and municipal level in the United States. The report focuses on the work done by the Maine and North Dakota state legislatures because of their focus on indigenous peoples, but Maryland's state legislature has also established its own truth and reconciliation commission to address the state's history of lynching.²⁵ In addition to the commissions formed by Greensboro and Asheville, which are highlighted in this report, district attorneys from cities such as Boston, Philadelphia, and San Francisco have recently announced the creation of municipal truth and reconciliation commissions to address historic racial injustices.²⁶

Greensboro Truth and Reconciliation Commission

Created in 2001 after the Greensboro Massacre in 1979 which left five dead and ten wounded, this commission was the first of its kind in the United States.²⁷ The commission worked independently to examine the events of 1979 and make recommendations on how to continue healing from this event.²⁸ The final report included an analysis of all relevant parties and the role they played, as well as identified key issues and the consequences of these actions. The commission also created detailed recommendations including public apologies and public memorials to the event. The recommendations also encouraged creating educational opportunities to learn from the past, and engaging community leaders and activists to further

[heritage/news/2020/09/government-of-canada-introduces-legislation-to-establish-national-day-for-truth-and-reconciliation.html](https://www.heritage.org/news/2020/09/government-of-canada-introduces-legislation-to-establish-national-day-for-truth-and-reconciliation.html).

²⁴ Government of Canada, "Government of Canada Introduces Legislation to Establish National Day for Truth and Reconciliation," September 29, 2020.

²⁵ "Home – Maryland Lynching Truth and Reconciliation Commission," State of Maryland, last modified 2021.

²⁶ "Does America Need a Truth and Reconciliation Commission?" Politico, last modified August 16, 2020.

²⁷ Greensboro Truth and Reconciliation Commission, "Mandate for the Greensboro Truth and Reconciliation Commission," in Greensboro Truth and Reconciliation Commission Final Report: Introduction (Greensboro: Greensboro Truth and Reconciliation Commission, 2006), 16. <https://greensborotrc.org/introduction.pdf>.

²⁸ Greensboro Truth and Reconciliation Commission, "Introduction," in Greensboro Truth and Reconciliation Commission Report Executive Summary (Greensboro: Greensboro Truth and Reconciliation Commission, 2006), 2. https://greensborotrc.org/exec_summary.pdf.

the education and healing processes.²⁹ After issuing its final report in 2006, the commission closed.

Asheville

Some American cities have also begun the process of creating their own reparations commissions, which often exist separately from truth commissions, to address racial and ethnic disparities through municipal government. A resolution passed in July 2020 by the city council of Asheville, North Carolina highlighted the various ways in which Black people were discriminated against, exploited, and otherwise negatively affected by the city throughout Asheville's history. The resolution officially apologizes for the city's harmful policies and its participation in slavery, calling on other organizations in the city to sign onto this same apology. It also calls on the state of North Carolina and the United States federal government to provide funding for reparations and enact policy measures to reverse these harms. The resolution enables the Asheville City Manager to initiate the process to calculate and provide reparations to the city's Black communities. Additionally, the resolution requests to create a commission to recommend other strategies for "repairing the damage caused by public and private systemic Racism."³⁰ The goal of this document is to use government resources to address the wealth gap and disparities between Asheville's Black and White communities, as well as to issue a public apology for past wrongdoings.

Maine

The Maine Wabanaki- State Child Welfare Truth and Reconciliation Commission was established in February of 2013.³¹ The goal of the Commission was to look into the placement of Wabanaki children into the foster care system.³² The Commission traveled across the state and took interviews from 159 individuals that were either the children taken into foster care or adopted,

²⁹ Greensboro Truth and Reconciliation Commission, "Moving Forward: Recommendations" in Greensboro Truth and Reconciliation Commission Report Recommendations (Greensboro: Greensboro Truth and Reconciliation Commission, 2006), 200-207. https://greensborotrc.org/overall_recs.pdf.

³⁰ Resolution Supporting Community Reparations for Black Asheville, City Council Resolution No. 20-128, Asheville City Council (2020), https://drive.google.com/file/d/1KNSoINXMd7eJQ7al897hgIz_WV955C/view.

³¹ Maine Wabanaki Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate: Continuing the Conversation* (Maine: Maine Wabanaki Child Welfare Truth and Reconciliation Commission, 2015), 6. https://d3n8a8pro7vhmx.cloudfront.net/mainewabanakireach/pages/17/attachments/original/1468974047/TRC-Report-Expanded_July2015.pdf?1468974047.

³² Maine Wabanaki Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate: Continuing the Conversation* (Maine: Maine Wabanaki Child Welfare Truth and Reconciliation Commission, 2015), 6.

as well as the professionals involved in the process of moving the children.³³ The Commission was tasked with looking into the rates at which Wabanaki were taken into the foster system and producing recommendations on how to remedy the situation. The Commission found staggering data that Native children were more than five times more likely to be taken into foster care than non-native children.³⁴ The researchers assert that this trend constitutes evidence of cultural genocide under the UN definition.³⁵ The Commission then generated a list of fourteen recommendations to help change the system and limit the removal of Native children from their homes.³⁶ Since the final report was published, work has continued to be done to work to heal from the trauma of the past as well as trying to change the system so the patterns of the previous generations are not repeated. Currently, nearly half of the Native children in state custody are in kinship placements, which has been a great improvement (increasing kinship placements was among the Commission's recommendations).³⁷ Finally, organizations such as Maine Wahabi REACH have continued to work with Native and non-Native families as they navigate trying to heal and move forward.³⁸ While the state of Maine did issue the original mandate for the creation of the Commission, the state did not provide any funding for the work of the Commission and it was funded entirely by private donors.³⁹

North Dakota

North Dakota Senate Bill 2305 and House Bill 1488 were introduced in January 2021 to create a new section in the North Dakota Century Code. The two identical bills were intended to formalize and "clarify" North Dakota's historical record and the state's relationship with

³³ Maine Wabanaki Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate: Continuing the Conversation* (Maine: Maine Wabanaki Child Welfare Truth and Reconciliation Commission, 2015), 14.

³⁴ Maine Wabanaki Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate: Continuing the Conversation* (Maine: Maine Wabanaki Child Welfare Truth and Reconciliation Commission, 2015), 64.

³⁵ Maine Wabanaki Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate: Continuing the Conversation* (Maine: Maine Wabanaki Child Welfare Truth and Reconciliation Commission, 2015), 64.

³⁶ Maine Wabanaki Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate: Continuing the Conversation* (Maine: Maine Wabanaki Child Welfare Truth and Reconciliation Commission, 2015), 66-67.

³⁷ Valerie Vande Panne, "What Truth and Reconciliation Looks Like in Practice," *Next City*, November 2, 2020. <https://nextcity.org/features/view/what-truth-and-reconciliation-looks-like-in-practice>.

³⁸ Valerie Vande Panne, "What Truth and Reconciliation Looks Like in Practice," *Next City*, November 2, 2020.

³⁹ Maine Wabanaki Child Welfare Truth and Reconciliation Commission, *Beyond the Mandate: Continuing the Conversation* (Maine: Maine Wabanaki Child Welfare Truth and Reconciliation Commission, 2015), 13.

indigenous tribes.⁴⁰ The bills called for the creation of a five-member “truth, healing, and reconciliation” commission and for the creation of a “legislative management report” to address generational and systemic trauma in tribal communities.⁴¹ The commission was to provide testimony and provide a 20-person forum for discussion among victims about state-induced violence and discrimination; it was also instructed to submit annual reports of its findings to the state’s governor through 2025. However, Senate Bill 2305 was returned to the Senate floor and unanimously withdrawn in February 2021 after referral to the Government and Veterans Affairs Committee.⁴² A few days later, the House Human Services Committee voted to recommend that Bill 1488 should not pass.⁴³

Conclusion

Several governments have created Truth and Reconciliation commissions to address historic oppressions and harms that affected specific racial and cultural groups. These commissions focus on governments and their relationship with a segment of their population. Truth and Reconciliation commissions have been created by federal, state, and municipal governments, but each commission is designed to address the specific contexts and histories of each jurisdiction and its residents. An effective Truth and Reconciliation Commission provides space for victims to provide testimony, reconnects governments with a previously ostracized population, and restores trust in government by those who have been physically or emotionally harmed by that government’s policies or actions. The most successful Truth and Reconciliation commissions are individualized, comprehensive, and temporary; some of these commissions also provide frameworks for future reparation or study.

This report was completed on February 26, 2021, by Holly Kuhn, Nola Farrell, and Emily Sheftman under the supervision of VLRS Director, Professor Anthony “Jack” Gierzynski in response to a request from Representative Harold Colston.

Contact: Professor Anthony “Jack” Gierzynski, 534 Old Mill, The University of Vermont, Burlington, VT 05405, phone 802-656-7973, email agierzyn@uvm.edu.

Disclaimer: The material contained in the report does not reflect the official policy of the University of Vermont.

⁴⁰ S. Res. 2305, 67th Leg. Assembly of North Dakota. (2021), <https://www.legis.nd.gov/assembly/67-2021/documents/21-1053-01000.pdf>; H. Res. 1488. 67th Leg. Assembly of North Dakota, 2021, <https://www.legis.nd.gov/assembly/67-2021/documents/21-0872-06000.pdf>.

⁴¹ S. Res. 2305, 67th Leg. Assembly of North Dakota. (2021); H. Res. 1488. 67th Leg. Assembly of North Dakota, 2021.

⁴² North Dakota S. Daily Journal. No. 21, at 375 (2021), <https://www.legis.nd.gov/assembly/67-2021/journals/sr-dailyjnl-21.pdf#Page375>.

⁴³ North Dakota H. Daily Journal. No. 24, at 570 (2021), <https://www.legis.nd.gov/assembly/67-2021/journals/hr-dailyjnl-24.pdf#Page571>.