

Truth, Justice & Healing Project

'Hear My Heart'

Discussion Paper

What are the strengths and weaknesses of truth-telling initiatives in Australia and globally?

September 2020

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INTRODUCTION

a) Acknowledgements

This discussion paper is informed by:

- 60 000 years of excellence, wisdom and dreaming;
- hundreds of years of resistance and resilience;
- decades of activism and organisation; and
- the many tears and healing yet to come.

We honour and thank our Aboriginal and Torres Strait Islander Ancestors, Elders, nations, communities, families and leaders for their blood, sweat and tears.

We acknowledge your brilliance, strength and excellence, your unceded sovereignty, your survival of genocide, and your passion and commitment to truth, justice and healing.

We hope this Project and discussion paper does you some justice.


The title of the paper, 'Hear My Heart', was gifted to the Ebony Institute from Jill Gallagher in her role as Victorian Treaty Advancement Commissioner. The title reflects the conversations that have occurred in the drafting of this discussion paper.

Leonie Taylor was commissioned by the Ebony Institute to write earlier drafts of the discussion paper and literature review, and we acknowledge her tenacity and strength in undertaking this work, particularly through personally trying circumstances.

Leonie was supported by Aunty Lilla Watson and Aunty Mary Graham, both of whose leadership and thinking in Aboriginal knowledge is unparalleled.

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The Reference Group for this Project (Appendix B) have been steadfast and clear in their support for this work. We thank them wholeheartedly.



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We thank Jamie Thomas, Sara Jones and Will Austin from the Wayapa Wuurk Aboriginal Wellness Foundation for their commitment, support and dedication to this work, and for their support as an auspice body.

We thank the Annamila Foundation, particularly its Founder, Julie Kantor, and its Chair, Ian Roberts, for their visionary and generous support of this work, and of the ideals we espouse.

Lastly, we thank and acknowledge the group of key thinkers and leaders (Appendix C) who came together in an initial stakeholder's workshop in August 2019 in Melbourne to help us dream this work into existence.

b) Foreword

The Belly of the Snake

Our old people have been through the fire, the fire of colonialism, that forced a retreat into the belly of the snake. Our time spent in the belly of the snake has been a time of rebuilding our strength and energy, regathering and rearming ourselves with cultural knowledge. Aboriginal people are now emerging from the mouth of the snake and taking over the power of definition, in defining who we are, where we come from, where we belong, and indeed where we are going.

The health of the land and all its people are dependent on each and every one of us to be responsible for its care, for the care for each other and for the care of our future generations to create a healthier and better society.

The belly of the snake is the very land we live on; it is our life force. It is time for us to once more be in control of running our country based on Aboriginal Terms of Reference. This means the education of White Australians into Aboriginal Terms of Reference, for them to be just as responsible as Aboriginal people to create a healthy country for all of us and our coming generations.

All of us who live on this land have been affected by the event of colonialism, it is time for White Australians to understand to what extent colonialism has affected them and shake themselves awake and make themselves be part of this emergence from the belly of the snake.

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c) Declaration of Sovereignty

We, the Aboriginal and Torres Strait Islander Peoples of what is now called 'Australia', declare and assert sovereignty over our lands, waterways and seas.

We have always done this, and we will continue to do so.

We have owned this land from at least sixty thousand years ago, we own it today, and we will continue to own it for sixty thousand more years.

This right and responsibility of ownership has been encoded and confirmed in thousands of years of our existence, knowledges, laws, customs, practices, beliefs, cultures, values, languages, and ceremonies.

We declare and assert our right and responsibility to look after the lands, seas and waterways in perpetuity.

We have never ceded sovereignty.

We are subject to illegal invasion and occupation.

We declare and assert our right and responsibility to tell these truths.

We declare and assert our right and responsibility to negotiate with the illegal occupier, the Commonwealth of Australia and the British Crown, for a just and peaceful settlement.

We seek national unity and healing, on fair and just terms.

d) Background

The Ebony Aboriginal and Torres Strait Islander Institute's vision is for a sustainable and cohesive Australia, based on Aboriginal and Torres Strait Islander wisdom. The Ebony Institute is a not-for-profit organisation with a one hundred percent Aboriginal board (see Appendix A). Ebony's values are respect, truth, belonging and connection.

One of the Ebony Institute's objectives is to promote truth, justice and healing for Aboriginal and Torres Strait Islander Peoples. The Truth, Justice and Healing (TJH) Project furthers that goal. Ebony have partnered with the Annamila Foundation and Wayapa Wuurk Aboriginal Wellness Foundation to support them in undertaking this Project.



e) Purpose

This discussion paper has been written for the following reasons:

- For Aboriginal and Torres Strait Islander Peoples to learn from the experiences of truth-telling in Australia and globally;
- To support the primacy of Aboriginal and Torres Strait Islander Peoples' voices, opinions and views about truth-telling; and
- To inform national and local debates by reviewing the strengths and weaknesses of truth-telling initiatives in Australia and globally.

This discussion paper will be used to inform a series of local and national conversations with Aboriginal and Torres Strait Islander Peoples and communities about the best way forward for truth-telling in Australia.

The Ebony Institute wants to listen and learn from them about the right pathway for truth, justice and healing in our nation.

This discussion paper has not been written to satisfy non-Aboriginal demands for dealing with any discomfort, sweeping things under the carpet, or for quick fixes.

The Ebony Institute is concerned with genuine and full truth-telling, deep healing and learning, and substantive and lasting justice.

f) Scope and Methodology

This discussion paper:

- Reviews experiences of truth-telling and truth-seeking in Australia and globally;
- Considers key themes emerging from those experiences; and
- Identifies key issues and questions to be considered by Aboriginal and Torres Strait Islander Peoples and communities in charting a path forward for the truth.

We achieve this in three ways:

- 1) A Literature Review was conducted of the strengths and weaknesses of truth-telling initiatives in Australia and globally.

This is not an exhaustive or substantive review of the literature, but rather a summary of the most pertinent data available within the following parameters:

- The difference between truth-telling and truth-seeking;
- The United Nations' context for truth-telling; and
- Case studies of local and global experiences of telling the truth.

The international literature covered in this review can be categorised into two bodies of data:

- Formal truth-telling initiatives at the national level (e.g. truth and reconciliation commissions) established by the national government or United Nations to address past conflicts; and

- Informal truth-telling or truth-seeking initiatives where there has been no official, government or political support for a formal truth-telling process to occur initially. These countries include Guatemala, Lebanon, Solomon Islands, Canada, Sweden, Brazil, Uruguay, North Belfast, New Zealand and the United States of America.
- 2) Stakeholder Engagement: Meetings of the Reference Group for the project (see Appendix B) and a workshop of thirty key Aboriginal and Torres Strait Islander thinkers and leaders (see Appendix C) provided an additional rich data source. Key issues identified during these deliberations have been considered and drawn out in the development of this discussion paper.
 - 3) A Thematic Analysis of the results of the literature review and the body of data collected during stakeholder engagement was undertaken.

The literature review, stakeholder engagement data and thematic analysis have been used to generate key issues and questions for Aboriginal and Torres Strait Islander Peoples and communities to more deeply consider.

g) Executive Summary

The Ebony Aboriginal and Torres Strait Islander Institute acknowledges our Ancestors and Elders and the previous generations' attempts to tell the truth, for justice to be served, and for the healing of individuals and the nation to occur.

This discussion paper is grounded in Aboriginal and Torres Strait Islander sovereignty, wisdom and knowledges.

This discussion paper has been written to learn from Australian and global experiences in truth-telling, to listen to and give primacy to Aboriginal and Torres Strait Islander Peoples' voices and views about truth, justice and healing, and to better inform national conversations.

Telling the truth about conflict, genocide, trauma or abuse or other wrongdoing can be done in formal ways, through official truth commissions or inquiries or, if there is limited or no political will for formal approaches, through informal initiatives undertaken by civil society, grassroots communities and activists.

The United Nations (OHCHR, 2006) recognises that "...while truth commissions do not replace the need for prosecutions, they can reach out to thousands of victims in an attempt to understand the extent and the patterns of past violations, as well as their causes and consequences."

There have been 32 formal truth commissions or inquiries at the national level, with features including: uniqueness, political will, operational independence, international support, non-replacement of legal processes, and opportunities for a safe platform to tell the truth.

Strengths of formal truth commissions can include:

- An opportunity for political leaders and civil society to help their country understand why and how certain events happened, and what lasting impacts there are on society;
- An opportunity to help prevent further abuses occurring again;
- An opportunity to identify and implement reparations, justice, and institutional and policy reforms; and
- An opportunity for individual, family, community, and national healing.

Weaknesses of formal truth commissions include:

- Lack of self-determination in the establishment of any formal commission;
- Unclear or contested expectations, parameters and terms of reference, for example, focusing exclusively on the past, whether amnesty should be offered, and whether a commission should have powers of compulsion;
- Lack of support for those telling and hearing the truth;
- Limited or no guarantee the abuse or conflict will stop;
- Lack of justice or substantive reform;
- Potential for recommendations to not be implemented; and
- Unwillingness to address the fundamental causes of conflict or abuse.

In either formal or informal truth initiatives, it is critically important that transitional justice be implemented while waiting for formal legal proceedings; that transgenerational responsibility for justice, atonement and healing is acknowledged and observed; and that self-determination for the voices of those aggrieved must be given primacy.

Aboriginal and Torres Strait Islander Australians and their friends have implemented numerous attempts at truth-telling over many generations, both formal and informal, including the Royal Commission into Aboriginal Deaths in Custody, the Royal Commission into the Forced Separation of Aboriginal and Torres Strait Islander Children from Their Families (Bringing Them Home Inquiry), and decades of civil society advocacy and grassroots community activism. However, the recommendations of formal commissions and inquires remain largely un-implemented.

Globally, lessons from Canada, South Africa and other countries highlight that:

- Political will helps, but must not hinder, the independence of truth initiatives;
- The voices of those aggrieved must be given primacy in decision-making apparatus;
- The terms of reference of any formal commission must be strong and potentially with legal powers;
- Issues of substantive justice like reparations and institutional and policy reform must be implemented; and
- Public education in the form of memorialisation, curricula reform and public ceremonies, and opportunities to remember and prevent must occur.

In Australia, key issues facing Aboriginal and Torres Strait Islander Peoples include:

- Establishing readiness to tell the truth, which includes deciding whether telling the truth again is even a good idea;
- Political will – including whether any truth-telling should occur in formal or informal ways, or both;
- Providing support for those telling their stories and for those hearing them;
- Consideration of the most strategic purpose for and structure of any formal truth commission, including whether it should have the power to compel witnesses;
- Strategies for optimal access to formal truth commission information and processes to ensure ethically and culturally safe recording, ownership and storage of people's stories;
- Public education requirements after the truth is told (e.g. memorialisation, curriculum reform, public remembrance); and
- Consideration of what substantive justice and healing might look like, potentially including reparations and institutional and policy reform.

The Ebony Aboriginal and Torres Strait Islander Institute commends this paper to Aboriginal and Torres Strait Islander Peoples and communities, and aims to ensure your voices and considerations of these issues are given primacy to better inform national conversations about initiatives for truth, justice and healing.

WHAT IS TRUTH-TELLING?

a) Truth-telling and truth-seeking – what is the difference?

Telling the truth about conflict, genocide, trauma or abuse, or other wrongdoing usually takes one of two forms.

- **Formal truth-telling**
 - Relies on political will to tell or uncover the truth;
 - Usually operates at a national and official level, e.g. commissions;
 - Is a matter of national interest;
 - Has international support and interest;
 - Operates independent of government control; and
 - Considers issues of reparations or other substantive forms of justice.
- **Informal truth-seeking**
 - Occurs when there is no or limited political will to tell or uncover the truth;
 - Operates at either local, regional or national levels;
 - Is a civil society movement by grassroots people or activists;
 - Provides opportunities for individual and collective survivor healing, validation and support to move forward with their lives in the face of official disinterest or denial; and
 - Has no capacity for reparations or other forms of substantive justice.

Telling and seeking the truth does not always fall neatly into these categories.

For example, in Australia, formal commissions and inquiries like the Royal Commission into Aboriginal Deaths in Custody and the Bringing Them Home Report included all of the features of formal truth-telling listed above, yet no reparations or substantive forms of justice resulted. Interestingly, they still provided some level of survivor validation and healing.

b) Truth Commissions

Truth commissions are formal processes for truth-telling, usually instigated at the national level after conflicts, abuse or trauma.

According to the International Centre for Transitional Justice, the objectives of truth commissions can include:

- 1) **Establishment and explanation of facts:** The core function of a truth commission is to ascertain facts. Mandates differ in the scope of those facts, their legal classification, or the depth of the explanation required.
- 2) **Protection, recognition, and restoration of the rights of victims:** This function distinguishes truth commissions from courts of law and advisory panels, placing the rights of victims and their experiences at the centre of the commission's work.
- 3) **Positive social and political change:** Some mandates have entrusted commissions to suggest ways for government, civil society, and the public to contribute to reconciliation, reform, democracy, and prevention of recurrence.

(Gonzalez and Varney, 2013)

While truth commissions do not replace the need for prosecutions, they do offer some form of accounting for the past, and have thus been of particular interest in situations where prosecutions for massive crimes are impossible or unlikely – owing to either a lack of capacity of the judicial system or a de facto or de jure amnesty.

The work of a truth commission may also strengthen any prosecutions that do take place in the future.

A truth commission reaches out to thousands of victims in an attempt to understand the extent and the patterns of past violations, as well as their causes and consequences. The questions of why certain events were allowed to happen can be as important as explaining precisely what happened.

Ultimately, 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.

A truth commission also hopes to prevent further abuses through specific recommendations for institutional and policy reforms.

(United Nations OHCHR, 2006)

The first truth-telling commission took place in Uganda in 1974, 'The Commission: Commission of Inquiry into the Disappearance of People of Uganda'.

Since then, there have been numerous formal truth-telling commissions globally, including those listed in Table 1.

c) United Nations Guidelines for Best Practice for Truth Commissions

The Office of the United Nations High Commissioner for Human Rights (UNHCR) developed guidelines for best practice for those establishing a truth-telling commission. These include:

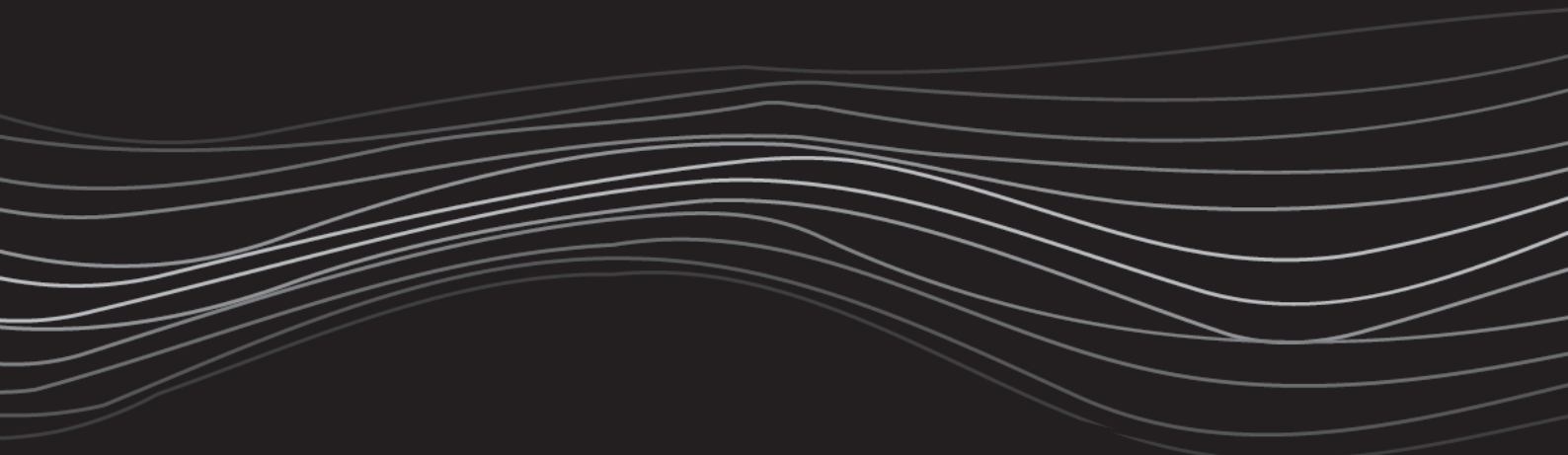
1. **Uniqueness:** It should be expected that every truth-telling commission will be unique; responding to the national context and special opportunities present;
2. **Political will:** It is expected that there is an official recognition of the need to tell or uncover the truth;
3. **Operational independence:** It is expected that the commission will operate in an independent and impartial manner;
4. **International support:** There is sufficient international support for and interest in the process for undertaking and outcomes of the commission;
5. **Do not replace the need for legal proceedings:** Truth commissions are public political and/or administrative inquiries, which may or may not support legal proceedings; and
6. **Safe platform:** Truth commissions should provide a safe platform for those affected by the past to speak openly about their truth.

(UNHCR, 2006)

Table 1: List of Formal Truth-telling Commissions

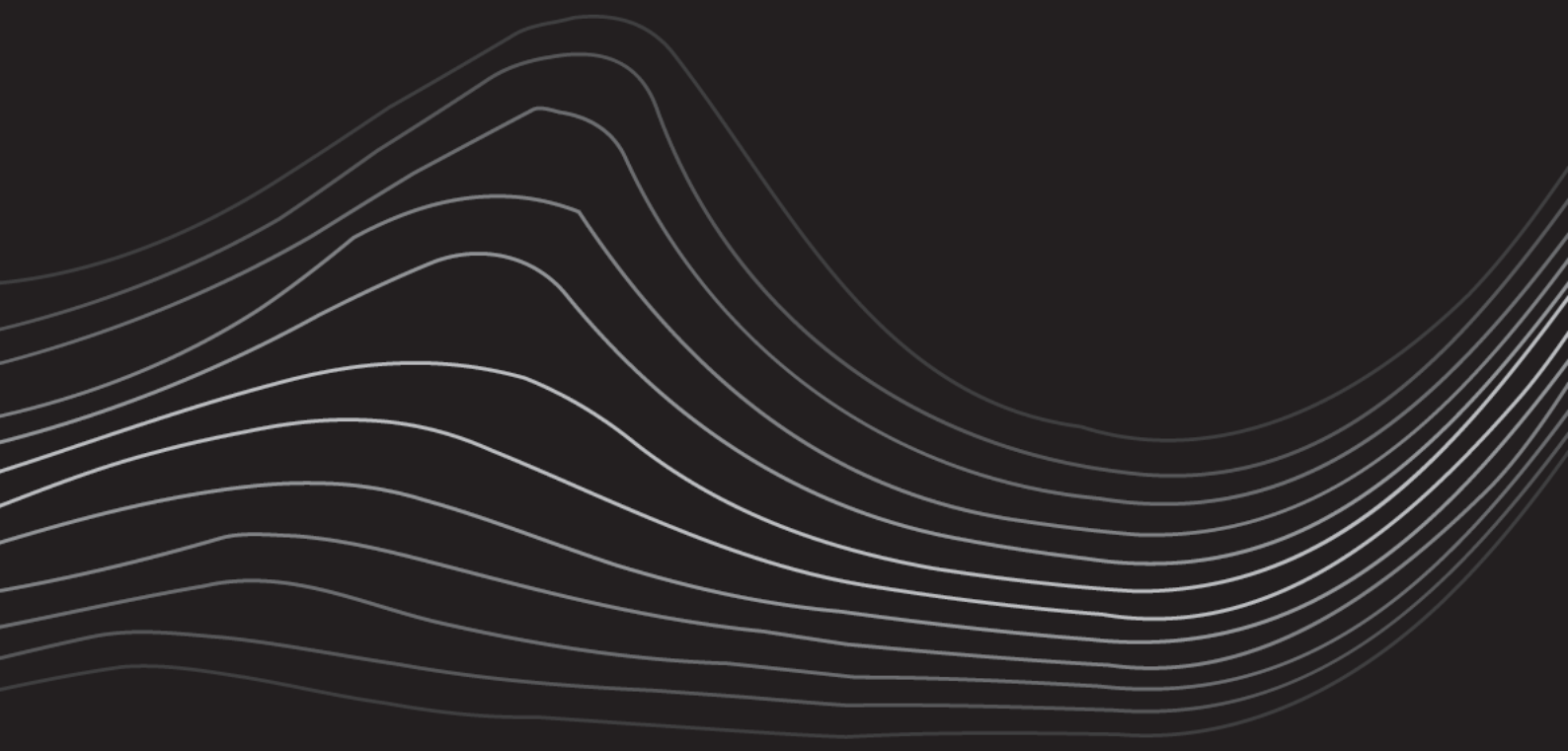
	Country	Date of Commission	Report Publicly Issued?
1.	Uganda	1974	-
2.	Bolivia	1982-1984	Commission Disbanded
3.	Argentina	1983-1984	1984
4.	Uruguay	1985-1985	1985
5.	Zimbabwe	1985	No
6.	Uganda	1986-1995	No
7.	Philippines	1986	No
8.	Nepal	1990-1991	1991
9.	Chile	1990-1991	1991
10.	Chad	1991-1992	1992
11.	Germany	1992-1994	1994
12.	El Salvador	1992-1993	1993
13.	Rwanda	1992-1993	1993
14.	Sri Lanka	1994-1997	1997
15.	Haiti	1995-1996	1996
16.	Burundi	1995-1996	1996
17.	South Africa	1995-2000	1998
18.	Ecuador	1996-1997	Commission Disbanded
19.	Guatemala	1997-1999	1999
20.	Nigeria	1992-2001	1999
21.	South Korea	2000 -2004	2004
22.	Peru	2000-2002	2003
23.	Uruguay	2000-2001	2001
24.	Panama	2001-2002	2002
25.	Yugoslavia	2002	Commission Disbanded
26.	East Timor	2002	2005
27.	Sierra Leone	2002	2005
28.	Ghana	2002	2004
29.	Kenya	2008-2010	Not yet published
30.	Solomon Islands	2009-2010	Not yet published
31.	Morocco	2004-2005	Not yet published
32.	Liberia	2006-2009	2009

(US Institute of Peace, 2011)

A series of approximately ten thin, white, wavy lines that flow horizontally across the upper half of the page, creating a sense of movement and depth against the dark background.

“...while truth commissions do not replace the need for prosecutions, they can reach out to thousands of victims in an attempt to understand the extent and the patterns of past violations, as well as their causes and consequences.”

Office of the High Commissioner
for Human Rights, 2006



“It is time we stopped pretending that meaningful change can happen in a system that is grounded in denial. So, in 2020, as a nation, we need to turn away from denial as usual and towards truth.”

June Oscar, 2020

d) Strengths of Truth Commissions

1. Truth-telling commissions represent opportunities for political leaders and civil society to help their country understand why and how certain events happened.
2. Truth commissions can help countries acknowledge that there have been:
 - politically or socially contested periods and/or events in their history;
 - periods of denial of historical events; and
 - lasting impacts and effects in society.
3. Truth-telling commissions can create a safe platform to bring voices and stories of those affected (victims, perpetrators, witnesses, subsequent generations) out of the shadows and into the light.
4. Truth-telling commissions can, but do not always, aim to prevent further abuses from occurring in the future.
5. Truth-telling commissions can make recommendations for reparations, justice, or institutional and policy reforms.

(UNCHR, 2006)

e) Weaknesses of Truth-telling Commissions

There are several potential limitations to truth-telling commissions. These include:

1. **Limitations of the Terms of Reference:** The political and social context and authorising environment for truth-telling is critical. In Canada, the Commissioners of the Truth and Reconciliation Commission (TRC) decided to use the term 'cultural genocide' to enable a truth-telling process to proceed, even though they believed the term 'genocide' was more accurate.

This was because the TRC was not mandated as a legal tribunal with powers of investigation, and therefore could not consider the issue of genocide under international law. Further, they were concerned about the potential for conservative backlash as a hindrance to reconciliation (MacDonald, 2015).

Thus, the issue of political and social context is critical issue for two reasons. First, can the truth be fully told if one of the major stakeholders – in this case, the government – is unwilling to allow a discussion of genocide? Is truth-telling dependent only on what the coloniser or majority is comfortable with? Can this limitation truly enable healing and justice?

Second, the Terms of Reference and how they are drafted illuminates a critical reality – that the voices of victims are critical not only as truth-tellers, but also as decision-makers, negotiators and influencers about how, when, where and why the truth is told.

Understanding the factors influencing the success or failure of truth commissions, such as the roles and motivations of the United Nations, consultants, governments and civil society actors, is critical (Nauenberg, 2015).

2. **Self-determination:** In Germany, formal truth-telling initiatives have occurred, such as memorialisation of the Holocaust and encoding the truth in the national school curricula, yet Jewish communities report feeling left out of the national conversation; that is, their self-determination and voice was not amplified or included in national truth-telling in meaningful and substantive ways (Bodemann, 1996).

The context for truth-telling should incorporate a cultural lens that allows for the self-determination of victims and their families. In the case of Indigenous Peoples, this means observing the self-determination clauses within the United Nations Declaration on the Rights of Indigenous Peoples (2007). In practice, this would mean Indigenous Peoples should have decision-making and negotiation power over the context, governance, terms of reference, and operations of any truth-telling process.

3. **Amnesty:** The issue of whether the truth-telling process should include amnesty from legal prosecution for perpetrators is critical. On the one hand, if amnesty is not offered, it may prevent perpetrators coming forward and telling the truth. On the other hand, if amnesty is offered, more perpetrators may be willing to tell the truth, but victims may feel as if justice has not been fully served:

“The government and particularly the criminal justice system failed the people of this country in terms of the amnesty process... and you can imagine what it does to somebody whose family member was killed by somebody, and they can see that person walking around.”

Steve Henkeman, Executive Director, Institute for Justice and Reconciliation, Cape Town, South Africa (Magistad, 2017)

4. **Lack of Compulsion Powers:** According to the International Centre for Transitional Justice, a truth commission should have “the necessary powers to conduct effective and independent investigations”, including investigatory powers, powers of compulsion, forensic procedures and obligations to co-operate (Gonzalez and Varney, 2013). Fully considering the political and legal ramifications of truth-telling in the terms of reference is a critical issue.
5. **Expectations:** There are serious risks for survivors and perpetrators if their expectations do not align with the terms of reference and strategic intent of the commission. For example, perpetrators and survivors may:
 - a. not be fully heard or understood in their testimony;
 - b. not be validated in their truths;
 - c. not be believed;
 - d. not find answers or healing for their truths and/or trauma; and/or
 - e. be denied an opportunity to grieve, remember and memorialise their losses or to admit and atone for their roles in perpetrating abuses.
6. **Lack of Support for Those Hearing the Truth:** There is a serious risk of vicarious trauma, triggering and post-traumatic stress syndromes for those hearing and responding to often horrific stories of conflict and abuse. These include:
 - a. the victims and their families themselves – many of whom will tell their stories to another human being for the very first time;
 - b. the general public – many of whom will hear these stories for the first time;
 - c. commissioners and staff of the commission – who may be emotionally or psychologically overwhelmed by the sheer volume and content of the testimony; and
 - d. political and civil society leaders who will be charged with the responsibilities of redress, reform and reparations.

7. **Focussing Exclusively on 'the Past':** While truth commissions often occur after a specific conflict or period in history has ended, there is often little focus on:
 - a. the ongoing effects of the conflict or abuse, or
 - b. the ongoing responsibilities of current generations to equalise or redress the privilege the previous conflict or abuse has afforded them.
8. **Ending Conflict and Abuse:** Truth-telling commissions may not guarantee the abuse, conflict or trauma has stopped, will stop, or will be prevented from happening again. The victims may continue to be displaced, ignored, denied or abused. This may happen in overt or covert ways. For example, while Australia was formally apologising to Indigenous Australians, it was also sending the military into remote Aboriginal communities to deal with allegations of child sexual abuse (Altman and Hinkson, 2007).
9. **Lack of Justice or Substantive Reform:** Survivors may feel severely aggrieved if they summon the strength to tell the truth, yet the perpetrators may not face justice, or there may be no substantive changes in terms of reparations, institutional or policy reforms or other forms of justice. For example, in South Africa, public intellectuals reported that the Truth and Reconciliation Commission was a critical step in liberation, but it has not guaranteed substantive economic or political redress (Ramphela, 2008). In Australia, many of the recommendations of the Royal Commission into Aboriginal Deaths in Custody and the Royal Commission into the Forced Separation of Aboriginal and Torres Strait Islander Children from Their Families ('Bringing Them Home Report') have still not been implemented (Aboriginal and Torres Strait Islander Healing Foundation, 2017). That is, truth commissions do not guarantee action in and of themselves, and should not be a stand-alone initiative.
10. **Unwillingness to Address the Fundamental Causes of the Conflict or Abuse:** It can be tempting in truth commissions to focus on the symptoms of conflict or abuse, without addressing their root causes. For example, telling the truth in Canada about the residential schools and their impacts on First Nations communities would not be complete without fundamental redress of the theft of land inherent in colonisation and genocide, or of the continuing regime of White supremacy and power imbalance in government control of lands, resources and Peoples (Timothy, 2019; Ibhawoh, 2019). In Australia, since the Federal apology to Indigenous Australians (2008), the rates of Aboriginal and Torres Strait Islander deaths in custody and removal of children from their families under the guise of out of home care has markedly increased (Behrendt, 2019).

f) Additional themes in the literature

Additionally, there are some important themes arising in the literature.

1. **Acknowledgement:** The importance of acknowledgement and recognition of past conflict, trauma and abuse cannot be understated. As June Oscar, Aboriginal and Torres Strait Islander Social Justice Commissioner, stated:

"It is time we stopped pretending that meaningful change can happen in a system that is grounded in denial. So, in 2020, as a nation, we need to turn away from denial as usual and towards truth." (Oscar, 2020)
2. **Transgenerational Responsibility:** It is critically important that those who were not directly a part of the conflict or directly responsible for it understand that they may be benefitting from the continued denial, impoverishment or disenfranchisement of the victims (Andina, 2018). There is an ethical, moral and practical obligation on the part of current generations to acknowledge, atone for, heal, and prevent further conflict and abuse from occurring again

(Meyer, 2016). This is particularly nascent when considering the intergenerational (Zubrick et al., 2005) and epigenetic (Meloni and Muller, 2018) causes of illness today.

3. **Transitional Justice:** Rather than focussing only on telling the truth, transitional justice can assist jurisdictions to address and implement justice initiatives such as institutional reform and remembrance in a forward-looking way, with a focus on preventing further abuses from occurring again. In this way, transitional justice can provide a framework for addressing the root causes of conflict, trauma or abuse.

Transitional justice refers to a framework for addressing the needs of victims and helping to reduce the “justice gap” – that is, the failure to provide justice to people and communities outside the protection of the law.

The primary argument is that in contexts of serious and massive human rights violations, sustainable peace and development will be more attainable if societies effectively pursue justice for those violations.

Focusing on prevention, transitional justice can foster trust in institutions and among people and groups; strengthen rule of law and access to justice; help to transform gender inequalities; and reduce inequality, marginalization, and corruption. It emphasizes a problem-solving approach to transitional justice, which requires context-specific and locally led innovation, the meaningful participation of victims, and balancing a concern for political settlements and stability with the aim of maximizing long-term change.

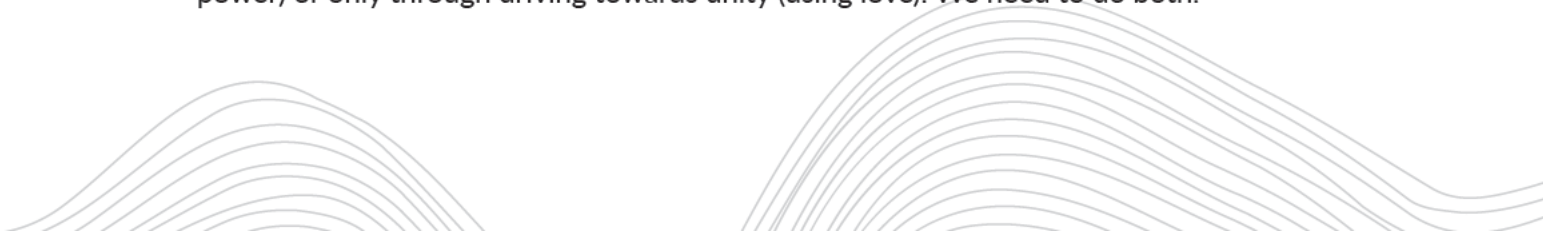
It also describes the critical role of the international community (International Centre for Transitional Justice, 2019).

4. **Safe Platforms:** There is critically important value in victims and perpetrators being given safe platforms for their voices to be heard, and for healing to occur. In Australia, the Royal Commission into Institutional Responses to Child Sexual Abuse found that it was critical to support and prepare victims to give evidence in therapeutically safe ways. Further, they identified a need to support the emotional and mental wellbeing of Commissioners and staff given the heaviness of the issues under consideration (Royal Commission into Institutional Responses to Child Sexual Abuse, 2017), and the potential for vicarious trauma (de Ridder, 1997).
5. **Healing as a Journey:** Telling the truth must be seen in a larger context of healing, justice and prevention of the conflict, abuse or trauma from occurring again. Healing is often very important in considering and renewing national narratives of history, identity and belonging. In South Africa, the Truth and Reconciliation Commission allowed the country to strengthen its sense of identity, history and belonging by confronting the ills of apartheid. Yet it has been pointed out that telling the truth cannot be an end in itself, but is rather a critical step in healing and in national development:

“When apartheid ended and the Truth and Reconciliation process started, Adams says he thought it would genuinely lead to a united South Africa. He’s disappointed that the coloured population, in particular, has been left behind, effectively ghettoized, at least in part.” (Magistad, 2017)

If telling the truth is the first step, and some healing is a result, then it follows that justice and change are essential if telling the truth is not in vain, and if healing is to be completed. Adam Kahane (2010), writing about the transformative scenario planning process that helped underpin South Africa’s growth from apartheid to liberation, says:

“We cannot address our tough challenges only through driving towards self-realization (using power) or only through driving towards unity (using love). We need to do both.”



AUSTRALIAN EXPERIENCES

This section summarises the ways that truth-telling has occurred in Australia, both formally and informally. Since colonisation, Aboriginal and Torres Strait Islander Peoples have sought to tell the truth in informal ways such as storytelling, oral histories, community organising, activism, and art. Governments have instigated formal processes such as the Royal Commission into Aboriginal Deaths in Custody and the Bringing Them Home Report. Both truth-telling and truth-seeking processes have not necessarily resulted in the implementation of recommendations or outcomes that substantively addressed justice and healing. Additionally, there is a lack of literature documenting local truth-telling and seeking processes in Australia, despite significant information regarding these processes internationally.

a) A Brief History of Truth-telling in Australia

Prior to invasion, Aboriginal and Torres Strait Islander storytelling, oral history and cultural transmission of knowledge was a form of truth-telling. First Peoples learnt stories truthfully to ensure the next generations thrived. Since colonisation and the resulting genocide, Aboriginal and Torres Strait Islander Peoples have experienced restricted access to formal justice and equity systems. Despite this activism, justice seeking and truth-telling on our terms has remained. Table 2 provides an overview of this history.

Table 2: Brief timeline of Aboriginal & Torres Strait Islander Activism & Informal Truth-telling

1770	Captain Cook enters Botany Bay on the Endeavour. The British Government does not recognise the rights of Aboriginal and Torres Strait Islander peoples and special connections to land. Instead, they claim the land for the British Crown and declare that Australia is terra nullius – land belonging to nobody.
1788	The First Fleet arrives and builds a settlement at Port Jackson in Sydney, NSW
1901	The Commonwealth of Australia is formed.
1932	William Cooper establishes the Australian Aborigines' League. During the 1930s, Mr Cooper and other leaders of the Aborigines Progressive Association gathered 1,814 signatures on a petition calling on Prime Minister Joseph Lyons and King George VI to intervene "for the preservation of our race from extinction and to grant representation to our race in the Federal Parliament".
1938	The Aborigines Progressive Association and the Australian Aborigines' League declare 26 January a day of mourning for Aboriginal people.
1948	The Commonwealth Nationality and Citizenship Act gives the category of 'Australian Citizenship' to all Australians, including Aboriginal and Torres Strait Islander peoples, for the first time. However, at a state government level, Aboriginal and Torres Strait Islander peoples still suffer legal discrimination.
1962	The Commonwealth Electoral Act is amended to give the vote to all Aboriginal and Torres Strait Islander peoples at Federal elections.
1963	Yolngu leaders present the Yirrkala bark petitions to the Australian Parliament, protesting the seizure of more than 300 square kilometres of Aboriginal land in Arnhem Land for mining.
1965	University of Sydney students, including Charlie Perkins, launch the Freedom Rides, travelling around NSW by bus to draw attention to discrimination against Aboriginal people.

1967	On May 27, more than 90 per cent of Australians vote 'yes' in a referendum to give the Australian Government the power to make laws for Aboriginal peoples and to include Aboriginal people in the Census.
1970	The first Aboriginal legal service in Australia (Aboriginal Legal Service) is established in Redfern, NSW.
1971	Neville Thomas Bonner becomes the first Aboriginal parliamentarian following his election as Senator for Queensland. The first Aboriginal Community Controlled Health Service (ACCHS) is established in Redfern, NSW.
1972	The Aboriginal Tent Embassy is pitched outside Parliament House in Canberra, campaigning for the recognition of Aboriginal land rights. Lloyd McDermott becomes the first Aboriginal barrister. McDermott was junior counsel to the attorney general of NSW in the first determination of native title in NSW (Buck v Minister for Land and Water Conservation). In 2016, he was appointed to the Mental Health Review Tribunal, having also served as an acting District Court judge and a part-time commissioner of the Land and Environment Court of NSW. The Australian Government establishes the Department of Aboriginal Affairs.
1975	The Australian Parliament passes the Racial Discrimination Act to help ensure that Australians of all backgrounds are treated equally and receive the same opportunities.
1976	Patricia (Pat) O'Shane becomes Australia's first female Aboriginal barrister. Australian Parliament passes the Aboriginal Land Rights (NT) Act 1976 (Cth), leading to the establishment of Land Rights legislation in most Australian states in the 1970s and 1980s.
1985	Uluru is handed back to its Traditional Owners.
1988	The Barunga Statement, calling for self-management and land rights for Aboriginal and Torres Strait Islander peoples, is presented to Prime Minister Bob Hawke, who indicates his support for a treaty.
1990	The Aboriginal and Torres Strait Islander Commission (ATSIC) (1990–2005) was the Australian Government body through which Aboriginal Australians and Torres Strait Islanders were formally involved in the processes of government affecting their lives.
1991	The Royal Commission into Aboriginal Deaths in Custody presents its final report into the deaths of 99 Aboriginal and Torres Strait Islander people in Australian jails. The Council for Aboriginal Reconciliation is established.
1992	The High Court recognises native title in the landmark Mabo v Queensland (No.2) (1992) case, busting the myth of terra nullius. Prime Minister Paul Keating delivers the 'Redfern Speech' recognising the history of dispossession, violence and forced removal of Aboriginal children. The Aboriginal and Torres Strait Islander Social Justice Commissioner position is created, with Professor Mick Dodson AM appointed to the position.
1993	The United Nations declares 1993 the International Year of the World's Indigenous People. Australian Parliament passes the Native Title Act. The first National Week of Prayer for Reconciliation is supported by Australia's major faith communities.
1995	The Australian Government officially recognises the Aboriginal and Torres Strait Islander flags.
1996	Robert William 'Bob' Bellear is appointed as a judge of the District Court of NSW. He is the first Indigenous person to be appointed to any court in Australia. Following on from the National Week of Prayer for Reconciliation, the Council for Aboriginal Reconciliation launches Australia's first National Reconciliation Week
1997	The National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families releases the 'Bringing Them Home' report. The Australian Reconciliation Conference is held in Melbourne.
1998	National Sorry Day is commemorated for the first time on 26 May.

2000	The Council for Aboriginal Reconciliation (CAR) delivers its final report to Prime Minister John Howard and the Australian Parliament at Corroboree 2000. Reconciliation Australia is set up as an independent, not-for-profit organisation. Approximately 300,000 people walk across Sydney Harbour Bridge as part of National Reconciliation Week, showing support for the reconciliation process.
2004	The Commonwealth Government establishes a memorial to the Stolen Generations at Reconciliation Place in Canberra.
2005	The Aboriginal and Torres Strait Islander Commission (ATSIC) is disbanded. The National Reconciliation Planning Workshop is held, and is attended by the Prime Minister and the Leader of the Opposition. Reconciliation Australia hosts the first Indigenous Governance Awards.
2006	The Close the Gap campaign for Indigenous health equality is developed following the release of the Social Justice Report 2005. Reconciliation Australia's Reconciliation Action Plan program begins.
2007	Australia celebrates the 40th anniversary of the 1967 referendum. The Australian Government, led by Prime Minister John Howard, begins the Northern Territory Emergency Response.
2008	Prime Minister Kevin Rudd formally apologises to the Stolen Generations on behalf of the Australian Parliament. Council of Australian Governments (COAG) commits \$4.6 billion towards Closing the Gap on Indigenous Disadvantage for projects in health, housing, early childhood development, economic participation and remote service delivery.
2009	Australia supports the United Nations Declaration on the Rights of Indigenous People. Previously, Australia had been one of only four nations to oppose the Declaration.
2010	The National Congress of Australia's First Peoples is established.
2011	The Expert Panel on Constitutional Recognition of Aboriginal and Torres Strait Islander peoples leads wide-ranging public consultations and delivers its findings in January 2012.
2012	The campaign to recognise Aboriginal and Torres Strait Islander peoples in the Constitution begins.
2013	The Australian Parliament passes the Aboriginal and Torres Strait Islander Peoples Recognition Act 2013 to maintain momentum towards a referendum.
2015	The Referendum Council is established.
2016	Reconciliation Australia releases the State of Reconciliation in Australia report.
2017	The Uluru Statement from the Heart is released by delegates to an Aboriginal and Torres Strait Islander Referendum Convention held near Uluru in Central Australia. The Prime Minister, Malcolm Turnbull, immediately rejects the Statement from the Heart's calls for an Indigenous voice to parliament.
2018	The federal government discontinues funding to the National Congress of Australia's First Peoples.
2019	The first ever Reconciliation Day public holiday is held in Canberra, ACT on 28 May. The Federal Minister for Indigenous Affairs, Ken Wyatt, says there is no appetite for an Indigenous voice to parliament, instead establishing the Indigenous Advisory Council, reporting to the government.

b) Informal or Community-Led Truth-Seeking

There is a significant history of informal community-led truth-telling and seeking in Australia. Given the enormous body of work occurring on multiple scales and locations, this section does not aim to be a comprehensive account, but does point to meaningful examples.

Myall Creek Massacre, 1838 – New South Wales Memorial, 2000

The Myall Creek Massacre is a defining part of our nation's history, where justice came through the hanging of White men who violently massacred Wirrayaraay men, women and children.

The first hearing resulted in a not guilty verdict by the jury, yet the Attorney-General was dissatisfied and a second trial occurred, with new charges heard in front of a new judge. It found the White men guilty, and sentenced them to a public execution by hanging.

A memorial was established at the site in 2000 in remembrance of those innocent lives lost. The project was a shared responsibility of Aboriginal and non-Indigenous people, as a form of truth-telling that needed to surface in the hope for true unity and reconciliation.

Fiona Foley, Witnessing to Silence, Brisbane Magistrates Court, 2004

Witnessing to Silence is a public artwork located outside the Brisbane Magistrates Court by Badtjala artist Fiona Foley.

It consists of a circle of long-stemmed lotus inside a misting device that no longer operates and lists the 94 locations across Queensland where massacres occurred.

It is an acknowledgement of the tens of thousands of Aboriginal people who died during the Frontier Wars from 1788.

Representation, Remembrance and the Memorial (RRM)

RRM research project funded by the Australian Research Council Indigenous Discovery Program (2016-2019) aimed to generate thought and discussion on future memorialisation projects in Australia by connecting local actions with international discourse.

Led by Wiradjuri/Celtic artist Brook Andrew, with local and international First Nations Peoples, it developed case studies on international monuments to genocide and community approaches to remembering frontier violence.

The National Black Theatre, Ilbjerri, Yirra Yaakin

The National Black Theatre was established by a small group of Aboriginal people based in Redfern operating from 1972 to 1977.

It grew out of political struggles, especially land rights demonstrations, where street theatre was organised as a form of political action. Its value in publicising issues was used to support many protests and rallies in the early 1970s.

It contributed to the establishment of Black theatre companies, such as Ilbjerri and Yirra Yarkin, who continue to produce work that highlights the impact of stolen generations, deaths in custody, racism, disproportionately high incarceration rates, and intergenerational trauma.

Mapping Massacre Sites and State Violence

University and community-led projects are ensuring that genocide and ongoing violence is acknowledged and addressed. Remembering this history occurs in various mediums such as public art, monuments and academic research projects.

Increasingly, it is also digitised in online archives such as the following:

- **The Killing Times Frontier Wars**
Published by The Guardian, the map shows evidence of mass killings from 1788 until 1928. Data was reproduced with permission of the University of Newcastle Colonial Frontier Massacres Project team, an ARC Discovery Grant 2014-2017.
- **Deathscapes: Mapping Race and Violence in Settler States**
The website aims to end deaths in custody by mapping the sites and distributions of custodial deaths in locations such as police cells, prisons and immigration detention centres, working across the settler states of Australia and the US.

Aboriginal and Torres Strait Islander truth-seeking

A significant number of Aboriginal and Torres Islander writers, academics, journalists and authors have and continue to seek truth through publishing accounts of our history and solution-based ways to seek justice. The following section outlines some of the work in this area.

William Jonas - 'Reflections on the History of Indigenous People's Struggle for Human Rights in Australia - What Role Could a Treaty Play' (2006) provides insights into the history of Indigenous struggles for recognition, human rights, and lack of acknowledgement in Australian Law. European legislation enacted extermination, protection and assimilation. These injustices excluded Aboriginal and Torres Strait Islander People from the Federal Constitution in 1900, and have only recently been acknowledged. The book argues for the rights of Indigenous Australia to live equally to non-Indigenous people in Australia, and be included into the constitution, suggesting that a Treaty is required in order to achieve this.

Eddie Mabo Jnr - 'A Treaty for Whom? Indigenous Jurisdictions and the Treaty Sideshow' in *What Good Conditions? Reflections on an Australian Treaty 1986-2006* (2006) examines the legal system's failure to recognise Indigenous Sovereignty prior to European settlement. It exposes how evidence placed before the courts by his father recognised the system of laws and customs relating to land and sea ownership, while native title recognised the ownership of lands and seas. Mabo Jnr argues that the legal system is problematic, as it does not recognise our own lore and systems, which should be included within it. Furthermore, he demonstrates that that Aboriginal and Torres Strait Islander Peoples must define steps towards reconciliation not the reverse. To do this, he calls for Indigenous Australia to unite, and meet with non-Indigenous Australia to begin Treaty conversations.

Celeste Liddle - 'If We Want to Feel Hopeful about Indigenous Wellbeing, We Need to Determine our own Future' (2014) investigates the urgency to implement Indigenous-led means of truth-telling. It argues that the distressing results of the 2014 *Overcoming Indigenous Disadvantage Report* is evidence of the need for Aboriginal people to determine our futures.

Bruce Pascoe - 'Dark Emu' (2014) demonstrates the agricultural techniques and land management skills of First Peoples, highlighting the sophisticated environmental practises that existed here and were denied under the settler rhetoric of *Terra Nullius*. 'The Little Red Yellow Black Book' (2009) highlights the resistance of Frontier Wars, and impact of settlement such as loss of language, land and trade. It portrays the strength and resilience of Aboriginal and Torres Strait Islander Peoples who used storytelling, art and dance to keep this history alive for generations to come.

Larissa Behrendt - 'After the Apology' (2017) is a documentary exercise in truth-telling, questioning what, if anything, has improved since Rudd's 2008 apology. It documents the severe increase in Aboriginal and Torres Strait Islander child removal rates and the detrimental impact this is having on Aboriginal communities. In this work, Behrendt significantly underscores the powerful work of community-led group Grandmas Against Removal who continue to fight the system.

Stan Grant - 'It is a Damaging Myth that Captain Cook Discovered Australia' (2017) confronts the controversy surrounding Australia's learnt history instrumented by the education system, which centres Cook's discovery of Australia in 1788. It argues that we need to shift the colonial myth-making to acknowledge the truth that Cook didn't discover Australia but invaded it. Grant challenges the national thinking around the term 'terra nullius,' meaning empty land, and speaks of the 60,000 years of Aboriginal people being present here before colonisation.

Alison Whittaker - 'Dragged like a Dead Kangaroo: Why language matters for deaths in custody' (2018) highlights the ongoing miscarriage of justice which occurs during inquests and coronial reports into Indigenous deaths in custody. It documents the legal profession's ability to dilute the enormity of these injustices in order to diminish consequences for the state and police perpetrators of these heinous crimes.

Jedda Costa - 'The Frontier War Memorial you Might Have Missed in the Heart of Melbourne' (2019) shares an aspect of Victorian history that is often erased, the Frontier Wars and the massacres that occurred during colonisation. Costa discusses the memorial that was placed in Melbourne's CBD commemorating the two Aboriginal men from Tasmania who were publicly hung in 1842 - Tunnerminnerwait and Maulboyheenner - a result of guerrilla warfare waged against White settlers for six weeks. Their actions were motivated after visiting a massacre where White whalers killed around 60 to 200 Gunditjmara clan members. In 2016, Victoria was the first state to honour those involved in the Frontier Wars from 1788 to the 1930's. The article illuminates the violence that occurred during these Wars, and how as a nation we need to recognise the fallen and honour their sacrifices.

Jenae Jenkins, Rachel McGhee & Inga Stunzner - 'Alwyn Doolan Walked 8,000 kms from Cape York to Canberra for Indigenous Reconciliation' (2019) records the year-long journey of Doolan who travelled from Bamaga (Cape York) through the Sunshine Coast, New South Wales, Victoria, Tasmania and back to Canberra to heal and educate the wider community on the need to come together. It was also known as the 'Message Stick Walk', where he delivered three message sticks to the Prime Minister Scott Morrison telling the history of Creation, Colonisation and Healing.

c) Government Approaches to Truth-Telling

Over the years, Australian governments have conducted multiple consultations with Aboriginal and Torres Strait Islander communities, apparently with the intent of improving relations or policies, and moving forward as a country. These consultations include Royal Commissions, inquiries, discussion papers, formal feedback, conferences and gatherings. Truth-telling has been evident in each of these fora, where individuals and communities have shared their lived experiences of past and current trauma. However, as Wilson notes:

"One thing that most of these Indigenous inquiries hold in common is that they look at social, historical and economic factors to explain the differences between Indigenous and non-Indigenous peoples, and then make recommendations that are intended to adapt the dominant system to the needs of Indigenous people." (Wilson, 2008)

Rarely do they consider other alternatives like self-government or self-determination. The apparent norm is that government will always hold power over Aboriginal and Torres Strait Islander Peoples; thus, the issues under consideration become limited by terms of reference and parameters set by governments.

This raises a critical question for Aboriginal and Torres Strait Islander Peoples in truth-telling and truth-seeking: Can the truth ever be fully told if the colonial power refuses to recognise Indigenous Peoples' sovereignty?

This question represents the nexus between truth-telling and Aboriginal and Torres Strait Islander rights and political representation.

Australia is the only Commonwealth nation that does not have a treaty with its First Nations People. Aboriginal and Torres Strait Islander Peoples continue to assert their sovereignty over their lands and seas, yet the Commonwealth refuses to acknowledge this. Instead, the Commonwealth, as a result of the High Court's Mabo decision, has legislated for native title, a common law system of recognition of prior ownership, and has thus limited notions of ownership only to 'traditional ownership'.

This approach is seriously flawed, in that the High Court only recognises and represents British sovereignty. Thus, any attempt by the Court to 'recognise' Aboriginal rights will always be limited by and within the boundaries of British/Australian law. In refusing to acknowledge the continuing sovereignty and ownership of lands and waters by Aboriginal and Torres Strait Islander Peoples, Australian governments and courts fundamentally restrict Aboriginal and Torres Strait Islander Peoples to an uneven playing field – our attempts to gain rights and the upholding of our sovereignty can only ever be bound by the limitations of Western law.

Table 3 gives a description of the strengths and weaknesses of various instruments that may be considered or used by Indigenous Peoples under international law.

Despite the critical issue of Indigenous political representation and rights, various forms of government instruments have been lobbied for by Indigenous Peoples in their attempts to tell the truth or seek the truth.

Table 3 – Strengths and Weaknesses of Instruments Used by Indigenous Peoples – Gregory Phillips

Instrument	Strengths	Weaknesses
Sovereignty	<ul style="list-style-type: none"> Fully recognises Indigenous sovereignty (past, present, future) Colonial powers could negotiate with and recognise Indigenous Peoples as their own political entities (government to government); pay reparations for theft, genocide and rent; and negotiate lasting agreements, such as encoding shared sovereignty in foundation documents, to ensure it never happens again 	<ul style="list-style-type: none"> Western colonial powers refuse to acknowledge Indigenous sovereignty, because Western financial and political wellbeing depends on its denial
Treaties and agreements	<ul style="list-style-type: none"> Formal acknowledgement of Indigenous Peoples' prior ownership Some forms of self-government or self-determination can be negotiated Some political and financial deals can be negotiated 	<ul style="list-style-type: none"> No acknowledgement of current and continuing Indigenous sovereignty Legislated within Western sovereignty, and thereby controlled by it The state/colonial power recognises treaty obligations as they see fit Depends on the whim of the minister or government of the day Limited or no access to international independent legal umpires
Self-government	<ul style="list-style-type: none"> Can be a way for a Western colonial powers to acknowledge Indigenous claims to 'nationhood' status e.g. Sami parliament, though this operates within a limited set of parameters controlled by Western colonial powers May not require a treaty or formal agreement 	<ul style="list-style-type: none"> No acknowledgement of current and continuing Indigenous sovereignty Legislated within Western sovereignty; thereby controlled by it The state/colonial power recognises treaty obligations as they see fit Depends on the whim of the minister or government of the day Limited or no access to international independent legal umpires
Self-determination	<ul style="list-style-type: none"> Some recognition of the rights of Indigenous peoples, such as the United Nations Declaration on the Rights of Indigenous Peoples Some recognition of Indigenous decision-making or consultation in strategy, policy, programs Evidence shows this is essential to Indigenous outcomes in policy/program areas like health, education, justice – i.e. 'nothing about us without us' 	<ul style="list-style-type: none"> Not constitutionally guaranteed within Western sovereignty Usually only operates at an advisory level Depends on the whim of the minister or government of the day Limited or no access to independent legal umpires
Inclusion, Recognition, Diversity or Reconciliation	<ul style="list-style-type: none"> Some highlighting of issues affecting Indigenous Peoples Limited recognition of Indigenous rights Some strategy, policy or program reforms 'Indigenous problems' are construed as the responsibility of Indigenous people to solve or because of their capacities, instead of also clearly holding to account the enabling, or disabling, political environments 	<ul style="list-style-type: none"> Focuses only on Western control of legislation, strategy, policy and programs No formal decision-making rights for Indigenous Peoples Depends on the whim of the minister or government of the day Limited or no access to independent legal umpires Promotes the myth of the meritocracy – i.e. 'treat everyone the same', 'pull yourself up by your own bootstraps' (while non-Indigenous people retain control of power and money) Relies on moral benevolence

d) Key Moments in Truth-telling

Royal Commission into Aboriginal Deaths in Custody, 1989

The Commission was established after Aboriginal communities raised concerns regarding the high mortality rates of Aboriginal people in police custody. Ninety-nine Aboriginal people died from 1980 to 1989 in police or juvenile detention centres.

The truth-telling that occurred through this process identified not only individual cases, but also cultural and wider societal issues such as institutional racism, lack of access to legal advice and representation, and intergenerational trauma. The inquiry held public hearings, community meetings, received submissions, conducted research, and presented issue papers. Submissions were received from organisations, individuals, and family members of victims.

Through these submissions, it was revealed that forty-three of the ninety-nine people who died in police custody experienced separation from their families and communities as a child. The focus of the inquiry was on those that died in custody rather than the institutions that separated them.

The findings from the Commission were that while Aboriginal people did not die in custody at a higher rate than non-Indigenous people, Aboriginal people were taken into custody at higher rates compared to non-Indigenous people. Furthermore, the Commission controversially found that the 99 deaths investigated were not due to police violence. The Commission's recommendations found that authorities could have prevented many of the deaths by acting with care, following procedures, and providing medical care in a timely manner.

The final report made 339 recommendations, including:

- imprisonment to be used as a last resort;
- obtaining medical help if a detainee's condition deteriorated;
- collaborate with Aboriginal and Torres Strait Islander communities;
- improve access to records; and
- initiate a process for reconciliation.

Almost all of the recommendations still have not been implemented, although the final recommendation led to the establishment of the Council for Aboriginal Reconciliation (CAR), which morphed into Reconciliation Australia.

The National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, 1997 (also known as the Bringing Them Home Report)

Conducted by the Human Rights and Equal Opportunity Commission (HREOC), this inquiry investigated the forcible removal of Aboriginal and Torres Strait Islander children from their families and communities between 1910 and the 1970s. Children were removed from their families by police and government authorities, and placed in foster homes, adopted and institutionalised, never to return to their families or communities. Many experienced abuse and mistreatment in their new homes and placements.

The Inquiry was established after communities voiced concerns that the nation was ignorant of the forced removal of Aboriginal and Torres Strait Islander children from their families and communities, which enforced assimilation policies and legislation. The Inquiry was set up to:

- Examine the past laws, practices and policies of forcible separation of Aboriginal and Torres Strait Islander children from their families and the effects;
- Identify what should have been done in response, including any changes in current laws, practices and policies, with a focus on locating and reunifying families;
- Examine the justification for any compensation for those affected by the forcible separations; and
- Investigate current laws, policies and practices affecting the placement and care of Indigenous children.

(HREOC, 1997)

The Bringing Them Home Report held public hearings, community meetings and received submissions and testimonies from those affected by the forcible removals, who were also (collectively) known as the Stolen Generation. There were 54 recommendations made in the final report to redress the impact of removal and intergenerational trauma. The Report identified a strong need for reparations, and support services and processes to monitor the ongoing implementation of the recommendations.

Some recommendations were supported, including funding Link-up services across Australia to support reunification of family and wellbeing programs.

However, the recommendations about compensation and reparations are still ignored, and the call for a national apology was actively resisted for a decade (1997-2007) by the then conservative government.

The Apology to Australia's Indigenous Peoples, 2008

In 2008, Prime Minister Kevin Rudd made a formal Apology to Aboriginal and Torres Strait Islander Peoples. The delivery of the apology provided some opportunity to continue conversations and reconciliation, and was warmly welcomed and celebrated by many Aboriginal and Torres Strait Islander Peoples. Yet, at the same time, the government continued the Northern Territory Emergency Response ('the Intervention') – a highly political and controversial income management program that sought to control Aboriginal lands under the guise of social policy concerns (Altman and Hinkson, 2007).

Another initiative the Federal Government undertook was the establishment of the Aboriginal and Torres Strait Islander Healing Foundation as an attempt to redress some of the wrongs of 'past mistreatment'.

Celermajer (2006) concludes that political apologies help balance forms of justice for those affected by the past and those that feel no responsibility for their predecessors.

While political initiatives such as apologies may be useful or morally expedient, they usually are conducted in a way that carries no legal responsibility for guilt, and no obligation for systemic reform or change.

This was starkly documented in Larissa Behrendt's documentary film 'After the Apology' (2017), which highlights that there are now more Aboriginal and Torres Strait Islander children being removed than at the time of the Apology.

e) Next Steps and Challenges

In December 2015, the Australian Government and Federal Opposition came together to appoint sixteen members to a Referendum Council to consult with Aboriginal and Torres Strait Islander Peoples and other stakeholders throughout Australia, and take the next steps towards achieving constitutional recognition of the First Australians (Referendum Council, 2016).

The Referendum Council conducted consultations from 2016-2017 across Australia around Constitutional Recognition and handed down a report on June 30, 2017.

The Uluru Statement of the Heart (Uluru Statement, 2017) echoed the voices of those that gathered in Uluru who collectively rejected the symbolic recognition of Constitutional recognition. The gathering called upon the government to establish a First Nations Voice to be enshrined in the Constitution, and a Makarrata¹ Commission to oversee agreement making between governments and First Nations communities (Uluru Statement, 2017).

The Referendum Council presented the Uluru Statement (2017) in their final report and made two recommendations:

1. That a referendum be held to provide in the Australian Constitution for a representative body that gives Aboriginal and Torres Strait Islander First Nations a Voice to the Commonwealth Parliament. One of the specific functions of such a body, to be set out in legislation outside the Constitution, should include the function of monitoring the use of the heads of power in section 51(xxvi) and section 122. The body will recognise the status of Aboriginal and Torres Strait Islander peoples as the first peoples of Australia.
2. That an extra-constitutional Declaration of Recognition be enacted by legislation passed by all Australian Parliaments, ideally on the same day to articulate a symbolic statement of recognition to unify Australians (Referendum Council, 2016).

The Uluru Statement from the Heart's (2017) closing proclamation was:

"We seek a Makarrata Commission to supervise a process of agreement-making between governments and First Nations people and truth-telling about our history. In 1967 we were counted, in 2017 we seek to be heard."

Further, since the Uluru gathering, the call for a political voice has been watered down in successive political interventions:

- The Referendum Council (2017) recommended the voice be merely an advisory voice to parliament, not the voice the delegates at Uluru called for;
- The Prime Minister at the time, Malcolm Turnbull, immediately rejected the advisory voice to parliament as a 'third chamber of parliament'; then
- The Minister for Aboriginal Affairs, Ken Wyatt, suggested it could be an advisory voice to government, rather than parliament, and established an Indigenous Affairs Advisory Council. However, he has limited the parameters of what they are allowed to discuss – they are not allowed to suggest options for a voice.

Since the Uluru Statement from the Heart, Aboriginal and Torres Strait Islander Peoples continue to seek a political voice in their own homelands, the right to self-determine as sovereign custodians of Australia (possibly through a mechanism such as a treaty or treaties), and a full and honest account of the truth.

¹ 'Makarrata' is a Yolngu word that means two parties coming together after a struggle.

f) Conclusion

While Aboriginal and Torres Strait Islander Peoples have lobbied for and undertaken various mechanisms in their attempts to have the truth told, they have not always been heard. As far back as Yorta Yorta Elder William Cooper's letter to King George VI (1937), the Yirrkala Bark Petitions (1963), the Larrakia Petition (1972) and the Barunga Statement (1988), Aboriginal and Torres Strait Islander Peoples have sought a fair place in our country.

Few of these attempts have been formally recognised as truth-telling; thus, there is a gap in the literature regarding truth-telling and truth-seeking in Australia. Perhaps more significantly, the literature highlights the failure of government truth-telling processes to deliver justice, reparations and meaningful steps forward.

In contrast, Aboriginal communities continue to find their own truth-seeking pathways despite Federal and State governments' inability or unwillingness to address past and continuing atrocities.

GLOBAL EXPERIENCES

Formal truth-telling commissions have been operating around the world since 1974, and continue to be utilised by the international community as a mechanism of reconciliation and healing by those countries affected by colonisation, past civil wars and historical events.

The following case study analysis provides insight into a range of international precedents. A selection of case studies from Africa, North America and Europe highlights the successes, challenges and failures of international formal and informal truth-telling and truth-seeking processes. They provide opportunities for our nation to learn from these experiences.

a) Uganda

This Commission was initiated in 1974, when families directly affected by 'disappearances' lobbied General Idi Amin Dada, the Commander and Chief of the Ugandan Armed Forces. He appointed Commissioners to inquire into the disappearances of peoples from 1971 until 1974, despite the fact that the armed forces he controlled were responsible.

Unfortunately, the Commission only operated for six months, and the final confidential report was never publicly released and was destroyed. After the Commission finished, Ugandans were still exposed to the dictator's brutality.

This example is instructive, in that:

- It was initially instigated by families, not the government;
- While eventually enjoying formal government support, there was no independent administrative or judicial process;
- There was no guarantee of public communication of the findings;
- There was no protection for the victims, witnesses or administrators of the Commission; and
- There was no substantive justice or healing as a result of the Commission.

b) South Africa

The South African Truth and Reconciliation Commission (SATRC) used the five pillars of transitional justice model proffered by the United Nations. Political will for the establishment of the SATRC came from President Nelson Mandela's newly elected federal government, which enacted the Promotion of National Unity and Reconciliation Act 1995.

The establishment of the SATRC in 1995 was well received by both the White and black communities, as they hoped that it would bring new confidence for them as a liberated nation through reconciliation. The SATRC focused on reconciliation between races, tribes, communities, families and individuals (Motlhoki, 2017).

The ending of apartheid and the establishment of the SATRC opened South Africa as it transitioned from being globally isolated to a place where the international community could visit and invest. This also changed the opinions of corporate South Africa, as people realised that apartheid was not good for business and rebuilding the nation was vital.

The SATRC promoted national unity and reconciliation, with the adoption of the following objectives:

- Contribute to transitional peace by creating an authoritative record of what happened by investigation and holding hearings;
- Providing a platform for the victims to tell their stories and obtain some form of redress;
- Recommending legislative, structural or other changes to avoid a repetition of past abuses; and
- Establishing who was responsible and providing a measure of accountability for the perpetrators.

The work of the SATRC was accomplished through three committees:

- Human Rights Violations (HRV) Committee investigated human rights abuses that took place between 1960 and 1994.
- Reparation and Rehabilitation (R&R) Committee was charged with restoring victims' dignity and formulating proposals to assist with rehabilitation.
- Amnesty Committee (AC) considered applications for amnesty that were requested in accordance with the provisions of the Act. (Source: <https://www.beyondintractability.org/essay/truth-commissions>)

The SATRC's adoption of the three committees aligned to the truth-seeking and truth-telling pillar of transitional justice. The Commission's hearings were televised across the nation and international community. Public exposure to people's lived experiences, and victims' ability to forgive perpetrators and continue on their own journey, enabled both individuals and the nation to begin to heal.

However, a strong and consistent criticism of the SATRC is that it too easily allowed amnesty for perpetrators, while not addressing or guaranteeing substantive social or economic justice reforms (Ramphela, 2008).

c) Kenya

Professor Makau Mutua, Chairperson of the Task Force on the Establishment of a Truth Justice and Reconciliation Commission, was mandated to consult and make recommendations on the necessity for Kenya to establish a truth-telling commission.

Mutua (2003) presented the findings from consultations across the country.

There was overwhelming support for the government to establish a Truth, Justice and Reconciliation Commission (TRJC) and for this to occur immediately, in June 2004.

The report highlighted the importance of government to act upon the voices of their people in the wake of independence and the need for healing by those affected and impacted by the resulting trauma (Slye, 2018).

d) Canada

Petoukhov (2011) identified five mechanisms that supported the truth-telling process in Canada. First, the Truth and Reconciliation Commission (TRC) in Canada operated from 2008 to 2015, with a mandate to address "...the legacy of residential schools and advance the process of reconciliation" (NCTR, 2018).

The TRC undertook:

- A truth and reconciliation process with survivors;
- Education of the general public about the residential schools (Wilk et al., 2017); and
- Production of a comprehensive report along with recommendations based on their findings at the conclusion of the five-year mandate (Corntassel et al., 2005).

While there was federal government political will for the TRC, it operated independently and gained international support from other countries that had begun truth-telling processes.

The second mechanism was the opportunity to hear the lived experiences of those affected and how the residential school impacted their identity, wellbeing and communities. The TRC attempted to be a safe platform for those carrying abuse and past pain to come forward and share their hopes for reconciliation and healing.

The third mechanism was the political apology made to survivors of the residential schools by the government. The apology was also proffered by the churches and organisations that inflicted abuse while operating schools from the 1600s through to 1996. Settlement agreements to compensate not only those affected by abuse, but also those that attended the residential schools were made to the amount of \$1.9 billion (Cassidy, 2006).

The fourth mechanism was providing support to people who participated in the process of sharing and healing by First Nation leaders, Elders and communities. Stories collated during the TRC were placed at the Canadian Museum for Human Rights for future generations to read and learn about the Residential Schools' history, with hope that it would bring healing to the nation. Survivors recognised that this enabled them to repair their identities by reinstalling their dignity and rights.

The fifth mechanism was the establishment of a formal Aboriginal Healing Foundation (AHF) by the TRC in 1998 for the purpose of creating healing programs for those affected by the Residential School experience.

The TRC identified ten principles of reconciliation and made ninety-four calls to action. The ten principles are:

- 1) The United Nations Declaration on the Rights of Indigenous Peoples is the framework for reconciliation at all levels and across all sectors of Canadian society.
- 2) First Nations, Inuit, and Métis peoples, as the original peoples of the country and as self-determining peoples, have Treaty, constitutional, and human rights that must be recognised and respected.
- 3) Reconciliation is a process of healing of relationships that requires public truth sharing, apology, and commemoration that acknowledge and redress past harms.
- 4) Reconciliation requires constructive action on addressing the ongoing legacies of colonialism that have had destructive impacts on Aboriginal Peoples' education, cultures and languages, health, child welfare, the administration of justice, and economic opportunities and prosperity.
- 5) Reconciliation must create a more equitable and inclusive society by closing the gaps in social, health, and economic outcomes that exist between Aboriginal and non-Aboriginal Canadians.
- 6) All Canadians, as Treaty peoples, share responsibility for establishing and maintaining mutually respectful relationships.
- 7) The perspectives and understandings of Aboriginal Elders and Traditional Knowledge Keepers of the ethics, concepts, and practices of reconciliation are vital to long-term reconciliation.
- 8) Supporting Aboriginal peoples' cultural revitalisation and integrating Indigenous knowledge systems, oral histories, laws, protocols, and connections to the land into the reconciliation process are essential.
- 9) Reconciliation requires political will, joint leadership, trust building, accountability, and transparency, as well as a substantial investment of resources.
- 10) Reconciliation requires sustained public education and dialogue, including youth engagement, about the history and legacy of residential schools, Treaties, and Aboriginal rights, as well as the historical and contemporary contributions of Aboriginal peoples to Canadian society.

The TRC created a platform for those carrying trauma to come forward and share their hopes for reconciliation and healing, and attempted to address the impact of being prohibited to speak language, practice customs, and the disconnection from families, communities and traditional homelands. It was a form of restorative justice aimed at discovering the truth about the continual impact of colonisation in Canada. The truth-telling experience also provided First Nations people with the opportunity to heal, by engaging in cultural ceremonies such as sweat lodges, smoking with sage or cedar, and other traditional healing practices.

Those that chose to engage in the Commission began to find the answers to questions, such as:

- Why did it happen?
- What was the rationale behind settler's enforcement of these policies of assimilation?
- What will be changed so it never happens again?

While the TRC was established with intentions of supporting restorative justice, truth, reconciliation and healing, one of the challenges identified by Petoukhov (2011) was the government's own insight into their institutional racism as colonisers, whose perception of Aboriginal cultures was that they were inferior to Western civilisation.

This attitude led to the establishment of Residential Schools, believing that they were necessary in order to assimilate First Nations people by stripping them of their languages, cultures, connection to family and homelands. It was only in 1998, when the Royal Commission on Aboriginal People Final Report was published, that the general Canadian public learnt about the early atrocities resulting from colonisation.

The TRC highlighted the need for further education around the nations' colonial history. The general public were only beginning to learn about the treaties aligned to the Indian Act 1894, and successive legislation by government that required attendance by Indian children at Aboriginal Residential Schools until 1996.

Although the TRC led to many positive outcomes, it could have benefited further by incorporating First Nations methodologies when researching and collating stories from survivors.

An article written through the cultural lenses of three First Nations authors entitled 'Indigenous Storytelling, Truth-Telling, and Community Approaches to Reconciliation' (Corntassel et al., 2009) tells of haa-huu-pah, a process used to teach each generation about their connection to lands and ancestors.

Haa-huu-pah is the passing on of values and knowledge, forming the heart of Indian governance taught to each generation. The reason for using haa-huu-pah as their narrative for truth-telling is to honour traditions and customs that were in place prior to colonisation.

The haa-huu-pah could also be translated today as a cultural way of conducting a truth-telling Commission.

It signifies a starting point for renewing Aboriginal families' and communities' responsibilities in how they engage with colonisation, and their continued struggle to be treated justly and free from oppressive legal systems and policies.

Corntassel and colleagues (2009) conducted their own research and interviewed seven survivors utilising the haa-huu-pah process of storytelling as a movement towards decolonisation.

Haa-huu-pah connects survivors back to their homelands and their responsibilities.

Rather than looking to the colonising system for answers, haa-huu-pah looks within itself, communities and families to find a way forward with their own worldviews.

It was also used to share the experience of survivors of one of the most atrocious Residential Schools in Canada, Peake Hall Residential School in Port Albernie, British Columbia.

Here, survivors experienced violent acts and sexual abuse, and continued to experience post-traumatic stress as a result.

In 2009, there was a community-led demolition held at Peak Hall Residential School. While the building was burning, spiritual healers were present with sage and cedar to smoke the area for spiritual cleansing and healing.

Had the TRC incorporated haa-huu-pah as a part of the process, they would have learnt that words and concepts like reconciliation belong to Western ideology, based around biblical principles of being reconciled to God and each other.



The Nuu-chah-nulth people don't have a word for reconciliation, but they had been sharing haa-huu-pah for many centuries and, in their language, the word 'oo yoothloothl' meant 'looking after or looking beyond' (Corntassel et al, 2009).

Finally, other concerns were that there needed to be greater recognition of survivors' preparedness to share.

The TRC didn't recognise the journeys of the survivors, or the importance of slowing timeframes, to allow for their emotional readiness.

The funding for the Aboriginal Healing Foundation ceased in 2012 and those that had utilised the healing programs were further disadvantaged from accessing culturally safe support programs.

e) USA - Oklahoma

In the book, 'Taking Wrong Seriously': Apologies and Reconciliation (2006), Alfred L Brophy provides insights into the 1997, Oklahoma Commission to Study the Tulsa Race Riot of 1921. The members of the Commission were those who had family connections to survivors, and grew up with knowledge of the riots.

The purpose of the Commission was to examine the facts from historical records and personal testimonies to inform legislation with the intention of delivering reparations.

Brophy (2006) identified the challenge of finding a truth(s) that both white and black America could agree on in relation to the riot.

There were competing narratives regarding: who started the riot; the number of citizens that were killed; allegations of police conspiracy to kill off the black community at Greenwood and sell their land; as well as the lynching of African American Dick Rowland that incited the riots.

As it was a historical case, some survivors felt that the Commission was re-opening old wounds that did not need revisiting, whilst other survivors were hopeful of some form of reparation.

There were also mixed emotions for those that had survived the riot, fearing that it may cause further racial conflict between white and black America.

Overall, there were expectations from both the black and white community that they would be vindicated for what happened.

However, although the Commission was able to build a substantial, comprehensive historical record of the events that occurred, it was unable to secure any funding for reparations.

The Commission was able to influence the legislature to pass the '1921 Tulsa Race Riot Reconciliation Act' in 2001.

The Act found that local governments failed to contain the situation, and had a moral obligation to act and re-build Greenwood after the incident but had failed.

In 2003, survivors of the riot filed a lawsuit for reparations but were unfortunately unsuccessful again due to the statute of limitations.

They did appeal the decision but again failed.

The victims were offered an apology, but no reparations were made.

Brophy (2006) argued that historical commissions were limited as even when accurate records of past tragedies were presented clear outcomes and justice for the victims was often symbolic rather than monetary or transformative.

f) Sweden

In response to government indifference, the Church of Sweden (2016) called for a truth-seeking commission for the treatment of Sami (the Indigenous peoples of Sweden, Norway, Finland and the most Eastern part of Russia), yet the idea took three more years of advocacy to strike a chord with government.

In the meantime, the Swedish Foundation for Human Rights (2017) published 'The Truth from Below – Alternative Truth-Seeking Experiences from Sweden, Columbia and Burma'. The work illustrated civil societies' pursuit for alternative truth-telling commission processes in both Brazil and Uruguay, where there was no political will or support by the government. It advised of the limitations of alternative truth-seeking projects, in that there is no official recognition of past wrongdoings and no capacity for reparation for victims.

In 2019, the Swedish minister for culture, Helene Öberg, announced that the government intended to start a dialogue with Sami representatives on establishing a truth commission (sanningskommission) to investigate the Swedish state's historical relationship with and abuses of the Sami people. The Minister declared that "the government, in close collaboration with the Sami Parliament, wants to establish a truth commission."

g) Conclusion

Global experiences of truth-telling and truth-seeking provide insight into the strengths and weaknesses of official commissions and unofficial truth-seeking methods.

Primarily, what becomes clear is the strength of the human spirit and civil society to work collectively to organise truth-seeking programs, where political will or state leadership failed.

Global First Nations scholars have attested to the need for self-determination demonstrating why community truth-seeking can be a powerful and reaffirming experience even if it lacks the legitimacy to address institutional systems such as the law.

Linda Tuhiwai Smith, Professor of Indigenous Education at the University of Waikato, explains that:

"On the international scene, it is extremely rare and unusual when Indigenous accounts are accepted and acknowledged as valid interpretations of what has taken place. And yet the need to tell our stories remains the powerful imperative of a powerful form of resistance." (Smith, 1999)

As identified in the case studies, story-telling as truth-seeking has a powerful impact on First Nations survivors, even if sharing these stories did not always lead to reparations as evident through the Oklahoma Commission to Study the Tulsa Race Riot of 1921.

Like Smith, other First Nation scholars continue to highlight the value of telling our stories. Cornthassel and colleagues (2009) believe that the Canadian TRC process would have benefited further by moving beyond reconciliation to truth-telling.

This demonstrates that reinstating First Peoples narratives through re-storying contributed to the process of healing and regaining identity and dignity.

In their article 'Indigenous Storytelling, Truth-telling, and Community Approaches to Reconciliation', Cornassel et al. (2009) pay homage to the oral history passed down to generations, through storytelling which connects people to country, language, culture and identity.

They argue that the value of 're-storying Indigenous justice' could have had an even greater impact for those that participated in the TRC.

Other common threads in the literature highlight the importance of acknowledging past trauma and post-conflict, the need for transitional justices and peace to occur, as well as the transgenerational responsibility by those that were not part of the post-conflict.

Motlhoki (2017) wrote 'The Effectiveness of the South African Truth and Reconciliation Commission in the Context of the Five Pillars of Transitional Justice', which outlines how the pillars were used as mechanisms that facilitated peace and unity among former victims and perpetrators.

They became a conceptual approach to nation-building after a history of conflict. Motlhoki also introduced a sixth pillar called 'Institutional Reform' as a means to transform institutions aligned to conflict into institutions of peace.

Ultimately, the global case studies investigated confirm that the healing process is a critical component of change. As identified by global First Nations scholars, truth-telling narratives must be led from an Indigenous cultural lens for reconciliation and justice to occur.

LESSONS FROM AUSTRALIAN AND GLOBAL EXPERIENCES

This section summarises lessons from formal and informal truth-telling and truth-seeking initiatives in Australia and globally.

a) Global Truth-telling Commissions

In reviewing global experiences with formal truth-telling commissions, the lessons include:

- Political will – past conflict and human right violations require the political will of their leaders to advocate for safe platforms for survivors to be listened to and heard.
- Truth-telling as dialogue – dialogues can help countries discuss their darkest times of violence, dispossession, and the need for healing and reconciliation.
- Public education – the general public became educated about their own country's past conflicts and how the past conflict was still in living memory.
- Legal parameters – the legal structures, parameters and terms of reference for truth-telling matter.
- Reparations and compensation – restitution and reparation can be supported as a way of giving back and assisting survivors on their road to recovery. Potential limitations and restrictions in accessing compensation must be addressed (including legislation, government policies and practices).
- Healing – there must be resources allocated for healing projects for victims and perpetrators.
- Data access and ownership – there must be transparent access and ownership of information for victims, families and future generations. This includes oversight of incorporating Indigenous Peoples' cultural knowledges and practices as a part of truth-telling and healing.

b) Australian Truth-seeking Initiatives

In Australia, while there has been no formal truth-telling commission, there have been numerous formal truth-seeking initiatives, including:

- Royal Commission into Aboriginal Deaths in Custody (1991);
- National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families aka the 'Bringing Them Home' Report (1997);
- National Congress of Australia's First People (2010);
- Recognise campaign begins for Aboriginal and Torres Strait Islander people to be recognised in the Australian constitution (2012);
- Referendum Council (2015);
- Final Report of the Referendum Council (2017); and
- Various and numerous community advocacy, activism and reports.

The lessons from these initiatives include:

- **Accountability** – the primary lesson from these attempts at truth-telling are that the recommendations have mostly not been implemented; thus, the issue of accountability and independent auditing of implementation is paramount.
- **Being Heard** – While some of these initiatives provided Aboriginal and Torres Strait Islander individuals, their families and communities with opportunities to tell their truths and to be listened to, many report they have not always felt heard.
- **Cultural Leadership** – Aboriginal and Torres Strait Islander leaders have made clear their requests to successive governments, including calls for truth-telling. These include:
 - 1963 – Yolngu leaders presented the Yirrkala Bark Petitions to the Australian Parliament, protesting the seizure of more than 300 square kilometres of Aboriginal land in Arnhem Land for mining.
 - 1982 – Sovereign Treaty Campaign, inspired by the Yolngu's concept of Makarrata, which is a call for governments to work more strategically with First Nations Peoples. The campaign occurred while the world was looking at Australia as they hosted the Commonwealth games.
 - 2017 – Uluru Statement from the Heart to adopt voice, treaty and truth as ways to move forward as a country. Unfortunately, there was no strategic implementation plan after Uluru, and the Federal Government knocked the idea of a voice on the head before it could be fully discussed.
- **Reconciliation** – 'Reconciliation' in Australia has become expressed as a White process, often conflated with benevolence, niceness, romanticised views of cultures, and a politeness that fails to recognise the need for political engagement. While reconciliation, yarning circles and group activities have helped as general public education, they have often been led by non-Aboriginal peoples and have not focussed on racism or issues of substantive justice. Reconciliation Action Plans have been adopted by mainstream corporations and organisations, but these have been focussed on Aboriginal disadvantage and problematised Aboriginal capacity, rather than being concerned with strategic decolonisation or adequately dealing with racism and Whiteness.

- Healing and Community Activism – Aboriginal and Torres Strait Islander Peoples have initiated Link-Up services, legal services, health services and education groups, for example, all in efforts to help families rebuild family connection and identity, and to gain access to equitable services and some form of healing and justice.

c) Further Lessons From Home and Afar

Informal attempts at truth-seeking by civil societies and grassroots activists are critical. Lessons from such initiatives include the following:

- **Safe Space:** Projects provided safe places for survivors to come and share their truths, where they could also be provided with the necessary supports of counselling and therapy.
- **Validation:** Projects and programs gave survivors validation so that they could work through past conflicts, abuse and trauma.
- **Church or Courts' Denial:** Redress and restitution through the courts or churches can be inhibited or delayed due to their denial.
- **Lack of Political Will:** Government support and willingness to acknowledge conflicts, abuse and trauma can be a major stumbling block to formal processes, but need not inhibit grassroots, local or state government action.
- **Lack of Community Support:** Truth initiatives are more likely to succeed where there is a groundswell of community awareness and action for change. Similarly, where communities fear retribution, general awareness and action for change can be inhibited.
- **Retribution:** There are risks involved with being activists for change, and with public memorialisation without broad community support. Public memorials and monuments may be vandalised or destroyed, such as when Eddie Koiki Mabo's original tombstone was vandalised in Townsville.

STAKEHOLDER CONTRIBUTIONS

This section summarises the initial feedback received from various stakeholder groups.

a) Reference Group

Working with the Project Reference Group (see Appendix B), the following principles and concerns have been identified as critical to truth, justice and healing in Australia.

1. **Audience:** The TJH Project should aim to build respect, truth, belonging and connection primarily between Aboriginal and Torres Strait Islander Peoples first, and then consider and allow for truth-telling with non-Indigenous people. Colonisation has produced a kind of oppressed group behaviour (Roberts et al., 2009) characterised by lateral violence, where communities have taken their rage out on each other (Aboriginal & Torres Strait Islander Social Justice Commissioner, 2011) given the lack of recourse

to justice and healing in settings like courts, native title and other tribunals, jails, schools, hospitals and workplaces. Therefore, great healing is required between and among Aboriginal and Torres Strait Islander Peoples.

2. **Primacy of Aboriginal and Torres Strait Islander Voices:** The Ebony Institute should aim to illuminate and respect Aboriginal and Torres Strait Islander Peoples' truths and voices. The Project should not be limited to what non-Aboriginal people want to hear or are comfortable hearing.
3. **Justice and Healing:** Truth-telling is courageous and is a part of an ongoing justice and healing process. The Ebony Institute should give thought to the strategic implications of what happens after the truth is told – what does substantive justice and healing look like?
4. **Crimes against Individuals and Countries:** Reference Group members identified that while crimes were committed against individuals and communities, they were also committed against lands and waters, and this continues to be the case. Any truth-telling initiative could include a broad Terms of Reference to include these issues.
5. **Power, Motivation and Ethics:** The quality of truth-telling depends on who is doing the asking, how they are doing it, and why they are doing it. We aim for an ethical and respectful process that gives power to people's and communities' truths, and that fully gives power to self-determination as defined by the United Nations Declaration on the Rights of Indigenous Peoples (2007).
6. **It's not just 'all in the past':** There are many current mistreatments and crimes against Aboriginal and Torres Strait Islander Peoples that also need inquiry. These may include the skyrocketing rates of out of home care, continuing Black deaths in custody, poor health care outcomes and life expectancy, police brutality and harassment, poverty, the onus of proof in native title cases being wrongly weighted, and continuing media assaults on Aboriginal and Torres Strait Islander identity, culture and history.

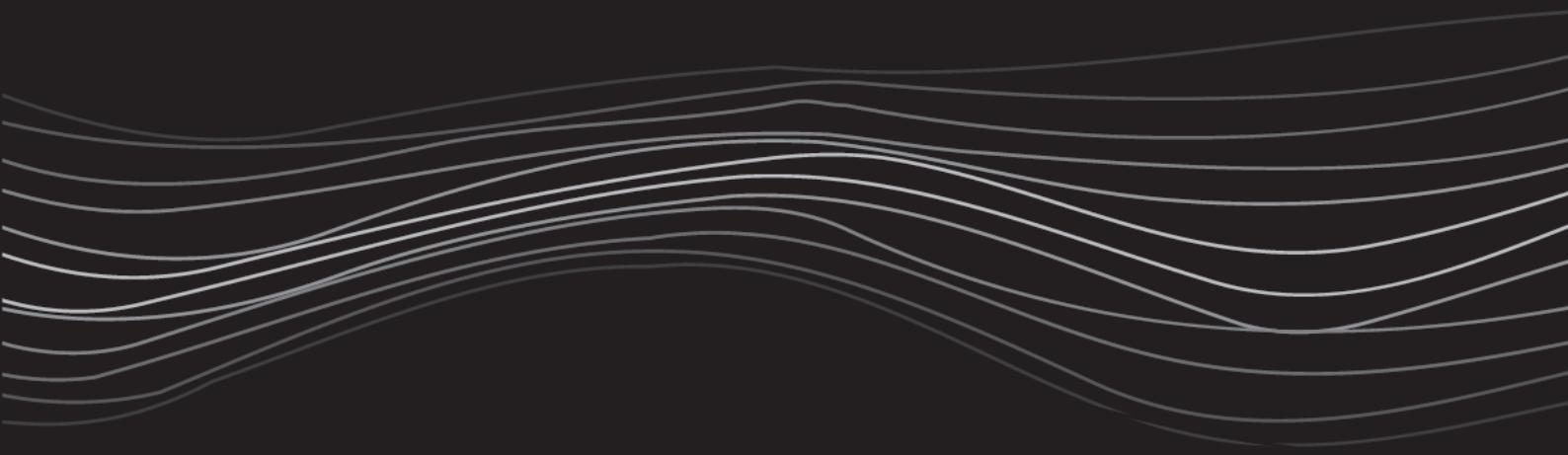
b) Stakeholder Workshop

In July 2019, a national workshop of thirty Aboriginal and Torres Strait Islander leaders and community stakeholders (see Appendix C) reached resounding commitment to and consensus that the Project was important, timely, and very much needed due its unique evidence-based and community-driven approach.

Participants identified that the following issues needed to be considered in any successful engagements or consultations with communities:

1. **Readiness:** It will be necessary to ensure the readiness of Indigenous communities and governments to engage in truth, justice and healing processes. This is particularly important given the enormity of the weight of intergenerational trauma, the political and emotional stress of naming and dealing with genocide, and daily issues Aboriginal and Torres Strait Islander Peoples must endure for basic services like housing, health, justice and employment.



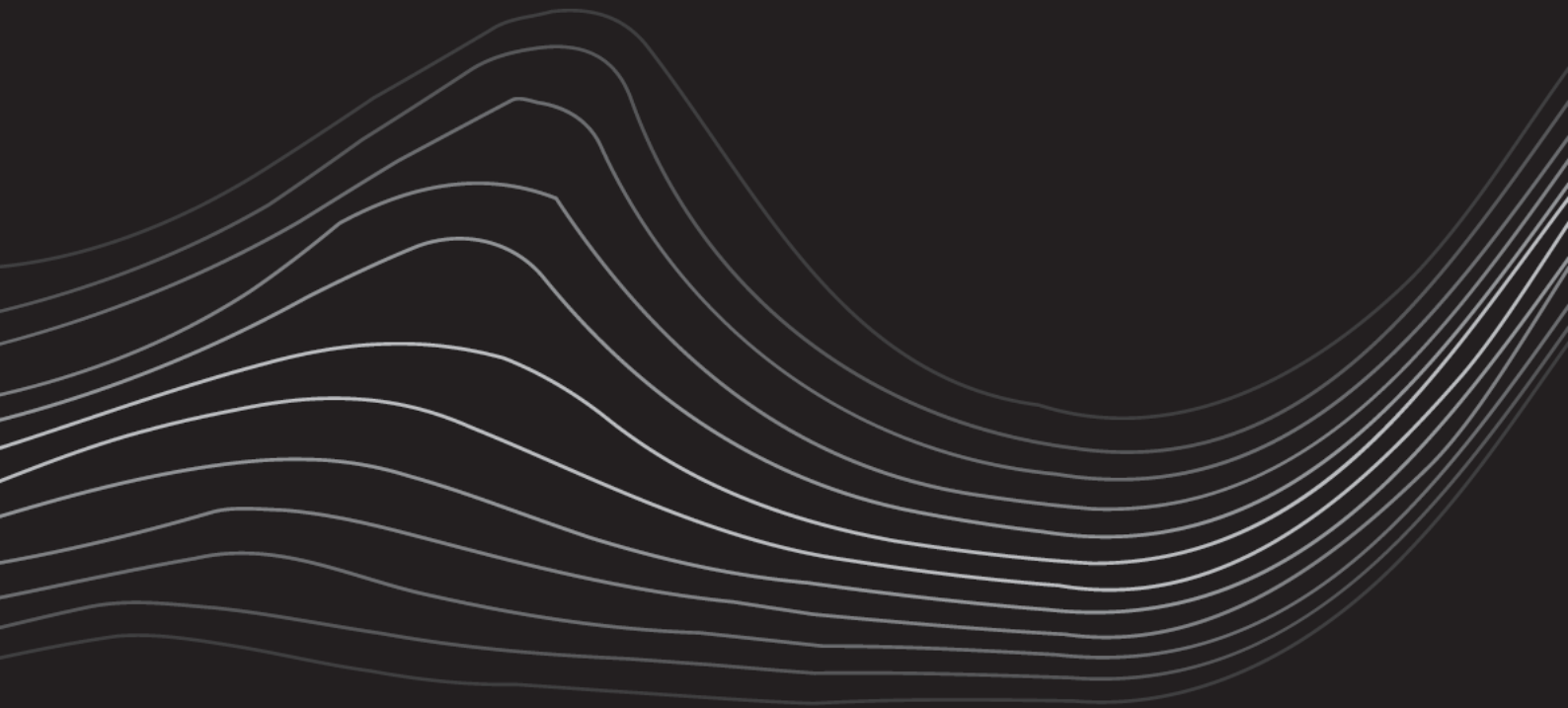
A series of approximately ten thin, white, wavy lines that flow horizontally across the middle of the page, creating a sense of movement and depth against the dark background.

“One thing that most of these Indigenous inquiries hold in common is that they look at social, historical and economic factors to explain the differences between Indigenous and non-Indigenous peoples, and then make recommendations that are intended to adapt the dominant system to the needs of Indigenous people.”

Shawn Wilson, 2008

“We seek a Makarrata Commission to supervise a process of agreement-making between governments and First Nations people and truth-telling about our history. In 1967 we were counted, in 2017 we seek to be heard.”

Uluru Statement From The Heart, 2017



Implicit in these issues is the need to clarify the difference between consultations and engagement about telling the truth, and then actually telling the truth in a formal commission or informal process. That is, even asking communities about how to tell the truth (consultations and engagement) is likely to raise enormous wellbeing issues with Peoples who are already traumatised.

Thus, participants identified that planning for the mental health and social and emotional wellbeing needs of participants in community consultations and engagement will be critical, given the sensitivities of discussing trauma and post-traumatic stress syndromes (Phillips, 2003).

The political, cultural and social authorising environments for truth-telling is critical, and careful planning around the following issues is required:

- Should it be a process led and owned by Aboriginal and Torres Strait Islander Peoples? What preparations and supports will be necessary?
 - If it is led and owned by government, what guarantees are there for self-determination and primacy of Aboriginal and Torres Strait Islander voices? Are governments genuinely ready to face the truth and name genocide?
 - What preparations would be necessary for the truth to be told and heard correctly?
2. Sovereignty: Aunty Mary Graham proposed that the Project, this discussion paper, and ensuing consultations and engagement processes must be grounded in a solid declaration of Aboriginal and Torres Strait Islander sovereignty. Participants agreed.
 3. Purpose: Participants discussed the purpose of truth-telling in detail, and identified that there may need to be two parallel tracks of truth-telling:
 - One for Aboriginal and Torres Strait Islander Peoples primarily concerned with validation and healing; and
 - One for non-Indigenous people concerned with education, justice and change.
 4. Access: Participants felt strongly that access to, and communications of, this discussion paper's contents will be a critical issue to prepare for. This includes:
 - Ensuring relevant mental health and social and emotional wellbeing supports are available, and referral pathways clear; and
 - Ensuring the discussion paper's contents can be accessed in various formats and avenues, such as print, email, comics, websites, social media, radio and television, and through in-person engagement and consultation meetings.

c) Additional Stakeholder Engagements

A number of conversations were held with stakeholders who could not attend the Workshop. Some particularly salient comments are captured here.

Professor Helen Milroy

Professor Milroy, an Aboriginal leader and eminent psychiatrist, recently completed a posting as Commissioner on the Royal Commission Into Institutional Responses to Child Sexual Abuse. Professor Milroy's strong advice was to ensure the social and emotional wellbeing needs of those telling the truth and those hearing it (families, Commissioners, staff, communities) are adequately considered and supported.

Thomas Mayor

Thomas Mayor, one of the attendees at the Uluru gathering that produced the Statement from the Heart, reported to the Ebony Chair that delegates at the Uluru gathering felt that telling the truth was not the first step. He said delegates felt establishing a voice and treaty were the first priorities to help ensure that something substantive would happen after the truth was told, 'rather than us spilling our guts again and then nothing happens'. Thus, the order of implementing Uluru's outcomes – voice, treaty, truth – is a critical strategic issue to consider.

Ovide Mercredi

Ovide Mercredi is a First Nations Elder and former Grand Chief of the national Assembly of First Nations in Canada. The Board of the Ebony Institute were privileged to meet and talk with him in March 2019 in Winnipeg, Manitoba. Chief Mercredi said:

"We've had treaties for generations, a national voice for fifty years and a national truth and reconciliation commission, and yet we still have out-of-home care and poverty rates through the roof... Telling the truth cannot be the end of it. And if there's any lessons I have learned in all my years of negotiating with government, it's this – you cannot ever trust them, and there must be an independent umpire."

Loretta Ross and Ry Moran

Loretta Ross and Ry Moran are both responsible for public education in their respective roles as Manitoba Treaty Commissioner and Director of the National Centre for Truth and Reconciliation (Canada). They both told Ebony that it is only when public education has been undertaken (disseminating the results of the TRC and treaty education) that the public finally report understanding why treaties and services are required for First Nations communities. That is, when the truth is told, the public are more likely to understand why voice, treaty/treaties or services are necessary.

KEY ISSUES

In drawing together the literature, case studies and stakeholder views, a set of key issues have been identified. It is critical these key issues are fully considered during consultations and engagement with Aboriginal and Torres Strait Islander Peoples on how the truth should be told.

- a) Voice – The primacy of Aboriginal and Torres Strait Islander Peoples' voices is paramount, whether formal truth-telling or informal truth-seeking initiatives are undertaken. Justice will not be served if truth-telling is limited by what non-Aboriginal people, particularly governments, are comfortable with.
- b) Sovereignty – Truth-seeking and truth-telling must be grounded in Aboriginal and Torres Strait Islander sovereignty and self-determination. This means that a nation to nation stance must be taken, where Aboriginal and Torres Strait Islander Peoples assert their status as sovereign Peoples, with equal negotiating and decision-making status with non-Aboriginal and Torres Strait Islander people.
- c) Purpose and Motivation – The purpose of, and motivation for, any truth-telling process is critical. This includes:
 - a) Validation – Will there be validation for Aboriginal and Torres Strait Islander Peoples? Will they feel adequately heard and believed?

- b) Healing – Will processes be sensitive enough to allow for healing for victims, families, perpetrators, staff, communities and the nation?
 - c) Education – Will the public be educated about the process, the rationale, and the outcomes of truth-telling? Will the historical record be corrected? Will memorialisation be enacted, and curricula changed?
 - d) Justice – Will the purpose of truth-telling be to change people, institutions, systems and the whole country so it never happens again? Will justice be served, and if so, what will it look like? Will reparations be required?
 - e) Identity – What reforms or changes will be required to the national polity to account for the outcomes of truth-telling? Will sovereignty be shared? Will history, cultures and national identity be renewed? Will treaty/treaties be necessary?
- d) Ownership and Authorising Environment – The ownership of, and authorising environment for, truth-telling initiatives is a critical issue. On the one hand, if Aboriginal and Torres Strait Islander Peoples own the process, this will be more likely to guarantee self-determination, ethics and genuine motivations for undertaking and telling the truth. Yet the limitation with this approach is it may wrongly give the impression that Aboriginal and Torres Strait Islander Peoples have to bear the burden of doing the hard work and emotional labour of telling the truth, yet again, with little or no investment from non-Aboriginal people.

On the other hand, if non-Aboriginal people own and lead the process (most likely government/s), there is likely to be a struggle to maintain the primacy of Aboriginal and Torres Strait Islander voices and self-determination. Government/s will be most likely to limit the terms of reference to issues they are comfortable with, and which abrogates or limits any responsibility for substantive change or reform. These issues may be ameliorated if parliament or other bipartisan mechanisms such as royal commissions were to undertake truth-telling. However, these mechanisms still fall under the banner of non-Indigenous 'sovereignty' and would not guarantee Aboriginal and Torres Strait Islander sovereignty or nation to nation negotiation.

If Aboriginal and Torres Strait Islander Peoples and other Australians share ownership of truth-telling, then power-sharing and nation to nation negotiation must be guaranteed. This includes the necessary independence to negotiate equally the terms of reference, legal powers, budget, operations, evaluation and communication of outcomes.

- e) Readiness and Support – Is Australia ready to tell the truth? Critical issues include:
 - a) Political will – Is there political and social will for the truth to be told? Is the government ready to tell and admit the truth?
 - b) Civil society – Are there enough civil society organisations, communities and activists willing to seek the truth and pursue change?
 - c) Support – Are Aboriginal and Torres Strait Islander communities ready to tell the truth? Do they have access to the support necessary for people telling their stories, for people hearing the stories and for staff, including access to culturally appropriate social and emotional wellbeing supports.
 - d) Trust – Do they believe it is worth telling the truth, again? Is there sufficient belief that substantive change and reform might occur, or that telling the truth is worthwhile in itself if no substantive change or justice occurs?
- f) Structure – The structure of any formal truth-telling commission, or any informal truth-seeking initiatives, will be critical. These include issues such as:
 - a) Independence – Is the initiative significantly operating with independent authoriation and powers?

- b) Terms of Reference – Are the terms of reference broad enough to allow for past and current abuse and trauma to be addressed? Do they allow for abuses against Peoples and communities, as well as lands and waters? Are the terms of reference manageable and achievable?
 - c) Legal Powers – Will any formal commission have legal powers to investigate, compel testimony, make referrals to courts, make findings of guilt, and/or make binding recommendations of justice, reform, reparations or healing?
 - d) Access – Any truth-telling or truth-seeking initiative should ensure culturally appropriate access, including in public education, the testimonial process, the hearing process, and the communication of outcomes.
- g) Ethics – Any truth-telling commission must ensure ethical processes are followed in the recording and documentation of people’s stories, including confidentiality, informed consent and respect for the truth-tellers and the people who hear their testimony including families, communities, commissioners, staff and the public.
- h) Data Sovereignty – It will be necessary to ensure data sovereignty of Aboriginal and Torres Strait Islander Peoples’ information. This includes:
- a) Ownership of Intellectual Property – Those who tell their truth must retain ownership of the intellectual property contained in their stories in perpetuity.
 - b) Storage and Archiving – Those who tell their stories must give permission for their stories to be recorded in a culturally appropriate way, where they can access the information at a later date without undue restrictions.
 - c) Confidentiality and Communication – Those who tell their story must be given rights to confidentiality to control the level of sharing of their stories, if any.
- i) Public Education – Truth-telling initiatives should consider and recommend any necessary reforms based on its outcomes. This includes consideration of changes and reform to:
- a) Curricula – There will most likely be a need to update and/or correct formal curricula including at early childhood, primary, secondary, tertiary and adult education and continuing professional development levels;
 - b) Public education – There will need to be consideration given to public education and communications of outcomes with groups like schools, sports groups, churches, businesses, unions and civil society;
 - c) Memorialisation – There will need to be changes to museums, monuments and public ceremonies to account for and include renewed understandings of history, place, identity and belonging; and
 - d) Symbols – There may need to be changes to the symbols of national significance, such as flags, buildings and place names.
- j) Strategic Order of Reform – Should the truth be told first? Or is it more important to develop a political voice and treaty/treaties? While the Ebony Institute Board respects the deliberations held at Uluru – that a voice and treaty/treaties should come first – we would like people to consider another point of view. We suggest that negotiations for a voice and treaty/treaties will not be possible within the current political environment, given the unwillingness to admit genocide and its lasting impacts on today’s social, economic and political inequity for Aboriginal and Torres Strait Islander Peoples. Closing the gap will not be possible unless we deal with racism as a public health issue, for example. Further, the Canadian experience highlights that when the public are fully educated as to the truth, they are more likely to support the need for treaty, voice and social policy services and reform.

- k) So What! What Does Justice Look Like? – There is a critical strategic issue to be considered before any truth-telling or truth-seeking initiatives are undertaken – once the truth is told, so what? What does justice look like? All stakeholders Ebony have engaged with so far are mindful of not opening up a can of worms (the truth) if nothing substantive changes, or if there is no strategic forethought as to what justice could or should look like. For example, are reparations absolutely critical? Are institutional and policy reforms, public education or changes to the polity necessary?

KEY QUESTIONS

The Ebony Institute wants to hear the views of Aboriginal and Torres Strait Islander Peoples on issues of truth, justice and healing in Australia.

Through community consultations and engagement, we will ask the following questions.

Truth

1. Should we tell the truth, again? Why?
2. Are Aboriginal and Torres Strait Islander Peoples ready for truth-telling or truth-seeking? What supports would we need?
3. Is the wider Australian and the international community ready for truth-telling or truth-seeking? What supports would they need?
4. Should we aim for a formal truth commission, or informal truth-seeking, or both?
5. What should be included in the Terms of Reference?
 - Ownership and governance?
 - Past or current mistreatment, or both?
 - Ownership and control of people's stories?
 - Legal powers of compulsion? Amnesty?

Justice

6. After the truth is told, what would justice look like?
7. What structural or policy reforms would be necessary?

Healing

8. What would healing look like?
9. What is the ultimate goal and purpose of this work?

CONCLUSION

Truth-telling and truth-seeking are important attempts to help Peoples and countries admit, atone and recover from conflict, abuse and trauma. According to the United Nations (2006), truth-telling commissions have three elements:

- The commission should be unique, responding to the national context and special opportunities present;
- Political will and operational independence will be critical; and
- There should be international support for the commission's work.

Additionally, truth-telling commissions often focus on past events; investigate a pattern of events that took place over a period of time; engage directly with affected populations; is a temporary body; and are officially authorised by the state (Yildiz, 2015).

Formal truth-telling commissions globally have produced a variable set of outcomes. At the most positive end of the spectrum, they have allowed the truth into the light in ways that empower victims, help perpetrators admit and atone for atrocities, and have led to lasting justice, healing and institutional reform. The strengths of formal truth-telling commissions include the state acknowledging the impact of past historical events of conflict endured by survivors, and their need for a safe platform to share their voices. Formal processes can also offer opportunities for healing and reconciliation.

At the least positive end of the spectrum, weaknesses of truth commissions include enabling a conversation that goes nowhere, where victims and their families feel unheard or disappointed about the terms of reference and parameters of the process, the outcomes and lack of substantive reform, justice or healing.

Where there has been no political will or substantive commitment to an honourable and ethical formal truth-telling process, civil society groups and grass community activists have been successful in implementing various forms of less formal truth-seeking initiatives. These initiatives have been important for local, regional and national communities seeking to uncover, highlight and memorialise what has happened.

In Australia, while there has been no formal truth-telling commission, Aboriginal and Torres Strait Islander Peoples and communities have advocated for the truth and led reform over many generations in issues as diverse as deaths in custody, the stolen generations, stolen wages, health, justice, education, housing, child protection and land rights. Local and regional communities have begun documenting and memorialising massacres, and some schools and health professions are beginning to wrestle with the full weight of genocide and continuing racism in society and institutions.

Truth-seeking initiatives often highlight the resilience and strength of humans to tell and hear the truth; to nurture each other and create safe places to share their experiences; and to advocate for institutional reform and services to address conflicts, abuses and trauma. In telling the truth, there are a range of issues that must be properly planned and accounted for. These include how to ensure:

- Victims and their families are respectfully heard and validated for their experiences;
- Those who hear the truth – families, witnesses, commission staff, the general public – are supported to deal with any vicarious trauma resulting from hearing the truth;



- Self-determination for Aboriginal and Torres Strait Islander Peoples in negotiating the terms of reference, parameters and operations of any commission, including powers;
- Political will and operational independence for any formal truth commission;
- Transgenerational responsibility for truth, justice and healing;
- Respecting ethics and data sovereignty in the ownership, collection, analysis, storage and communication of victims' stories;
- Current mistreatments and abuse such as police brutality and harassment are adequately addressed and measured;
- Reparations and restitution are offered;
- The truth is never forgotten – there must be concerted investments in public education through curriculum reform, community education and memorialisation; and
- Substantive institutional reform and implementing a clear set of justice measures.

Essentially, truth-telling and truth-seeking can be both powerful processes of self-discovery and healing for those individuals, communities and countries that have the courage to acknowledge past conflicts that exist within their nation.

Rather than truth-telling being avoided for reasons of guilt and shame or fear of retribution, or merely being an opportunity to gloss over the truth, truth commissions and truth-seeking initiatives can be an avenue to allow substantive justice and institutional reform, and for deep healing of wounds that have been festering for too long. Telling the truth can allow individuals, communities and nations to heal and tell renewed national narratives of strength and belonging.

Is Australia ready for the truth? Do Aboriginal and Torres Strait Islander Peoples prefer truth-telling or truth-seeking?

Whichever way we choose, Tafoya (1995) reminds us of the nature of our individual and collective stories:

“Stories go in circles. They don’t go in straight lines. It helps if you listen in circles because there are stories inside and between stories and finding your way through them is as easy and as hard as finding your way home. Part of finding is getting lost, and when you are lost you start to open up and listen.”

While we may feel lost and unsure of the next step, the next step is to do as Tafoya (1998) suggests – when you are lost, you start to open-up and listen.

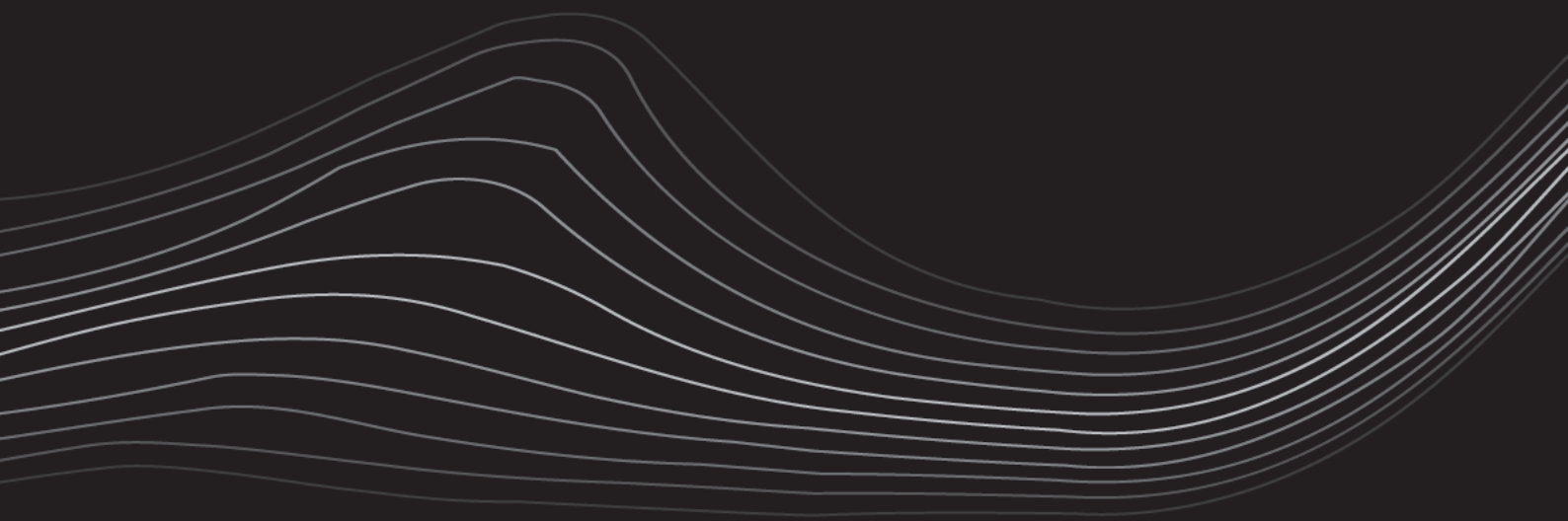
In the wise words of Dr Lilla Watson:

“All of us who live on this land have been affected by the event of colonialism, it’s time for White Australians to understand to what extent colonialism has affected them, and shake themselves awake and make themselves be part of this emergence from the belly of the snake.”

Let the wisdom of our ancestors and strength of our Peoples be heard through deep listening.

“All of us who live on this land have been affected by the event of colonialism, it’s time for White Australians to understand to what extent colonialism has affected them, and shake themselves awake and make themselves be part of this emergence from the belly of the snake.”

Dr Lilla Watson



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APPENDICES

Appendix A – Ebony Institute Board Biographies

Gregory Phillips is a Waanyi and Jaru medical anthropologist with a PhD in power and race relations. He leads change in medical education and workforce planning, Indigenous health and social policy. He is CEO of ABSTARR Consulting and Professor of First People's Health at Griffith University (Adjunct).

Jodie Sizer, a founding partner and co-CEO of PricewaterhouseCoopers Indigenous Consulting, is a Djab Wurrung/Gunditjmara woman and one of Australia's foremost Indigenous leaders. Jodie is a Certified Practising Accountant (CPA), possesses a strong background in corporate governance and is a graduate of the Hedland Leadership Program and the University of Melbourne's Asia-Australia New Leaders Program.

Eugenia Flynn is a writer, arts worker and community organiser. Her thoughts on the politics of race, gender and culture have been published widely, including in The Conversation Australia, The Guardian Australia and NITV. Eugenia is Aboriginal (Tiwi and Larrakia), Chinese and Muslim, working within her multiple communities to create change through art, literature and community development.

Taryn Lee is a Yawuru lawyer dedicated to ensuring that the voice and experience of Indigenous peoples are central to policy development. Taryn has predominately worked in social policy, human rights and justice system reform, in the public sector. Taryn has played a lead role in Victoria's Aboriginal health, treaty policy development and justice reform.

Appendix B – Truth, Justice and Healing (TJH) Project Reference Group

- The Ebony Institute Board
- Prof Larissa Behrendt, University of Technology Sydney, Technical Advisor
- Prof Mark McMillan, RMIT, Technical Advisor
- Dr Lilla Watson, Elder and Co-founder, The BlackCard Inc, Technical Advisor
- Dr Mary Graham, Elder and Co-founder, The BlackCard Inc, Technical Advisor
- Mr Jamie Thomas and Ms Sara Jones, Wayapa Wuurk Aboriginal Wellness Foundation
- Mr Indi Clarke, Koori Youth Council
- Ms Julie Kantor, Mr Ian Roberts and Ms Belinda Duarte, Annamila Foundation
- Mrs Leonie West-Taylor, Djkanju Jangiri Jangiri, Research Officer
- Ms Casey Phillips, Waanyi and Arrente, Project Manager



Appendix C – Truth, Justice and Healing (TJH) Project Stakeholders Workshop Attendees

- Ms Mundanara Bayles, Managing Director, The BlackCard Inc
- Mr Jidah Clark, Koori Youth Justice Taskforce, Commission for Children & Young People
- Mr Indi Clarke, Koorie Youth Council
- Mr Eddie Cubillo, Research Fellow, The University of Melbourne Law School
- Commissioner Mick Dodson, Northern Territory Treaty Commission
- Ms Belinda Duarte, CEO, Culture Is Life
- Commissioner Jill Gallagher, Victorian Treaty Advancement Commission
- Mr Tim Goodwin, Barrister at Law
- Ms Jackie Huggins, Co-Chair, Queensland Tracks to Treaty Panel
- Mr Rod Little, Co-Chair, National Congress of Australia's First Peoples
- Ms Pat Turner, CEO, National Aboriginal Community Controlled Health Organisation
- TJH Project Reference Group – Dr Mary Graham, Professor Mark McMillan, Mr Ian Roberts, Mr Jamie Thomas, Ms Sara Jones, Ms Casey Phillips, Mrs Leonie West-Taylor
- The Ebony Institute Board

Appendix D – In Henry Reynolds' This Whispering in Our Hearts (1998)

Hints offered to Captain James Cook and other gentlemen on the Endeavour Expedition from James Douglas, 14th Earl of Morton and President of the Royal Society between 1764-1768, offered this advice to the mariners:

To exercise the utmost patience and forbearance with respect to the Natives of the several Lands where the ships may touch.

To check the petulance of the Sailors and restrain the wanton use of Firearms.

To have it still in view that shedding the blood of those people is a crime of the highest nature: -

They are human creatures, the work of the same omnipotent Author, equally under his care with the most polished European; perhaps being less offensive, more entitled to his favour.

They are the natural, and in the strictest sense of the word, the legal possessors of the several Regions they inhabit.

No European nation has a right to occupy any part of their country or settle among them without their voluntary consent.

Conquest over such people can never give just title; because they could never be the Aggressors.

They may naturally and justly attempt to repel intruders whom they may apprehend are come to disturb them in the quiet possession of their country.

Appendix E – Advertisement in the Brisbane Courier, February 1861

To the Office in command of the Part of Native Police, who shot and wounded some Blacks on the Station of Manumbar.....

Sir – If in the future you should take a fancy to bring your troopers upon the Station of Manumbar on a sporting excursion, we should feel obliged if you will either bag or bury the game you shoot, as it is far from pleasant for us to have the decomposing remains of four or five blackfellows lying unburied within a mile or two of our head-station.

If you will do neither, please be kind enough to remove the corpses from the waterholes near the head-station, from which we sometimes use water for culinary purposes.

As most of the blacks you left dead on our run were feeble old men, some of them apparently not less than eighty years of age, will you please to inform us whether these hoary sinners are the parties chiefly engaged in spearing bullocks, andor whether you just shoot them because the younger ones are too nimble for you.

Besides the four or five you left dead on our run, you have wounded two of our station blacks, who have been in our employment during lambing, washing and shearing, and all other busy times, for the last eight or nine years, and we have never known either of them to have been charged with a crime of any kind.

One of them came to the station with a bullet-wound through one of his thighs, another through his hands; the other had a bullet-wound through one of his arms.

These blacks, being in our employment, very naturally look to us for protection from such outrages; and we are of the opinion that when you shoot and wound blacks in such an indiscriminate manner, you exceed your commission, and we publish this that those who employ and pay you may have some knowledge of the way in which you perform your services.

T. & A. Mortimer, Manumbar, February 22, 1861.

Referenced in Henry Reynold's book: 'This Whispering in Our Hearts' (pages 93-94).



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