

The Emergence of Transitional Justice in the United States via the Criminal Justice System

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Introduction

The definition of transitional justice includes police and judiciary reform in part through truth and reconciliation commissions. Several states have operational truth and justice commissions, and there are clear Congressional and media indications of a United States truth and reconciliation commission. The purpose of this paper is to explore a national truth and justice commission with a focus on criminal justice reform. The South African Truth and Reconciliation Commission will be explored, and its potential implications for such a United States commission. The United States Supreme Court decision *McGirt v. Oklahoma* (2020) will also be highlighted as it may have implications for reparations similar to those proposed in South Africa.

Literature Review

One of the mechanisms for transitional justice is a truth and reconciliation commission, and South Africa offers a model derived largely from racial segregation. Consequently, the evolution and implementation of a United States commission may reasonably be compared to the South African experience (Aboueldahab, 2020; Lowery, 2020; Tepperman, 2002). There is currently significant media and Congressional interest in such a commission (United States Senate Bill 40 [S 40], 2021; Táiwò, 2020; Public Broadcasting System [PBS], Amanpour and Company, 2020; International Center for Transitional Justice (ICTJ), 2020; Mystal, 2020; National Public Radio [NPR], 2020; Romine & del Valle, 2020). But to more fully understand the need for such a commission, a review of racial injustice within the criminal justice systems in the United States (Reichel, 1988; Williams & Murphy, 1990; History.com Editors., 2021; National Commission on Law Observance and Enforcement, 1931; *The President's Task Force on 21st Century Policing*, 2015) and South Africa (Nittle, 2021; Varney, 2020; Pruitt, 2010; Harroff, 2019; Rauch, 2005) is warranted. It is also necessary to understand the nature of racially motivated police injustices in the United States (National Commission on Law Observance and Enforcement, 1931) and South Africa (South African Broadcasting Corporation [SABC], 2011, *TRC Episode 57, Part 02*).

The reparation aspect of transitional justice is raised by the recent *McGirt v. Oklahoma* case decision. There are repercussions for criminal cases and tax issues that may raise widespread tensions (Thomas, 2020; Killman, 2020; Hanson, 2020; Forman, 2020). The outcomes of truth and reconciliation commissions result in a report that will also have implications for how reparations and reconciliation are implemented and taught by educational systems, and consequently understanding this potentiality needs to be addressed (Wolfgang, 2019; Gumede and Biyase, 2016; Hinkson, 2018; *Brown v. Board of Education*, 1955; Branton, 1980; Allen, 2015; Bass, 1970).

With some understanding of the history of racial injustices, one may more effectively move to address the need and potential ramifications of a national truth and reconciliation commission in the United States.

To Be or Not to Be: Transitional Justice via a United States Truth and Reconciliation Commission

An apropos definition of transitional justice will help to frame and discuss the issues and ramifications of a transitional justice approach: “Transitional justice consists of judicial and non-

judicial mechanisms, including prosecution initiatives, reparations, truth-seeking, institutional reform, or a combination thereof). Whatever combination is chosen must conform with international legal standards and obligations” (United Nations Human Rights, 2021).

This paper's overall focus will be truth-seeking, institutional reform, and reparations within the police and criminal justice system. The proposed vehicle for accomplishing this mission is a U.S. Truth and Reconciliation Commission. This commission, however, may have both beneficial and undesirable consequences, as will be discussed later. The United States commission does not fully exist, but the reality of its deployment is on the horizon.

Táíwò (2020) opines that “We must reconcile with our history — with race and with racism. And to do that, there is no better model to guide us than South Africa’s”(n.p.). He goes on to say, “To become the perfect union its founders intended, the United States must make its black citizens whole, without legal equivocations or constitutional hair-splitting. That is the ultimate argument for a Truth and Reconciliation Commission in our land” (Táíwò, 2020, n.p.).

Senate Bill 40 (S. 40) introduced in January 2021 by Senator Cory Booker reads as follows:

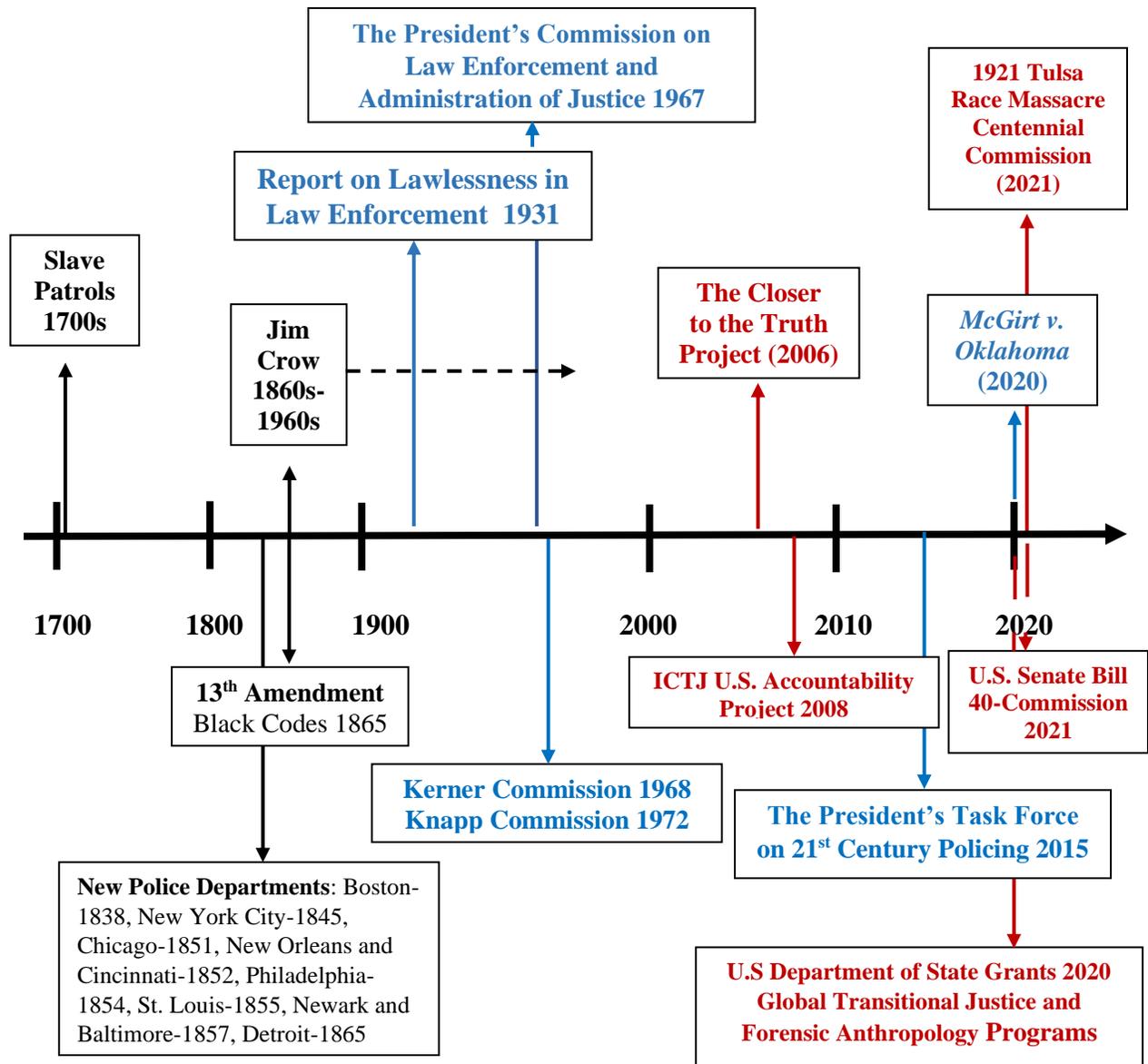
A bill to address the fundamental injustice, cruelty, brutality, and inhumanity of slavery in the United States and the 13 American colonies between 1619 and 1865 and to establish a commission to study and consider a national apology and proposal for reparations for the institution of slavery, its subsequent de jure and de facto racial and economic discrimination against African Americans, and the impact of these forces on living African Americans, to make recommendations to the Congress on appropriate remedies, and for other purposes. (United States Senate, 117th Congress Senate Bill 40. (United States Senate, 2021)

The media and Congress are moving in the direction of a U.S. Truth and Reconciliation Commission. Based on the South Africa example, this raises significant issues regarding the pathway and potential outcomes. This paper argues that transitional justice goals will be implemented through a truth and reconciliation commission. Although transitional justice goals are broadly defined, this paper will focus on judicial and institutional reforms, primarily the police and criminal justice system. There will be a general discussion of the South African and the potential implications for the United States.

History of Racial Segregation and the Criminal Justice System

It may be useful to review some historically significant events that led to the United States' current racially charged situation. Racial segregation has had a long history of interacting with the various components of the criminal justice system, and numerous United States governmental entities at the federal and state levels have played significant roles in the evolution of our current racial situation. The broad components portrayed in Figure 1 offer an outline of how our current situation developed and in what direction it may be headed. The events in Figure 1 will be briefly discussed below.

Figure 1. Criminal justice institutional reform and transitional justice timeline



Historical Development of Law Enforcement in the United States

Slavery and law enforcement have been consistently interwoven over the course of United States history. Much of the incentive for law enforcement agencies resulted from the necessity of controlling slaves and addressing slave revolts and riots. Slaves did resist their bondage, and generally their resistance led to running away, criminal acts, and conspiracies or uprisings, and all these actions constituted a danger to whites and white economic success. Slave revolts in the colonies were reported as early as 1657, and many “horrible and barbarous massacres” of whites by Blacks were noted in the South Carolina slave patrol legislation in 1740 (Reichel, 1988, p. 55). Georgia slave patrol legislation in 1757 states, “it is absolutely necessary...that patrols should be established...for the better keeping of Negroes and other slaves in order and prevention of cabals, insurrections, or other irregularities amongst them” (Candler, 1910: 225) (Reichel, 1988, pp. 55-56). Early slave patrols stemmed from colonial militias, and as early as

1721, the South Carolina militia shifted from mainly military defensive duties to the surveillance of slaves. Documentation of slave patrols has been found for nearly all the southern states. Reichel (1988) argues that slave patrols were a form of transitional policing more advanced than watch types, but not as developed as the modern urban Northern police agencies. Northern police agencies also were created in large response to race riots.

Police agencies developed in the North in the mid-1800s: Boston-1838, New York City-1845, Chicago-1851, New Orleans and Cincinnati-1852, Philadelphia-1854, St. Louis-1855, Newark and Baltimore-1857, Detroit-1865 (Williams & Murphy, 1990). The large urban North cities saw dramatic changes in the mid-1800s. There were substantial increases in immigration, population growth, and industrialization, and many individuals from poor, rural backgrounds were migrating to and settling in large urban cities. Conflicts between black freedmen and the urban white working class contributed to the social conflicts. There were racial riots in the mid-1830s through the 1850s in New York City, Boston, Philadelphia, and Baltimore. Philadelphia experienced anti-Black riots between 1838 and 1842, and 11 major riots between 1834 and 1849 (Williams & Murphy, 1990). Numerous police agencies were formed in response to racial tensions and riots, and potential threats to white working-class communities.

Ironically, the 13th amendment abolishing slavery was ratified in 1865, while Mississippi and South Carolina passed the first Black Codes. The except “as a punishment for crime” of the 13th Amendment created a loophole that allowed Southern states to pass black codes to criminalize activities such as vagrancy and unemployment that would make it easier to ‘punish’ and imprison Blacks, effectively forcing them into slavery. In the late 19th century, Jim Crow laws spread across the country, segregating Blacks to separate public facilities and forbade Blacks from living in white neighborhoods. Some states required separate textbooks for Black and white students, and most Southern states prohibited Black and white intermarriage (History.com Editors., 2021). Since the Black Codes and Jim Crow laws criminalized many activities, Blacks remained the focus of law enforcement and the criminal justice system.

From the 1930s to the 1970s, the nexus of Blacks and the criminal justice system were explored by several commissions: Report on Lawlessness in Law Enforcement-1931, The President’s Commission on Law Enforcement and Administration of Justice-1967, Kerner Commission-1968, and Knapp Commission-1972. All of these commissions addressed police corruption and, to some degree, addressed the issue of crime and race; however, some specifically highlighted the race and problematic police issues.

For example, the National Commission on Law Observance and Enforcement. (1931) reported:
Negroes are the object of racial prejudices in considerable regions of the country, and the inciting of prejudice against them is especially injurious, since in such regions Negroes almost never sit on juries...In an Oklahoma manslaughter case, the prosecutor stated in his opening that all the inhabitants of the defendant's town were practically all Negroes and made their living by violating the law...In some cases the prosecuting attorney made an inflammatory argument, repeatedly calling the defendant 'nigger' (p.318).

In another example, the National Commission on Law Observance and Enforcement. (1931) reported:

Bristol, a Negro undertaker, had a slight automobile collision, and was exchanging license numbers , etc.. when two policemen arrived and attempted to search him. He

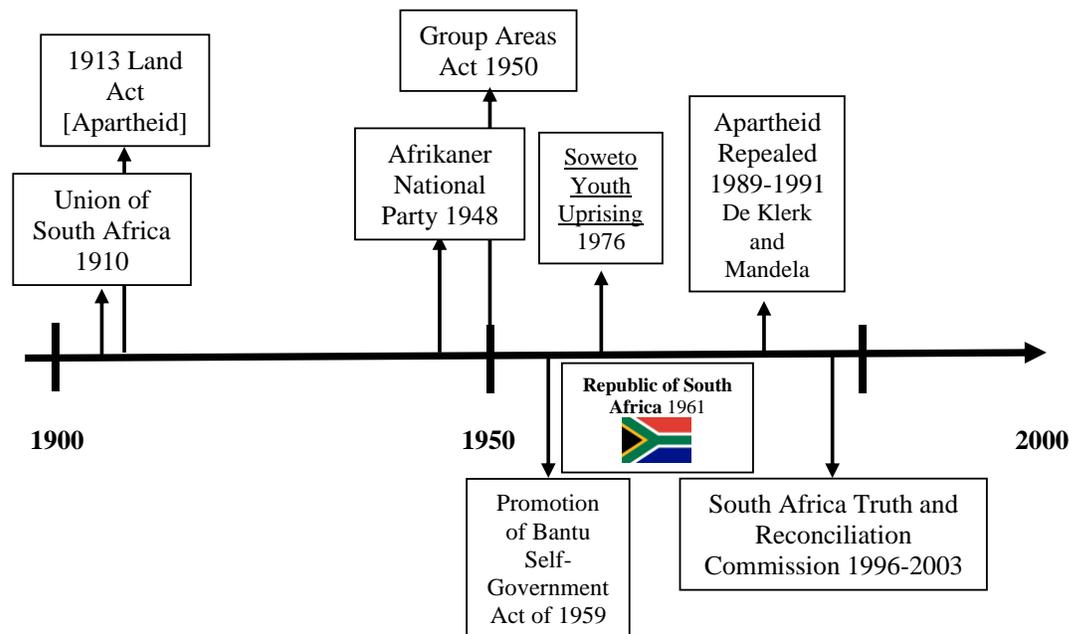
refused to be searched on the street but offered to accompany them to the police station for search there. On route to the station the officers struck him in the face: and at the station he was beaten, kicked, and choked. His family physician was called to the station to administer first aid. Bristol's affidavit stated that these charges can be substantiated by reputable witnesses, and that his petition for a Police Trial Board hearing had been denied. (p. 124).

This latter incident is quite comparable to an incident described later in this paper concerning the South African police and their mistreatment of a subject. Physical abuse by police is unfortunately, although undesirable and generally low volume, a universal phenomenon. One of the latest studies on policing, *The President's Task Force on 21st Century Policing* (2015) recommends: "Law enforcement agencies should acknowledge the role of policing in past and present injustices and discrimination and how it is a hurdle to the promotion of community trust" (p.12). The past injustices remain part of the law enforcement past and present.

The Republic of South Africa Truth and Reconciliation Commission (TRC)

It may be helpful to review some historically significant events that led to the South African Truth and Reconciliation Commission (See Figure 2 below). The European influence in South Africa began in the 17th century with the Dutch East India Company. Primarily Dutch and English settlers expanded their presence over the next three centuries. In 1910, whites founded the Union of South Africa, an independent arm of the British Empire, and gave the white minority control over the disenfranchised majority Blacks. Apartheid began in part with the 1913 Land Act, and apartheid officially became a widely established government policy in South Africa in 1948 when the Afrikaner National Party came to power. The Group Areas Act of 1950 restricted Blacks from certain public places, and the Promotion of Bantu Self-Government Act of 1959 restricted Blacks to Bantu homelands. From 1961 to 1994, more than 3.5 million people were forcibly removed from their homes and placed in the Bantustans, where they experienced extreme poverty. In 1976 hundreds of Black students were killed in the Soweto Youth Uprising, and in 1977 Stephen Biko, an anti-apartheid activist, was killed by police. Biko's story was portrayed in the 1978 film *Cry Freedom*, starring Kevin Kline and Denzel Washington. The Republic of South Africa became independent in 1961, but the policies of apartheid remained until the 1990s. Beginning in 1989, South African Presidents de Klerk and Mandela dismantled the apartheid laws (Nittle, 2021). The South African Truth and Reconciliation Commission was formulated in 1995, began its work in 1996, and continued to 2003.

Figure 2. South Africa apartheid timeline



Sources: Nittle, N. K. (2021, January 11). A brief history of South African Apartheid. Retrieved from <https://www.thoughtco.com/brief-history-of-south-african-apartheid-2834606>

Apartheid timeline. (2017, Mar 15). *Gulf News*

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TRC and Police Reform

In the 1990s, South Africa was reforming its government from an apartheid form of government, to a democratic government that supported and encouraged reconciliation among South Africans who suffered from the laws and regulations from the apartheid-government between 1960 and 1994. The Truth and Reconciliation Commission was proposed to enable and promote reconciliation among South Africans who experienced human rights abuses and other injuries in the country during the earlier years of the apartheid-government. In 1998, a report from the Truth and Reconciliation Commission included testimony from over 22,000 victims and witnesses, and more than 2,000 testified at public hearings (Varney, 2020). The Truth and Reconciliation Commission provided many individuals and families with the opportunity, to tell the truth, and in return, the individual who confessed to their crimes may be granted amnesty if all requirements were met.

As South Africa was transforming its government, a call for police reform became a top priority. The policies and regulations were undergoing significant changes that affected South Africans' policing, and in 1995, South Africa passed the South African Police Service Act 68. Under apartheid South Africa, the police force worked to further divide South Africans based on racial discrimination. However, this new system, known as the South African Police Service, worked to build relationships with the communities by allowing residents to express problems or concerns directly to the police (Pruitt, 2010). Although the Truth and Reconciliation Commission

was implemented to replace the unjust government that held power in the past, not all South Africans had the same opinions on the changes that were underway. The lasting impressions of some police abuses are revealed in hours of testimony of victims confronting police officers before the Truth and Reconciliation Commission. The following, unfortunately graphic, exchange captures a glimpse of one such testimony:

Jeffrey Benzien, *Former Security South African police*: If I say to Mr Jacobs (*victim*) I put the electrodes in his nose, I may be wrong; if I said I touched it to his genitals, I may be wrong; if I put a probe into his rectum, I may be wrong. That is why the specific methods I could have used any one of those three...

Chris de Jager, *Amnesty Committee member*: Did you during your service use all three methods?

Jeffrey Benzien, *Former Security South African police*: In the case of Mr Jacobs, yes sir.

Mr. Jacobs (*victim*): I was your first, the first survivor of this torture method...you can see though there were other people busy with that, which means it was an official method that was authorized and approved that you were using.

Jeffrey Benzien, *Former Security South African police*: Not writtenly authorized, but condoned. (South African Broadcasting Corporation [SABC], 2011, *TRC Episode 57, Part 02* [Video: 8:16-9:27]).

One could see that the South African Security Police's inhumane practices could produce a long-lasting traumatic experience for the victims, making reconciliation a challenging objective.

Pruitt (2010) researched the Afrobarometer, an independent organization interested in measuring the social, political, and economic climate in Africa, and producing scientifically reliable data on public opinion and attitudes of South Africans on a variety of issues such as the role of the government, corruption in the local and national government, and trustworthiness of government officials, police, courts and the criminal justice system. The Afrobarometer results suggested that many South Africans accepted the role the police organization has in their lives and noting the adaptability the police officers in the transformation to a democratic police system. The Truth and Reconciliation Commission focused more on restorative justice, and in some instances, that is what it accomplished for many individuals and families.

The Truth and Reconciliation Commission did have some shortcomings. In many cases, post-apartheid South African police officers admitted that it was challenging to keep to the new laws and policies after so many years of working with the policies under apartheid (Pruitt, 2010). These admissions led to cases of officers who violated the new laws and regulations and resorted to pre-democratic techniques of conducting extensive searches of people and their property without probable cause, excessive use of force, and violations of due process.

There remains some controversy surrounding the granting of amnesty to those police officers who committed injustices against the Blacks. Unfortunately, the South African Truth and Reconciliation Commissions [TRC] fell short of many of its promises to victims and failed to implement its key recommendations outlined in the TRC final report. Consequently, the TRC credibility has been weakened and its potential impact lessened (Murithi, 2020). If the United

States wishes to adopt its mechanism of a truth and reconciliation commission, it will have to be wary of replicating the flaws experienced by the South African TRC.

The Need and Ramifications of a United States Truth and Reconciliation Commission

Recently, the United States has gone through several years of politically motivated riots due to racial discrimination and racial injustice. Many believe the United States would benefit from its version of a truth and reconciliation commission. In a recent poll, 76% of Americans now consider racism and discrimination a "big problem," an increase of 26 percentage points from 2015 (Souli, 2020). The truth and reconciliation commissions work toward restorative justice and acknowledge the injustices against minorities. The public South African TRC hearings provided more than 14,000 hours of video and over 10,000 hours of audio (Aboueldahab, 2020). There is a growing sentiment in the United States for a truth and reconciliation commission. Romine and del Valle (2020) report on the implementation of truth, justice, and reconciliation commissions in Philadelphia, San Francisco, and Boston. Tepperman (2002) opines that although the truth commissions are a subject of much debate, in some cases, "well-designed truth commissions, embedded in some larger political process, can make a crucial contribution to history, justice, and democracy" (p. 128).

In 2006, the Mississippi Truth Project came together with other groups and organizations to begin overseeing the creation of a Truth and Reconciliation Commission (TRC) in Mississippi (The Closer to The Truth Project, n.d.). Some of the violence in Mississippi in the past resulted from the police shooting and injuring Black civilians. The 1921 Tulsa race massacre centennial commission posits that the Tulsa police chief was complicit in the 1921 massacre because the police chief deputized 500 white men and armed them with weapons to deal with the racial tension as they saw fit (1921 Tulsa race massacre centennial commission, 2021, *The Tulsa Race Massacre*). The United States accountability for criminal justice injustices was also addressed in 2008 with the establishment of U.S. Accountability Project of the International Center for Transitional Justice (ICTJ). Magarrell and Peterson (2010) of the ICTJ reported the widespread abuses of counterterrorism detainees in United States custody, and the redress of serious human rights violations. They recommended an "independent claims body" to hear claims and redress unjust treatments—essentially a truth and reconciliation commission providing some form of reparations. There is little doubt that past injustices need to be addressed. Is a national truth and reconciliation commission the best option? Will it work effectively to correct the problems? Again, a comparison with the South African experience may be helpful.

The South African Truth and Reconciliation Commission (SATRC)

The South African Truth and Reconciliation Commission (SATRC) interviewed over 21,000 individuals, and the interviews were televised and on the radio. The SATRC did finally produce a final report, which was massive. There were criticisms of the limited truth that the SATRC could offer. The SATRC also allowed witnesses to testify in any of the 11 official languages recognized by the South African Constitution. It would be difficult to remain professional and unbiased in listening to shocking testimonies as detailed above with the Jeffrey Benzien interview (Harroff, 2019). As Harroff (2019) states,

The TRC's truth is neither an objective, forensic truth nor a post-modern rejection of truth, but a multi-layered truth. This multi-layered truth teaches an important lesson for

how we should engage with the TRC and other truth commissions...The *truth* of the TRC--or, more precisely, the truth as it was understood by the TRC--requires us to look beyond the institution, to understand it within its local context and to consider how its activities have been taken up, extended, and circulated by members of its community. (p. 554).

Senator Leahy proposed a truth and reconciliation commission in 2009 aimed primarily at restoring trust in the justice system (Leahy, 2009). President Obama in 2009 closed the U.S. detention camp in Guantanamo Bay and banned the Central Intelligence Agency from using abusive interrogation methods. The Obama decision focused on future actions rather than past actions and accountability for those actions (Harroff, 2019). Leahy's truth and reconciliation commission sought to strengthen the justice system rather than truth-telling as implemented by the SATRC. As seen with the SATRC, the concept of restorative justice may be invoked within a transitional justice framework, but the final analysis should focus on truth telling and how truth may reveal new ways of being in the community together (Harroff, 2019).

Rauch (2005) suggests that the truth telling continue after the SATRC by using police ethnographic studies. Rauch (2005) opines that,

Detailed ethnographic research into the lives of police officers during the period of 'high transition' from apartheid to democracy would not only be a valuable contribution to social history and the international literature on transitions, but would also serve to fill the void left by the Truth Commission. (p.234).

The successful transformation of police practices in South Africa will also depend on how a new police culture is built. Truth telling is important, but the moral behavior of the police may be even more important. It is the new 'moral regeneration' of police officers, over the truth-telling interviews of the reconciliation project, that may have the most significant impact on police and community interactions (Rauch, 2005).

Reparation Considerations

Transitional justice includes the concept of reparations. The *McGirt v. Oklahoma* (2020) offers potential insight into possible future reparations in the United States. In *McGirt*, the Supreme Court held that for Major Crimes Act (MCA) purposes, land reserved for the Creek Nation since the 19th century remains Indian country, and this jurisdictional boundary encompasses most of Tulsa, OK. The boundary goes back to an 1833 Treaty that fixed borders for what was to be a permanent home to the whole Creek nation of Indians. Justice Gorsuch opined that, "While there can be no question that Congress established a reservation for the Creek Nation, it's equally clear that Congress has since broken more than a few of its promises to the Tribe" (*McGirt v. Oklahoma*, 591 U.S., 2020). The McGirt decision requires that the federal or tribal governments are responsible for major crime violations. The decision immediately increased the volume of trials for the Tulsa U.S. Attorney's Office, dismissed some criminal cases, and increased the fear that some cases would fall through the cracks (Thomas, 2020; Killman, 2020; Hanson, 2020; Forman, 2020). Although the decision does NOT give any physical property back to the Creek Nation, it does put in place a jurisdictional reality that may have complex and negative unintended consequences. The idea of expropriation of land raises some interesting issues, and South Africa is seriously considering this possibility. Reparations in South Africa have reached a new level regarding the uncompensated expropriation of land and property without

compensation. The current proposal and recommendation for Section 25 of the South African Constitution reads,

Recommendation 1: Section 25 of the Constitution must be amended and be clear about the expropriation of land and property without compensation. This will address historic wrongs of land dispossession, ensure fair access to land and empower the majority of South Africans (n.p.).

Objectives of the Bill

Subsection 2 (b) Provides for a court of law to make a decision for nil compensation when land or property is expropriated for land reform (n.p.) (Parliament of the Republic of South Africa, n.d.)

Could reparations in the United States begin to return the land to Native Americans or Blacks to compensate for past injustices? In the 1930s, the Federal Housing Authority [FHA] of the federal government created policies that resulted in the redlining practices. Redlining forced Blacks to poor lower-income neighborhoods. The underwriting manual for the FHA included the following policies:

Section 284 (3) (g) Prohibition of the occupancy of properties except by the race for which they were intended.

Section 289 (1) Schools should be appropriate to the needs of the new community and they should not be attended in large numbers by inharmonious racial groups. (Federal Housing Administration, (1936)

These policies resulted in poor, crime-ridden neighborhoods throughout large cities in the United States. Consequently, cities like Detroit and Chicago have high crime neighborhoods which persist until today. These neighborhood 'reservations' could be compared to Native American reservations, which have been adversely affected by government policies. Could reparations require financial compensation or financial commitments to fundamentally renew and rebuild these poor neighborhoods?

Reparation and Reconciliation in the Education System

Are the educational systems able to address the racial injustice reparation issues and reconciliation? Both educational and justice system institutions have vested interests in the successful integration of minorities in communities. Understanding racial perspectives is necessary to that success. Wolfgang (2019) suggests exploring the idea of white privilege to bring forth issues that surround the minorities, and states, “White people are unable or unwilling to see the social and cultural underpinnings of access as a function of white supremacy” (p.14). The history of mistreatment to minorities such as Native Americans, Mexican immigrants, and Blacks has been relegated to a “whitewashed version of history, a history that privileges white experience and white saviorship” (Wolfgang, 2019, p. 19). Wolfgang (2019) explains that a racially diverse education and community could highlight the “histories of harm, erasure, and exoticization of black and brown bodies in art” (p. 24). The past injustices sentiment can apply to any educational experience targeting reparations.

Higher educational programs targeting reparations and reconciliation may need to consider the following questions: “How do organizations translate macrolevel imperatives to integrate, how do they define what integration means, and to what extent are colleges and universities complicit in processes of racial meaning-making” (Hinkson, 2018, p. 923). The American Missionary

Association (AMA), a group formed in 1846 to help the American and British activists address the slavery issue, “saw education as integral to its cause of spreading the doctrine of social equality and offered substantial funding to colleges and universities that offered educational programs committed to anti-caste ideals both inside the classroom and out” (Hinkson, 2018, p. 924). Unfortunately, the AMA lost sight of its original mission, and only a few historically Black colleges and universities like Howard University committed themselves to “the education of a black male elite” (Hinkson, 2018, p. 924).

Gumede and Biyase (2016) discussed the post-apartheid educational reforms and stated, “the reforms of the education system post-1994 are of necessity and have worked relatively well in improving the governance of the educational system, access to education and so forth... However, the quality of education remains a challenge” (p. 73). The *Brown v. Board of Education* (1955) Supreme Court decision sought to correct racial discrimination in public schools. Branton (1980) argued that, “The *Brown* decision led to social, legislative and judicial events which continue to shape race relations in America” (p. 132), and Allen (2015) suggests that the *Brown* decision constructively stimulated the volume of discussion on racial issues and transformed the public debate outside of the judicial decision. Unfortunately, instances particularly in the South, gained national media coverage as whites had violent confrontations with law enforcement to maintain segregated schools in the South (Bass, 1970). Police were historically engaged in the implementation of and resistance to non-segregation in schools. Indeed, the educational and criminal justice system’s challenges addressing the ideas and necessities of reparation and reconciliation remain substantial but are not insurmountable.

Christian Worldview

Truth, justice, and reconciliation are well-founded and deeply grounded biblical principles. The antonym for these principles is sin, and this recognition is critical to understanding solutions to racial injustice. A fitting dictionary definition of sin is “immoral conduct or practices harmful or offensive to society” (Merriam-Webster, 2021). The implication in this definition is that there are direct connections of institutionalized practices and actions detrimental to society. Indeed, the malicious, unfair or unwarranted treatment of minority individuals results in harm to the person and society as a whole, and societal transgressions would warrant socially just remedies. As Jesus read from the scroll, “He has sent me to proclaim release to the captives and recovery of sight to the blind, to let the oppressed go free, to proclaim the year of the Lord’s favor” (*New Revised Standard Version Bible*, 1989, Luke 4: 18-19).

The gospel of John explains the reality of sin. “If we say that we have no sin, we deceive ourselves, and the truth is not in us. If we confess our sins, he who is faithful and just will forgive us our sins and cleanse us from all unrighteousness. If we say that we have not sinned, we make him a liar, and his word is not in us” (*New Revised Standard Version Bible*, 1989, 1 John 1: 8-10). Paul explains the manifestations of sin for humankind.

And since they did not see fit to acknowledge God, God gave them up to a debased mind and to things that should not be done. They were filled with every kind of wickedness, evil, covetousness, malice. Full of envy, murder, strife, deceit, craftiness, they are gossips, slanderers, God-haters, insolent, haughty, boastful, inventors of evil, rebellious

toward parents, foolish, faithless, heartless, ruthless. (*New Revised Standard Version Bible*, 1989, Romans 1: 28-31)

Given the reality and manifestations of sin, the recognition and response to our sinful natures is the main prerequisite for moving in the direction of truth, justice, and reconciliation. Niebuhr offers the following regarding our reluctance to accept sin in our society.

The real evil in the human situation...lies in man's [sic] unwillingness to recognize and acknowledge the weakness, finiteness and dependence of his position, in his inclination to grasp after a power and security which transcend the possibilities of human existence, and in his effort to pretend a virtue and knowledge which are beyond the limits of mere creatures...the sin of man consists in the vanity and pride by which he imagines himself, his nations, his cultures, his civilizations to be divine. Sin is thus the unwillingness of man to acknowledge his creatureliness and dependence upon God and his effort to make his own life independent and secure. (Niebuhr, 1941, pp. 167-168).

Society cannot ignore our dependance on God. Sin and its manifestations are part of humanity, and truth and reconciliation are part of our Christian identity. Truth is our mechanism and the truth will liberate us. Our alignment with the Way, the Truth, and the Life is essential to our progress and freedom as godly human beings. "Then Jesus said to the Jews who had believed in him, 'If you continue in my word, you are truly my disciples; and you will know the truth, and the truth will make you free'" (*New Revised Standard Version Bible*, 1989, John 8: 31-32).

Reconciliation is part of our divine nature. According to Paul, reconciliation is our ministry.

All this is from God, who reconciled us to himself through Christ, and has given us the ministry of reconciliation; that is, in Christ God was reconciling the world to himself, not counting their trespasses against them, and entrusting the message of reconciliation to us. (*New Revised Standard Version Bible*, 1989, 2 Corinthians 5: 18-19)

Gauer (2005) suggests that sin is not only an individual behavior, but extends to social structures, and a "shift of perspectives on the nature of sin" could produce "unfathomable" social changes (p. 364). Hence, the idea of a truth and reconciliation commission to redress injustices is consistent with Christian principles; however, the implementation requires a concerted focus on solutions that speak the truth and responses that demonstrate a commitment to the development and maintenance of principled and moral diverse communities.

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