

Democratizing Truth: An Analysis of Truth Commissions in the United States*

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International Journal of Transitional Justice pre-publication version

Abstract

Over the past half-century, numerous transitional justice (TJ) measures have been implemented globally. While much research has examined different TJ modalities in the aftermath of authoritarian rule and armed conflict, a growing body of work recognizes TJ outside of political transitions. We study a noteworthy export from transitional to non-transitional settings: truth commissions. Building on scholarship on TJ in established democracies, we introduce new quantitative data from the *Varieties of Truth Commissions* Project on truth commissions in an overlooked but significant case: the United States. The data capture twenty past, present and proposed official U.S. truth commissions, most of them at the subnational level. Though their mandates vary considerably, they all address racial injustice, with an emphasis on anti-Indigenous and anti-Black violence. We elaborate on trends in the data and discuss the implications for unfolding efforts to reckon with historical and contemporary racial violence and injustice in the United States.

* For helpful comments and discussion, we thank the editors and reviewers at the *International Journal of Transitional Justice*, Claire Crawford, Geoff Dancy, Eduardo González, Adam Kochanski, Colleen Murphy, Kyle Rapp, Eric Wiebelhaus-Brahm, Carla Winston, workshop participants at The Ohio State University and members of the International Justice Lab. This research is supported by fellowships from the University of Southern California (Provost Fellowship in the Social Sciences) and William & Mary (Global Research Institute Pre-doctoral Fellowship). In addition, this material is based upon work supported by the National Science Foundation Graduate Research Fellowship Program under Grant No. DGE-1418060. Any opinions, findings, and conclusions or recommendations expressed in this material are those of the authors and do not necessarily reflect the views of the National Science Foundation. Authors are listed alphabetically.

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Introduction

Over the past half-century, numerous transitional justice (TJ) measures have been implemented globally.¹ While much research has examined different TJ modalities in paradigmatic transitional settings like post-apartheid South Africa and post-junta Chile, a growing body of work recognises TJ in non-paradigmatic settings, namely consolidated democracies and autocracies.² Building on the scholarship on TJ in established democracies, this article examines truth commissions in an overlooked but significant case: the United States.

In the aftermath of domestic and international racial justice protests triggered by the police killings of Breonna Taylor and George Floyd and the lynching of Ahmaud Arbery in 2020, US policy makers at the city, state and federal levels proposed, and in some instances launched, truth commissions to address historical and contemporary racial violence and injustice.³ While the number of recently proposed and launched commissions is noteworthy, US truth commissions are not a new phenomenon.

This article introduces and comparatively analyses all past, present and proposed US truth commissions, using new data from the *Varieties of Truth Commissions* Project, the most comprehensive and detailed quantitative data on truth commissions to date. The article in general and the data in particular proceed from an exercise in critical reflexivity and a commitment to producing decolonial and antiracist research. So, in addition to analysing original data, we lay out a

¹ Cynthia M. Horne, 'The Impact of Lustration on Democratization in Postcommunist Countries,' *International Journal of Transitional Justice* 8(3) (2014): 496-521; Kathy L. Powers and Kim Proctor, 'Victim's Justice in the Aftermath of Political Violence: Why Do Countries Award Reparations?' *Foreign Policy Analysis* 13(4) (2016): 787-810; Jelena Subotić, 'Expanding the Scope of Post-Conflict Justice: Individual, State and Societal Responsibility,' *Journal of Peace Research* 48(2) (2011): 157-169.

² Paige Arthur, 'How Transitions Reshaped Human Rights: A Conceptual History of Transitional Justice,' *Human Rights Quarterly* 31(2) (2009): 321-367; Michal Ben-Josef Hirsch, 'Ideational Change and the Emergence of the International Norm of Truth and Reconciliation Commissions,' *European Journal of International Relations* 20(3) (2014): 810-833; Carla Winston, 'Truth Commissions as Tactical Concessions: The Curious Case of Idi Amin,' *International Journal of Human Rights* 25(2) (2021): 251-273.

³ Jennifer Rae Taylor and Kayla Vinson, 'Ahmaud Arbery and the Local Legacy of Lynching,' *The Marshall Project*, 21 May 2020, themarshallproject.org/2020/05/21/ahmaud-arbery-and-the-local-legacy-of-lynching (Accessed 8 July 2021).

model for reflexivity in TJ research, especially quantitative work. Our reflexive exercise addresses, in the first instance, the TJ field and, in the second instance, ourselves as researchers. This sociological analysis of the field, combined with the data analysis, confirms the conceptual, methodological, empirical and normative importance of including the US case in TJ scholarship. To be sure, US commissions meet widely accepted definitions of truth commissions; omitting the US case introduces bias into global TJ data and analyses; the US case has both shaped and been shaped by global cases; and individuals and communities that have suffered political violence are owed TJ in the United States just as much as anywhere else in the world.

Our new dataset captures 20 past, present and proposed official US truth commissions, detailing among other items: (1) the commission's jurisdiction (city, county, state or national), (2) commission subject matter (e.g., lynchings, police abuse, institutional racism, etc.), (3) victim and perpetrator groups, (4) commission leaders and leadership selection and (5) the involvement of domestic and international civil society actors.

Our early research produces several important findings. To begin, while the first two US truth commissions were implemented at the national level, the majority have been implemented at the subnational level, with state-level commissions accounting for 25 percent, and county- and city-level commissions accounting for a combined 55 percent of US commissions. With national-level action often stymied by partisan polarization and legislative gridlock, the 'local turn' suggests that subnational TJ efforts in the United States may be more feasible than national ones.

Next, while US truth commission mandates vary considerably, they all address racial violence and injustice, by state and nonstate actors. Historically, they have tended to focus on anti-Indigenous and anti-Black violence, but more recent commissions are broader in scope, encompassing other racial and ethnic minority groups, immigrants and the LGBTQIA community. Relatedly, though past commissions concentrated on particular types of abuse like extrajudicial killings, current and proposed commissions seek to address broader issues like institutional racism. Many new

commissions also span decades, if not centuries, in the scope of their investigations, in contrast to many earlier commissions with narrower timeframes. This expansion – in groups, violations and time – poses a potential breadth-depth trade-off in the information that US commissions can uncover.

Finally, the United States joins countries like Brazil, Colombia and Mexico in their use of truth commissions at the subnational level. With actors at different levels of government responsible for abuses in different jurisdictions, these recent commissions indicate, albeit provisionally, a new development in global TJ practice: the (re)distribution of responsibility for human rights abuses across jurisdictions and, by extension, the (re)distribution of responsibility to provide redress. This may be particularly true of countries with federal systems.⁴

This article makes three contributions to the comparative study of truth commissions and TJ. First, we make an argument for ‘casing’ the United States and we map out the prevalence and types of US commissions over the past six decades. While the nation has touted itself as ‘exceptional,’ it has struggled to address past and present injustices, primarily against communities of colour. The need, demand and, to a growing degree, the supply of TJ in the United States evinces the importance of this set of norms and practices – for the whole world, not just some countries. In addition, our work begins to correct a common error in existing empirical research: the exclusion of cases that, but for their occurrence where we least expect, meet standard definitions of TJ institutions.

Second, this article represents an unusual attempt to analyse subnational TJ tools using quantitative data. Our granular data illuminate differences and similarities between US commissions and indicates the extent to which US commissions are learning from each other and from global precedents. The data also helps scholars and practitioners foresee potential limitations of current US truth commission designs, opening the door for experts to recommend ways to mitigate against these limitations.

⁴ Consider, as an example, the United States, where there have been different types of localized human rights violations like racial terror lynchings, which were concentrated in the Southern states.

Third, we offer a model for reflexivity in TJ research, especially quantitative projects. While qualitative and interpretivist scholarship has long centred reflexivity in project conceptualization, data generation, empirical analysis and writing, quantitative scholarship has lagged behind.⁵ Yet positionality shapes many research choices, with important implications for research findings and conclusions. Accordingly, we lay bare how different parts of our identities shaped various aspects of the research: from the decision to do it to how we define and measure key concepts to the analysis itself. Were the TJ field more reflexive – as our co-author team has striven to be – the United States, we propose, may have been cased years ago.

The article proceeds as follows. In the second part, we discuss reflexivity, which guides the project. In the third part, we address the notion of ‘transitional justice without transition’ and discuss research on and cases of truth commissions in consolidated democracies. Here, we problematize the omission of previous US national commissions in empirical research. We then pivot to US subnational commissions, which have been all but ignored in the literature. We describe the data collection protocol and introduce the dataset in the fourth part. We then produce descriptive statistics and elaborate on trends in the data in the fifth part. The sixth part summarizes the findings and suggests how US commissions can build on precedents. We conclude by discussing the implications of our findings for the scholarship and practice of TJ.

Active Reflexivity

We approached this research from a posture of ‘active reflexivity,’ mindful of how positionality – notably scholars’ identities, geographic locations, academic training and methodological backgrounds and preferences – can influence the design and execution of social science research.⁶

⁵ Katelyn E. Stauffer and Diana Z. O'Brien, ‘Quantitative Methods and Feminist Political Science,’ in *Oxford Research Encyclopedia of Politics*, ed. William R. Thompson (Oxford: Oxford University Press, 2018), 1-29.

⁶ Roni Berger, ‘Now I See it, Now I Don’t: Researcher’s Position and Reflexivity in Qualitative Research,’ *Qualitative Research* 15(2) (2015): 219-234; Jessica Soedirgo and Aarie Glas, ‘Toward Active Reflexivity: Positionality and Practice in the Production of Knowledge,’ *PS: Political Science & Politics* 53(3) (2020): 527-

Yet, despite its importance, the role of the researcher is not often addressed in quantitative work. This is especially true for ‘desk research’ – ‘the process of collating and coding existing information for analysis, without direct contact between researchers and research [subjects].’⁷ While an uncommon practice, reflexivity is vital: it is a cornerstone of decolonial and antiracist research.⁸ As we elaborate below, our reflexive exercise is dual-pronged, first addressing the TJ field and then addressing our co-author pair.

Why do transitional justice scholars exclude the US case?

Our project was inspired by a question and puzzle in mainstream TJ research: why do scholars exclude the US case despite the need, demand and, to a growing extent, the supply of TJ for political violence in the United States? The country is conspicuously absent from scholarship, even specialized journals and book collections. Scholars seem unwilling or reluctant to case the country. We speculate that this is due to an implicit bias among TJ scholars, many of whom are white and from the Global North, and who perhaps prefer to study things that happen ‘over there,’ i.e., in the Global South.⁹ But this creates a sample selection bias that reinforces notions of US exceptionalism and denies the United States as a setting where TJ is needed, wanted and happening.

Some might exclude the United States on the grounds that it is a ‘full’ democracy and is not undergoing a transition. But the democratic context, and the difference between transitional and non-transitional TJ, should not distract us away from the case – just as it does not distract us away

531; Dvora Yanow, ‘Thinking Interpretively: Philosophical Presuppositions and the Human Sciences,’ in *Interpretation and Method: Empirical Research Methods and the Interpretive Turn*, eds. Dvora Yanow and Peregrine Schwartz-Shea (Armonk: M.E. Sharpe, 2006), 5-25.

⁷ Amelia Hoover Green and Dara Kay Cohen, ‘Centering Human Subjects: The Ethics of “Desk Research” on Political Violence,’ *Journal of Global Security Studies* 6(2) (2021): 1-17.

⁸ M. Brinton Lykes and Hugo van der Merwe, ‘Critical Reflexivity and Transitional Justice Praxis: Solidarity, Accompaniment and Intermediarity,’ *International Journal of Transitional Justice* 13(3) (2019): 411-416.

⁹ Laurel E. Fletcher and Harvey M Weinstein, ‘How Power Dynamics Influence the North-South Gap in Transitional Justice,’ *Berkeley Journal of International Law* 36(2) (2018): 1-28; Hugo van der Merwe and M. Brinton Lykes, ‘Racism and Transitional Justice,’ *International Journal of Transitional Justice* 14(3) (2020): 415-422.

from other cases. Established democracies like Canada and South Korea have implemented truth commissions and other TJ mechanisms, and scholars and practitioners alike consider these cases important within the global TJ landscape.¹⁰ In addition, there has been a shift over the past decade from the field's early preoccupation with transitional contexts, given the growing use of TJ tools in non-transitional contexts.¹¹ So the US case is not unique in this regard.

Others might exclude the United States because most of its truth commissions have been developed at the subnational level, making the case 'too different' from global cases. But the emphasis on the subnational also should not deter us from analysing US truth seeking. Subnational commissions in countries like Brazil and Colombia have received praise, both at home and abroad, for their contributions to national narrative making.¹² So the US case is not exceptional in this regard either.

Most fundamentally, the inequalities, discrimination and violence that marginalized populations face in the United States, racial and ethnic minority groups in particular, are in many ways similar, for example, to those that Black and other non-white people experienced in South Africa under apartheid. Here and now, as it was there and then, there is a deep need to reckon with and provide restitution for historical and contemporary wrongs.

Therefore, scholars should not let the US case slip through the cracks when we study truth commissions and TJ globally. Otherwise, we expose ourselves to criticisms long raised (and recently amplified) in the field of International Relations – that our collective body of work is value laden in

¹⁰ Franklin Oduro, 'The Canadian Truth and Reconciliation Commission: Lessons from Comparable Experiences in Nigeria and Ghana,' *The Canadian Journal of Native Studies* 32(2) (2012): 103-120; Hun Joon Kim, 'Local, National, and International Determinants of Truth Commissions: The South Korean Experience,' *Human Rights Quarterly* 34(3) (2012): 726-750.

¹¹ Nicola Henry, 'From Reconciliation to Transitional Justice: The Contours of Redress Politics in Established Democracies,' *International Journal of Transitional Justice* 9(2) (2015): 199-218; Eric Wiebelhaus-Brahm, 'Global Transitional Justice Norms and the Framing of Truth Commissions in the Absence of Transition,' *Negotiation and Conflict Management Research* (2020, advance access).

¹² Advocacy for Human Rights in the Americas, 'A Review of How Colombia's Truth Commission is Advancing,' *Colombia Peace: Monitoring Progress in Peace Dialogues*, colombiapeace.org/advancing-truth-commission (Accessed 4 March 2021); Nina Schneider, ed., *The Brazilian Truth Commission: Local, National and Global Perspectives* (Oxford: Berghahn Books, 2019).

ways that privilege powerful, white-majority nations like the United States and deny them as sites of debate and analysis.¹³ This is a criticism that can also be made about cross-national data projects that characterize political regimes and that measure conflict occurrence, intensity and duration – data projects that many of us rely on to operationalize and evaluate ‘democracy’ and ‘autocracy,’ ‘peace’ and ‘conflict’ and ‘transitional’ and ‘non-transitional.’ The TJ field, and cognate research programmes in peace and conflict studies, can and should be more reflexive in conceptualization, data generation and empirical analysis. In the next section, we turn from the field to ourselves, discussing how our personal and professional backgrounds shaped our decision to undertake this project and influenced our approach.

Racial Injustice, Researcher Identity and Location

This project was born amidst racial justice protests following the killings of George Floyd, Breonna Taylor and Ahmaud Arbery in 2020. We had reflected for some time on TJ in the United States, but more in a personal capacity than in a professional capacity. The year 2020 challenged this division between the personal and the professional, spurring us to action. Against the backdrop of the national awakening on race, identity and space shaped our understanding of the issues at stake.

Kelebogile is an outsider-insider while Daniel is an insider-outsider to the United States and the TJ processes that are unfolding in the country. A Zimbabwean immigrant to the United States, the principal investigator Kelebogile does not directly share in the history that has brought the country to this moment of racial reckoning. To borrow a term from US politics scholar Christina Greer, she is a ‘Black ethnic’ not a ‘native Black’; there is a degree of distance between her and the issues that US

¹³ Gurminder K. Bhambra, Yolande Bouka, Randolph B. Persaud, Olivia U. Rutazibwa, Vineet Thakur, Duncan Bell, Karen Smith, Toni Haastrup, and Seifudein Adem, ‘Why Is Mainstream International Relations Blind to Racism?’ *Foreign Policy*, 3 July 2020, foreignpolicy.com/2020/07/03/why-is-mainstream-international-relations-ir-blind-to-racism-colonialism (Accessed 15 November 2020); Kelebogile Zvobgo and Meredith Loken, ‘Why Race Matters in International Relations,’ *Foreign Policy* 237 (2020): 11-13.

truth commissions are intended to address.¹⁴ She has the privilege of studying these topics without the weight of direct experience or intergenerational trauma. In addition, she is a scholar of TJ in the Global South, not the Global North. Because of this personal and professional outsider status, she hesitated to assume this project.

But Kelebogile realized during the protests that the distance between her and questions of TJ for US racial violence is narrower than she initially thought. She felt an acute sense of ‘linked fate’ – that what happens to Black Americans affects her and that what happens to her affects Black Americans.¹⁵ Beyond beginning to *feel* more like an insider, she is an *assumed* insider.¹⁶ She has lived in the United States for 20 years, was educated there and does not have a detectable ‘foreign’ accent. In her everyday life, she is read as a native Black. Moreover, she has shared her international and comparative TJ research with groups advocating for and helping to implement US truth commissions and she has presented her research findings to the public in national media. Importantly, she feels a deep sense of responsibility to engage rather than disengage with unfolding TJ processes in her adopted country.

Daniel has a different kind of privilege from Kelebogile: white privilege. American by birth, but raised and educated overseas, primarily in Japan, Daniel does not know intimately the history of US racial violence. Lacking personal insight and direct experience with the issues at the centre of US truth commissions – both because he is white and because he has lived most of his life abroad – he also approached the project with hesitancy. Yet the TJ institutions and policies that he first learned about in Asia are materializing in his home country. Researching TJ in the United States is an

¹⁴ Christina M. Greer, *Black Ethnics: Race, Immigration, and the Pursuit of the American Dream* (Oxford: Oxford University Press, 2013).

¹⁵ Michael C. Dawson, *Behind the Mule: Race and Class in African-American Politics* (Princeton: Princeton University Press, 1995).

¹⁶ Louise Ryan and Anne Golden, “‘Tick the Box Please’: A Reflexive Approach to Doing Quantitative Social Research,” *Sociology* 40(6) (2006): 1191-1200.

opportunity to interrogate systemically racist institutions from which he benefits directly and indirectly as a white American.

Though outsiders in several respects, we have privileged, insider knowledge because we have studied or observed TJ processes in different parts of the world. We have insight into how these processes have worked in global contexts and we appreciate how TJ could be transformative in the US context. Importantly, this research is an opportunity for us to engage in decolonial, antiracist work from a former centre of colonization: the Commonwealth of Virginia.¹⁷

Academic Background, Concept Definition and Research Design

Once we decided to undertake this research, our professional backgrounds influenced how we designed and executed it. Because state-centrism is endemic to both our home fields, International Relations and Public Policy, we de facto privilege government-sponsored TJ projects. While we relax the assumption that a truth commission must be adopted by a national government – a point to which we return later in the article – we nevertheless maintain that a commission must be adopted by government actors. We do not presume that government/official TJ initiatives are preferable to civil society/unofficial initiatives or that they are more effective. We simply conceptualize commissions as government initiatives. Of course, we recognize that differently situated scholars might approach this issue differently.

¹⁷ The first colony in English North America was established at Jamestown in 1607 and the first enslaved Africans were brought to Point Comfort in 1619, both mere miles from William & Mary, where Daniel is a student and Kelebogile is a professor. The University, itself, sits on stolen Indigenous land and was built and enriched by enslaved Africans and their descendants, people whose labour was also exploited by the College's faculty and students. Our city, Williamsburg, was also the capital of the Virginia colony during British rule and the state capital, Richmond, was a political centre of the Confederacy during the US Civil War. This history challenges and motivates us to participate in decolonial, antiracist work through research and teaching, as well as memorializing the enslaved on campus and removing from places of honour the names and likenesses of white supremacists, among other truth and memory projects. The Lemon Project Steering Committee, *The Lemon Project: A Journey of Reconciliation, Report of the First Eight Years* (Williamsburg: The College of William & Mary, 2019).

We also recognize our positionality as producers of quantitative data. Scholars who build and analyse quantitative data sometimes ‘flatten’ the processes and politics that they purport to capture. Quantitative research relies on an assessment of ‘what counts’ and ‘what does not count.’ Our concern with consistency in defining what is and what is not a truth commission is thus rooted not only in International Relations and Public Policy but also in assumptions about unit comparability. We assume that ‘official’ and ‘unofficial’ truth projects are ‘too different’ to be studied side by side. Relatedly, our measurement implies that official truth projects are in fact comparable. We respect that differently positioned scholars might approach this same task in markedly different ways.

Finally, we acknowledge our motivation in building a dataset: quantitative data is highly valued in US political science and, for many scholars, it is the only way that they can appreciate the prevalence and significance of political events and processes, especially those that have historically been overlooked in scholarship. With that said, our quantitative data is not intended to supplant qualitative work. Rather, the data can help situate qualitative work in a broader perspective and help us expand the reach of research on truth commissions and TJ in a discipline that often values the quantitative over the qualitative. Critically, our data helps us and the broader field characterize and evaluate US commissions in a way that was not previously possible. A quantitative dataset, with a clear codebook and protocol, also positions us and other scholars to later integrate the results of commissions, add new commissions and expand on the current list of variables.

Transitional Justice Without Transition

Early research on TJ in ‘non-paradigmatic’ cases, namely established democracies and autocracies, suggested that its effects are limited, the basic reasoning being that democratic leaders have existing commitments to justice while autocratic leaders do not.¹⁸ Recent research has set aside the purported

¹⁸ Pádraig McAuliffe, ‘Transitional Justice’s Expanding Empire: Reasserting the Value of the Paradigmatic Transition?’ *Journal of Conflictology* 2(2) (2011): 32-44.

effects of TJ tools in non-transitional settings and seeks instead to comprehend variation in the emergence and design of TJ mechanisms absent a conventional political transition.¹⁹

Truth commissions are a noteworthy export from transitional to non-transitional settings. The *Varieties of Truth Commissions* Project reports that between 1970 and 2018, 43 percent of national commissions (36 of 84) were implemented outside of transitions from autocracy, internal armed conflict and government-led mass killings.²⁰ And since 2000, non-transitional commissions represent more than half of commissions globally. While traditional political transitions are not the trigger for commissions in standing democracies, scholars argue that such commissions nevertheless operate in a 'transition between regimes of legitimation.'²¹ Essentially, governments deliver a commission or another mechanism because unaddressed historical injustices undermine the state's legitimacy in the eyes of the public. South Korea's three truth commissions in the early 2000s serve as examples.²² Other full democracies like Canada have implemented TJ mechanisms (to varying success) in response to abiding social divisions and conflicts between and among citizens, not just with the state – something Canada and the United States have in common.²³

¹⁹ Daniel Solomon and Kelebogile Zvobgo, 'Co-Opting Truth: Explaining Quasi-Judicial Institutions in Authoritarian Regimes,' *Unpublished manuscript* (2020).

²⁰ Kelebogile Zvobgo, 'Demanding Truth: The Global Transitional Justice Network and the Creation of Truth Commissions,' *International Studies Quarterly* 64(3) (2020): 609-625.

²¹ Stephen Winter, *Transitional Justice in Established Democracies: A Political Theory* (Basingstoke: Palgrave MacMillan, 2014); Stephen Winter, 'Towards a Unified Theory of Transitional Justice,' *International Journal of Transitional Justice* 7(2) (2013): 224-244.

²² Kim, Hun Joon, *The Massacres at Mt. Halla: Sixty Years of Truth Seeking in South Korea* (Ithaca: Cornell University Press, 2014).

²³ Amaia Álvarez Berastegi, 'Transitional Justice in Settled Democracies: Northern Ireland and the Basque Country in Comparative Perspective,' *Critical Studies on Terrorism* 10(3) (2017): 542-561; Fionnuala Ní Aoláin and Colm Campbell, 'The Paradox of Transition in Conflicted Democracies,' *Human Rights Quarterly* 27(1) (2005): 172-213; Kim Stanton, 'Canada's Truth and Reconciliation Commission: Settling the Past?' *International Indigenous Policy Journal* 2(3) (2011): 1-18.

Truth Commissions in the United States

The United States is by many accounts one of the world's oldest and strongest democracies.²⁴ That is, of course, if one takes a narrow view of the concept of democracy and sidesteps the fact that suffrage for non-white Americans was only legislated in the mid-20th century and remains highly contested. Further, the United States has been reluctant to grapple with historical wrongs like the country's establishment on Native genocide and land theft, beginning in 1607, and the enslavement of Africans and their descendants, beginning in 1619.²⁵ These injustices are not universally acknowledged among the majority-white population, nor is redress widely supported. This contributes to the continued marginalization and oppression of Indigenous people and Black people, and other racial and ethnic minority groups, in virtually all aspects of US political and economic life – from employment and housing to healthcare to voting and justice.²⁶ Yet there appears to be a growing interest in addressing and disseminating (i.e., democratizing) the truth of US political violence, especially racial violence, as part of a broader movement to acknowledge the voices, perspectives and experiences of Americans of colour and to uphold their rights and full citizenship. So it is puzzling that the mainstream TJ literature has ignored the US case and specific TJ modalities like truth commissions.²⁷

One reason for the omission in scholarship is chronology and nomenclature. The first national truth commissions in the United States preceded emblematic commissions in Latin America and

²⁴ Carles Boix, Michael Miller and Sebastian Rosato, 'A Complete Data Set of Political Regimes, 1800-2007,' *Comparative Political Studies* 46(12): 1523-1554.

²⁵ US Congress, House, Truth and Healing Commission on Indian Boarding School Policy Act, H.R. 8420, 116th Cong., introduced in House 29 September 2020, [congress.gov/bill/116th-congress/house-bill/8420](https://www.congress.gov/bills/116/house-bills/8420) (Accessed 3 March 2021); US Congress, House, Urging the establishment of a United States Commission on Truth, Racial Healing, and Transformation, H.Con.Res. 100, 116th Cong., introduced in House 4 June 2020, [congress.gov/bill/116th-congress/house-concurrent-resolution/100/text](https://www.congress.gov/bills/116/concurrent-resolutions/100/text) (Accessed 3 March 2021).

²⁶ Devah Pager and Hana Shepherd, 'The Sociology of Discrimination: Racial Discrimination in Employment, Housing, Credit, and Consumer Markets,' *Annual Review of Sociology* 34 (2008): 181-209; Jo C. Phelan and Bruce G. Link, 'Is racism a fundamental cause of inequalities in health?' *Annual Review of Sociology* 41 (2015): 311-330; Alexandra Byrne, Bilen Zerie, and Kelebogile Zvobgo, 'Biden's Policy Must Center Racial Justice,' *Foreign Policy* 240 (2021): 5-7.

²⁷ Genevieve Bates, Ipek Cinar, and Monika Nalepa, 'Accountability by Numbers: A New Global Transitional Justice Dataset (1946–2016),' *Perspectives on Politics* 18(1) (2020): 161-184; Geoff Dancy, Bridget E. Marchesi,

Africa in the 1980s and 1990s. The first US truth commission, the National Advisory Commission on Civil Disorders (hereafter, the Kerner Commission) was initiated more than a decade before the renowned Argentine Comisión Nacional sobre la Desaparición de Personas (CONADEP). Installed in 1967 by President Lyndon Baines Johnson, the Kerner Commission studied the circumstances of the nationwide race riots that year and their causes, namely racial segregation and discrimination in policing, employment, housing and education – evergreen problems facing Black communities and communities of colour today.²⁸ Thirteen years later in 1980, the US Congress formed the Commission on Wartime Relocation and Internment of Civilians (CWRIC) to examine World War II-era persecution of persons of Japanese ancestry.²⁹

To be sure, neither commission was called a ‘truth commission’ at the time nor was it framed as part of a process of ‘transitional justice’ per se. This terminology did not exist then. Moreover, the country was not undergoing a textbook-case political transition. Nonetheless, both the Kerner Commission and the CWRIC meet Hayner’s widely-accepted definition of a truth commission: (1) a temporary body (2) created by a national government to (3) examine past abuses and (4) determine a pattern of harm while (5) engaging affected communities.³⁰ Crucially, CONADEP experts like Emilio Crenzel argue that Argentina modelled its commission after US commissions, and not after the failed 1982 commission in neighbouring Bolivia, as some have suggested.³¹ Leaving the United States out

Tricia D. Olsen, Leigh A. Payne, Andrew G. Reiter, and Kathryn Sikkink, ‘Behind Bars and Bargains: New Findings on Transitional Justice in Emerging Democracies,’ *International Studies Quarterly* 63(1) (2019): 99-110.

²⁸ Much of the commission’s research focused on Detroit, Michigan and Newark, New Jersey, where the violence was especially severe. United States National Advisory Commission on Civil Disorders, *The Kerner Report* (New York: Pantheon Books, 1988).

²⁹ Commission on Wartime Internment and Relocation of Civilians, *Personal Justice Denied: Report of the Commission on Wartime Relocation and Internment of Civilians* (Seattle: University of Washington Press, 1997).

³⁰ Priscilla B. Hayner, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, 2 ed. (New York: Routledge, 2011).

³¹ Emilio Crenzel, ‘Argentina’s National Commission on the Disappearance of Persons: Contributions to Transitional Justice,’ *International Journal of Transitional Justice* 2(2) (2008): 173-191.

of the global history and genealogy of truth commissions is regrettable; it obscures an important part of commissions' evolution over time and across space.³²

The Kerner Commission and the CWRIC also set a precedent for future US commissions, most of which, quite interestingly, have been designed at the subnational level. Outside of the United States, subnational truth commissions have gained attention and traction in recent years; they are part and parcel of the local turn in TJ.³³ Some argue that these types of commissions are preferable to national ones because they afford greater agency to communities, as in Prijedor in the ex-Yugoslavia.³⁴ Setting aside questions of preferability and effectiveness, there is a growing research agenda on local TJ, even for democracies. Given this rich area of study, it is all the more important to engage the US case.

The little work that exists on US truth seeking has focused almost exclusively on the 2004 Greensboro commission, which investigated the 1979 massacre in Greensboro, North Carolina, where neo-Nazis and Ku Klux Klan members killed five labour organizers and wounded 10 others.³⁵ However, this was not a government-sponsored commission, so we would instead characterize it as an unofficial truth project.³⁶ This in no way diminishes its work. Rather, it helps us as social scientists to distinguish between dissimilar processes.

³² We remark here on the timing of the two commissions in human rights dialogue and precedent. The Kerner Commission was established between the adoption of the Convention on the Elimination of All Forms of Racial Discrimination by the United Nations General Assembly in 1965 and the treaty's entry into force in 1969. So issues of racial injustice and violence were front-of-mind, not only for the United States but also for the world. Meanwhile, the CWRIC was established in response to the decades-long Japanese American redress movement. While the United States had attempted to mete out justice for Germany and Japan's World War II-era crimes at the Nuremberg and Tokyo trials, it was not until the 1980s that it began to look inward and address (some of) its own crimes.

³³ Adam Kochanski, 'The "Local Turn" in Transitional Justice: Curb the Enthusiasm,' *International Studies Review* 22(1) (2020): 26-50.

³⁴ Dowling, Julia, *Facing the Past in Prijedor: A Case Study of Local Transitional Justice Initiatives* (Master's diss., University of Sarajevo, 2014).

³⁵ Greensboro Truth and Reconciliation Commission, *Greensboro Truth and Reconciliation Report* (Greensboro: Greensboro Truth and Reconciliation Commission, 2006).

³⁶ Louis Bickford, 'Unofficial Truth Projects,' *Human Rights Quarterly* 29(4) (2007): 994-1035.

The United States Truth Commissions Dataset

We have tracked 20 past, present and proposed official US truth commissions, most of them at the subnational level and all of them to address racial violence and injustice. Our dataset builds on the pioneering *Varieties of Truth Commissions* to include not only national efforts but also subnational efforts. In this section, we discuss our data collection protocol and provide a technical description of the variables to accompany the published dataset (available via the Harvard Dataverse).

Data Sources

The main coder on this project drew on a variety of digitized primary and secondary source materials. Key search terms included ‘United States,’ ‘truth commission,’ ‘truth and reconciliation,’ ‘truth and healing,’ ‘racial justice,’ etc. Primary sources included commission websites, founding documents like executive orders and legislation, statements by policy makers and commissions’ interim and concluding reports. Secondary sources included academic journals and books, news features, reports by civil society organizations (for example the Truth, Racial Healing, and Transformation Movement) and publications by international expert groups like the International Center for Transitional Justice (ICTJ). We also drew on Transitional Justice in the USA, a network of US-based academics and practitioners working on diverse projects, including reparations, memorialization, public history, education and institutional reforms. The collective hosts public workshops, maintains a member listserv and facilitates meetings where participants are able to keep each other abreast of developments in our respective areas of work. These resources helped us ensure that we had the most comprehensive and up-to-date list of US truth commissions.

Defining the Universe of Cases

We use Hayner’s definition of a truth commission, relaxing only the criterion that it be created by a national government. To be included, a truth commission need not be so called. For instance, our dataset includes the Truth and Healing Council (THC) in the state of California. Rather, to be included,

a commission must be sponsored by government officials at either the city, county, state or federal level. In addition, a commission must be temporary, focused on events in the past and set up to reveal a pattern of harm. Consequently, we exclude such bodies as the Citizens Commission for Police Accountability in Louisville, Kentucky, which is a permanent body, and the state of Wisconsin's Task Force on Racial Disparities, which is focused on ongoing events.³⁷ A commission must also be tasked with engaging affected communities. Therefore, we exclude such cases as the Virginia Governor's Commission to Examine Racial Inequity, which has not been assigned to engage communities but, rather, has been ordered to analyse discrimination in the legal code.³⁸ We also exclude such bodies as the state of Vermont's Racial Equity Advisory Panel, which is not an investigative body.³⁹ For a proposed commission to be included, it must be formally introduced by an executive, executive agency, or legislative body. For now, we exclude among proposed commissions the process in Minneapolis, Minnesota; currently there exists only an ad hoc subcommittee tasked with developing a framework for a possible truth commission.⁴⁰ As a note, we only move a commission from 'proposed' to 'present' when it begins operating. Simple pronouncements of commissions being launched do not suffice.

³⁷ Louisville Metro Police Department, 'Citizens Commission on Police Accountability,' Louisville Metro Police Department, louisville-police.org/348/Citizens-Commission-on-Police-Accountabi (Accessed 28 February 2021); Adam Rogan, 'State Racial Disparities Task Force Members Hope It's Not 'a Dog and Pony Show',' *The Journal Times*, 22 November 2020, journaltimes.com/news/local/govt-and-politics/state-racial-disparities-task-force-members-hope-its-not-a-dog-and-pony-show/article_78e40efe-05ac-5471-adc7-d43c103fc25d.html (Accessed 28 February 2021).

³⁸ Office of the Governor of Virginia, 'Commission to Examine Racial Inequity in Virginia Law,' Governor Ralph Northam, governor.virginia.gov/racial-inequity-commission/about/ (Accessed 28 February 2021).

³⁹ State of Vermont, 'Racial Equity Advisory Panel,' racialequity.vermont.gov (Accessed 28 February 2021).

⁴⁰ City of Minneapolis, 'City Council Approves Resolution Establishing Truth and Reconciliation Process for City of Minneapolis,' *City of Minneapolis News*, 16 October 2020, news.minneapolismn.gov/2020/10/16/city-council-approves-resolution-establishing-truth-and-reconciliation-process-for-city-of-minneapolis/ (Accessed 28 February 2021); City of Minneapolis, 'City Council Committee Advances Plans For Truth and Reconciliation Commission,' City of Minneapolis Patch, 1 July 2021, patch.com/minnesota/minneapolis/city-minneapolis-city-council-committee-advances-plans-truth-reconciliation (Accessed 21 July 2021).

Technical Description

Here, we give a brief technical description of the dataset's key variables.

Status, Dates and Creators. The categorical variable *Status* indicates whether a commission is 'past,' 'present' or 'proposed,' with follow-on date variables for the year a commission was proposed and, if applicable, when it began operating and concluded its work. The binary variables *Federal level*, *State level*, *County level* and *City level* capture the commission's jurisdiction, with follow-on variables where applicable for the relevant state, county or city name. *Creator* captures the individual or entity that adopted the commission, for example 'US President' for the Kerner Commission. *Creator party* marks the party affiliation of the commission creator, 'Democratic' in the case of President Johnson. If the creator was a legislature or council, we use the party affiliation of the majority group, for instance the Democratic majority in the US Congress that helped usher in the CWRIC. We also have a binary variable *Bipartisan creator* that marks if there was any bipartisan cooperation.

Mandates. The categorical variable *Victim group* specifies victims of interest to the commission, for example Japanese Americans in the case of the CWRIC. Meanwhile, *Primary abuses* and *Secondary abuses* capture the violations at the centre of commission investigations, for example racial terror lynchings in the case of Maryland's Truth and Reconciliation Commission (TRC). *Primary perpetrator* and *Secondary perpetrator* capture offenders of interest, for example local governments and private citizens, respectively, in commissions focused on lynchings like the one in Maryland. *Mandate start* and *Mandate close* indicate a commission's assigned temporal scope.

Leadership and civil society involvement. The data also detail the leadership selection method using the categorical variable *Member selection*, with 'policy maker nomination,' 'public nomination' and 'open application' as the selection options. Finally, we capture whether domestic and/or international civil society groups were involved in the lead-up to and/or execution of the commission using the binary variables *Domestic civil society* and *International civil society*, with a follow-on description of the groups and persons involved, for example the ICTJ in the case of the Maine

Wabanaki-State Child Welfare TRC and Chief Willie Littlechild from Canada's TRC in the case of California's THC.

Trends in US Truth Commission Experimentation⁴¹

The US edition of the *Varieties of Truth Commissions* captures 20 past, present and proposed official US truth commissions, from 1967 to 2021. As seen in Table 1, six commissions (30 percent) were created between 1967 and 2013, seven (35 percent) have been active since 2018 and seven others (35 percent) have been proposed since 2020 by executives and in legislatures at different levels of government. As seen in the table, commissions are being proposed and launched at higher rates over time. Whereas the first six US truth commissions spanned five decades, the seven currently in operation span a mere three years. Further, the seven under deliberation were proposed by policy makers within a single year, the first few coming within weeks of George Floyd's murder in May 2020 and the ensuing racial justice protest movement.

⁴¹ Geoff Dancy, Hunjoon Kim, and Eric Wiebelhaus-Brahm, 'The Turn to Truth: Trends in Truth Commission Experimentation,' *Journal of Human Rights* 9(1) (2010): 45-64.

Table 1. List of US National and Subnational Truth Commissions.

Commission Name	Status	Creator	Subject Matter	Start Year
National Advisory Commission on Civil Disorders (Kerner Commission)	Past	US President	Killings, police abuse	1967
Commission on Wartime Relocation and Internment of Civilians	Past	US Congress	Relocation, internment	1980
A Documented History of the Incident Which Occurred at Rosewood, Florida in January, 1923	Past	State Legislature	Killings, forced displacement	1993
Oklahoma Commission to Study the Tulsa Race Riot of 1921	Past	State Legislature	Killings, property destruction	1997
1898 Wilmington Race Riot Commission	Past	State Legislature	Killings, violent disenfranchisement	2000
Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission	Past	Governor	Family separations	2013
Alachua County Truth and Reconciliation	Present	County Commissioner	Lynchings	2018
Maryland Lynching Truth and Reconciliation Commission	Present	State Legislature	Lynchings	2019
California Truth and Healing Council	Present	Governor	Genocide, exploitation	2020
Iowa City, Iowa Ad Hoc Truth and Reconciliation Commission	Present	City Council	Broad catalogue of abuses	2020
Providence, Rhode Island Truth-Telling, Reconciliation and Municipal Reparations Process	Present	City Mayor	Broad catalogue of abuses	2020
Carlisle, Pennsylvania Truth and Reconciliation Commission	Present	City Council	Institutional racism	2021
New York, New York Racial Justice and Reconciliation Commission	Present	City Mayor	Institutional racism	2021
United States Commission on Truth, Racial Healing, and Transformation	Proposed	US Congress	Broad catalogue of abuses	<i>pending</i>
Truth and Healing Commission on Indian Boarding School Policy in the United States	Proposed	US Congress	Cultural genocide	<i>pending</i>
Boston, Massachusetts Truth, Justice and Reconciliation Commission	Proposed	District Attorney	Racism in criminal justice	<i>pending</i>
Philadelphia, Pennsylvania Truth, Justice, and Reconciliation Commission	Proposed	District Attorney	Racism in criminal justice	<i>pending</i>
San Francisco, California Truth, Justice, and Reconciliation Commission	Proposed	District Attorney	Racism in criminal justice	<i>pending</i>
North Dakota Truth, Healing and Reconciliation Commission	Proposed	State Legislature	Physical, psychological and spiritual violence	<i>pending</i>
Unify Arkansas Commission	Proposed	State Legislature	Broad catalogue of abuses	<i>pending</i>

National Commissions

The first US truth commission, the Kerner Commission, ran from 1967 to 1968 and investigated the causes and circumstances of the 1967 nationwide race riots. The deadliest of the riots were in Detroit, Michigan, where 43 people were killed, and in Newark, New Jersey, where 26 people were killed, most of them Black.⁴² The commission was created via presidential executive order and President Johnson hand-selected the members. The commission held public hearings with affected communities, and interviewed civil rights leaders, business and labour leaders and government officials.⁴³

In its final report, the commission rejected the popular claim that the riots were caused by violent 'riff raff' acting out for no reason. The commission determined that systemic and individual anti-Black racism was to blame.⁴⁴ The commissioners were remarkably prescient, prescribing a series of remedies that Black people and people of colour are still fighting for today: (1) an end to de facto segregation in housing, (2) affordable housing, (3) jobs creation, including in police departments, and (4) the expansion of social assistance programmes. Ultimately, Johnson ignored the commission's recommendations, deeming efforts to comprehensively redress the Black community politically inconvenient.⁴⁵

The CWRIC came just over a decade later in 1980 – the fruit of a grassroots redress movement led by Japanese Americans. Selected by the US Congress, the CWRIC leadership team was composed

⁴² Khorri Atkinson and Rick Rojas, 'Five Days of Unrest That Shaped, and Haunted, Newark,' *The New York Times*, 11 July 2017, [nytimes.com/2017/07/11/nyregion/newark-riots-50-years.html](https://www.nytimes.com/2017/07/11/nyregion/newark-riots-50-years.html) (Accessed 28 February 2021); Traqina Quarks Emeka, 'Detroit Riot of 1967,' *Encyclopedia Britannica*, [britannica.com/event/Detroit-Riot-of-1967](https://www.britannica.com/event/Detroit-Riot-of-1967) (Accessed 28 February 2021); Alice George, 'The 1968 Kerner Commission Got It Right, But Nobody Listened,' *Smithsonian Magazine*, 1 March 2018, [smithsonianmag.com/smithsonian-institution/1968-kerner-commission-got-it-right-nobody-listened-180968318](https://www.smithsonianmag.com/smithsonian-institution/1968-kerner-commission-got-it-right-nobody-listened-180968318) (Accessed 28 February 2021).

⁴³ Ryan, Mary Kathleen, 'The Democratic Kaleidoscope in the United States: Vanquishing Structural Racism in the US Federal Government.' (PhD diss., Virginia Tech, 2019).

⁴⁴ Justin Driver, 'The Report on Race That Shook America,' *The Atlantic*, May 2018, [theatlantic.com/magazine/archive/2018/05/the-report-on-race-that-shook-america/556850](https://www.theatlantic.com/magazine/archive/2018/05/the-report-on-race-that-shook-america/556850) (Accessed 2 March 2021).

⁴⁵ Steven M. Gillon, 'This Government Report Showed How Racism Was Dividing America 50 Years Ago. Its Prediction Is Haunting,' *TIME*, 1 March 2018, [time.com/5180266/kerner-commission-report-anniversary/](https://www.time.com/5180266/kerner-commission-report-anniversary/) (Accessed 8 July 2021).

of partisan and nonpartisan members.⁴⁶ Commissioners traversed the nation, hearing from 750 witnesses during their three-year investigation. They concluded in their report that anti-Japanese racism and xenophobia, not genuine or imminent security threats, motivated the government's programme of mass relocation and internment of an estimated 120,000 persons of Japanese ancestry between 1942 and 1946. Among other items, the CWRIC recommended reparations, which were delivered with the Civil Liberties Act of 1988.⁴⁷

There have not been any national commissions since, but there are two proposals currently under consideration in the US Congress. In the midst of the summer 2020 Black Lives Matter protests, California congresswoman Barbara Lee sponsored a bill for a Truth, Racial Healing, and Transformation Commission (US TRHT). New Jersey senator Cory Booker introduced a companion bill in the upper chamber. Likewise, then-New Mexico congresswoman Deb Haaland and Massachusetts senator Elizabeth Warren introduced in the House and the Senate, respectively, a bill for a Truth and Healing Commission on Indian Boarding School Policy (US THC), much akin to Canada's TRC.

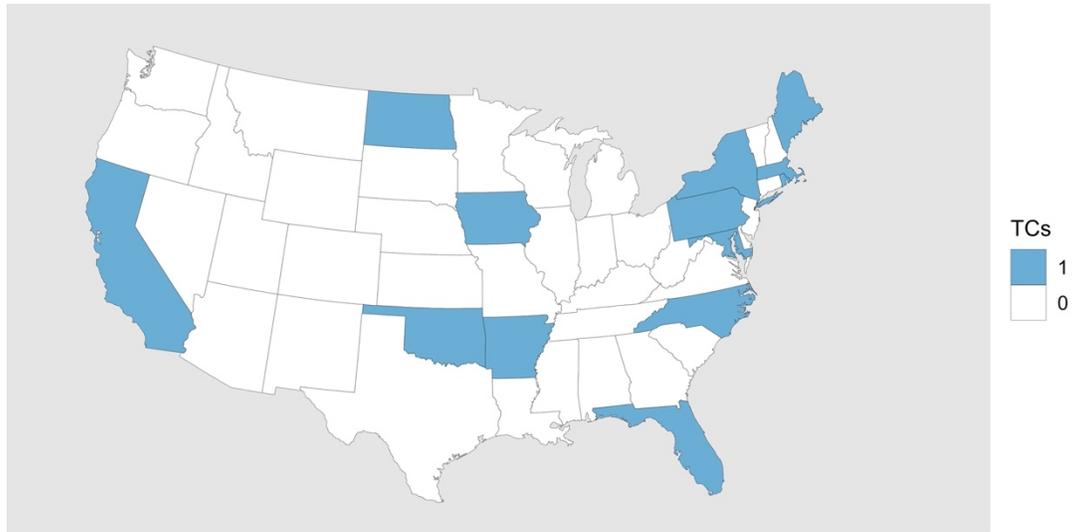
Subnational Commissions

Our data opens new terrain in the study of TJ generally, and truth commissions in particular, by including commissions at the subnational level. Subnational commissions make up a significant share of US truth commissions, 80 percent. As seen in Figure 1, past, present and proposed commissions have worked, are in progress or are under deliberation/development in 13 states: Arkansas, California (two commissions), Florida (two commissions), Iowa, Maine, Maryland, Massachusetts,

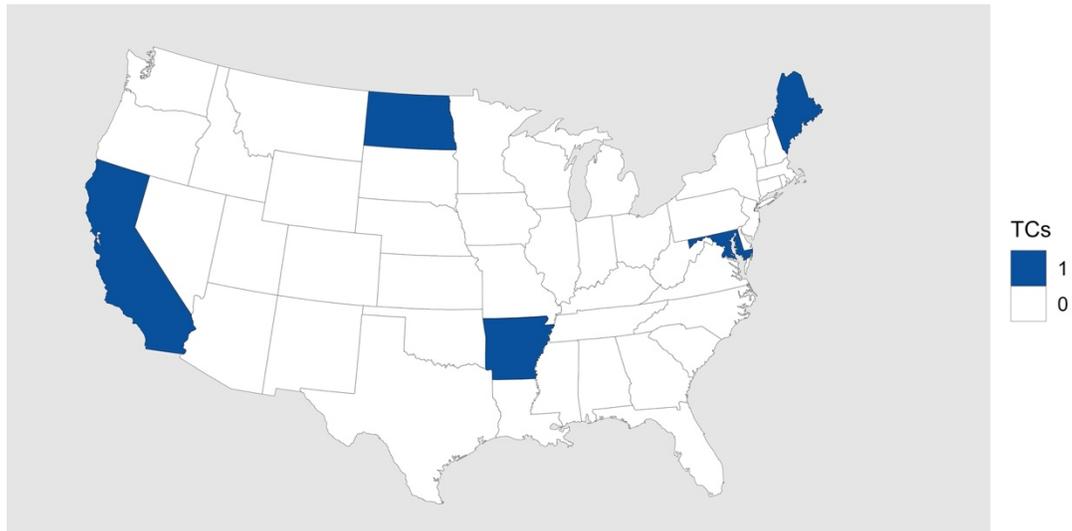
⁴⁶ The commission's leadership team included a member of the House of Representatives and an Associate Justice of the US Supreme Court.

⁴⁷ Commission on Wartime Relocation and Internment of Civilians, *Personal Justice Denied, Part 2: Recommendations* (Washington D.C.: Commission on Wartime Relocation and Internment of Civilians, 1983); US Congress, House, Civil Liberties Act of 1988, HR 442, 100th Cong., introduced in House 6 January 1987, govtrack.us/congress/bills/100/hr442/text (Accessed 3 March 2021).

New York, North Carolina, North Dakota, Oklahoma, Pennsylvania (two commissions) and Rhode Island.



(a)



(b)

Figure 1. Subnational US Truth Commissions by State. (a) City, County and State Level. (b) State Level Only. Source: The *Varieties of Truth Commissions* Project.

The earliest subnational US truth commissions were in Rosewood, Florida and Tulsa, Oklahoma in 1993 and 1997, respectively. Both investigated local authorities, white supremacists and violent extremist groups like the Ku Klux Klan for the harassment, injury and murder of Black

residents. Anti-Black discrimination and violence in both municipalities culminated in race massacres.⁴⁸ In 1923, a white mob ravaged the historically Black community of Rosewood, killing as many as 200 people, burning virtually all buildings and forcibly displacing residents.⁴⁹ Two years earlier, in 1921, a white mob in Tulsa was unleashed on the Greenwood District of the city, said to be the 'Black Wall Street.'⁵⁰ A centre of Black economic prosperity, Greenwood was unacceptable to neighbouring white communities. As many as 300 people were killed in the massacre, with 800 injured and thousands displaced.

Racial terror is also at the centre of a more recent commission, this time in Alachua County, Florida.⁵¹ Since 2018, the commission has been investigating the lynchings regime that emerged after the Civil War and Black people's emancipation from slavery. Like several others, this commission has been assigned to analyse the actions of state and nonstate actors, including law enforcement personnel and private citizens.

Beyond these efforts at the city and county levels, a state-level commission was conducted in Maine, two are ongoing in Maryland and California and two have been proposed by policy makers in Arkansas and North Dakota. The 2013 commission in Maine was a partnership between the state and the Wabanaki tribal governments.⁵² For decades, the state removed Indigenous children from their homes and communities, and placed them into the foster care system or under adoption because

⁴⁸ The massacres in Rosewood and Tulsa (and later Wilmington, North Carolina) were emblematic of US racial violence at the time: the culmination of racial resentment and institutionalized white supremacy. These are not single events: they are part and parcel of anti-Black oppression and violence as the respective commissions established. The Wilmington commission went as far as to report on the impact and legacy of the 1898 coup for generations of Black Americans, not only in the respective jurisdictions but across the country.

⁴⁹ Carmelita Pickett, 'Rosewood Massacre of 1923.' *Encyclopedia Britannica*, [britannica.com/topic/Rosewood-riot-of-1923](https://www.britannica.com/topic/Rosewood-riot-of-1923) (Accessed 3 March 2021).

⁵⁰ Oklahoma Commission to Study the Tulsa Race Riot of 1921, *Tulsa Race Riot: A Report* (Oklahoma City: Commission to Study the Tulsa Race Riot of 1921, 2001).

⁵¹ Samantha Cherry, 'Alachua County to Host Truth and Reconciliation Events Remembering Lynching Victims,' *WUFT: News and Public Media for North Central Florida*, 6 February 2020, [wuft.org/news/2020/02/06/alachua-county-to-host-truth-and-reconciliation-events-remembering-lynching-victims](https://www.wuft.org/news/2020/02/06/alachua-county-to-host-truth-and-reconciliation-events-remembering-lynching-victims) (Accessed 5 March 2021).

⁵² 'Maine Wabanaki-State Child Welfare Truth & Reconciliation Commission, *Beyond the Mandate: Continuing the Conversation* (Hermon: Maine Wabanaki-State Child Welfare Truth & Reconciliation Commission, 2015).

their families were purportedly unfit to raise them. The policy, said to protect the ‘best interests’ of Wabanaki children, was devastating for them and their families, and necessitated a truth commission to establish the facts, namely the policy’s racism and the serious harms it caused. The commission also created a space for individual and community healing.

The state of Maryland has authorized its TRC to examine the history and legacy of lynchings, while the state of California has authorized its THC to study the genocide and exploitation of Indigenous Californians in the 19th century and state-sanctioned discrimination and abuse since. The commissions began operating in 2019 and 2020, respectively.

Victims, Abuses and Perpetrators

Past national truth commissions have addressed two primary victim populations: Black and Japanese Americans. National commissions currently under debate would expand on these. The US THC would address abuses perpetrated against Native Americans in the Indian boarding school system, from the 1860s to the 1960s, and the US TRHT would study the oppression of people of colour from the 1600s onwards.

Past subnational commissions have exclusively examined abuses against Black and Indigenous Americans, and emphasized physical integrity rights violations, namely killings. By contrast, most current and proposed subnational commissions are set to investigate the oppression of people of colour in general. Innovating on past efforts, commissions in Boston, Massachusetts, Philadelphia, Pennsylvania and San Francisco, California have been tasked with addressing ‘marginalized groups,’ a designation given by commission designers to encompass people of colour, immigrants and LGBTQIA individuals.⁵³ Most current and proposed commissions are also intended to examine institutional racism and structural inequality.

⁵³ Truth, Justice, and Reconciliation Commission, ‘Home,’ tjrc.org (Accessed 4 March 2021).

Policy makers understandably want commissions to encompass more groups and tackle more issues over longer timeframes. TJ is certainly due to many more Americans than have previously been included in national and subnational processes. However, commission designers face a possible breadth-depth trade-off. Commissions may uncover broad systems of oppression and abuse but ultimately fail to offer specific, actionable steps to transform communities. Commissions may also fail to address individual responsibility for harms and miss the opportunity to provide individual redress.

Lastly, government actors have been (and remain) the perpetrators of primary concern in US commissions, with white citizens as perpetrators of secondary concern. In the case of the former, we note a potential conflict of interest in Boston, Philadelphia and San Francisco, where the respective district attorneys will lead truth commissions to investigate the criminal justice system of which they are key players. The situation will need to be closely monitored so that the commissions can conduct a full and impartial investigation, and deliver a report whose findings are not abridged, redacted or diluted.

Leaders and Leadership Selection

Across the board, US truth commissions have struggled to recruit members from diverse backgrounds, which is very problematic, considering commissions' subject matter. The problem of unrepresentative commission leadership is due in part to the respective commission inaugurators ostensibly appointing members from among their networks, rather than soliciting applications or nominations from the public, per international best standards.⁵⁴ States like Maine and California and cities like Iowa City are among the exceptions, having had an open application process.

⁵⁴ Eduardo González and Howard Varney, *Truth Seeking: Elements of Creating an Effective Truth Commission* (New York: International Center for Transitional Justice, 2013).

Civil Society Involvement

Both domestic and international civil society actors have worked with US commissions in their research and operations. For example, the Equal Justice Initiative – which installed the country’s first national lynching memorial, the National Memorial for Peace and Justice in Montgomery, Alabama – has been heavily involved in truth seeking in Alachua County. Given the commission’s focus on racial terror lynchings, this is an obvious choice for an organizational partner. International civil society groups like the ICTJ and TJ professionals like Eduardo González have also assisted commissions in places like Maine. Members of previous global commissions have done likewise. To illustrate, one of the Canadian TRC commissioners, Chief Willie Littlechild, is supporting the Californian THC.

Summary of Findings

Our research produces several key insights into US and global TJ, with implications for current and future TJ efforts. First, US truth commissions mirror efforts in countries like Brazil that have turned to the local. The local turn indicates that subnational commissions may be more feasible than national ones in a US context. A multiracial coalition of progressive lawmakers has introduced bills to establish federal commissions on racial injustice. However, the proposed legislation faces significant opposition from conservatives, who are predominantly white and many of whom deny the existence of systemic racism in the United States.⁵⁵ With five subnational commissions launched and five others

⁵⁵ For instance, US Senator Susan Collins, a Republican from Maine, said that she does ‘not believe systemic racism is a problem’ in her state – the same state that, until recently, separated Indigenous children from their families because it considered them unfit guardians. Likewise, Senator Joni Ernst of Iowa has denied the existence of ‘systemic racism across the board’ – the very issue the Iowa City TRC is intended to examine. Meanwhile, Ted Cruz, a US Senator from Texas who ran for president in 2016 and is an early frontrunner for the Republican nomination in 2024, also refuses to acknowledge systemic racism. Clare Foran, ‘Susan Collins: “I Do Not Believe Systemic Racism is a Problem in the State of Maine”,’ *CNN Politics*, 29 October 2020, edition.cnn.com/2020/10/29/politics/susan-collins-systemic-racism-maine-senate-debate/index.html (Accessed 5 March 2021); Scott McFetridge, ‘Iowa Senate Candidates Debate, Differ on Racism, Privilege,’ *The Associated Press*, October 16, 2020, apnews.com/article/race-and-ethnicity-senate-elections-des-moines-elections-joni-ernst-ea6f94a18c4ed805fb4403dff43c26e8 (Accessed 5 March 2021); Savannah Behrmann, ‘No Systemic Racism in Police, Society, Say Texas Senators Cruz, Cornyn,’ *The Columbus Dispatch*, 17 June 2020, dispatch.com/story/news/politics/2020/06/17/no-systemic-racism-in-police-society-say-texas-senators-cruz-cornyn/112775972 (Accessed 5 March 2021).

proposed in 2020 and the first part of 2021, city and state policy makers seem to be faring better than their federal counterparts who have proposed two but launched none. We note, however, that these ten subnational commissions have been led primarily by Democratic policy makers. As of July 2021, only three had any support from Republicans – the Iowa City TRC in Iowa, the Carlisle Borough TRC in Pennsylvania and the North Dakota Truth, Healing, and Reconciliation Commission. Expanding attempts by Republicans nationwide to ban Critical Race Theory and to deny the truth of US political violence, including the 6 January 2021 insurrection, do not bode well for bipartisan cooperation in the quest to deliver truth, justice, reparations and guarantees of non-repetition for historical and contemporary injustices.⁵⁶ So it appears that US truth seeking, whether national or subnational, will depend on Democratic majorities.

Second, US commissions' overall emphasis has historically been on Indigenous and Black Americans, but recent commissions have been broadened to encompass other minoritized and marginalized communities. They are also set to investigate both physical and non-physical abuses. The move to expand commissions' scope will likely broaden constituencies of support for truth commissions and other TJ measures, and reveal important information on systems and agents of racial oppression. Yet commission designers face a breadth-depth trade-off, with commissions potentially uncovering systemic racism and structural inequality, but failing to offer concrete recommendations to transform communities.

⁵⁶ For example, Florida Governor Ron DeSantis, another 2024 Republican presidential hopeful, pushed the Florida Board of Education to adopt new rules banning the teaching of critical race theory. Senator Josh Hawley, another 2024 Republican presidential hopeful, said of the January 6th rioters, 'I don't know which of those protesters, if any of them...participated in the criminal riot. And I think it's a slur on the...people who came to the Capitol that day to demonstrate peacefully to lump them in with the criminal rioters....' Bobby Calvan, 'Florida Bans "Critical Race Theory" From Its Classrooms,' *Associated Press*, 20 June 2021, apnews.com/article/florida-race-and-ethnicity-government-and-politics-education-74d0af6c52c0009ec3fa3ee9955b0a8d (Accessed 18 July 2021); Colby Itkowitz, 'GOP Sen. Hawley Says He Does Not Regret Raising Fist to Pro-Trump Mob at Capitol on Jan. 6,' *The Washington Post*, 4 May 2021, [washingtonpost.com/powerpost/republicans-trump-hawley-jan-6-riot/2021/05/04/9f757304-aced-11eb-acd3-24b44a57093a_story.html](https://www.washingtonpost.com/powerpost/republicans-trump-hawley-jan-6-riot/2021/05/04/9f757304-aced-11eb-acd3-24b44a57093a_story.html) (Accessed 18 July 2021).

Third, while US commissions resemble some aspects of global commissions, like South Africa's focus on racial violence, Colombia's emphasis on the subnational and Canada's delay in enacting TJ, US efforts are in many ways inconsistent with global practices and expectations. To illustrate, US executives and legislatures often handpick commission leaders rather than invite nominations from the public or have prospective commissioners apply and be chosen based on merit and experience. This appears to be a legacy of the first US truth commissions, the Kerner Commission and the CWRIC, where the president and members of Congress selected commissioners, most of them government officials and few of them coming from multicultural backgrounds. This practice also indicates a shallow understanding of global experiences and international standards and guidelines, with potentially negative consequences for the operation and effectiveness of US commissions.

Given the reality of partisan polarization, and the potential sensitivity of truth commission investigations, an open and bipartisan or nonpartisan leadership selection process that involves civil society might build trust and support between different segments of society. This is one area where ongoing and future US commissions can build on precedents. Clergy and other nonpartisan civic and social leaders have figured prominently in global and US commissions, lending clout and credibility. International advisors can also lend invaluable expertise and assistance in the design and operation of current and future commissions in the United States. They could help make US commissions more effective, for example by suggesting and supporting coordination of commissions across jurisdictions.⁵⁷ A system whereby research conducted by commissions at the city and county levels is shared with states and, in turn, with the federal government could be highly beneficial, as the nation as a whole grapples with its racist past and present.

Conclusion

⁵⁷ Eduardo González and Kelebogile Zvobgo, 'As America Seeks Racial Justice, It Can Learn From Abroad,' *Foreign Policy*, 14 March 2021, foreignpolicy.com/2021/03/14/racial-justice-truth-reconciliation-commissions-international (Accessed 15 March 2021).

We end as we began, with an exercise in reflexivity that, combined with the initial analysis of our novel data, demonstrates the conceptual, methodological, empirical and normative importance of including the US case in TJ scholarship. We believe it is the unique combination of our racial, geographic, disciplinary and methodological backgrounds that helped us see and take seriously the United States as a TJ case.

Coming from Japan and Zimbabwe, and studying and working in the United States, we are no strangers to criticisms of the field, namely that it is biased, even hypocritical. TJ is a set of tools that have in many instances been foisted by countries in the Global North on countries in the Global South. This is despite the fact that the Global North has its own catalogue of unaddressed historical and contemporary injustices – against its own citizens and against citizens of countries in the Global South.⁵⁸ Interestingly, and despite emerging attempts to reckon with historical and contemporary wrongs by such a prominent country as the United States, TJ scholars have been largely silent on the case.

The failure to case the United States has biased how we think about TJ, especially truth commissions, and distorted how we measure and evaluate them. The field's neglect has also effectively shuttled to the side individuals and communities that have suffered political violence in the United States and who are demanding and, in some instances, winning TJ. This scholarly context, and social unrest in our country, spurred us to intervene. We undertook a new data collection effort, mapping out and describing for the first time official US truth commissions, from the 1960s onwards.

We situated the United States within the study and practice of TJ, and we included efforts at the subnational level. We showed that US commissions are adjacent, for example, to efforts in mature democracies like Canada and South Korea, on the one hand, and efforts at the local level in countries like Brazil and Colombia, on the other hand. Our data thus reveals that the United States is not

⁵⁸ Rosemary L. Nagy, "Transitional justice as global project: Critical reflections," *Third World Quarterly* 29(2) (2008): 275-289.

exceptional after all but part of a global phenomenon. Addressing the US case helped us begin to confront a major hypocrisy in scholarship and practice, and examining the case further holds the potential to consolidate the shift from some of the TJ field's early preoccupations (e.g., democracy promotion, peacebuilding and civil and political rights in contexts of political transition) to a more *transformative justice model* that encompasses broader, structural injustices and social and economic issues.⁵⁹

With our data, scholars can begin to systematically analyse the emergence, design, performance and impact of truth commissions in the United States. We will see with time how well US commissions fare in different jurisdictions covering different topics and populations. The data also open a window of opportunity for scholars and practitioners to make recommendations to policy makers, activists and other civic and social leaders to improve upon current and future US commissions, whether with respect to their mandates, scope or operation.

⁵⁹ Paul Gready and Simon Robins, 'From Transitional to Transformative Justice: A New Agenda for Practice,' *International Journal of Transitional Justice* 8(3) (2014): 339-361.