

**SPEAKING TRUTH TO POWER:
AN ANALYSIS OF AMERICAN TRUTH-TELLING
EFFORTS VIS-À-VIS THE SOUTH AFRICAN TRUTH AND
RECONCILIATION COMMISSION**

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RECONCILIATION

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I don't know what kind of man I am.

I know it was not hate I felt;

It was not the disgust and the stone in my belly.

The world is a mystery and they were my question.

We were strangers again.

ABSTRACT

The final report of the South African Truth and Reconciliation Commission (SATRC) remains unparalleled in the clarity with which it defined truth. The commissioners considered which types of truth were needed to move the country toward reconciliation and devised categories of truth: factual or forensic, personal or narrative, social or dialogue, and restorative. The commission considered all four types of truth necessary to developing a holistic picture of the atrocities committed during the apartheid era. The United States has a long and enduring history of abuses carried out against the Black-American community. These abuses fit into a wider context of dehumanization stemming from the legacy of slavery. This article considers two case studies on atrocities committed against Black Americans: the Tuskegee Study of Untreated Syphilis in the Negro Male and the violent confrontation that took place on November 3, 1979, dubbed the Greensboro Massacre. The article considers the final reports issued in the aftermath of these events through the lens of the SATRC's four conceptions of truth, assessing the relative success of these efforts in unearthing a comprehensive version of the truth. This assessment concludes with lessons learned, aimed at providing guidance for emerging United States efforts in racial reconciliation.

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· Forrest Hamer, *Reconciliation*, 24 CALLALOO 1028, 1028 (2001).

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I.

INTRODUCTION

Reconciliation is a far-reaching and complex topic, characterized by intangibles such as perceived religious duty and a sense of shared humanity. Throughout history, societies have struggled to regain social cohesion and rebuild interpersonal relationships in the aftermath of conflict. Over time, groups have moved to implement reconciliatory practices strategically, applying the means and methods of individual-level reconciliation at community and national levels. Truth commissions emerged from this impulse to apply reconciliatory principles at a broader level. In their purest form, truth commissions are temporary bodies established to investigate the circumstances surrounding human rights abuses carried out under a specific regime or during a specific time period.¹

Perhaps the most well-known of these truth commissions is the South Africa Truth and Reconciliation Commission (SATRC), created by the Promotion of National Unity and Reconciliation Act 34 in 1995.² This commission mobilized the nation's resources to unearth the circumstances surrounding the horrors

1. Audrey R. Chapman & Patrick Ball, *The Truth of Truth Commissions: Comparative Lessons from Haiti, South Africa, and Guatemala*, 23 HUMAN RIGHTS QUARTERLY 1, 2 (2001).

2. See Louis Bickford, *Unofficial Truth Projects*, 29 HUMAN RIGHTS QUARTERLY 994, 997 (2007); Promotion of National Unity and Reconciliation Act 34 of 1995 (S. Afr.).

committed under apartheid.³ The SATRC has served as a model for subsequent truth-telling efforts in part because of its carefully-constructed methodology aimed at achieving the often difficult-to-measure goals of healing and reconciliation.⁴ The SATRC's extensive efforts resulted in a public report of the committee's findings. The report defined the types of truth the commission intended to uncover: factual or forensic, personal or narrative, social or dialogue, and healing or restorative.⁵ No other truth-telling effort before or since has established such detailed criteria for defining truth.⁶ This article employs these four types of truth as a framework to consider what a comprehensive truth-telling effort requires.

The United States, unlike South Africa, has never established a formal truth and reconciliation commission, despite its entrenched history of human rights abuses against Black Americans. For example, at the end of the Civil War, rather than explore racial reconciliation, political leaders ultimately appeased Southern separatists, who elected white supremacists and solidified systems of Black Codes and Jim Crow laws for decades to come.⁷ Similarly, the U.S. Supreme Court's decision in *Brown v. Board of Education* created a possibility for national dialogue and healing that never took place.⁸ With their country having failed to fully address its shameful legacy of enslavement, most United States citizens are ill-equipped to disentangle and adequately address anti-Black racism in its current forms. The recent surge in publicized white supremacist rhetoric and the ensuing violence, as seen during the Unite the Right rally in Charlottesville, Virginia,⁹ throw the repercussions of allowing racial animus to fester across generations into sharp relief.

The Tuskegee Syphilis Study Ad Hoc Advisory Panel (the Panel) and President Clinton's Race Advisory Board (RAB) initiative, discussed below, are among the few national initiatives to address structural violence against Black

3. See 1 TRUTH & RECONCILIATION COMM'N, TRUTH AND RECONCILIATION COMMISSION OF SOUTH AFRICA REPORT 19–22 (1998) (thanking contributing people and groups, including the President, Minister of Justice, and “various other government departments at national, provincial and local levels”).

4. See, e.g., James L. Gibson, *Overcoming Apartheid: Can Truth Reconcile a Divided Nation?*, 603 ANNALS AM. ACAD. POL. & SOC. SCI. 82, 83 (2006) (“Truth commissions modeled on the South African experience have proliferated.”).

5. TRUTH & RECONCILIATION COMM'N, *supra* note 3, at 110–14.

6. See Chapman & Ball, *supra* note 1, at 10 (“Of all truth commissions, the [SA]TRC was the most self-conscious and intentional about its conception of truth The [SA]TRC's ‘forms of truth’ encode as ‘truths’ ideas that other commissions may have had but have expressed as goals to be achieved, not as alternative . . . forms of truth.”).

7. Taunya Lovell Banks, *Exploring White Resistance to Racial Reconciliation in the United States*, 55 RUTGERS L. REV. 903, 907–08 (2003).

8. *Id.*

9. See Michael Eric Dyson, *Charlottesville and the Bigotocracy*, N.Y. TIMES (Aug. 12, 2017), <https://www.nytimes.com/2017/08/12/opinion/charlottesville-and-the-bigotocracy.html> [<https://nyti.ms/2uR9AJ3>].

Americans,¹⁰ but they barely scratched the surface and did not facilitate the truth-telling needed to move toward reconciliation. In the wake of sparse national efforts, some communities have initiated local truth-telling efforts following instances of abuse against Black-American communities.¹¹ In an attempt to contribute to a workable model, this article analyzes one of the few national-level efforts as well as a contemporary grassroots effort through the lens of the SATRC's four criteria for truth.¹²

First, this article discusses the characteristics of the SATRC that make it an ideal analytical lens, the final report's definitions of truth, and the parameters for assessing the quality and depth of truth in each case study. Next, the article examines two case studies that represent the spectrum of U.S. truth-telling efforts: the investigations carried out by the Tuskegee Panel and the Greensboro Truth and Reconciliation Commission (GTRC), respectively. The U.S. government sponsored the former in the 1970s, and it covered abuses spanning almost forty years.¹³ In contrast, the GTRC was a millennial, grassroots truth-telling effort, independent from official sanction by the municipality of Greensboro and convened by the community to focus on the events leading up to and stemming from a single instance of violence.¹⁴ These distinct models illustrate how U.S. truth-telling efforts have evolved over the past four decades, and they offer important points of comparison for future efforts.

This article analyzes the two commissions' final reports through the lens of the SATRC's four definitions of truth. It uses the definitions to informally code the findings presented in each final report into one of the four categories. Then, it considers which type of truth each report prioritized, whether a certain concept of truth was lacking in the report, whether the circumstances surrounding the event in question lent themselves to a particular type of truth, and whether emphasizing a different type of truth would have strengthened the report. Next, it discusses whether the nature of the truths garnered from each report contributed to each truth-telling program's overall success. Finally, the article draws from the evaluations of these two examples to discuss the need to mushroom grassroots truth-telling efforts in the face of failed or nonexistent national efforts.

10. See Jamie L. Wacks, *A Proposal for Community-Based Racial Reconciliation in the United States Through Personal Stories*, 7 VA. J. SOC. POL'Y & L. 195 (2000) (discussing the RAB).

11. See generally CYNTHIA BROWN, PATRICIA CLARK, MUKTHA JOST, ANGELA LAWRENCE, ROBERT PETERS, MARK SILLS & BARBARA WALKER, *Introduction*, in GREENSBORO TRUTH AND RECONCILIATION REPORT 13 (2006) [hereinafter GREENSBORO FINAL REPORT].

12. A full analysis of the relative success of the two case studies based on the South African model is methodologically muddy and beyond the scope of this paper.

13. See BROADUS N. BUTLER, RONALD H. BROWN, VERNAL CAVE, JEAN L. HARRIS, SEWARD HILTNER, JAY KATZ, JEANNE C. SINKFORD, FRED SPEAKER & BARNEY H. WEEKS, U.S. DEP'T OF HEALTH, EDUC. & WELFARE, FINAL REPORT OF THE TUSKEGEE SYPHILIS STUDY AD HOC ADVISORY PANEL (1973) [hereinafter TUSKEGEE SYPHILIS STUDY].

14. See generally GREENSBORO FINAL REPORT, *supra* note 11, *Executive Summary*, at 1–3.

II.

DEFINING THE LENS OF ANALYSIS

A. Using the SATRC as a Framework

The SATRC is a natural choice for a framework through which to analyze the relative success of extra-judicial truth-telling processes. First, other nation states seeking guidance in facilitating transition have adopted elements of the South African model of truth and reconciliation.¹⁵ Numerous empirical studies have also found that the SATRC was successful in generating a historical narrative that was fairly widely accepted and that aided societal transformation.¹⁶ In addition, as professor of sociology Bill Rolston observed in 2006, “[t]he South African TRC has been the most articulate truth commission to date in terms of defining truth.”¹⁷ Unlike other truth commissions that failed to characterize truth as a tangible goal, the South African commission consciously defined the four types of truth it sought. Given the SATRC model’s widespread acceptance and its final report’s uniquely clear definitions of truth, the SATRC is a strong framework to evaluate the findings of a truth-telling process.

Other aspects of the SATRC model make it a logical lens through which to consider American truth-telling efforts centered on racial injustice. The South African process was unusual for its insistence that truth not be defined solely on the basis of factual findings, but instead considered with the normative goal of furthering reconciliation.¹⁸ This emphasis on moving beyond mere factual truth stemmed from the SATRC commissioners’ belief that the affirmation of victims’ dignity was as central to the work of the commission as its investigative findings.¹⁹ Additionally, the commission was clear about the need to establish racism as a defining feature of the period under investigation. The commission justified its explicit recognition of the role of racism in the violations by analogy: “[p]eople would be surprised if anyone wanting to describe or understand the post-World War II period were to ignore Soviet Communism or not give it a

15. See RENÉE JEFFERY, AMNESTIES, ACCOUNTABILITY, AND HUMAN RIGHTS 100 (2014).

16. James L. Gibson, *On Legitimacy Theory and the Effectiveness of Truth Commissions*, 72 LAW & CONTEMP. PROBS. 123, 124 (2009); see generally Gibson, *supra* note 4, at 83 (reporting on a South African survey of views about the effectiveness of the SATRC for healing and transforming South African society); Margaret M. Russell, *Cleansing Moments and Retrospective Justice*, 101 MICH. L. REV. 1225, 1263 (2003) (“South Africa’s Truth and Reconciliation Commission is both the most famous and most pertinent in terms of significance to U.S. civil rights history.”).

17. Bill Rolston, *Dealing with the Past: Pro-State Paramilitaries, Truth and Transition in Northern Ireland*, 28 HUM. RTS. Q. 652, 674 (2006).

18. See *id.* at 658 (noting that unlike many other transitional societies that emphasize investigation rather than reconciliation in their approaches to truth, the South African experience was “unusual” in its focus on reconciliation); see also Chapman & Ball, *supra* note 1, at 10 (noting that among the four types of truth defined by the SATRC, “only factual or forensic truth refers to the impartial and objective evidence that most truth commissions have understood as their mandate”).

19. Chapman & Ball, *supra* note 1, at 34.

central, indeed pivotal, place in the geopolitics of that period.”²⁰ The SATRC required that reconciliation mean more than simply unearthing facts. Their emphasis on highlighting racism as a root cause makes the SATRC model useful for analyzing the American context, where violence against Black Americans is committed at both the interpersonal and structural levels, and where the legacy of slavery cannot be divorced from the continued abuses against Black Americans.

Truth-finding is not a conceptually clean practice, and the SATRC was neither held out nor recognized as a perfect model. From the outset, observers critiqued the SATRC methodology used to arrive at the final report,²¹ noting flaws like the disproportionate representation of white South Africans selected for window-dressing cases and the Amnesty Committee’s acceptance of the perpetrators’ version of events, even when they contradicted the victims’ accounts.²² Additionally, women who told their stories to the commission tended to focus on the suffering of the men in their lives rather than on their own tribulations, leading to the under-representation of women’s experiences in the final report.²³ Moreover, a range of truths, rather than one unified truth, emerged as part of the SATRC amnesty hearings: the truth as experienced by the ANC, by beneficiaries of the apartheid regime, and by the civilian public.²⁴ However, the commission was aware of the near impossibility of neatly encapsulating the truth of apartheid. As Archbishop Desmond Tutu noted in his foreword to the final report, the past is a “jigsaw puzzle.”²⁵ Thus, the flaws in the SATRC process do not undermine its legitimacy as a frame of reference, as long as we understand that no truth is ever totally comprehensive. Despite its shortcomings, the South African process is the best lens through which to evaluate the quality and scope of truth attained by other truth-telling efforts.

B. The SATRC Definitions of Truth

Truth is an elusive concept marked by cultural and historical context and individualized experiences of trauma.²⁶ Following conflict, two types of truth require investigation: the micro-level truth of the individual victims and the macro-level truth of systemic patterns of violence.²⁷ The multifaceted truths that

20. TRUTH & RECONCILIATION COMM’N, *supra* note 3, at 15.

21. *See* Chapman & Ball, *supra* note 1, at 11 (noting that the SATRC was subjected to constant public scrutiny and critique).

22. *See id.* at 8–9, 39–40; *see also* Shane Graham, *The Truth Commission and Post-Apartheid Literature in South Africa*, 34 RES. AFR. LITERATURES 11, 12 (2003) (noting that when an applicant for amnesty made a full disclosure, the commissioners “accept[ed] the perpetrator’s version of events, even when it directly contradict[ed]” the victims’ evidence).

23. *See* Rolston, *supra* note 17, at 657.

24. *See* Chapman & Ball, *supra* note 1, at 6.

25. TRUTH & RECONCILIATION COMM’N, *supra* note 3, at 4.

26. Chapman & Ball, *supra* note 1, at 5–8.

27. *Id.* at 7.

emerge through truth commission proceedings must be shaped and constructed into a cohesive narrative to enable societal healing. To that end, the truth commission's mandate must define the truth it seeks. The SATRC was unique in the amount of time and methodological rigor it invested in defining concepts of truth.²⁸ As mentioned above, while most truth commissions limit the truth sought to factual or objective assessments of events and patterns of abuse, the SATRC devised four concepts of truth.²⁹ Rather than focusing solely on unearthing the who, what, when, and where of patterns of human rights violations, the SATRC devised the following multi-pronged approach to truth: (1) factual or forensic truth, (2) personal or narrative truth, (3) social or dialogue truth, and (4) restorative truth.

Factual or forensic truth encompasses two levels of truth: truth focused on "individual events, cases, and people," and truth focused on the "nature, causes, and extent of gross violations of human rights."³⁰ The latter level includes "the antecedents, circumstances, factors, context, motives, and perspectives that le[a]d to such violations."³¹ The SATRC saw the first type of truth as playing only a limited role, primarily to minimize the lies or half-truths about apartheid circulating in the public discourse.³² The second type of truth, narrative truth, sheds light on the individual, subjective experiences of those marginalized by the apartheid regime. This category sought to encompass the widest possible record of people's perceptions, myths, and stories, with an emphasis on "the cathartic benefits of storytelling."³³ Though other truth commissions recognized storytelling as an important concept, they did not consider it a distinct category of truth in this way.³⁴ The third type of truth, social or dialogue truth, is "the truth of experience that is established through interaction, discussion and debate."³⁵ This concept of truth was heavily influenced by the idea of "social truth" devised by Albie Sachs,³⁶ and it remains unique to the SATRC.³⁷ This third truth was designed to include the views of diverse groups of people and, rather than focusing solely on the outcome, it recognized that the process through which truth was achieved had independent value.³⁸ The fourth and final category of truth, restorative truth, emerges when facts are placed into their

28. *See id.* at 7–9, 10.

29. *See id.* at 10; *see also* TRUTH & RECONCILIATION COMM'N, *supra* note 3, at 111.

30. *See* Chapman & Ball, *supra* note 1, at 10; *see also* TRUTH & RECONCILIATION COMM'N, *supra* note 3, at 111.

31. *See* Chapman & Ball, *supra* note 1, at 10.

32. *Id.*

33. *Id.* at 11.

34. *Id.*

35. *Id.*

36. Albie Sachs played a central role in the establishment of the SATRC and later served on the Constitution Court of South Africa. *See* Chapman & Ball, *supra* note 1, at 11.

37. *See* Chapman & Ball, *supra* note 1, at 11.

38. TRUTH & RECONCILIATION COMM'N, *supra* note 3, at 113–14.

political, social, and historical context.³⁹ This concept of truth recognizes that to maintain victims' dignity, their pain must be acknowledged and given weight.⁴⁰ The commission intended that restorative truth break out of the paradigm that portrays truth as either objective information or subjective opinion by placing facts and their implications in the context of human relationships.⁴¹ These four categories of truth and their underlying precepts create the analytic lens applied in this paper.

III.

CASE STUDY 1: TRUTH-TELLING AROUND THE TUSKEGEE STUDY OF UNTREATED SYPHILIS IN THE NEGRO MALE

The Tuskegee Study of Untreated Syphilis in the Negro Male began in 1932 at the directive of the United States Public Health Service (USPHS). The USPHS partnered with the Tuskegee Institute to carry out the study in Macon County, Alabama.⁴² The study sought to observe and document the natural pathology of untreated syphilis in a test group of Black males.⁴³ The original test group included 399 men who had latent syphilis and 201 uninfected men as a control group.⁴⁴ The infected subjects were never effectively treated for syphilis. Indeed, researchers made active efforts to keep subjects ignorant of their continued infection and to prevent anyone outside of the study from adequately treating the men.⁴⁵ The study ran for forty years, its end only precipitated by an exposé published by Jean Heller of the Associated Press on July 25, 1972.⁴⁶ The story led to widespread outrage and public calls for an investigation. As a result, the Assistant Secretary for Health and Scientific Affairs of the Department of Health, Education, and Welfare (HEW) publicly pledged to investigate and created the Panel to explore the circumstances surrounding the study.⁴⁷ In March 1973, the Alabama Advisory Committee to the United States Commission on Civil Rights published its findings on the Tuskegee Study, with the stated hope that the Tuskegee Panel would consider its findings.⁴⁸ The Panel released its findings in April 1973, and shortly after, the Assistant Secretary for Health and

39. See Chapman & Ball, *supra* note 1, at 11–12.

40. *Id.*

41. See TRUTH & RECONCILIATION COMM'N, *supra* note 3, at 114.

42. Jerry Menikoff, *Could Tuskegee Happen Today?*, 1 ST. LOUIS U. J. HEALTH L. & POL'Y 311, 312 (2008).

43. *Id.*

44. *Id.* at 313.

45. *Id.*

46. *Id.*

47. *Id.* at 314.

48. ALA. COMM., U.S. COMM'N ON CIVIL RIGHTS, THE TUSKEGEE STUDY: A REPORT OF THE ALABAMA COMMITTEE TO THE UNITED STATES COMMISSION ON CIVIL RIGHTS 29 (1973).

Scientific Affairs permanently ended the study.⁴⁹ In the summer of 1973, the Attorney General filed a class action on behalf of the study participants and their family members, resulting in a settlement of over nine million dollars and a range of free services for survivors.⁵⁰

A. Final Report of the Tuskegee Syphilis Study Ad Hoc Advisory Panel

HEW formed the Panel on August 28, 1972, to investigate the circumstances surrounding the Tuskegee Study.⁵¹ Composed of nine members, the Panel included representatives of fields ranging from medicine to law to religion.⁵² The questions investigated in the report include: (1) whether the study was justified in 1932 and whether its continuation was still justified when penicillin became generally available; (2) whether the study should be continued, and if not, how to terminate it in a way consistent with the rights and health needs of its remaining participants; (3) whether existing policies to protect the rights of patients participating in health research that HEW conducted or supported were adequate and effective; and (4) whether the Panel had recommendations for the improvement of existing policies.⁵³

1. Factual Truth

As discussed above, factual truth includes identifying both “what happened to whom, where, when, and how, and who was involved,” and broader patterns underlying human rights violations and the motives for those violations.⁵⁴ The final report of the Panel contains a number of revelations that, at first glance, appear to fit the criteria for factual or forensic truth. However, neglecting the extent of racial animus at play undercuts the fullness and honesty of these facts.

The report begins by placing the Tuskegee Study in historical context, noting that it was one of several studies carried out in the 1930s with the ultimate objective of venereal disease control in the United States.⁵⁵ This attempt to normalize the origins of such an atrocious study does not ultimately meet the criteria for truth because it glosses over the study’s discriminatory roots. The report then cursorily states that an investigation found no evidence that the study participants gave informed consent. It notes that participants were never given information on the risk that syphilis posed to human life and the chance of

49. *About the USPHS Syphilis Study*, NAT’L CTR. FOR BIOETHICS IN RESEARCH & HEALTH CARE, TUSKEGEE UNIV., <http://tuskegeebioethics.org/about-the-usphs-syphilis-study/> [https://perma.cc/V54F-SXZB] (last visited Dec. 5, 2017).

50. *Id.*

51. TUSKEGEE SYPHILIS STUDY, *supra* note 13, at 1. The Panel’s authority was established under the Public Health Service Act and Executive Order 11617. *Id.*

52. *Id.*

53. *Id.* at 2.

54. TRUTH & RECONCILIATION COMM’N, *supra* note 3, at 111.

55. TUSKEGEE SYPHILIS STUDY, *supra* note 13, at 12.

infecting non-participating third parties.⁵⁶ From the absence of any evidence of consent, the report writers infer a pattern of non-consent in the study, in keeping with the broader category of factual or forensic truth.⁵⁷ Based on the lack of free and informed consent in the face of avoidable risk of death or physical harm, the Panel concludes that the study was ethically unjustified even at its start in 1932.⁵⁸ However, rather than expand on the extent of the exploitation and the racism at play, the report moves on to discuss a 1946 update on the study which found that about a quarter of the syphilitic subjects received some form of heavy metal treatment.⁵⁹

Notably, the Panel does not overstate the impact of the heavy metal treatments in this discussion of the 1946 update, observing that the majority of the treatments administered were delivered in doses too small to have any positive impact.⁶⁰ By highlighting the fact that some of the subjects received treatment, however inadequate, the report dispels the common but incorrect belief that treatment was universally withheld. The Panel clarifies that although the study may have included the term “untreated male negro subjects” in its title, the subject pool was actually a mix of both under-treated and untreated participants.⁶¹ This attempt to clarify the variances of abuses and to dispel incorrect beliefs comports with the criteria for factual truth. However, the amount of energy spent explaining this truth of partial treatment for some participants greatly surpasses the Panel’s discussion of lack of consent—a reckless, if not intentionally misleading, choice. Regardless of whether participants were untreated or undertreated, the lack of consent would render either scenario an abuse. To establish a full and comprehensive version of events, the investigation should have focused on developing the factual truth around the absence of consent. Instead, the Panel’s unequal treatment of these different factual truths undermines the comprehensiveness of the truth as a whole.

The Panel is partially successful in establishing factual truth in other areas, but ultimately falls short because of its failure to fully discuss the impact of racism on the study. One such example is the discussion of the lack of scientific validity in the study’s evaluative procedures. The report notes methodological flaws such as the absence of a written protocol and evidence that control subjects who became infected were later transferred to the untreated group.⁶² Exposing these sloppy practices is important because it cuts directly against the study’s

56. *Id.* at 7.

57. TRUTH & RECONCILIATION COMM’N, *supra* note 3, at 111.

58. TUSKEGEE SYPHILIS STUDY, *supra* note 13, at 7.

59. Prior to the introduction of penicillin treatments, treatment with heavy metals was a standard treatment for syphilis. Thomas G. Benedek, *The “Tuskegee Study” of Syphilis: Analysis of Moral Versus Methodologic Aspects*, 31 J. CHRONIC DISEASES 35, 38 (1978).

60. See TUSKEGEE SYPHILIS STUDY, *supra* note 13, at 7.

61. *Id.*

62. *Id.*

proffered scientific justifications. Although significant, this factual truth nevertheless lacks a discussion of structural racism that would render it more comprehensive. The use of subpar scientific practices was not due merely to a lack of scientific rigor. Rather, it indicated a pattern of indifference toward the subjects precisely because of their race and class. The study's failure to highlight the reason for the flawed evaluative procedures cuts against a general finding of factual truth.

Another partially successful factual truth, ultimately undermined by the failure to discuss racism, is in the report's discussion of the denial of penicillin treatments to study participants. The report notes a lack of evidence indicating that study participants were offered the option of leaving the study once penicillin therapy treatments emerged in the late 1940s.⁶³ The Panel also notes that the study's organizers convinced the local army draft board to omit study subjects from their lists of draftees needing treatment.⁶⁴ Taken together, these findings reveal the factual truth that not only did the researchers withhold highly effective penicillin treatments despite growing awareness of the danger of the disease, but they also prevented other parties from informing subjects of their continuing infected status.⁶⁵ This truth establishes that study administrators were engaged in a conspiracy to deny the participants new, highly effective penicillin treatments at all costs. This type of factual truth must be unearthed in order to provide an accurate picture of the nature and extent of human rights abuses. However, as with the other kernels of factual truth established in the report, this finding omits discussion of the racial animus at play and consequently precludes comprehensive factual truth.

In addition to the incomplete truths discussed above, the report omits key details needed for comprehensive truth-telling. It focuses almost exclusively on broad patterns underlying human rights violations and the motives for these violations, without highlighting the circumstances of the individual victims of the study. In so doing, the report attempts to aggregate forty years of ongoing violations into an easily digestible summary. Unlike the SATRC report, which was almost one million words in length, this report is under fifty pages.⁶⁶ It makes almost no inquiry into the factual truth of specific events and persons—for instance, omitting comprehensive descriptions of untreated subjects' suffering.

The report also does not name any study victims.⁶⁷ The writers likely did not feel the need to deal with particular incidents with respect to specific persons because, unlike the circumstances of the SATRC, the violation committed was

63. *Id.* at 9–11.

64. *Id.* at 9–10.

65. *Id.* at 10.

66. See generally TRUTH & RECONCILIATION COMM'N, *supra* note 3; TUSKEGEE SYPHILIS STUDY, *supra* note 13.

67. William J. Curran, *The Tuskegee Syphilis Study*, 289 NEW ENGLAND J. MED. 730, 731 (1973).

uniform: all of the victims experienced the study's failure to inform or adequately treat and the conspiracy of silence. However, the failure to differentiate victims is at odds with the SATRC's approach to the first type of factual truth. The lack of context given for individual victims fails to create a foundation from which inferences can be drawn that would meet the criteria for the second type of factual truth. In addition, denying recognition of individual stories undercuts the societal healing process.

Additionally, the report fails to adequately expose the factual truth surrounding state and federal agencies' role in maintaining the deception central to the study. For example, in 1927, the Alabama legislature passed a venereal disease control law that required the county health officer to compel infected persons to report for treatment.⁶⁸ Similarly, the local Selective Service Board required that draftees infected with syphilis be treated.⁶⁹ Therefore, the USPHS was only able to carry out the study by circumventing such state regulations.⁷⁰ The report fails to use this detail and the complicity of the USPHS to draw crucial factual inferences about the extent of government culpability in harming study participants.

The report also fails to fully address the factual truths surrounding the study victims' lack of consent and the researchers' awareness of their likely death. It fails to highlight that the men participated in the study believing that they were receiving treatment.⁷¹ Participants were told that they were being treated for their "bad blood," when in reality the bulk of the medical procedures merely monitored the progression of the disease until the subject died, at which point hypotheses about the effects of untreated syphilis could be confirmed by their autopsies.⁷² Subjects received ineffective placebos in the guise of treatment, with incentives of hot meals and transportation on examination days.⁷³ This deception continued even as the subjects neared death as researchers made substantial efforts to keep subjects from realizing that they would be autopsied.⁷⁴ When the subjects deteriorated to extreme stages of the illness, the researchers, backed by the Milbank Memorial Fund, offered to cover burial costs.⁷⁵ The Panel's failure to highlight this deception cripples its efforts to provide a full factual account, and the report far from satisfies the SATRC criteria for factual truth.

The report also fails to mention that papers published throughout the study revealed that researchers were fully aware that their inadequate treatment was

68. Benedek, *supra* note 59, at 43.

69. See TUSKEGEE SYPHILIS STUDY, *supra* note 13, at 9.

70. Benedek, *supra* note 59, at 44.

71. Allan M. Brandt, *Racism and Research: The Case of the Tuskegee Syphilis Study*, 8 HASTINGS CTR. REP. 21, 24 (1978).

72. *Id.*

73. *Id.* at 25.

74. *Id.* at 24.

75. *Id.* at 24–25.

linked directly to increased mortality rates in the infected group.⁷⁶ As early as 1936, just four years into the study, the researchers published a report noting that only sixteen percent of the infected group showed no signs of morbidity, compared to sixty-one percent of the control group.⁷⁷ In 1946, a report indifferently noted that “[t]he fact that nearly twice as large a proportion of the syphilitic individuals as of the control group ha[d] died is a very striking one.”⁷⁸ In 1955, an article revealed that, of the test group autopsied, more than thirty percent had died directly from advanced syphilitic lesions.⁷⁹ These papers’ findings reveal that researchers had knowledge from very near the outset that the lack of treatment would have deadly implications for the infected group.

The researchers continued with the experiment, however, confirming their hypothesis, decade after decade, that their patients would die. Moreover, the connection between untreated syphilis and morbidity was not a new scientific discovery. At the study’s inception, almost every major textbook on syphilis suggested treatment for the disease even in its latent stages.⁸⁰ The report’s failure to fully reveal the circumstances surrounding lack of consent, the methods of deception, and the intent of the researchers does not establish a complete picture of the violations committed and vastly underplays the full extent of the victims’ suffering and the perpetrators’ culpability.

The report writers further failed to include the original written protocol documenting the intent and implementation of the Tuskegee Study, claiming that they could not find it.⁸¹ However, in 1978, Allan Brandt, a doctoral candidate in Columbia University’s history department, published a piece noting that he had found these original documents in the National Archives.⁸² Brandt wrote that the documents definitively established that the study participants were told and believed that they would be receiving free treatment from government doctors, and they therefore did not in fact consent to the study.⁸³ Brandt concluded that “[t]he failure of the HEW *Final Report* to expose this critical fact—that the USPHS lied to the subjects—calls into question the thoroughness and credibility of their investigation.”⁸⁴ Without reviewing the original documents describing the study, the Panel could not possibly uncover the study’s full factual truth.

Overall, the Panel was unsuccessful in meeting the SATRC criteria for factual truth. The report makes some findings on historical context, failure to obtain consent, lack of scientific rigor of the study, and decision to withhold

76. *Id.* at 25.

77. *Id.*

78. *Id.*

79. *Id.*

80. *Id.* at 23.

81. TUSKEGEE SYPHILIS STUDY, *supra* note 13, at 6.

82. Jay Katz, *The Regulation of Human Experimentation in the United States: A Personal Odyssey*, ETHICS & HUM. RES., Jan.–Feb. 1987, at 1, 4.

83. Brandt, *supra* note 71, at 27.

84. *Id.*

penicillin treatments, which at first blush appear to meet the criteria for factual truth. However, within these findings the report fails to acknowledge the racial attitudes at play and demonstrates only the second broader type of factual truth, at the expense of the individual stories of the victims. In addition, the report fails to expose the truth in a number of key areas, including government agencies' complicity in the study's continuation, the extent of the subjects' deception, and the researchers' knowledge that the study would have deadly effects on its participants. Finally, the Panel never obtained the written protocol for the study. Without this key piece of evidence, a complete picture of the factual truth was impossible.

2. Narrative Truth

Narrative truth attempts to highlight a broad range of subjective impressions and perceptions of the events. The report contains some elements that seem to meet this definition. For example, the report notes that accounts of the circumstances surrounding the specifics of withholding treatment from patients varied and were subject to controversy.⁸⁵ The Panel concluded that

[s]tatements received from personal interviews conducted by Panel members with participants in this study cannot be considered as conclusive since there are varied opinions concerning what actually happened. In written letters and in open interviews, the panel received reports that treatment was deliberately withheld on the one hand and on the other, we were told that individuals seeking treatment were not denied treatment⁸⁶

This presentation of differing perspectives as equally valid is in line with the narrative criteria for truth that attempts to capture the multi-layered experiences of those who have lived through human rights violations.

In addition, lacking a written protocol documenting the Tuskegee researchers' original intent, the report attempts to infer motives "by direct statement or implication."⁸⁷ It presents six theories of the developers' intent, ranging from creating a study that documented the natural history of the disease to one based on the acceptance of the belief "that there was a benign course of the disease in later stages vis-a-vis the dangers of available therapy."⁸⁸ Putting forth such possible intentions based on the differing perceptions of individuals involved comports with the criteria for narrative truth.

However, contrary to the SATRC's definition of narrative truth, this committee does not capture the widest possible range of people's subjective

85. TUSKEGEE SYPHILIS STUDY, *supra* note 13, at 9.

86. *Id.*

87. *Id.* at 6.

88. *Id.*

truths, including perceptions, stories, myths, and experiences. While it details the under-treatment of participants, noting sporadic, effectively useless heavy metal treatments, the report fails to reveal the subjective truth, held by many to this day, that the Tuskegee doctors paralleled the Nazis in their methods of human experimentation.⁸⁹ Myths, including that doctors actively injected the study participants with syphilis, remain in circulation.⁹⁰ Therefore, while presenting the actual subpar treatment of participants is valuable, there is narrative truth in the persistent misperception that infection or universal non-treatment of the participants took place. This myth represents a continued deep distrust of white authority figures among many Black Americans and indicates persistent feelings among Black communities that their lives are undervalued by white society.⁹¹

The report also fails to recognize the research participants as differentiated victims, some of whom successfully thwarted researchers' manipulation by receiving outside treatment, moving to new areas, or having families who refused their autopsy.⁹² These stories reveal that the suffering of the study victims was not monolithic, and highlighting them would give voice to the range of victims' feelings and experiences. Failure to present this range of subjective experiences is not in line with the criteria for narrative truth.

This report ultimately falls short of the SATRC criteria for narrative truth. While it highlights differing perceptions of the extent to which adequate treatment was withheld and includes subjective hypotheses of the researchers' motives, overall, the report fails to emphasize the continued myths around the study that are emblematic of Black Americans' subjective experiences of racism and exploitation. In addition, by failing to distinguish among victims' differing experiences, the report narrows the range of narrative truths presented. The report thus does not adequately shed light on the subjective truth of those involved consistent with the SATRC concept of narrative truth.

3. *Dialogue Truth*

Dialogue truth is established through human interaction and discussion and has the power to transcend the divisions of the past by carefully considering the complex motives and perspectives of all involved.⁹³ The report offers scant dialogue truth. The Panel acknowledges that it makes its 1973 assessments about a 1932 study "with the advantage of hindsight, acutely sharpened over some forty years concerning an activity in a different age with different social

89. Susan M. Reverby, *More Than Fact and Fiction: Cultural Memory and the Tuskegee Syphilis Study*, 31 HASTINGS CTR. REP. 22, 25 (2001).

90. *Id.* at 23.

91. *Id.* (noting that the belief that the researchers injected study participants with syphilis "is a 'fact' that, while not true, is certainly plausible, and it links historical experience to a pervasive essentializing that continues to characterize racialized beliefs").

92. *Id.* at 24.

93. See Chapman & Ball, *supra* note 1, at 11.

standards.”⁹⁴ Despite this qualification, the report rightly concludes that a person should not be subjected to avoidable risk of death or physical harm absent free and intelligent consent; that this is a fundamental ethical truth that transcends the decades; and that in the case of the Tuskegee Study, researchers violated this fundamental truth.⁹⁵ This acknowledgement of societal progress around normative values, balanced with an identification of a core societal value, aligns with the SATRC’s conception of dialogue truth.

However, this single instance does not elevate the report to the standards for dialogue truth. The report does not engage in substantive discussion of the reality of human interactions at the time of the study. For instance, it does not raise the fact that researchers conducted the study in a region plagued by physical and structural violence against Black Americans. Moreover, the overlapping factor of rural poverty created a power dynamic that directly affected every aspect of the study, from participant selection to the project’s longevity. In the decades following the report, the Tuskegee Study has been a recurring topic of debate in conversations on race relations, medical bioethics, and governmental health studies.⁹⁶ Decades later, our society’s inability to contend with the implications of the study highlights the report’s failure to acknowledge issues that were ripe for conversion into dialogue truth.

4. Restorative Truth

Healing or restorative truth moves beyond merely uncovering facts; it places facts in the context of human relationships to restore the victims’ dignity, repair past damage, and prevent future violations.⁹⁷ A number of the report’s critiques promote restorative truth by laying the groundwork for institutional reform and monetary reparations to victims; however, the report ultimately falls shy of sparking dialogue on racial reconciliation and of meeting the restorative truth criteria.

The Panel is successful in meeting the criteria for restorative truth in concluding that penicillin should have been provided to the participants as soon as it became available, and that not providing this treatment “amplified the injustice to which this group . . . had already been subjected.”⁹⁸ This assessment emphasizes the ease with which subjects could have been cured—an additional deprivation of the subjects’ rights—and is one of the report’s few explicit value judgments in line with the SATRC’s conception of restorative truth. The report also meets the criteria for restorative truth in its extensive critique of HEW’s

94. TUSKEGEE SYPHILIS STUDY, *supra* note 13, at 12.

95. *Id.*

96. *Final Report of the Tuskegee Syphilis Study Ad Hoc Advisory Panel*, in 4 MILESTONE DOCUMENTS IN AFRICAN AMERICAN HISTORY: EXPLORING THE ESSENTIAL PRIMARY SOURCES 1601, 1605 (Paul Finkelman ed., 2010).

97. See TRUTH & RECONCILIATION COMM’N, *supra* note 3, at 110–14.

98. TUSKEGEE SYPHILIS STUDY, *supra* note 13, at 11.

policies for protecting human subjects and in its recommendations to establish continuing review and compensation systems to improve the standards for informed consent.⁹⁹ These recommendations range from establishing a permanent government agency to oversee federally-supported research involving human subjects to ensuring that the training curriculum for HEW investigators highlights professional responsibility.¹⁰⁰ This call for an extensive overhaul of the bureaucracy that allowed for the study's violations both promotes accountability and helps to minimize the possibility of future abuses, aligning with the criteria for restorative truth.

The report also promotes restorative truth in laying a foundation for reparations to the victims of the study. An out-of-court settlement for the class action suit that victims filed against the USPHS was finalized on September 18, 1975.¹⁰¹ The settlement required the United States government to “pay \$37,500 to each surviving participant who initially had syphilis and \$15,000 to each surviving control subject.”¹⁰² The estates of syphilitic subjects who had died received \$16,000, and the estates of control subjects who had died received \$5000.¹⁰³ At the time of the settlement, thirty-six syphilitics and eight controls could not be located, but they were given the opportunity to come forward at a later date with documentation.¹⁰⁴ The truths in the report thus facilitated the government's concerted effort to publicly acknowledge its complicity through a symbolic payment to the study's victims.

Further, within a year of the report's release, Congress passed the National Research Act of 1974, which created the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.¹⁰⁵ This commission issued the Belmont Report, which essentially created the current regulatory system to protect research subjects.¹⁰⁶ The current system requires institutional review boards inside universities and organizations to consider and anticipate a broad range of harms that may befall study participants, “including legal, economic, social, psychological, and ‘other possible kinds’ as yet undefined.”¹⁰⁷ This also comports with the principles of restorative truth.

The report also notes that even though only individuals who gave a history of infection and submitted voluntarily to the examination were included in the subject groups, voluntary submission cannot be considered equivalent to

99. *Id.* at 30–36.

100. *Id.* at 29–46.

101. Benedek, *supra* note 59, at 46.

102. *Id.*

103. *Id.*

104. *Id.*

105. Menikoff, *supra* note 42, at 315.

106. Philip Hamburger, *The New Censorship: Institutional Review Boards* 294–96 (Univ. of Chi. Pub. Law & Legal Theory Working Paper Series, Paper No. 95, 2005); Katz, *supra* note 82, at 6.

107. Hamburger, *supra* note 106, at 295.

consent.¹⁰⁸ This is coupled with the assertion that vulnerable groups, including the poor and racial minorities, may be under psychological, social, or economic duress that may not give them an equal opportunity to withhold consent.¹⁰⁹ Together, these two statements minimize blame that society may attempt to place on the study's victims for failing to realize their exploitation. This conclusion also chips away at any pretense that the study was misguided but well-intentioned. However, these statements ultimately fail to meet the criteria for restorative truth. They are mild critiques of a gross human rights abuse. Conceding that consent was muddy at best or that particular characteristics may make groups more vulnerable to forced participation does not accurately depict the insidious dynamics at play, nor does it affirm the dignity of the victims. These statements minimize the injustice of the fact that a Black, low-income, rural community was selected for the study with the explicit intention of circumventing consent. The study's organizers felt entitled to lie to and manipulate participants precisely because they were low-income and Black.

Establishing restorative truth requires more. It requires a discussion of the dehumanization and devaluation of study participants that stemmed from their being the descendants of slaves. By failing to address the root causes of the violation, the report provides no recognition for the victims and no accountability for the perpetrators. Without these two aspects of truth-telling, communities cannot restore damaged relationships. In this case, acknowledging the victims' exploitation as a vestige of slavery is central to achieving restorative truth and promoting reconciliation.

The Panel also asserts that “[t]he scientific merits of the Tuskegee Study are vastly overshadowed by the violation of basic ethical principles pertaining to human dignity and human life imposed on the experimental subjects.”¹¹⁰ This conclusion acknowledges that any perceived scientific benefits motivating the study cannot outweigh the pain and indignity suffered by the study participants. However, this statement ultimately represents a missed opportunity by the Panel to disavow *any* scientific merits of the study. The emergence of effective penicillin treatments rendered a study on the effects of untreated syphilis entirely unnecessary. There was no larger benefit to humanity at stake—only a morbid curiosity and decades of efforts sunk into a useless study. Had the Panel taken a stand on the complete and utter lack of scientific benefits afforded by this study, the report would have more effectively facilitated societal healing. Instead, the initial study's findings on the natural progression of the disease are still widely cited by the modern biomedical community,¹¹¹ suggesting that the truths put forth in the report were not actually restorative.

108. TUSKEGEE SYPHILIS STUDY, *supra* note 13, at 11.

109. *Id.*

110. *Id.*

111. See Arthur L. Caplan, *When Evil Intrudes*, 22 HASTINGS CTR. REP. 29, 30–31 (1992).

One Panel member's reservation further indicates the report's failure to establish restorative truth. Dr. Jay Katz filed a reservation to the Panel report's findings on whether the study was justified in 1932, primarily on the grounds that the focus for condemning the study should have been the lack of consent rather than the fact that not all of the subjects were treated.¹¹² In the course of his reservation, Katz notes that medical professionals' reaction to the study has largely been to ignore it.¹¹³ Katz chides this attitude, imploring, "When will we take seriously our responsibilities, particularly to the disadvantaged in our midst . . . ?"¹¹⁴ This admonishment gets to the root of institutional complicity in continuing the study for almost four decades. Katz's repudiation reveals that the report does not prioritize the deep socio-political scrutiny needed to fully acknowledge violations in the past and to move toward social cohesion.

The report's final recommendations also ultimately fall short of the standard for restorative truth. These recommendations include terminating the study, immediately informing surviving participants of the nature of their participation, establishing immediate health assessment and treatment for all study participants by a doctor of their choice, and, "at a minimum," maintaining any benefits promised to participants in the past.¹¹⁵ These recommendations are woefully lacking. The report does not recommend an apology, failing to reaffirm the dignity of the victims. Moreover, health care benefits are a wholly insufficient form of reparations in this case. Hundreds of men were crippled or killed by a painful infection, their significant others were exposed, and their children were left to bear the burden and stigma. A notification, decades after the fact, of the availability of medical benefits neither acknowledges the dignity of the victims nor promotes societal healing.

The report did not lead to a wider conversation about the racial attitudes and inequality that allowed for the study in the first place. Ultimately, this truth-telling effort represents another missed opportunity for this nation to face its complicity in perpetuating structural violence against Black Americans. The next section analyzes a grassroots attempt to step in where the government has so far failed to create the space for a comprehensive truth-telling exercise focused on racial reconciliation.

112. TUSKEGEE SYPHILIS STUDY, *supra* note 13, at 14.

113. *Id.* at 15.

114. *Id.*

115. *Id.* at 18–19.

IV.

CASE STUDY 2: TRUTH-TELLING AND THE GREENSBORO TRUTH AND RECONCILIATION COMMISSION

A. Background to the GTRC

November 3, 1979, is a day that will live in infamy for many racial justice advocates. On that date, the Communist Workers Party (CWP), formerly the Workers Viewpoint Organization (WVO), scheduled a “Death to the Klan” march through the low-income, mostly Black-American, neighborhood of Morningside in Greensboro, North Carolina.¹¹⁶ The march was an attempt to galvanize the Black working-class community.¹¹⁷ Shortly before the march was scheduled to begin, a caravan of Ku Klux Klan and Nazi Party members arrived at the scene seeking to provoke a violent skirmish. A verbal confrontation between the two sides escalated to a physical confrontation.¹¹⁸ Two shots were fired from the lead car of the caravan and there was a brief exchange of fire between the Nazi/Klan group and a few armed demonstrators among the mostly unarmed crowd.¹¹⁹ As news cameras were rolling, five protestors were shot dead and ten were wounded.¹²⁰ No members of the Nazi/Klan caravan were hit.¹²¹ Despite being well informed that a confrontation was likely between the Nazi/Klan forces and the CWP demonstrators, the police were not mobilized in the area at the time of the attack and were thus useless in preventing the ensuing violence.¹²²

Following the attack, no disciplinary actions were brought against the officers who failed to prevent the violence.¹²³ In addition, both the state and federal criminal murder trials brought against members of the Klan caravan were conducted before all-white juries who accepted the defendants’ claims of self-defense and issued acquittals across the board.¹²⁴ The only successful litigation brought against responsible parties was a federal civil trial that found two police officers, four Klansmen, and two Nazi Party members liable for the death of the one victim who was not a card-carrying member of the CWP.¹²⁵ The City of Greensboro subsequently settled the case for \$351,000 but refused to accept

116. GREENSBORO FINAL REPORT, *supra* note 11, *Executive Summary*, at 2.

117. *See id.* at 23 (describing the incident as “[a] group of demonstrators aiming to empower laborers in a poor black neighborhood . . . holding a ‘Death to the Klan’ rally”).

118. *See* LISA MAGARRELL & BLAZ GUTIERREZ, INT’L CTR. FOR TRANSITIONAL JUSTICE, LESSONS IN TRUTH-SEEKING: INTERNATIONAL EXPERIENCES INFORMING UNITED STATES INITIATIVES 13 (2006).

119. *Id.*

120. *Id.*

121. *Id.*

122. *Id.*

123. *See* GREENSBORO FINAL REPORT, *supra* note 11, *Executive Summary*, at 19.

124. *Id.* at 15.

125. *Id.*

responsibility for the events.¹²⁶ This chain of events left many in the community feeling that justice had not been served.

As a result, former members of the CWP created a coalition with other community members and founded the Greensboro Truth and Reconciliation Project, which ultimately created the GTRC.¹²⁷ The GTRC was the first truth and reconciliation commission established in the United States and the first commission in the world to be operated solely by community-based organizations.¹²⁸

The GTRC was officially empaneled on June 12, 2004.¹²⁹ It sought to examine “the context, causes, sequence and consequences of the events of November 3, 1979.”¹³⁰ The commission considered a range of sources, including evidence gathered from the three trials, internal records of city and federal law enforcement, newspaper and magazine articles, academic literature, and over two hundred interviews and personal statements.¹³¹ From these sources the GTRC created a 439-page report issued on May 25, 2006.¹³²

1. Factual Truth

The report’s introduction demonstrates an understanding of the factors needed to establish factual truth. Noting that restrictive procedures and biases in the justice system and the media may impede a full uncovering of the truth,¹³³ the commission instead commits to looking more broadly at causes, context, and consequences that may fall outside the purview of legal or media review.¹³⁴ The commission also makes a concerted effort to pursue the second type of factual truth, focused on the “nature, causes, and extent of gross violations of human rights.”¹³⁵ After noting that many Greensboro residents are already familiar with the facts of the events, the commission identifies its greatest value as being able to place factual information “within a historical context and examin[e] these

126. GREENSBORO FINAL REPORT, *supra* note 11, *Executive Summary*, at 16; MAGARRELL & GUTIERREZ, *supra* note 118, at 13.

127. GREENSBORO FINAL REPORT, *supra* note 11, *Executive Summary*, at 3.

128. David Androff, “*To Not Hate*”: *Reconciliation Among Victims of Violence and Participants of the Greensboro Truth and Reconciliation Commission*, 13 CONTEMP. JUST. REV. 269, 269 (2010).

129. GREENSBORO FINAL REPORT, *supra* note 11, *Executive Summary*, at 3.

130. GREENSBORO FINAL REPORT, *supra* note 11, *Introduction*, at 16.

131. GREENSBORO FINAL REPORT, *supra* note 11, *Executive Summary*, at 3.

132. *Id.* at 39.

133. *See* GREENSBORO FINAL REPORT, *supra* note 11, *Introduction*, at 14.

134. *Id.*

135. *See* Chapman & Ball, *supra* note 1, at 10 (quoting Promotion of National Unity and Reconciliation Act 34 of 1995 § 1(4)(a)(ii) (S. Afr.)); *see also* TRUTH & RECONCILIATION COMM’N, *supra* note 3, at 111.

events with a broader view of history to inform the ‘truth.’”¹³⁶ This proposed role is a close restatement of the SATRC description of factual truth.¹³⁷

Factual truth is apparent in the discussion of the emergence of Black liberation activism in Greensboro and its eventual convergence with Marxist groups to form the WVO (later renamed the CWP).¹³⁸ The section places the facts leading to the organization of this group in the wider context of racial disparities in Greensboro, in line with the second category of factual truth. The discussion highlights disparities in education, wages, housing, and public health.¹³⁹ It also provides detail about the groups and activities facilitating the evolution of the Black Power Movement and the growth of Marxist influence on Black activism.¹⁴⁰ The historical background on the rise of multi-cultural, Marxist organizing efforts is extensive, with no apparent gaps in the factual record, providing an account of one piece of the events leading up to November 3, 1979.

The section titled *Labor Unions in North Carolina Textile Mills* also focuses on the second type of factual truth, stating that “the actions and aims of the [WVO] leading up to Nov. 3, 1979, cannot be understood outside the broader history of labor in North Carolina and throughout the southeastern United States.”¹⁴¹ This discussion concludes with findings highlighting local elites’ and law enforcement’s distrust of communist affiliations, competition and in-fighting within labor groups, and the integral role of race and class in shaping the course of events on November 3, 1979.¹⁴² The factual truth presented appears thorough, with discussion ranging from labor organizing in specific local mills to general labor efforts in North Carolina.¹⁴³ This section continues to establish the context surrounding the events of November 3rd.¹⁴⁴ The report also presents factual truth in its discussion of the resurgence of the Klan in North Carolina, placing the Klan involvement in the events of November 3rd into the broader historical context of a surge in Klan activity as a result of civil rights gains in the mid-1950s.¹⁴⁵ The commission notes that by the end of 1965, North Carolina was considered “far and away the most active Klan state in the nation.”¹⁴⁶ The report next discusses a growing pattern of Klan and communist confrontations in the

136. GREENSBORO FINAL REPORT, *supra* note 11, *Introduction*, at 23.

137. TRUTH & RECONCILIATION COMM’N, *supra* note 3, at 111–12.

138. GREENSBORO FINAL REPORT, *supra* note 11, *Chapter 1*, at 39.

139. *Id.*

140. *Id.* at 41–44.

141. GREENSBORO FINAL REPORT, *supra* note 11, *Chapter 2*, at 66.

142. *Id.* at 92.

143. *See, e.g., id.* at 68–71.

144. The report places this chapter under the topic: “What brought us to November 3, 1979?” *See generally id.* at 65–98.

145. GREENSBORO FINAL REPORT, *supra* note 11, *Chapter 3*, at 100.

146. *Id.* at 101.

decade leading up to the violence of November 3rd.¹⁴⁷ The historical context of the Klan in North Carolina falls into the second type of the SATRC's factual truth.

The report also successfully uncovers factual truth in its discussion of the FBI's animosity toward demonstrator Nelson Johnson and other members of the Black Nationalist movement.¹⁴⁸ Relying on documents and testimony from federal law enforcement, the commission concludes that the FBI was more concerned with monitoring members of the Black Nationalist movement than with informing local law enforcement of the likelihood of violence on November 3rd.¹⁴⁹ This conclusion represents the first type of factual truth. Similarly, the report explores the attitude that the Greensboro Police Department (GPD) had toward the protest's organizers. It explains that in the months leading up to November 3, 1979, the GPD grew increasingly concerned about local communist groups.¹⁵⁰ This section draws from the statements and testimony of police officers and FBI agents, enumerating their fears that local communist groups were growing emboldened and increasingly violent.¹⁵¹ This focus on the police perspective reflects narrative truth by incorporating the officers' subjective experience of fear of the communist movement and its figurehead, Johnson; however, the report turns back to factual truth in concluding that this fear was "unjustified," based on the actual threat that the WVO and Johnson represented.¹⁵² The report supports this conclusion by drawing from police statements, establishing that police concerns about the WVO stemmed from activists' "revolutionary" rhetoric rather than any substantiated criminal activity.¹⁵³ This conclusion embodies factual truth because it puts into perspective the actual threat represented by the WVO, dispelling falsehoods and placing ensuing police failures into their proper context.

The report also achieves factual truth when discussing both the WVO's and GPD's plans surrounding the November 3rd demonstration.¹⁵⁴ Drawing from WVO flyers and internal documents, the commissioners conclude that the WVO "advocated for a protest that 'modeled' the concept of 'armed self-defense'."¹⁵⁵ Unearthing these objective facts meets the criteria for the first type of factual or forensic truth as outlined by the SATRC. The commission also unearthed facts about the two key meetings that took place within police headquarters on November 1st to plan for police coverage of the impending march. During the meetings, the police reportedly discussed: warnings that eighty-five in-state

147. *Id.* at 103.

148. GREENSBORO FINAL REPORT, *supra* note 11, *Chapter 4*, at 113–14.

149. *See id.* at 116.

150. GREENSBORO FINAL REPORT, *supra* note 11, *Chapter 5*, at 123.

151. *Id.*

152. *Id.*

153. *Id.*

154. *See generally* GREENSBORO FINAL REPORT, *supra* note 11, *Chapter 6*, at 149.

155. *Id.* at 128.

Klansmen and an unknown number of Nazis and out-of-state Klansmen were planning to disrupt the parade; “unconfirmed rumors” that one of these Klansmen was bringing a machine gun; and the existence of differing accounts as to the location of the parade’s start.¹⁵⁶ Based on this discussion, the officers decided to provide backup units.¹⁵⁷ However, the organizing officers chose to keep these units unobservable during the parade, rather than visible as deterrents, in order to avoid confrontation with the WVO.¹⁵⁸ These facts meet the criteria for the first type of factual truth, answering the who, what, and how questions concerning the event.

The report further unearths factual truth in the discussion of the validity of the administrative report on the violence of November 3rd that the GPD issued to the public.¹⁵⁹ After reviewing extensive information (including previously-unreleased Internal Affairs Division (IAD) interviews, transcripts of testimony by GPD and city officials made during the grand jury trial and civil suit, responses to the civil suit discovery interrogatories and depositions, and other discovery material collected by the plaintiffs), the commission concludes that the GPD’s original disclosures were incomplete and involved “deliberate manipulation and concealment of the facts.”¹⁶⁰ The chapter notes factual discrepancies between the original IAD report and the version of events that the commission pieced together after reviewing all the documents available.¹⁶¹ These discrepancies indicate a pattern of the GPD downplaying the possible Klan threats and attempting to conceal the extent of its responsibility.¹⁶² This discussion includes a list of facts that were omitted from the IAD public report and findings on the City’s false presentation or modification of facts in the reports issued after November 3rd.¹⁶³ The above disclosures represent the crux of factual truth. By fully researching the City’s response to the events in question and undertaking an independent verification of the facts presented by the City, this chapter effectively dispels the half-truths perpetuated by the initial IAD report.

Despite these examples of factual truth there is a tension prevalent throughout the report that weakens, although does not ultimately overcome, the quality of its factual findings. The commissioners explain that their efforts to have the GTRC officially sanctioned by the City of Greensboro failed when the city council voted them down.¹⁶⁴ The report claims that this failure spoke to the independence of their efforts; however, the report also concedes that the lack of

156. GREENSBORO FINAL REPORT, *supra* note 11, *Chapter 8*, at 217.

157. GREENSBORO FINAL REPORT, *supra* note 11, *Chapter 6*, at 154.

158. *Id.*

159. *Id.*

160. *Id.*

161. *Id.*

162. GREENSBORO FINAL REPORT, *supra* note 11, *Chapter 8*, at 212.

163. *Id.* at 222.

164. GREENSBORO FINAL REPORT, *supra* note 11, *Introduction*, at 24.

official support had a chilling effect on participation from those who feared retribution.¹⁶⁵ Undeniably, this lack of official government sanction also affected the breadth of material that the commission was able to access. These challenges are apparent throughout the report and result in gaps in the factual account.

For instance, while the report makes an effort to chart the movements of both the parade and the Klan contingent, the report's authors admit that their "analysis likely is . . . necessarily imperfect . . . given that [they] were missing key pieces of evidence, such as statements from many police personnel who held decision-making roles in 1979 and trial transcripts that are no longer available."¹⁶⁶ The report writers also lacked the unedited radio transcripts of officer chatter on the day in question and the GPD Operational Plan.¹⁶⁷ Without this crucial evidence, the account of the sequence of events cannot be exhaustive. Another indication that the description of the events of November 3rd is not a comprehensive account of the facts is that half of a group of survivors surveyed felt that the GTRC fell short in its attempt to highlight all the actors who bore responsibility for the attack, including federal agencies such as the FBI and Bureau of Alcohol, Tobacco and Firearms (BATF).¹⁶⁸ Similarly, the report purports "to explain to a lay audience what happened in the three sets of trials" following the events of November 3rd,¹⁶⁹ but the quality of this account is impacted by the fact that the commission was unable to obtain transcripts from the state murder trial, which had been destroyed.¹⁷⁰

In addition, the commission admits that lack of access to data controlled by federal authorities made allegations of FBI misconduct "either ambiguous or largely unsupported."¹⁷¹ Despite this lack of access to information, the report writers speculate on the facts. For example, when discussing the jury's verdict in the federal trial, the commission admits that it is unable to answer the question based on available facts, but goes on to "speculate[] that the verdict was a compromise between the two factions on the jury."¹⁷² This speculation falls short of the criteria for factual truth.

Finally, the report makes value judgments throughout that are seemingly steeped in the commission members' own beliefs rather than based on the facts

165. *See id.* (noting that due to fear of repercussions from those in power, City employees did not feel comfortable giving statements to the commission and that "[m]any local individuals, businesses and foundations who regularly fund other non-profit entities in Greensboro were reluctant to support this process").

166. GREENSBORO FINAL REPORT, *supra* note 11, *Chapter 7*, at 189.

167. *Id.*

168. David K. Androff Jr., *Can Civil Society Reclaim Truth? Results from a Community-Based Truth and Reconciliation Commission*, 6 INT'L J. TRANSITIONAL JUST. 296, 312 (2012).

169. GREENSBORO FINAL REPORT, *supra* note 11, *Chapter 10*, at 258.

170. *See id.* at 259.

171. *Id.* at 284–85.

172. *Id.* at 306.

uncovered. The GTRC's mandate ensured that the commissioners shared similar theories of change and concepts of justice.¹⁷³ Although the seven commissioners were selected by a community-wide nomination process and were said to represent diverse viewpoints,¹⁷⁴ in reality, the lack of official sanction and the role that former members of the CWP had in initiating the Greensboro Truth and Reconciliation Project created an environment where certain perspectives were bound to bubble to the surface.¹⁷⁵

For instance, unlike the characterizations of facts about the under-preparation of federal agencies and the malicious intent of the Klan, the report does not judge the WVO's decision to forgo non-violence.¹⁷⁶ This casts some doubt on the commission's overall objectivity. The commission's value judgments are also seen in the finding that the involvement of the CWP in the events of November 3rd "almost entirely obscured the reality of [the CWP's] effort to work for economic and social justice in Greensboro's disempowered communities," both prior to and following the confrontation.¹⁷⁷ Since the GTRC project was initiated by former CWP members, a desire to preserve the record of the group's ideological evolution may not be wholly objective.¹⁷⁸ A subsequent chapter on the resurgence of the Klan prior to the events of November 3rd provides some balance, but there is no corresponding effort to disentangle the ideology of the Klan from the actions of some of its members on November 3rd.¹⁷⁹

Despite these challenges and shortcomings, overall, the report presents an almost overwhelming amount of factual truth. The GTRC delves deeply into the who, what, and where of the events of November 3rd, giving an almost minute-by-minute account of the location of the various actors and the activities in which they were engaged. The report brings to light, for the first time, facts such as the administrative decision that led to police absence at the scene of the shooting.¹⁸⁰ In addition, the report goes beyond the event that the commission was mandated to explore, looking backward to establish the context leading up

173. See GREENSBORO FINAL REPORT, *supra* note 11, *Introduction*, at 15–16 ("The GTRC will consist of seven (7) Commissioners who shall be persons of recognized integrity and principle, with a demonstrated commitment to the values of truth, reconciliation, equity, and justice.").

174. *Selection Process for the Greensboro Truth and Reconciliation Commission*, MISS. TRUTH PROJECT, www.mississippitrueth.org/documents/Greensboro-SELECTION-PROCESS-FINAL.pdf [<https://perma.cc/RF23-LYMA>] (last visited Dec. 5, 2017).

175. See GREENSBORO FINAL REPORT, *supra* note 11, *Introduction*, at 23 (discussing community speculation on the undue influence that former members of the CWP might have on the commission as well as the decision by the city council not to formally sanction the commission).

176. GREENSBORO FINAL REPORT, *supra* note 11, *Chapter 6*, at 128.

177. GREENSBORO FINAL REPORT, *supra* note 11, *Chapter 1*, at 61.

178. See GREENSBORO FINAL REPORT, *supra* note 11, *Executive Summary*, at 3.

179. GREENSBORO FINAL REPORT, *supra* note 11, *Chapter 3*, at 101.

180. David Cunningham, *Truth, Reconciliation, and the Ku Klux Klan*, SOUTHERN CULTURES, Fall 2008, at 68, 79.

to the clash and looking forward to examine community reactions and the ultimate repercussions stemming from the event. This consideration of the broader historical patterns surrounding the day of violence and its aftermath is in line with the second type of factual truth. The report contains admissions throughout that the GTRC lacked full information based on its limited access. Nonetheless, the commission is ultimately successful in establishing a detailed and comprehensive account of the events in question. Indeed, some onlookers to the process felt that operating without official sanction strengthened the quality of truth put forth in the report—for example, allowing the commission to draw the City of Greensboro’s complicity into “mainstream political discourse.”¹⁸¹

The commission judgments that may not be rooted in fact do not undermine the overall quality of the factual truth presented. In any truth-telling effort, commissioners are unable to obtain complete and unadulterated information, and they hold their own biases. However, despite these obstacles, the GTRC is ultimately successful in painting a comprehensive picture of the violence and aftermath of November 3rd. That most local media outlets now report the events more accurately than prior to the release of the report and surveys¹⁸² demonstrates an increased understanding of the events in the wider community.¹⁸³ In addition, when surveyed, survivors of the attack believed that the GTRC report represented the most accurate account to date, for example, noting that “[n]o one . . . had really taken the time to fully and clearly articulate [what happened and why] nearly as well as the final report did.”¹⁸⁴

2. Narrative Truth

The report’s introduction notes the wide range of perspectives that the commission managed to include in its consultations, including those from “former communists, . . . former Klansmen and Nazis, residents of the Morningside neighborhood, police officers, judges, trial attorneys, city officials, journalists and citizens from all parts of the city.”¹⁸⁵ This attempt to engage a spectrum of individuals in order to gain their subjective perspectives on the events is in line with the SATRC criteria for narrative truth. In addition, in its discussion of the relationship between truth and reconciliation, the introduction notes that “when all of the various versions of the truth are told clearly, and carefully considered, we can finally understand the whole truth.”¹⁸⁶ This is

181. Joshua Inwood, *Righting Unrightable Wrongs: Legacies of Racial Violence and the Greensboro Truth and Reconciliation Commission*, 102(6) ANNALS ASS’N AM. GEOGRAPHERS 1450, 1463 (2012).

182. See Jill E. Williams, *Legitimacy and Effectiveness of a Grassroots Truth and Reconciliation Commission*, 72 L. & CONTEMP. POL. 143, 149 (2009).

183. See *id.*; Androff, *supra* note 128, at 280–81.

184. Androff, *supra* note 168, at 308.

185. GREENSBORO FINAL REPORT, *supra* note 11, *Introduction*, at 15.

186. *Id.* at 19–20.

essentially a direct restatement of the South African concept of narrative truth.¹⁸⁷ Further, the introduction notes that throughout the report there is a conscious effort to “shar[e] as many quotes from individuals as possible” in order to allow participants to be heard by others in their community.¹⁸⁸ This reflects the core precept of narrative truth that the subjective experiences of individuals be highlighted.

The report also achieves narrative truth in its discussion of why the police assessed the threat posed by the Klan less harshly than that posed by the WVO. The report draws quotations from members of the police department who expressed great fear of the Black activists promoting armed self-defense, while simultaneously dismissing the threat posed by the Klan.¹⁸⁹ These expressions thus successfully engage a wide range of perspectives to shed light on people’s different experiences of truth and to establish narrative truth. In addition, the report documents the enduring belief in the Black community that the site commander’s decision to send tactical units away from the parade route to an early lunch was evidence of a police conspiracy with the Klan,¹⁹⁰ another example of narrative truth in the form of the subjective perspective of the Black community.

Narrative truth surfaces in the report’s description of the enduring belief that the Black police captain was solely responsible for the decision to have officers take a low-profile approach during the parade.¹⁹¹ Many in the community believed the GPD innocent of wrongdoing because, in their view, no Black American would collude with the Klan to allow an attack on a Black neighborhood.¹⁹² The report explores why this mistaken impression has taken such hold in the public debate. This discussion constitutes narrative truth because it focuses on storytelling and subjective experiences of the event. In addition, chapter nine of the report is dominated by a series of quotations aimed at illustrating the response or lack thereof by the City, former CWP members, white supremacist organizations, and other Greensboro community members and activists in the wake of the November 3rd events.¹⁹³ These quotations illustrate a range of subjective experiences in the aftermath of the violence in line with the criteria for narrative truth. Similarly, the report includes descriptions of the

187. See Chapman & Ball, *supra* note 1, at 11.

188. *Id.* at 23.

189. See GREENSBORO FINAL REPORT, *supra* note 11, *Chapter 7*, at 170 (noting that despite learning there were people and guns amassing at a known Klan member’s house, the police captain left home without his radio to take his son for a haircut instead of staying where he could contact other key officers); *id.* at 194 (arguing that the “police were irresponsible in their deliberate absence” given that they had information that the Klan was coming and noting the strong negative feelings that members of the GPD had toward communists).

190. *Id.* at 200.

191. GREENSBORO FINAL REPORT, *supra* note 11, *Chapter 8*, at 219.

192. *Id.*

193. GREENSBORO FINAL REPORT, *supra* note 11, *Chapter 9*, at 230.

commission's interviews with several former members of the CWP.¹⁹⁴ These members relayed that their decision not to testify in the state murder trial stemmed from their mistrust of the justice system and their belief that other witnesses and videotapes of the event would be sufficient to carry the case.¹⁹⁵ This presentation of the CWP members' reasoning in the face of an impending trial comports with narrative truth's goal of including the subjective experiences of those who lived through the events under scrutiny.

In a related vein, the report includes quotations from both the prosecutor and former members of the CWP, expressing differing views on whether some members of the CWP were intentionally excluded from testifying.¹⁹⁶ These quotations illustrate both the CWP's adversarial response to the justice system, rooted in their belief that the government was involved in the deaths of their loved ones, and the prosecutors' frustrated opinion that the CWP members' uncooperativeness hampered them in their efforts.¹⁹⁷ Presenting these differing subjective experiences of the same events comports with the criteria for narrative truth. In addition, the commission presents narrative truth in its discussion of the trials' impact. The report quotes both survivors and the state prosecutors, illustrating the range of harm perceived from the limited justice meted out.¹⁹⁸ Highlighting the range of feelings in the aftermath of the acquittals likewise contributes to narrative truth.

The report also meets the criteria for narrative truth where it addresses the common themes that emerged from the public and private interviews that the commission conducted, ranging from individual trauma to an increased awareness of race, class, and power dynamics in the community.¹⁹⁹ These common threads are interspersed with quotations from parties representing the spectrum of those involved.²⁰⁰ The commission consciously shares direct quotations, because "[u]nderstanding the range of people impacted and empathizing with some of the different ways the events touched them is an important step toward community reconciliation and healing."²⁰¹ Narrative truth is apparent in this unearthing of diverse stories to provide a multi-layered understanding of the truth. Also, when discussing the community's increased fear following the events of November 3rd, the report delves into the emotions of the Morningside residents, citing their trauma both on the day in question and subsequently during the wave of community backlash and red-baiting—the fanning of hysteria about the influence of the Communist Party.²⁰² This

194. *Id.* at 228–33.

195. GREENSBORO FINAL REPORT, *supra* note 11, Chapter 10, at 264–66.

196. *Id.* at 265–69.

197. *Id.*

198. *Id.* at 310.

199. See GREENSBORO FINAL REPORT, *supra* note 11, Chapter 12, at 340–48, 355.

200. See generally *id.* at 339–68.

201. *Id.* at 366.

202. *Id.* at 341–49.

exploration of the subjective experiences of the community members affected and marginalized by the events aligns with the SATRC conception of narrative truth.

The commission notes challenges to its ability to unearth narrative truth. For example, although the GTRC planned to have small, closed-group sessions with former Nazi and Klan members, their attempts failed.²⁰³ In addition, the lack of official City sanction discouraged some City employees from participating.²⁰⁴ Finally, the GTRC noted the logistical challenges it experienced in engaging low-income community members, including inadequate public transportation and those members' limited availability from working multiple jobs.²⁰⁵ However, despite these challenges, the GTRC still managed to make a strong showing of narrative truth. It took a total of two hundred statements in the course of its investigation.²⁰⁶ These consultations included communists, former Klansmen, former Nazis, residents of the Morningside neighborhood, police officers, judges, trial attorneys, city officials, journalists, and other community members.²⁰⁷ In addition, the commission consciously quoted interviewees. These factors resulted in a report that meets the SATRC criteria for narrative truth.

3. *Dialogue Truth*

The report contains elements of dialogue truth. The introduction comments on the fact that historical issues such as states' rights, white supremacy, labor and civil rights organizing efforts, and geopolitical conflicts directly inform community members' collective memory of the events of November 3rd.²⁰⁸ To this end, the report resolves to identify and address the disparities that make the massacre impossible to separate from broader experiences of living in the segregated south.²⁰⁹ Addressing these patterns of racism and classism reflects the SATRC view that dialogue truth is primarily valuable for its process—forming new norms that help society to heal. In addition, the report promotes dialogue truth by unearthing and addressing questions about the trial still prevalent in the community at the time of the report.²¹⁰ This interactive process, using community questions to arrive at truth, comports with the South African concept of social truth. In addition, the report discusses the feeling held by many in the community, particularly the survivors, that the failure to obtain

203. GREENSBORO FINAL REPORT, *supra* note 11, *Introduction*, at 34.

204. *Id.* at 24.

205. MAGARRELL & GUTIERREZ, *supra* note 118, at 16.

206. GREENSBORO FINAL REPORT, *supra* note 11, *Executive Summary*, at 3.

207. GREENSBORO FINAL REPORT, *supra* note 11, *Introduction*, at 15.

208. *Id.* at 23.

209. *Id.*

210. GREENSBORO FINAL REPORT, *supra* note 11, *Chapter 10*, at 258.

convictions in the first two trials was unjust.²¹¹ This discussion focuses on the truth that emerged as a result of the interactions among the actors in the criminal justice system and the wider community, meeting the criteria for social truth. Additionally, in discussing whether the Klan or members of the WVO could be definitively labeled as aggressors, the commission concludes that “the interpretation of who provoked whom depends not only on one’s physical location but one’s social and political perspective as well.”²¹² This recognition that truth can change based on one’s societal position and experiences comports with the criteria for social truth.

Dialogue truth also emerges in the report chapter focusing on the media’s portrayal of the issues and concerns circulating in the community at the time of the shootings and during the trials.²¹³ Social truth is unearthed through human interaction, discussion, and debate. The commission’s findings on media portrayal are in line with these defining criteria. For instance, the commission concludes that members of the community were left to make sense of the events of November 3rd only through the perspectives of lawyers, government officials, police representatives, and the members of the CWP, Klan, and Nazis.²¹⁴ The commission contrasts these frequently represented viewpoints with the rarely cited viewpoints of the Morningside Homes community residents.²¹⁵ This conclusion illustrates the process through which the community understanding of events was formed and thus reflects the SATRC understanding of social truth. In addition, the commission concludes that the daily newspapers’ treatment of the event failed to highlight the structural factors at play on November 3rd, portraying the violence as an isolated event.²¹⁶ This finding speaks to the limited framework with which community members were presented and therefore helps to explain their enduring perceptions of the events of November 3, 1979.

The commission’s conclusions on conspiracy additionally exhibit social truth. While most of the commission members felt that the evidence indicated that the police were deliberately absent the day of the march, the commission also concedes that “how one perceives the weight of this evidence is likely to differ with one’s own life experiences.”²¹⁷ This recognizes the importance of the process by which people come to truth and acknowledges the range of subjective experiences that funnel into truth. This is in line with the SATRC conception of social truth. In addition, when discussing the fear and silence perpetuated in the wake of the November 3rd events, the report notes that some community members insisted on confidential statements because of ongoing fear of

211. *Id.*

212. *Id.* at 312.

213. GREENSBORO FINAL REPORT, *supra* note 11, Chapter 11, at 324.

214. *Id.* at 326.

215. *Id.*

216. *Id.* at 330.

217. GREENSBORO FINAL REPORT, *supra* note 11, Chapter 10, at 301.

economic or social retaliation for dredging up the past.²¹⁸ Acknowledging this lingering effect of the November 3rd events comports with the SATRC conception of social truth. In addition, when discussing its own experiences with truth-seeking, the commission revealed an ongoing resistance to discussing the November 3rd events. The GTRC noted that its efforts were met with responses ranging from surveillance and intimidation at the institutional level to indifference and fear at the individual level.²¹⁹ These experiences illustrate that unearthing the truth around November 3rd has ripple effects in the community and potentially norm-shifting consequences. This aligns with one of the core precepts of dialogue truth: that the process by which truth is reached is often just as important as the truth itself.

Despite the many examples of dialogue truth in the report, at various instances the commissioners' personal feelings, rather than the community's, inform the commission's findings. For example, language in chapter seven repeatedly assigns blame based on the philosophies on which the two groups rely.²²⁰ While recognizing that much of the public debate portrayed the events as involving two hate groups equally to blame for their violence-inducing rhetoric, the report concludes that the debate is not balanced because "the message of racism and violence promoted by the Klan and Nazis outweighs in effect or intent the WVO/CWP's rhetoric of violent overthrow of capitalism and destruction of the Klan."²²¹ This conclusion begins by highlighting the community understanding of events, but ultimately makes a judgment that is not grounded in this understanding. This arguably contravenes the concept of social truth, since the seven panelists discount the community narrative as false and instead present their own ideas as conclusive findings. While the commissioners are undoubtedly right in their assessment of whose rhetoric was more blameworthy, dialogue truth differs from objective truth. Overriding the community's opinions with personal ones is not in line with social truth. In addition, the value judgments about the rhetoric from both sides are prefaced by statements such as "we believe" or "the GTRC finds."²²² The "we" refers to the seven panelists, as opposed to the broader community, and, as such, the panel does not appear to value the process by which truth was reached in and of itself. Instead, the panel overwrites the community understanding of how events took place with its own opinions.

Except for those moments when the commissioners impose their own perspectives, the report strongly demonstrates dialogue truth. It is steeped in the sociopolitical context of the Greensboro community. It repeatedly addresses questions and perceptions still alive in the community, recognizing that creating

218. See GREENSBORO FINAL REPORT, *supra* note 11, *Executive Summary*, at 24.

219. GREENSBORO FINAL REPORT, *supra* note 11, *Conclusions*, at 312.

220. See GREENSBORO FINAL REPORT, *supra* note 11, *Chapter 7*, at 190–93.

221. *Id.* at 191.

222. *Id.*

truth through social interactions is an ongoing process. Finally, it acknowledges that one's social context informs how one interprets the events of November 3rd.

Since the report's release, several shifts in community sentiment support the argument that the GTRC succeeded in unearthing dialogue truth. Interviews with community members indicate that because of the GTRC report, many people have overcome their past notions of the victims, realizing that they were based on misrepresentations by local media sources.²²³ The report and the process of the GTRC have also opened a space for community members to engage in continued dialogue about the November 3rd events. For instance, several discussion groups have formed in the Greensboro community to read and discuss the final GTRC report.²²⁴ Finally, as historian Timothy Tyson concluded, the report creates a "common place" for the community to confront its past.²²⁵

4. Restorative Truth

The mandate of the Greensboro Truth and Reconciliation Project focuses on restorative truth.²²⁶ The commission claims that the purpose of its investigation is community healing and reconciliation.²²⁷ The focus on moving forward and restoring the victims' dignity permeates the mandate. Not only does the mandate identify the need to acknowledge participant and non-participant feelings of loss, guilt, shame, anger, and fear, but it also aims to promote social and institutional reform to prevent these events' recurrence.²²⁸ The requirement that the commission archive all documents associated with the endeavor in "an institution whose purpose and tradition is in keeping with the objectives and spirit of the Commission mandate" aligns with the objective of restorative truth that factual findings be placed in historical context to prevent the recurrence of abuses.²²⁹ In addition, the report states its intention to issue judgments on wrongdoing, which is in line with restorative truth's commitment to contribute to the reparation of past damage. Even where responsible bodies did not acknowledge their wrongdoing, the commission nonetheless made judgments on individual and institutional accountability.²³⁰ Additionally, while placing the atrocities committed within the historical context of institutional racism and classism, the report notes that this context does not excuse such actions.²³¹ This effort to achieve accountability also maps onto the characteristics of restorative truth.

223. Androff, *supra* note 128, at 281.

224. Cunningham, *supra* note 180, at 83.

225. *Id.* at 79.

226. *See generally* GREENSBORO FINAL REPORT, *supra* note 11, *Introduction*.

227. *Id.* at 16.

228. *Id.*

229. *Id.* at 17.

230. *Id.* at 19–21.

231. *Id.* at 21.

While parsing the timeline of events, chapter seven states the goal of moving beyond an impartial recitation of the facts to establish accountability.²³² The report recognizes that many people contributed to the violence of November 3rd and notes, “[A]lthough our intent is not to place blame, it is important to understand and acknowledge them all.”²³³ The goal of accountability manifests in findings attributing responsibility to a range of actors. This helps to recognize the dignity of the victims and prevent the repetition of the committed abuses. Both Klan members and members of the WVO are blamed.²³⁴ However, the report’s apportionment of blame reveals the writers’ belief in a hierarchy of guilt. The report blames the WVO for its irresponsibility in banging sticks on the cars of the Klan caravan and failing to anticipate the violence, endangering those in the surrounding low-income community of color.²³⁵ However, the report is clear that the WVO’s responsibility for the events does not reach the level of either the Klan members who pulled the trigger or the police officers who failed to intervene.²³⁶ The creation of an accountability structure for all parties, along with the recognition that some actions were markedly worse than others, is crucial to promoting healing and preventing similar events.

Additionally, when discussing the public’s tendency to focus on the role of the WVO rhetoric over the role of the Klan rhetoric in inciting violence, the report puts forth the hope that community members will “look into their own hearts and answer for themselves the source of this fear and apathy.”²³⁷ This call for reflection is also a call for a normative shift to repudiate community silence or acceptance in the face of abuses. This is in line with the criteria for restorative truth. Further pursuing restorative truth, the commission concludes that the city manager deliberately attempted to mislead the public in the course of the IAD investigations.²³⁸ The commission places this factual finding in social context and opines that this and other failures in the City’s response continue to feed community distrust of government agencies.²³⁹ This conclusion not only calls for accountability for past abuses, but also attempts to resolve these abuses’ lasting effects, congruent with the criteria for restorative truth. The commission also posits that the successful civil case resulted in only limited justice and states that even if the injustice cannot be undone, “all of the injuries and deaths are morally condemnable and . . . were wrong even in the terms defined within the complex realm of the law.”²⁴⁰ This conclusion attempts not only to reaffirm the dignity of the victims, but also to hold the perpetrators accountable, and thus

232. GREENSBORO FINAL REPORT, *supra* note 11, *Chapter 7*, at 190.

233. *Id.*

234. *Id.*

235. *Id.*

236. *Id.* at 191.

237. *Id.* at 192.

238. GREENSBORO FINAL REPORT, *supra* note 11, *Chapter 8*, at 214.

239. *See* GREENSBORO FINAL REPORT, *supra* note 11, *Chapter 9*, at 229–30.

240. GREENSBORO FINAL REPORT, *supra* note 11, *Chapter 10*, at 309.

aligns with the criteria for restorative truth. Finally, the GTRC comes to the conclusion that “the city’s decision to pay the judgment for both Klan/Nazis and police officers gives the appearance of support for the Klan and Nazi defendants,” indicating that the “litigation may have been settled, but the moral issues were not.”²⁴¹ This conclusion contextualizes the legal outcome and advocates for a greater valuation of the victims’ pain, consistent with the criteria for restorative truth.

A section of the report that highlights the investigations that the BATF and the FBI conducted into activities of the Klan prior to November 3rd also represents elements of restorative truth.²⁴² The commission concludes that while these agencies were not legally obligated to report impending danger from the Klan, it was nonetheless “unconscionable” that they chose not to provide local law enforcement with this information prior to the march.²⁴³ This judgment attempts to hold federal actors accountable for their role and implies a moral failing. Placing federal inaction within the context of a duty to humanity is in line with the criteria for restorative truth. The commission also takes issue with the FBI’s investigation into the head of the CWP “based on his critique of government rather than criminal behavior.”²⁴⁴ This finding is part of an attempt to highlight a pattern of federal minimization of the threat of the Klan and disproportionate concern with members of the Black liberation movement. This is presented with the aim of preventing similar unjust monitoring of dissidents in the future and therefore comports with the SATRC concept of restorative truth.

The report’s discussion of the City’s response in the aftermath of the event also demonstrates restorative truth. The report concludes that while city officials were successful in preventing further violence following the November 3rd parade, they failed to improve community trust or race relations.²⁴⁵ This judgment goes beyond presenting the facts; it places them in the context of human interactions, comporting with the elements of restorative truth. By making this judgment, the report points out an area where reparation for past damage is still needed. The report concludes with recommendations that “seek to address the direct harm of those who were killed, wounded or psychologically traumatized, as well as what we believe were indirect harms suffered by groups.”²⁴⁶ Valuing the experiences of victims both directly and indirectly affected by the November 3rd events is in line with the SATRC concept of restorative truth. The recommendations call for institutions and individuals to publicly acknowledge their role in the events of November 3rd, for the creation of public reminders of the event, for community forums, for wide-sweeping

241. *Id.*

242. See GREENSBORO FINAL REPORT, *supra* note 11, Chapter 4, at 107.

243. *Id.* at 116.

244. *Id.* at 117.

245. GREENSBORO FINAL REPORT, *supra* note 11, Chapter 9, at 230.

246. GREENSBORO FINAL REPORT, *supra* note 11, Recommendations, at 200.

institutional reforms, for criminal prosecutions or civil suits, and for anti-racism and diversity education.²⁴⁷ All of these recommendations seek to prevent the repetition of similar abuses, aligning with the SATRC conception of restorative truth. The commission states, “[I]t is our sincere hope that we, by analyzing our history and identifying the impediments to reconciliation, have provided guidance for our community to evolve into one where people of all races are equally respected and protected.”²⁴⁸

Throughout the report, the commission endeavors to achieve the SATRC conception of restorative truth, emphasizing healing and progress. Indeed, in its mandate, the commission affirmed the motto of the SATRC: “Without Truth, no Healing; without Forgiveness, no Future.”²⁴⁹ The report assigns blame for the November 3rd events and highlights the lingering pain from the violent clash. In addition, the GTRC’s final recommendations align with the reparative objective of restorative truth. Finally, the report documents an instance of successful individual-level reconciliation during the course of the GTRC public hearings, when the shooter responsible for killing the family member of two participants acknowledged his crime and asked for forgiveness.²⁵⁰ The family members described the interaction: “He [the shooter] talked for about an hour and apologized profusely and cried and said he had regretted what had happened and asked for my forgiveness, begged for my forgiveness.”²⁵¹ Thus, overall the GTRC final report is successful in meeting the criteria for restorative truth established by the SATRC.

Various events in the aftermath of the GTRC report indicate that it unearthed restorative truth. For instance, several community groups are currently attempting to implement some of the GTRC’s final recommendations.²⁵² Furthermore, in June 2009, the City Council of Greensboro narrowly voted to voice the City’s regrets concerning the events of November 3rd. This statement, although not a confession of complicity, was the first official acknowledgment of the violent events’ legacy of pain.²⁵³ Similarly, after reading testimony from the report, former CWP leader Nelson Johnson recanted his long-expressed belief that the prosecutor in the state criminal trial intentionally threw the case to obtain acquittal for the Nazi and Klan members.²⁵⁴ In addition, following the release of the GTRC report, several former Morningside residents requested a meeting with Johnson to discuss the suffering resulting from the CWP’s role in

247. *Id.* at 200–07.

248. GREENSBORO FINAL REPORT, *supra* note 11, *Conclusions*, at 311.

249. GREENSBORO FINAL REPORT, *supra* note 11, *Introduction*, at 16.

250. Androff, *supra* note 128, at 279.

251. *Id.*

252. Williams, *supra* note 182, at 149.

253. Inwood, *supra* note 181, at 1464.

254. Cunningham, *supra* note 180, at 79.

the November 3rd events.²⁵⁵ Thus, overall, the report's uncovering of truth helped move the community toward healing.

It is clear that the GTRC's efforts were more successful in meeting the four criteria for truth than were the efforts of the Tuskegee Panel. The Panel left gaps in its accounts of factual truth, ranging from insufficiently acknowledging the study's underlying racial animus to omitting administrators' conscious deception of study participants. In addition, the Panel failed to engage with a range of perceptions on the study, to address the lingering myths surrounding the abuses, and to adequately address the structural discrimination that made the study possible. Finally, the Panel failed to spark a sustained national conversation about the continued impact of the legacy of American slavery. These shortcomings fed into continued national complacency regarding race and class disparities. Thus, the only documented formal national-level truth-telling effort aimed at addressing atrocities committed against Black Americans failed. This failure created a vacuum in the realm of racial reconciliation.

Grassroots efforts such as the GTRC may be the answer to the government's failure to engage in racial reconciliation at the national level. The GTRC was a locally-grown solution to address the lingering pain from a horrific event. Its grassroots nature made the commission particularly well equipped to comprehensively air the grievances of the community, give voice to a wide range of perspectives including the previously marginalized, and identify solutions to move toward healing and reconciliation. Because the project was not imposed top-down, the commission could tailor its efforts to the needs and culture of the community and empower those directly affected by the events. This model is more effective in reaffirming the dignity of the victims, devising culturally competent practices, and creating a workable strategy for facilitating community reconciliation.

V.

LESSONS LEARNED: DEVISING A MODEL FOR FUTURE U.S. TRUTH-TELLING EFFORTS

The GTRC was more successful in truth-telling than the Tuskegee Panel in part because of its grassroots model. No national-level truth-telling effort aimed at racial reconciliation has succeeded in the United States.²⁵⁶ Such an effort could have perhaps succeeded during Reconstruction, had racial reconciliation not been sacrificed for regional reconciliation.²⁵⁷ However, the country's leaders' failure to foster space for this process established national norms of

255. *Id.* at 83.

256. Arguably, the fifteen-month national dialogue about race launched by President Clinton in June 1997, conducted by the newly-created RAB, was the closest this country has come to a legitimate truth-telling effort; however, it did not result in a sustained conversation on collective complicity or combating the legacy of slavery. Wacks, *supra* note 10, at 196.

257. Banks, *supra* note 7, at 907–08.

silence and forgetting rather than truth-telling and remembering. As a result, the United States has never fully grappled with its history of racial subjugation, and white supremacy continues to shape the country's policies and power structures. As Black Americans have made political and social gains, the nation has grown more comfortable in its collective silence on the atrocities of the past. Indeed, following the election of the nation's first Black president, Barack Obama, many of the country's thought leaders championed the idea that the United States had entered a post-racial society.²⁵⁸ This refusal to ever fully confront the nation's treatment of African slaves and their descendants has grossly impeded national healing. As a result, racial tension still runs high in the country and disparities based on race are structurally perpetuated. The time is long overdue for a frank look at the past, but as atrocities have accumulated over time, it is less clear that a national-level response is viable. National efforts may be needed for legislative solutions, but comparing two of the nation's most distinct truth-telling initiatives demonstrates that unearthing these problems is more effective through grassroots efforts.

At this point in United States history, a comprehensive national-level truth-telling effort is likely infeasible. It would be nearly impossible to engage with centuries of abuse in a meaningful way to unearth a comprehensive picture of the truth. The SATRC limited its findings to thirty-four years and benefited from the momentum created by transitioning from an oppressive regime as well as from global support for its peace-building efforts.²⁵⁹ In contrast, a national effort in the United States would have to engage with over two hundred years of human rights violations without the aid of constitutional transition. The alternative would be for the American government to address *specific* racial atrocities, as they did with the Tuskegee Panel. However, as the gaps in the final report of the Panel indicate, even limiting national truth-telling efforts to a specific violation can still result in a cursory and unsatisfactory treatment.

Comparing the Tuskegee Panel and the GTRC illustrates the drawbacks of attempting to uncover truth through a national-level effort. First, national-level efforts are hampered by their financial accountability to an entire country's constituents. National-level truth-telling efforts must justify the time and resources spent on uncovering the truths of events that may be limited to only one small municipality or even a neighborhood. The Tuskegee Panel spent under a year investigating and writing about violations committed across four decades, issuing a report that was less than fifty pages.²⁶⁰ Such a cursory treatment was likely due, in part, to instructions to maximize taxpayer time and resources. To this end, the report even specified the amount per day that Panel members were to be paid and mandated that their per diem and travel expenses not exceed the

258. See generally, e.g., MICHAEL TESLER & DAVID O. SEARS, OBAMA'S RACE: THE 2008 ELECTION AND THE DREAM OF A POST-RACIAL AMERICA (2010).

259. See TRUTH & RECONCILIATION COMM'N, *supra* note 3, at 19–22, 24–25.

260. TUSKEGEE SYPHILIS STUDY, *supra* note 13, at 1.

Standard Government Travel Regulations.²⁶¹ Moreover, it is likely that the government viewed this investigation as more fiscally justifiable than most, since the USPHS committed the original violation and thus the government was obligated to investigate. However, it would be much harder for the government to justify spending its resources on a time-intensive truth-telling effort specific to abuses committed in one community by groups unaffiliated with the government. Such an expenditure would likely not be politically feasible. For example, in the case of the GTRC, it would be hard to sell constituents outside of the city or state on employing government resources to investigate a single incident that took place three decades ago and resulted in only a handful of fatalities. Local efforts, drawing from a local pool of commissioners, are far more cost-effective than mobilizing the national bureaucracy. In the case of the GTRC, private sources provided the resources almost exclusively.²⁶² Local efforts' findings are likely to gain more widespread acceptance if citizens outside the community do not feel that the investigations were conducted at their expense. In addition, the decreased fiscal pressure allows for local efforts to proceed according to a timeline that best facilitates the truth-telling process, rather than one truncated by cost concerns.

Second, national-level efforts to address specific instances of abuse are hampered by their removal from the community. In the case of the Tuskegee investigation, only one Panel member was based in Alabama, the rest almost exclusively hailing from organizations and universities in the Northeast.²⁶³ This inevitably colored the perception of the report, since virtually none of the Panel members could directly relate to the social dynamics underlying the study. Similarly, the top-down approach of the Panel investigation likely resulted in interviewing techniques lacking in cultural competence. In contrast, the GTRC commissioners were selected by the community, from the community.²⁶⁴ This ensured a high degree of care, since the commissioners were invested in and directly affected by the outcome of the report. One of the lessons learned from formal truth commissions is that "active involvement of the people who were directly affected by the events under investigation, is of course, of special importance."²⁶⁵ Under a grassroots model, affected parties not only launch the process, but also staff the process at the highest level. This is directly in line with recommendations by former commissions. In addition, the grassroots model allows for a more nuanced treatment of the issues and a more accurate perception of social dynamics, since the commissioners are embedded in the community. Being able to relate to participants' experiences directly facilitates

261. *Id.* at 2.

262. See GREENSBORO FINAL REPORT, *supra* note 11, *Executive Summary*, at 42–45 (acknowledging the donors who funded the GTRC's efforts).

263. TUSKEGEE SYPHILIS STUDY, *supra* note 13, at 3.

264. GREENSBORO FINAL REPORT, *supra* note 11, *Executive Summary*, at 3.

265. Joanna R. Quinn & Mark Freeman, *Lesson Learned: Practical Lessons Gleaned from Inside the Truth Commissions of Guatemala and South Africa*, 25 HUM. RTS. Q. 1117, 1146 (2003).

collecting their stories. The local-born GTRC commissioners were undoubtedly better able to empathize and draw out narratives from participants. Relatedly, grassroots truth-telling efforts can tailor traditional transitional justice and reconciliation norms to their particular community context in a manner that makes these efforts more effective. As an example of such local adaptation, at the beginning of each public hearing, the GTRC observed an eighty-eight-second period of silence to symbolize the eighty-eight seconds of gunfire that elapsed on the day of the Greensboro Massacre.²⁶⁶ Similarly, five chairs in the front row of each session of the GTRC were left empty, save a rose on each chair, to symbolize the five victims gunned down during the Greensboro massacre.²⁶⁷

Third, from a purely logistical perspective, having the commission headquartered in the community and selecting local commissioners allowed for better-coordinated efforts. During the SATRC, commissioners found it necessary to divide their efforts into regional offices and field stations to be able to “focus in greater detail on particular events and communities.”²⁶⁸ The grassroots model can even more effectively accomplish this objective: commissioners on the ground can lead efforts focused on specific human rights abuses. A grassroots model also allows greater ownership of the process by those most affected.²⁶⁹ Allowing the victims of atrocities and their descendants to have a direct say in the formation, composition, and actions of the commission not only reaffirms their dignity, but also empowers community members in their continued fights against racism.

In addition, as demonstrated by the GTRC, a grassroots model is an effective vehicle to apply the four criteria for truth established by the SATRC, which together create a comprehensive narrative of past atrocities. The GTRC’s grassroots model made it particularly well-equipped to meet these four areas of truth. Being embedded and invested in the community allowed for a more fact-intensive inquiry. Further, choosing locally born commissioners steeped in the history and culture of the community allowed for a more thorough understanding of the myths, stories, and varied perspectives of the November 3rd events. For instance, the GTRC made a conscious effort to reach out to those community members whose perspectives had been previously excluded from the master narrative of what transpired during the Greensboro Massacre.²⁷⁰ It obtained a wide range of perspectives including those of former Klansmen, former Nazis, residents of the Morningside neighborhood, police officers, judges, trial

266. Sally Avery Bermanzohn, *A Massacre Survivor Reflects on the Greensboro Truth and Reconciliation Commission*, 97 RADICAL HIST. REV. 102, 107 (2007).

267. *Id.*

268. Quinn & Freeman, *supra* note 265, at 1132.

269. Wacks, *supra* note 10, at 210 (“Taking immediate steps to hand the public microphone to victims of racism so that they can tell their stories will ensure that, in the future, the stories told about American racism will include multiple perspectives.”).

270. David Cunningham, Colleen Nugent & Caitlin Slodden, *The Durability of Collective Memory: Reconciling the “Greensboro Massacre”*, 88 SOC. FORCES 1517, 1525 (2010).

attorneys, city officials, and journalists.²⁷¹ Its deep knowledge of the community gave the commission authority to identify both the predominant narrative and its gaps in perspective. Local commissioners were also better able to comprehend and sift through community members' accounts of the roles that class and race played in the events. During the SATRC, it became clear that perhaps the "most important task for framers is the appointment of the commissioners" due to the role commissioners play in determining the success of the truth-telling effort.²⁷² Similarly, the ability of local commissioners to better engage with the history and people can directly impact the success in unearthing narrative and dialogue truth. Finally, the grassroots nature of the commission made it more effective at identifying truths that would promote healing and incorporating these truths in recommendations specific to the needs of the community.

Moreover, the grassroots model that the GTRC used is uniquely appropriate where, unlike in the case of the SATRC, the perpetrators of the human rights violations remain in power. When the perpetrators of violations are still in power, their participation in the truth-telling process can call into question the independence of the endeavor.²⁷³ The GTRC acknowledged this conflict—for instance, one of its informational pamphlets asked the public to consider: "From whom do we seek legitimacy—The grassroots or the establishment? The tendency of popular culture is to seek legitimacy from those in power. This will tend to nullify the process of seeking the truth."²⁷⁴ Instead of relying on the traditional legitimacy of state backing, the GTRC model engaged in concerted community-level engagement that resulted in buy-in from the parties most affected by the lingering trauma of the November 3rd events. For instance, the GTRC engaged in extensive efforts to establish grassroots support, including a door-to-door campaign to both spread awareness of the commission's efforts and create a mechanism for feedback.²⁷⁵ The GTRC also used various media tactics to increase public engagement. It operated a website and an electronic newsletter, and in the lead-up to the public hearings, it conducted a public access television program titled "TRC talk."²⁷⁶ Following the report's release, the GTRC held numerous town meetings to circulate copies and foster further conversation.²⁷⁷ These efforts helped the grassroots truth process to establish legitimacy and community buy-in, and they serve as an example for future U.S. grassroots efforts.

There is also precedent for a grassroots approach found in the transitional justice context. The most well-known localized post-conflict justice effort is the

271. GREENSBORO FINAL REPORT, *supra* note 11, *Introduction*, at 15.

272. Quinn & Freeman, *supra* note 265, at 1128.

273. See Bickford, *supra* note 2, at 995.

274. Joshua Inwood, *The Politics of Being Sorry: The Greensboro Truth Process and Efforts at Restorative Justice*, 13 SOC. & CULTURAL GEOGRAPHY 607, 619 (2012).

275. Androff, *supra* note 168, at 296, 306.

276. *Id.*

277. *Id.*

Gacaca courts in Rwanda following the country's 1994 genocide. The genocide had such sweeping effects and massive casualties that the national courts would have been completely overwhelmed by taking on prosecutions.²⁷⁸ Instead, the government established the Gacaca courts, inspired by "traditional dispute resolution mechanisms."²⁷⁹ Although the effectiveness and impartiality of these courts has been questioned, and although they arose in a very different context, this decentralized, local model of achieving justice may offer some administrative lessons.²⁸⁰

The United States has seen a recent spike in the grassroots truth-telling model. Activists recognizing that witnesses and perpetrators of civil rights-era crimes are rapidly aging and desiring "a more complete community response to racist acts, for truth, and ultimately reconciliation" have increasingly undertaken unofficial, grassroots truth-telling efforts in the American South.²⁸¹ Currently, over two dozen community reconciliation initiatives operate in the southern United States alone.²⁸² Among the many examples are: the Wilmington Race Riot Commission, which investigated and created a comprehensive report on a horrific instance of white mob violence against Black victims;²⁸³ Moore's Ford Committee, established to promote "cultural healing, racial harmony, and social justice";²⁸⁴ and the Mississippi Truth Project, which has hosted community conversations across the state on historical and contemporary racially-motivated crimes.²⁸⁵ In addition, at least two major regional networks bring together organizations working toward racial reconciliation in the South: Southern Truth and Reconciliation and the Alliance for Truth and Racial Reconciliation.²⁸⁶ The former aims to apply the truth and reconciliation process to lynching cases and the latter engages in educational and reconciliation programming.²⁸⁷ These efforts, most formed within the last decade, illustrate that operating at the grassroots level is a workable model in the racial reconciliation context. Though they do not always come in the form of truth commissions like the one in

278. See Patricia Lundy & Mark McGovern, *Whose Justice? Rethinking Transitional Justice from the Bottom up*, 35 J.L. & SOC'Y 265, 272 (2008).

279. *Id.*

280. *Id.* at 272–73.

281. Cunningham, *supra* note 180, at 84.

282. James T. Campbell, *AHR Forum: Settling Accounts? An Americanist Perspective on Historical Reconciliation*, 114 AM. HIST. REV. 963, 970 (2009).

283. Cunningham, *supra* note 180, at 85.

284. Campbell, *supra* note 282, at 970.

285. Christopher Lamont, *Justice and Transition in Mississippi: Opening the Books on the American South*, 30 POLITICS 183, 187–88 (2010); *What is the Mississippi Truth Project?*, MISS. TRUTH PROJECT, <http://www.mississippitruth.org> [<https://perma.cc/HU7F-JNFE>] (last visited Oct. 13, 2017).

286. *What is STAR?*, SOUTHERN TRUTH & RECONCILIATION, www.southerntruth.net [<https://perma.cc/DFR6-NYG5>] (last visited Dec. 5, 2017); ALLIANCE FOR TRUTH & RACIAL RECONCILIATION, www.atrr.org [<https://perma.cc/7AXC-6HL6>] (last visited Dec. 5, 2017).

287. Campbell, *supra* note 282, 970.

Greensboro, they share the goal of creating a community-specific response to past human rights violations.

Grassroots efforts to engage with racial truth have also taken the form of investigations into institutional complicity in the slave trade. For example, several cities, including Chicago, Philadelphia, and Los Angeles, have passed ordinances requiring that any corporation receiving municipal business disclose historical links to slavery.²⁸⁸ A number of nonprofit organizations founded to address past incidents of racial violence have also facilitated grassroots truth-telling. For example, the Anthony P. Crawford Remembered Memorial Committee was created in Abbeville, South Carolina, by the descendant of a Black-American lynching victim.²⁸⁹ The founder stated:

I knew I wanted to go back to Abbeville and find what was left of his property and legacy and there was not much, so I started the foundation. I found there were eleven other lynching victims who had never come forward. Part of the foundation's work is to help people talk about the pain.²⁹⁰

This goal of allowing victims to talk through their pain explicitly promotes grassroots truth-telling efforts. Similarly, in August 1997, a group of Georgians formed the Moore's Ford Memorial Committee to commemorate the 1946 brutal murder of two Black-American couples in Moore's Ford, Georgia.²⁹¹ The couples were shot in broad daylight, hundreds of times by twelve to fifteen unmasked white men.²⁹² The committee has since attained nonprofit status, raised funds for a memorial, created a scholarship fund, and held several commemorative events at the site of the grisly murders.²⁹³

Finally, universities have facilitated similar efforts. For example, in 2004, Birmingham Southern College hosted a symposium called "The Gathering: Civil Rights Justice Remembered." This event brought together journalists, attorneys, members of law enforcement, politicians, students, and family members of victims of the Birmingham bombings to talk about civil rights-era trials across the South. Participants noted that the conference "help[ed] to create closure and . . . serv[ed] a healing function," characteristics that mark successful grassroots reconciliation efforts.²⁹⁴ Similarly, in 2001, three Yale doctoral candidates launched a project to investigate the university's use of slave trade money and its decisions to honor slave traders and defenders of slavery in the naming of its

288. Margaret Urban Walker, *Restorative Justice and Reparations*, 37 J. SOC. PHIL. 377, 390 (2006).

289. MAGARRELL & GUTIERREZ, *supra* note 118, at 21.

290. *Id.*

291. *Id.* at 22.

292. *Id.*

293. *Id.*

294. S. Willoughby Anderson, *The Past on Trial: Birmingham, the Bombing, and Restorative Justice*, 96 CALIF. L. REV. 471, 502 (2008).

colleges.²⁹⁵ Finally, the first Black-American president of Brown University created a steering committee composed of faculty, students, and administrators to report on the university's "historical entanglement with slavery and the slave trade" and to "reflect on the meaning of this history in the present."²⁹⁶ The final report, titled "Slavery and Justice," was presented to the public in February 2007 and aimed to contribute to the debate around reparations for the descendants of slaves.²⁹⁷

Viewed separately, these efforts appear to be a somewhat fragmented attempt to reveal the nation's history of racial violence. However, taken together, they illustrate a trend of communities identifying and addressing a need for dialogue around racism. These local efforts are filling the void left by an absent national-level effort to spark sustained conversation about the legacy of slavery. In the face of national apathy and partisan gridlock, grassroots efforts are the best approach to explore this nation's history of perpetuating atrocities against Black Americans and to promote healing. As demonstrated above, these efforts can take many forms, but all efforts can draw guidance from the GTRC model. The GTRC's clear mandate, culturally-competent practices, emphasis on inclusion, and rigorous investigation practices hold lessons for all grassroots truth-telling efforts. As we move continually further from legally-sanctioned slavery and Jim Crow segregation laws, a nationally-instituted truth-telling effort appears increasingly unlikely. However, locally-led efforts may represent a viable and more effective alternative, as demonstrated by the GTRC's relative success. If such efforts expand and multiply, this country may eventually reach a tipping point where the master narrative of historic abuses against Black Americans includes the recognition of collective complicity and ongoing inequality. This shared understanding can, in turn, feed into a national dismantling of this country's foundation of white supremacy and the modern manifestations of racism.

295. Campbell, *supra* note 282, at 975 n.22.

296. LISA MAGARRELL, INT'L CTR. FOR TRANSITIONAL JUSTICE, A SAMPLING OF TRUTH-SEEKING PROJECTS IN THE UNITED STATES, <http://www.mississippitrueth.org/documents/sampling.pdf> [<https://perma.cc/892K-AF5Q>] (last visited Oct. 14, 2017).

297. *Id.*