

## Truth and Reconciliation Commissions

### Report to the House General, Housing and Military Affairs Committee Rep. Tommy Walz

The idea of establishing a truth and reconciliation commission has come up in our discussions on JRH. 7. This report is a brief exploration of what such a commission is, how they have been used, and if such a commission would be appropriate in our case of dealing with the Eugenics Movement in Vermont's past.

The typical truth and reconciliation commission has five traits.

- It is focused on the past rather than ongoing events
- It investigates a pattern of events that took place over a period of time
- It engages directly and broadly with the affected population, gathering information on their experiences
- It is a temporary body with the aim of concluding with a final report
- It is officially authorized or empowered by the state under review.

These commissions tend to restorative justice rather than retributive. That means they try to reconcile divided societies or to reconcile societies with their own troubled past instead of holding perpetrators accountable for their misdeeds. The Nürnberg Trials after World War II, for example, depended on retributive justice and would not fall under the rubric of truth and reconciliation commissions. On the other hand, the South African Truth and Reconciliation Commission of the 1990s leaned toward the restorative side and even had the power to grant amnesty to perpetrators of violent acts under the apartheid system.

Germany under the Nazi regime and South Africa under apartheid are arguably extreme examples of social ills deserving special treatment, but many other jurisdictions have found sufficient cause for enacting truth and reconciliation commissions. They tend to be clustered in Latin America and Africa. Europe and Asia have not been immune. Neither has North America.

A number of them deal with the treatment of indigenous people.

The Sami people in Sweden have brought a number of complaints against the state. Among them: forced sterilization of Sami women, forcing Sami to change to "Swedish" names, and the government's refusal to officially recognize Sami who were not engaged in reindeer herding. The latter has the effect of reducing their (official) numbers and keeping their political influence weak. There is a movement in Sweden to use a truth and reconciliation commission to address these issues.

There are two nearby examples of commissions being set up to deal with the past treatment of indigenous people. As with the case in Sweden, they both also make clear societal outrages were not limited to the 1920s and 30s.

The Maine Wabanaki-State Truth Commission was established in 2012 and issued its final report in 2015. They specifically looked at what had happened to Wabanaki children and families since the passage of the 1978 Indian Child Welfare Act. Hundreds of Wabanaki children had been forcibly removed from their families, put in special schools, and placed with non-indigenous families. One commission objective was to give a “voice to Wabanaki people who have had experiences with the Maine state child welfare system.” Another was to “promote individual, relational, systemic and cultural reconciliation.”

We have an even more egregious example in Canada that echoes much of what we have heard in testimony on JRH.7.

Between 1928 and 1972, the Province of Alberta sterilized nearly 3,000 people, mainly on the basis of their IQ. Throughout Canada, indigenous women were being sterilized without informed consent as late as 2017. The “Sixties Scoop” refers to the practice of forced removal of indigenous children from their birth parents and adoption by non-indigenous families. In 2006 indigenous groups brought a suit that led to the enactment of a truth and reconciliation commission.

It is not clear what lasting effect the commissions have had. They did help bring an end to many of the practices that led to their formation, and that has to be considered a good result. They called official attention to those practices and aired them in public. To quote from the final report of the Maine Wabanaki-State Truth and Reconciliation Commission:

We have heard the voices of the many who spoke with us and to remain quiet is to continue to perpetrate harms that must be known. Consider this report as a step toward refusing that silence and continuing the conversation, that will, we hope, like all the best communication, offer ample time for everyone to simply listen.

I could not determine if the aggrieved parties now feel reconciled.

Rep. Anne Donahue’s research reveals that at least 27 US states enacted legislation rooted in the Eugenics Movement. Those laws targeted various populations based on specific characteristics, including race, national origin, gender, poverty, sexual preference, mental health status, and disabilities (including intellectual). A common thread runs through them: sterilization without fully informed consent. A number of those states have issued official apologies, and a few have gone beyond declarations of regret.

The past cannot be undone. However, the truth about the past and the impact on certain populations needs to be acknowledged. It needs to be done because these people deserve acknowledgement and expressions of regret for the wrongs done to them; it needs to be done because we as a society do not want to repeat those past mistakes. In Germany, those who have worked to keep memories of the Holocaust alive have a simple expression: *Nie wieder*. Never again.