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Testimony re. H. 649 - An act relating to the Vermont Truth and Reconciliation Commission

The United Nations defines a [truth commission](#) as, “a body established to investigate human rights violations committed by military, government, or other armed forces under the previous regime or during a civil war.” The International Justice Resource Center states that [truth and reconciliation commissions](#), “serve to answer the many unanswered questions generated by enforced disappearances, extrajudicial executions and other crimes committed in times of State unresponsiveness and secrecy, that leave relatives wondering what happened to the victims and where they might be.” Some of the most well known TRCs are the National Commission on the Disappeared which was created in Argentina in 1983 and the Truth and Reconciliation Commission of South Africa which was created in 1995.

There is also a specific category of TRCs which investigate the past harms of standing settler-colonial governments against the Indigenous people whose land they now occupy. Examples include the Truth and Reconciliation Commission of Canada which created a public record of the history of human rights abuses in residential schools for Aboriginal people or the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission which investigated cases of children who were taken from their families and placed with non-Indigenous families after the passage of the Indian Child Welfare Act in 1978 until the time of its final report in 2015.

In this context, I was hopeful when I learned about the creation of Vermont’s own Truth and Reconciliation Commission (VTRC). My initial understanding of it was as the next logical step following the state’s apology for eugenics. And perhaps, it might also take on the injustices which Indigenous people have faced in Vermont such as their original displacement around the time of the state’s founding, or their exclusion from the 2011/2012 state recognition process which allowed communities of non-Indigenous Vermonters to recognize themselves as “Abenaki Tribes” through the exclusion of Indigenous voices including the Abenaki who are based in Quebec with significant communities in New York State and Connecticut.

However, as I have followed the meetings of the VTRC, I have seen an investigation which is plagued by methodological failures which I believe stem from a lack of clarity around its mission.

I will just share a few quick examples: First, the vast majority of the emblematic cases they have reported on have been stories which were researched and previously broken by media outlets — in other words, the commission is not bringing to light new truths for our community. For instance, in the most recent emblematic case meeting, the commission reported on a story investigated by Dan D'Ambrosio of the Burlington Free Press which investigated the federal report that there was an Indigenous Boarding school in Vermont. What the Free Press found was that two Potawatomi students were attending medical school at Castleton Academy. Nonetheless, the VTRC introduced this story in the context of residential schools (all the while quoting directly from the article without quotation marks, which made it look as if they were presenting original research). Beyond this being a misinterpretation of this history, I will also briefly add that members of the Abenaki First Nation from Odanak as well a member of another federally recognized tribe living in Vermont were deeply offended by having this story of medical education equated with the residential schools which their own parents survived.

In the same recent meeting, the commission did present original research, but again misinterpreted the facts. They showed cards from a survey conducted by the Vermont Commission on Country Life which collected information on civic participation for people living in Lincoln and Charlotte based on different markers of identity. The VTRC used the fact that some cards listed 1/8 or 1/4 "Indian" in the spot for nationality to mean that the researchers were focused on this trait as a potential marker for an attribute that might correlate with poor citizenship. However, you can see from their report (below) that this was not a category the researchers were sufficiently interested in to include it in their report. (And as an aside, I just want to mention that the most well documented Abenaki family in the 20th century in Vermont is the Obomsawins who lived on Thompson's Point in Charlotte and were citizens of Odanak).

VOTING AND OFFICE-HOLDING BY GROUPS

Group	No. of persons	Percentage voting	Percentage of available time in public office
Male	730	64.0	8.29
Female	638	50.9	1.15
Married	1,123	59.2	8.23
Unmarried	244	57.3	1.12
21-30 Years of Age	259	40.4	0.17
31-45 Years of Age	443	57.3	2.90
46 Years of Age or More	663	63.5	8.14
With Children	962	59.2	9.69
Without Children	403	55.1	4.11
Natural Born Citizens	1,281	58.4	6.84
Foreign Born Citizens	47	46.3	0.00
0-2 Brothers and Sisters	544	63.8	8.54
3 or More Brothers and Sisters	809	54.8	6.19
Pure English or Irish Stock	556	60.0	12.34
Other Stocks	804	54.4	3.58
0-8 Grade Education	927	55.3	5.16
More than 8 Grade Education	438	63.4	10.73
Protestant	912	62.5	8.38
Catholic	331	48.1	0.97
No Religion	118	46.7	7.65
Farmer	408	68.9	8.53
Housewife	524	51.8	0.05
Laborer	163	49.1	2.30
Other Occupations	273	58.3	10.26
Individual Wealth Above Average	452	66.9	11.18
Individual Wealth Below Average	910	52.8	2.82
Individual Taxes Above Average	493	68.2	11.08
Individual Taxes Below Average	865	51.4	2.37
Individual Income Above Average	611	61.5	8.69
Individual Income Below Average	749	54.8	4.66

(*Rural Vermont: a program for the future.* (1931). Vermont Commission on Country Life. Page 331)

The other examples of eugenic discrimination that the VTRC has focused on in their emblematic cases came from *Vermont for Vermonters* by Mercedes de Guardiola and focused on the cases of two individuals who were at times identified as multi-racial, one of whom was sterilized in 1926, before Vermont's 1931 eugenical sterilization law was passed, and one, in 1978, which took place much later than the majority of eugenical sterilizations.

If we go back to the original reasons that this commission was created, one of the most significant injustices it was tasked to investigate was discriminatory, and possibly genocidal harms, of the eugenics movement. If that was the goal, one of the logical first steps would be to look directly at the sterilization certificates which were filed as part of the requirements of the 1931 sterilization law. This is exactly what my colleague Richard Witting has done as part of the completion of his masters degree in history at the University of Vermont under the supervision of Dr. Dona Brown, who also oversaw the work of Nancy Gallagher and Mercedes de Guardiola, two of the most prominent scholars of eugenics in the state. Richard and I are now working together on a project that explores the lives of individuals who were sterilized under the 1931 law and working to understand

what factors led to their sterilizations. Some of our biggest takeaways are that people who were living in poverty and people who were institutionalized, typically based on a diagnosis of disability, are by far the most likely to have been sterilized — the vast majority of people that we have researched were white and we found no overrepresentation by any specific ethnicity. We have also found that women were more likely than men to be sterilized, despite the fact that these procedures were much more dangerous for women — and in fact we know of at least two cases of women who died as a result of complications from their procedures. This is the kind of rigorous research I was expecting the VTRC to conduct and report on. The conclusions we were able to draw from our analysis of the available evidence of sterilizations, to me, illustrate a bias in the cases that are being reported by the VTRC.

I think these lapses in methodology can in part be attributed to the fact that there is only one researcher employed by the commission that is essentially responsible for evaluating all of Vermont's history. Other historic TRCs have had a much more specific scope and yet still employ hundreds of researchers.

This brings me to my specific recommendations for bill H.649 to amend Act 128:

1. **Amend the mandate of the commission:** As it stands, the mandate includes all of Vermont history and contemporary issues, but only concerning specific identity groups (Act 128 § 902 (b)(1)). I believe the commission needs to narrow its focus to significant human rights violations and crimes committed by the state and other non-state actors, including, specifically, harms caused by state laws and state institutions during the Eugenics Era and the 2011/2012 state recognition process.

I want to emphasize that there have been significant irregularities in the recognition process which have been reported in [the media](#) and in [scholarly work](#). If it were in fact the case, as I now believe, that non-Indigenous Vermonters were able to recognize themselves as "Abenaki Tribes," without sufficient state oversight, that would be a significant violation of the sovereignty of the Abenaki First Nation perpetrated by the state of Vermont and therefore a breach of the UN Declaration of the Rights of Indigenous Peoples, Article 33. I recommend that an investigation of this process be officially included in the mandate for the VTRC.

Additionally, I believe the identity categories should be removed (Act 128 § 902 (b)(1)) because, as I have illustrated, they encourage the commission to overlook significant populations of people who may have been harmed for no other reason than their experience of poverty. It would be better to simply state that any community or person who was harmed or whose rights were violated deserves reconciliation.

2. **Remove residency requirement:** Not everyone, or every descendant of someone, who has been harmed by these human rights violations and crimes still lives in Vermont. The VTRC explained in a meeting that Vermont residency is a required criterion for inclusion in their truth telling process (although, I was not able to find this language in Act 128). This policy explicitly excludes Indigenous communities which were historically pushed to settle outside of the state's borders, as well as transient people for whom residency was not granted.
3. **Require evidence used in the final report to be publicly available (H.649 § 909 (d)(1)):** While testimony in some sensitive cases must be kept confidential, the parts of the testimony that are used for preparing the final report need to be publicly available, as a minimum in an anonymized form, to ensure public accountability to the commission's conclusions.