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Re-Imagining Truth and Redress:

Racial Injustice Against African Americans in the United States and the
Current Push for Transitional Justice

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Abstract

Transitional justice mechanisms such as criminal prosecutions, institutional reforms, truth commissions, and reparations influence the history and collective memories shared by communities. The aim of this paper is to examine the ongoing push to incorporate transitional justice in the US' repertoire for justice and redress and how the history of racial injustice and transitional justice within the US can explain this push as well as the need to establish federal transitional justice mechanisms as proposed by H.Con.Res.19 and HR 40; these congressional resolutions propose the establishment of a federal truth commission for racial injustice and a federal reparations program for African Americans respectively. By not reconciling human rights abuses against African Americans, the differing histories between communities within the US and the national Movement for Black Lives have set the scene for a national dialogue about the past, how we remember it, and how we should proceed.

List of Abbreviations

American Nazi Party	ANP
Black Lives Matter	BLM
Canada Truth and Reconciliation Commission	CTRC
Communist Workers' Party	CWP
Greensboro Truth and Community Reconciliation Project	GTCRP
Greensboro Truth and Reconciliation Commission	GTRC
International Center for Transitional Justice	ICTJ
Iowa City Ad Hoc Truth and Reconciliation Commission	ICTRC
Liberian Truth and Reconciliation Commission Diaspora Project	LTRC
Maine Wabanaki-State Child Welfare Truth & Reconciliation Commission	MWTRC
Maryland Lynching Truth and Reconciliation Commission	MLTRC
Metropolitan Detroit Truth and Reconciliation Commission	MDTRC
Movement for Black Lives	M4BL
National African American Reparations Commission	NAARC
National Coalition of Blacks for Reparations in America	N'COBRA
Peoples' Truth and Reconciliation Commission	PTRC
South African Truth and Reconciliation Commission	SATRC
Truth and Reconciliation Commission	TRC
Truth Telling Project	TTP
United States of America	US
Workers' Viewpoint Organization	WVO

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Finally, I would be remiss to not acknowledge those too often forgotten, the victims of the abuses detailed within this research. May we remember that they loved and lived. That they were and should still be.

“All History is current; all injustice continues on some level, somewhere in the world.”

- Alice Walker

Table of Contents

Introduction	6
Chapter 1: Transitional Justice, Collective Memory and Civil Society	8
Overview of Transitional Justice Mechanisms and their US Applications	8
Transitional Justice and Collective Memory Making	14
Transitional Justice and Civil Society	15
Conclusion	16
Chapter 2: A History of US Racial Injustice 1619 – Present	17
Slavery and the Failure of Reconstruction	17
Public Torture and Racial Terror Lynchings	21
Jim Crow and Civil Rights Institutional Reforms	23
Contemporary Racial Injustice and Systemic Police Violence	25
Conclusion	28
Chapter 3: The Beginnings of US Transitional Justice	29
The Greensboro Truth and Reconciliation Commission	29
Racial Injustice in North Carolina and the Greensboro Massacre	29
Fitting Greensboro into Transitional Justice	32
The Metropolitan-Detroit Truth and Reconciliation Commission	37
Other Truth and Reconciliation Efforts in the US	39
The Reparations Movement	40
Conclusion	42
Chapter 4: The Push for Transitional Justice in the Movement for Black Lives	43
The Movement for Black Lives: from #BlackLivesMatter to international protest and organization	43
The Push for Transitional Justice in light of the Movement for Black Lives	46
National Transitional Justice Mechanisms	52
Conclusion	54
Conclusion	55
References	57

Introduction

Since 2014, the Movement for Black Lives (M4BL) in the US has sparked a national dialogue about the US' past and present human rights abuses against African Americans. Subsequently, there has been national dialogue on how the US has reached this point, the failure of truth-telling and redress, and the need for it now. The question of the US's inability to reconcile and remember its past has been asked (Valls, 2003). However, there has not been such large-scale support for these processes as there are during the M4BL (Valls, 2003; Ifill, 2002; Osborne & Cooke, 2020). Given the novelty of these protests and national conversation, it is time to reopen this discussion and examine the historical causes and precedent of the current push toward transitional justice, mainly truth commissions and reparations.

When examining the history of racial injustice and transitional justice, secondary sources will take a multidisciplinary approach focusing on the fields of transitional justice, history, political science, and African American studies. In order to analyze and discuss the current state of transitional justice and truth commissions, primary sources of the mandates, legislation, and executive orders will be used. The first chapter outlines theoretical aspects of transitional justice, collective memory, the need for re-making historical narrative in the US, and the importance of civil society in transitional justice. The goal is to examine how transitional justice can help understand the past, particularly when that past is understood differently by different groups. In addition, following how transitional justice mechanisms have arisen in the US this chapter will reflect on how the concept of transitional justice has been extended by its US applications. The second chapter outlines a history of racial injustice in the US, from slavery to contemporary injustices. This research will examine the context in which the push for transitional justice first arose, beginning with the antebellum and Jim Crow eras. Then move to contemporary racial injustice within the criminal justice system and mainstream media, mainly focusing on police brutality. This particular injustice has sparked significant national dialogue and protests over the past 30 years, beginning most prominently with the Rodney King case and culminating in worldwide demonstrations in the George Floyd and Breonna Taylor cases in the summer of 2020. The goal here is to understand how this past has shaped the present and US history in reframing injustice to maintain the status quo, as well as law enforcement's particular role as enforcer of the status quo. The third chapter examines the origins of truth commissions and reparations in the US, how communities within the US have positioned themselves within the context of transitional justice work, and how these mechanisms establish precedents in the lead up to the national push for transitional justice during the M4BL. Finally, the fourth chapter deals with the Movement for Black

Lives and the transitional justice mechanisms employed since the movement began. Particularly how transitional justice in the US grew to become a dominant means for redress, moving from the local to national sphere.

The M4BL protests led to national dialogue and awareness around racial injustice and a renewed push for TJ mechanisms in dealing with the past. However, it was not until 2004 in Greensboro, North Carolina, when truth commissions became part of the US' transitional justice repertoire, which have since exploded in popularity over 2019 and 2020. As such, this research will examine how these events have culminated in a renewed push for reparations, the Greensboro Truth Commission, and the implications of the more recent truth commissions and projects in Tulsa, Maryland, and Iowa City.

One major limitation of this research is that over 2020 and 2021, between 30 and 40 local and regional truth commissions have been established more daily over the course of the research (New York University, 2020; ICTJ, 2021; Ladisch & Rocatello, 2021). Additionally, the current push for transitional justice includes more US communities than the African American population and more transitional justice mechanisms than truth commissions and reparations. There have been truth commissions established to confront abuses against other communities, such as the Maine Wabanaki State Child Welfare Truth & Reconciliation Commission, which completed its final report in 2015. There is also the ongoing California Truth and Healing Council, which is set to complete its work in 2025. Predominantly, the truth commissions in the US have focused on Native peoples and African Americans, as the abuses committed against them are the most long-standing, dating back to before the founding of the United States and impacting the significant portions of the US population even today. Importantly, commissions focusing on abuses against Native peoples as well as those to be discussed in more detail here share similar features that are unique to the US context. In that, they have been pushed for by the community first and then retained within that community or region.

Chapter 1: Transitional Justice, Collective Memory and Civil Society

Transitional justice can be described as “the set of judicial and non-judicial measures that have been implemented by different countries in order to redress the legacies of massive human rights abuses. These measures include criminal prosecutions, truth commissions, reparations programs, and various kinds of institutional reforms” (ICTJ, 2009; Lambourne, 2014). Historically, these mechanisms have arisen in two major ways, the transition from authoritarianism to democracy, and the transition from war to peace. The application of transitional justice to legacies of human rights abuses is a very recent one (United Nations, 2010). Such application is relevant particularly to the North American context as both Canada and the US have established transitional justice mechanisms, at various levels, to address racial injustice and indigenous peoples. In the US, the most frequently employed of these are criminal prosecutions and institutional reforms, which are often insufficient to satisfy victims’ needs or fail. As such, the failure of one mechanism can play a role in the establishment of another. Transitional justice mechanisms can also function on complementarity as final reports by truth commissions often recommend establishing reparations programs and reforms.

Overview of Transitional Justice Mechanisms and their US Applications

Criminal prosecutions and institutional reforms have long been employed in the US. While not usually viewed as transitional justice as such, these mechanisms are the most prominent within this context, and their failures have in part led to a push for truth commissions and reparations to be discussed below.

Criminal prosecutions are the first and most robust mechanism of transitional justice made up predominantly of international humanitarian law, international human rights law, and international criminal law (Parmentier, 2016). Increasingly, these crimes can be punished nationally, as many treaties that make up these bodies of law have been added to the national legal system of member states. In the US context, very rarely do criminal prosecutions occur for crimes relating to racial injustice at either the local or federal levels, and many of the abuses discussed here (slavery, segregation, and lynching) are too far in the past to be arbitrated now. The importance of prosecutions in US transitional justice is not that they provide justice for victims (Biondi, 2003; Ladisch & Rocatello, 2021). Rather, as they tend not to provide justice, victims are then forced to seek other means for justice, including truth commissions, reparations, and institutional reforms.

Another mechanism of transitional justice is institutional reform, which seeks to transform the institutions primarily responsible for the violations of rights to prevent recurrence (ICTJ, 2009; Lambourne, 2014; Parmentier, 2016). This mechanism can include vetting, structural reform wherein the institutions are restructured to provide accountability and representation, as well as instituting public oversight bodies (ICTJ, 2009). Lastly, reforms can include the transformation of local and national legal frameworks wherein abuses are prevented through amending and creating legislation to ensure the protection of human rights (ICTJ, 2009). Within the US, the first major institutional reforms come in the form of the Thirteenth, Fourteenth, and Fifteenth Constitutional Amendments, which abolished slavery, granted citizenship and protection under the Constitution to formerly enslaved people, and granted universal male suffrage, respectively. Following the Civil Rights Movement, the US enacted more institutional reforms to combat segregation and racial inequality seen in the Jim Crow era. The Jim Crow era defined a large part US racial injustice history between the end slavery and the Civil Rights Movement and featured laws which legally entrenched segregation, disenfranchised Black voters, and criminalized Black people. The reforms after this period included the Civil Rights Acts of 1957 and 1964, the Voting Rights Act of 1965, the Fair Housing Act of 1968, and Affirmative Action policies. These acts ,in addition to landmark civil rights cases in the Supreme Court desegregating education, mark a transformation of legal frameworks in the US. The deep-seated causes of racial inequality, discrimination, and violence still persist today, and while these reforms are landmarks in anti-discrimination law in the US, “their impact has been less thoroughgoing than anticipated -- the latest example is the impact of the Supreme Court decision in 2013 ending federal oversight of voter-suppressing states, which had the effect of unleashing voter suppression in those states in 2016 and 2018” (Scott, 2020, p. 60). While impactful and well-intentioned, these reforms, among others, have not transformed the US nor reconciled its past abuses. Instead, these abuses have continued in merely a different form.

These continuing abuses and lack of justice of the first two transitional justice mechanisms have led US communities to seek out alternatives such as truth commissions.

“A truth commission is (1) focused on the past, rather than ongoing, events; (2) investigates a pattern of events that took place over a period of time; (3) engages directly and broadly with the affected population, gathering information on their experiences; (4) is a temporary body, with the aim of concluding with a final report;

and (5) is officially authorized and empowered by the state under review,” (Hayner, 2011, pp. 11-12).

The goals of truth commissions are to “discover, clarify and formally acknowledge past abuses and thus generate more information...separate facts from rumors...Truth Commissions also pay attention to the needs of victims who rarely receive the time and space to share their histories and interpretations of the past” (Parmentier, 2016, p. 63). These features, as defined by Hayner, define most official truth commissions. However, there are unofficial truth commissions that operate outside of this widely accepted definition. The US has had to contend with this definitional maneuvering as many truth commissions fall outside of Hayner’s at one or more of her defining points. Nevertheless, truth commissions in the US have grown in popularity and have maneuvered themselves under this ‘official’ umbrella. Truth commissions in the US intentionally use the framing of ‘truth commission’ in their establishment and base their model on prominent models of truth-seeking from South Africa and Peru, as well as recent precedents set within the US.

As noted by Parmentier (2016), the goals are consistent within US truth commissions, which are one of the most prominent transitional justice mechanisms in the US today, as over 30-40 Local commissions have arisen over the past two years (New York University, 2020; ICTJ, 2021). In this way, we can see the importance of truth-telling in the US. Rarely are victims of race riots, lynching, segregation, and slavery given space to share their history of these events, and for many, their accounts can no longer be told. Instead, as a long-standing democracy, the US has been able to frame itself and its history as it wishes without handling questions of its past. As Bakiner (2010) notes, “some people did not know about the basic facts of human rights violations, either because facts were concealed or because they chose to ignore them. Even when the facts were known, radical disagreement over their meaning threatened mutual understanding.” (p. 80). Consequently, in order to reframe the historical narrative of injustice closer to the truth, memory then plays an essential role in transitional justice. This is perhaps no more evident than in producing a final report that functions as a foundational text and a new official history to the history the truth commission has investigated (Bakiner, 2010, p.62; Hayner, 2011). The final report is an essential element of truth commissions, and although the US deviates from Hayner’s definition, truth commissions in the US do not deviate from the production of a final report. This element of truth commissions is essential for establishing a written narrative and for recommendations on how the community should proceed.

As more communities and regions in the United States move toward the establishment of truth commissions to deal with past human rights violations, there is also a rejection of old societal consensus and a move to a new consensus wherein the victims. In this case, African Americans are centered in the narrative. As such, “truth commissions have emerged in political contexts where societies’ conventional mechanisms for investigating serious crimes and writing unbiased accounts of the past (the judiciary and the media, chief among them) had ceased to function. They face the twofold task of discovering forensic facts and forging societal consensus over the meaning of the past.” (Bakiner, 2010, p. 63). These conventional methods in the US (the criminal justice system and mass media) have long been unresponsive and hostile toward abuses committed against African Americans (Watson, 2019). This unresponsiveness has now led to communities looking for new ways to have their voices heard and new modes of justice.

However, well-established democracies, like the United States, and transitional justice have often been seen as incompatible, particularly the establishment of truth commissions (Beitler, 2013). Transitional justice, as typically practiced, also occurs, as Hayner (2011) noted, in countries facing political change, which long-standing, stable democracies do not. Further, since truth commissions counter the traditional narrative of the event or events they investigate, they are often met with strong opposition. Establishing truth commissions can be seen as ‘digging up’ past abuses better left buried. Truth commissions are met with resistance and even open hostility by various actors, including the state (Beitler, 2013, p. 141). In addition to truth commissions and projects, which are finite in nature, communities in the US have also called for ongoing processes (Beitler, 2013). These processes include town halls and community conferences to address racial violence such as lynchings. These other mechanisms are often proposed as a way to manage the resistance and hostility that come with establishing an official truth commission (Beitler, 2013). These community-based projects mark another way that the US communities attempt to fit transitional justice into their long-standing democracy. Critiques on dredging up the past are not without their merits as the re-traumatization of communities is certainly a concern in truth-telling processes, and resistance and hostility can stir up societal tensions (Ladisch & Rocatello, 2019). Nonetheless, a lack of truth-telling and redress for abuses over time can lead to an even more significant increase in societal tensions and, in some cases, conflict (Ladisch & Rocatello, 2019).

Often seen as complementary, although separate to truth commissions, is reparation. This mechanism of transitional justice, also similar to truth commissions, has seen a recent and ongoing

increase in interest. This means of redress can come in a variety of forms, including restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition (Parmentier, 2016, p. 66). Restitution is based on the idea that victims should be able to go back to their position before their rights were violated, which can include restoring their property, citizenship, and occupation. Compensation is financial reimbursement for the damage done to victims, material or otherwise. Rehabilitation constitutes medical, psychological, legal, and social assistance. Satisfaction is the broadest category of these five modes of reparations and can include truth-telling, looking for remains, commemorative activities, and sanctions against perpetrators. The complementarity of truth commissions and reparations are particularly evident in the final reports of truth commissions, which often promote means of redress for victims by the state and the institutions responsible for the harm caused. This is especially salient within the US. Since the rise in popularity of truth commissions, two federal bills have been introduced and have been pushed for by supporters as complementary legislation. These bills include a national truth commission for human rights abuses against African Americans and a national investigation into means of reparations for descendants of enslaved people (H.Con.Res. 19; H.R. 40).

Unlike truth commissions, which are a new phenomenon in the US, the fight for reparations extends even further back than the end of slavery. Even while the institution was legal, many enslaved people, once freed, would sue their former enslavers for unpaid wages. Further, once slavery was abolished, the land was initially supposed to be redistributed from enslavers to formerly enslaved people. Since then, there has been “no substantial period of time where the call for redress has been neglected” (Taifa, 2020, p. 9). The reparations movement began as a push for land redistribution from southern plantations to newly freed people. In addition to demands for land, the movement following abolition directly mentions financial compensation for stolen labor (Scott, 2020, p. 65). Reparations now include far more than land and monetary compensation for Black Americans. Since the abolition of slavery and failure of reconstruction, Black Americans have also suffered under Jim Crow, mass incarceration, segregation, lynching, and police brutality. These abuses are numerous and systemic, intended to maintain inequality and uphold white supremacy within the US. As such, Black communities in the US feel that compensation is not enough (Ifill, 2003; ICTJ, 2021).

The reparations movement has primarily targeted the federal government when calling for reparations, particularly those for slavery (Taifa, 2020). Despite the legality of slavery being a state-by-state decision, slavery was a national system, which was supported mainly by and benefited

both northern industry and southern agriculture. The same is valid for succeeding abuses against the Black community, including segregation, Jim Crow, and lynching. In addition, to the focus on the US government, reparations seekers have also taken to corporations and private institutions, which have been stakeholders in slavery, segregation, and racial inequality (Taifa, 2020). The current state of the reparations movement, according to Taifa, can be described as having four main elements:

“Number one: the formal acknowledgment of historical wrongs and an official, unfettered apology for the dehumanization and atrocities of the enslavement era and beyond ... Number two: the recognition that the injury has continued throughout the years and still manifests today. Number three: the commitment to redress by the federal government... as well as corporate entities, religious institutions, and private institutions which enjoy unjust enrichment from the era. And, number four: the actual compensation in whatever form or forms are agreed upon” (2020, p.18).

While Congress apologized for slavery and segregation in 2009, the Senate qualified this apology by then passing legislation that reparations seekers should not use the 2009 apology resolution as support for a legal claim to reparations (S. CON. RES. 26, 2009). For this reason, Taifa specifies that Congress should issue an ‘unfettered apology.’ Further, leaving the fourth element of US reparations so open-ended reflects the reality of the abuses committed against Black people in the US. As noted, reparations can include more than financial compensation. The reparations wanted and needed by the Black community in the US are as varied and complex as the history of abuses committed against them. The means of redress cannot solely be financial compensation as it would not address the structural violence they have faced. Taifa recognizes this and promotes reparations, including financial compensation, land, scholarship funds, community development, educational material from the perspective of descendants of enslaved people, monument and museum development, return of stolen artifacts, exonerations, and elimination of unjust laws and practices (Taifa, 2020, p. 30-31). However, financial compensation is the most common type of reparation called for and given in the US. Similarly, to truth commissions finding their peak in the US over the last few years, the reparations movement has also surged with an unprecedented number of civil society actors, politicians, as well as local and regional governments calling for reparations legislation (Taifa, 2020; Scott; 2020; Biondi, 2003).

Transitional Justice and Collective Memory Making

In addition to these mechanisms, memory is important to the work of transitional justice, particularly in the U.S. context. The way we remember the past shapes the present and future. The histories communities and societies learn are not unbiased truth, instead they are a constructed narrative of the past that often serves to present the society in a positive light (Bakiner, 2016). As Barahona de Brito (2010) noted, “transitional justice is a component of the politics of memory, and we can see the politics of memory... as a particular kind of social memory-making” (p.361). Memory is social because it is not individuals, rather society that determines what we remember and how we remember it. Further, individual memories “piggyback on the social and cultural practice of memory, and collective memory combines what we actually remember and a constructed past which is constituted by the collectivity” (Barahona de Brito, 2010, p. 362). Transitional justice then comes into play because a former consensus is broken down. Transitional justice generates a new ‘official history’ and establishes a new consensus. As Barahona de Brito (2010) notes, the need to establish a new consensus becomes “particularly intense when one group in a society is criminalized, its rights systemically abused, or there is an attempt to physically eliminate it” (p. 364). In Barahona’s view transitional justice is a component of the politics of memory and can aid in collective memory-making. Given the past and ongoing abuses against African Americans in the US, there is no doubt a need to establish a new consensus given the scope of human rights abuses committed against them.

The need for a new consensus on the US history of racial injustice is particularly notable given the juxtaposition between how different communities in the US understand these abuses and, in some cases, whether they see a history of human rights abuses at all. African Americans know and have always known the impact of US history on the present, having suffered the abuse intergenerationally and themselves (Valls, 2003). Further white Americans have a factually inaccurate idea of the past and present issues regarding race (Valls, 2003; McCarthy, 2002). Given this dichotomy, there is a political and societal need for generating a new history in the US (McCarthy, 2002). This need for the remaking of memory is not only a national issue but also an issue for individual communities. Within the US, atrocities such as public torture lynching, the Tulsa Race Massacre, the Greensboro Massacre, the Detroit Uprising, and the Los Angeles Riots in 1965 and 1992 all incur different narratives locally among the communities within these particular areas. The span of the US and variation in abuse has led many to push for local truth commissions. It has been only recently that a national truth commission for all of these racial injustices and their consequences has been proposed (ICTJ, 2021; Ifill, 2003).

Transitional Justice and Civil Society

Finally, the role of civil society in transitional justice is crucial. The establishment of transitional justice mechanisms usually stems from civil society first, and their processes require civic engagement and ongoing support (Beitel, 2013). Traditionally, civil society is predominantly comprised of NGOs and other organized groups. However, more recently, the role of organizations has taken a back seat to the role of social movements and people ‘taking to the streets.’ Tarrow (1998) defines social movements as “collective challenges by people with common purposes and solidarity in sustained interactions with elites, opponents, and authorities” (as cited by Beitel, 2013). Gready and Robins (2017) then argue that social movements change the traditional view of civil society’s role in transitional justice because they become a source of identity and community for traditionally marginalized groups.

Further Gready and Robins (2017) position the ‘new civil society’ as rejecting the usual language, acts, and spaces used to sanction what is political, and that it claims new spaces for political action as in streets, squares, and virtual platforms. Mainly, ‘new civil society’ rejects rigid hierarchical decision-making found in the old civil society in favor of direct action characterized by “horizontality, replaceability, and leaderlessness” (Gready & Robins, 2017, p. 967). This is essentially where ‘new civil society’ diverges from the old and social movements because old civil society and social movements have homogeneous memberships and leaders. In contrast, the new civil society has diverse, fluid, changing membership. Contemporary civil society has two dominant actions which help to define it; however, these are not exhaustive. The first is the occupation of city squares and streets, and the second, social media, which plays a vital role in organizing and mobilizing collective action (Gready & Robins, 2017, p. 968). Finally, the new civil society has a transnational element, in which social media plays a central role. These elements of the changing role of civil society are all overwhelmingly present in the Black Lives Matter movement in the US.

In addition, civil society and social movements have the added benefit of social media (Gready & Robins, 2017; Beitel, 2013). Social media has increased how connected individuals are and how fast civil society can mobilize (Beitler, 2013; DeChaine, 2005). Social media has also promoted the idea of a global civil society, wherein the “social sphere comprised of multiple civil societies that are interconnected by common values and interests, often across geographical spaces and nationally defined territories” (Beitler, 2013, p. 138). Similar to the transnational nature of US truth commissions, which rely on international organizations and former commissions for authority, social movements and

civil society in the US also gain support and authority from the support of other civil societies (Beitler, 2013; DeChaine, 2005). This has led to the potential of global protest and mobilization, as noted in the Black Lives Matter Protests of June 2020, which occurred not only across the US but also globally. As such, the promotion of transitional justice and its promise of truth-telling and redress have also garnered support among civil society within and without the US.

Conclusion

The standing of transitional justice mechanisms in the US and how civil society in the country has influenced and reshaped and extended the concept of transitional justice are influential in how the US is now dealing with its past and which means of redress civil society groups are advocating for. The following chapter will examine the injustices faced by the African American community by the state and white Americans as well as how these injustices have persisted and changed over time.

Chapter 2: A History of US Racial Injustice 1619 – Present

To fully understand the current context of racial injustice in the US, it is essential to understand what led the country to this point, including its past injustices as well as the legal and institutional frameworks that have maintained the power structure of the US. Power structures have upheld white supremacy at the expense of African Americans. These injustices and the failed attempts at accountability and redress have contributed to a renewed interest in evaluating the ills of US history, how they have not been solved, and what we should do now.

Slavery and the Failure of Reconstruction

Even before the founding of the US began the transatlantic slave trade, the first enslaved persons arrived in Jamestown in 1619, starting the institution of chattel slavery (Lyons, 2020). Eventually, chattel slavery became entrenched in colonial law, starting in Virginia in 1662 with a law stating that a child's freedom is determined by the freedom of their mother (Lyons, 2020). Slavery did not end with the independence of the thirteen colonies despite not being expressly mentioned in the Constitution. Instead, the institution of life-long, hereditary slavery was further cemented into law and practice, including the three-fifths clause, slave trade provisions, fugitive slave clause, and Dred Scott opinion of the Supreme Court.

The three-fifths clause stated that for representative purposes, the people who are counted in the population are free persons, including those held in servitude for a fixed period and three-fifths of all other persons, and excluding Native Americans. This meant that those who are held in life-long hereditary slavery are counted for three-fifths of a person. The slave trade provisions prevented Congress from enacting legislation to ban the transatlantic slave trade for twenty years. Enacted in 1793, the Fugitive Slave Act provided for all enslaved persons who ran away, attempted to escape, and those that aided them would be prosecuted, and the enslaved persons returned "to whom such service or labour be due" (Lyons, 2020, p.37). The Fugitive Slave Act and the conduct of slaves in the South were monitored and enforced by Slave Patrols (Hasset-Walker, 2021; Turner, Giacomassi & Vandiver, 2006). Slave patrols were established for the enforcement of such acts, returning enslaved persons to their enslavers, spreading fear and terror to prevent slave revolts as seen in the Caribbean, and disciplining enslaved persons (Hasset-Walker, 2021).

As noted, the Constitution makes no mention of slavery, and the United States was founded on the idea of universal human rights as stated in the Declaration of Independence. These documents were seen in stark contrast to the institution of slavery and the transatlantic slave trade. Although, it should be noted, that as many of the authors and signatories were themselves enslavers, leaving the intended meaning of all men being created equal imbued with inalienable rights to be ambiguous even at the time. Nevertheless, these texts remained foundational to the abolition movement as abolitionists saw the founding documents as an extreme juxtaposition to the transatlantic slave trade and chattel slavery. As a result of this contrast and the growing pro-abolition attitude, activists and lawyers brought the infamous Dred Scott case to the Supreme Court. Dred Scott, an enslaved person, was brought across state lines from Missouri, where slavery was legal, to Illinois, where it was not. In the case, lawyers argued that in Illinois, Scott was a free man and entitled to rights under the Constitution. In a 7-2 decision, the Supreme Court held that the Constitution was not meant to apply to those contained in slavery at the time it was written. It, therefore, did not apply to them at the time of the decision in 1857 (Lyons, 2020; Dailey, Gilmore & Simon, 2000), further entrenching the idea that Black people, whether free or enslaved, were not legal persons in the US. This decision was seen as a major push factor for the abolition movement. As this momentum grew, Abraham Lincoln won the presidency on an anti-slavery platform in November 1860. Following this, seven states seceded from the Union, and in 1861 the American Civil War began after a clash between Confederate and Union soldiers in Fort Sumter, North Carolina. Slavery was abolished by the thirteenth amendment in January of 1865. The Civil War ended with the Confederate surrender in April the same year.

Immediately following the war began the issue of how to reconstruct the South and integrate the 4 million newly freed people. The Reconstruction Act of 1867 outlined the terms on which Southern states could be readmitted to the Union. Among these requirements included signing and ratifying the Fourteenth Amendment and granting universal male suffrage. The Fourteenth Amendment grants equal protection under the Constitution and forbids former Confederates from holding federal office unless authorized by a two-thirds vote in Congress. The Fifteenth Amendment guaranteed the right to vote for Black men by prohibiting voter discrimination on the basis of “race, color, or previous condition of servitude” (US Const. amend. XV). Congress also passed the Civil Rights Act of 1866, which granted citizenship and thus Constitutional rights to recently freed people, circumventing the Dred Scott decision, which had previously withheld these rights. Despite these acts and Constitutional Amendments, almost as soon as slavery ended, Black Codes (later to be called Jim Crow Laws) were enacted. The first states to do so were Mississippi and South Carolina, and by 1866 the entire South had

enacted similar policies. These laws enforced segregation policy, limited what occupations Black people could have, the types of property they could own, and restricted voting laws to all but eliminate Black voters.

In January 1865, after the Union abolition of slavery and shortly before the end of the war, General Sherman issued Special Field Order No. 15. This order called for a coastal strip thirty miles from the sea reaching from Charleston, South Carolina, to St. John's River, Florida, to be set apart for settlement by recently freed Black people (Kerr-Ritchie, 2003, p. 223). In addition to this, young Black men were encouraged to enlist in the Union to be given compensation in the establishment of agriculture on their new lands. Heads of families were to choose their lands and be given not more than forty acres of tillable land (Kerr-Ritchie, 2003, p. 223). These lands were to be protected militarily until the time Congress granted land deeds to the families. By June, 40,000 people had settled in the land granted to them by Special Order No. 15 (Kerr-Ritchie, 2003, p. 223). Then-President Andrew Johnson rescinded Sherman's order, and much of the land was returned to former enslavers. Johnson also instituted compensation to enslavers for the losses they incurred due to abolition (Scott, 2020, p. 57). Johnson stood in stark opposition to Reconstruction and, as a result, in opposition to his Congress, vetoing most bills relating to Reconstruction. Despite his vetoes, Congress, via a two-thirds vote, still passed some Reconstruction legislation. To this end, in March of 1865, Congress reinstated the Bureau of Refugees, Freedmen, and Abandoned Lands (also called the Freedmen's Bureau) to redistribute lands, facilitate the transition of enslaved people to freedmen, and provide rations (Kerr-Ritchie, 2003, p. 224). These lands included eight to nine hundred thousand acres of land held by the federal government within the former Confederate states. To this end, General Howard gave Circular Order No. 13 for Union soldiers to identify lands for this purpose; however, the order was rescinded in September 1865.

Abolitionists and activists continued to advocate for land redistribution and settlement similar to Sherman's plan; however, no others were actualized. There are many explanations as to why redistribution of land failed, including a will on the part of Northerners and Southerners to maintain cotton as a cash crop and stabilize the post-war economy. Redistributing the land as proposed would ensure the end of the cotton and textile industry as freed people would move toward sustenance farming rather than cotton production (Dailey, Gilmore & Simon, 2000). The value of Southern land plummeted after the abolition of slavery leading Northern investors to purchase large swaths of land at low rates, often partnering with Southern planters (Dailey, Gilmore & Simon, 2000). Freedmen lacked

the capital and organization that the wealthy white class had, making competition with Northern investors and Southern planters difficult, to say the least. As such, wealthy plantation owners retained the wealth and land in the South. During and after the war, some land was seized by the federal government and while some were redistributed to formerly enslaved persons, most of the seized land was returned to enslavers or auctioned to investors (Lyons, 2020, p. 43). The Black Codes and failure of land redistribution forced many formerly enslaved persons to remain on their former plantations as sharecroppers. The sharecropper system that emerged in the post-slavery South did not solely arise out of a lack of land redistribution by the federal government, rather freed people were forced to buy credit, which placed them in debt most often to their former enslavers and constrained them to work on their former plantation (Scott, 2020, p. 58). This new financial relationship between formerly enslaved people and their former enslavers meant that one, these freed people could not move freely, and two that former enslavers were then compensated by local stores for this credit (Scott, 2020. p. 58). Further, this indebtedness on the part of African Americans in much of the South was not relieved by reforms in the eras to follow and has played a major role in the persistence of structural violence in the US today (Scott, 2020, p. 59).

In addition to these missteps in reconstruction is what many consider to be the end of the reconstruction era, the Hayes-Tilden Agreement in 1877 (Kerr-Ritchie, 2003). After the war, Southern states had many electoral crises. Louisiana and Carolina were the most prominent in the presidential election of 1876. Rutherford B. Hayes, the republican candidate, and Samuel J. Tilden, the Democratic candidate, found themselves at a standstill for the presidency. To resolve this, President Grant signed the Electoral Commission Act, which established a commission of eight republicans and seven democrats to clinch the Electoral College dispute (Lyons, 2020). In a backroom deal, Democrats agreed not to interfere with Hayes's election in exchange for the removal of federal troops from the South, which would, in effect, mark the end of reconstruction (Lyons, 2020). Removing federal troops also removed oversight from the South, particularly for free and fair elections and protection for recently freed people.

Social stratification was not only violently enforced through lynching but also legally entrenched via Black Codes. Finally, due to its many problems, reconstruction was seen in the memory of African Americans as a failure and, more importantly as a debt owed to them by the federal government (Dailey, Gilmore & Simon, 2000). This debt is meant as a "monetized obligation, but

something in excess...a type of offense requiring expiation” (Scott, 2020, p. 55). These perceptions would mark a major talking point in the Civil Rights era and reparations movements to follow.

Public Torture and Racial Terror Lynchings

The serious abuses under chattel slavery and the lack of reparations after its abolition led to deep social classifications which were violently enforced by lynchings, which “in the 1890s... occurred every two or three days” (Lyons, 2020, p. 41). Ridding Black Americans of their new rights, particularly their electoral rights, was a key factor in maintaining the social order of the antebellum period. From slavery’s abolition until Jim Crow laws became the norm in the early 1900s, Black people who tried to participate in politics, advance economically or exercise their social freedoms were then violently reprimanded and terrorized by lynchings (Ifiill, 2003). As a result of violent intimidation, Black voter registration and participation fell dramatically. In 1868 Mississippi, Black voters were a majority of the registered voters no matter race. By 1890 only 6% of eligible Black people were registered to vote (Ifill, 2003, p. 275).

As sociologist and criminologist David Garland notes, between 1882 and 1940, of the 4,000 lynchings which occurred, several hundred were “public torture lynchings.” During this time, many antilynching laws were introduced to Congress. However, none entered into force (Lyons, 2020). Before the end of slavery, lynchings had been a form of vigilante justice, occurring mainly on the frontier (Garland, 2005; Belew, 2014). By the end of Reconstruction in 1877, lynchings had decreased in most of the US, the only exception being the South, where rather than decreasing, lynchings increased, and almost all victims were Black (Garland, 2005). Not only did lynching increase in number, but also in severity, matching a general increase in interracial violence, including riots and other attacks on Black communities by their white neighbors. Lynchings during this time often took place publicly in front of crowds and involved the torture of the victims (Garland, 2005). These specific events involved large crowds, professional photographers, and often postcards for viewers to share like souvenirs (Garland, 2005, p.794). Northern newspapers and those of larger Southern cities admonished these kinds of lynchings. However, often law enforcement in the places in which lynchings occurred would state that there was no way to identify the lynchers, leaving these acts largely unpunished. In investigations surrounding the victims’ cause of death, the reports would state the victims died at “the hands of persons unknown” (Garland, 2005). The exact number of lynchings during this time is unknown. However, their mark in US history and the racial injustices faced by the Black community at

the hands of their white neighbors cannot go unnoticed. For example, the now-infamous lynching of three Black men in Duluth, Minnesota, in 1920 was attended by approximately 10,000 white people (Ifill, 2003, p. 266). This is one of approximately 4,000 lynchings during this period. Lynching then is not only a crime for which the murderers are culpable because entire communities watched, cheered, assisted, photographed, and commemorated. Millions of white people throughout the US are then implicated in lynchings, their endurance, and their popularity (Ifill, 2003). As these were often community-wide events, they garnered at least passive acceptance by law enforcement, the judiciary, and politicians in the communities in which lynchings occurred (Ifill, 2003, p. 268).

The same year Rosa Parks would stage a protest against segregation. Emmett Till, a 14-year-old boy from Chicago, was lynched in Mississippi (Neumeister, n.d.). When his body was found three days after the murder, Till was only recognizable from a ring with his initials. His mother, Mamie Bradley, held an open casket funeral in Chicago, saying, “I wanted the world to see what they did to my baby” (Neumeister, n.d.). A photo of Till’s body was published in *Jet* magazine and *The Chicago Defender*, both African American publications (Neumeister, n.d.). Till’s murderers, Roy Bryant and JW Milam were tried before an all-white jury and issued not guilty verdicts. This verdict and the decision not to charge them with kidnapping led to further national outrage (Neumeister, n.d.). The media coverage and public outrage within and without the Black community would go on to be a major spark in the Civil Rights movement.

Lynchings effects included more than decades of disincentivizing Black voters. Black communities also feared economic and educational prosperity for fear of violent retaliation. Further, after lynchings occurred in an area, Black people would flee, which often set communities on the bottom of the economic totem pole even further back (Ifill, 2003, p. 292). Regulation of political, economic, and social behavior of Black people through lynching would remain commonplace in the South for decades, only decreasing once Jim Crow and segregation became the norm, although lynching did not disappear entirely (Lyons, 2020). Many of the transitional justice mechanisms, particularly truth commissions, are being established to address this very topic. The push toward addressing this violation is especially notable because, in large part, lynchings went unchecked and unpunished in the US.

Jim Crow and Civil Rights Institutional Reforms

As mentioned, the origins of Jim Crow can be found in the immediate aftermath of the Civil War. Wherein Southern states created Black Codes to restrict the freedom of formerly enslaved people. In conjunction with labor camps, this system ran by the predominantly Black prison population meant that while slavery had ended in practice, the South was unwilling to reform the social and economic order. As the Southern economy was based on agriculture, much of the South was rural (Dailey, Gilmore & Simon, 2000). After slavery ended, the South was forced to industrialize more, and with violence by the KKK, lynchings, and enforcement of Black codes on the rise, many Black people moved to cities where they could be safer (Dailey, Gilmore & Simon, 2000). This led to more laws being enacted to restrict Black populations in cities, namely segregation.

Segregation soon became commonplace in much of the South and was met with resistance by the Black population. One such law in Louisiana required separate railcars for Black and white passengers. To test the constitutionality of the law, Homer Adolph Plessy, who was of mixed race, rode in an empty whites-only railcar from New Orleans to Covington, Louisiana. After refusing to leave the railcar, he was arrested and later convicted for violating the Louisiana law. Plessy filed a petition against the judge, stating that the law violates his Fourteenth Amendment right to equal protection. The case eventually made its way to the Supreme Court in 1896 (Dailey, Gilmore & Simon, 2000). The Court ruled that separate but equal facilities are constitutional, and the Fourteenth Amendment only applies to civil and political rights. The landmark *Plessy v. Ferguson* decision cemented segregation in the US (Dailey, Gilmore & Simon, 2000).

As cities in the South established more oppressive laws and lynchings continued into the 1920s, Black people began to move North in what is now called the Great Migration (Dailey, Gilmore & Simon, 2000). However, the North was not exempt from Jim Crow laws, many Northern cities were still segregated, and some states enacted laws requiring Black people to own property before they were able to vote.

The disparities between white and Black people became more apparent during and after World War II. Firstly, during the war, black people were discouraged from joining the military and often worked low wages, even as white Americans were entering the service and prospering in jobs aiding the war effort (Dailey, Gilmore & Simon, 2000). Following protests and a potential march on Washington, President Franklin D. Roosevelt opened national defense and government jobs without

discrimination based on race, religion, color, or national origin. Further, following demands by civil rights activists, President Truman integrated the military in 1948 (Dailey, Gilmore & Simon, 2000). These actions, as well as international human rights discourse, colonial liberation movements, and increased national awareness, led to a cascade of support for civil rights leading into the Civil Rights and Black Power movements of the 1950s and '60s (Nagel et al., 2015).

The civil rights movement began as an effort by Black Americans to end racial discrimination and segregation. As noted, Jim Crow laws discriminated against Black Americans in nearly every category, voting, housing, economics, and education among them. Going into the Civil Rights era, international attention was drawn toward human rights in the Universal Declaration of Human Rights and decolonization, the juxtaposition between the US' support of this and the US' own practices were stark, and the debts owed to the Black community still had not been paid (Nagel et al., 2015). The Civil Rights era saw organization and activism across the nation, the most notable of which include: the Montgomery Bus Boycott, the Little Rock Nine, the Greensboro Four, Freedom Riders, the March on Washington, and the Selma to Montgomery March. Social movements in the US have a history of changing policy; this is the case both with the abolition movement and Civil Rights (Andrews & Gaby, 2015).

In addition to leading to institutional reforms, the Civil Rights movement also led to landmark Supreme Court Decisions. Most notably is *Brown v. Board of Education* in 1954, which overturned the separate but equal precedent set by *Plessy v. Ferguson*. Brown was also the first major case concerning segregation since *Plessy* in 1896 (Andrews & Gaby, 2015). The Court ruled that separate but equal doctrine established in the *Plessy* opinion had no place in education and that segregation of schools by states was unconstitutional (Andrews & Gaby, 2015). This decision desegregated all schools in the US from elementary to higher education. It was met with much resistance, white protest, and as such, some Black students had to be escorted into schools and to class by federal troops, as in the case of Arkansas' Little Rock Nine and the University of Alabama (Andrews & Gaby, 2015).

In particular, the Civil Rights and Black Power movements led to institutional reforms throughout the 50s, 60s, and early 70s, including the 1957 and 1964 Civil Rights Acts, the 1965 Voting Rights Act, the 1968 Fair Housing Act, and the Fair Employment Act of 1972 (Nagel et al., 2015). The Civil Rights Act of 1957 was signed by President Eisenhower and protects voter rights by allowing federal prosecutions of those who suppress another's right to vote (Nagel et al., 2015). The Civil Rights Act of 1964 was signed by President Lyndon B. Johnson and prevented discrimination on the basis of

race, religion, color, sex, or national origin in employment. The 1965 Voting Rights Act eliminated literacy tests as a requirement to vote, allows federal examiners to review states' voter requirements, and allows federal observers to monitor polling (Nagel et al., 2015). The 1968 Fair Housing Act provides for equal housing opportunities regardless of race, religion, or national origin (Nagel et al., 2015). Finally, the Fair Employment Act of 1972 addresses discrimination in employment by creating the Equal Employment Opportunity Commission as the enforcement and monitoring body of the Civil Rights Act of 1964. The Fair Employment Act also requires employers to make reasonable accommodations for the religious practices of their employees (Nagel et al., 2015).

These reforms however did not relieve much of the structural and systemic violence faced by the Black population in the US. Nutritional, educational, medical, employment, and housing programs were severely cut back by the 1980s (Lyons, 2020, p. 46). These social programs have not addressed the systemic nature of Jim Crow. Black Americans still have a lower life expectancy, inferior access to healthcare, medical racism, less wealth, higher unemployment, and substantially higher incarceration rates. One of the clearest legacies of the Jim Crow era, which persists today, is residential segregation (Nagel et al., 2015; Andrews & Gaby, 2015). Beginning during the Great Migration, wherein Black people fled lynching in the South to large cities elsewhere in the US, residential segregation has led to the dense concentration of Black populations into underfunded and underdeveloped urban areas.

Contemporary Racial Injustice and Systemic Police Violence

In the decades following Civil Rights, we have seen mass incarceration, the war on drugs, and the militarization of the police as continuations of the violence from previous eras (Ostertag, 2019). In addition to the injustices within the criminal justice system, is the indifference of mainstream media in acknowledging systemic racism and, in fact, promoting a 'both sides' narrative that is not indicative of the reality faced by African Americans in the US (Ostertag, 2019; Valls, 2018).

Media portrayals of Civil Rights demonstrators often portrayed them as disturbances to the peace. This framing of Black people in the media as 'disturbance, other, and criminal' led conservative politicians to push for a restoration of 'law and order' through crackdowns in policing and harsher punishments (Ostertag, 2019). During the war on drugs in the 1980s and 90s, Black people were portrayed as unpredictable addicts and criminals (Ostertag, 2019, p. 76). During these decades, the criminal justice system we see today involves the militarization of the police, racial profiling, and mass incarceration. Media portrayals of police violence not only are indifferent, but show the victims, most

often Black men, as the aggressor equating Black masculinity with “hypermasculinity, criminality, and hypersexuality” (Media Portrayals, 2018). This was the same portrayal of Black men during lynchings, depicting them as sexual aggressors and criminals who needed to be stopped (Media Portrayals, 2018). In this way, the media works in hand with the police perpetuating racial bias and stereotypes (Media Portrayals, 2018). These portrayals impact public opinion concerning police brutality and only serve to perpetuate divisions in the collective narrative of US racial injustice.

Mass incarceration in the US and racial disparities within the prison population is now well-documented (Valls, 2018). These are also directly related to the war on drugs (Valls, 2018). Mass incarceration in the US, legally entrenched by harsher sentencing laws in the 1970s and 80s, was motivated by the need to maintain the social stratification based on race established by Jim Crow (Valls, 2018, p. 4). Black people are over-policed, face more police violence, as well as harsher and longer sentences compared to white people (Valls, 2018). Racial profiling in the police is a significant contributor to the disparities among the prison population. While there is no comprehensive research on the subject, the practice is linked to the overrepresentation of Black people within the prison population (Valls, 2018; Ostertag, 2019). In terms of sentencing, Black people face harsher and longer sentences in comparison to other populations, particularly the white population (Schatz & Dalton, 2013 as cited in Valls, 2018). Finally, after a prisoner's release, it is then legal to discriminate against them in housing, employment, voting rights, and welfare (Valls, 2018). While this is true for all prisoners, for African Americans, this is compounded by racial discrimination within these spheres and overrepresentation within the prison population (Valls, 2018). Voter disenfranchisement as a consequence of a felony varies by state. While imprisoned, 48 states strip the voting rights of prisoners with Maine and Vermont being the only exceptions (Valls, 2018). After release, most states impose a time period wherein formerly incarcerated people are disenfranchised during their probation or parole period (Valls, 2018). Further, states with larger proportions of incarcerated Black people are more likely to impose extended voter disenfranchisement than states with smaller proportions (Turner, Giacopassi & Vandiver, 2006).

Policing in the US as the start of the criminal justice system and the target of recent protest is particularly notable. As mentioned, during slavery in the US, slave patrols were established to control the population of enslaved people in the South. These patrols were a “government-sponsored force that was well organized and paid to patrol specific areas to prevent crimes and insurrection by slaves against the white community” (Turner, Giacopassi & Vandiver, 2006, p.186). Slave patrols were the antecedent of law enforcement in the South, and after the abolition of chattel slavery, they became the

enforcers of Black Codes and Jim Crow (Hassett-Walker, 2021). Importantly, in the North, police stemmed from English police forces and could be found in most major Northern cities by the late 1800s (Hassett-Walker, 2021). During the Civil Rights era, as the US faced unprecedented levels of social, political, and cultural change, police became enforcers of the status quo throughout the US. The status quo being the oppression of African Americans to maintain the political, social, and economic prosperity of white Americans. The protests during Civil Rights were nationwide, and the police response to them was nearly uniform across the US. Law enforcement used fire hoses, dogs, and tear gas against protesters even as they protested peacefully (Hassett-Walker, 2021). This is now mirrored in the violent responses to Black Lives Matter protests, wherein police use rubber bullets and tear gas, among other tactics, in response to the protest.

The abuses against Black people at the hands of the police have, for most of US history have gone largely undocumented and unreported. However, as photography and videography became more accessible and common the documentation of such events has as well. The need for the world to see, for truth-telling, and for change has always been a counter to abuses committed against Black Americans, and as means of documentation has increased, so to have demands for change and redress.

Arguably the firestarter to the onslaught of videos documenting violent police brutality is the Rodney King case. King was pulled over for speeding on March 3rd, 1991, in Los Angeles (Jacobs, 2009). Twenty-one officers came onto the scene, and three of them severely assaulted King in full view of the other 17 (Jacobs, 2009, p. 81). This encounter was recorded by a witness, sold to a local television station, and broadcasted thousands of times across the US. The Los Angeles Police Department, in particular, has a long history of abuse against the city's population of color (Jacobs, 2009). At the time of the Rodney King beating, the LAPD Police Chief Daryl Gates was coming under criticism for coming into conflict with communities of color. In the 1980s and 90s, a shorthand code by LAPD officers for crimes involving Black people was "NHI - No Human Involved" (Watson, 2019). At the same time, the LAPD was paying millions in settlement of citizen abuse cases. Chokeholds were common practice by the LAPD at the time, which are now banned in most police departments due to their lethality. During the 1980s, 88% of deaths by chokehold were Black men (Watson, 2019). This institutionalized brutality and discrimination in Los Angeles are representative of policing across the US at this time and ongoing.

After the Rodney King video was broadcast, the assault was seen as proof of the LAPD's systemic discriminatory practice and brutality (Jacobs, 2009). Four officers were indicted for the

assault but were all given not-guilty verdicts at trial (Jacobs, 2009, p.113). Following the acquittal were days of riots in Los Angeles, wherein many businesses were burned to the ground, over 1,000 people died, and many more wounded (Watson, 2019). In the wake of Rodney King's case, there was a hope that by broadcasting the violence, reform and justice would come, but this came neither in the verdict nor in the years to follow as the LAPD still has issues surrounding systemic racism and racial violence (Felker-Kantor, 2018). Further, the portrayal of King at trial was not that of victims but of "aggressive, buffed-out, monster, demon" in an effort to justify the actions of the police and as was common the decades preceding dehumanize a Black man to stoke white fear and justify white violence (Ostertag, 2019; Watson, 2019). The King case is one notable example of a nationwide systemic problem with policing. However, the visibility of the case did not lead to accountability of the officers involved, nor did it prompt change in LAPD policing. This policing problem two decades following King's beatings and the Los Angeles riots would once again garner national attention as the Movement for Black Lives takes hold.

Conclusion

The long and violent history of racial injustice in the US, as noted, has influenced the structure of institutions today as well as how communities seek redress for these injustices. The criminal justice system and other institutions within the US have an interest in maintaining the status quo, often by discrimination and violence. Since these institutions are the usual mechanisms through which victims seek redress, many communities turned away from federal or state aid and toward the community and other mechanisms of redress.

Chapter 3: The Beginnings of US Transitional Justice

The history and as such precedent established by the first truth commissions within the US are important for subsequent attempts at such projects, which have occurred recently within the context of the Black Lives Matter movement. The same is true for the reparations movement as in the US, these mechanisms are seen as especially complementary and often pushed for together. Further, reparations are considered fundamental rights under international law and have significant precedent in programs established outside the US (ICTJ, 2021). While it is, of course, impossible to truly repair the damages done by human rights abuse, the steps taken toward justice via truth commissions and reparations programs alike are essential for redress and healing (ICTJ, 2021). This chapter will focus on the precedents to the ongoing push for transitional justice in the US.

The Greensboro Truth and Reconciliation Commission

Truth commissions in the US are strongly influenced by the South African model, one of the largest undertakings in truth commissions and the first to hold public hearings (Haroff, 2019). The South African Truth and Reconciliation Commission (SATRC) lasted from 1996 to 2003 and was called on to establish the truth of human rights abuses under the Apartheid regime (Haroff, 2019). The SATRC was an ambitious undertaking with both written and public testimony from approximately 21,000 victims and 7,000 amnesty applicants (Haroff, 2019). The main characteristics the South African model inspired in the US are truth-telling to reach a new consensus on the historical narrative and as such reaching reconciliation. The most notable differences between the South African and US truth commissions is that the US does not include amnesty, and the lack of state or local support in the US context. Based predominantly on this model and with help from the SATRC and International Center for Transitional Justice (ICTJ), stands the first truth commission in the US in Greensboro, North Carolina.

Racial Injustice in North Carolina and the Greensboro Massacre

Preceding the conflict in Greensboro, North Carolina, is a long history of racial injustice and inequality. A former slave state, following the war North Carolina, had one of the largest chapters of the KKK in the US and eventually a large number of American Nazi Party (ANP) members (Cunningham, 2008). Ezell Blair Jr, David Richmond, Franklin McCain, and Joseph McNeil, influenced by the nonviolent techniques used in India and the Freedom Riders, staged a sit-in in a

segregated Woolworth's in Greensboro on February 1, 1960. The Greensboro Four stayed at the Woolworth's until it closed, returning the next day with more students, and by the 5th, more than 500 students joined. The sit-ins quickly garnered national attention and spread across the US, and by the summer of 1960, many states desegregated dining.

Over the Civil Rights era and into the 1970s, there was an increase in membership of racial terrorist groups like the KKK, which “served as an alternative society for the disaffected” (Cunningham, 2008, p. 71). The KKK and groups like it were particularly prominent in North Carolina, which had more dues-paying members than any other state during the 60s (Inwood, 2012). The KKK would remain a prominent actor in the state well into the 70s. At the same time, during the 70s, many workers sought unionization. In Greensboro, the organizing party was the Worker's Viewpoint Organization (WVO), which sought to unionize textile mills in North Carolina (Inwood, 2012). The employees of the textile industry were majority Black at the time, although not exclusively. The KKK perceived the efforts of the WVO and groups like it as race-mixing and developed an anti-unionist and anti-Communist stance as a result. Conversely, the WVO developed an anti-KKK stance not only due to their terrorism but also because racial cooperation was key in creating a textile union (Cunningham, 2006; Inwood, 2012). On July 8th, 1979, within this tense environment, the WVO confronted the KKK in China Grove, NC (Inwood, 2012). The KKK was attempting to recruit new members, and the WVO sought to disrupt the event, which they did successfully, leading the WVO to plan an anti-Klan rally the following November in the Morningside Homes neighborhood of Greensboro (Inwood, 2012).

The WVO and Communist Workers Party (CWP) planned an anti-KKK march for the morning of November 3rd, 1979. Unknown to these demonstrators the KKK and American Nazi Party (ANP) planned an armed counter-protest. As the march began, the KKK and ANP began to yell racial offenses at the demonstrators, who met their taunts by chanting “Death to the Klan!” (Bermanzohn, 2003). The KKK and ANP then opened fire on the crowd, killing five and wounding many more. César Cauce, Michael Nathan, William Sampson, Sandra Smith, and James Waller would lose their lives in the attack. Local media was present at the shooting. However, the Greensboro Police Department was notably absent during and after the shooting and did not stop the KKK and ANP members involved in the shooting from fleeing the scene. Further, the portrayal of the shooting was considered to be inaccurate by the demonstrators who were present. The City's two newspapers claimed the events were done at the hands of outsiders coming to Greensboro, creating a “city under siege” (Inwood, 2012). In this context, the media and City framed the CWP, KKK, and ANP as equals, extremist groups, and

outsiders, which were unreflective of the Greensboro community. Following this, multiple criminal trials and one civil suit were held. However, the Greensboro community felt as though they received no justice. It would not be until 20 years that the community would look for justice outside of a courtroom.

Following the massacre, there were two criminal trials (*State v. Fowler*, 1980; *U.S. v. Griffin*, 1984) and one civil suit (*Waller v. Butkovich*, 1985). The day after the shooting, arrests were made for the KKK and ANP members involved. During the first criminal trial in 1980, 14 Klansmen and Nazis involved in the shooting faced charges of first-degree murder, felony riot, and conspiracy (Boger, McDowell, & Gwynn, 2009). Jury selection began with inclusive and representative proportions of the Greensboro community, but the selection process would go on to exclude all non-white people. Further, one juror expressed strong anti-communist views (Boger, McDowell, & Gwynn, 2009). The trial ended in a weeklong deadlock, and the all-white jury delivered not guilty verdicts on all counts. The second trial, which took place in 1984, was a federal civil rights case. Nine Klansmen and Nazis were federally indicted for conspiracy, violating civil rights of persons on the grounds of race or religion, conspiracy to violate persons engaging in integrated activity, and violating civil rights that resulted in the death or injury of persons (9 Cleared, 1984). Preceding the trial, the US government listed racial hatred as the motivation behind the massacre (Federal Rights, 1984). Similar to the previous trial, the nine defendants were cleared of all charges by an all-white jury (9 Cleared, 1984). In the 1985 civil suit, a federal civil jury found the Greensboro police commander and the handler of the KKK informant liable for the wrongful death of Michael Nathan (Androff, 2018). Nathan's estate was awarded compensation for wrongful death (Androff, 2018). Some survivors were compensated; however, none of the other four estates of those killed during the violence were awarded amounts (Boger, McDowell, & Gwynn, 2009).

The lack of any perceived or substantive justice during these court cases was a major push factor in the establishment of the Greensboro Truth and Reconciliation Commission (GTRC). The failure to hold perpetrators accountable is common within the US justice system. Victims of racial injustice in the US have long been left behind by the traditional avenues of justice-seeking for victims, as in the case of lynchings and police brutality. Survivors and families of the Greensboro massacre were faced with a government unwilling to help or even acknowledge the harm caused, and as such, they sought out other mechanisms for truth and justice.

Fitting Greensboro into Transitional Justice

Local activists began calling for the GTRC in 1999, on the 20th anniversary of the massacre. Several community groups began organizing for funding and support, eventually culminating in the Greensboro Truth and Community Reconciliation Project (GTCRP). The GTCRP was established in 2003 and funded by the Andrus Family Fund with help from the ICTJ. The GTCRP sought help from local, national, and international actors in the establishment of the truth commission (Jovanovic, 2006, p. 3). The GTCRP also organized two advisory groups. The Local Task Force was made up of 82 survivors and supporters from Greensboro and the National Advisory Committee, which was made up of 47 survivors and supporters nationally (Androff, 2018). Taking from the South African model, the GTRC conducted its research and outreach via statement taking, public hearings, and documentary research (Williams, 2009).

The City Council of Greensboro was consulted in the TRC's establishment. A petition was signed by 5,000 residents for the Council to support the process (Jovanovic, 2008). However, after a meeting, the City Council voted 6-3 to oppose the TRC (Magarrell & Wesley, 2008). As is common for truth commissions and projects, it is important to note that they are met with resistance and even hostility by groups that see the truth as a potential threat. It is then a common feature of US truth commissions and projects that they are met with government resistance and hostility in the Greensboro case. Further, the City Council vote was made along racial lines, with the white members voting to oppose and the Black members dissenting (Jovanovic, 2008). The City Council's position did not stop the work of the GTCRP or the GTRC, nor did it halt further attempts to include the government in the process. For example, the Mayor's office appointed the head of the selection panel for commissioners, and the GTRC was supported by some members of Congress (Jovanovic, 2008).

The City's opposition to the GTRC received mixed reactions from the Commission and community. On the one hand, the City was seen as complicit in the massacre and the narrative portrayed in the aftermath. As such, the City's involvement could threaten the truth the Commission sought to tell as well the independence and control over the process (Magarrell & Wesley, 2008). On the other hand, the lack of government support affected the funding and legitimacy of the GTRC, which called into question if the GTRC qualified as a truth commission, a question which the GTRC Mandate addressed at length. The answer to which characterizes many truth commissions and projects in the US.

Strictly interpreted, the GTRC does not fall into the definition of truth commission as established by Hayner. This was noted by opponents of the GTRC in the City Council (Jovanovic, 2008). As the first truth commission in the US, the GTRC was then tasked with fitting themselves in with preceding commissions to garner legitimacy and authority. For one, the GTRC was not authorized and empowered by the state. The GTRC's opponents argued it does not investigate a pattern of events that occurred over time, instead of focusing on a singular event (Cunningham, 2008; Inwood, 2012). Lastly, the GTRC was established under the same regime in which the events took place, hardly making the process transitional (Cunningham, 2008; Inwood, 2012). The GTRC also faced accusations of bias. Each of these criticisms was addressed in the GTRC's Mandate, effectively altering the perception and defining characteristics of truth commissions in the US context and positioning themselves along with previous truth commissions as in South Africa, Peru, and Chile (Beitler, 2013).

First, the Commissioners addressed scholarship surrounding the lack of government involvement. Usually, when not state-sanctioned, truth commissions would be considered unofficial and, as such, truth projects rather than truth commissions proper. The Mandate transforms this by making official and unofficial "incidental to the definition of truth commissions as opposed to essential" (Beitler, 2013, p. 109). Further, the Commissioners redefine how truth commissions can be established and at what level they can be legitimate (GTRC Final Report, 2006, p. 12). Finally, the Commissioners responded to a City Councilman, who critiqued their legitimacy by noting the Commission would have no power to compel testimony or produce evidence. The Commissioners addressed this by aligning themselves with state-sanctioned truth commissions, which also did not have this power, such as El Salvador, Guatemala, and Peru (Beitler, 2013, p. 109).

Second, the Commission notes that the Greensboro Massacre did not occur in a vacuum. Rather, that the events of November 3rd, 1979 are the result of long-term and ongoing racial injustice (Beitler, 2013). As mentioned, North Carolina has a long history of racial violence which regularly goes unpunished in the US justice system. Further, the Commissioners examined the systemic nature of racial injustice and antecedents to the Massacre and aligned themselves in this manner to the SATRC. The close identification was also criticized with one Councilman stating, "To pattern the project from the model of what happened in South Africa, over many years of abuse and inhumane treatment...is almost like comparing apples to oranges" (Beitler, 2013, p. 112). In response, the Commission states that the abuses under Jim Crow and segregation in the US are at the national, systemic level similar. Further, should South Africa and other countries where such atrocities occurred be examined at the

local level, they would look like what happened in Greensboro (Beitler, 2013, p.113). Of course, a truth commission investigating widespread, long-term abuse is different from one examining a single instance of violence. However, this difference, according to the Commission, is one of scale since in both instances “individuals used race as a reason to treat others as less than human” (GTRC Mandate, 2006, p. 14).

The final major accusation waged against the GTRC and its classification as a truth commission was that it did not occur at a time of political or regime change. The Commissioners here argue that the community in Greensboro and, in truth, Black Americans in the US had been calling for change throughout history and had been ignored time and time again by their government. For Greensboro, this is evident in the acquittals of Klansmen and Nazis, media portrayal of the massacre, the City Council’s opposition to the GTRC, their efforts to delegitimize the GTRC (GTRC Mandate, 2006). The Commissioners use this framing to note that there have been calls for social and political change since November 3rd, 1979 and that since then, they have gone unanswered. Finally, the accusation of bias claimed that since the GTRC was called for by the victims, the process would be illegitimate and biased. However, victims have “without fail been the moving force behind truth-seeking initiatives,” and via the selection process established by the GTCRP, the Commissioners reflected a wide range of the Greensboro community and the US generally (GTRC Mandate, 2006, p. 14).

Despite these criticisms, the Commissioners place themselves under the umbrella of truth commissions, and the GTRC has been accepted as such. In an interview with a Greensboro survivor, Hayner even states that “many countries are holding truth commissions organized by governments and non-governmental organizations... A nation, or a community within a nation, needs to reflect, to come to terms with specific incidents or patterns of injustice” (Bermanzohn, 2003, p. 370). The GTRC is a notable example of truth-seeking in the US and has several features that go on to characterize most truth processes in the US thereafter. As Beitler states:

“It operated independently of government authority; it developed through grassroots means and community-based partnerships; it received support from NGOs (such as the ICTJ) and philanthropic organizations (such as the Andrus Family Fund); and it drew upon the rich rhetorical resources of past truth commissions.” (Beitler, 2013, p. 130).

Beitler goes on to enumerate several transitional justice mechanisms within the US, which have followed the model of the GTRC including the Mississippi Truth Project, the Maine-Wabanaki Truth and Reconciliation Commission, the Metro-Detroit Truth and Reconciliation Commission on Racial Inequality, and the Liberian Truth and Reconciliation Commission Diaspora Project (LTRC). The US history with Liberia is important to note here, and its involvement further cements the idea of transnational cooperation in US transitional justice mechanisms. The LTRC took statements from displaced Liberians in Minnesota beginning in 2006 and later in multiple other US cities (Beitler, 2013). In addition, Liberia was established as a colony for formerly enslaved people in the 1820's and gained independence in 1847 (Beitler, 2013). Throughout Liberia's history, there has been conflict between indigenous Liberians and Americo-Liberians, who held the majority of political power despite being the minority population (Beitler, 2013). However, the LTRC was unlike other truth initiatives in the US at this point, largely supported by the Liberian government.

The GTRC's goal was to produce truth centered on racial injustice and violence and how these injustices were upheld and perpetrated by the state. Therefore, the GTRC focused on state support of Klansmen and Nazis rather than the Klansmen and Nazis themselves, although they were not left out (Inwood, 2012). The seven Commissioners included faith leaders, community organizers, as well as transitional justice, psychology, and legal experts (GTRC Final Report, 2006). The selection process was established such that the Commissioners reflected Greensboro and the US writ large. In total, 54 people gave statements, including residents of Morningside Homes, nearby textile workers, police, activists, Klansmen, civic leaders, reporters, and several academic and legal experts (Cunningham, 2008). In addition, GTRC had a documentary process in which commissioners reviewed interviews and archival records from the city and police departments (Cunningham, 2008). A half-hour talk show, newsletter, website, blog, and outreach events like worship services were also held (Cunningham, 2008).

These community events were established to engage the entire Greensboro area and promote reconciliation and inform community members on what the Commission did and how to have a dialogue with one another about the topics the GTRC discussed (Jovanovic, 2006). The educational outreach included poetry workshops, training to "teach people how to have dialogue, not argument" (Jovanovic, 2006, p. 12), community-wide meetings to discuss what locals hoped would be in the final report. There were also smaller discussions among residents lasting for about 1-2 hours, marches, guest lectures, and workshops on including education on the topic into public school and college classrooms.

Finally, the GTRC held a meeting with representatives from other truth commissions, including South Africa and Peru (Jovanovic, 2006, p. 12-14). While many of these events were successes, the proceedings and deliberative process were often interrupted by the city and police department, who harassed and intimidated not only the commissioners but also those who could provide statements (Inwood, 2012). As a result, many people were either advised against or fearful of testifying for fear of retaliation.

In their Final Report, the Commissioners published a new official history. In which they found that it was foreseeable that any contact between the groups would result in violence as it had in the past, particularly given the KKK's terrorist activity, the KKK's linkage of communism and race, as well as ongoing tensions following previous interactions (GTRC Final Report, 2006, p. 300). In addition, the Greensboro Police Department (GPD) was well aware of this history and knew that the KKK and ANP interfering with the protest would violate protesters' first amendment rights to the freedoms of speech and assembly (GTRC Final Report, 2006). The GPD had an informant within the KKK during this period, Eddie Dawson, who made a speech at the Klan rally in China Grove and organized the counter-protest in Greensboro. Dawson also obtained copies of the permit and route the CWP protestors would take on November 3rd. Further, according to eyewitnesses, Dawson shouted the first insults at the protestors with the intent to incite violence (GTRC Final Report, 2006). While informants are by definition party to criminal activity, organization and incitement exceed the involvement informants should have. The police failed to intervene when Dawson took these leadership roles and orchestrated criminal acts. As their informant, the police had full knowledge of the Klan's and Nazis' intention prior to the march and still did not intervene or warn the demonstrators about the planned armed counter-protest (GTRC Final Report, 2006). The GPD did not stop the caravan of KKK and ANP members from arriving in Greensboro, despite the knowledge that they had firearms with the intent to use them. The GPD also stationed all officers between five and twenty blocks away from the main route and remained at their posts during the shooting (GTRC Final Report, 2006). Following the shooting, the GPD did not stop cars fleeing the scene.

The City of Greensboro deflected attention, concealed information from the public, and intimidated the press into withholding footage of the massacre (GTRC Final Report, 2006). The hidden information included previous violent encounters between the groups involved, officer testimony, radio transcripts, and information regarding the mishandling of the KKK informant by the GPD, and that the GPD knew of the counter-protest and intended violence a month before the march. The Final Report

also called for recommendation on the part of the City and Police Department. Both institutions should issue public and private apologies, issue compensation, erect memorials, and begin antiracism training (GTRC Final Report, 2006). In particular, the City government should amend the education curriculum to include the GTRC and its findings, expand jury selection to prevent all-white juries, and institute a citizens' review board of the GPD (GTRC Final Report, 2006). The board should then aggregate, publicize, and investigate all accusations of corruption with the police department. The Commissioners also include recommendations for the community, including holding the City and police department accountable via civil suits and maintaining civic engagement as they did during the Mandate of the GTRC (GTRC Final Report, 2006). Unfortunately, the City government's opposition to the GTRC proved to be a barrier to implementing these recommendations. It was not until 2017 when the City of Greensboro issued an official apology. In this apology, they acknowledge the police department's awareness of the KKK and ANP's plans and that they intentionally did not intervene once the violence broke out. Unfortunately, the police department itself has yet to issue an apology.

The GTRC stands as a representative of how communities can address "the social harm of racial discrimination and violence" (Androff, 2018, p. 283). The GTRC led directly and indirectly to a cascade of truth commissions promoted primarily through grassroots community organizing and civil society actors. From the perspective of a grassroots movement, the GTRC was a very successful undertaking despite the resistance it encountered. This is especially true given that for the first time, the victims of the Greensboro Massacre had their stories and voices heard after decades of misrepresentation and resistance by the state (Inwood, 2012). It is then no wonder that given their example, communities around the US would seek to have their own voices heard. One such community is that of Detroit, which, inspired by the Greensboro and South African models, established a commission to examine the truth and effects of housing discrimination based on race.

The Metropolitan-Detroit Truth and Reconciliation Commission

The second truth commission in the US occurred in Detroit, Michigan, and sought to examine the causes and consequences of the Detroit Uprising and subsequent residential segregation in the city. Again, opposed by the local government, the Metropolitan Detroit Truth and Reconciliation Commission (MDTRC) displays how a lack of state support can affect the functioning of truth commissions in the US even with support from civil society.

In July of 1967, following a police raid and subsequent police brutality, crowds began to form, eventually leading to riots. In addition to this specific instance of police brutality, the Detroit Police Department had become increasingly militarized, and instances of police brutality had become increasingly frequent, leading to this particular raid. These riots spread through 35 square miles of the City of Detroit, Michigan, leading to 43 deaths, 682 burned buildings, and 7,200 arrests (Lowinger, Darrow, & Huige, 1969, p. 33). During and after World War II, Detroit had been a major industrial center and, at one point, the fourth largest city in the US. However, as the post-war economy turned to vehicle manufacturing, these auto companies moved manufacturing out of the city and, with it, jobs. Wealthier white populations moved with economic opportunity. However, less wealthy Black populations remained in metropolitan Detroit with little economic opportunity left (Inwood, Alderman, & Barron, 2016, p. 20). Further, Metro Detroit is surrounded by so-called ‘sundown towns’ wherein African Americans must leave before the sun sets for fear of violent retaliation. So, in addition to the increase in police brutality, the Black population of Detroit faced violence from the white community, a housing crisis, and an economic crisis in the lead up to the Detroit Uprising (Inwood, Alderman, & Barron, 2016, p.16).

In response to the uprising, President Lyndon B. Johnson established the Kerner Commission headed by Illinois Senator Kerner to try and understand the causes of riots as well as how they could have been prevented, not only in Detroit but also in cities facing similar urban conflict (Inwood, Alderman, & Barron, 2016, p. 17). The Commission found that the federal government should take action to create jobs in these areas, expand welfare particularly by ending the requirement to provide a residency, a common barrier for the unhoused. These recommendations, which would help alleviate poverty by investing in the people, were not implemented. Rather, instead of addressing the issues of poverty and race, the City of Detroit sought to remove low-income and Black people from the metropolitan area leading to decades of housing discrimination and worsening poverty among the Black population (Inwood, Alderman, & Barron, 2016, p. 21). The City’s practices and white flight to the surrounding suburbs led to de facto racial segregation throughout the city. These issues persisted for decades, and as mentioned, the Civil Rights legislation did not solve systemic racism or the structural violence faced by Black Americans, and many of the programs established during the era were severely cut back by the 80s (Lyons, 2020).

As seen in Greensboro, the MDTRC was established by civil society actors with no government involvement in 2011 (Inwood, Alderman & Barron, 2016). In their mandate, one Commissioner of the

MDTRC held that they would investigate “racial oppression of people of color by individuals, structures, and institutions” (MDTRC, p.1 NEEDS YEAR). They state that the oppression in Metro-Detroit caused economic disparities, fewer housing and job opportunities, higher poverty rates, and restricted access to education and health care, and lower life expectancies (Beitler, 2013, p.134). The Commission explicitly aligned itself with both the South African and Greensboro models. As the GTRC, the MDTRC planned to release a final report following a two-year period of hearings and inquiry. In addition, the MDTRC, as the GTRC, has commissioners that are representative of the community they serve. More specifically, the MDTRC was to investigate and take testimony concerning residential segregation and its effects on the Detroit Uprising (Inwood, Alderman & Barron, 2016).

This truth commission can be seen as the counter to the success in Greensboro. As neither was supported by the local, regional, or national government, they each faced funding, structural, and legitimacy issues. However, while the GTRC is perceived mainly as a success by both the Greensboro community and transitional justice scholars, the MDTRC was not able to complete its mandate (Androff, 2018; Inwood, Alderman, & Barron, 2016). The Commission was created just before Detroit filed for bankruptcy in 2013. The economic strife in the city proved to be a major setback for the TRC (Inwood, Alderman, & Barron, 2016). Two years after its inception, the MDTRC lost three commissioners due to personal issues and the clarity of the mandate (Androff, 2018). In the end, the MDTRC did not fulfill its mandate and, per its charter, had a limit of two years to complete its work and produce a final report. While the commission was able to elect new commissioners, its activities have since ceased altogether. In this instance, the MDTRC did not have the same funding as the GTRC, the same amount of clarity with its mandate, and was undertaken during a time of economic uncertainty for the city and its population. To this end, the MDTRC shows the limits truth commissions in the US have when there is a lack of government involvement.

Other Truth and Reconciliation Efforts in the US

The GTRC was not an anomaly, and African American communities are not the only ones establishing truth commissions. Native nations in the US have also established truth commissions. A notable example is that of the Maine Wabanaki State Child Welfare Truth & Reconciliation Commission (MWTRC) which began in 2012 and published its final report in 2015. The MWTRC examined US policy, the Indian Child Welfare Act of 1978, which removed Native children from their

homes and placed them with non-native families (California, 2019). The MWTRC was the first state-wide initiative and the first to have US government support. Maine's governor and five Wabanaki chiefs signed the MWTRC's Mandate sanctioning the commission (California, 2019). The MWTRC also had the precedent of the GTRC and the Truth and Reconciliation Commission of Canada (CTRC), which also examined the displacement of Native children to residential schools and the abuses against children in them (California, 2019). The CTRC began in 2007 and lasted until 2015. The precedent of these TRCs garnered authority in the establishment of the MWTRC and successive truth commissions and projects. Other projects pursued by communities in the US include efforts in Rosewood, Florida; Mississippi; and Tulsa, Oklahoma (Ladisch & Rocatello, 2019). While not commissions proper, these projects show a growing effort by civil society for truth-telling and justice in the lead up to larger, even national, efforts in the wake of the Movement for Black Lives. Truth commissions and projects in the US usually follow a period of community activism (Magarrell & Wesley, 2008). Further, in the most recent period of activism in the US, the largest since Civil Rights in the 1960s, truth and reconciliation have garnered national attention. These efforts culminated in legislation urging the establishment of a United States Commission on Truth, Racial Healing, and Transformation (H.Con.Res 19). This bill works in complement to HR 40 for the establishment of reparations in the US.

The Reparations Movement

Reparations in the US have been called for since they were promised but never actualized in the aftermath of the Civil War. It is true however that the momentum behind the movement has waxed and waned in its nearly 160-year history. Of course, there are notable periods that garner more support for reparations than others, as in the Civil Rights, Black Power, and Black Lives Matter movements. A major reason for this is that as reparation for slavery was never actualized after the Civil War, the US still owes a debt to the descendants of formerly enslaved people. There were multiple attempts to realize land redistribution by the Sherman Special Field Order No. 15, Howard Circular Order No. 13, and many debates within Congress after the Civil War. However, most of the 4 million formerly enslaved people were left without tillable land. Many freed people remained on their former plantations as sharecroppers, while others moved to the north or cities within the South that were urbanizing at the time. As a result, the call for land redistribution ceased to be the primary demand of freed people. However, its failure remained to be seen as a debt owed, and this perception has lasted through the Civil Rights Movement and even to today (Biondi, 2003, p. 256). This debt would go on to be

mentioned by Dr. Martin Luther King Jr. and the Black National Economic Conference in 1969 (Scott, 2020, p. 66).

Action on the local, regional, and international levels did stop after the Civil Rights and Black Power movements. Since the US seems unwilling to take action federally, many organizations and individuals have taken to civil court and the international stage. In civil cases across the US, more than 3,000 named plaintiffs have filed suit against corporations known to be involved in slavery and the slave trade, prompting many of the corporations to make public apologies and settlements. Internationally, Black organizations including the African Diaspora Caucus, the Black Radical Congress, and the National Coalition of Blacks for Reparations in America (N'COBRA) called on the UN to “characterize the institution of slavery and the transatlantic slave trade as crimes against humanity (crimes against humanity have no statute of limitations in international law); to assert the motive of white supremacy; and to call for reparations,” (Biondi, 2003, p. 264). The US strongly opposed this initiative. However, the label of crimes against humanity was included in the Durban Declaration and Program of Action, which was signed by 168 nations at the UN’s World Conference against Racism, Racial Discrimination, Xenophobia, and Related Intolerance in 2001 (Biondi, 2003). Further, the Program of Action states that slavery and the transatlantic slave trade should have always been considered to be crimes against humanity. This counters the idea that since slavery and slave trades had long been legal in many parts of the world that they are only considered crimes in hindsight (Biondi, 2003).

Recently, calls for the US to address these abuses via reparations have increased again, with many local, regional, national, and international organizations calling on Congress to include reparations on their agenda (Biondi, 2003). In addition, the reparations movement can now use precedents from reparation programs for other communities. For example, Congress passed the Civil Liberties Act of 1988 for the Japanese Americans survivors of internment camps during World War II (Scott, 2020, p. 67). This legislation awarded survivors \$20,000, established a fund to be used for education programs about the internment camps, a formal apology by the US government, and pardons for those convicted for resisting detention (Taifa, 2020, p. 14; Scott, 2020). In addition, local reparations have been awarded in Rosewood, Florida, for a race massacre in 1923; North Carolina and Virginia for forced sterilizations; and Chicago, Illinois for victims of Torture (ICTJ, 2021). Using these programs as precedent, HR 40, a congressional bill for a reparations commission of African Americans, was first introduced in 1989 and introduced again to the 117th Congress in April 2021. The most

prominent actor within the modern reparations movement is N'COBRA, established in 1987 for the express purpose of gaining reparations for African Americans. N'COBRA has long championed HR 40, a congressional bill for studying reparations. HR 40 was first introduced in 1989 by John Conyers and Sheila Jackson Lee, who has re-introduced the bill every year since. HR 40 was introduced into the 117th Congress in January 2021.

Conclusion

The precedent of the first truth commissions in Greensboro, Detroit, and Maine as well as persistent call for reparations by the African American community and national politicians have set the groundwork for succeeding programs and the introduction of broader, more widespread calls to action. As the Movement for Black Lives began to address the legacy of human rights abuse in the US, calls for sweeping changes to the national narrative and means of repair began as well and have grown to spark national and international dialogue.

Chapter 4: The Push for Transitional Justice in the Movement for Black Lives

The Movement for Black Lives (M4BL) began as a means to bring awareness and take action against police brutality in the US. In the years since its inception the M4BL has become a national and international organization and sparked dialogue among communities and the federal government. Since the movement began the push for transitional justice, namely truth commissions and reparations, have become a dominant means of redress, and has moved from the local to national sphere.

The Movement for Black Lives: from #BlackLivesMatter to international protest and organization

The Black Lives Matter movement and organization began as an affirmation and call to action against state-sanctioned violence, the seeming impunity with which the police kill African Americans, and the opacity of the investigations into police violence (Nolan, 2019, p. 64). Following the murder of 17-year-old Trayvon Martin at the hands of George Zimmerman in 2012, the #Black Lives Matter began trending on Facebook and later on Twitter (Ray, 2020). The Black Lives Matter organization, founded after the movement's online presence, was born out of the work of Alicia Garza, Opal Tometi, and Patrisse Cullors (Ruffin III, 2021). BLM then joined other organizations in the fight against police brutality and the online activism community, eventually creating the Movement for Black Lives, a coalition of 50 organizations (ICTJ, 2021). Following Zimmerman's acquittal in 2013, the Movement for Black Lives gained more support online, eventually becoming a street movement following the murders of Eric Garner and Michael Brown, only one month apart. In July 2014, Eric Garner was killed by officer Daniel Pantaleo in Staten Island, New York. When attempting arrest, Pantaleo put Garner in a chokehold, a move banned by the NYPD in 1993. Garner lost consciousness and was taken to a nearby hospital, where he would be pronounced dead an hour later. A witness recorded Pantaleo's unlawful actions, and the footage went viral online. Then in August of 2014, Michael Brown was killed at the hands of police officer Darren Wilson in Ferguson, Missouri. The online movement #BlackLivesMatter garnered international attention, and thousands of protesters across the US marched for Black Lives (Ray, 2020; Nolan, 2019). Both Wilson and Pantaleo faced grand juries. Both grand juries chose not to indict the former officers for the murder of Brown and Garner, respectively (Ostertag, 2019). Since Ferguson, an international coalition of over 50 organizations with thousands of participants has been created in the Movement for Black Lives (Ray, 2020).

After Ferguson, police brutality and protests against it continued. The frequency with which police abused and killed Black people did not slow after these protests began. In fact, as journalist Wesley Lowery would note as he spent eight months,

“visiting city after city to report on and understand the social movement that vowed to awaken a sleeping nation and insisted it begin to truly value black life. Each day, it seemed, there was another shooting. In city after city, I found officers whose actions were at worst criminal and at best lacked racial sensitivity, and black and brown bodies disproportionately gunned down by those sworn to serve and protect.” (Lowery, 2017).

Nevertheless, the protests would not grab widespread attention as they had in 2014. There are a variety of reasons for this, but the largest one that the 2016 election and bigoted vitriol therein led to protests across the US against racism, sexism, family separation, gun violence, and climate change (Nolan, 2019). The all-encompassing nature of these protests on the one hand directed attention away from the individual movements, while on the other hand promoted the intersectional of them. For example, it was during this time that the #SayHerName began to trend on social media thanks to the work of the African American Policy Forum in documenting police violence against Black women (Nolan, 2019; Ray, 2020; Ruffin III, 2021). The Movement for Black Lives until this point had primarily focused on Black men and boys. Still, as the Women’s and #MeToo movements rose in popularity during the 2016 election cycle, more attention was paid to how Black women and girls are particularly victimized by police violence (Nolan, 2019). #BlackLivesMatter and #SayHerName now function in partnership with one another (Ruffin III, 2021).

A major feature of the Black Lives Matter movement now is the use of social media and the occupation of public space, as Black people have been historically excluded, regulated, and controlled out of the public eye. This kind of civic engagement places them where they cannot be ignored. Further, as traditional mass media has been “unresponsive to these grievances of police racism” (Ostertag, 2019), Activists then moved to social media, which is controlled by individuals themselves with the ability to reach audiences far beyond those of traditional media sources. In fact, media portrayals of Black men during the first years of the Movement for Black Lives maintained the biased and stereotypical reporting of previous decades. Following Trayvon Martin’s murder, he was shown in pictures giving the middle finger and called a “would-be thug” (Watson, 2019). In depicting Michael Brown, newspapers portrayed Brown as a large man with uncontrollable aggression using Darren Wilson’s comparison of “a 5-year-old trying to hold on to Hulk Hogan” (Media Portrayals, 2018).

These depictions are not only inaccurate, as Wilson and Brown are in reality similar sizes, but also reflect how society and the police perceive black men.

Public opinion and support have been critical in the movement for Black lives, as it has the ability to pressure media, politicians, and institutions to act and as such enact change (Ostertag, 2019). Finally, police officers tend to have impunity in regards to the killing of Black people. Given US history concerning justice and accountability for crimes against African Americans, it is no surprise that police are often acquitted and allowed to remain at their post after such abuse. What is no longer true, however, is that police violence goes undocumented. In the face of overwhelming evidence as well as unprecedented numbers of demonstrators, the US is being forced to confront not only systemic racism within police departments but systemic racism within every institution.

On May 25th, 2020, following an arrest attempt Derek Chauvin murdered George Floyd, pinning his knee on Floyd's neck for approximately nine minutes (Hill et al., 2021). Witnesses of the murder recorded Chauvin and other officers' actions. Some bystanders even called 911 to try and get more police to stop the violence. A nine-minute recording of Floyd's final moments then went viral online prompting the largest protests in US history (Osborne & Cooke, 2020). On March 13th, 2020, Breonna Taylor was shot in her home by three plainclothes officers during a no-knock warrant raid on her apartment in Louisville, Kentucky. Taylor's death was raised to the national scale in May of 2020 as demonstrators called for justice for Taylor and Floyd (Ruffin III, 2020). During these protests, more than 26 million Americans took to the streets in over 150 cities across the country (Osborne & Cooke, 2020; New York Times, 2021).

Following Floyd's death, the four officers involved, Derek Chauvin, You Thao, J. Alexander Kueng, and Thomas Lane, were terminated. Chauvin was arrested on May 29th and later stood trial for second-degree and third-degree murder charges (Bogel-Burroughs, 2021). Following a weeks-long trial, Chauvin was convicted of all charges on April 20th, 2021. The other three officers have been charged with aiding and abetting. Their trials are set for August 2021 (Chappell, 2021). Taylor's case stands in sharp contrast to Floyd's. Even a year following her death, none of the officers who fired into her bedroom have faced criminal charges over her killing (Booker & Treisman, 2021). Taylor's family filed a civil suit for her wrongful death, receiving a \$12 million settlement and the inclusion of police reforms such as the ban on no-knock warrants within the city (Booker & Treisman, 2021). Given the failure of criminal justice in Taylor's case, the Louisville community and Americans generally feel as though there has been no justice for her (Booker & Treisman, 2021). Unfortunately, this is in line with

many instances of police violence over the course of history where law enforcement can operate with little to no accountability for their abuses against Black people.

The protests in the wake of Floyd and Taylor's deaths lasted for the entire summer of 2020 (Fuller, 2020). One city, Portland, Oregon, took to the streets every day for more than 100 days (Fuller, 2020). This engagement nationally has led to the push for transitional justice at the national level for both a national truth commission and national reparations committee to investigate the implementation of redress. Since transitional justice often focuses on commemoration, confrontation of authorities, and public acknowledgment of wrongdoing on the part of the government, these actions by civil society are effective in promoting transitional justice mechanisms (Gready & Robins, 2017, p. 970). This is particularly true in the US, as transitional justice mechanisms, particularly truth commissions and reparations, have seen a surge in support and creation. By taking to the streets and filling public space, civil society's approach to transitional justice can provide mechanisms that are diverse, accessible, and locally relevant, placing transitional justice "closer to the pulse of contemporary activism and protest" (Gready & Robins, 2017, p. 971).

The Push for Transitional Justice in light of the Movement for Black Lives

The increase in activism over the course of the Movement for Black Lives, similarly to past social movements, has caused another push for justice and societal change in the US. In this case, that justice and change are in the form of transitional justice. The failure of criminal justice throughout US history and the failure of federal institutional reform and legislation after the Civil Rights era are notable causes to this end. In addition, so are the precedents of transitional justice within the US, including the GTRC, MDTRC, MWTRC, reparations for Japanese-American victims of internment, and the unwavering activism by the Black community for redress.

Looking outside the traditional system has then relocated criminal prosecutions to a means of accountability rather than justice. In that, accountability is seen as a retroactive means of redress to hold perpetrators accountable but does nothing to prevent further injustice whereas justice is seen as proactive to repair and prevent injustice. A notable example of this is Derek Chauvin's conviction, which is accountability for Chauvin, but not justice for his victim, George Floyd as the institutions and practices that led to his death are still in place.

Justice in the case of human rights abuses against African Americans is multifaceted, multigenerational harm which requires a response that is equally complex. To this end, there have been a number of ambitious transitional justice mechanisms established in the US locally and regionally which have garnered the support of local and state support, including the Truth-Telling Project, the Maryland Truth and Reconciliation Commission, the Tulsa Centennial Commission, and a reparations program in Evanston, Illinois among others. Further, there is a push for transitional justice to be implemented at the national level as well.

The Maryland Lynching Truth and Reconciliation Commission

The history of lynching, as in the rest of the South, is a dark and long one. In 2015, the Equal Justice Initiative published a report documenting over 4,000 racial terror lynchings in the South and 28 in Maryland (MLTRC Interim Report, 2020). This number has increased as scholars have focused mainly on the state, and there is now evidence for 42 such murderers (MLTRC Interim Report, 2020).

The Maryland Lynching Truth and Commission (MLTRC) was established first by community organizing and, unlike the first truth commissions in the US, has gained the support of the state and in 2019 was signed into being via House Bill 307. The main goal of the MLTRC brings justice to victims of lynching from 1854 to 1933 (MLTRC Interim Report, 2020). House Bill 307 gives the MLTRC until December 1st, 2021, to produce its final report. However, the mandate may be extended to accommodate the setbacks due to the COVID-19 pandemic and the delays of public hearings over this time. The MLTRC, similar to the US truth commissions before it, will hold public hearings from descendants of victims, perpetrators, and witnesses and put emphasis on healing and reconciliation within the Maryland community. The MLTRC is the first truth commission established to examine racial terror lynchings in the US. Given the widespread nature of lynchings in the South, the MLTRC hopes to lay the groundwork for other communities to establish their own TRCs for this kind of atrocity.

In addition to the state initiative, Howard County, within Maryland has established a local truth and reconciliation non-profit detailing the three known racial terror lynchings of Rev. Hezekiah Brown, Nicholas Snowden, and Jacob Henson Jr. in 1884, 1885, and 1895 respectively (Howard County, 2020). In addition, the non-profit will investigate near lynchings in the county and establish a common narrative of these and the climate in which they occurred. This is a truth project rather than a commission proper and, as such, has no official end date or final report (Howard County, 2020).

Howard county's history will be heard in the MLTRC, with their tentative hearing date set for January 2022 (MLTRC Interim Report, 2020).

The Tulsa Race Massacre and Remembrance Project

The US is also seeing a rise of truth, reconciliation, and memory projects rather than commissions proper, such as that in Tulsa, Oklahoma. In 1921 in Tulsa's Greenwood neighborhood, also commonly referred to as Black Wall Street. White city officials, law enforcement, and KKK members targeted the Greenwood neighborhood of Tulsa setting much of it on fire, murdering hundreds, and burying them in mass graves (VICE, 2021). This massacre was one of the largest racially motivated attacks in US history. More than 800 people were admitted to the hospital, 6,000 Black residents were detained for several days, and estimates from an Oklahoma investigative body place the death toll between 75 and 300 people (NAARC, 2021; VICE, 2021). Thirty-five blocks were destroyed in the process, which left approximately 10,000 Black residents homeless (VICE, 2021). No arrests were made following this, and the city did not acknowledge that the massacre had happened since the perpetrators were city officials; the attack was easily hidden (NAARC, 2021; VICE, 2021).

In the aftermath of the massacre only 40% of the Black population in Tulsa remained in the city to rebuild (VICE, 2021). However, as is the case with many cities across the US, particularly in the early 1900s, racial segregation, discrimination, and violence terrorized the community. Over the coming decades Black residents in Tulsa would suffer under the same conditions as Black communities across the US facing housing, employment, education, and health discrimination. It would not be until Oklahoma established an investigative Commission in 2006, that the truth behind the massacre would come to light (Johnson, 2020). Further, it would not be until 2018 that a Commission for the search and excavation of mass graves went underway (Johnson, 2020). The lack of accountability and redress for survivors and their descendants has been a major push for activism in the area and during the M4BL, Tulsa has become a national talking point.

The commission published their final report of the events in 2001, after which point Oklahoma schools were required to include the history of the massacre within the public school history curriculum (Johnson, 2020). This commission, similar to the ongoing 1921 Tulsa Race Massacre Centennial Commission, while not transitional justice proper, is indicative of the push for transitional justice in the US now and the community activism that is needed to create it. The secrecy and perpetration by the city led to a movement by the descendants of those present at the massacre to start truth projects. The

Centennial Commission has remembrance and truth projects commemorating the 100th anniversary of the massacre. These projects include commemorative projects, economic development, education initiatives, and reconciliation.

The Iowa Ad Hoc Truth and Reconciliation Commission

As is the case with all truth commissions and projects in the US and beyond, the Iowa city commission was promoted by local activists and supporters. Further, as is an emerging norm in US transitional justice, the commission is also supported by the local government. Established by City Council Resolution 20-228, the Ad Hoc Truth and Reconciliation Commission has a three-part mandate, including fact-finding, truth-telling, and reconciliation (Ad Hoc, 2021). The ICTRC will first collect evidence and compile a record of racial injustice within the city. Second, the ICTRC will hold hearings where community members can give testimony as well as other means of storytelling such as art, workshops, worship, and other means (Ad Hoc, 2021). Finally, the ICTRC promotes reconciliation by facilitating dialogue between groups ensuring these dialogues have a replicable model capable of becoming ongoing processes after the ICTRC mandate is over. The ICTRC will also recommend education for community members about injustice become available as well as the publication of their final report. The Iowa City Ad Hoc ICTRC is expected to complete its mandate in June of 2022 (Ad Hoc, 2021).

The grievances it seems are that Iowa City established the ICTRC based on the ideas of local youth activists and the Iowa Freedom Riders to examine racial injustice but has since left out those affected by racial injustice, including the original voices calling for such a commission (Iowa Freedom Riders, 2021). Interestingly, the ICTRC has been met with criticism from activists within Iowa City for the strict control and coordination the city took in its implementation calling the ICTRC performative, avoiding “anything uncomfortable to the Council’s power base” (Iowa Freedom Riders, 2021, p.1). In fact, the Iowa City TRC was met with contentious proceedings early on, as only one member of the Iowa Freedom Riders was included in the Commission. Many deemed the ICTRC an unsafe space for the sensitive work it would undertake (Smith, 2021). The Iowa City TRC then faced several Commissioner resignations leaving three seats empty, which forced the ICTRC into temporary suspension (Smith, 2021).

In response to the tension and suspension, the original activists who called for a city-wide TRC established the People’s Truth and Reconciliation Commission (PTRC), which operates across the

street from the City's TRC and in opposition to it. The PTRC cites South Africa, Greensboro, Maine-Wabanaki, Canada, and Maryland as inspiring their establishment. The means of truth and reconciliation sought by the PTRC include truth-telling, an investigative process, reparations, spiritual and mental health healing regarding trauma, story-telling through art, and education initiatives (Iowa Freedom Riders, 2021). The contentious nature of truth commissions in Iowa City is in fact another example of how state and local governments can be perpetrators. Further, it confirms what activists feared in Greensboro, that of the city hijacking the truth and reconciliation process in favor of keeping the old consensus rather than exploring and healing from the harm caused.

Other Ongoing Truth Commissions and Projects

Other initiatives for truth in the US focus on individual cities similar to Greensboro. The Truth-Telling Project (TTP) was established in the aftermath of Michael Brown's killing and the onslaught of national protests which followed (Ladisch & Rocatello, 2021). The TTP's work involves supporting grassroots movements for truth-telling processes throughout the US. New York City's Mayor DeBlasio has created the Racial Justice and Reconciliation Commission to address systemic racism and discrimination to "promote social learning, collective introspection, and policy action" (Mayor de Blasio, 2020). In addition, the Commission will also reevaluate the city's charter and correct the historical inequalities therein as well as look at reparations for the Black community in NYC similarly to the reparation program in Evanston, Illinois. Finally, sponsored by the Grassroots Law Project and the district attorneys in each city, including San Francisco, Philadelphia, and Boston formed a coalition in 2020 in an effort to establish truth commissions on police racial violence. This endeavor is notably different from most truth commissions as these would be overseen by District Attorneys who would have the opportunity to prosecute. This project comes as a direct result of the influence the George Floyd and Breonna Taylor murders sparked in the summer of 2020 (Booker & Triesman, 2021). During the protests, many cities across the US were confronted with their own cases of police brutality and histories of injustice such as lynchings, segregation, massacres, and riots.

Finally, other communities have garnered support for looking at past abuses against them. This is the case for the California Truth and Healing Council, which will examine documentation and testimony from Native Peoples within the state and establish a new historical record of the relationship between the state and Nation Peoples (Executive Order N-15-19, 2019). This Council was created by Executive Order N-15-19 by Governor Gavin Newsom in June 2019. The Council was intended to begin hearings in January of 2020 and complete their work in January 2025 (Executive Order N-15-19,

2019). However, like the MLTRC, the Council has faced delays due to the COVID-19 pandemic and is currently still in the drafting phase.

Local Reparation Projects and Programs

Truth commissions are not the only transitional justice mechanisms to be largely localized in the US. Despite the far-reaching pressure on the national government to accept responsibility for and take steps toward redress for slavery, most battles for reparations have been won locally (Dixon, 2020). A groundbreaking case for reparation is that of Evanston, Illinois, which in 2019 passed Resolution 58-R-19 and with the support of the City's Equity and Empowerment Commission, implemented an investigative body to identify what kind of reparations residents required (Evanston, 2020). After holding public hearings, the Commission released Resolution 126-R-19, which established a reparations fund and subcommittee to focus on housing discrimination. The focus on housing was derived from community meetings wherein the Equity and Empowerment Commission and the identification of housing discrimination between the City's early zoning ordinances in 1919 and the ban on housing discrimination in 1969 (Evanston, 2020). The report on this topic details further abuses against the African American community in Evanston during this same 60-year period, including discrimination in segregation, redlining, employment, education, criminal justice, and public service (Robinson & Thompson, 2020). Households that qualify for the program receive up to \$25,000 to go toward a down payment on a home or home repair (Triesman, 2021). N'COBRA and other national reparations organizations have seen the successful implementation of reparations in Evanston as a necessary first step toward other local initiatives and eventual federal action (Triesman, 2021).

However, the Evanston plan does have critics, which state that the reparations program is more a housing plan than reparations proper, that it does not allow for broad-based participation of the African American community in Evanston, and its limited scope does not lay sufficient groundwork for future processes (Triesman, 2021). Despite these criticisms, there have been similar local efforts in US cities, including Asheville, North Carolina in June 2020; Tulsa, Oklahoma as an ongoing process since the massacre in 1921; Providence, Rhode Island in July 2020; and Burlington, Vermont in August 2020 (Burgess, 2021; Dixon, 2020; McGowan, 2020; Booker & Triesman, 2021; VICE, 2021).

The reparations movement in Tulsa stems from the Race Massacre on Black Wall Street in 1921. In Oklahoma's investigative commission in 2001, it was found that the damages to the Greenwood neighborhood would equal \$30 million today (Johnson, 2020). The main recommendation

from the 2001 Commission was a reparations program for survivors and their descendants. However, the city did not take action even 20 years later (Johnson, 2020). Survivors have been fighting for compensation and redress since 1921 and have filed at least 193 claims of damages over this 100-year history (VICE, 2021). The push for reparations alongside truth-telling in Tulsa is particularly indicative of the complementarity of these mechanisms. Tulsa is often looked at as a microcosm of the US as the truth is buried and contested, and redress and accountability yet to be actualized.

National Transitional Justice Mechanisms

Introduced by Congresswoman Barbara Lee, H.Con.Res 19 is a federal bill for the establishment of a United States Commission on Truth, Racial Healing, and Transformation. This bill has 145 cosponsors in the House, 15 cosponsors in the Senate. The bill, as of April 28th, 2021, has been referred to the Subcommittee on the Constitution, Civil Rights, and Civil Liberties in the House of Representatives. This marks a historic piece of legislation as the first bill to be introduced for the establishment of a national truth commission.

H.Con.Res. 19 and the concurrent legislation in the Senate (S.Con.Res 6) go on to enumerate the history of human rights abuses in the US, including slavery, the denial of opportunity and mobility to African Americans, the failure of reconstruction, discriminatory government practice, disenfranchisement of Native Peoples, Federal Indian Boarding School Policy, removal of Native peoples from their Tribal lands, removal of Mexicans through discriminatory deportation, the annexation of Puerto Rico without the right to vote, racial discrimination against Latin Americans, xenophobic legislation against Chinese Americans, conspiracy to overthrow the kingdom of Hawaii, and finally US colonialism in the Pacific. Further, the bill states that these past abuses have contributed to modern disparities “such as the achievement gap, school dropout rates, income gaps, homeownership rates, health outcome, and incarceration rates” (H.Con.Res. 19, 2021). H.Con.Res. 19 is certainly comprehensive exploring a litany of long-standing multigenerational abuses the US has committed against many different racial and ethnic groups over its history. As a complement to this bill is legislation for the establishment of a Committee to explore a federal reparations program.

First introduced over 30 years ago, HR 40 now has 185 cosponsors in the House of Representatives and 20 cosponsors in the Senate. On April 14th, 2021, HR 40 was picked up by the House Judiciary Committee in a historic vote of 25-17 (H.R. 40). Until M4BL became the largest social

movement in US history, HR 40 seldom received more than 50 cosponsors in its 30-year history (NAARC, 2021).

HR 40, as presented in 2021, calls for the establishment of a “Commission to Study and Develop Reparation Proposals for African Americans.” The bill goes on much like H.Con.Res. 19 in enumerating a list of abuses against the Black community beginning in slavery and continuing to the present. Then establishes the duties of the commission, including compiling documentation about the institution of slavery from 1619 to 1865, the complicity of federal and state governments, discriminatory federal and state laws and practice, the lingering effects of slavery; recommending means for education on the findings on the issue of slavery and remedies to address these lingering effects; submitting a final report to Congress. Membership of the Commission would include 13 members appointed by the President, Speaker of the House, President pro tempore of the Senate, and major civil society organizations for reparations. All such members should possess the necessary skills and knowledge to serve on such a commission. The power of the HR 40 Commission includes hearing testimony, producing evidence, and the issuance of subpoenas. Further, the Commission is granted all access to all official information deemed useful to perform its duties. The bill goes on to provide for terms and compensation of the commissioners and administrative properties of the Commission.

Congresswoman Barbara Lee has gone on to reiterate what decades of activists before her have also noted, “This moment should have taken place in 1865...We will never end these systemic issues without truth-telling” (ICTJ, 2021). In addition to H.Con.Res 19, Rep. Lee also advocates for the establishment of local commissions, which is the usual way truth commissions are established in the US. Seemingly more are going forward with their mandate every day. Between 30 and 40 local commissions have been established since 2019 (New York University, 2020; ICTJ, 2021). H.Con.Res 19 also positions itself as a complementary mechanism to HR 40. The complementarity between reparations and truth commission has been established in precedents set by former TRCs, which include monetary compensation to victims in their recommendations of the final report as in the case in Peru, Canada, South Africa, and Greensboro (Magarrell & Wesley; ICTJ, 2021). Finally, as another historical moment in the reparations movements, President Joe Biden has pronounced his support of HR 40 as well as “action within his own government in the meantime” (Srikanth, 2021). This statement marks the first time a President has vocalized support of legislation for reparations. The actions referenced in his statement were promises during Biden’s campaign and the early days of his presidency, including an executive order to “Advance Racial Equality and Support Underserved

Communities” (White House, 2021). This executive order addresses housing, incarceration, Tribal sovereignty, and Asian American and Pacific Islander xenophobia (White House, 2021).

Conclusion

It is hard to understate the impact the M4BL has had on US communities and national dialogue surrounding racial injustice. Since the beginning of the movement it has become an international organization and sparked protests around the world. In the US in particular the M4BL has grown to garner support for transitional justice mechanisms that were at one point nonexistent or unsupported in the country. The culmination of the legacy of racial injustice and the newfound widespread awareness for it has led to this push for transitional justice in the US and its communities.

Conclusion

The implementation of truth commissions in the early 2000s based on the South African model of reconciliation and the spark of the M4BL has led directly to a boom in transitional justice mechanisms, particularly truth commissions and reparations in the US. The dredging up of unresolved human rights abuses by the US against African American populations by the movement shows a need for multifaceted and complex redress, and local communities and the federal government have a role to play in each. Further, the failure of traditional means of accountability, justice, and redress have pushed communities and, in truth, US civil society as a whole away from criminal prosecutions of individual perpetrators and institutional reforms as seen in the Civil Rights era. Instead, they have moved toward unattempted and novel means in truth commissions and projects and reparations programs. The changing concept of transitional justice as a result of its applications to racial injustice in the US are important to note. As mentioned, transitional justice in the US has different features than its international counterparts, particularly the local application of such mechanisms. Bringing transitional justice to the local level in the forms seen in the US, that is truth commissions and reparations, is certainly an interesting development. Further, it would be interesting for continued research if these applications influence other communities, as the M4BL is linked to transnational civil society and social movements far beyond those in the US.

Finally, it is important to examine the transitional justice mechanisms not discussed at length in this research in terms of the ongoing push for transitional justice in light of the M4BL. Certainly, strides were made in institutional reforms that fall in line with the push despite their historical failures. These same historical failures were the reason for their exclusion as civil society has moved more forcefully toward novel means of justice and redress. The same is not true for criminal prosecutions as a means of transitional justice. As Anna Myriam Rocatello mentions, “there is a tendency for transitional justice scholars at the international level to equate justice with criminal accountability” (ICTJ, 2021). This is not the case in the US. Criminal prosecutions in the US since 2019 have largely been seen as a means of accountability for individual perpetrators rather than as justice for victims (ICTJ, 2021). This shift in the perspective of criminal prosecutions comes as faith in the system to provide justice has been shattered as law enforcement misconduct has been met with impunity (Ladisch & Rocatello, 2021). In addition, victims rarely see justice in this system, as noted in the Trayvon Martin, Michael Brown, Eric Garner, Breonna Taylor, and Ahmaud Arbery cases. In fact, George Floyd

is the only victim of police brutality and racial injustice among the current M4BL movement, whose murderer was held accountable for their crimes.

In order to regain society's trust in criminal justice and, to a broader extent, US institutions as a whole, local, regional, and federal reforms are needed (Ladisch & Rocatello, 2021). During the M4BL institutional reform, particularly that of the police was an immediate agenda item. Many of these initiatives have been started in police departments around the country with some police departments implementing antiracism training and demilitarizing their forces in response to the movement. However, as calls for reallocating funds from police departments have increased in the M4BL, many other local and regional governments have in fact given law enforcement more funding. As Ladisch and Rocatello (2021) note, institutional reform is a long and ongoing process to reach the fundamental transformation of these systems. Law enforcement, in particular, should undergo periodic reforms to match society's needs in their respective communities. Further research in the field of transitional justice in the US, particularly the ongoing push, can examine these institutional reform movements such as the defunding the police, police and prison abolition, as well as community-based policing.

In addition to the exclusion of criminal prosecutions and institutional reforms, this research has thus far focused solely on racial injustice. However, the history of race relations is also marked by Black resistance and activism and Black resilience and agency (Ray, 2020). The importance of this cannot be understated as this agency is at the heart of each successive movement against human rights abuses against African Americans from the transatlantic slave trade to the M4BL, resistance to oppression, civil society action, and change has been formed by the activism of Black men and women (Ruffin III, 2020).

Finally, the reasons behind the ongoing push for transitional justice also reveal what it takes to enact change within this US context. Namely, active, persistent, widespread organization by civil society through multiple avenues will prompt leadership and lead to new means of justice and redress. In this context of transitional justice, these means are through truth commissions, reparations, criminal accountability, and institutional reforms. Within the Movement for Black Lives and societal change facing the US, the fight for justice is a contentious one facing national and local debate as the US tries to heal from the past, remake the present, and reimagine the future.

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