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**Foreshadowing reconciliation without the majority**

**Abstract**

The Norwegianization policy against the Sami, Kvens, and other minorities that focused on their forceful assimilation at the expense of their identity, language, and culture roughly a century from the 1850s demonstrates an element of Norwegianization. The Norwegian Truth and Reconciliation Commission (TRC), established in 2018, aims to reconcile and restore the status of the alienated minority groups within mainstream society. This paper focuses on the critical nation-building project and liberal principles while the Sami and Kven minorities were ill-treated under the past colonization. From a liberal point of views efforts at reconciliation should be minimal in relation to a focus on the pursuit of justice, which should become paramount. The discussion will take simple analogies of the Norwegian TRC, and the Canadian and South African TRCs. These countries have such different historical, social, and political contexts that case selection, and scale of analysis, constructing equivalence would weaken the reliability of the data. This paper focuses on factual and comparable processes based on their objectives and milestones. The successes and failures of the TRCs are based on their respective objectives. The most common weakness of the TRCs worldwide has been a lack of involvement in addressing social and economic transformation or related to the mandate commission members are given. They can limit the power of the majority by giving the indigenous and other minorities extra rights so they can keep their identities safe.

**Keywords:** Truth and Reconciliation Commission (TRC), Norway, Reconciliation, Norwegianization, Sami, Canada, South Africa

## **Introduction**

Truth and Reconciliation Commissions (TRCs) are increasingly becoming part of the operations of modern states. According to Haugen (2021), Canada, Greenland, Finland, and South Africa are some of the countries that have previously exploited the benefits of these commissions to reconcile their indigenous groups. In most of these states, the minorities represented indigenous people victimized by colonialism and forced assimilation. Norway's colonization of the Sami and Kvens has led to the establishment of the TRC, which focuses on the reconciliation of the Sami due to their experiences related to the Norwegianization policy (Spangen et al., 2015). Broadly, this policy was focused on compelling this ethnic group to abandon their language and culture to join the majority members of Norway. Since then, it has left huge cracks in the history of Sami and Norway in general. Therefore, this paper is a critical discussion of the Norwegian TRC by focusing on its origin and comparing it with those of Canada and South Africa.

Bashir and Kymlicka (2008) discuss the reconciliation that entered worldwide discourse with the founding of TRCs in South Africa's post-Apartheid period. They denote that the TRCs

were set up to deal with the effects of apartheid, not colonialism and imperialism. Indeed, the truth should be told, and reconciliation should encompass more than a one-time symbolic apology. They argue that it should address the underlying causes of racism. The agonistic perspective, which views political life as a conflict or battle, is viewed as a tool, and it is a tool that can be used for reconciliation purposes and to maintain the status quo (Bashir and Kymlicka 2008). According to Semb (2001), international norms have had an impact on the development of Norwegian Sami policy, among others conventions about land ownership such as article 27 of the International Labor Organization's Indigenous and Tribal Populations Convention which Norway has ratified.

During the transition from a repressive regime to democracy, coping with the past has taken various forms. Some of these policies are offender-oriented (amnesty, prosecution, and lustration), and others are victim-oriented (compensation and symbolic measures). Other strategies like TRCs are directed toward offenders and victims (Bosire, 2014). TRCs are regarded as alternative transitional justice mechanisms. They are non-judicial transitional justice mechanisms and do not have the power to prosecute criminals (Gandhi, 2011). Besides, Gandhi (2011) defines TRCs as temporary bodies mandated by governments or international agencies to investigate and make findings on acts and patterns of violence, gross human rights abuses, and violence, which can be traced to the mid-1970s and early 1980s. In some South American countries, TRCs were established to investigate the "disappearances" of people during previous military dictatorships (Campbell, 2000). The first TRC to attract international attention was the National Commission on the Disappeared in Argentina, which operated from 1983 to 1984. However, there is no generally accepted precise definition of what exactly is meant by "truth commissions" (Correa et al., 2009), and they can be described as official bodies that may be set

up to investigate a history of human rights violations in a particular country or a particular conflict and make recommendations for the future (Cueva, 2006).

Perhaps a more helpful way of understanding and appreciating what TRCs are is by trying to identify their distinctive features. In this respect, TRCs should be distinguished from investigatory bodies such as the ordinary commissions of inquiry, or others, such as the ordinary courts and special tribunals such as the International Tribunal for the Former Yugoslavia and Rwanda (Freeman, 2006). A more specific definition of TRCs can be found in Avruch (2010), who describes them as "bodies set up to investigate a history of violations of human rights in a particular country – which can include violations by the military or other government forces or by armed opposition forces" Avruch (2010, p. 1). This definition also implies that their background is conflict and turmoil.

TRCs can also be defined by what they are not. For example, they do not have the power to prosecute or punish perpetrators of human rights violations or make binding judicial pronouncements. They also do not have the power to implement or compel any implementation. Since the 1980s, there have been over 20 TRCs, as strictly defined above. Overall, TRCs vary considerably depending on the country, the events that motivated their creation, mandate, and duration. The purpose of TRCs has gained enormous interest due to various factors, and other things; the universal consensus that during democratic transitions dealing with past human rights abuses cannot be ignored; and the perceived need to institute Truth Commission-like bodies in conflicts (Hayner, 1998). Wiebelhaus-Brahm (2010) also sees TRC as an essential transitional justice mechanism for healing victims and their families, providing peaceful coexistence, and instilling a new democratic order characterized by respect and value for human rights and supremacy of the rule of law through their recommendations.

## **The Origin of the Norwegian Truth and Reconciliation Commission**

Calls to establish the Norwegian TRC emerged in the Parliament on 14 June 2018. As a result, there was a decision to establish an independent commission to investigate the Norwegianization policy and the resultant injustices, particularly against Sami and Kven (Griffith, 2018). While establishing this commission, the Parliament mandated it to conduct a proper historical mapping from 1800, conduct a thorough investigation about the impacts of this policy today, and recommend mechanisms for ongoing reconciliation. It further emerged that the TRC would form the basis for establishing close and systematic partnerships with the organizations and communities impacted by this policy (Haugen, 2021). Based on the initial plan, there is an expectation that the commission will have submitted its report by the beginning of June 2023.

Over the years, the Sami have been a fundamental aspect of Norwegian history. Ideally, they are considered indigenous people in the states. In response, several legal provisions have been enacted that have remained applicable to them as the recognized minorities together with Kven (Hansen & Sørli, 2012). For instance, there is a provision under Sections 2-7 of the Education Act that protects the rights of the Kven to education even if there are a low number of pupils. According to Hansen and Sørli (2012), in historical context, the national policies concerning the Sami and other national minorities are attributed to forced assimilation. Overall, there are three Sami languages currently spoken in Norway, including North, Lule, and South, in the order of their numerical numbers.

The representatives of the Sami community have played a fundamental role in strengthening and establishing the indigenous movement at the global level. According to Haugen (2021), it is difficult to ignore the influence of this group since it was so powerful that it

promoted policy developments among states. They are attributed to a wide range of impediments that formed the basis for gaining significant influence at the local, national, and global levels. In most states, standard political processes help secure rights and restrict the enjoyment of some categories of rights. Broadly, it is difficult to ignore the role of the Sami representatives since they enjoyed the right to self-determination and were substantively recognized as separate from the ordinary civil society players (Hansen & Sørli, 2012). By establishing a shared identity as the indigenous members of society, the representatives could speak on behalf of the indigenous people.

The public involvement of the indigenous people through their representatives helped establish a shared identity. Such a kind of identity is connected across the state. Even though this played an active role in global processes, there was a creation of vigorous and cohesive movement (Haugen, 2021). Such processes were initially embedded in everyday demands and experiences, especially regarding land rights and self-determination. Haugen (2021) argues that the overall acknowledgment of the indigenous Sami's injustice in Norway due to the influence of the Norwegianization policy justified general acceptance of theory demands. In essence, the legal acknowledgment of the historical injustices and shared identity presented sufficient evidence why the Sami and other indigenous members of society live as a collective different from any other non-state collective.

In Norway, there are also ethnic groups referred to as Pite Sami and East Sami. The Kven live in the same part of the country, especially in Finnmark and Troms, which are the main areas of the North Sami. Even though there have been gradual changes concerning Sami policies in Norway from the 1980s and those concerning other national minorities, gaps still exist concerning the demands of the representatives' bodies of Sami and minorities and public policies

(Eriksen, 2018). Therefore, there is a need for the general reconciliation objectives to adhere to the pace determined by the people who experienced the severe implications of past injustices. Eriksen (2018) argues that the primary responsibilities for adoption rest with members of the majority ethnic groups. It is critical to understand that TRC must make adequate preparations concerning historical wrong-doing at the initial stage of the reconciliation process.

Until the latter stages of the 20th Century, the government authorities developed legal provisions limiting the Sami and Kvens' integration. Social Darwinism, combined with nationalism, argued that the Sami were judged by evolution as an intellectually and culturally inferior race with bad genes and much weight. Such policy guidelines had severe implications on the identity, language, living conditions, and culture of these ethnic groups (Eriksen, 2018). The establishment of the Norwegian TRC is one of the measures that the state authorities have tried to take to remedy the past situation. Through these new measures, the government has been strengthening the right of the Sami due to the introduction of new laws and institutions. For instance, the enactment of the Sami Act to handle their legal matters and the development of the Sami parliament in the 1980s have been significant steps in this context (Minde, 2005). Subsequently, the Norwegian government adopted the responsibility of safeguarding the rights of the Sami regarding their language, culture, and society in the state's constitution in 1988.

Consequently, Norway became the first state to ratify the provisions of ILO No.169 within the domestic rights. Furthermore, according to Minde (2005), there was further enactment of the Finnmark Act in 2005 to facilitate the management of natural resources and land to serve the interest of the indigenous groups. In particular, the emphasis was on protecting the foundation of the Sami culture, business activities, uncultivated land, and society in general. Over the years, the government has also taken measures to apologize for the past policies

directed toward the Sami. The state's support of the Council of Europe's Framework Convention for the Protection of National Minorities in 1995 was an integral part of this process (Minde, 2005). Indeed, Norway ratified it in 1999, indicating that the state recognized the Kvens as minority members of the state.

While Norway has made these significant strides, these changes have not successfully diminished the nature of injustice that the Sami and Kvens encountered. Such unfair treatments continue to impact their relationships with other majority population in the state (Hämäläinen et al., 2018). To a large extent, this situation has prompted the need to form an official national commission to guide the investigation of the Norwegianization policy and its general implications. Much of this aligns with the previous inspirations evident in similar commissions in other countries worldwide. Most importantly, the existence of the Sami Parliament has been integral in influencing the establishment of this commission (Hämäläinen et al., 2018). The Norwegian Parliament first approved the establishment of this commission in 2017. Subsequently, various activities proceeded with this approval to promote the commission's operations.

### **Theoretical Background**

Over the years, several nations have established TRCs to lead efforts to address injustices suffered by some of their people in the past. There is no denying that the rationale behind the establishment of TRCs is noble and necessary to deal with historical injustices people suffered in the past.

In any plural society, where the nation-state is supposedly uniform and unitary, potentialities of strife and frictions are always present. If the country is an "imagined community," the community's many citizens must "imagine" the same ideals (Aragon, 2012;



(Guibernau, 2013). The constituents of the society may have no difficulty with such a parameter. The problem arises when an "official nationalism" emanates from the nation-state, serving not the people but the state structure.

A notable example is Charles Taylor's influential essay on "The Politics of Recognition." He believes there are two forms of recognition that he deems essential to contemporary politics. The first is recognition of what human beings importantly share. It yields "a politics of universalism, emphasizing the equal dignity of citizens, and the content of this politics has been the equalization of rights and entitlements" (Taylor, 2021, p.37). The second is recognizing what makes human beings culturally distinct or different, which yields a politics of particularism. "With the politics of equal dignity, what is established is meant to be universally the same, an identical basket of rights and immunities; with the politics of difference, what we are asked to recognize is the unique identity of this individual or group from everyone else" (Taylor, 2021, p.37).

Taylor's thesis then is that to be recognized in one's cultural distinctness is universal human interest. Indeed, to avoid denigration and forcible assimilation, a universalist recognition of individuals is worthy of equal concern. Respect demands public affirmation of their culturally particularistic identities. Taylor concluded that he has seized upon a vital human interest by focusing on recognition to the exclusion of its source. Even if cultural identity happens to be necessary to a person or a group and so anchors a claim to recognition of it by others, it is not apparent that recognition by any others is what is desired or desirable.

According to Kymlicka (1995), aside from protecting the individual's choice from intervention by others and the government, a fundamental value of liberalism is to enable a person's freedom to form and revise a conception of a worthwhile life. He faults contemporary

liberalism for overlooking that meaningful choice and pursuit of a way of life requires secure membership in a particular culture. For Kymlicka, the importance of secure cultural membership is a perfectly general claim about liberalism. He firmly resists the suggestion that cultural membership can be secured through free associations or decentralized language, education, and land tenure policies. On the other hand, cultural membership is a primary good that a liberal political society must foster to fulfill the potential to construct and renew a picture of a worthy individual life. Kymlicka considers shared public values, which he finds insufficient since people may go their way despite such agreement. Given that multinational states are unavoidable, though not strictly desirable, Kymlicka feels that we must somehow search for sources of solidarity in multinational states adequate to liberal democratic citizenship.

According to Mill's analysis of nationality, many people may constitute a Nationality if they are united among themselves by common sympathies. One of the essential features of national identity is belonging to a community of recollections; collective pride and humiliation, pleasure, and regret connected with the same events in the past. This feeling can be generated by various causes such as the identity of race and descent or language and religion. Geographical limits are one of the causes; the identity of political antecedents is another (Beaumont, 2021).

The national membership in a politically integrating society (not assimilating) should be open to anyone regardless of race or blood so long as one is willing to learn the language and history of the society and participate in its social and political institutions. Involuntary inclusion raises a normative dilemma addressed by the equality argument before the issue of egalitarian justice. At the same time, the equality argument presumes that a government must treat all individuals equally. The big concern is "the prior question of determining which citizens should be governed by states" (Kymlicka 2001, p.149). Further, Kymlicka argues that indigenous

peoples used to be self-governing. If the power was in balance, indigenous people might have been able to keep their independence since they "only lost their self-government as a result of coercion and colonization" (Kymlicka 2001, p.149)

Rokkan (1999) describes state formation as consolidating the central political power while coercive power within its territorial boundaries is monopolized. However, the nation-state is based on a nationalist ideology, which leads to the ambit question (Rokkan, 1999). According to Saad (2012), nation-building is evolutionary and takes a long-time social process (Saad, 2012). Lipset (2017) states that the nation-building of the US, like so many in contemporary times 100 years, integrates black and white, North and South, East and West. On the other hand, in America, people were not all of the same ethnicity, culture, and language as thought to be in the early definition of the nation-state.

Among the main reasons for slow nation-building is that ethnic diversity was historically regarded as a danger to political stability and, as such, was suppressed through government policy. In addition, assimilation or marginalization policies were used on immigrants, national minorities, and indigenous peoples. However, there has been a movement in thinking about diversity during the last few decades. As a result, many people see diversity as a source of strength rather than a threat (Kymlicka & Banting 2006).

Hence, nation-building takes a long time, and identifying as a heterogeneous community moves at a snail's pace. Despite Norway's strong sense of national identity and nationalism, the nation-building effort is still ongoing and persistent in the country's history. Besides, multiculturalism has never been declared in Norway, and the word only arises in political and public debate on rare occasions (Hagelund, 2002). Some policy documents state a dedication to concepts frequently associated with multiculturalism, such as inclusion and anti-racial

discrimination (Borchorst et al., 2010). Yet, the Norwegian constitution does not acknowledge multiculturalism, and the term rarely appears in political or public discourse.

The constitution recognizes the Sami in Sweden as an indigenous people and a minority with the right to language and cultural preservation (Lawrence & Mörkenstam, 2016). The Sami in Norway are not explicitly mentioned in the Norwegian constitution but included in constructing the more excellent "we." However, it is stated that reindeer herding should gain protection under the constitution because it is a vital cultural aspect for the Sami. The Constitution sections 17 and 121 (3) recognize Sami as indigenous people, yet the Sami language is not recognized as an official language of Norway but is accepted except in the regions where it is relevant to use the language.

Kymlicka maintains that originally, indigenous peoples were self-governing. They could have preserved their independence if the balance of power differed. Since they "only lost their self-government because of coercion and colonization," he maintains, they rightfully see this incorporation as a "violation of their inherent right to self-government" (Kymlicka 2001, p.149). Thus, it can be said that Norway's nation-builders in the past had no place for the Sámi culture and language, and the education system was used to assimilate the Sámi people aggressively. Kymlicka firmly states that "Western countries have a long and sometimes bloody history of dealing with ethnic diversity within a liberal-democratic constitutional framework" (Kymlicka, 2000, p.184). According to Kymlicka, liberalism's fundamental purpose is to permit an individual's freedom to build and revise a sense of worthwhile existence. He criticizes contemporary liberalism for failing to see that authentic choice and pursuit of a way of life entail stable cultural membership. For Kymlicka, the importance of secure cultural membership is a perfectly general claim about liberalism.

For most Western political theorists, ethnicity was viewed by political theorists as a marginal phenomenon that would gradually disappear with modernization, and hence it was not an essential topic for forward-looking political theorists. As a result, even into the mid-1980s, there were very few political philosophers or political theorists working in the area. However, there has been an explosion of interest in the topic since then, and it is now a significant area of research in political theory (Kymlicka, 2000, p.184).

In the past, ethnocultural diversity was often seen as a threat to political stability and hence something to be discouraged by public policies. Immigrants, national minorities, and Indigenous peoples were all subject to policies intended to assimilate or marginalize them. Thus, there are still disputes about utilizing natural resources, and legal concerns over land and water rights remain unsolved. There has been a long-running dispute with the Norwegian government regarding who manages the mining rights in the Lofoten Islands, which the Sami people claim. In recent times. Though, there has been a shift in thinking about diversity. There is a growing recognition that diversity is a source of strength, not a threat. In Today's Norway, equality of opportunity and equality before the law are well-established principles. The Sami people have limited autonomy.

### **Methods and Data**

This investigation aimed to investigate the effectiveness of ethnic reconciliation policies in South Africa and Canada to apply what was learned in those cases to the case of Norway. The study's goal was to examine the successes and failures of TRC reconciliation efforts to determine whether stakeholders in Norway have an essential role to play. Initially, I attempted to analyze TRCs in several countries using a process-tracing approach to understanding TRC practices better. Then, in a comparative case study analysis, I looked at the similarities and differences

between the two cases and between the Canadian, South African, and Norwegian TRCs. In this regard, I had an email-based existing research partnership with the University of Western Cape Town that I used to access vital information about the South African TRC via MS Teams and Zoom communication. This study of available literature was conducted using search engines such as Oria, Pubmed, and Academic Search Premier. The keywords used on the search engines were: *Truth and Reconciliation Commission, South Africa, Canada, Sami, Kven, Indigenous, and Multiculturalism*.

Documents such as international resolutions, national legislation, and peace treaties are not used to the comparative study of the TRCs in Canada, South Africa, and Norway. They have such different historical, social, and political contexts that case selection and scale of analysis make constructing equivalence difficult and weaken the reliability of the data. The mandates of the TRCs are also different. For South Africa, the TRC had a focus on post-conflict transitional justice. Canada and Norway have different political economies and histories, but they are both well-established democracies. Therefore, I have focused on overall factual and analogous processes based on their objectives and milestones. It is vital to look at different TRCs because the most common weakness of TRCs worldwide has been a lack of political involvement in addressing social transformation as part of the reconciliation process. This has resulted in the TRCs not being able to address the root causes of the conflict. The TRCs have also not been able to address issues such as land rights, land reform, and land restitution.

### **Comparative Elements from Canadian TRC**

The Canadian and Norwegian TRCs were respective governments' responses to discriminatory policies and their resultant injustices. According to Nagy (2013), while the Norwegian one was in respect to the Norwegianization policy, the Canadian TRC responded to

many lawsuits due to the damages attributed to the Indian residential school system between the 1800s and 1996. Even though the consideration of TRC as a democratic political system is not consistent with transitional justice orthodox, the Canadian commission created the possibility of normative thinking concerning the bounds and scope of transitional justice (Nagy, 2013).

Historically, the residential schooling policy was determined to address the "Indian problem" through civilization processes. James (2012) argues that there was a motive to assimilate the Metis, First Nations, and Inuit children and forcefully assimilate them within the white society. During this period, several churches and the federal government operated the scheme. They established and managed a residential school system that captured children, including those about four years from their families, using force.

Even though several children encountered favorable situations in the schools due to good education, and caring teachers, there were concerns that the system was generally mismanaged, underfunded, and inadequately staffed. These systems also characterized issues about malnutrition, diseases, neglect, poor ventilation, heating, and deaths (James, 2012). In addition, there were pervasive levels of emotional, physical, and sexual abuse in extreme cases. Even those children who did not face severe atrocities still encountered other issues like fear, severe loneliness, cultural oppression, monotony, lack of personal freedom, and racist slurs (Nagy, 2013). In most cases, there were punishments for children who spoke their language, practiced their cultural activities, and saw their siblings in segregated wards, especially of the opposite sex.

During the 1980s and 90s, the residential school system hosted more than 150,000 children. Indeed, it became part of the community and individual identity with the objective of "killing the Indian in the child" and making them "civilized" adults (James, 2012). The overall aim of these systems was assimilation either through loss of Indian status, enfranchisement, final

disappearance of reverse ethnic groups, or progressive decay. During this period, the provisions of education were often part of the treaties when the indigenous leaders insisted on helping them fit within the economy of the settler (Nagy, 2013). However, the residential school system was characterized by inadequate vocational and academic training that lacked graduates with the right level of skills to assimilate within a racist society that was not ready to accept them.

Logically, the situation of the indigenous in Canada mirrored the fate of the Sami and Kven in Norway. As evident, both ethnic groups faced forced assimilation attempts with the primary objective of integrating them within the white society (Nagy, 2013). However, because they were not willing to accept these changes as they were meant to compel them to abandon their cultural practices and languages, they faced severe injustices at the hands of the government. In both instances, this fate was determined by definite policies, Norwegianization, and the residential school system in Norway and Canada, respectively (Nagy, 2013). As a result, a high level of tensions between these ethnic groups and the white majority groups created the need to establish TRCs in each state to address the historical issues attributed to these situations.

Furthermore, TRCs in both states were established to conduct historical mapping of the discriminatory policies and their subsequent effects today. As already mentioned, one of the objectives of the Norwegian TRC was to conduct a thorough historical mapping of the Norwegianization policy and its effects. In particular, how the policy operated to disadvantage the Sami and Kven. Similarly, this was the case in Canada with the residential school system (James, 2012). However, decolonization was the primary approach to reconciliation in the Canadian context. Much of this was based on apology since it has been a practical, symbolic gesture that accretes the need for concrete actions to become part of the lived relationship. According to Cook (2018), hegemonic practices and structures in bureaucratic systems and the



discriminatory powers relations that have become part of the colonial violence are not visible to the non-natives.

Considering the historical roots of contemporary settler actions and attitudes concerning indigenous people can make a state's apology to the indigenous groups meaningless. Broadly, the violence attributed to the residential schools was one of the centerpieces of the colonial projects of assimilation and displacement (Cook, 2018). It is not only a continuous personal pain and social damage but also a mechanism for change and renewal. The establishment of TRC and subsequent apology formed the basis for engaging in the process of decolonization. It is critical to understand that the decolonization process in Canada is not about changing the current colonial system or making it more indigenous-friendly (Cook, 2018). Instead, it is a process of engagement for the long-term purpose of changing the colonial structures and achieving indigenous liberation.

Another comparison line between the Norwegian and Canadian TRCs is that they both focus on painting an overall picture of human rights abuse over a given period. Cook (2018) indicates that in the Norwegian context, the goal of TRC is to act as an instrument for understanding the abuses of the rights of the Sami and Kven during the 1800s. In particular, how the Norwegianization policy placed them in a disadvantaged economic and social situation. This policy excluded the ethnic groups from economic activities in Norway, especially regarding natural resources, and they were further socially and politically alienated by the government's actions of forcefully requiring them to embrace the lifestyle of the people of Norway (Cook, 2018). As a result, conflict emerged as the Sami tried to defend their position as an indigenous group in Norway.

Similarly, the Canadian TRC was mandated to provide an overall picture of the abuse of human rights of the Indians and other indigenous groups in the 1800s. From an expansive interpretation of the operations of residential schools, there is sufficient evidence to demonstrate that they were characterized by a high level of abuse (Cook, 2018). While apology motives have often acknowledged the cultural, intergenerational, and community effects of the residential schools, historical evidence shows that a large number of the children were molested or abused. Most Canadians view the process of counseling as one of the foundations of the reconciliation process (James, 2012). The idea of focusing on horrific abuses when analyzing survivor stories is a way of thinking about the more cultural mechanisms for attempting to fix the problems of the Indians.

The mandate was robust in matters relating to the nature of injustices that the Canadian commissions had to address. James (2021) indicates that from its empowerment, the commission was responsible for establishing an overall historical record concerning the legacy of the Indian residential school system and its overall legacy. Specifically, the commission was mandated to create a detailed report concerning various matters, including the system's purpose, operation, history, and supervision. Further, issues relating to its impacts and consequences, including impacts on human dignity, systemic harms, and intergenerational consequences, were also part of the commission's mandate (Cook, 2018). The commission also formed a Working Group on Missing Children and Unmarked Burials to respond to societal pressure during its operations. This nature of extensive injustices mandate was crucial in broadening the narrow focus on direct physical and sexual abuse attributed to the schools.

At some point, the need to broaden the understanding of injustices was critical in Canada since the over-emphasis on direct physical and sexual abuse often frustrated and obscured a

politically challenging issue. Ideally, many researchers have stressed this position to explain why Canadian Commission needed to broaden the scope of abuses it covered (Cook, 2018). In their work, these scholars demonstrate how the institutionalized expression of the schools made them tools for genocide. Hence, the Canadian commission is not analogous to other commissions worldwide, including Uruguay's, regarding mandates relating to the investigation of the interfered people and the contributing factors (James, 2021). In the context of Uruguay, there were concerns that its commission ignored the injustices relating to murder and illegal imprisonment.

Nevertheless, concerning the process of fault-finding, researchers have identified logical concerns. As James (2021) demonstrates, the Canadian commission was highly prohibited from citing the names of the people that were not already convicted of their involvement in human rights violations and from investigating matters relating to the responsibility of chain or individual command. While operating, the commission did not have sufficient powers and was forbidden from holding formal hearings or playing the role of a formal inquiry. Further, the commission had forsaken the consideration of strategies like those of the South African commission that had the powers to induce architects, perpetrators, and commanders to become visible (Cook, 2018). One of the most significant aspects of the South African commission was that it ensured that no commander or perpetrator identification was emerging from investigations or hearings by both direct and indirect means. While it encountered a victim testimony that involved citing names, the commission made it in camera and publicly undisclosed.

The due process mentioned above regarding obsessions and limitations is inconsistent with the Norwegian TRC. According to Cook (2018), its operations are based on the spirit of transitional justice that exploits the temporary departures and context-related innovation from

absolute legalism to attain human rights and democracy goals. Most importantly, the Norwegian commission focuses on reconciliation. Reconciliation remains of enormous importance to Norway (James, 2021). To some extent, the country's current political and economic standing makes it imperative to exercise much care with issues relating to the concerns of perpetrators.

### **Comparative Elements from South African TRC**

Humans have had a long history of violence and injustices, which form the background for establishing TRCs. Looking through most nations' histories, one will notice that violence, inequality, and conflict have been the foundations upon which many of these nations are built. According to the United Nations, national-level TRCs are developed by countries undergoing transitions and seeking to emerge as unified democracies after civil wars or authoritarian leadership (Imas et al., 2021). From this statement, it can be seen that TRCs are the aftermath of turbulent times. When nations face conflict or barriers to democratic rule, they establish these commissions as one of the steps toward a more transparent and united future. A more specific definition of TRCs can be found in Avruch (2010), where the author describes them as "bodies set up to investigate a history of violations of human rights in a particular country – which can include violations by the military or other government forces or by armed opposition forces." This definition also implies that their background is conflict and turmoil.

To better understand how TRCs come about, it would be beneficial to consider a specific example such as the South African TRC for Apartheid. Formed in 1995, this body was tasked with addressing human rights abuses, supporting victims through policy recommendations, and overseeing amnesty applications from perpetrators (Imas et al., 2021). Looking at these commission's roles, it becomes clear what TRCs are. These bodies address past injustices and help a nation move forward as one united people. But on the other hand, the above example also

reveals several characteristics of TRCs. Generally, they all focus on past events, are temporary and expected to report their findings and recommendations, are authorized by a state/nation, and lack the power to prosecute (Avruch, 2010; González & Varney, 2013). In other words, a TRCs job is to uncover the past, identify injustices committed, who the perpetrators and victims were, then recommend policies (such as reparations) to help the victims or their descendants.

### **Stakeholders in the Establishment of TRCs**

The establishment of a TRC within any nation is often the result of the combined efforts of various stakeholders. Crocker (2000) notes that a nation's civil society and the international civil society are some of the key proponents of TRCs. Within a nation's civil society, many advocacy groups may be involved in pushing for the establishment of TRCs in response to violence and human rights violations. These groups could include human rights advocacy groups, religious groups, and even the government. For instance, in South Africa, the TRC resulted from combined efforts between the government, civil society, and religious leaders. Among the prominent supporters of the formation of South Africa's TRC was the nation's legislature, the first president (Nelson Mandela), scholars such as Kader Asmal and others from the international community, and religious leaders such as Archbishop Desmond Tutu (Boraine, 2000; du Toit, 2000). These different stakeholders and the groups they represented were critical to establishing the nation's TRC in 1995, which is hailed as one of the most influential commissions to date.

In Canada, on the other hand, the victims formed an essential component of the groups that were pushing for the introduction of the TRC. Canada's Indian Residential Schools TRC was established in 2009 after almost 20 years of efforts by survivors and communities affected by the residential schools (James, 2010). As such, in Canada's case, civil society played a much more

significant role in pushing for the establishment of the TRC. It is not surprising that the government and religious leaders were not particularly interested in the commission's establishment, given both groups' role in the Century in which residential schools were in operation. According to the commission's website, the TRC was the result of a legal settlement between Residential Schools Survivors, the Assembly of First Nations, Inuit representatives, and the government and church bodies – who were responsible for creating and running the schools. Within the more than 100 years in which the residential schools were in effect, the government took more than 100,000 Native children from their communities and enrolled them in these schools, intending to eradicate Indigenous languages and cultures (James, 2010). The high rates of sexual and physical abuse and mortality, and neglect explain why the church and government were initially unwilling to give in to the demands of the survivors and affected communities.

### **Success and Failures of TRCs**

The TRCs established worldwide have had their fair shares of successes and failures. On the positive side, these commissions have uncovered truths about past injustices suffered by citizens and brought the impacts of such harms to light, allowing nations to recognize the harms done, the victims, and perpetrators while also paving the way for their nations to become united. An excellent example of the TRCs success in Chile is where an independent body was formed to compensate survivors of human rights abuses and the families of those who died from such abuses (Crocker, 2000). A similar model has been adopted as the basis for a reparation policy that seeks to address the needs of those harmed by apartheid in South Africa. Moreover, the truth was considered to have positively contributed to the reconciliation processes among whites, people of African descent, and Asians allowing South Africa to embrace democratic reform and develop into a stronger, more united nation (Gibson, 2006). In Canada, the successes were not as

pronounced as in other nations. However, the TRC was successful in raising awareness about the injustices suffered by the First Nations, organizing national events to promote awareness of the impact residential schools continue to have, and establishing a Commemoration Initiative to fund activities that honor residential school students permanently (National Center for Truth and Reconciliation, n.d.). These are some of the successes that can be attributed to TRCs worldwide.

On the other hand, these commissions have received significant criticism for their failures. The main criticism stems from the fact that, in every nation, TRCs were mainly adopted as advisory bodies. James (2010) notes that the South African commission attracted a great deal of criticism due to its inability to pursue criminal prosecutions of the perpetrators. In addition, its focus on individual harms and confessions missed the more significant issue of systemic racism in the nation. Given that South Africa's TRC was highly regarded as a model for successful implementation, these same failures are expected among other commissions. For instance, looking at the Canadian TRC's calls to action, one concludes that its only power was to uncover injustices and recommend restorative policy. Still, it had no power to implement any meaningful change. The commission has also been accused of being hesitant to confront institutions such as the Federal Ministry of Health, Christian churches, and the Canadian medical profession for their roles in harming Native communities and covering up their misdeeds (James, 2010). Hence, although there are reasons to commend TRCs for their achievements, it is evident that none of them has been as effective as they were expected to be by the public.

### **Lessons Learned from the Failures**

There are many lessons to be learned from the above failures that can help to improve the effectiveness of future TRCs. In its report, the South African TRC notes that its main challenge was its limited mandate and lifespan (Truth and Reconciliation Commission of South Africa,

1998). Hence, future commissions should be given ample time and freedom to investigate matters in-depth to yield more nuanced findings. Also, Quinn (2009) notes that many TRCs – such as Haiti's *Commission Nationale de vérité et de justice* – fail due to a lack of political will, capacity, and security fears. Some of these factors can be applied to Canada's case, where the government had every incentive to want to derail the TRC's work since it would have implicated some former government officials and church leaders. Hence, it would be beneficial if future TRCs were separated from the government, so they could not rely on it for financial support and protection. Research has also revealed that TRCs are given a wide range of responsibilities related to truth-finding in many cases, and some of them end up conflicting with one another (Chapman & Ball, 2001). Incompatibilities resulting from competing interests make it difficult for TRCs to fulfill their mandates hence the need for more time, staff, and resources to address all aspects of their mandate. It could also be beneficial to equip TRCs with the power to implement some of their recommendations as proof that the work being done is not in vain.

### **The Role of the Church in TRCs**

In both South Africa and Canada, the church played a crucial role in facilitating the activities of the TRCs in both nations. A critical distinction between the two nations is that while churches in South Africa were victims of apartheid, Canadian churches were implicated as perpetrators of harm associated with the Indian Residential Schools system. In Canada, the church worked alongside the TRC to listen to victims' experiences within the system and committed to working towards reconciliation while recruiting its members to be ambassadors of peace, equity, unity, and transformative dialogue (The United Church of Canada, 2015). Therefore, despite its involvement in the oppression and unwillingness to engage with survivors and affected communities earlier on, the church eventually became an ally and helped the



commission fulfill its mandate. In South Africa, the church was an invaluable partner to the commission as churches provided a link between the commission's members and affected community members regardless of faith and categorically declared apartheid a fundamentally wrong and sinful system (Truth and Reconciliation Commission of South Africa, 1998). Since churches were targets during apartheid, church leaders became the commission's allies to the extent that they took the place of NGO networks in rural areas where formal NGOs were absent. Moreover, churches were known to organize meetings where the commission's staff would get the opportunity to interact with members of the local community, explain its work, and collect experiences from those affected by apartheid. Hence, the church became a valuable partner to the TRCs in both nations.

Like in both Canada and Norway, the South African TRC's primary objective was to provide a historical mapping of the experiences of some groups in the early days. During the commission's hearings, several witnesses gave their accounts of the traumatic experiences that characterized apartheid (Campbell, 2000). Hidden degradations and brutalities emerged during this process, with some getting new meanings to aid their understanding within society. Testimony was attributed to transformative powers' unblemished future and the promise of a new future to give the victims the hope of healing from these atrocities. According to Campbell (200), obtaining testimony from the public was the primary mechanism for retrieving relevant information to help attain the commission's objectives. The ability of the commission to seek public testimony as part of its right to obtain authorization to collect information about human rights violations that characterize the Norwegian TRC.

Generally, apartheid is a significant aspect of South African history. Most importantly, this is because it had on the public. Indeed, it had profound implications on the lives of children

in the country, especially among black children (Campbell, 2000). The impacts of racism, violence, and poverty attributed to apartheid have resulted in the generation of maladjusted children and psychological disorders which continue to affect South Africa today. Further, it led to a divided society and 'child shock' due to political unrest in the state and the throes of the most significant transition. Apartheid was evident in South Africa between 1948 and the 1990s, with the white minority groups exposing the black majority to policies that violated human rights (Sarkin-Hughes, 2004). As a result, the country was locked in many years of ancient patterns of racism and discrimination.

Moreover, the establishment of the South African TRC was in response to the abuses suffered by the indigenous ethnic groups like in Norway. In Norway, the Norwegianization policy was against the existence of the Sami and Kvens indigenous communities in the country. The same is the situation in South Africa, where segregation against the natives began in 1948 after the beginning of the National Party regime (Sarkin-Hughes, 2004). The party developed policies to enhance white supremacy that subsequently empowered the white South Africans from Britain and the Netherlands while disenfranchising their black counterparts. According to Rauch (2004), to a large extent, this system was rooted within the country's history of slavery and colonization. According to the white settlers, the blacks were resources that could help transform the state into an industrialized society.

Like the Norwegian situation, the establishment of the South African TRC was a response to calls for change. Specifically, it emerged when there were negotiations about a new constitution that dominated the political context (Rauch, 2004). Through this approach, there were hopes that it would be easy to address the atrocities in the past without severe implications for the criminal justice system. However, due to the historical situation, there was a need to be

cautious with these issues to avoid divisive approaches to the state's fragile social fabric. Campbell (2000) argues that the possibility of providing amnesty to the perpetrators who confessed appeared as a realistic approach to achieving truth concerning apartheid atrocities while enabling the victims of human rights violations to benefit from the public acknowledgment of their denial and harassment.

Both Norwegian and South African TRCs have benefited from government empowerment and support. In the former state, government support was evidenced by the idea of establishing the commission in the first place (Sarkin-Hughes, 2004). The financial support precedes it continuously grants the commission to help attain its objectives. Further, the Norwegian government maintained its commitment to continue supporting the commission until it delivered its report in June 2023. According to Campbell (2000), part of that support and empowerment has been in line with the access to information about the Norwegianization policy from a wide range of sources. Public participation in this process is also significant government support since there must be authorized before the commission can engage the general public.

Similarly, this support and empowerment were evidenced in South Africa during the establishment and operations of its TRC. Indeed, the commission profited from regime change in the state in 1995 which means that the government that oversaw its establishment was from the liberation movement that fought and defeated the vicious apartheid system (Sarkin-Hughes, 2004). In addition, there was a further strengthening of victim groups through a wide range of features of the political power balance. Much of this was regarding the Black majority's actual demographic weight and the heroics of the African National Congress. Sarkin-Hughes (2004) indicates that various victims and activists gave their testimony before the commission. The white economic clout and the existence of the political figures that supported the apartheid

system in security services, army, and judiciary proved to be substantial determinant factors. Undoubtedly, the South African commission benefited from government and public support. As Rauch (2004) argues, there were televised hearings concerning injustices of the despised and vanquished regime during its operations. There was also specific testimony from respected members of society, particularly the heroes of the apartheid struggle, that attracted societal interests.

To some extent, there is evidence supporting the claim that the commission made progress in compelling the white minority groups to re-evaluate and confront the widespread racist patterns of belief and thought. For example, through the support of the African National Congress regime, the commission established an indigenous program that was useful in providing the perpetrators with amnesty from legal proceedings in exchange for a detailed provision of their activities (Rauch, 2004). While this attracted some public criticism, it was difficult to ignore that this guilt-confession emphasis was a systemic approach to understanding the black-white power relationship.

Still, during the same period, threats of capital flight and white violence led to the idea that considerations of power relations operated in constraints. According to Rauch (2004), the ongoing apartheid government system insisted on transitioning to a negotiated regime that the TRC detaches itself from any form of retributive and prosecutorial activities. The evidenced realities about white economic control further prompted the commission to consider taking a novel step of considering both truth and reconciliation as equal matters with similar goals (Campbell, 2000). In the end, the reconciliation focus and amnesty provisions became trade-offs, subsequently compromising the overall objective of accountability of tormentors and tyrants at the same time.

### **A Closer Look at Norwegian TRC**

The primary goal of the Norwegian TRC is to investigate the Norwegianization policy, especially against the Sami and Kvens. According to Haugen (2021), the consequences it has had on groups and individuals, together with the relationship between the minority and majority ethnic groups in Norway, is also an objective of the commission. While conducting its activities, the TRC is mandated to map the implications the Norwegianization policy had on the opportunities of the two minority groups that they could use in advancing their cultural practices (Haugen, 2021). Based on this idea, the commission is characterized by investigating the policy's effects on the majority regarding the prevalence of prejudice and discrimination against the Sami and Kvens.

The commission's purpose entails a detailed investigation and laying groundwork that can facilitate recognition of Sami and Kven's experiences during the enforcement of the Norwegianization policy. Through this, there is a possibility of understanding the general implications of these consequences on individuals and groups in general. During this process, the commission has maintained its aim of establishing a common ground for an understanding of the government officials, together with society, behaved against the two ethnic minorities and their cultural practices. The commission's investigation has always had a forward-looking perspective that remains vital in the reconciliation of the Sami, Kvens, and other members of society.

By engaging in the historical mapping of the policy and its effects, the commission is mandated to focus on a detailed investigation of the document, including the goals and the measures that dominated its implementation. In particular, the emphasis will continue to be on the role played by the educational system in the implementation of this policy (The Truth and Reconciliation Commission, 2022). The Norwegian TRC includes cultural, religious, academic, and social institutions as part of this process. There is a continued emphasis on the enormous

diversity within the Norwegian population. Such includes cultural and geographical differences that define their uniqueness. Logically, the commission understands that ideological, motivational driving forces, and specific repercussions and practical measures may vary from one group to another, and there may have been inequalities within each group (The Truth and Reconciliation Commission, 2022).

Overall, TRCs have four universal features that justify their similarity. First, they emphasize the nature and pattern of abuse that characterize a state's historical operations instead of a specific event (Haugen, 2021). In this context, their primary objective is to demonstrate the existence of human rights abuses and violations of the provisions of relevant laws in a given period. Second, these commissions enjoy some level of authority, meaning they can successfully access official details and information about the subject under investigation. Third, TRCs often exist and operate for a specified period and become non-existent following the expiry of this period. Lastly, the commissions boast official empowerment and authorization by the state authorities to engage in the specified task for the benefit of the state (Haugen, 2021).

The Norwegian TRC seems to serve the mandate of typical commissions worldwide. Logically, the nature of their mandates is similar, meaning one commission can easily borrow from the successes of the other (Haugen, 2021). To a large extent, this is why the Norwegian commission has been successfully borrowing from the Canadian one as it was established earlier. The universal mandate of TRCs is to take necessary steps to fault-finding and name-naming to address the atrocities of the past. Logically, they are empowered by the relevant groups to narrow a wide range of human rights violations to a few numbers of injustices. However, as Haugen (2021) argues, there is a need to allow the commission to have access to substantial resources to perform these mandates during this process. Without this, the commission may

struggle to put most of its strategies into action, as reconciliation is a costly process requiring interaction among many people and groups.

A typical mandate performance process would adopt definite steps that chronologically follow each other. It is critical to understand that this approach is suitable for promoting accountability and rebuilding inquiry. Usually, it would begin with the empowerment of the commission by the government or relevant organizations (The Truth and Reconciliation Commission, 2022). Through this support, the commission would be able to explore details concerning various questions. The primary basis for engaging in this kind of inquiry is to help the commission identify commanders, architects, and perpetrators of the human rights violation. Government empowerment is also critical in enhancing the commission's ability to attract a specific group of personnel resources to conduct a vigorous inquiry (The Truth and Reconciliation Commission, 2022). But, some TRCs focus more on fault-finding rather than narratives-inspired issues based on the experiences and voices of the victims. In the end, gross injustices deny social voices to the victims of human rights abuses.

One of the most fundamental aspects of Norwegian reconciliation is self-determination. There were concerns about their inability to enjoy self-determination in the early stages of the 20th Century among the Sami. Haugen (2021) argues that, most importantly, this was before establishing the Sami Parliament and ratifying the ILO Convention concerning indigenous members of society. The emergence of the Finnmark Act in 2005 resulted in the introduction ethnic rights. Instead, it provides improved rights to guide the process of harvesting natural resources to individuals living in the municipality, hamlet, or country than others. The idea of human rights under TRC processes integrating local people exist in the UN report EMPRI in 2019, known as Recognition, Reparations, and Reconciliation (Haugen, 2021). This report

contains reparations, recognition, reconciliation, and specified recommendations. It is critical to understand that this document has been a framework that guides domestic reconciliation processes in individual states.

Further, the commission is responsible for proposing mechanisms to drive continued reconciliation. In essence, the commission has the role of presenting proposals about the measures that can help create a higher level of equality between the majority and minority members of society (The Truth and Reconciliation Commission, 2022). Through these measures, there will also be approaches that will help increase and inform society concerning the knowledge about the Sami and Kven within the culture and history of Norway. Such measures may include strategies that can promote the languages and cultures of the Sami and Kven or enhance awareness about the Norwegianization policy (The Truth and Reconciliation Commission, 2022). One of the most memorable roles of the commission remains to establish a universal understanding of the past and knowledge about common history.

The Norwegian TRC will adopt a wide range of approaches to achieving its goals. Specifically, it will embrace a collaborative approach with the relevant groups and organizations to consult and involve them (The Truth and Reconciliation Commission, 2022). Through this, the commission's role will establish multiple reference groups involving the representatives of relevant organizations and communities. During this process, the commission will consider using both written and oral sources to ensure that it engages as many people as possible (The Truth and Reconciliation Commission, 2022). The commission has been adopting several strategies to gather information about the Norwegianization policy, including interviews and meetings to give the people the opportunity to give their stories concerning this policy.



There have been similar inquiries in Sweden and Finland because of the experiences of the Sami and Kvens in these countries. The Norwegian TRC has often favored the Nordic perspective and embraced a consultative approach with other bodies in such countries (The Truth and Reconciliation Commission, 2022). The resultant materials from the commission's work shall reach the National Archive Services of Norway after completing the commission work. In the material, there will be personally identifiable information. Due to this, there will be a need to treat it in a way that can protect the work of the originators. Once the commission has submitted its report, there will be a restriction on the archives and the subsequent establishment of clear access rules (The Truth and Reconciliation Commission, 2022). The primary basis for this restricted access is to help select only researchers that ethical value guidelines and understand the need to protect the private life of individuals.

### **12.0: Conclusion**

In a democratic plural society, there can be no place for one ideology, one faith, one religion, or one culture above all others. Such a society has to provide a separate 'social space' for each identity to maintain its democratic nature. As discussed above, Kymlicka firmly resists the suggestion that cultural membership can be secured in free associations or through decentralized language, education, and land tenure policies. Essentially, this means that people of multiple identities do not have to reject any aspect of their community identity in order to participate in the civic culture of the nation. It means that people of minority identities do not have to reject any aspect of their community identity in order to participate in the civic culture of the nation.

Cultural membership is a primary good that a liberal political community must support if the capacity to fashion and revise a conception of a worthy individual life is realized. Sami

people still experience "green colonization," where their land is used to develop industrial projects under vicarious environmental motives. Even today, the government is accused of causing harm to Sami reindeer herders by intruding on their pastures. The UN Treaty says that minorities should not be denied the right to enjoy their own culture, practice their religion, or speak their language in groups with other people from their group. As a result, this raises whether the Norwegian TRC is superficial and merely to settle the case dead. What is the reconciliation about then? Reconciliation must be forgiveness, and communal conceptions of reconciliation as national emancipation and healing exist. From a liberal perspective, reconciliation can be a better choice to replicate a "treaty ideal," which mandates that nations treat each other as equals and accept each other's right to speak for and govern themselves. Although they were often ignored for long periods, the existence of treaties has, in some cases, helped restore a relationship based on mutual respect and negotiation between indigenous and settler communities.

The Norwegian TRC is one of the recently formed commissions to address the past human rights abuses. Logically, there have been more than 20 commissions over the years that have gathered information about several policies that resulted in political atrocities over the years. As evidenced above, the formation and operations of these commissions tend to borrow from one another, with their primary objective being mapping the historical establishment, operations, and effects of such policies. In this context, Norwegian TRC seems to borrow from those of Canada and South Africa in its operation and aims. It is mandated to investigate the Norwegianization policy against the Sami and Kven and its subsequent effects on the majority members of society. Justice for national minorities, especially indigenous peoples, is essentially about recognizing indigenous claims for self-government and democratic sovereignty. In this

case, the demand or the need for reconciliation is a demand to prevent deeper integration and inclusion into the dominant nation-culture.

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