

GLOBAL CASES SHORT VERSIONS

South Africa's Truth & Reconciliation Commission

In July 1995, South Africa's parliament passed the Promotion of National Unity and Reconciliation Act which brought the Truth and Reconciliation Commission (TRC) into being. The commission, chaired by Archbishop Desmond Tutu, comprised seventeen members, who were selected by President Nelson Mandela and his cabinet.¹ The overarching goal of the quasi-judicial commission was to promote national unity through reconciliation and healing through truth telling.² Its mandate, carried out by three sub-committees was threefold:

- To address human rights violations committed under the apartheid regime from 1960-1994
- To identify victims and recommend rehabilitative and reparative action
- To grant amnesty to perpetrators following their testimony³

Outcomes

In addition to identifying and hearing testimonies of victims, and granting amnesty to perpetrators, the commission presented their five-part Reparation and Rehabilitation Policy to the president for consideration:

1. Interim Reparation – urgent payments to victims of human rights violations
2. Individual Reparation Grants– to be paid out over six years to each identified victim
3. Symbolic Reparation -
 - Individual – Issuing death certificates for those missing them, exhuming & reburial ceremonies, headstones and tombstones, declarations of death for those who had disappeared, clearing of criminal records
 - Community – Renaming of streets and facilities, memorials
 - National - Day of Remembrance, memorials & monuments
4. Community Rehabilitation Programs –health care, mental health, life skills training for victims, training of community-based counselors
5. Institutional Reform – legislative to ensure guarantees for non-repetition

Challenges

The constitutionality of the amnesty process was often questioned, and some key witnesses refused to appear before the commission, most famously P.W Botha.⁴ In the aftermath of the commission, the government's delay in issuing individual reparations grants jeopardized the integrity of the reconciliation process.

¹ "TRC Final Report - Volume 1" (South Africa: Truth & Reconciliation Commission, n.d.), 53, <https://www.justice.gov.za/trc/report>.

² "TRC Final Report - Volume 1," 57.

³ "TRC Final Report - Volume 1," 57.

⁴ "TRC Final Report - Volume 1" (South Africa: Truth & Reconciliation Commission, n.d.), 174, <https://www.justice.gov.za/trc/report>.

Learn More:

- [The Apartheid Museum](#)
- [The Truth & Reconciliation Commission Final Report](#)

White Slaveholders Reparations

During the [American Civil War](#), white planters were incentivized to emancipate their enslaved people in return for financial compensation. This proposed bill guaranteed white planters who owned slaves and were loyal to the Union payment of \$300 for every enslaved person they freed. Yet the 2,989 newly freed African-Americans affected by this policy received no compensation or benefits after surviving abuse, bondage, and murder at the hands of white slave owners.

President Abraham Lincoln signed [The District of Columbia Emancipation Act](#) on April 16, 1862 in Washington D.C. To ensure that reparations were successful, the Lincoln administration appointed a board of commissioners led by Daniel Reaves Goodloe to oversee applications and review petitions. This board would go on to review more than 1000 petitions from slave owners who successfully claimed compensation for over [3000 slaves](#) and would later be recommended for payments from the federal government.

Outcomes

- Forced an earlier end to slavery in Virginia and Maryland as slaves escaped to Washington D.C. to seize their freedom
- Grew attitudes of entitlement and demands for compensation by slave owners when slaves ran away
- Predated the infamous [Emancipation Proclamation](#) on January 1, 1863 at Gettysburg, Pennsylvania
- Paved way for the signing of the [Supplemental Act](#) which allowed enslaved people to petition for compensation for their freedom if their white masters had not under the Emancipation Act
- Largest individual compensation payment was \$18,000 releasing 69 enslaved people from bondage
- This model for reparations was never expanded to apply to additional states

Challenges

Newly freed African Americans did not receive benefits or compensation from the federal government which left most in dire circumstances in the middle of wartime America. Some formerly enslaved people were still subject to fugitive slave laws until their repeal in 1864. While white slave owners were financially compensated for loss of property by The District of Columbia Emancipation Act some newly freed people took the federal governments offer of \$100 to [relocate to American colonies](#) in places like [Liberia](#) or Haiti but most stayed behind. This bill was limited only to enslaved people within Washington D.C.

Learn more:

1. [Emancipation Petitions: Historical Contexts](#)
2. [The DC Emancipation Act](#)

Jewish Reparations from West Germany

On September 20, 1945, only four months after Allied victory over the Nazi armed forces, the first demands for Jewish reparations were put forth by the World Zionist Organization. West Germany, the Allied controlled successor state to the Nazi Third Reich, and the newly formed nation of Israel signed the Luxembourg Agreement on September 10, 1952. [Israel sought payment for the burden of settling Jewish refugees fleeing Europe](#), financial compensation for the pain, suffering, and loss of the Jewish people, and the return of seized Jewish property and other material goods. This successful bid for reparations continues to be paid out to Israel as well as individuals and organizations for those who suffered persecution by the Nazis. As of 2021, the continued negotiations between the German government and the [Claims Conference on Jewish Material Claims Against Germany](#), Germany has paid \$90 billion to individuals over the last 70 years.

Central Outcomes of Luxembourg Agreement:

1. Funds paid directly to the victims of Nazis crimes and captivity
2. Funds paid to Jewish organizations
3. Funds paid directly to the state of Israel for the settlement of Jewish refugees and their wellbeing
4. Legal and financial indemnification for the crimes against humanity committed against Jews during the Holocaust

Challenges

The crimes against humanity that Germany committed between 1939 and 1945 were nameless until 1944 when Polish Jewish lawyer, [Raphael Lemkin, coined the term genocide](#). Navigating the chaos of post-war Europe and dealing with the mass migrations of peoples during this time period, organizing legal and financial payments to individuals and organizations took time, and determining what crimes were eligible for reparations were some of the most difficult aspects of negotiating terms and delivery methods for this process. Since the resolution of this negotiation in 1952, Germany has worked to craft a [social memory culture](#) that teaches all citizens about the dark history of the Holocaust so it is never repeated.

Learn more:

- [United States Holocaust Memorial Museum](#)
- [Never Forget!](#)
- [What the US can learn from Germany](#)

Japanese Internment

The Japanese attack on Pearl Harbor in December 1941 marked the United States entrance into World War II and also resulted in extreme anti-Asian sentiments. In February 1942, more than 100,000 Japanese Americans were relocated to internment camps after President Franklin D. Roosevelt signed Executive Order 9066, which created the War Relocation Authority to incarcerate all people of Japanese descent on suspicion of espionage from 1942-1946. Following their release, survivors' attempts to reintegrate to former communities when the war ended, proved difficult. In 1978, the Japanese American Citizens League (JACL) formed the Redress Committee chaired by John Tateishi, to demand reparations for the trauma, death and racial oppression in camps.

Outcomes

- Commission on Wartime Relocation and Internment of Civilians (CWRIC) formed in 1980 to investigate the process of incarceration
- Civil Liberties Act signed by President Ronald Reagan in 1988
- Formal apology from President Reagan to survivors
- The United States Government issued \$1.6 billion to cover reparations for 82,219 Japanese survivors, each receiving \$20,000 dollars in 1992.

Challenges

The National Council for Japanese Americans Redress (NCJAR) broke from JACL in 1979 over support for the study commission. The two organizations differed in how they wanted redress processes to play out, with NCJAR favoring direct financial compensation rather than a commission to study the effects of the incarceration. NCJAR filed a class action lawsuit against the US government in 1983.

For more information visit:

- [The National WWII Museum](#)
- [Japanese American Internment](#)
- [Personal Justice Denied \(CWRIC Report\)](#)

The Herero and Nama Reparations from Germany

The Von Trotha's proclamation of October 2, 1904, led to the extermination of 85% and 50% of the Herero and Nama indigenous people – killing them, driving them to the Kalahari desert, poisoning their water wells and indigenous women's sexual abuse in colonial Namibia between 1904-1908. The killings would make way for 4500 German settlers to lump up indigenous land and livestock to create cattle farms of their own. Some of the killings were done to support Germany's racial science and experimentations. After several independent legal claims and frustrations of being left out from negotiations for reparations for the apartheid in colonial Namibia. In 2017 the Herero Chief Vekuli Rukoro and the Nama Traditional Leaders Association led by David Frederick filed a class action lawsuit in the Federal court in New York under the Alien Tort Claims Act to get collective reparations from the Germany government. The lawsuit was unsuccessful alongside another 2020 appeal because the United States could not try another independent country, nor the judges link any Germany property to the United States.

Outcomes

- General Von Trotha's descendants apologized to the victims' descendants
- Germany apologized to the Nama and Herero
- The human Nama and Herero human remains, and cultural objects were returned from Germany to Namibia between 2011 and 2018
- In 2021, Germany agreed to pay Namibia 1.1 billion euros within 30 years
- Split between the pro-government factions and non-government Herero and Nama
- Street protests since victims felt like the government had sold them out

Challenges:

- The Germans sought for [forgiveness without listening](#) to the victims' descendants (the Nama and Herero people of Namibia).
- Germany recognized the genocide in a moral and political sense but never mentioned nor used the word reparations in their language. Thus, the money paid to Namibians seemed like a continuation of developmental aid.
- Together the Namibian government and the Germans excluded complainants of the historical genocide because of what the Namibian government referred to as a [special relations](#) (donor-aid relationship) that would have been jeopardized by litigation for reparations
- Inter-temporality of time where responsibilities and obligations for paying reparations and offenses are determined by the laws in force at the time the genocide happened. The late definition of genocide in the 1948 Genocide Convention was used by Germany to distance themselves from the reparation litigations.

Canadian Indigenous People and Boarding Schools

From 1831 to 1997, more than 150,000 native American children between 7-15 years of age were forcibly abducted from their families to attend Christian schools at the mandate of the 1920 [Indian Act](#) by the Canadian government. This was an effort to assimilate natives into the Euro-Canadian society through Christian civilization. It was at these Indian Residential schools that several physical and [sexual abuses](#) were suffered by students at the hands of government officials and school staff. In 2005, [Phil Fontaine](#), the National Chief of the Assembly of First Nations (AFN) initiated a class-action collective lawsuit on behalf of all the First Nations survivors. Following the Indian Residential Schools Settlement Agreement in 2006 a [Truth and Reconciliation Commission \(TRC\)](#) was convened to facilitate extensive research into the various cases of human rights violations and gathered testimonies from 6,500 survivors and witnesses.

Outcomes of the TRC

- Public [Apology](#) from House of Commons
- Reparations payments to the Aboriginal Healing Foundation for community-based wellness projects (\$350 million)
- Total [cash reparations](#) \$4.7 billion, \$9.2 million and \$1.2 million from the government, the Protestant and Catholic churches respectively.
- Alternative Dispute Resolution Project - to move reconciliation conversations out of courts
- [Federal laws](#) for protecting indigenous peoples and their land
- Individual reparations payments to victims

Challenges

- Since some of the victims were still living, there were arguments that the reparations proceeding would [retraumatize the victims](#) who participated in testimonies.
- [Catholic Church resistance](#) to reparation efforts