

Submission to the Inquiry into Truth and Justice Commission Bill 2024

Reconciliation Australia welcomes the opportunity to provide input to *Inquiry into Truth and Justice Commission Bill 2024*. We acknowledge the ongoing and important work of the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs.

Truth-telling about our shared history has long been called for by Aboriginal and Torres Strait Islander people as a necessary requirement for advancing reconciliation based on a shared understanding of our past.

The defeat of the Referendum to constitutionally enshrine an Aboriginal and Torres Strait Islander Voice to Parliament exposed significant gaps in understanding, both of Australia's colonial history and constitutional mechanisms. Truth-telling is now more vital than ever to forge the path to recognition and reconciliation. It is at the centre of how we move forward as a nation.

We strongly support the Truth and Justice Commission and thank you for consideration of the following.

About Reconciliation Australia

Reconciliation Australia is the national organisation promoting reconciliation between the broader Australian community and Aboriginal and Torres Strait Islander peoples.

We believe a reconciled Australia is one where Aboriginal and Torres Strait Islander people participate equally and equitably in all areas of life, and the distinctive individual and collective rights and cultures of Aboriginal and Torres Strait Islander peoples are universally recognised and respected. That is, we have closed the gaps in life outcomes, and Aboriginal and Torres Strait Islander peoples are self-determining. To do so, we are dedicated to building relationships, respect and trust between Aboriginal and Torres Strait Islander peoples and other Australians.

Truth-telling has always been at the heart of reconciliation and will continue to be a keystone of our work to create a more just and equitable Australia.

Reconciliation is dependent on Australians understanding and accepting the wrongs of the past and the continuing impact on Aboriginal and Torres Strait Islander peoples. It's dependent on Australia making amends for harmful policies and practices, to ensure these wrongs do not continue and are never repeated.



Through extensive consultation and research processes, Reconciliation Australia has developed a significant evidence base around the barriers and enablers of truth-telling. This includes:

- A [national symposium on truth-telling](#) (2018)
- In-depth documentation of local level truth-telling [case studies around Australia](#) (2023)
- Multi-modal research into the [barriers and enablers of participation in truth-telling](#) (2024).

The Community Truth-telling Pathways program¹ is the newest addition to Reconciliation Australia's suite of programs designed to advance justice and reconciliation in Australia.

It supports community led, place-based, strengths-focused and action-oriented truth-telling, through the provision of information resources and funding to local communities. It aims to advance a culture of community truth-telling across Australia and to learn more about the conditions under which truth-telling advances reconciliation in local communities.

Truth-telling in Australia

Our latest Australian Reconciliation Barometer data (2024) shows that 81% of Aboriginal and Torres Strait Islander peoples and 71% of Australians in the general community support formal truth-telling processes in relation to Australia's shared history².

Strong leadership and support for truth-telling at a national level in Australia is long overdue. Globally, Truth and Reconciliation Commissions have been adopted broadly in Canada, South Africa, Timor Leste, Finland, Norway, Sweden, Denmark and Greenland³, among others.

Varied in their approaches, the fundamental intent of these Commissions has been to establish the facts; recognise and give voice to victims/survivors; inform policy, provide recommendations; and encourage social attitudinal and behavioural change.

These are all critical developments for Australia.

While many of the processes overseas have been subject to stringent analysis, it is this rich learning from which Australia can benefit in the design of its own efforts to deliver the justice so long called for by Aboriginal and Torres Strait Islander peoples.

¹ <https://www.reconciliation.org.au/our-work/truth-telling/community-truth-telling-pathways/>

² Australian Reconciliation Barometer (2024) Unpublished data.

³ Breum, Martin. 'The largest ever probe into possible historical Danish wrongdoings in Greenland is about to begin'. Arctic Today, October 5, 2022: <https://www.arctictoday.com/the-largest-ever-probe-into-possible-historical-danish-wrongdoings-in-greenland-is-about-to-begin/>

In Australia, local-level truth-telling is an established and growing practice, primarily hindered by lack of funding. Truth-telling at the community level has proven to be a potent force for change within its sphere of influence. It balances the historical record, tells modern truths, advances justice and promotes healing and reconciliation.

At state and territory levels, the work of local communities and organisations to progress local truth-telling processes provides a blueprint for engagement, participation and principles on a national scale. To build the national understanding of truth-telling across Australia, we refer the Committee to submissions to this Inquiry from state reconciliation councils, including Reconciliation Western Australia, Reconciliation Queensland, and Reconciliation Tasmania, which provide place-based responses, insights and recommendations.

Research commissioned by Reconciliation Australia⁴ has shown that community truth-telling can build relationships, increase respect and appreciation for the local Aboriginal population, and enhance awareness of what has happened in that place. It brings communities together to commemorate tragedies and celebrate triumphs. It promotes an appreciation of this land's less documented leaders and warriors. Though uncomfortable at times, and not without its challenges, it is a constructive process for the communities involved.

Proposed National Truth and Justice Commission

A national level truth-telling commission will build on the momentum generated by community-led and state-based truth-telling processes across the nation, and fulfil principles of Truth as expressed in the Uluru Statement from the Heart. Integral to this will be addressing the historical injustices perpetrated by the Commonwealth government, Commonwealth government bodies and non-government bodies against Aboriginal and Torres Strait Islander peoples.

Our evidence highlights several principles and practices that should be embedded in truth-telling. Of these, the following are pertinent to a national truth-telling body, and we recommend their further consideration in the Truth and Justice Commission Bill 2024:

- Truth-telling processes should be led and/or guided by Aboriginal and Torres Strait Islander people and communities
- Truth-telling should be connected to people and place
- Truth-telling should be strengths focused
- Truth-telling processes need to ensure safety and prevent re-traumatisation of Aboriginal and Torres Strait Islander participants and their families
- Formal truth-telling processes must provide mechanisms for justice and reparations

⁴ Barolsky, V., Berger, K., Close, K., (2023) [Recognising community truth-telling: an exploration of local truth-telling in Australia](#)

Support Self-Determination

The Yoorrook Justice Commission and the Canadian Truth and Reconciliation Commission, are examples of truth-telling bodies developed from grassroots community movements of First Peoples. Self-determination must be embedded in a National Truth and Justice Commission through Aboriginal and Torres Strait Islander control of the process.

“Aboriginal and Torres Strait Islander people and communities must lead the design of truth telling processes and the narrative that they create, including how engagement in truth telling occurs, the stories that are told, and the records that are kept”.⁵

To honour the rights of Aboriginal and Torres Strait Islander people to own and control their own stories and data, Indigenous data sovereignty and data governance principles must be respected and embedded in any national commission’s practice, in line with Article 31 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)⁶

Truth-telling commissions must keep accurate records of stories and proceedings, manage and use data appropriately and enable Aboriginal and Torres Strait Islander people to retain ownership of records relating to their personal stories⁷. Accordingly, the Bill’s Terms of Reference should provide explicit details regarding:

- Data sovereignty ownership, control and access to Commission data.
- How Commission data is collected, managed, stored and used

The Yoorrook Justice Commission, as the first truth-telling process to apply Indigenous Data Sovereignty principles to the collection, handling, storage and use of First Peoples’ information, provides a potent example of embedding Indigenous data sovereignty and data governance⁸ protocols in truth-telling processes.

Strengths Based Approach

Truth-telling needs to acknowledge the strength and survival of Aboriginal and Torres Strait Islander peoples and cultures, where truth-holders maintain agency in a way that does not overlook the magnitude or size of ongoing colonial injustices, trauma and the effects on both Aboriginal and Torres Strait Islander peoples.⁹

⁵ Reconciliation Australia (2018) [Truth-telling symposium report](#)

⁶ (2007) United Nations Declaration on the Rights of Indigenous Peoples ([UNDRIP](#))

⁷ Reconciliation Australia (2018) [Truth-telling symposium report](#)

⁸ Yoorrook Justice Commission (2022) ‘Indigenous Data Sovereignty and Data Governance’, Information Sheet https://yoorrookjusticecommission.org.au/wp-content/uploads/2022/04/041922_Yoorrook_DataSovereigntyGuidance.pdf

⁹ Reconciliation Australia (2018) [Truth-telling symposium report](#)

Barolsky et al (2023) [Recognising community truth-telling: an exploration of local truth-telling in Australia](#)

Including the truths of resistance and endurance can generate respect and understanding of Aboriginal and Torres Strait Islander cultures and knowledge. This has been well demonstrated in examples of local truth-telling, such as:

- The annual re-enactment of the Wave Hill walk-off in the Northern Territory, which celebrates the courageous resistance of the striking Gurindji workers at Wave Hill Station, drawing hundreds of visitors annually.
- The commissioning of the statue in Gundagai of two young Aboriginal men, Jacky Jacky and Yarri, as a permanent reminder that their determined heroism saved a third of the town's non-Indigenous population in the great flood of 1852. The statue reminds the town that it is home to perhaps two of the greatest life savers Australia has known, is a source of pride for the local Aboriginal population, and has reportedly increased respect in the broader population – some of whose ancestors were among those rescued.

Provide Cultural Safety

Greater consideration and explicit detail need to be provided in the Bill's Terms of Reference, to ensure the cultural safety and emotional wellbeing of Aboriginal and Torres Strait Islander peoples in the conduct of a National Commission's inquiries.

Stories of great sensitivity and pain are likely to be recounted by Aboriginal and Torres Strait Islander participants, and as such, any truth-telling processes must be trauma-informed and guided by culturally safe protocols¹⁰.

Specifically, the Terms of Reference should detail provisions of adequate, appropriate support and counselling services be provided for participants and their families to reduce re-traumatisation and its effect.¹¹ It is the nature of trauma that these services should be available for a period extending well beyond their direct engagement with the Commission's proceedings.

Mechanisms for Justice and Reparations

The Commission holds the powers to compel testimony and seek remedy. Mechanisms for addressing and redressing ongoing injustices, as well as reforms that hold the Commonwealth government accountable for these injustices and preventing future injustices is what will set the Commission apart from community-level truth-telling.

¹⁰ Barolsky et al (2023) [Recognising community truth-telling: an exploration of local truth-telling in Australia](#)

¹¹ Reconciliation Australia (2018) [Truth-telling symposium report](#)

Clear components of reparations must be identified from the outset.¹² By providing mechanisms for justice and other points of restitution and reparations, the Commission will succeed where the Commonwealth government has failed¹³ over decades of Royal Commissions¹⁴ and Inquiries¹⁵ to fully implement vital recommendations.

Conclusion

In 2017, the release of the Uluru Statement from the Heart¹⁶ identified truth-telling as one of three key aspirations of Aboriginal and Torres Strait Islander peoples.

In this context, the Truth and Justice Commission Bill 2024 and establishment of a National Truth and Justice Commission that is strengths-focused, culturally safe, connected to local communities and supports the self-determination of Aboriginal and Torres Strait Islander peoples, are vital steps towards justice, recognition and reconciliation in Australia.

¹² Recommendation 3 of the Bringing Them Home Report (1997) stipulated:

"That, for the purposes of responding to the effects of forcible removals, 'compensation' be widely defined to mean 'reparation'; that reparation be made in recognition of the history of gross violations of human rights; and that the van Boven principles guide the reparation measures. Reparation should consist of:

- acknowledgment and apology,
- guarantees against repetition,
- measures of restitution,
- measures of rehabilitation, and
- monetary compensation."

¹³ Anthony, T., Jordan, K., Walsh, T., Markham, F., & Williams, M. (2021). 30 years on: Royal Commission into Aboriginal Deaths in Custody recommendations remain unimplemented (Working Paper No. 140/2021), Centre for Aboriginal Economic Policy Research, Australian National University.

¹⁴ Royal Commission into Aboriginal Deaths in Custody (1991)

<https://www.austlii.edu.au/au/other/IndigLRes/rciadic/>

¹⁵ Human Rights and Equal Opportunity Commission, Bringing them Home: National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families (1997)

¹⁶ Uluru Statement from the Heart <https://ulurustatement.org/the-statement/view-the-statement/>