

Abstract

There is an extensive body of work that engages with debates around the Truth and Reconciliation Commission (TRC) from various perspectives. There however is not much work on the TRC in its capacity as a Commission of Inquiry. Therefore, this research report focusses on the TRC as a Commission of Inquiry. To that end, this research report seeks to locate the TRC's position in the "grand tradition" of Commission of Inquiry in South Africa. Through an analysis of previous 20th Century Commissions of Inquiry and then the TRC as a Commission of Inquiry, the report found that the TRC was able to break new ground in both its structural orientation and the openness with which its processes were carried out. Through a comparative study of the TRC and Commissions of Inquiry that came after it, the report found that the TRC's terms of reference was much broader and more encompassing compared to the terms of reference of the other three Commissions examined. The report found that the more recent Commissions of Inquiry are very narrowly focused and geared towards only resolving specific situations. Finally, through a discussion around debates on the justice model employed by the TRC in the context of the political climate during that period, the report found that the TRC was unable to fulfil its fullest accountability ambitions because it was inherently forced to pursue an agenda which put it on the path of pursuing legitimacy. The ends of accountability and legitimacy were often at odds with each other in the TRC and the report goes on to highlight how this conflict may be playing itself out in two other Commission of Inquiry. Ultimately the report shows the way that the TRC forged a new path for Commissions of Inquiry but the inherent flaws within the TRC may have been passed on to its successors. The report shows that there were some positive aspects of 20th Century Commissions of Inquiry that could be replicated in order for more contemporary Commission to become more impactful democratic institutions.