

# Safeguarding Truth: Supporting Children's Participation at Truth Commissions\*

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## Abstract

Children are among the most vulnerable populations during periods of repression and conflict, and their exposure to violence can have long-term effects on their development, including how they manage and express feelings of fear, anger, and shame. Likewise, children's engagement in subsequent transitional justice processes, such as truth commissions, can shape their development and that of their nations. Surprisingly, little scholarship considers how commissions have been, and can be, designed to effectively and responsibly secure children's involvement, notably their testimonies. We develop a design-based theory of children's participation in commissions. We then probe, through case studies of the commissions in South Africa, Timor-Leste, and Sierra Leone, the influence of three institutional features on children's participation: (1) provisions for children in the mandate, (2) targeted outreach programs, and (3) measures for protection and psychosocial support. We find broad support for the theory and conclude by offering implications for scholars and practitioners.

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# I Introduction

Since the 1970s, scores of truth commissions have been established to account for political violence in a variety of contexts, notably in post-conflict and post-authoritarian states (Olsen, Payne, and Reiter 2010; Binningsbø, Loyle, Gates and Elster 2012). Mandated to review documents, solicit witness testimony, and produce a final report with recommendations, truth commissions aim to support accountability, individual healing, and collective reconciliation (Ben-Josef Hirsch et al. 2012; Gibson 2004). Victims are at the center of truth commission projects globally. Truth seeking and truth telling are intended to support them and society at large. Truth commissions are, thus, “restorative” mechanisms of transitional justice (Minow 1998; Roht-Arriaza 1995). However, there is an important group that is often overlooked in both the scholarship and practice of truth commissions and transitional justice more broadly: children. This is a striking omission, as their engagement is crucial to accountability, healing, and reconciliation.<sup>1</sup>

Children are among the most vulnerable populations during periods of repression and conflict, and their exposure to violence can have long-term effects on their development, including how they manage and express fear, anger, shame, anxiety, and post-traumatic stress (Gübler and Maercker 2011; Macksoud and Aber 1996; Johnson and Thompson 2008). Adolescent exposure to violence can increase risk-taking attitudes and behaviors, and it can normalize violence to the point that former victims perpetrate violence themselves—within their family units, communities, and countries (Li and Wen 2005; Blattman et al. 2011). The effects rarely subside on their own or go away quickly; they can last for years and affect future generations (Cardozo et al. 2003; Pham et al. 2004). As an example, government leaders’ previous exposure to violence as children is strongly associated with their propensity to initiate militarized interstate disputes (Ellis 2019).

Likewise, children’s involvement in subsequent transitional justice processes, such as truth commissions, can shape their development and that of their nations, but for the better. Acknowledging and listening to experiences of violence can alleviate trauma (Hayner 2011). Relatedly, an apology by an

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<sup>1</sup> While this paper focuses on children as victims and witnesses of political violence, children can also be agents of violence.

official body like a truth commission can be extremely powerful (Ntsebeza 2000). And, this should especially be the case when adults—those entrusted with the care of children—recognize that some among them breached their responsibility. Moreover, acknowledgment and apologies can indicate a commitment to non-recurrence. In this way, children’s engagement in transitional justice processes can support a firmer and safer foundation for their individual and collective futures.

Notwithstanding, the idea of recovering children’s voices and affirming their subjecthood through truth-seeking and truth-telling exercises can contradict, and even collide with, the idea that children are vulnerable and require protection; that they are objects rather than subjects, that their involvement in such a process is unimportant, even undesirable (see Beier 2015; 2019; Brocklehurst 2016; Jacob 2014; Ladisch and Ramírez-Barat 2014; Siegrist 2010; Smith 2010; Watson 2009). However, insofar as children are sometimes used to advance political interests or are the victims of said interests, we should not dismiss them or their interventions in proceedings affecting them (Brocklehurst 2016).

This paper has three central aims: first, to argue the importance of children in transitional justice, notably in truth commissions; second, to propose how truth commissions in particular may be designed to effectively and responsibly secure the participation of children; and, third, to describe how commissions have focused on issues relating to children and evaluate the extent to which they have been successful in collecting children’s testimonies. Prior research demonstrates that the participation of victims is enhanced when there are special measures for safety (Minow 1998; Nesiiah 2006; Stahn 2005). These studies tend to subsume children’s participation within general victim participation; yet, children represent a distinct victim class, with unique needs and vulnerabilities.

First, we argue that, in addition to the *personal* benefits we describe above, children’s participation affords commissions *operational* benefits. Specifically, children’s testimonials can ensure that a commission’s investigation and subsequent report is as comprehensive and accurate as possible. Further, first-hand accounts can support a framework for relief and redress. Pursuant to their mandates, commissions recommend institutional reforms, reparations, and other remedial interventions. In order to make the most pertinent proposals possible, commissions must thoroughly document experiences of violence, including and especially of children. In addition, children’s participation offers the broader

society *social* and *political* benefits. Children's testimonials can expand society's understanding of past violence, change the perception that children cannot be active participants in or contributors to political processes and institutions, and make more likely the implementation of commissions' child-focused policy recommendations (Beier 2015; 2019; Scullion 2012; Watson 2009).

Second, we develop a theory of children's participation in truth commissions, with a focus on commission design (see, for example, Oduro and Nagy, 2014; Zvobgo, 2019a,b). Innovating on the scholarship investigating design features that may support the participation of victims in general, we offer a set of features that may support the participation of children in particular. Specifically, we present features that increase access to the truth commission process itself while attenuating the social and psychological costs of children testifying about their experiences of violence. Given variation in children's (and their guardians') ability and desire to participate in a truth commission, utilizing these features will likely enhance participation.

Third, we describe the presence and absence of three institutional features that could enhance children's participation at commissions, (1) provisions for children in the mandate, (2) targeted outreach programs, and (3) special measures for protection and psychosocial support, in three key cases: South Africa, Timor-Leste, and Sierra Leone. We then evaluate through comparative case studies the influence of the institutional features on children's participation. The three commissions vary along several important dimensions, including the types of political violence they were tasked to address: race-based authoritarian government, foreign occupation, and civil war. The commissions also vary in terms of the presence/absence of the three institutional features as well as the rate of child testimony relative to all testimony. Significantly, the three commissions represent the earliest attempts to systematically research violations of children's rights and violence against children more generally. Studying these early cases enables scholars to subsequently assess gains and losses associated with institutional replication in other commissions. Crucial to our evolving understanding of commissions is determining if, and to what extent, they are being refined over time and countries are learning from each other.

Our paper proceeds as follows. In part two, we make the case that children have a fundamental right to participate in truth commissions and, moreover, that there are significant benefits of

participation. Given this, we submit that it is important to investigate children's participation and, more precisely, that we examine institutional design features of commissions likely to facilitate it. In part three, we propose design features that we expect increase participation. In part four, we discuss our methodology, which we apply in part five to the commissions in South Africa, Timor-Leste, and Sierra Leone. We conclude with a discussion of implications for practitioners and avenues for future research in this area.

## 2 Adolescence, violence, and transitional justice

Children are among the most vulnerable populations during periods of repression and conflict. They can be affected directly, through killings, abduction, rape, and forced recruitment by armed groups. They can also be affected indirectly, through displacement, inadequate nutrition and health care, interrupted education, and the psychological and emotional trauma of witnessing abuses, injuries, deaths, and funerals (Blattman 2012; Blattman and Annan 2010; Ichino and Winter-Ebmer 2004; Kesternich et al. 2012; Morgos et al. 2007).

While children are part of the accounts truth commissions compile and publish, their involvement in commissions is often subsumed, in both scholarship and practice, within the general population of victims (Minow 1998; Nesiah 2006; Stahn 2005). We problematize this convention and propose that children represent a distinct victim class and should be treated as such. In addition, we draw on various international legal instruments and principles to argue that children have specific rights to participation in transitional justice, including truth commissions. Moreover, we introduce several noteworthy personal and operational, as well as social and political, benefits of children's participation in commissions.

## 2.1 Treating children as a distinct victim class

Exposure to and experiences of violence can shape the trajectories of children's lives<sup>2</sup> and the trajectories of their nations<sup>3</sup> in a manner distinct from adults. Adolescents' exposure to violence operates "in the context of developmentally shifting modes of expressing their own aggressive impulses and feelings" (Marans et al. 1996: 107) and can increase risk-taking attitudes and behaviors (Li and Wen 2005; Blattman et al. 2011). In addition, adolescent exposure to violence can "have a normalization effect manifesting in a desire for violent revenge" (Ellis 2019). Crucially, these effects "do not resolve spontaneously, but may linger for many years, and may even have multigenerational effects" (Cardozo et al. 2003: 356). In this way, children represent a distinct class of victims, with unique experiences, vulnerabilities, and concerns that commissions can address, in part, by soliciting their testimonials. Critically, children have specific rights to participate, rights that have been enshrined in a variety of international legal instruments, principles, and declarations.

## 2.2 Legal and normative foundations for children's participation in transitional justice

Like adults, adolescent victims of human rights violations have the right to truth, justice, reparations, and guarantees of non-recurrence. Put simply, children have the right to transitional justice. These rights have been established in case law from the Inter-American Court of Human Rights and the European Court of Human Rights<sup>4</sup>, as well as the principles on combatting impunity developed by United Nations Commission on Human Rights.<sup>5</sup> Implicit in the expression or enjoyment of these rights is the *right to be included* and the *right to participate* in transitional justice processes. Besides, Article 12 of the Convention on the Rights of the Child (CRC) obliges states to provide children opportunities to express their views and have them considered in any proceedings affecting them. Given that adolescent victims are within the purview of transitional justice policies and institutions, they have a right to participate in

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<sup>2</sup> See Depuy and Peters (2010) for an analysis of long-term psychological consequences of child wartime exposure. See Akbulut-Yuksel (2014) and Ichino and Winter-Ebner (2004) for an analysis of labor-market consequences of child wartime exposure.

<sup>3</sup> See Ellis (2019) on the effect of adolescent war trauma on leader's decisions to use force.

<sup>4</sup> *Bleier v. Uruguay* (UN HRC, 1981), *Velázquez Rodríguez v. Honduras* (IACtHR, 1988), and *McCann v. United Kingdom* (ECHR, 1995).

<sup>5</sup> See E/CN.4/Sub.2/1997/20/Rev.1.

them (Smith 2010). The 2007 Paris Principles on Children Associated with Armed Forces or Armed Groups, the 2009 Key Principles for Children and Transitional Justice, and the 2013 Kampala Recommendations on the Recovery and Reintegration of Children and Youth Affected by Armed Conflict similarly reinforce the importance of engaging children and youth in transitional justice processes.

Despite the enumeration of these specific rights and the importance of regaining children's voices and validating their subjecthood, children's participation in transitional justice is often overlooked, in both scholarship and practice. Where it is considered, it is often subsumed within victims' participation. In terms of the *practice* of transitional justice, a child-sensitive lens has been missing in many instances. This is due in part to the well-intentioned but sometimes harmful belief that children are vulnerable and require protection, that they are objects rather than subjects (Brocklehurst 2006; Watson 2009; Jacob 2014; Beier 2015; 2019). Relatedly, there is a widespread misconception that engaging children and youth in transitional justice is not important. Consequently, children's particular needs in these processes have not been identified and operationalized in many cases. This, in turn, has made it difficult to effectively engage children, attain a full understanding of the past, and, through appropriate policy recommendations, establish the foundations for a sustainable, positive peace (Aptel and Ladisch 2011).

In terms of the *scholarship* on transitional justice, the scarcity of studies on children's participation likely proceeds from the fact that, in many places in the world, children are not viewed as active participants in or contributors to political processes and institutions (Beier 2015; 2019; Scullion 2012; Watson 2009). Consequently, their involvement has been underappreciated and the benefits understated. We aim to change this. Below, we outline the personal and operational, as well as the social and political, benefits of children's participation in truth commissions. We focus on truth commissions because they are uniquely situated among transitional justice mechanisms to support individual healing and reconciliation (Roht-Arriaza 1995; Minow 1998; Ntsebeza 2000) which are important goals for all, but especially for children. Truth commissions also tend to precede other modalities of transitional justice (Balcells, Palanza and Voytas 2019; Bates, Cinar and Nalepa 2019; Powers and Proctor 2016).

### 2.3 Benefits of children's participation

During periods of repression and conflict, there are few, if any, opportunities and resources for children to process the events unfolding around them. Truth commissions represent an opportunity—a rare opportunity—for them to grapple with the past. In addition to documenting violence and abuses children have suffered, truth commissions can offer them a range of benefits.

To begin, commissions can provide children a safe environment in which to express the complex feelings related to their experiences of violence—fear, guilt, self-blame—and a means by which to work through them—notably, testimony. Through the truth-seeking and truth-telling process, children can learn that their voices matter, that what happened to them was wrong and not their fault, and, very importantly, that they are not alone in their experiences. To be sure, the most direct way to acknowledge harm is to do so after listening to a person, in our case a child victim. Listening directly to children can alleviate the feelings of shame and loneliness that often accompany experiences of violence, and can counter a ‘conspiracy of silence’ that can exacerbate trauma and fuel conflict (Corriero 2002; Hayner, 2000; Ntsebeza, 2000). Indeed, acknowledgment and apology by a truth commission can be extremely powerful, as adults recognize that some among them breached their responsibility to care for children. Moreover, it suggests a commitment to non-repetition.

There are also operational benefits associated with children's participation, including and especially the opportunity to construct the most comprehensive and most accurate account possible. While adults can act and speak on behalf of children and their best interests, their participation is no substitute for children's. Compared to parents or representatives from non-governmental organizations (NGOs) speaking on behalf of children, documenting first-hand accounts is often the most effective way to capture specific experiences of violations (Aptel and Ladisch, 2010). Bringing children into the political process can “broaden and enrich our understanding of conflict” (Brocklehurst 2016: 173)

Related to the personal and operational benefits are the social and political benefits of children's participation. Children's direct involvement can contribute to their knowledge and understanding of human rights, and support their political development and political socialization as active citizens (Ramírez-Barat 2012). This is vital, as countries grapple with and, ideally, move on from the past. To be

sure, one can only become a knowledgeable and active citizen—part of the solution and not the problem—when one is included, not marginalized. Further, children’s testimonials can spur a framework for relief and redress that is tailored to children’s needs, concerns, and vulnerabilities. In this way, commissions can help change the above-mentioned perception that children are objects of, and not contributors to, political processes and institutions.

Given that children are a distinct victim class with specific rights of participation enshrined in international legal instruments, principles, and declarations—and given that there are a range of potential benefits related to their direct involvement in truth commissions—we argue that it is important to investigate their participation and, more precisely, examine institutional design features likely to facilitate it. We propose three such features in the next section.

### 3 Facilitating children’s participation

The design of truth commissions matters for their success (Oduro and Nagy 2014; Stahn 2005; Solomon and Zvobgo). Scholarship demonstrates that special measures for safety and privacy can enhance victim participation in commissions (González and Varney 2013; Minow 1998). However, there is little scholarly investigation of features necessary to effectively and responsibly secure the participation of children in particular. What’s more, no scholarship theorizes and later explores the influence of a set of features across several commissions.

Children may participate or not participate in commissions for a variety of reasons—many of which are not explored in this project, such as personal fear or being disallowed to participate by parents or guardians. We cannot determine and assess the relative interests and abilities of each and every child participant. However, we do expect that certain truth commission institutional features facilitate children’s testimonies (Nesiah 2006; Stahn 2005).

Among a range<sup>6</sup> of modes of participation in commissions, we focus on statement giving. This is mainly due to the fact that this is how commissions collect the bulk of their primary information.

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<sup>6</sup> Other avenues by which commissions may capture children’s experiences, include plays, poems, paintings, drawings, etc.

Commissions use information from statements to quantitatively track trends and patterns of violations and qualitatively capture distinct experiences of political violence. This information can be included, in whole or in part, in a commission's final report (Hayner 2000; 2011). Statement taking is also the most direct way to give marginalized victims, namely affected children and youth, a voice in the process. Certainly, parents or guardians and child-focused civil society groups have much to contribute to the historical narrative as it pertains to children. However, as we have discussed, there can be no substitute for children's voices. Soliciting their narratives affirms to them and to the broader society that their voices matter; that they have agency; and that they can contribute to their countries in important ways.

Few truth commissions have systematically included a focus on children in their research and activities (Aptel and Ladisch 2011). This is partly due to concerns about children being traumatized (or, re-traumatized) in the truth-seeking process. This is also due to the reality that in many places, by the time a political transition occurs and transitional justice mechanisms are implemented, many people who experienced violence as children are adults (UNICEF Innocenti Research Centre and ICTJ 2010). Nevertheless, the evolving nature of conflicts and the strengthening of international frameworks on children's rights have prompted truth commissions and other transitional justice mechanisms to devise strategies for child and youth engagement and participation.

We build on the victim participation literature to theorize design features most likely to facilitate children's participation and provide a preliminary probe of that theory.<sup>7</sup> We also draw on international frameworks for ensuring compliance with the rights of children at commissions. We introduce three features that should increase access to the truth commission process while attenuating the social and psychological costs of children testifying about their experiences of violence. Specifically, we consider: (1) provisions for children in the mandate, (2) targeted outreach programs, and (3) special measures for protection and psychosocial support. Given variation in children's (and their guardians') ability and desire to participate in a truth commission, utilizing these features will likely enhance participation.

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<sup>7</sup> Child victim participation rationales should, for the most part, correspond to adult victims' participation rationales. For example, victims' support units and private hearings likely matter for both types of victims.

It is important to note that, though a design feature may exist on paper, it may not actually be implemented. While they are starting points for the analysis, institutional formalisms do not suffice for the effects we predict. Features must be both present and functional. We determine functionality by assessing fulfillment of a set of criteria for each design feature. We describe these below. Our criteria help us to guard against finding effects that the features could not have produced. In so doing, we have greater confidence in the conclusions of this preliminary inquiry.

### 3.1 Mandates

We first propose that provisions for children in a truth commission's mandate<sup>8</sup> will increase the likelihood of children's participation. Mandates that include provisions for children and the types of violence they experienced enable a child-sensitive approach to setting the commission's priorities, staffing, and resource allocation (González 2013). They also make more likely the inclusion of child-specific recommendations in the final report (Aptel and Ladisch 2011; González and Varney 2013). Beyond preparing a commission to engage children, provisions for children in the mandate signal to children and their guardians that a commission has an interest in hearing from them and learning about their experiences. Certainly, omitting children in the mandate does not necessarily prevent a subsequent focus on them, nor does it necessarily discourage children and their guardians from coming forward. However, any subsequent focus or inclusion will likely be *ad hoc* and partial at best (Cohn 2001, Pigou 2010).

In order for this design feature to function as the theory predicts, we expect to see children referenced in the commission's legal mandate and for the commission to communicate to the public the focus on children.

*Mandate hypothesis (H1). If a truth commission's mandate explicitly mentions children, children's participation will be more likely.*

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<sup>8</sup> A truth commission's legal mandate outlines numerous matters that are essential to its functioning. This usually includes: the period of operation; the period of time under investigation; the types of violations to be investigated; questions surrounding special attention to specific victim populations; key activities; powers that will determine overall strength and reach; and the selection procedures for commissioners (OHCHR, 2013).

### 3.2 Targeted outreach

Next, we suggest that children's participation depends, in part, on a truth commission's outreach efforts. Prior research indicates that the nature and extent of a commission's outreach can increase or decrease the likelihood of participation, of both victims and perpetrators (Lansdown 2011; Gidron 2015). In the case of children, the presence and operation of a truth commission may not be regularly discussed in environments in which they find themselves, such as schools and family homes. Thus, child-focused outreach is a must.

In order for this design feature to have the intended effect, we expect a commission to: engage in child-focused outreach that involves, for example, information campaigns conducted with schools, child rights groups, and local organizations, such as community houses, sports and activity clubs, and religious groups (Ramírez-Barat 2012). These could be delivered via media such as radio, television, plays, and other presentations, as well as through physical items such as posters and t-shirts (Lundy 2007). Short books and brochures are another useful medium (Gidron 2015). Ideally, these materials should be inclusive with respect to marginalized children such as refugees, orphans, and children with disabilities (Ramírez-Barat 2012).

*Outreach hypothesis (H2). If a truth commission implements child-specific outreach, children's participation will be more likely.*

### 3.3 Special measures for protection and psychosocial support

Finally, we propose that measures for children's protection and psychosocial support will increase the likelihood of their participation.<sup>9</sup> Documenting children's first-hand accounts requires that a commission employs practices that alleviate fear. And, there are a range of fears commissions can and must address in order to successfully engage children. These include fear of how the commission will collect children's testimonials, how others will respond to the testimonials, and, how children themselves

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<sup>9</sup> It is important to clarify that taking care of children by implementing special measures does not mean hiding information from them. While children must be protected, a truth commission must nonetheless "recognize the changing, growing capacities of children to understand facts, make decisions, and participate in the truth-seeking process" (González and Varney, 2013: 59).

will cope with the process and the information the process elicits. We expect that the fears of both children and their guardians will be attenuated and children's participation enhanced if commissions implement the below-mentioned measures.

First, children (and their guardians) may worry that a commission will not tend to and care for them in the manner that corresponds with their vulnerability. Several texts on best practices for dealing with children in transitional justice and other contexts—such as divorce and custody hearings—indicate that collaborating with social workers and partnering with child protection agencies can relieve fears of inadequate care (Aptel and Ladisch 2011; Bell 2011). Such professionals know how to make children comfortable and keenly, but safely, gain information, for example, by detecting non-verbal cues children use when expressing their thoughts (Lundy 2007). Employing a staff trained in child-friendly working methods and procedures is also important. These methods and procedures include working in a neutral venue and giving children information on the purpose, process, and agenda prior to their testimony (Bell 2011; Lansdown 2011; Lundy 2007).

A second, related fear is how others, within and outside the commission, will respond to children's testimonials. Prior research on participation broadly speaking highlights fears of public shaming, perpetrator retaliation, and community ostracism (Ntsebeza 2000). However, a commission that makes provisions for privacy, confidentiality of testimonials, and protection of identity (González and Varney 2013) can attenuate such fears, notably for children and their guardians (Michels 2010). Relevant measures can include having children testify in closed hearings or from private cubicles during public hearings (Aptel and Ladisch 2011).

A third and final obstacle to children's participation is fear of how children themselves will cope with the process and the information it uncovers. As we discussed earlier, there are non-trivial concerns about children being re-traumatized, even re-victimized, as they share the details of the harms they have experienced. In response to these issues, commissions must not only uncover the facts but help children process them (An 2010; Lansdown 2011). We propose that counseling at all stages of, and even after, the statement-taking process—the most direct answer to these concerns—should make more likely children's participation (Hirst and Linnarsson 2010).

In order for this design feature to function as the theory predicts, we expect a commission to: (1) put in place the people and resources necessary to implement measures for children's protection and psychosocial support and (2) communicate the measures to the public.

*Protection and support hypothesis (H<sub>3</sub>). If a truth commission has special measures for protection and psychosocial support, children's participation will be more likely.*

#### 4 Case selection, data, and methods

We explore through comparative case studies the three design features likely to facilitate children's participation at truth commissions. To determine our sample, we consider commissions that: (1) were created after the adoption of the Convention on the Rights of the Child and that (2) conducted research on child-related issues. The CRC provides the legal foundation for children's right to participate in processes concerning them. This, combined with consideration of child-related issues, underscores children's right to participate in a particular commission truth commissions. Put another way, the strongest argument for children's right to participate in commissions can be made for commissions that meet the two criteria.

Five commissions compose the population from which we draw our sample: South Africa (1995), Sierra Leone (2002), Timor-Leste (2002), Liberia (2006) and Kenya (2009).<sup>10</sup> We open this avenue of research by focusing on the first three and reserve the latter two to future research. Studying early cases first enables scholars to subsequently assess improvements (or, the lack thereof) in other commissions. Crucial to our evolving understanding of commissions is determining if, and to what extent, countries are learning from each other.

South Africa, Sierra Leone, and Timor-Leste vary along several important dimensions that make them ripe for analysis and, potentially, extrapolation to other contexts. This variation includes the types of political violence their commissions addressed: race-based authoritarian government, civil war, and foreign occupation and conflict. In addition, the cases vary by geographic region—Southern Africa,

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<sup>10</sup> See *Convention on the Rights of the Child* (1989) and UNICEF IRC and ICTJ (2010).

West Africa, and Southeast Asia—as well as the parties that created the commissions. The South African commission was the product of a pacted democratic transition between the National Party led by F.W. de Klerk and the African National Congress led by Nelson Mandela. The Sierra Leonean commission emerged from peace negotiations between the Government of Sierra Leone and the Revolutionary United Front that formally brought to a close the 11-year civil war. And, the East Timorese commission was created in response to civil society mobilization and sponsorship by the United Nations Transitional Administration for East Timor (UNTAET) following three decades of foreign occupation by Indonesia and related conflicts. Moreover, there is variation in the presence/absence of the three design features and variation in levels of children’s participation, providing strong grounds for the comparative analysis.

#### 4.1 Children’s participation at truth commissions

We define “children” as persons under the age of eighteen<sup>11</sup> and “participation” as statement giving.<sup>12</sup> To measure the dependent variable, children’s participation, we rely on the categories in each commission’s report (see Table 2). The dependent variable is quotient of the number of statements listed as provided by children and the number of all statements made to the commissions (from victims, perpetrators, experts, etc.).

Of 23,500 statements made to the South African commission, none were provided by children. Next, of 7,669 statements made to the East Timorese commission, 6 (or, 0.07%) were provided by children. Finally, of 7,706 statements made to the Sierra Leonean commission, 300 (or, 3.9%) were provided by children. For purposes of comparison, wide variation between cases and their relative order matter more than specific percentages. Relative to one another, the South African, East Timorese, and Sierra Leonean commissions had low, medium, and high levels of children’s participation.

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<sup>11</sup> We acknowledge variation in who is a “child” or what “childhood” means across cultures. For example, in Timor-Leste, a child is culturally understood as someone who has not yet married (CAVR, 2005: ch. 7). Another example is in Sierra Leone, where under customary law, the definition of a child varies in relation to the purpose for which she is being considered and from one ethnic group to another (SLTRC, 2002: vol. 3B). Nonetheless, international law recognizes as children persons under the age of eighteen and countries who are party to a range of international legal instruments and institutions, including each of our case study countries, generally use eighteen to legally define adulthood.

<sup>12</sup> While not our focus, we recognize alternative modes of participation and discuss them in the case study analysis.

Of course, the ideal measure of children’s participation at truth commissions would be the number of statements from children divided by the total number of children who suffered abuses within a commission’s mandate. However, commissions do not consistently disaggregate the general population of victims into children and adults. Thus, the paper’s measure of children’s participation (children’s statements divided by all statements) is the best available indicator. To determine the measure’s robustness, we develop a proxy measures of population of child victims, *total victims*.<sup>13</sup> Table 1 displays our definitions and measurement. As seen in Table 2, the proxy measure generally supports the main measure and our ordering of the commissions—low, medium, and high child participation for South Africa, Timor-Leste, and Sierra Leone, respectively.

Table 1. Proxy measures for approximating the population of child victims

Concept	Definition	Measurement
<b>Victims</b>	The number of individuals against whom abuses were perpetrated	Category 1 = 1,000 or fewer victims Category 2 = 1,001 to 100,000 victims Category 3 = 100,001 to 1 million victims Category 4 = 1 million or more victims

<sup>13</sup> Based on Zvobgo 2019a.

Table 2. Children’s participation rates by truth commission

Country	Main measure	Proxy measure: Victims
<b>South Africa</b>	Low participation 0 statements from children 23,500 statements 0%	<i>NA</i> <i>Unquantifiable</i>
<b>Timor-Leste</b>	Medium participation 6 statements from children 7,669 statements 0.07%	Category 3 102,800 victims
<b>Sierra Leone</b>	High participation 300 statements from children 7,706 statements 3.9%	Category 4 2.6 million victims

Source: Data from the respective truth commission charters, mandates, and reports. Data supplemented by the United States Institute for Peace Truth Commission Digital Collection; reports from Amnesty International, Human Rights Watch, and the International Center for Transitional Justice; and Hayner (2011).

#### 4.2 Institutional features

As seen in Table 3, there is variation in the presence/absence of the three institutional features at the three truth commissions, which enables us to examine the influence of each feature on children’s participation. The small sample size and the multiple factors that we consider influential for our outcome mean that case studies are most appropriate. In each case study, we link each design feature with children’s participation by first analyzing the fulfillment of the functionality criteria that we outlined above. If the criteria are met, we assume that the design feature had the expected effect on participation. If, however, the criteria are not met, we assume that the feature had a neutral effect on participation. We then more directly connect design features to children’s participation, for example, with observed changes in involvement following an outreach effort. For the analysis, we draw on each commission’s legal mandate and final report. We also leverage documents from governments, children’s and human rights groups, regional and international organizations, as well as secondary accounts. Using a range of documents helps us triangulate evidence of the features affecting the outcome.

Table 3. Design features by truth commission, presence/absence (expected effect).

	South Africa	Timor-Leste	Sierra Leone
<b>Mandate</b>	Absent (o)	Present (+)	Present (+)
<b>Outreach</b>	Absent (o)	Absent (o)	Present (+)
<b>Protection and psychosocial support</b>	Absent (o)	Absent (o)	Present (+)

## 5 Case studies

### 5.1 South Africa

Children were often on the front lines and specifically targeted by state-sanctioned violence and abusive policies under South African apartheid (1948-1994). And, though apartheid negatively affected the lives of all South African children, the consequences of violence, alongside poverty and racism, were particularly devastating for black children (Hickson and Kriegler 1991). Many children and youth were directly involved in the resistance struggle against the apartheid government through school protests, boycotts, and other more radical actions linked to anti-apartheid structures such as self-defense units (Pigou, 2010). This made them targets for retaliatory killings, torture, detention, interrogation, abductions, exile, and harassment by the white minority regime and its security forces (SATRC 2002: vol. 4, ch. 9). Children were also affected indirectly: they witnessed gross violations of human rights, had serious disruptions to education, and experienced other consequences of institutional and structural racism and violence.

The South African commission possessed none of the institutional features likely to encourage children's participation. As we describe below, the absence of children in the commission's legal mandate set it down the path of not receiving any testimony from children.

### 5.1.1 The mandate

The South African parliament highlighted the importance of ordinary citizens' participation in the Promotion of National Unity and Reconciliation Act No. 34 of 1995—the commission's enacting legislation. However, the legislation failed to include any specific reference to children. In addition, the Act's narrow focus on gross violations of human rights effectively sidelined other types of harms that many, including children, had suffered (Pigou 2010: 122).

As we stated earlier, neglecting children in the legal mandate does not necessarily prevent a subsequent focus on them, nor does it necessarily discourage children and their guardians from coming forward. However, once established, the South African commission itself decided to not take statements from persons under the age of eighteen. This was based on the advice of local NGOs working with children and youth (Lundy 2007). These groups were concerned about intimidation and (re)traumatization if children participated. So, instead of receiving testimony from children, the commission relied on testimony from family members, NGOs, and other professionals working with children. So, while the commission ultimately had a research focus on children, it did not actually engage them directly.

The commission's decision to not take statements from children removed the practical need to engage in outreach and implement measures and partnerships for their protection and psychosocial support. Thus, we proceed to a discussion of the alternative means the commission implemented to document children's experiences of violence during apartheid.

### 5.1.2 Alternative means of documenting children's experiences

Despite being omitted from the legal mandate and despite the commission's subsequent decision to not solicit their testimonials, children were not wholly absent from commission proceedings. In May and June 1997, the commission convened six special hearings on the experiences of children and youth. The format of these hearings varied from region to region but generally entailed facilitators presenting children's stories, child-focused organizations and youth groups making formal submissions and oral statements, and adults testifying to violations they witnessed or experienced as children. The special

hearings allowed attendees to reflect on and analyze apartheid and its impact on children. There were also cultural and dramatic arts performances about the struggle for liberation in which children participated (Pigou 2010: 128). At the end of its work, the commission dedicated a chapter in its report to children, as well as a set of policy recommendations pertaining to them. However, this was an eleventh-hour remedy, since children were not included in the mandate. Some child-specific recommendations have since been implemented, while others have not, namely a formal human rights curriculum in schools, reparations programs for children, etc. (UNICEF Innocenti Research Centre and ICTJ 2010).

## 5.2 Timor-Leste

East Timorese children suffered a litany of rights violations during the Indonesian occupation and ensuing conflicts (1975-1999). They were killed, sexually violated and exploited, arbitrarily detained, tortured, and unlawfully recruited as soldiers (CAVR 2005: ch. 7.8; UNICEF East Timor 2001). While both sides engaged in these abuses, Indonesian forces and their auxiliaries committed the lion's share of atrocities. Many children never returned to or reunited with their families, even after the occupation and conflict ended due, in part, to a program of forcible displacement to Indonesia, which affected more than 4,000 East Timorese children (UNHCR 2004). Children were also affected indirectly—through illness, lack of adequate health care, disruptions to education, and other vulnerabilities. The negative impacts of both direct and indirect violations resulted in children suffering trauma and having a severe distrust in government and other institutions and authority figures (UNICEF East Timor 2001).

The East Timorese commission's participatory arm, known as the Community Reconciliation Program (CRP), collected witness testimony across the island nation. The CRP enjoyed one design feature likely to support children's participation: a provision in the legal mandate. However, as we will describe, this provision was cursory and imprecise, leading to inadequate preparation for and engagement of children, and a non-zero but incredibly low level of child participation.

### 5.2.1 The mandate

Only one subsection of the East Timorese commission mandate mentioned children, instructing that special measures be taken when specific groups of victims, such as women and children, testified at public hearings. Unlike in South Africa, where the commission subsequently sidestepped children's rights to participate due to concerns for their wellbeing, the East Timorese commission simply dismissed children's right to participate. A consultant working with the commission *did* draft, with input from UNICEF, a manual on principles for children's involvement in commission activities (Hirst and Linnarsson 2010). Among other items, the manual detailed standards of legal protections based on the CRC, national legislation, and experiences from other countries. Regrettably, the policy was never finalized and implemented, let alone disseminated, and commissioners held no further discussions on children's participation. Moreover, UNICEF and other child-rights specialists were excluded from most CAVR deliberations.

The superficial mention of children in the commission's mandate did not necessarily prevent a subsequent focus on them, nor did it imply that children would not come forward. Once the CRP began operating, children were involved. However, this was done on an *ad hoc* basis and at a remarkably small scale. The commission reports taking statements from just six children.

### 5.2.2 Outreach, protection, and alternative means of documenting children's experiences

While some children attended hearings and a small number participated in commission activities, this was not due to any special efforts by the commission. The commission did not hold any information sessions to specifically communicate with or raise awareness among children, nor did it design and disseminate child-friendly outreach materials. Further, there were no special measures or partnerships in place to consider children's needs or ensure their protection and psychosocial support (Hirst and Linnarsson 2010: 11). The commission did hold a public thematic hearing on children, with opportunities for creative expression. The hearing also included testimony from one child, with a total of six children participating throughout the commission. The witness herself believes that it was a positive experience, but her mother believes that it retraumatized her. She received little support in the hearing—she was

given preparation time, but was not with her family, and her counselling sessions were with large groups of adults. She received no follow-up support (Hirst and Linnarson, 2010: 20). To partly address the participation gap, the commission conducted more than 100 interviews with adults who had experienced violence as children. Three expert witnesses were also brought in to testify about violations concerning children.

### 5.3 Sierra Leone

Children's rights were widely and systematically violated during Sierra Leone's bloody 11-year civil war (1991-2002). Children were victims of, witnesses to, and forced perpetrators in violence. They suffered abduction, rape and other sexual abuse, torture, mutilation, amputation, and killing. In addition, between 5,000 to 10,000 children were forcibly recruited as soldiers or were associated in one form or another with the fighting forces, whether as cooks, porters, spies, sex slaves, human shields, or manual laborers. Child combatants were indoctrinated and forced to perpetrate many of the same abuses that they themselves had experienced, often under the influence of drugs and alcohol (SLTRC 2004: vol. 3B, ch. 4). Children also suffered from the wanton destruction of their homes and communities, subsequent displacement and separation, halted education, inadequate health care, and emotional and psychological trauma.

The Sierra Leonean commission possessed all of the institutional features we identify as likely to encourage children's participation: provisions in the legal mandate, targeted outreach, and measures for protection and psychosocial support. Children were involved in all stages: planning and design, outreach and sensitization efforts, statement-taking, closed district hearings, public thematic hearings, and opportunities for creative expression and contribution. The combination of these efforts contributed to the more than 300 statements collected by commission statement takers working in collaboration with child protection agencies (SLTRC 2002: vol.1, ch.5).

### 5.3.1 The mandate

In June 2001, UNICEF, the UN Mission in Sierra Leone (UNAMSIL), and the National Forum for Human Rights (NFHR) convened a technical meeting on children and how they were to be engaged in the forthcoming commission. One core agenda item was analyzing how previous commissions had engaged children in their proceedings. Other related items included society's attitudes towards war-affected children, the reintegration of separated children, and the nature of violations carried out against children (UNICEF, UNAMSIL, and NFHR 2001). This meeting resulted in seven child-centered guiding principles for involving children in the commission's work, based largely on the CRC and the African Charter on the Rights and Welfare of the Child. These included protection through confidentiality and anonymity, and special attention to girls. The focus on children was communicated to the public, through a range of outreach of activities which we describe below.

### 5.3.2 Outreach

The Ministry of Social Welfare, Gender, and Children's Affairs (MSWGCA) collaborated with the National Child Protection Committee and a range of civil society groups to spread awareness about the commission, communicating how children's participation could contribute to societal reconciliation and nation-building. One of these civil society groups was the youth-led Children's Forum Network (CFN). CFN members, notably its child members, traveled around Sierra Leone to promote other children's participation in the TRC (Cook and Heykoop 2010). The CFN also established truth commission clubs in schools and communities to discuss the commission's work. Lastly, the commission undertook intentional sensitization activities to clarify the roles of and differences between the truth commission and the parallel Special Court for Sierra Leone in order to allay the mistrust of former child combatants who feared prosecution in the latter if they testified in the former (Heykoop and Cook 2010).

### 5.3.3 Special measures for protection and psychosocial support

*Collaborating with child protection agencies.* Based on the child-sensitive mandate, the Sierra Leonean commission subsequently established a joint Framework of Cooperation with child protection agencies to both protect children and facilitate statement giving (Shaw 2014). Statements were collected on a one-on-one basis unless the child requested a parent, guardian, or social worker be present. Statement-takers were either professional social workers or were trained to take statements from children (Dougherty 2004). This set a global precedent for collaboration between truth commissions and child advocacy and support professionals (Cook and Heykoop 2010). A vulnerability and safety checklist was also developed and implemented.

*Closed district hearings with children.* One day each week was reserved for closed hearings, designed to allow particularly vulnerable victims, for example those who had suffered sexual violations to testify in a larger but still private setting (SLTRC 2002: vol. 1, ch. 5). Regional coordinators sought each child's consent as well as the consent of his or her parent or guardian. The commission then brought the child to the relevant district's closed hearing, where he or she received preparation support from a trained staffer and then spoke to a group of commissioners of the same sex. An interpreter, videographer, and counselor were also present. If a child wished, a parent or a child protection agency representative could also be present (Heykoop and Cook 2010). This group tried to establish rapport and create a comfortable and supportive environment for child participants. This involved asking questions about their background and family before proceeding to more specific, but still open-ended, questions about their experiences during the conflict. Children were also asked how they believed the commission could help them in terms of healing and reconciliation (Cook and Heykoop 2010). The commission then played extracts of the testimonies on Radio UNAMSIL and on television, with each child's identity remaining confidential (Siegrist 2010).

#### 5.3.4 Alternative means of documenting children's experiences

*Public thematic hearings on children.* The commission additionally held a series of thematic hearings in the capital, Freetown, to address specific institutions, themes, and groups. The thematic hearings on children's experiences during the conflict took place on 16 and 17 June 2003, coinciding with the Day of the African Child, with the aim to garner a clearer understanding of and raise awareness about children's issues, and to recommend actions to improve their lives. After a march through Freetown, over 350 children attended the hearings. Children also exhibited drawings, performed dramas, and sang songs about life during the war (Siegrist 2010). In addition, the commission presented summaries of nine expert submissions from various children's rights agencies and organizations—two of which were child-led groups—on the direct and indirect effects of the conflict on children (Cook and Heykoop 2010).

*Avenues for creative expression and contribution.* The Sierra Leonean commission also engaged children through creative expression. A prominent example was the “National Vision for Sierra Leone” project, through which the commission called for and gathered over 250 contributions, which included written and recorded essays, slogans, plays, poems, paintings, drawings, sculptures, wood carvings, and installation. In addition to this project, children also participated in the development of a child-friendly version of the commission's final report—the first ever among commissions (Paulson 2006). A shorter and simpler version, it was agreed, would help children to better understand both what had happened in the past and what work the commission had undertaken to support truth and reconciliation, all with a view to prevent recurrence (SLTRC 2002: vol. 3B, ch. 8).

### 5.4 Summary of findings and implications

The neglect of children in the legal mandate opened the door for the South African commission to limit testimony to adults. While concerns about intimidation and re-traumatization were not necessarily unfounded, the decision to exclude children's direct testimony clashed with children's right to express their experiences and views (Brocklehurst 2016). Yes, the commission attempted to record children's

experiences through alternative means—notably the special hearings on children, statements from family members and professionals working with children, as well as testimony from adults who had been child victims. However, the commission’s research was, by design and by choice, partial and incomplete.

Similar to the South African case, the desultory mention of children in the legal mandate enabled the East Timorese commission to all but ignore children in its proceedings. And, while a policy on children’s participation and protection was drafted, it was never completed or implemented. Thus, there were no measures and partnerships to reach out to prospective child participants nor to protect those children who made their own way to the commission. While the commission did interview adults who had suffered violations as children, listening to and gathering direct input from those who were still children at the time of the commission’s work could have contributed to a clearer understanding of how children were, and continued to be, affected by the occupation and conflict. This lack of intentional engagement meant that:

“[C]hildren felt no connection to the CAVR or its work and no ownership over the process. They [were] less likely to be among those taking an interest in the Commission’s findings or calling for implementation of the recommendations. By leaving children out of one of the significant institutional processes for nation-building – one that proposed a national identity built on human rights and historical understanding – a crucial opportunity may have been missed to ensure that young people are invested in that vision for Timor-Leste” (Hirst and Linnarsson 2010: 37).

The South African and East Timorese commissions display a paradox often seen in transitional justice and politics more generally: children are simultaneously included but excluded, supported but undermined. For example, while the CRC—which provides the primary international legal basis for children in proceedings concerning them—recognizes children’s capacity to advocate for their own interests, children were given very few opportunities to engage with the working group drafting the Convention (Holzcheiter 2010: 210). How can we have children’s rights yet routinely sideline them?

In contrast, the Sierra Leonean commission considered children’s rights, interests, and particular needs throughout the process. The explicit discussion of children and the need for special measures to attract and protect their testimony shaped future planning, design, staffing, training, and policy-making decisions. Second, it led to the creation of special measures and partnership for outreach and protection. Notably, the June 2001 technical meeting was critical for the commission’s subsequent work with

children. In addition to the child-centered guiding principles that emerged from the meeting, a Framework of Cooperation was devised between the commission and child protection agencies. Third, special measures for protection and psychosocial support, in turn, promoted increased children's involvement in a range of commission activities. In addition to statement giving, children participated extensively in the planning and design phases, outreach and sensitization efforts, closed district hearings, public thematic hearings, and through more creative avenues for self-expression.

## 6 Conclusion

Over the past five decades, numerous truth commissions have been deployed in an array of post-violence contexts. To construct a comprehensive and accurate narrative on the past, commissions have reviewed volumes of documents, gathered witness testimonials and issued concluding reports that synthesize their work and suggest a range of remedial and preventive interventions, for example institutional reforms. Victims have been at the center of the theory and practice of truth commissions and transitional justice more generally. However one key class of victims, children, have been consistently overlooked—his, despite the importance of their engagement for accountability, healing, and reconciliation.

In this paper, we argued that children have specific rights to participation enshrined in a variety of international legal principles, norms, and instruments, such as the UN principles on combatting impunity and the Convention on the Rights of the Child. Next, we suggested how truth commissions may be designed to effectively and responsibly secure the participation of children, specifically by including children and their unique experiences and vulnerabilities in commission's legal mandates, child-focused outreach methods and activities, and special measures for protection and psycho-social support. We then explored the extent to which three truth commissions that had a research focus on children succeeded in collecting their first-hand accounts.

Across the three cases, we found that specific provisions about children in the mandate are crucial. In South Africa, the omission of children in the legal mandate paved the road for the commission to, itself, decide that it would not engage children directly. Accordingly, the commission did not develop

child-focused outreach methods and activities, nor did it implement special measures for protection and support. Notwithstanding, the commission involved children in its work through a set of special hearings that included story-telling, artwork, and other modes of creative expression. Meanwhile, in Timor-Leste, the cursory reference to children in the mandate—paired with the abandonment of a manual that laid out previous countries’ experiences engaging children as well as measures for protection based on the CRC and other laws—contributed to an *ad hoc* approach to engaging children that garnered half a dozen child participants. Some of these children were later reported to have been retraumatized, in part due to the CAVR’s staff lacking training and, in at least one case, the failure to provide support before, during, and, very importantly, after testimony. Finally, and in stark contrast to the preceding two cases, we saw in Sierra Leone a thoughtful and concerted effort to consider and engage children throughout the commission process—from the mandate to initial planning and design to outreach and testimony, and, finally, to the issuance of a child-friendly concluding report.

Much remains to be accomplished in this research area, including exploring the institutional design of and children’s participation in the next set of countries that had a focus on, Liberia and Kenya. Now that we have learned from the early cases of South Africa, Timor-Leste, and Sierra Leone, scholars can begin to evaluate gains and losses over time, answering questions like the following: Are children’s rights better realized today? Are countries learning from each other and are commission being refined over time? In what other modes of participation should children be engaged? Finally, what are the long-term consequences of children’s involvement in truth commissions, for the children themselves, their communities, and national politics and public policy? When we consider that children are among the most vulnerable populations during periods of repression and conflict—and that their exposure to violence can have long-term effects and, likewise, that their involvement in transitional justice processes, such as truth commissions, can shape their development and that of their nations, but for the better—it is vital that we continue to study this subject.

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