

UNICEF
Innocenti Research Centre

CHILDREN AND TRUTH COMMISSIONS

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Prepared by the UNICEF Innocenti Research Centre in cooperation with
the International Center for Transitional Justice

The UNICEF Innocenti Research Centre

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Correspondence should be addressed to:

UNICEF Innocenti Research Centre
Piazza SS. Annunziata, 12
50122 Florence, Italy
Tel: (+39) 055 20 330
Fax: (+39) 055 2033 220
florence@unicef.org
www.unicef-irc.org

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The publication is intended to support the work of truth commissions, child protection agencies, legal experts, child rights advocates and other professionals in their efforts to protect the rights of child victims and witnesses, and to engage children as partners in truth, justice and reconciliation processes. The research, documentation and analysis of good practices presented have benefited from the expertise of practitioners, academics and legal experts. This broad range of experience has, in turn, informed the recommended steps for children's participation in future truth commissions.

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CONTENTS

ABBREVIATIONS	vii
EXECUTIVE SUMMARY	ix
INTRODUCTION	1
CHAPTER 1: Children and truth commissions: Basic considerations	3
Impact of armed conflict on children	3
Evolution of child rights and international criminal justice	4
Children and transitional justice	5
Overview of truth commissions	7
Gender issues	9
Three Ps: Participation, protection, prevention	9
How truth commissions have involved children	10
CHAPTER 2: Legal considerations and relationships with criminal jurisdictions	13
Grave international crimes against children	13
Amnesties	14
Relationships between a truth commission and criminal jurisdictions	15
Child victims and witnesses in criminal jurisdictions	16
Children and criminal responsibility	17
Truth commissions and non-judicial accountability	18
CHAPTER 3: Child-friendly partnerships, outreach and consultations	21
Establishing partnerships for outreach and consultations	21
Child protection agencies, organizations and networks	22
Framework of cooperation or memorandum of understanding	24
Children, adolescents and child-led organizations	24
Country examples	25
Local and national government representatives	27
Community leaders	27
Role of the media	28
CHAPTER 4: Truth commission operations with a child focus	31
Including children in a truth commission mandate	31
Structure and staffing	32
Orientation and training	33
Principles for protecting children who participate in a truth commission	34
Taking statements from children	35
Child-friendly interviewing and psychosocial support	36
Children's participation in hearings	38
Public hearings	39
Thematic hearings	39
Closed hearings	41
Research and investigations	42
Sources of information	43
Final report and recommendations	45
Truth commission recommendations	47
Report dissemination	48

CHAPTER 5: Reparations and memorials	51
Children and reparations	51
Designing and implementing a reparations programme for children	52
Eligibility criteria for compensation	53
Outreach and access to benefits	55
Funding sources	56
Memorials and museums	56
CHAPTER 6: Child-focused institutional reform	59
Linkages between truth commissions and institutional reform	59
Demobilization and reintegration	59
Security sector reform	60
Rule of law and legislative reform	60
Education and curriculum reform	61
Sierra Leone: Accelerated learning	62
Chile: Community-based non-formal learning	63
South Africa: Human rights curriculum	63
Guatemala: Curriculum reform	63
Peru: A CVR curriculum	63
Timor-Leste: Popular version of the final report	63
CONCLUSIONS	65
NOTES	67
BIBLIOGRAPHY	76
ANNEXES	81
1. Model checklists for taking statements from children	81
2. Model framework agreement or memorandum of understanding between a truth commission and child protection agencies	84
3. Truth commissions that focused on or directly involved children in their activities	86
4. Excerpts from truth commission acts on protecting the rights of child participants	87

ABBREVIATIONS

AIDS	acquired immune deficiency syndrome
‘Beijing Rules’	United Nations Standard Minimum Rules for the Administration of Juvenile Justice (1985)
CAVR	Comissão de Acolhimento, Verdade e Reconciliação de Timor-Leste (Timor-Leste Commission for Reception, Truth and Reconciliation)
CEH	Comisión para el Esclarecimiento Histórico (Commission for Historical Clarification), Guatemala
CEIP	Community Education Investment Programme, Sierra Leone
CPA	child protection agency
CPN	child protection network
CREPS	Complementary Rapid Education for Primary Schools, Sierra Leone
CVR	Comisión de la Verdad y Reconciliación (Truth and Reconciliation Commission), Peru
HIV	human immunodeficiency virus
ICC	International Criminal Court
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
MINUGUA	United Nations Verification Mission in Guatemala
MOU	memorandum of understanding
NGO	non-governmental organization
‘Paris Principles’	Principles and Guidelines on Children Associated with Armed Forces or Armed Groups (2007)
PROVER	Promotores de la Verdad (Promoters of Truth), Peru
REMHI	Recuperación de la Memoria Histórica (Recovery of Historical Memory Project), Guatemala
TRC	truth and reconciliation commission
UNAMSIL	United Nations Mission in Sierra Leone
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children’s Fund
UNMIL	United Nations Mission in Liberia
UNTAET	United Nations Transitional Administration in East Timor



In Goma, the Democratic Republic of the Congo, boys at a reintegration centre for recently demobilized child soldiers raise their hands to shield their faces and their identities. For children involved in hostilities, reintegration at the end of armed conflict is part of the reconciliation process. Truth commissions should ensure long-term support for reintegration and reconciliation of children with their communities.

EXECUTIVE SUMMARY

The impact of armed conflict and political violence on children

Children are caught in the crossfire of modern warfare. They are also targeted for recruitment by armed forces and groups, raped, tortured and held in slave-like conditions. In some cases children have been victims of systematic and widespread violations, including genocide, crimes against humanity and war crimes. Thousands of children are killed and wounded every year as a direct result of fighting, but many more suffer the indirect effects of conflict – malnutrition and disease, halted education and a general breakdown in systems of social protection. The disruption of children’s physical, emotional, moral, cognitive and social development has long-term consequences for them and their societies.

Over the past 20 years, the normative global framework for dealing with international human rights crimes has evolved significantly. The obligation to prosecute and punish grave crimes under international law and the commitment to provide reparative remedies for the victims have led to the development of transitional justice approaches to deal with mass violence or systematic abuse. The United Nations defines transitional justice as the “full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses in order to ensure accountability, serve justice and achieve reconciliation”.¹ These include both judicial and non-judicial processes and may

comprise a complementary set of approaches. In the aftermath of war or brutal human rights abuses, there is no single answer or formula to achieve accountability, truth, recovery and sustainable peace. A truth commission is one way to begin to address the wrongs that children, families and communities suffered during armed conflict.

Until recently, violations against children were not singled out from the atrocities committed against civilian populations generally. The landscape changed with the near-universal ratification of the Convention on the Rights of the Child, as well as the 1996 landmark study entitled *Impact of Armed Conflict on Children* by Graça Machel; the adoption of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict in 2000; and the 2002 passage of the statute establishing the International Criminal Court that criminalizes grave crimes, including those targeting children. These developments generated increased attention to crimes against children and to the potential for children to participate in transitional justice processes, including truth commissions.

Children and truth commissions

Truth commissions are temporary, non-judicial and non-punitive bodies mandated to investigate, document and report on human rights abuses. By generating public discussion on accountability and social reform, truth

commissions can build a society's capacity for active citizenship and democratic process. Children have a right to express their views and to be considered in such processes,² and, as the findings from this study show, their perspectives and experiences are a valuable resource for documenting the past and informing the way forward.

Criteria for determining whether a truth commission is appropriate for child and adolescent participation were developed based on an analysis of good practices and expert consultations. They include:

- Independence and impartiality of the commission
- Compliance with international human rights standards
- A human rights-based approach that is guided by the Convention on the Rights of the Child
- Community engagement with a specific focus on vulnerable groups and victims
- Guarantee of children's safety and security
- Policies and procedures to protect the rights of children involved
- Availability of appropriate psychosocial support
- Long-term support for community-based reintegration and reconciliation.

The role of children in truth commissions has evolved gradually. In the 1980s and early 1990s, commissions in Chile, El Salvador and Haiti documented violations against children. Subsequent truth commissions in Guatemala (1997–1999) and South Africa (1995–2002) investigated and reported a substantially higher number of child and adolescent victims. The final report of Peru's truth commission (2001–2003) included a chapter on children, and the truth commission in Timor-Leste (2002–2005) had a chapter on children in its final report as well as a public hearing dedicated to children. The commission in Sierra Leone (2002–2004) was the first to explicitly mention children in its mandate and to recognize the rights and protections governing children's involvement.

The Liberia commission (2005–2009) went further, systematically including children in its activities throughout the country.

The Convention on the Rights of the Child provides a guiding framework for the participation and protection of children in transitional justice contexts and serves as the basis for a truth commission's approach to issues relating to children.³ A truth commission whose work is human rights-based can help provide accountability for violations against children and engage young people, offering a safe space for them to recount their experiences and contribute to community healing. Effective and mutually supportive participation and protection can help to break the cycle of violence and prevent future conflict and instability.

Specific attention is needed to address the different challenges faced by girls and boys, adolescents and younger children, refugee and internally displaced children, children recruited into armed forces and groups, children orphaned by war, children from different religious and ethnic backgrounds, and children with disabilities. When assessing the risks of child and adolescent participation in a truth commission, the potential risks of excluding young people from the process must also be considered.

A number of factors are likely to inhibit girls and young women from participating in the work of a truth commission, including intimidation, shame, or fear of reprisal because of what they have suffered. Efforts to enable girls' participation should build on lessons learned and avoid scenarios that could risk further stigmatization, violence or abuse.⁴ Boys who have been victimized, or who have participated in violence may be reluctant to reveal their feelings and debilitating experiences. For these reasons, truth commissions should implement measures to provide safe opportunities for both boys and girls to engage in the process.

Children experience grave crimes first and foremost as victims, but they are also sometimes recruited or used as active parties to those crimes. Greater understanding of the complex circumstances surrounding the participation of children committing serious offences can help foster a willingness to accept children back into society. While the appropriate form of accountability for children who have

been recruited or used in hostilities is a source of ongoing debate, there are strong indications that truth-telling and other transitional justice processes can help facilitate reintegration.

Relationships between a truth commission and criminal jurisdictions

A truth commission is likely to be most effective when it is undertaken as a complement to other transitional justice processes, such as judicial proceedings, reparations programmes and institutional reform. While truth commissions can engage communities in documenting violations and seeking reconciliation, they do not replace judicial accountability measures.

Grave crimes, including crimes committed against children, are defined and prohibited by several international instruments. A consensus is emerging that accountability should be improved and amnesty prohibited for certain grave crimes under international law, specifically genocide, crimes against humanity and war crimes. Yet few prosecutions have taken place. The Special Court for Sierra Leone was the first international court to specifically prosecute crimes committed against children. At the International Criminal Court, indictments have been issued in cases pertaining to the Democratic Republic of the Congo and Uganda for crimes against children, including forced recruitment and sexual offences.

When addressing crimes committed against children and also possibly by children, a truth commission should consider whether children's involvement with legal processes is likely to affect their protection, interests and participation. While it is clear that children are primarily victims and not among those bearing the greatest responsibility for crimes under international law, there will be questions and concerns about their roles and accountability. Truth commissions can provide a forum for non-judicial acknowledgement of responsibility, rehabilitation and reconciliation. In all cases, a truth commission should give paramount importance to the safety and physical and psychological protection of children. This includes mandating confidentiality and protection of children's identity.

Child-friendly partnerships

Partnerships with other groups are essential to the success of a truth commission, especially in promoting children's participation and protection. In the preparatory phase, engagement with community and civil society groups, including child-led organizations, should be initiated. Child protection agencies can facilitate community outreach and assist in statement-taking and fact-finding. They can also offer crucial support in the commission's engagement with children, advising on child protection policies and procedures that are based on local realities and are in the best interests of children.

When children and adolescents take part in truth commissions and community reconciliation activities, they contribute their views, ideas and energy, while also building skills and capacity for citizenship. In South Africa, for example, children participated in hearings and also contributed plays and music performances. Young people in Peru volunteered to help through *Promotores de la Verdad* (Promoters of Truth, or PROVER), a volunteer programme that disseminated information about the *Comisión de la Verdad y Reconciliación* (Truth and Reconciliation Commission, or TRC), promoted civic participation and documented the testimonies of victims and witnesses. More recently, children and young people in Liberia and Sierra Leone were directly involved in truth commission statement-taking and hearings.

Truth commission operations with a child focus

An explicit focus on children in the truth commission mandate can facilitate a rights-based approach. The Sierra Leone TRC was the first to explicitly mention children in its mandate. In Liberia, the *Act to Establish the Truth and Reconciliation Commission* noted the role of children in the commission and included measures to protect them.

In Sierra Leone, a Framework of Cooperation was developed to guide the relationship between Sierra Leone's truth commission and child protection agencies; it also helped to establish norms for children's participation as

witnesses. In Liberia, a Memorandum of Understanding (MOU) formalized the collaboration between the Truth Commission and the National Child Protection Network (CPN) TRC Task Force, and served as the basis for innovative strategies to protect the rights of children involved in statement-taking and in regional and institutional children's hearings.

In all cases, a truth commission should give paramount importance to the physical safety and psychological protection of children in pursuing accountability and in public disclosure, and observe the following principles:

- The best interests of the child should be a primary consideration in all actions concerning children and a vital criterion in decision-making, and should guide the entire process.
- In keeping with international standards of juvenile justice, children's identity should be protected at all times in both truth commissions and judicial proceedings. Truth commissions should never name child perpetrators in their final report.
- Truth commissions should not recommend children for prosecution, recognizing that children are not among those most responsible.
- Children must be treated with dignity and respect.
- The participation of children should be voluntary, with the informed consent of the child and parent or guardian, when relevant. The decision not to participate is also a form of participation. Child protection techniques should include policies and procedures that safeguard children's physical, psychological and spiritual well-being.
- Confidentiality and protection of the child's identity must be guaranteed at all times.
- Children's participation should include a specific focus on adolescents and should be consistent with the evolving capacities of the child.
- A gender-sensitive approach should include a focus on protection of the rights of girls, addressing their specific needs.

- All participation should be non-discriminatory and should include diverse ethnic, racial, religious and other groups, and should take into consideration the specific needs of children with disabilities.
- Children's participation in a truth commission should complement child-focused reintegration, reconciliation and other transitional justice processes.
- The truth commission should address root causes of violations against children to ensure a holistic, long-term approach that realizes children's civil, political, social, economic and cultural rights.

Children and reparations

Children's right to remedy and reparation for grave violations of human rights and international humanitarian law is clearly established in numerous conventions. However, providing reparations to children is a relatively new area of transitional justice and poses a number of challenges. In fact, there are few examples of successful implementation.

In Argentina, Chile, Guatemala, Peru and South Africa, reparations programmes that were recommended by truth commissions have been at least partially implemented. In Timor-Leste, the truth commission report recommended reparations, including for children, but they have not yet been implemented. In Sierra Leone, reparations were initiated in 2009 to those identified as most affected by the war, including amputees, victims of sexual violence and children.

Determining the criteria for child eligibility is fundamental in designing a child-friendly reparations programme. Careful planning is needed to determine how children will learn about, apply for and claim benefits. Access should consider the specific needs of victims of sexual violence, especially girls, as experience shows that fear of further stigma or threats to their physical safety may inhibit girls and young women from presenting themselves before a truth commission and seeking reparations.

Identifying funds to implement a reparations programme is another critical challenge. In the aftermath of war or legacies of abuse,

governments are likely to be overburdened and may be unable or unwilling to provide funds for reparations to survivors.

Institutional reform

Child-focused institutional reform should help build a protective environment for children, emphasizing the important role of government institutions in promoting child rights and protecting children from violence, abuse and exploitation. This includes systems for health care, social welfare and education, as well as gender-sensitive reforms of the judiciary and police and security sectors. Legal reform should include a specialized juvenile justice system, with all personnel trained in the Convention on the Rights of the Child and other human rights and humanitarian law.

For children involved in hostilities, reintegration at the end of armed conflict is part of the reconciliation process. Truth commissions can aid the process by recommending long-term programmes to support demobilization, back-to-school campaigns, psychosocial counselling, vocational training and other services.

Educational reform can contribute to national reconciliation and peace-building processes. Linking educational reform to truth commission findings and recommendations may reinforce respect for human rights, establish historical memory and build capacity for active citizenship among children and young people.

Incorporating the findings of a truth commission into curricula has proved challenging, yet it is crucial to promote democracy, citizenship, tolerance and peace-building among children and young people. In South Africa, despite a truth commission recommendation to introduce a human rights curriculum into the formal education system, no action was taken. In Peru, the truth commission report emphasized the need for educational reform to promote human rights and democratic values and supported the

development of a peace curriculum. A curriculum for primary and secondary students based on its findings has not yet been approved by the Ministry of Education.

Engaging children is imperative if hard-won peace is to endure. Their contributions can lead to the improved design and delivery of services and to a better understanding of potential threats to security.⁵

Conclusions

Truth commissions present an important venue for children's voices to be heard and for their needs to be addressed. The more challenging questions are specific to each context – which settings are most appropriate, what risks are involved, what do the children have to gain and how will the process affect them? For their participation to be meaningful, children must have access to psychosocial assistance throughout the process, and provisions must be made for their physical safety and long-term community support.

Truth commissions are also important in documenting the magnitude of violations committed against children and contributing to accountability. They can provide an important means of understanding the impact of armed conflict on children, examining the involvement of children in conflict and linking children with other processes that may aid in their reintegration and reconciliation. However, no one mechanism can address all of these requirements. Truth commissions must complement other transitional justice processes.

Further research, documentation and analysis will be needed to examine more recent truth-seeking efforts and to assess their short- and long-term effects on children, as well as on broader society. There is no easy way to determine the most appropriate role for children. Rather, there is a range of experience to draw on, and analysis will better inform future efforts to protect children's rights to participate in truth-seeking and reconciliation during post-conflict transition.

During conflict children are often victims of torture, enslavement and sexual violence, and they experience displacement, disruption of education and lack of access to food, water and medicine. Rehabilitation is paramount. Here children who were abducted by the Lord's Resistance Army and subsequently received assistance, perform a song at a reception centre in Gulu, northern Uganda.



INTRODUCTION

Children are often brutally targeted in modern warfare. Accountability mechanisms have begun to focus on crimes committed against children during armed conflict and to involve children proactively, including through testimony that bears witness to their experiences. The recent involvement of children and adolescents in truth, justice and reconciliation processes, specifically in truth commissions, has demonstrated their unique capacity to contribute – both as victims and witnesses of war, and as active members of their families and communities – in efforts to improve accountability and promote reconciliation. But if children are to engage in transitional justice processes, their rights must be respected.

This publication is intended to inform the work of truth commissions, child protection advocates and organizations, legal experts and other professionals in efforts to protect the rights of children involved in truth and reconciliation processes. It includes an analysis of emerging good practices and recommends policies and procedures for children's participation in truth commissions.

This study concerns the engagement of both younger children and adolescents with truth commissions. Efforts to promote the participation of children should take into account their evolving capacities, recognizing that children acquire competencies at different ages.⁶ In many instances, children who experienced abuse or violence may be adults by the time a truth commission has been established, in which

case opportunities should also be provided for their experiences to be heard.

The research for this study included the following components:

- Undertaking a desk review of relevant documents and literature on children, international justice and transitional contexts, to identify key issues and gaps and to outline the scope of the study.
- Building partnerships between legal experts and practitioners working in transitional justice and child rights, to enable and inform a comprehensive and detailed focus on children.
- Testing preliminary findings and developing recommendations based on the experience of countries where implementing transitional justice has included efforts to support the protection and participation of children in truth commissions, and subsequently gathering additional primary materials on emerging issues.
- Convening two panels of experts on children and transitional justice to review preliminary drafts of this study in consultation with academics and practitioners, so as to further debate and build consensus on priorities for children in this area.
- Conducting a technical review of findings, data, good practices and strategies for advancing the work on children and transitional justice.

This study does not attempt to evaluate the workings of individual truth commissions, but rather examines how truth commissions have focused on and involved children in their activities.

The analysis of work so far undertaken and the identification of strategies for the future engagement of children in truth commissions can help build consensus and inform the way forward. These efforts are also intended to support further accountability for crimes against children and promote reconciliation in the aftermath of war or where grave violations have occurred.

This study reviews a number of challenges posed by children's involvement in transitional justice processes. It does not provide easy answers, but instead seeks to generate interest among child protection agencies and child rights advocates, legal experts and truth commission staff. It is hoped that this report will stimulate lively discussion and debate. An examination of the work of existing and future truth commissions and other transitional justice mechanisms will help deepen knowledge and understanding of the opportunities and challenges presented by including children in efforts to build a more just and peaceful future.

1

CHILDREN AND TRUTH COMMISSIONS: BASIC CONSIDERATIONS

“At that time I was eight years old, I was the eldest. When they took them [our parents], we stayed on our own, crying. My family broke up. One brother lives in Xela, my sick sister lives with him. I’m sad about that...I just want everything to come to light, to know if my parents died; we just want the truth.”

– From *Memory of Silence*, report of the Commission for Historical Clarification, Guatemala

Impact of armed conflict on children

Modern warfare has increasingly targeted civilians, leaving children exposed and vulnerable. Children growing up in the midst of war become the victims and witnesses of war’s atrocities. Not only are they caught in the crossfire of wartime violence – massacred, injured and forced to flee from their homes – but they are also targeted precisely because of their vulnerability as children, becoming the direct victims of recruitment into armed groups, rape, torture and slavery.

In numerous conflicts, children have taken part in hostilities as fighters, cooks, porters and messengers. In some cases, they have been forced to commit atrocities against their own families and friends in an effort to destroy the children’s moral sensibility and cut family and community ties. Hundreds of thousands of children have been targeted for the worst possible violence and abuse. Most of these violations have been committed with impunity.

In addition to children who are abducted and recruited as child soldiers or sex slaves, many children are separated from their parents during forced displacement and further exposed to the horrors of war.

The indirect effects of conflict are also devastating and far-reaching.⁷ While thousands of children are killed and wounded every year as a direct result of fighting, many more die from malnutrition and disease caused or aggravated by armed conflict.⁸ Their education is disrupted by attacks on schools or other infrastructure and by a breakdown in security. The long-term effects of conflict directly influence the development of children’s social, mental, physical and emotional capacities and limit their full participation as citizens.

It is important to recognize that children experience violence and conflict differently from adults. Their age makes them more vulnerable to physical violence and psychological manipulation. The disruption of children’s physical, emotional, moral, cognitive and social development has long-term consequences for their potential to rehabilitate and reintegrate into society. In wartime, children – like adults – may be victims of a broad array of rights violations, ranging from political and civil rights violations, such as torture, enslavement and sexual violence, to economic, social and cultural rights violations, including displacement, disruption of education and lack of access to food, water and medicine.

The impact of conflict on children is affected by their gender. Estimates suggest that in some countries up to 40 per cent of children associated with armed forces or groups are girls.⁹ They are rarely acknowledged or recognized as active troops and are often reluctant to identify themselves as such. Girls affiliated with armed groups are often victims of sexual violence such as rape and sexual slavery, and psychological trauma. They may face lifelong health effects, including HIV and AIDS and unwanted pregnancy. While boys are also victims of sexual violence, the majority of such victims are girls.

Evolution of child rights and international criminal justice

Over the past 20 years, the normative global framework dealing with international criminal justice has evolved significantly. The obligations to prosecute and punish grave crimes are well articulated in numerous multilateral legal instruments, including the Geneva Conventions and their Additional Protocols, the Convention on the Prevention and Punishment of the Crime of Genocide and, most recently, the Rome Statute for the International Criminal Court. During the same period, specific human rights issues have been elaborated in a number of treaties, including the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child.

The Convention on the Rights of the Child, adopted by the United Nations General Assembly in 1989, is the most rapidly ratified convention in history; it has been signed and ratified by more nations than any other United Nations convention.¹⁰ The almost universal ratification of the treaty signifies a clear commitment to putting children first at both national and international levels.

The Convention introduced a comprehensive child rights agenda pledging economic, social and cultural rights as well as civil and political rights. This approach is particularly important for children who suffer violations of those rights during conflict, such as loss of education, lack of health care and deprivation of food. During Guatemala's decades-long armed conflict, it was during displacement and flight that the greatest

number of children lost their lives, and the Democratic Republic of the Congo experienced a dramatic increase in child deaths from infectious diseases following a breakdown in health care during the armed conflict.¹¹

The provisions of the Convention apply during armed conflict and emergency situations as well as in times of peace.¹² Moreover, article 38 guarantees protection and care in situations of armed conflict, calling on States Parties to respect humanitarian law applicable to children and to promote recovery and reintegration of child victims. The Convention and the Additional Protocols to the Geneva Conventions prohibit the recruitment or use of children under 15 years in hostilities. The 2000 Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict raises the minimum age for voluntary recruitment to 18 and outlaws the use of children in hostilities.¹³

The impact of war on children has been recognized internationally, not only as a humanitarian issue, but also as a threat to peace and security.¹⁴ To address these concerns, in 1993 the United Nations Secretary-General called for a global study on the impact of armed conflict on children. The result was the landmark 1996 report written by Graça Machel, entitled *Impact of Armed Conflict on Children*. The brutality of violations documented in the report demanded the attention and action of international, national and local civil society, including children and young people. It led to effective public campaigns, such as the Coalition to Stop the Use of Child Soldiers, and efforts to better monitor and report violations against children. It also generated significant progress towards developing a framework of international standards and norms to achieve accountability for crimes committed against children.

Following publication of the Machel report, the United Nations Security Council passed a series of resolutions on children and armed conflict.¹⁵ These documents, together with the Convention on the Rights of the Child and the Optional Protocol on the involvement of children in armed conflict, provide a foundation for international consensus and action.¹⁶

Other international norms have evolved in parallel to reinforce the international criminal

justice framework and the principle of individual criminal responsibility for grave violations of international law, including crimes committed against children.

The establishment of the International Criminal Court (ICC) in 1998 has marked a turning point. Building on the statutes of earlier international or 'hybrid' jurisdictions, notably the international criminal tribunals established by the United Nations, the Rome Statute of the International Criminal Court covers grave crimes committed against children, including genocide, war crimes and crimes against humanity.¹⁷ In particular, it recognizes as war crimes "conscripting or enlisting children under the age of 15, or using them to participate actively in hostilities".¹⁸ Crimes committed against children – specifically recruitment and sexual violence – have figured prominently in the indictments issued by the ICC in the Democratic Republic of the Congo and Uganda.¹⁹

The Special Court for Sierra Leone was the first international court to specifically prosecute crimes committed against children. Its statute includes the crimes of child abduction, forced recruitment and sexual violence against children.²⁰ In addition, it considers crimes of sexual violence – rape, sexual slavery, enforced prostitution and forced pregnancy – as crimes against humanity and serious violations of international humanitarian law.²¹

Despite these normative developments, a significant gap remains between the international legal framework and prevailing practice. The reality is that children continue to be targeted and victimized, especially in times of armed conflict.

Children and transitional justice

According to the United Nations, transitional justice refers to "the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and

dismissals, or a combination thereof."²²

Transitional justice approaches are rooted partly in the aforementioned obligations under international law to prosecute those responsible for the most serious crimes and partly in other human rights obligations, notably to provide remedies for the victims and to guarantee that such crimes will not be repeated.

This range of transitional justice approaches can help societies come to terms with human rights violations committed in the past. It can also help acknowledge the experiences of victims and help establish an accurate record of violations that have occurred. No single approach can meet the needs of all victims or of society as a whole; these processes should instead be viewed holistically and should complement one another as part of efforts to prevent the recurrence of violence or abuse.

Further, in societies recovering from massive and systematic violence, even the most effective judicial prosecution is unlikely to fulfil expectations that justice will be delivered in every case. It is important to expand the means for achieving accountability if affected communities are to be acknowledged and the impunity gaps are addressed as part of the recovery process. Transitional justice is not about creating alternatives to prosecution, but about complementing criminal justice, where appropriate, with a range of other accountability measures.

For instance, judicial measures offer legal recourse, while truth commissions or local reconciliation processes create a space for public dialogue. The latter therefore have the potential to contribute to processes of social healing. Institutional reform is premised on the need to address not only individual criminal responsibility, but also to transform the institutions complicit in or responsible for past violations. This can build civic trust and public service, helping to prevent similar violations in the future. Reparations programmes can offer a form of redress and acknowledgement for victims, while museums and memorials can educate future generations and preserve the memory of past violations.

A holistic transitional justice approach takes into account factors that may have contributed to abuse and examines a range of approaches most suitable for promoting justice,

accountability and, where possible, reconciliation. These processes are not mutually exclusive, but are complementary.

There are no transitional justice blueprints, only customized approaches that must be shaped by local conditions and driven by local actors. The goals of transitional justice – accountability, acknowledgement, truth recovery and prevention of further abuse – depend on active consultation and participation from victim communities and organizations and the public. Because children are among those most affected during violent conflicts, they are essential to the process of accountability.

The range of transitional justice approaches examined in this study offers a means of engaging with the special needs and experiences of children in conflict, precisely because of the non-judicial mechanisms available. Creating safe avenues for children to participate in justice and reconciliation processes can help shape a society's respect for children's rights. This in turn contributes to children's participation and protection, and ultimately to the prevention of further violence and abuse. In this regard, the Convention on the Rights of the Child provides a guiding framework for children's participation and protection in transitional justice contexts. Its full implementation can help ensure that children have the opportunity to share their experiences, memories and hopes for the future in a protective environment.²³

The tools of transitional justice can also provide an opportunity for promoting the participation of girls and young women, enhancing their access to justice, reclaiming civic space, giving visibility to gender-based violence and addressing its effects, and building momentum for gender reform. Gender-inclusive approaches have the potential to alter cyclical patterns of violence against women and girls. These patterns often originate in long-standing power relationships that, left unaddressed, are likely to continue. Transitional justice measures can therefore serve both to bring justice to female victims and to facilitate development by bringing women and girls into the process.

More generally, the cyclical patterns of cross-generational conflict and the potential fault lines of future violence make the concern with

children a vital preventive component of transitional justice processes. Non-judicial rehabilitative processes can provide some form of accountability for children who have participated in crimes. Children are primarily victims of war, but it is important to recognize that, in accordance with their evolving capacities and while guaranteeing their rights, children may be encouraged to acknowledge their actions and engage in restorative processes. Acknowledging the crimes children have suffered and the offences they may have committed can promote their best interests. It may also help prevent recurring cycles of violence. In addition, non-judicial accountability processes can ideally provide “guided supervised access to rehabilitation and ensure opportunities for reinsertion into productive civilian life”.²⁴

The protection and participation of girls and boys in transitional justice mechanisms have frequently been overlooked, and the significance of children's involvement in these processes has only recently been acknowledged. In 1999, the United Nations Security Council called on States to ensure that “the protection, welfare and rights of children are taken into account during peace negotiations and throughout the process of consolidating peace in the aftermath of conflict”.²⁵ In 2001, it further urged States to “put an end to impunity, prosecute those responsible for genocide, crimes against humanity, war crimes, and other egregious crimes perpetrated against children and exclude, where feasible, these crimes from amnesty provisions and relevant legislation, and ensure that post-conflict truth-and-reconciliation processes address serious abuses involving children”. The Security Council emphasized consideration, when possible, of “the views of children in those processes”,²⁶ affirming article 12 of the Convention. More recently, the Principles and Guidelines on Children Associated with Armed Forces or Armed Groups (‘Paris Principles’) have highlighted the role of transitional justice mechanisms in examining violations against children and protecting the children involved in these processes.²⁷

Civil society actors, including child rights organizations, have played an important role in promoting a focus on children. These actors are increasingly sharing lessons learned in an

attempt to advocate for more inclusive transitional justice processes, particularly for vulnerable groups such as women and children. Nevertheless, many questions remain about how best to protect children's rights and encourage their participation in transitional justice mechanisms.

Overview of truth commissions

Truth commissions are temporary, non-judicial bodies. They are mandated to investigate, document and report on human rights abuses. They can contribute to restoring the dignity of victims and promoting healing by providing an opportunity for victims to recount their experiences and for perpetrators to acknowledge their actions. In this sense, truth commissions offer a form of accountability for past crimes. This gives agency to the victims and recognizes that reconciliation must be based on their participation, not just on formal processes of political transition. Upon completion of their work, truth commissions are in a position to recommend other measures of accountability, institutional reform and reparations for victims. Children's concerns are directly linked to all of these functions. In particular, by contributing their own statements and recounting their experiences and stories of the war, children bring their perspectives into the historical record and thereby contribute to peace and nation-building efforts.

Truth commissions can complement other transitional justice processes in seeking accountability for crimes committed against children and in addressing the participation of young people in hostilities. Truth commissions, however, may be able to achieve only a measure of accountability. Therefore, further assessment of restorative justice processes and possible links to justice at the national level are needed to weigh the potential opportunities and risks in specific country contexts.

Truth commissions are flexible and participatory in nature, seeking to engage a wide variety of actors such as ex-combatants, politicians, local leaders, faith-based groups and civil society representatives. Their non-judicial and non-punitive approach encourages participation. By promoting human rights and generating public discussion on accountability and social reform, truth commissions can build

capacity for active citizenship and democratic process. Children have a role to play in all these activities.

The mandate, scope and operations of a truth commission are affected by the political context in which it operates. The engagement of children as participants therefore depends on establishing the credibility of the commission and its commitment to a human rights-based approach.²⁸ Criteria for determining whether a truth commission is appropriate for child and adolescent participation include:

- Independence and impartiality of the commission
- Compliance with international human rights standards
- A human rights-based approach that is participatory and comprehensive
- Community engagement with a specific focus on vulnerable groups and victims
- Guided by the best interests of children²⁹
- A guarantee of children's safety and security
- Policies and procedures that protect the rights of children
- Availability of appropriate psychosocial support
- Long-term support for community-based reintegration and reconciliation.

Once the criteria that establish the basis for children's participation have been assessed, it is important to implement policies and procedures to protect the rights of child and adolescent participants, both as witnesses and as active citizens.

Children's statements to a truth commission can foster intergenerational dialogue about what happened during the conflict and what can be done to prevent further violence and victimization of children.³⁰ This exchange can bring families together in the effort to restore peace and reconstruct the social fabric. While adult testimony about child rights violations helps paint a picture of the range and types of violations suffered, children's voices are necessary for understanding their perspectives.

In addition to hearing individual statements by child victims and witnesses, recent truth commissions have begun to engage children's groups, child parliaments and youth-run networks. The flexibility and active role of truth commissions can create opportunities for children to come together, exchange views and build solidarity. This process provides a critical opportunity for them to assert a positive new identity, which could prove vital to breaking cyclical patterns of violence.

In seeking to establish an accurate account of past atrocities, truth commissions play the important role of documenting the magnitude of violations committed against children – both acknowledging the victims and defining the accountability of perpetrators of such crimes. By clarifying and documenting what happened in the past and why, truth commissions are well placed to outline policy recommendations to prevent the recurrence of these violations, thus helping to rebuild societies that safeguard human rights and respect children's rights. However, given the time needed to establish a truth commission, by the time it is operational the children who experienced abuse or violence may be legally classified as adults. This should be factored into the truth commissions' engagements with child rights and child protection agencies.

Most truth commissions have focused primarily on violations of civil and political rights, including killings, disappearances and torture. While some argue that broadening the scope of violations covered by the commissions may put too much strain on bodies that have limited time, capacity and resources, a growing number of voices are calling for them to consider a wider range of violations. For example, the truth commission in South Africa was criticized for focusing only on the victims and perpetrators of violent crimes, thereby excluding some systemic aspects of the apartheid regime that affected the lives of many more people.³¹ As one author points out, ongoing marginalization of youth – from the days of apartheid to the post-apartheid period – is arguably at the heart of the violence that continues to plague the country today.³²

A child-sensitive truth commission needs to consider the broad set of violations affecting children and the root causes. The Convention on the Rights of the Child addresses the full

spectrum of rights and recognizes all rights as indivisible and interdependent, providing the basis for a comprehensive analysis. It therefore provides a strong framework for a truth commission's approach on issues related to children. The truth commission in Timor-Leste used the Convention on the Rights of the Child as part of its legal framework. This allowed the commission to define child rights violations broadly, while maintaining a focus on serious violations against children.³³ A truth commission that reflects a comprehensive child rights agenda is more likely to address children's needs in the reconciliation process than one in which the promotion and protection of children's rights is not made explicit.

Truth commissions can also potentially serve as non-judicial accountability mechanisms for children who have taken part in hostilities. In many recent conflicts children have been abducted and forced to commit atrocities, making them both victims and perpetrators. Because children are not among those most responsible for grave violations committed during armed conflict, emphasis should be placed on their rehabilitation and reintegration.

Numerous lessons can be drawn from the restorative justice approaches pioneered in the juvenile justice field. These informal and flexible procedures are designed to facilitate decisions tailored to the best interests of the individual child, with an emphasis on future welfare rather than punishment for past offences.³⁴ Truth commissions could fulfil many goals of a restorative approach, allowing children both to describe their roles in violations committed and to be heard and supported by their communities. For children who have taken part in demobilization exercises, truth commissions can help raise public awareness of their experiences and support their return to civilian life.³⁵ Public discussion of accountability and social reform in a supportive and rehabilitative setting can build children's capacities for active and responsible citizenship.³⁶

This type of engagement is especially crucial when considering that disarmament, demobilization and reintegration programmes have generally failed to adequately address children's reintegration needs.³⁷ Participation of children in truth commissions can raise public awareness of their experiences, helping victims understand the context in which abuses took

place.³⁸ As one of the most fundamental challenges to children's reintegration stems from the difficulties associated with restoring their civilian identity, the process of sharing their experiences and listening to those of others in a supportive environment can provide a crucial opportunity for children to re-examine their roles and responsibilities in relation to the world around them.

Finally, because truth commissions are charged with examining the broader reasons behind widespread rights violations and conflict, they are well placed to recommend child-friendly institutional reforms, reparations aimed specifically at the needs of children and long-term reintegration measures such as educational programmes and vocational training. In particular, children can benefit from educational programmes and memorials that recognize their experiences as well as their resilient contributions to peace and reconciliation efforts. In some cases, truth commissions have explicitly recommended incorporation of human rights and peace education into the national curriculum.³⁹

It is important to acknowledge at the outset the difficulties in assessing the short- and long-term effects of children's participation in truth commissions. These effects will depend on how thoroughly children are engaged and provided with opportunities to come to terms with their experiences; the extent to which children's expectations of justice and reconciliation are met; and whether their involvement in the work of truth commissions promotes understanding of their experiences and a stronger awareness of children's rights.⁴⁰

Despite the numerous challenges encountered in specific local and national contexts, as explored in this report, the potential for truth commissions to engage children in the reconciliation process is increasingly recognized and asserted. Reconciliation is a long-term – even lifelong – process. For children, it may mean returning to their family, friends and community, going back to school and exploring opportunities for the future.

Gender issues

Gender roles, identities and stereotypes are likely to be contested and in flux during periods of conflict and post-conflict transition.

Girls and boys often assume new roles that affect not only their safety and well-being but also their sense of self and identity. As a result, while some might seek out the opportunity to recount their experiences and participate in truth commission activities, others may fear stigma, backlash or threats to their physical safety. Victims of sexual violence have been especially reluctant to come forward.

Several factors are likely to inhibit girls and young women from participating in the work of a truth commission, including fear of reprisal from commanders, family members and others who exercise control over them; concerns about stigma associated with speaking publicly about violence suffered, particularly sexual violence; and lack of faith in public institutions to rectify harm done or to offer adequate protection. Efforts to enable girls to participate should build on lessons learned and avoid scenarios that could increase the risk of further stigma, violence or abuse.

Three Ps: Participation, protection, prevention⁴¹

Ideally, the participation of children in community activities should strengthen their protection, which should in turn enable their participation. Effective participation and protection can help break the cycle of violence and prevent future conflict and instability. However, if the link between the two is not balanced and supported, it may result in greater risks to children. In the case of child and adolescent involvement in a truth commission, the link between protection and participation needs to be considered carefully so that participation is safe and informed.

The participation of children and young people is fundamental to child rights-based approaches. While the limits of participation will depend on numerous factors – safety and security, available resources, the evolving capacities of the child – this principle means that children are engaged and their views considered. It also means that the involvement of children and adolescents in truth commissions is not an isolated event but a long-term process that complements their role in society. If children's contributions are to be meaningful and enduring, they must be understood within the broader context of

family and community life. This holistic framework is important when assessing the potential impact and risks of participation and anticipating steps to protect the rights of children involved.

Children's participation in a truth commission should always be voluntary, based on the informed consent of the child and the parent or legal guardian, when appropriate. It should also be consistent with the evolving capacities of the child,⁴² a principle from the Convention on the Rights of the Child that has important implications for protection procedures, agency and responsibility.⁴³ The principle of evolving capacities recognizes that children acquire competencies at different ages and phases of their lives due to their different environments, pace of development and life experiences.⁴⁴ In times of armed conflict, some capacities may develop more rapidly in response to the burdens and responsibilities that children face. At the same time, the violence and abuse suffered during conflict can expose children to serious physical and psychological harm, requiring special attention. In addition, children are likely to need accelerated educational and vocational training after the conflict to make up for the loss of education during the conflict.

Children's protection and participation should take into account their diverse needs and experiences, including gender considerations. Special attention needs to be paid to the different challenges faced by boys and girls, adolescents and younger children, refugee and internally displaced children, children recruited into armed forces and groups, children orphaned by war, children from different religious and ethnic backgrounds, and children with disabilities.⁴⁵ In particular, girls may need encouragement to participate. Their capacities and vulnerabilities should be considered early in the commission's work on all issues, not just those of sexual violence and abuse. In addition, children's participation in truth commissions should be culturally and historically informed, and procedures should be adapted to respect local customs and values.

How truth commissions have involved children

Historically, truth commissions have not focused specifically on the experiences of children and on the crimes targeting them. In

the 1980s and early 1990s, commissions in Chile, El Salvador and Haiti documented violations against children. However, since most of the violence targeted the political opposition, the activities of these commissions focused on adults. Their reports mention children and adolescents predominantly in relation to crimes against members of their families, particularly disappearance, torture and killings. An exception is the Commission in Argentina, which called substantial attention to the issue of kidnapped babies.⁴⁶

Subsequent truth commissions in Guatemala (1997–1999) and South Africa (1995–2002) investigated and reported a substantially higher number of child and adolescent victims. In Guatemala, children, especially from the Mayan population, were among the victims of arbitrary execution, forced disappearance, torture, rape and other violations, and many children were orphaned and abandoned. The Commission for Historical Clarification in Guatemala (Comisión para el Esclarecimiento Histórico, or CEH) dedicated a chapter to children in its final report, recommending special support and the formation of a National Search Commission for Disappeared Children.⁴⁷

While the truth commissions in Guatemala and South Africa were successful in highlighting how children were affected by conflict in their countries, the concept and practice of child participation in these processes was relatively new. The South African Truth and Reconciliation Commission (TRC) considered inviting child victims and witnesses to testify, but there was no precedent for their participation. Because of the potential emotional and physical risks, it was decided that children would not give individual statements or participate in public hearings.⁴⁸ Instead adults from non-governmental organizations (NGOs) and other professionals working with children were asked to testify on their behalf and the TRC organized a series of special hearings for children that included artistic activities and group encounters.⁴⁹

The South African experience triggered international discussion and debate about whether and how to involve children directly in the work of a truth commission. Although, concomitantly, the United Nations Security Council increasingly highlighted the importance of children's participation in peace-building efforts, a number of issues remained unresolved. For example, what impact would

children's participation in truth commissions have on their recovery and reintegration? What risks would children face, and what additional protections would they need? Would truth commissions be able to provide a form of accountability for children involved in conflicts? How might children's involvement contribute to a culture that protects children's rights?

Most of these questions remained unanswered when the TRC in Peru (Comisión de la Verdad y Reconciliación, or CVR) began its work in 2001. Recognizing that the conflict had been devastating for children, the CVR investigated crimes against children and reported on its findings in its final report.⁵⁰ Although CVR staff and civil society organizations discussed the possibility of organizing a children's hearing, it never occurred.⁵¹ Adolescents, however, played an active role in outreach and data-collection activities. Through a volunteer programme called Promotores de la Verdad (PROVER), young people disseminated information about the CVR, promoted civic participation and documented the testimonies of victims and witnesses.⁵²

The Sierra Leone Truth and Reconciliation Commission of 2002–2004 was the first to explicitly mention children in its mandate, in recognition of the serious impact the armed conflict had on children. The commission decided that children would not be categorized as victims, witnesses or alleged perpetrators. Instead, all children would be treated by the commission only as victims and witnesses. Children participated in statement-taking and in closed and thematic hearings. With the help of child protection agencies, children prepared an official submission to the TRC and participated in preparing the first-ever child-friendly version of a truth commission report.⁵³

The Commission for Reception, Truth and Reconciliation in Timor-Leste (Comissão de Acolhimento, Verdade e Reconciliação, or CAVR) was active during the same period as the TRC in Sierra Leone (2002–2005) and was likely influenced by the efforts of the Sierra Leone TRC to address children's issues. Although the CAVR did not go as far as the Sierra Leone TRC in engaging children, it organized a public hearing on children that included an exhibition of children's drawings, and its final report included a chapter on child rights violations.

The mandate of the Liberian Truth and Reconciliation Commission (2005–2009) specifically recognized the rights of children and stipulated protections for their involvement with the commission. Operationally, the Liberian TRC went further than the Sierra Leone commission, systematically including children in all its activities in the capital, Freetown, as well as throughout the country. It worked closely with the CPN-TRC Task Force in developing innovative strategies to protect the rights of children involved in statement-taking and in regional and national hearings on children.⁵⁴

The fact that many truth commissions did not specifically facilitate the participation or protection of children in their proceedings does not necessarily indicate a lack of attention to the experiences of children. Indeed, in numerous instances, children who had experienced abuse or violence were already adults by the time a transitional justice mechanism was created. This should be factored in when analysing the evolution of truth commissions' engagement with children.

The current trend is for truth commissions to focus their investigations on crimes committed against children, and to involve children as active citizens and agents of change. Nevertheless, evidence gathered in preparing this report shows that specific attention must be paid to the different challenges faced by girls and boys, adolescents and younger children, refugee and internally displaced children, children recruited into armed forces and groups, children orphaned by war, children from different religious and ethnic backgrounds, and children with disabilities.⁵⁵ Children's participation should be culturally and historically informed, and procedures should be adapted to respect local customs and values while guaranteeing child rights. Each case must consider the local context and the relationship of the truth commission to the community, the government and international actors. Because truth commissions face numerous limitations and may be able to achieve only a measure of accountability, further assessment of restorative justice processes and possible links to justice at the national level are needed to weigh the potential opportunities and risks for children in specific country contexts.

An 11-year-old rape victim is one of the many children who suffered the horrific consequences of the 14-year civil war in Liberia. The mandate of the Liberian Truth and Reconciliation Commission recognized the rights of children and stipulated protections for their involvement with the commission.



2

LEGAL CONSIDERATIONS AND RELATIONSHIPS WITH CRIMINAL JURISDICTIONS

“Why should perpetrators be set free?”

– From the statement to the Sierra Leone Truth and Reconciliation Commission by a boy who was seven years old when abducted

Grave international crimes against children

Grave crimes committed against children are defined and prohibited by several international instruments, in particular the Convention on the Rights of the Child, the Geneva Conventions and their Additional Protocols, the Convention on the Prevention and Punishment of the Crime of Genocide, and the Rome Statute of the International Criminal Court.⁵⁶ The Rome Statute, which is the most detailed treaty on this issue, covers certain crimes that can only be committed against children, for example the genocidal act of transferring children from one group to another, and certain violations of international humanitarian law, including the recruitment of children aged under 15 into armed forces or groups. It also sets out crimes that are not exclusively committed against children but are particularly relevant to them because of their vulnerability, such as crimes of sexual violence, the genocidal act of preventing births, the use of starvation as a method of warfare, and attacks against humanitarian staff members or material.⁵⁷

Few prosecutions have taken place for international crimes committed against children. Despite the fact that crimes against children are mentioned in the jurisprudence of

both the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the former Yugoslavia (ICTY), neither tribunal has tried specific cases of crimes committed against children.⁵⁸

As mentioned in chapter 1, the Special Court for Sierra Leone was the first international court to specifically prosecute crimes committed against children. The Statute of the Special Court, unlike those of previous international tribunals, includes the crimes of child abduction, forced recruitment and sexual violence against children.⁵⁹ In its first year of operation, the Special Court issued 10 indictments, all of them alleging the use of children in active hostilities. Nine of the indictments included charges of widespread or systematic use of sexual slavery of women and girls.⁶⁰

The Special Court has been particularly vocal regarding the commitment to prosecute crimes against children.⁶¹ In 2003, the Chief Prosecutor asserted that “[t]wo of the most egregious uses of children are sexual slavery and conscription of children into armed conflicts. Sierra Leone’s conflict was characterized by both, and we hope to establish a strong precedent that these abuses must end.”⁶² In June 2004, the Appeals Chamber of the Special Court held that the recruitment of child soldiers was a crime throughout the period of the Special Court’s temporal jurisdiction. The decision was based in part on an amicus curiae brief submitted by UNICEF, which argued that criminalization of underage recruitment had been established by

customary international law prior to adoption of the Rome Statute.⁶³

The Special Court handed down its first convictions on 21 June 2007 against three persons from the Armed Forces Revolutionary Council. The convictions included counts of recruiting and using child soldiers. On 25 February 2009, three former leaders of Sierra Leone's rebel Revolutionary United Front were found guilty of war crimes and crimes against humanity, including forced marriage as a crime against humanity and the conscription of child soldiers.⁶⁴ The prosecution of Charles Taylor by the Special Court was also groundbreaking, as he is the first former Head of State to stand trial for crimes including the recruitment and use of child soldiers.

At the ICC, crimes against children in the form of forced recruitment and sexual offences have also featured prominently in indictments issued in cases pertaining to the Democratic Republic of the Congo and Uganda.⁶⁵ Both the militias of eastern Congo and the Lord's Resistance Army (in Uganda) are notorious for recruiting children for use in conflict. In March 2006, the ICC issued an arrest warrant against Congolese rebel leader Thomas Lubanga, for enlisting and conscripting children under the age of 15 and using them to participate actively in hostilities. Another arrest warrant was issued in July 2007 against Congolese rebel commander Germain Katanga. The charges against him included illegal use of children under the age of 15 in active hostilities and sexual enslavement of women and girls.⁶⁶ The ICC has thus significantly increased the visibility and political sensitivity of grave international crimes against children. It is important to sustain these efforts over time and to address all serious international crimes committed against children.

Amnesties⁶⁷

A consensus is emerging that amnesties should be prohibited for international crimes such as war crimes, crimes against humanity and genocide, in particular when they have targeted children.⁶⁸ In addition, an obligation to prosecute perpetrators exists under several international treaties, including the Convention on the Prevention and Punishment of the Crime of Genocide, the Geneva Conventions and the Rome Statute of the International Criminal Court, and under customary international law.⁶⁹

In cases where children have been recruited and used in the commission of crimes, alternatives to criminal prosecution should actively be sought, and truth commissions may provide a viable alternative.⁷⁰ One instance occurred in Sudan following an attack in May 2008 by the Justice and Equality Movement on government forces. It was determined that 99 children aged 11 to 17 were among those arrested. Upon learning of the arrests, UNICEF provided legal advice to the Government of Sudan and, together with local organizations and government counterparts, supported programmes for reintegrating the children upon their return to their communities. These collaborative efforts resulted in a Presidential decree issued fewer than three months later that pardoned all the children.⁷¹

Another instance occurred in July 2009, when the Liberian TRC issued its final report. The Liberian TRC was mandated to recommend "prosecutions in particular cases as the TRC deems appropriate".⁷² However, with regard to children, the TRC recommended that "all children be excluded from any form of criminal prosecution" and further noted that granting amnesty to children would not be appropriate as it would imply criminal responsibility for international crimes.⁷³ The TRC also noted that the children "expressed a desire for some form of local reconciliation and processes of forgiveness for the wrongs they know they committed during the war" and that many children "expressed regret and remorse and would like to have their feelings acknowledged by families and wider communities".⁷⁴

Some truth commissions have powers to recommend amnesty. But in keeping with the emerging consensus in favour of prosecution for international crimes, no truth commission has recommended a general amnesty. In certain instances, full disclosure may be considered to serve as a form of accountability. The South Africa TRC was empowered to grant amnesty on a case-by-case basis where the crimes were politically motivated, not disproportionate to the political objective and there was full disclosure by the perpetrator. Some experts have argued that amnesty amounted to impunity; others have stated that the conditional amnesty granted by the South Africa TRC is a form of accountability.

Relationships between a truth commission and criminal jurisdictions

Truth commissions vary in their mandates and political contexts, and these factors appear to be critical in determining their impact on children. Because of the wide range of approaches and the many factors involved, no single measure has been identified that can determine the effectiveness of a truth commission in achieving accountability. While policies and procedures can be recommended to enable children's safe participation in truth commissions, the most appropriate role for children and the measures to protect their involvement should be considered individually.

Truth commissions face complex legal questions in all phases of their mandates. In some cases a commission may be required to identify those most responsible for grave violations of international law and may be empowered to recommend such cases for prosecution.⁷⁵ In others, it has been found that the commission's work may be affected by simultaneous or subsequent pursuit of prosecutions. This occurred in Sierra Leone when the TRC worked alongside the Special Court.⁷⁶ In such cases, it is important to determine from the outset whether information generated by the truth commission will be shared with investigators or prosecutors and to inform participants, as well as the general public. Whether a truth commission is obliged to share information with judicial authorities depends on its mandate and legal framework, including the status of confidentiality or privilege.

If a truth commission is viewed as linked to a judicial process, some alleged perpetrators may be reluctant to participate. Conversely, the fact that a truth commission does not require the same standards of due process in collecting evidence may inhibit the use of the information by the criminal justice system.

In some countries where truth commissions have preceded prosecutions or have been linked to them, such as Argentina, Chile, Peru and Timor-Leste, truth commissions have sought to share information with criminal investigators or prosecutors. This information-sharing may take place within a range of

options in order to respect confidentiality. For instance, information may be divulged under an agreement that it should be used solely for purposes of generating other evidence and may not be directly used in court. Some truth commissions have conducted investigations in a non-public setting and have shared information with prosecuting authorities. In Argentina, prosecutors relied extensively on the truth commission report to devise a prosecutorial strategy.

Truth commissions themselves may recommend further investigations or prosecutions. Several truth commissions to date, including those in Guatemala, Liberia and Peru, have had that mandate. In such situations, truth commissions may recommend prosecution of persons involved in widespread or systematic abuses of children, and this may generate or provoke interest by judicial authorities in the testimonies gathered.

When addressing violations committed against children and also possibly by children, a truth commission should consider whether and how children's involvement with legal processes affects their protection, interests and participation, and in particular whether there may be any obligation or risk that a statement provided by a child to a truth commission might be disclosed to any investigative or judicial authority. It is important to anticipate whether the commission may be called upon to share information with the police or courts and whether children may be called as witnesses. In such situations, the truth commission should promptly and fully inform children and advise them legally of what is in their best interests.

Children will have questions and concerns about their roles, their own accountability and the accountability of others, including questions on the likelihood and importance of judicial prosecution. For example, in their participation in the Sierra Leone TRC and engagement with the Liberia TRC, children expressed concern over the possibility that they might be called as witnesses in court proceedings or held responsible for acts committed during the war.⁷⁷

An example of the sometimes difficult relationship between a truth commission and judicial authorities occurred in Sierra Leone. The Sierra Leone TRC Act conferred

confidentiality, but doubt was created by the extensive subpoena power of the Special Court.⁷⁸ Whether the subpoena power of the Special Court could override the confidentiality guaranteed by the TRC was never put to the test. But this example illustrates the need for truth commission legislation to refer specifically to confidentiality, including immunity from court subpoenas, in particular for children. Likewise, if a truth commission is empowered to confer amnesty or mandated to provide for apologies and confessions from perpetrators, there should be clear guidelines limiting the subsequent or concurrent use of evidence provided to the commission.

In any case, proactive outreach is necessary to inform the public. For example, in Sierra Leone many people had difficulty distinguishing between the TRC and the Special Court because they were not familiar with either institution. In addition, assurances that information would not be shared were undermined by visible social contact between staff members of the two institutions, which in fact were located close to each other. This confusion undermined efforts to encourage participation in the TRC process.

While truth commissions should ideally complement other accountability mechanisms, in practice a truth commission may seek to distance itself from judicial authorities if such association hinders the commission's ability to gather its own information. It is therefore advisable for complementary institutions to have a memorandum of understanding (MOU) regarding their respective mandates in order to anticipate problems and devise procedures to resolve them.⁷⁹

In all cases, a truth commission should give paramount importance to the safety and physical and psychological protection of children in pursuing accountability and in public disclosure by observing a set of key principles.⁸⁰

Child victims and witnesses in criminal jurisdictions

This section summarizes good practices in cases where children were called to testify before criminal jurisdictions. As the following examples show, when considering the possible

testimony of children in judicial proceedings, the Convention on the Rights of the Child, along with other international instruments, has provided a guiding framework.

It is important to recognize that child victims and witnesses may be intimidated by the idea of testifying in a court setting. Being questioned may make them feel that they are on trial.⁸¹ Therefore, procedures must be in place to ensure that children know and understand that they are in a safe, secure and supportive environment.⁸² Potentially frightening or intimidating aspects of a trial, such as cross-examination, should be conducted in a manner that gives priority to the welfare of the child without contravening the rights of the accused.⁸³ In 2005, the Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime were adopted by the United Nations Economic and Social Council. A child-friendly version of the guidelines was also prepared to help children understand their role in providing testimony.⁸⁴

Psychosocial support, in combination with effective protection strategies, can enable children to engage safely, improve the quality of their testimony and protect them against potential harm caused by their participation. However, to be effective, it is essential that proper measures are in place and long-term support is available.⁸⁵

Significant progress has been made in protecting child witnesses in international courts. For example, the Special Court for Sierra Leone set a precedent by establishing guidelines and procedures on the protection of child witnesses, including a support team in the Victims and Witnesses Section.⁸⁶ This experience provides interesting lessons for other courts and is relevant for truth commissions.⁸⁷

At the ICC, the Rules of Procedure and Evidence specify that children be assisted through all stages of the proceedings and that psychosocial support be available, including experts in trauma related to crimes of sexual violence and violence against children.⁸⁸ A child psychologist works with the Victims and Witnesses Unit to advise on procedures and protections for child witnesses. A Gender and Children's Unit has also been established in the Office of the Prosecutor to assist in implementing child-friendly measures during the investigative

Box 1

Truth and Reconciliation Commission of Sierra Leone

The Sierra Leone Truth and Reconciliation Commission (TRC) was the first commission to have a specific focus on children as victims during armed conflict and to profile their role in the reconciliation process. Children were involved in the TRC's processes at several stages. More than 300 children from across the country gave statements.ⁱ The Commission devoted a section of its report to the issue of children as 'victim-perpetrators' and to the nature of violations committed by children. It went to great lengths to speak to children who had allegedly perpetrated egregious human rights abuses in an effort to understand what had led to commission of the offences.ⁱⁱ

The Commission found that initially children were forced to commit atrocities, while later many of them willingly committed abuses.ⁱⁱⁱ Nevertheless it was clear that refusing to take part in hostilities was not an option. In fact, children were often forced to commit violent acts against their own communities and families, a strategy aimed at breaking emotional ties.^{iv} According to the Commission, the offences committed by children included killing, abduction, amputation, mutilation, extortion, looting/destruction, rape/sexual violence, forced recruitment, forced displacement, forced detention, assault, torture, beating and forced labour.^v

The findings on the responsibility of children should be distinguished from the Commission's policy decision that all children were victims and witnesses of a war that had abused and exploited their childhood. All children who gave statements were treated equally as victims and witnesses, including those who had been abducted by the fighting forces or accused of taking part in hostilities.^{vi}

i In total, the Commission collected approximately 9,500 statements detailing human rights abuses and heard the testimonies of some 450 witnesses.

ii TRC Steering Committee with support from the International Human Rights Law Group, *Witness to Truth: Report of the Sierra Leone Truth and Reconciliation Commission*, vol. 3b, ch. 4, Children as 'Victim-Perpetrators', para. 225.

iii *Ibid.*, para. 227.

iv *Ibid.*, para. 230.

v *Ibid.*, para. 228.

vi Mann, Natalie and Bert Theuermann (comp.), 'Children and the Truth and Reconciliation Commission for Sierra Leone: Recommendations for policies and procedures for addressing and involving children in the Truth and Reconciliation Commission', Report of the technical meeting convened by UNICEF, National Forum for Human Rights, United Nations Mission in Sierra Leone/Human Rights Section, Freetown, Sierra Leone, 2001.

phase. Psychologists and victim experts are closely involved in investigations and interviews with potential child witnesses.⁸⁹

Consideration is also needed for the protection of young people. If protection procedures are limited to child participants, then young people who are 18 or a few years older may be unprotected. These young adults are also likely to need special protection, guidance and support when participating as witnesses. With these points in mind, the policy of the Special Court for Sierra Leone has been to extend the protections established for children to also include young people.⁹⁰

Children and criminal responsibility

While children experience war crimes, crimes against humanity and genocide first and foremost as victims, they are sometimes also

involved in committing these crimes. Children may be coerced into joining armed forces or groups, or used as active parties to commit crimes. This coercion occurs notably through threats, indoctrination, manipulation or the use of drugs.⁹¹

Trials at the international level, specifically at the tribunals for Rwanda and the former Yugoslavia and at the Special Court for Sierra Leone, have pursued accountability for those bearing the greatest responsibility for international crimes, excluding the prosecution of children for such crimes.⁹² The Statutes and Rules of Procedure and Evidence for the ICTY and ICTR do not limit their jurisdiction to persons aged 18 and older, but in practice neither tribunal has sought to prosecute children.⁹³ In Rwanda, the national age of criminal accountability is 14, but the Prosecutor of the ICTR decided that children aged 14 to 18 would not be tried by the ICTR or called as witnesses to testify.⁹⁴

Due to the nature of the conflict in Sierra Leone and the involvement of children as perpetrators, the Statute of the Special Court had jurisdiction over children aged 15 to 18 at the time of the alleged crime.⁹⁵ However, in 2002, the prosecutor declared that children were not among those who “bear the greatest responsibility” for the war, and consequently exercised his discretion not to indict alleged child perpetrators.⁹⁶ Instead, he sought to prosecute those “who forced thousands of children to commit unspeakable crimes”.⁹⁷

The Rome Statute of the ICC does not grant jurisdiction “over any person who was under the age of eighteen at the time of the alleged commission of a crime”.⁹⁸ This affirms an emerging consensus that international courts and tribunals should not prosecute children under 18 for international crimes.⁹⁹

At the national level, children can be held liable for offences defined under domestic law, depending on the age of criminal responsibility, which varies widely. In such cases, the standards that should apply are contained in the Convention on the Rights of the Child and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (‘Beijing Rules’, 1985).

Article 40 of the Convention on the Rights of the Child specifically promotes “the child’s reintegration and the child’s assuming a constructive role in society” and calls for non-judicial accountability measures.¹⁰⁰

Furthermore, international child protection standards set limits on the sentencing of children – prohibiting the death penalty and life imprisonment – and recommend reintegration of children into society and reinforcement of their respect for the rights of others.¹⁰¹

Truth commissions and non-judicial accountability

Truth commissions have been recognized as an important non-judicial means to examine the involvement of children in civil unrest or armed conflict; to understand the impact of the war or violence they have experienced; and to link children with other processes that may assist them, including reintegration, reconciliation and reparation programmes.

In order to promote a comprehensive understanding of violations, truth commissions should explicitly address crimes in which children have been involved as alleged perpetrators in order to document violations and to try to understand them, but not to accord criminal liability. The analysis should consider

Box 2

Commission for Reception, Truth and Reconciliation in Timor-Leste

The final report of the Commission for Reception, Truth and Reconciliation in Timor-Leste (Comissão de Acolhimento, Verdade e Reconciliação de Timor Leste, or CAVR) noted that children were victims of violations, including sexual violence, arbitrary detention, torture, forced disappearance and forced recruitment. The report provides details on methods of recruitment, the duties and activities of children during armed conflict, as well as their impact on children. The Commission notes a high incidence of trauma among those recruited as child members of the militia from 1998 to 1999 due to exposure to extreme violence, the psychological impact of forced recruitment, divided loyalties and the shame of having collaborated with the occupying forces.

The findings state that child members of the militia took part in grave human rights violations, including killings, physical assault and rape, and in the widespread destruction of property.ⁱ However, the focus of the CAVR was to understand and document the role of child perpetrators rather than to demand further accountability. The CAVR explicitly noted that child perpetrators in this context were also victims.

Those recruited often came from the most disadvantaged segments of Timorese society, were brutalized by their participation in and witnessing of violence, and incurred the stigma of having been on the wrong side. There is some evidence that of all the children recruited by the parties to the 25-year conflict, those who joined the militia may have been the most severely traumatized by their experience.ⁱⁱ

ⁱ Commission for Reception, Truth and Reconciliation in Timor-Leste, *Chega! The Report of the Commission for Reception, Truth and Reconciliation in Timor-Leste*, CAVR, Dili, 2005, ch. 7.8.5, para. 431.

ⁱⁱ Ibid.

local perceptions of accountability, including local, traditional or restorative justice processes as appropriate. However, those processes must conform to international human rights standards, in particular with regard to judicial guarantees, protection of children's identity and gender equality, and protection from discrimination and stigmatization.¹⁰²

The appropriate form of accountability for alleged child perpetrators is a source of ongoing consideration and debate. The role that children play in armed conflict or other violence is often complex and ambiguous.¹⁰³ Greater understanding of those complexities at the community level can help facilitate rehabilitation and foster reintegration.

A man in Bunia, the Democratic Republic of the Congo, surrenders his weapon (to a soldier with the United Nations peacekeeping mission). For children who have taken part in demobilization exercises, truth commissions can help raise public awareness of their experiences and support their return to civilian life.



3

CHILD-FRIENDLY PARTNERSHIPS, OUTREACH AND CONSULTATIONS

“I want to tell [the] Government to reach out to those children, like myself, who have suffered; some have even suffered more. They should open a centre because some children are rejected when they go to their people; they are called rebels. I want them to help us with our education.”

– Statement to the Sierra Leone Truth and Reconciliation Commission from a boy who was 13 years old when abducted

Establishing partnerships for outreach and consultations

Partnerships with other organizations are essential to the success of a truth commission because they can promote children’s participation and protection. The case studies analysed while preparing this report suggest that engagement through outreach and consultations with community and civil society groups, including child-led organizations, should be initiated in the preparatory phase to facilitate dialogue and build trust. Outreach and information campaigns can be used to inform the public about the mandate of a commission and the process for participation. Consultations can stimulate debate and dialogue that help shape the design of a truth commission.¹⁰⁴ Engagement in the early phases of establishing a commission can also promote ownership at the community level. This reaffirms a human rights-based approach and strengthens a commission’s access to information, effectiveness in addressing the needs of

victims, ability to manage expectations and public legitimacy.¹⁰⁵

Partnerships for outreach and consultation depend on local conditions and resources. In some cases existing children’s support networks and child protection agencies may have proven capacity. Yet where political violence and oppression have prevented the development of an active civil society, capacity may be limited.

Direct outreach to children and children’s groups is crucial for encouraging and enabling participation. Partners in promoting children’s participation and protection have included the following:

- Parent and teacher groups
- School boards and student unions
- Faith-based organizations
- Traditional community leaders
- Non-governmental and community-based organizations
- Health and village development groups and child welfare committees
- Sports clubs, scouts, theatre and music groups
- Organizations and networks run by children and young people
- Children’s parliaments

- Children’s advisory and municipal councils
- Local and national government officials.

Consultations with victims can be sensitive, and there may be confusion concerning the purpose of a truth commission, in particular when distinguishing between the roles of truth commissions and judicial processes. Therefore, information provided to children and their communities should anticipate and address unrealistic or false expectations. To a certain extent misunderstandings can be avoided with a strong communications campaign.

Another finding is that some actors may play multiple roles with respect to a truth commission. NGOs, for example, may simultaneously provide technical assistance and training for truth commission staff and also monitor its procedures and activities.¹⁰⁶ Relationships between a truth commission and other actors therefore require clear communication, identifying and committing to shared goals, and a spirit of cooperation. Relationships may be complicated by enduring political tensions, competition for funds, conflicting goals and poor communication. In some cases it has been found that victims, especially young people, feel alienated from the political system and view state-authorized truth commissions with distrust. A consultation process should therefore aim to reach communities that may not otherwise have a formal voice in society, such as rural and remote communities.¹⁰⁷

The preceding examples demonstrate the benefits of establishing an inclusive communication network with civil society, NGOs, children’s groups and child protection agencies, as well as United Nations organizations, government officials, local and national leaders and the media. Such a network can facilitate outreach in the early phase of a truth commission, extend the sphere of engagement during the operational phase, and support the process of follow-up and implementation of recommendations.

Child protection agencies, organizations and networks

A close partnership with child protection agencies and organizations throughout the work of a truth commission can be instrumental in

developing the policy and procedures necessary for children’s involvement. Child protection agencies can facilitate community outreach and consultations, assist in statement-taking and fact-finding during the operational phase, and contribute to the overall objectives, including follow-up to the final truth commission report. In addition, child rights organizations can help by linking with and building the capacity of support networks such as community welfare committees, teachers and health professionals. They can also facilitate children’s access to those networks. By engaging early in the process, child protection agencies can help promote the commission’s key messages. For example, in Ghana, a coalition of NGOs conducted outreach and collected statements from victims in rural areas. The coalition also raised funds to assist victims needing transportation and other logistical support to testify before the country’s National Reconciliation Commission.¹⁰⁸

Child protection agencies can play a key role in preparations for thematic and in camera hearings for children. They may support outreach to remote communities where local staff can assist truth commission staff in advocacy and statement-taking. In addition, child protection agencies may prepare written submissions based on their fieldwork, providing information on the impact of the conflict on children. They can also assist in analysing findings and advising the commission on appropriate recommendations and reparations.

However, it should not be presumed that the relationship between child protection agencies and a truth commission is based on shared objectives. By nature, these institutions have different mandates. As a result, their interests may also differ in specific situations, even when a truth commission pledges to comply with the Convention on the Rights of the Child. Therefore, it is important for child protection agencies and organizations to maintain an independent and critical voice when providing technical expertise. While such groups can provide information on issues relating to children, the decision to share this with a truth commission will require careful consideration. Information can be used to raise awareness about how children were affected by violations, but children’s confidentiality and privacy can be harmed if child protection agencies lose control over sensitive material.

Child protection agencies and NGOs will need to examine how their engagement with a truth commission can complement, strengthen or interact with other activities and programmes for children, such as psychosocial support, school and curriculum reform, reconciliation processes and children's reintegration into their communities. This is closely tied to the question of follow-up and implementation of a truth commission's recommendations. To the extent possible, child protection agencies should anticipate and respond to the longer-term needs of children and their families.

Child protection networks (CPNs) can provide a conduit for a truth commission to engage with child protection agencies. Such networks are informal and voluntary groups of organizations and agencies established for specific purposes, such as coordination, information-sharing and advocacy. They include a range of regional forums, thematic task forces and community-based structures.¹⁰⁹ The relationship between a CPN and a truth commission can help avoid complications that often arise among organizations with diverse objectives or competing priorities.¹¹⁰

Child protection agencies have undertaken the following types of activities to promote a child focus within a truth commission:

- Contributing to legislation establishing a truth commission and lobbying to improve the legislation
- Convening national actors to assess best practices on child protection and participation
- Organizing a preparatory conference prior to the creation of a truth commission
- Assisting in training truth commission members and staff
- Facilitating psychosocial support and counselling services for children
- Providing guidance to the media on child protection
- Informing public and political actors about children's experiences and child rights
- Proposing alternative or complementary models for child participation in reconciliation and reintegration processes

- Assisting in preparing child-friendly versions of outreach documents and the final report
- Consulting with children and enabling their voices to be heard throughout the truth commission process.¹¹¹

Activities that may foster partnerships between truth commissions, child protection agencies and NGOs include:¹¹²

- Engaging community groups, including child and youth organizations, in preparing messages about the truth commission that are geared towards children. This could be organized through school-based competitions or faith-based networks. Children and young people can disseminate key messages through school activities, radio and television programmes, newspaper articles, theatre and other community activities and media outlets.
- Holding special hearings on the experiences and needs of children.
- Engaging with children's parliaments and child-run groups in drafting a child-friendly version of the truth commission legislation and children's policy guidelines.
- Initiating a national essay contest through schools or youth groups on the meaning of reconciliation or a related subject, or conducting a contest for children to design a national truth commission logo. A truth commission may also support an exhibition of children's art, songs and poems on issues relating to truth and reconciliation, or invite children to paint murals on reconciliation in their schools and community centres or other public spaces.
- Seeking ideas and advice from schools and faith-based groups.
- Inviting children's groups to prepare an official submission to the truth commission, guided by child protection agencies, teachers, faith-based leaders and others.
- Arranging a dialogue among children from neighbouring towns, cities or districts, or from other countries affected by armed conflict.
- Engaging the Ministry of Education, school officials, teachers and children in planning a truth commission curriculum component

addressing such issues as citizenship, conflict resolution, self-esteem, memory and history, and peace and reconciliation.

- Drafting an action plan for children to monitor implementation of truth commission recommendations through networking and engagement with child protection agencies and government partners.

Framework of cooperation or memorandum of understanding

A memorandum of understanding (MOU) can be a useful means of formally establishing the terms of relationship between a truth commission and child protection agencies. This can help articulate the common ground that informs mutual objectives. Brokering an agreement may also set the stage for an ongoing partnership. For example, child protection agencies could participate in support functions ranging from assisting in identifying child witnesses to training statement-takers and providing direct support for statement-taking teams. In 2003, a framework of cooperation between the TRC and child protection agencies was developed (see Annex 2) that served as a basis for collaboration. Because of delays and problems in communication, the framework of cooperation was not fully utilized. However, it informed policy and procedures for training on child protection and can serve as a precedent for similar agreements in the future.¹¹³

Children, adolescents and child-led organizations

Children and adolescents are citizens and active members of their communities. When children reach adolescence they begin to take on more responsibilities and, with guidance and support, can become more active in school and community organizations. By taking part in truth commission activities, children and adolescents may be able to contribute their views, ideas and energy, while also building skills and capacity for citizenship.¹¹⁴ When they are provided with the opportunities and space for meaningful participation, young people can become advocates for human rights and civic education and can build child-led networks in schools and community settings. This in turn contributes to democratic processes and helps lay a foundation for a more stable and just society.

While additional human and financial resources are needed for partnering with children's groups, these efforts enable the commission to achieve long-term objectives towards reconciliation and responsible citizenship. If young people in post-conflict societies are overlooked or excluded they may become frustrated or lose hope, which may lead to risky behaviours. With guidance and support they can engage in ways that are meaningful to them, thus playing a positive role in reconciliation.¹¹⁵

Box 3

Liberia: Partnering with the National Child Protection Network

Following a request from the Truth and Reconciliation Commission (TRC), in March 2006 UNICEF organized an orientation on child rights and child protection for the TRC commissioners in Liberia. Shortly thereafter, a meeting was convened with the National Child Protection Network (CPN), which led to the formation of a CPN-TRC Task Force that became the focal point for the truth commission's interaction with children.

The task force enabled negotiation of a memorandum of understanding (MOU) outlining a framework for cooperation as well as the responsibilities of both the truth commission and the network in carrying out specific tasks to support children's participation. The task force facilitated collaboration on children's participation in TRC activities through regular meetings and information-sharing. It also carried out training for the statement-takers and supported statement-taking and thematic hearings for children. The TRC also negotiated an MOU with UNICEF, which was signed in September 2007. The MOU outlines UNICEF's provision of technical support, and responsibilities and procedures for protecting the rights of child participants, in collaboration with the task force.ⁱ

ⁱ The information in this box was adapted from: Sowa, Theo, 'Children and the Liberian Truth and Reconciliation Commission', ch. 6 in Parmar, S., et al. (eds.), *Children and Transitional Justice: Truth-telling, accountability and reconciliation*, Human Rights Program, Harvard Law School, Cambridge, MA, March 2010, pp. 193-230.

When children engage as partners in community outreach and other truth commission activities, they are likely to develop a sense of ownership and pride in their contributions. This is illustrated in the following examples taken from a number of countries, representing diverse regions and experiences.

Country examples

The **South Africa** Truth and Reconciliation Commission emphasized children's creative contributions. The final TRC report describes the ways in which children participated:

Throughout the country, school children participated in the hearings and listened to the evidence presented. At the KwaZulu-Natal/Free State hearing, school children from a number of schools presented a play and other schools performed songs. A dramatic presentation by school children of the Soweto uprising was a highlight of the hearing hosted by the Johannesburg office, moving members of the audience to tears.... In the Eastern Cape, musical presentations by school choirs assisted in the process of reconciliation while, in Cape Town, three high school students read a submission... on the impact of apartheid on children.¹¹⁶

In **Peru**, young people participated actively in the work of the TRC (Comisión de la Verdad y Reconciliación, or CVR) through the voluntary programme Promotores de la Verdad (Promoters of Truth, PROVER). The programme was set up to support the Commission's work and engage students and other young people. Specifically, the volunteers participated in:

- Organizing social and cultural activities to promote participation in the CVR
- Training volunteers for their tasks with PROVER
- Disseminating information on the CVR process, objectives and activities, the CVR report and recommendations and the Campaign for the Disappeared
- Providing support to people who had suffered from or witnessed violence.

PROVER provided young people in Peru with a unique opportunity to participate in the Commission's work. The programme involved

1,400 youth, all of whom were children during the period of the atrocities. PROVER was the only formal avenue for child and adolescent participation in the CVR, and all volunteers were college students. Some criticized their lack of engagement in defining their roles and responsibilities or in formulating the CVR's recommendations. Nevertheless, their participation led to a number of follow-up activities involving youth, including memory workshops and a commemoration of the CVR.¹¹⁷

In **Sierra Leone** children played a much more active role in the work of the Truth and Reconciliation Commission. For the first time children directly engaged in the process, providing statements to the TRC and participating in closed and thematic hearings. As one youth leader observed:

One thing was clear amongst the children of Sierra Leone: that they wanted to make something of themselves, and did not want to be left out of the TRC process. They wanted to tell their stories to the TRC... Discussions after discussions were enunciated by children themselves and eventually succeeded to attract the attention of stakeholders to get them involved. To ensure the involvement of children in the Sierra Leone TRC process, a well-organized network of children...the Children's Forum Network was identified to spearhead the process.... It was the view that engagement of children in the TRC process as productive citizens and nation builders could be a starting point for national reconciliation.¹¹⁸

Children in Sierra Leone broke new ground and generated confidence in their capacity as partners in the reconciliation process. In particular, their role in preparing the first-ever child-friendly version of a truth commission report promoted dialogue on children's contributions to reconciliation and reconstruction efforts. Three national children's networks participated in this process, involving approximately 100 children, and child-led discussions were aired on the Voice of Children Radio in Freetown.

There were initial concerns that child witnesses would suffer from recalling the horrors of the war, but such effects were not observed. However, preliminary findings showed mixed effects on individual children who participated.



Returning to Guatemala from exile in Mexico, a man and his son look out the window of a bus. During Guatemala's armed conflict, a large number of children lost their lives during displacement and flight.

Many reported the experience as helpful in addressing unresolved emotions or experiences and expressed pride in their contributions to the work of the TRC.¹¹⁹ Others indicated either continued feelings of pain and guilt, or that they felt stigmatized by their communities. Some felt the reintegration support following their participation was inadequate.¹²⁰ Girls who had been sexually exploited were reluctant to share their stories, fearing they would experience further shame or abuse.¹²¹ Many children had limited knowledge of the truth commission or of the possibility of participating in its work.¹²²

In June 2007, the Child Rights Act was adopted by the Sierra Leone Parliament, partly in response to a TRC recommendation. This demonstrated a national commitment to the rights of children¹²³ and showed how children's participation in a truth commission can increase support for child rights in the country.

In **Liberia**, early links between the TRC and the CPN led to the signing of an MOU that catalysed collaboration throughout the operational phase. Early on, a National Children's Parliament was convened with

representatives from all counties and supported by the Ministry of Gender and Development.¹²⁴ The engagement with children from counties and districts included children's clubs and other groups of children in and out of school, who were identified by local child protection agencies.¹²⁵

At the conclusion of the Liberia children's hearings, a Children's TRC Gallery was opened at the Monrovia City Hall in September 2008. Inaugurated by the vice president, it featured poems, stories and drawings by children about their experiences during the war and their vision for the future of Liberia. The Liberian CPN was instrumental in ensuring that protection procedures were in place at every stage of the process.¹²⁶

The country experiences described above affirm the need for an integrated approach to participation and protection for children within transitional justice processes. But truth commissions often have limited human and financial resources. Engagement with communities, child protection agencies, NGOs and children's groups that can provide additional support is therefore critical. It is especially important that children and young people participate from the outset and have opportunities to demonstrate their talents and

creativity. This can be a source of strength for them, as well as their families and communities.

Local and national government representatives

Building a strong relationship with local and national government representatives on children's issues is important for achieving long-term objectives. Truth commissions should reach out to government officials and agencies to inform them and seek their support in efforts to obtain information about violations against children, and to promote children's protection and participation in the reconciliation process.

The relationship between a truth commission and government bodies is influenced by the context in which the commission was created, by the level of independence exercised by the commission in relation to the state, and by political will. If the government itself is the object of scrutiny by a truth commission, cooperation may prove difficult. A commission may be unable to obtain key documents, and victims and witnesses may fear the repercussions of testifying. In spite of this, it may still be possible for a truth commission to work closely with some branches of the government.

Government ministries responsible for children and youth may be willing to provide support, and whenever possible they should be involved from the start of the commission's activities. Among these are the ministries responsible for youth, gender, social welfare and education. They may be in a position to facilitate coordination on issues such as public information and outreach, reintegration and psychosocial support, community and civic education, curriculum reform, and the dissemination of a children's version of the truth commission report to schools. This can help build the foundation for sustainable implementation of the commission's recommendations.¹²⁷

For example, in Peru, the CVR signed a cooperation agreement with the Ministry of Education, which designated 2002 as the Year of Truth and Reconciliation. The CVR dedicated a unit to educational issues, engaging teachers and students in the Commission's work, holding workshops with teachers and trainee

teachers and organizing hearings on the role of education in Peru's conflict.¹²⁸ The Ministry subsequently participated in efforts to develop an educational resource on the country's violent past, as recommended by the CVR.

Consultations with the security sector (defined in this publication as including military forces and law enforcement, as well as governance and legislative and oversight bodies and some civil society organizations) – in particular police and authorities in charge of law enforcement – are usually crucial to ensuring the physical safety of children who participate in the work of a commission. Child protection agencies can be instrumental in training members of the police or military on children's rights, and can liaise between the security sector and communities. However, alternative measures should be found in cases where the security sector may have been responsible for violations against children and there are concerns that security personnel might fail to adequately protect children. If alternative measures are not possible, children's involvement may have to be reconsidered. The same concern applies in contexts where non-state actors continue to exercise power and engage in violence.

Community leaders

Community leaders, including traditional, faith-based and other principals, can be important outreach partners.¹²⁹ However, a careful assessment is needed to determine which partners have the capacity to support the protection and participation of children. Community leaders may also assist in providing or obtaining information about the history of the conflict as well as regional or cultural knowledge of various ethnic groups and the experiences of children.¹³⁰ A number of scholars have argued that truth commissions can broaden their impact and effectiveness by working with and building on local practices of healing and reintegration.¹³¹ Faith-based leaders have been asked in several countries to serve as commissioners, creating direct links with their communities.

Community leaders, parents and teachers, who are involved with children daily, together can form a safety net. The guidance of parents and

adult mentors is instrumental for children's reintegration in the community, and adult mentors may facilitate the participation of children in healing or forgiveness ceremonies. When local reconciliation or healing ceremonies respect child rights they may provide an opportunity for children to be heard.¹³²

Traditional ceremonies may play an effective role in the reintegration and reconciliation of children who have taken part in hostilities and may increase the commitment of communities to children's reintegration. But such processes include a wide range of practices, and it has been found that some may not be in the best interests of children and may not be effective and credible mechanisms.¹³³ For example, some community leaders may have been involved in committing human rights abuses, including the recruitment of child soldiers.¹³⁴ Local processes may also reinforce gender biases or fail to adequately protect vulnerable groups like children. Amnesty International writes that "those who most need the protection of a formal court system – especially vulnerable women and children – are those most likely to be coerced into a 'traditional' resolution in the absence of clearly recognized procedures".¹³⁵

In addition, traditional processes may be viewed cynically insofar as they may serve as instruments of social control and be seen to institutionalize the power of unaccountable local elites. This underlines the need to differentiate between manipulated constructions of local populations, on the one hand, and the truly representative or indigenous, on the other. In all cases traditional practices must maintain international standards for child protection, such as protection of identity, non-discrimination and the best interests of the child. Among others, practices that include physical duress, public shaming or other violations of child rights are unacceptable. Child protection agencies may be able to play a role in determining when traditional ceremonies and activities are in the best interests of children.

Early in the planning phase a truth commission should consider how relationships with community leaders might affect the commission's work, and how local justice and reconciliation processes might enhance or undermine efforts to provide a safe space for children's voices and experiences to be heard.

Role of the media

Experience shows that cooperation between a truth commission and the media must be approached carefully when children are involved. The same principles that guide the media in reporting on children should be applied.

Together with partners, informed by the Convention on the Rights of the Child and based on respect for the promotion and protection of children's rights, UNICEF has facilitated preparation of guidelines outlining ethical principles and guidelines for interviewing and reporting on children. The International Federation of Journalists also publishes guidelines and principles for the media. Both these guidelines may be included in training courses conducted by a truth commission to help inform statement-takers, staff and social workers about the importance of protecting children in all interactions with the media. Children should also be informed of the guidelines so they can follow the recommended procedures when preparing their own print, audio and video content.

The following are a summary of the guidelines for interviewing and reporting on children from UNICEF's Principles for Ethical Reporting on Children:¹³⁶

- Do no harm to children
- Do not discriminate in identifying children for a possible interview
- Do not stage an interview
- Ensure that children or their guardians know they are speaking with a reporter
- Obtain permission from the child and the guardian
- Pay attention to where and how the child is interviewed
- Do not further stigmatize the child
- Provide an accurate context for the child's story or image
- Ensure confidentiality
- Confirm the accuracy of the child's account.

In some instances, journalists have exploited the willingness of children to recount their wartime experiences. Reports of atrocities and rape have been broadcast without protecting children's identity. What to a child may appear to be a caring conversation may turn out to be a no-holds-barred interview. Therefore all contact with the media must be treated with caution. Not only is it a violation of the right to privacy and confidentiality to publish the name or photograph of a child victim or a child accused of having committed a crime, but it can also result in risking the child's relationships and even their life. In some cases it has been necessary to relocate children identified as alleged perpetrators or children who have exposed the identity of commanders who then sought revenge.

Despite these risks, the media can be a strong positive partner both for the truth commission and for children. Truth commissions can work effectively with the media by organizing training that enables journalists to promote child rights and to gain an understanding of the sensitivities in covering issues related to children. Child protection agencies should be called upon to support the process.

A media campaign can clarify a truth commission's reason for involving children and its overall goals and objectives. Key messages can be communicated through radio, newspapers, television, video, websites and social networks. In countries where television is widely available, children's cartoons have proven effective at reaching people across the nation. Effective cartoon campaigns can mobilize support and encourage children and families to participate. In such cases, it is important for the media to avoid portraying a narrow range of children's issues; they should instead show the range of children's experiences.

Children are often good at making use of the 'new' communication tools, such as the Internet and cellular phones, both for creative messaging and for networking. For example, the Sierra Leone Voice of Children Radio, formerly based at the United Nations Mission in Sierra Leone, emerged as a dynamic voice in the TRC process, conducting professional and provocative programmes that were well received.¹³⁷ The Voice of Children Radio, run and programmed by children, is known for skillful interviewing and coverage of issues of social importance.¹³⁸

Young adults oversee the play of war-affected children at a UNICEF-supported programme in the town of San Felipe Chenla. Guatemala's Truth Commission reported that children, especially from the Mayan population, were among the victims of arbitrary execution, forced disappearance, torture, rape and other violations, and that many children were orphaned and abandoned.



4

TRUTH COMMISSION OPERATIONS WITH A CHILD FOCUS

"I did not want to come to the Commission, I thought I was going to be jailed. But a friend convinced me and explained to me because I was about to run away to Liberia. I have something to say... Please do not forget me."

– Statement to the Sierra Leone Truth and Reconciliation Commission from a 19-year-old who was abducted as a child

Including children in a truth commission mandate

The mandate of a truth commission outlines the scope of work and determines a number of issues essential to its functioning. These usually include the period of operation; the temporal mandate or the period for investigation; the types of violations to be investigated; whether to give special attention to specific victim populations; key activities; powers granted to the commission to carry out its work; the possible link to criminal judicial systems; and selection procedures for commissioners.¹³⁹

A truth commission's mandate is typically formulated by an executive decision or a legislative instrument such as an act of parliament.¹⁴⁰ Each instrument has advantages and limitations that require careful consideration. An act of legislation preceded by a process of national consultation is more likely to represent the views of the population. However, the process may be affected by instability in the transitional period, and a protracted period of negotiation can affect the commission's viability

and integrity. An executive act is typically faster and may grant a commission broader discretionary decision-making powers; however, executive action may not be enough to grant the commission appropriate powers. Consultations, conducted through workshops, round-table discussions and survey techniques, have proven valuable to gain legitimacy for a truth-seeking initiative. They are also effective in providing feedback, conveying expectations to policymakers and deciding on the best approach to establish a commission.

An explicit focus on children in the truth commission mandate can facilitate a child rights-based approach to setting priorities and staffing, policymaking and resource allocation. Further, a mandate that is sensitive to children and highlights the full spectrum of violations to children will help inform the activities of the commission and the formulation of recommendations in the final report. For example, the mandate of the truth commission in Timor-Leste¹⁴¹ was based on international human rights treaties, including the Convention on the Rights of the Child. This allowed the commission to define child rights violations broadly.¹⁴² The mandate of the Liberian TRC, enacted in 2005 by the National Transitional Legislative Assembly, mentions child participation and protection extensively. For example, the mandate specifies the need to "employ specialists in children and women's rights" in order to enable children to "provide testimony to the TRC, while at the same time protecting their safety and not endangering or

delaying their social reintegration or psychological recovery.”¹⁴³ Child rights advocates can influence the early stages of the discussion by engaging directly with those responsible for drafting the mandate and raising awareness of the specific needs of children through training, publications and the media. Engaging with communities, families of victims and children themselves has proven to be a critical element of assessing children’s needs and priorities.¹⁴⁴

As already indicated, children who experienced abuse or violence may be adults by the time a truth commission is operational. Therefore, creating opportunities to hear their experiences and address their needs is vital. The TRC in South Africa noted that testimony given by adults about their experiences as children provided “the benefit not only of time [for healing], but also the opportunity of applying an adult perspective to memory and the articulation of their experiences”.¹⁴⁵ In Timor-Leste, the CAVR conducted 100 targeted interviews with adults who had suffered violations as children¹⁴⁶ and in Peru, many statements taken from adults covered their experiences as children.¹⁴⁷

Once the mandate has been adopted, the following elements should be considered:

- Developing a staffing plan and hiring staff
- Preparing a budget, a fund-raising strategy and a workplan, which includes operational activities
- Engaging in public outreach and developing a public education campaign
- Conducting background research and preliminary documentation, including a mapping of violations
- Establishing a system to protect victims and witnesses
- Training statement-takers and other staff
- Designing and installing a database that will allow ready access and secure storage of information and statements.¹⁴⁸

More general considerations that have also been important in developing a child-sensitive approach include the following:

- Outlining principles and procedures for children’s participation and protection, with specific attention to the needs of girls
- Earmarking time and funding for child participation, including training for commissioners and staff on child rights and child protection
- Defining criteria and creating opportunities for outreach and cooperation with children and child rights advocates
- Developing procedures to investigate crimes against children and protect child victims and witnesses.

Structure and staffing

The procedure for selecting commissioners and the selection process itself are critical in establishing the legitimacy, independence and credibility of a truth commission. In some settings, child protection agencies and advocates have helped inform the selection process, providing early guidance on issues of importance to children. Depending on the size and mandate of a commission, it is desirable for some commissioners to have prior knowledge and experience in children’s rights to ensure core expertise and a dedicated focus on children’s issues. At a minimum, commissioners and staff should receive intensive training on children’s rights. For the commission to engage effectively with children from particular racial, ethnic, religious, indigenous and gender groups, as a first step commissioners must be drawn from a balanced and representative base and should command respect in their communities.

To help promote children’s best interests during the process, a child-focused approach should inform the hiring of staff, including consideration of candidates’ qualifications and expertise in child protection, legal matters and psychosocial support. Child rights expertise is important for personnel recruited to work in many departments of the truth commission, including those dealing with investigations, research and community engagement, and in regional offices.¹⁴⁹ Also important is the recruitment of people with experience assisting victims of sexual violence, so as to avoid subjecting victims to further trauma or stigma.¹⁵⁰

Within the commission, a structure such as a child rights committee may be established to oversee issues relating to children and help ensure that special procedures and safeguards for children are respected and implemented. Such a committee could include a commissioner, staff members and representatives from local child protection agencies, relevant government ministries and child/youth-led organizations. This committee could contribute to the development of a child-sensitive workplan, facilitate ongoing discussion and advocacy, contribute to investigations and research, and communicate with units working on other themes, such as gender or youth. As an additional safeguard, an external, community-based structure should be in place that allows children, parents and social workers to raise concerns throughout the process.¹⁵¹

Some truth commissions have combined children's issues with those of women and young people. While it can be advantageous to link children with other identified groups in a complementary support and training programme, this approach risks compromising the specific needs and capacities of each group.

Orientation and training

Orientation and training for staff, including commissioners, is an essential part of building teamwork and clarifying objectives. The orientation for commissioners should take place soon after they are selected and before the hiring of staff. Ideally, children's issues should be both integrated into the general training programme and addressed separately. Child protection agencies may assist in preparing orientation materials for commissioners, staff members and statement-takers.

A discussion among experts reached a consensus that the training should cover the following topics:¹⁵²

- International human rights and humanitarian law, in particular the Convention on the Rights of the Child and other child-specific standards and norms
- Principles of child protection and participation, including the best interests of the child, evolving capacities, non-discrimination, and the right to life, survival and development

- National child rights laws, including applicable systems of juvenile justice, monitoring tools and mechanisms
- Statement-taking from children, with specific attention to victims of rape and other sexual crimes
- Statement-taking from adults about children's experiences
- Child-friendly interviewing techniques
- Methodology on psychosocial support and referral
- Information analysis including research; quantitative and qualitative analysis; and psychometric, psychoanalytic, ethnographic and other qualitative methodologies
- Community outreach and public relations
- Child-oriented reparations.

As pointed out by participants and seen from experience, the inevitable turnover of staff during the statement-taking process requires ongoing training sessions and consultation, which may be provided by local and international NGOs and experts. Statement-takers also require psychological support as they listen to distressing accounts of human rights abuse. Suggested forms of support include counselling, peer-group discussions and making available information about stress and coping mechanisms.¹⁵³

LIBERIA TRC ORIENTATION

In February 2006, a three-day orientation on the participation and protection of children was organized shortly after the Liberian TRC was inaugurated. This UNICEF/TRC collaboration included substantive discussions on child rights, which produced a set of key principles for children's involvement in the TRC. This was followed by a five-day training course for nearly 200 statement-takers in August 2006, which was carried out by the TRC with the support of local and international NGOs, UNICEF and other United Nations agencies. In anticipation of broad participation by children in the statement-taking and other TRC activities, the training focused on child protection and interviewing techniques for child witnesses. This included role playing for interviewing victims of sexual violence and ex-combatants.¹⁵⁴

Principles for protecting children who participate in a truth commission¹⁵⁵

In all cases, a truth commission should give paramount importance to the physical safety and psychological protection of children in pursuing accountability and in public disclosure. This includes the following principles:¹⁵⁶

- The best interests of the child should be a primary consideration in all actions concerning children and a vital criterion in decision-making, and should guide the entire process.
- Children must be treated with dignity and respect.
- The participation of children should be voluntary, with the informed consent of the child and parent or guardian. The decision not to participate is also a form of participation. Child protection techniques should include policies and child-friendly procedures that safeguard children's physical, psychological and spiritual well-being.
- Confidentiality and protection of the child's identity must be guaranteed at all times.
- Children's participation should include a specific focus on adolescents and should be consistent with the evolving capacities of the child.
- A gender-sensitive approach should include a focus on protection of the rights of girls, addressing their specific needs.
- All participation should be non-discriminatory, should include diverse ethnic, racial, religious and other groups, and should take into consideration the specific needs of children with disabilities.
- Children's participation in a truth commission should complement child-focused reintegration, reconciliation and other transitional justice processes.
- The truth commission should address the root causes of violations against children to ensure a holistic long-term approach that realizes children's civil, political, social, economic and cultural rights.

Moreover, before engaging with a truth commission process, children should be informed about its purpose, to provide them with realistic expectations of the outcome and an understanding of what their contributions will achieve and how the process will evolve. The ability of truth commissions to make a difference in achieving justice is not a given. The risks of participation and the constraints and limits of the process need to be communicated to young people and their families and communities.

Recognizing children as holders of rights, girls and boys should also have a clear sense of the purpose of their engagement, the role of the truth commission staff member and the time frame of the process. Another critical step in promoting and protecting their rights is to ensure that their participation is voluntary and based on informed consent of both the child and the guardian. Children must be allowed to withdraw if they change their minds or become uncomfortable for any reason. It is important to explain this to them so that they understand they are in control and can end their involvement in an interview or hearing at any time, without negative repercussions. Moreover, part of ensuring a rights-based process is to provide support to all children who participate, including those who may choose to withdraw before, during and after the process.

Policies and procedures to protect the rights of children involved in the work of truth commissions will vary according to specific political, social and cultural contexts. They will therefore require careful consideration by local actors, including child protection agencies and child rights advocates, community leaders, teachers, parents and young people.

As noted in chapter 3, an MOU or framework of cooperation between a truth commission and child protection agencies can guide the process for children's participation. For example, in Sierra Leone, the framework of cooperation between the TRC and the child protection agencies outlined procedures for child protection, in particular with regard to statement-taking. Although there were inconsistencies in its implementation due to resource and time constraints, the framework was groundbreaking in establishing norms for the involvement of children as witnesses in a truth commission.¹⁵⁷ In Liberia, collaboration

between the TRC and child protection agencies was formalized through an MOU and a framework of agreement, which outlined the responsibilities, activities, communications frameworks and partnership accountability of each party.¹⁵⁸

In addition to a formal MOU or framework, a vulnerability assessment and a safety checklist may be helpful in determining whether a child is sufficiently emotionally stable to participate. A vulnerability assessment provides the truth commission with the children's personal and background information, such as contacts with a child protection agency, family relationships and education. In Sierra Leone, for example, a vulnerability assessment was used to assist in determining whether children had a safe home and community environment and whether any additional support was needed (*see sample provided in Annex 1*).

Also in Sierra Leone, a safety checklist was used to help determine whether the participation of individual children was safe and appropriate. The checklist confirmed that a child had demonstrated an understanding of his or her role in the process and had agreed to participate voluntarily, with the informed consent of the parents or guardian if appropriate. It contained information that was shared with children and their guardians prior to their giving consent, explaining the limitations of the Commission's work and the potential risks and benefits for children. It further indicated whether the child was referred to the Commission by a child protection agency or by an elder or teacher in the community. The checklist was not applied in all instances, but in cases where it was used it indicated whether the child would be accompanied by a social worker and/or guardian¹⁵⁹ during the statement-taking or hearing, and outlined the follow-up support to be provided.¹⁶⁰

Taking statements from children

Statement-taking refers to private meetings or interviews held between commission staff and individual victims, witnesses and perpetrators who choose to make formal statements to the commission. Statements usually provide the majority of the information collected by truth commissions. There is no limit on the number of statements a commission should take, and

numbers have ranged between 7,000 and 22,000.¹⁶¹ Only a limited number of statements can be included or quoted in the final report, but, taken as a whole, statements provide information that can be used to track trends and patterns of violations.

Statement-taking is not the only mechanism through which children and adolescents can contribute to the work of a truth commission, but it has proven to be an effective way for them to directly express their views. In addition to giving children a voice in the truth-seeking process, the collection of statements can help a commission capture their distinct experiences of the conflict and their diverse roles. In some cases, children's statements have provided an essential understanding of the violations that occurred and their impact on children, families and communities. However, each situation is unique. The role of children in statement-taking and other truth commission activities must be assessed and adapted to the specific circumstances and the extent of the violations suffered by children.

Child protection agencies and organizations can play an active role in supporting children who give statements. Their role largely depends on their capacity and previously established relationships within communities. Some organizations may have long-standing relationships with the children from previous demobilization and reunification programmes and can help identify children who might be willing to give statements. Within communities, agencies may already be involved with families and schools through child welfare committees. This can enable them to provide outreach and to inform children and families about the truth commission, helping ensure that victims are not rejected by their communities. Such efforts may include a support group for child statement-givers that protects identity and confidentiality. Agencies may also be able to advise a commission on the cultural context and sensitivities in different regions of the country. All of these factors can inform decisions by the commission as to what serves the best interests of the child locally.

Although no fixed minimum age is recommended, it is important to consider children's evolving capacities, a key principle in the Convention on the Rights of the Child.¹⁶² Statement-takers



Like other memorials, such as the the Kigali Memorial Centre in Rwanda and South Africa's Constitutional Hill memorial, the September 2008 Children's Gallery in Liberia was initiated to inform young people of past atrocities and to provide a public memory of those violations for future generations.

should be trained in the interview techniques to be used, which will vary according to the child's age and maturity. The evolving capacities of the child should guide the protective measures and procedures. For example, drawing, role playing and the use of toys may be appropriate for younger children. These activities must be carried out by persons with proper training and interpreted in a way that will assist in understanding the role of children and their contribution to the work of the commission.

To date, only two truth commissions have systematically included children in the statement-taking process: Liberia and Sierra Leone. In the latter country, the TRC made a policy decision from the outset to treat all children equally, as victims and witnesses of the war, including those who had been abducted by the fighting forces and were accused of taking part in hostilities. More than 300 children gave statements across the 13 districts.¹⁶³ The statements exposed the severity of suffering that children had endured and helped give voice to their concerns. An overwhelming majority of

children spoke about their desire to return to school and to create a new and positive future. Child protection organizations were heavily involved in identifying, referring and preparing children for statement-taking. It should be noted, however, that these organizations relied on databases of information on demobilized or separated children, meaning that children with other wartime experiences may not have fully participated.¹⁶⁴ In Liberia the TRC collected around 300 confidential statements from children across the country, with support and supervision by local child protection agencies.¹⁶⁵

Child-friendly interviewing and psychosocial support

Social workers and other professionals providing psychosocial support are essential to children's welfare throughout the statement-taking process. The role of the social worker is to protect the child's psychological well-being before, during and after statement-taking, and to provide longer term follow-up. Child protection agencies can help identify experienced social workers or provide assistance. While the truth commission will need social workers on staff, it may also be able to draw on existing psychosocial support mechanisms in communities, which may be well placed to provide longer term support.

Child protection staff, volunteers and others providing psychosocial support, such as teachers and community leaders, should receive training to ensure that they are informed of the work of the truth commission and of their roles and responsibilities in supporting children's participation.

Psychosocial support does not always address the more serious needs of children in distress. Some children may need referral to services for mental health care. It is important to identify services for referral and mechanisms for follow-up before the statement-taking process begins. Where these services are not in place, alternatives must be identified, such as individual support in an educational setting or as part of routine health care.

Confidentiality is also a concern in the context of psychosocial support. Careful attention is needed to avoid stigmatizing or disclosing the identity of children who participate in the statement-taking process. Therefore psychosocial follow-up for children who participate should be confidential. To this end, it may be usefully integrated into wider support interventions, such as school-based programmes.

Interviews conducted by the truth commission should take place in a familiar location, such as a school or community centre. If interviews are organized in the office of the truth commission, the facilities should be comfortable and appealing to the child. Before beginning the interview the child should be given time to speak informally with the statement-taker so as to establish rapport. The statement-taker should create a relaxed atmosphere using measures such as informal seating. No interruptions should be allowed. Girls should be interviewed by a female statement-taker unless they express another preference. Boys should have a choice of either a male or female interviewer.

The interview should be conducted privately, with no one present except the child and the statement-taker. However, if the child wishes, a social worker and/or guardian may also be present. In some cases, it may be appropriate to interview a small group of children, but this is generally not recommended. In determining whether it is appropriate, the children's ages, experiences and willingness to be interviewed together with their peers should be considered.

Protecting the identity of child witnesses can be very difficult in villages where people live in close proximity and are able to observe the movements and activities of truth commission investigators and statement-takers. Informal conversations about the activities of the truth commission among communities are to be expected, but under no circumstances should a statement-taker or staff member disclose the identity of children participating or comment on information received.

The interview should be in the child's first language to facilitate the process of expressing thoughts, memories and emotions. It is important that the statement-taker and social worker speak and understand the child's language so they can answer questions and accurately record what the child says. At least one adult present should be able to converse in and translate the child's language. The statement-taker or social worker should be aware of local expressions, customs and mannerisms to prevent any misunderstandings.¹⁶⁶

The common practice is to document the interview either through note-taking or audio recording. Children should be provided with an explanation of the reasons for recording their statements to help them feel at ease with the process. If note-taking is preferred, one person should record the statement and another converse with the child to allow eye contact and close attention to the child's emotional state. It may be possible for the statement-taker and social worker to share these roles.

The Sierra Leone TRC used a shortened version of the statement-taking form when interviewing children, omitting the section for perpetrators. In Liberia the standard form was used, but it included additional guidance for interviewing child witnesses.¹⁶⁷ Particularly in the case where audio recordings are made, the utmost care must be taken to ensure confidentiality. A recording must never be used in public unless the voice is altered to protect the child's identity. Rules of procedure need to clearly stipulate the goals and limitations of audio recording use, and there should be a clear statement of how the commission may use the recorded testimony.

The statement-taker's role is to facilitate and help children recount their experiences. The statement-taker should therefore ask open-ended questions that are simple and clear.

Leading questions should be avoided. Children should not be forced to speak or pressured to provide information they do not wish to share. It is important to give them time to remember and to explain without interruption, and statement-takers should allow for periods of silence. It is acceptable to request clarification, but children should never be cross-examined. If questions are repeated, children may become defensive, think they have given a wrong answer and change their response in an effort to please the interviewer. Repetition of questions should therefore be avoided.¹⁶⁸

The length of the interview may vary depending on a child's age, emotional state and attention span. In general, each interview should not last more than an hour, and breaks should be taken as needed. If a child wishes to continue for more than one hour, a second interview may be recommended.

Children who have participated in hostilities may have difficulties relating their experiences, especially if their relationship to their former commanders leads to feelings of loyalty or fear.



Two girls walk arm-in-arm at a camp for displaced persons near Monrovia, Liberia. Early collaboration between the Truth and Reconciliation Commission and the National Child Protection Network facilitated broad participation of children at all stages of the process, and was instrumental in ensuring that protection procedures were informed by their needs and priorities.

This may be compounded if the child has been sexually or physically assaulted. In addition, difficulties that adolescents and young adults face in adjusting to their role may complicate their reaction to the interview and their emotional response. Statement-takers and social workers should be aware of these difficulties and try to attend to the specific needs of these children. They should always bear in mind the ultimate objectives of the process, which are rehabilitation and reintegration.

Following the interview, the child should have access to psychosocial support and a follow-up visit should be arranged. Longer-term support, although strongly advised, may be beyond the scope and capabilities of a truth commission. For this reason, coordination with social workers in the child's school or community is essential. The child and the child's family and community should be informed of the progress and outcome of the truth commission's efforts by social workers and, if possible, by a focal point within the commission.

Children's participation in hearings

Hearings can provide a public forum for testimonies by victims, witnesses and perpetrators. In this setting people can acknowledge violations, air grievances and openly discuss the wrongs committed. While confessions or naming of persons responsible for specific acts of violence may be included, in order to protect their rights the names of children should not be mentioned. Specific measures may be needed to this end.

Thematic hearings, which address specific issues or groups, may be conducted publicly. For example, in Sierra Leone in 2003, there were thematic hearings on children, women, youth, mineral resources, corruption, the role of international actors in the conflict, and the role of the media.¹⁶⁹

Child participation in hearings should not be viewed as an isolated event that occurs only to provide information to the commission. Rather it should be understood as part of a broader process of engaging children and young people in reconciliation efforts. By bringing their unique views and experiences forward children can meaningfully contribute to reconciliation.

Protection concerns for children's participation in truth commission hearings are similar to the concerns that arise in other transitional justice processes. In particular, an assessment is needed to determine when children's best interests are served by participating and the appropriate extent of their engagement. The process of obtaining informed consent needs careful attention.

Hearings should promote psychosocial healing and self-esteem. Such an approach is intended to encourage child and youth groups to engage in and support the implementation of child-focused recommendations by the commission. Other local activities to dignify victims and build a culture of respect for human rights should also be encouraged. Such activities could be budgeted by the commission and encouraged by national and international child protection agencies.

Public hearings

During public hearings individuals give testimony – speaking, admitting and confronting the truth as they recall it. In this way a truth commission can help the community “publicly acknowledge past wrongs, allow victims the chance to be heard, and reduce the likelihood of continued denial of truth”.¹⁷⁰ In the event that some children may want to express their experience publicly, proper procedures and protections must be put in place. A child's wish to testify publicly may contradict international standards and cause stigma or jeopardize the child's security or safety. If in such circumstances a child remains determined to speak publicly, these risks must be taken into consideration, as well as their best interests and evolving capacities, in reaching an individual decision. Children should always be appropriately and fully informed and advised, including by lawyers who can preserve their rights.

If children's testimony will be included in a public hearing, strict adherence to the protection principles discussed above is necessary. Children's testimony should preferably be conducted in camera and pre-recorded, with their identity protected. If audio recordings are used, the child's voice should be altered so that it cannot be recognized. Children who wish to participate should be carefully screened and given a full explanation in advance to make sure they understand their

role and the implications and possible consequences of their testimony. They should be thoroughly prepared and have the opportunity to ask questions.

Public hearings were an important phase of the work of the South Africa TRC. Children did not participate in them, but special sessions for children were organized at the regional level. This was done because the Commissioners “felt that the formal structure of the hearings might intimidate children and subject them to additional trauma”.¹⁷¹ The children's hearings allowed their participation through artistic activities, games and group work. In some cases children told their stories and then made drawings to reflect their experiences. These were shared at the formal public hearings.

Thematic hearings

Thematic hearings may offer an appropriate venue to give attention and visibility to the experiences of children. A hearing specific to children allows specialized preparation in collaboration with child protection agencies and other child advocates. Thematic hearings on gender issues may also involve children and will require procedures to protect the identity of children.

A thematic hearing can address the multiple roles of children as victims in the conflict. It can provide an opportunity for the commission, and the nation as a whole, to recognize the patterns of conflict affecting children and to consider the links between abuse suffered in times of conflict, post-conflict and other violent periods. The hearings can inform recommendations and propose actions for reinforcing the role of young people as active citizens in their communities.

During thematic hearings on children, child protection agencies and other organizations working with children may be asked to report on the situation of children during and after the conflict. This can raise awareness within communities, encouraging discussion and understanding of the challenges that children face. Children's groups and organizations can help organize the agenda. The hearings may involve presentations by children's clubs or school assemblies. A public forum for expression, drama, drawings, artwork, music, poetry, storytelling, songs and slogans is also a possibility. If children's statements are read

publicly, all references to names, identities and locations or other identifying information must be deleted. Specific cases should represent a cross-section of contexts and reflect the gender, regional, ethnic, economic and political diversity of child participants.

One important aspect of a thematic hearing is the possibility of including measures that help restore the dignity of victims. For example, recognition of those who sacrificed their own safety to protect children during the war and sharing of stories of courage and bravery. Communities might also apologize publicly for failing to protect children and suggest ways to engage with them and build trust. Children who have taken part in hostilities may also wish to participate in forms of apology, but this should only be undertaken with the guidance and support of child protection agencies and legal experts.

SIERRA LEONE – THEMATIC HEARINGS ON CHILDREN

In Sierra Leone, it was generally acknowledged by the TRC and by a number of child protection agencies, that children would benefit from participation in a thematic hearing. It was further decided that their role should be restricted to protect their identity and ensure confidentiality.

The hearings took place on 16 and 17 June 2003, coinciding with the Day of the African Child. Children participated in both the planning and the proceedings, which were closely coordinated with the Ministry of Social Welfare, Gender and Children's Affairs, UNICEF, the United Nations Mission in Sierra Leone (UNAMSIL) and other child protection agencies, including the Children's Forum Network.

The event began with a march of hundreds of children through the centre of Freetown. At the hearing some 350 children listened to recorded testimonies of child victims of the war.¹⁷² The Minister of Social Welfare, Gender and Children's Affairs spoke about children's experiences and how they were reunited with their families and communities. The Commissioners requested that the Minister submit written information on a number of key issues, including the need to harmonize national legislation with the Convention on the Rights of the Child.¹⁷³

Children's agencies and organizations gave statements and recommended measures to

achieve sustainable peace and security, education and health, and to improve the situation of the most vulnerable children.¹⁷⁴ Excerpts from these statements were broadcast live on the child-run Voice of Children Radio and on national television. Children exhibited drawings and performed dramas about their wartime experiences. The Children's Forum Network and the Voice of Children Radio performed a song to conclude the hearings. In spite of these efforts, the impact of these successful hearings was limited due to lack of sufficient outreach in districts outside Freetown.

TIMOR-LESTE – THEMATIC HEARINGS ON CHILDREN

The final public hearing for the TRC in Timor-Leste (the CAVR) was held in March 2004 and was dedicated to the country's children. The aim was to end the hearings on a positive note, thus investing hope in future generations. The hearing was broadcast live on television and radio and reported by the print media.

Twelve adult witnesses who were children at the time of their experiences testified. They related in detail the impact of the various stages of the conflict on their lives. The stories described a number of violations, including killings at the Santa Cruz cemetery,¹⁷⁵ the imprisonment of children and the experience of children who were recruited by the Indonesian army.¹⁷⁶

The CAVR invited one child to give testimony. A 14-year-old girl, accompanied by a CAVR victim-support staff member, began by describing the murder of her father in the killings at the Liquiça Church in 1999, but halfway through her testimony she was unable to continue.¹⁷⁷ The hearing also included a video message from East Timorese children living in West Timor and a music performance by a children's rock group.

LIBERIA – REGIONAL AND NATIONAL THEMATIC HEARINGS

The Liberian TRC convened three regional children's hearings in 2008. In preparation the CPN-TRC held a training-of-trainers exercise for local child protection agencies. The children selected to give testimony were chosen from among those who had contributed statements to the TRC in each county. Each TRC county coordinator identified 15 to 20 statements representing diversity in age, gender, range

and nature of experience/violation and geographic location, and these children were contacted and invited to participate. The three hearings were crucial in achieving outreach for the TRC and giving children from villages far from Monrovia an opportunity to tell their stories and have their voices heard. In addition to those who testified, children participated as members of the audience.

Families' long-term relationships with local child protection agencies eased the process of securing parental permission and facilitated the participation of children. Some children had to travel hundreds of miles to attend the hearings. Nearly 400 girls and boys participated in the regional children's hearing in Zwedru, Grand Gedeh County. When bad weather forced the last-minute cancellation of the United Nations Mission in Liberia (UNMIL) flight to bring children to the hearings, the local agencies stepped in and arranged transport using personal cars and motorcycles to reach areas where rain had washed out the roads. One group of children walked alongside county gender coordinators and social workers for some 17 hours to reach the vehicles that transported them to the hearings.¹⁷⁸

All witnesses at the hearings, both regional and national, gave testimony in camera to protect their identity and deflect the worst of the stress and vulnerability of participating in formal hearings. Children testified from inside a specially constructed cubicle so the commissioners and audience could hear but not see them. To fully protect the identity of child victims and witnesses the entrance to the cubicle was protected, and separation from the larger group was facilitated so that other children would not mark their absence. The commitment of local child protection agencies was critical in monitoring children's well-being and meeting their psychosocial needs.¹⁷⁹

Following the day-long hearing, children participated in a panel discussion with the TRC commissioners. This provided an opportunity for a larger group of children to interact directly with the commissioners, asking questions and responding to general questions about their views on the truth commission and their hopes for the future.

Following the regional children's hearings, a national children's hearing was held in

Monrovia. It highlighted the collective impact of the Liberian conflict on children and their hopes and aspirations for the future.

Closed hearings

Closed hearings may be convened to schedule individual, private sessions for children to give statements.¹⁸⁰ Closed hearings also may be convened to allow children to speak together in a safe environment, share their experiences and receive peer support. This option should be considered on a case-by-case basis for small groups of children, and only fully qualified truth commission staff members should conduct such hearings. It is essential to confirm the children's voluntary participation with the informed consent of parents or guardians in order to build trust among children participating, and to follow up with psychosocial support.

SIERRA LEONE – CLOSED HEARINGS IN DISTRICTS

During district hearings in Bo, Freetown, Kabala, Kailahun, Kenema, Port Loko and other locations, the TRC commissioners held closed hearings to listen to individual testimonies from children. Child protection agencies helped prepare children for the hearings, with children in one district, for example, meeting with a social worker beforehand to address their concerns. The collaboration varied from district to district, however, and the commissioners often took statements directly from children without the support of child protection agencies. In some districts closed hearings took place in TRC offices where military personnel were present for security reasons; this intimidated the children and hampered their ability to testify.

During closed hearings the girls met individually with female commissioners and the boys met with male commissioners. The children also made recommendations, often requesting health care and education. Most children had a solid understanding of the TRC's purpose and of the importance of their statements. Some children, however, believed that the TRC could provide financial support or send them to school. This underlined the importance of child-friendly outreach and of working closely with children to inform and prepare them adequately in advance of giving statements.¹⁸¹

Research and investigations

Truth commissions conduct research and investigations to document violations and patterns of abuse. On the basis of information gathered through statement-taking, hearings and existing documentation, more in-depth investigations may be initiated.¹⁸² Statistics concerning children have generally been lacking and this gap has contributed to impunity for serious crimes committed against them. Truth commissions have the potential to make a critical contribution through efforts to gather and analyse data, ensure that the data are disaggregated by age, and document the scope and pattern of violations against children. Data should address forced recruitment, rape, murder, abduction, torture and displacement.

While truth commissions cannot examine every case that comes to their attention, investigations into specific cases can help document the extent and root causes of violations against children, and to analyse patterns or trends. Violations may result from a combination of factors, such as discrimination and disparity, state policies, institutional structures, cultural values and practices, and political or legal frameworks.

Gathering information on wartime violations against children raises particular challenges.¹⁸³ During conflict, data infrastructure may be weakened or destroyed. Lack of access to affected populations may result in a failure to perform even routine monitoring. In the aftermath of armed conflict, data may become politically sensitive and pose risks to both investigators and local populations. Girls may be reluctant to discuss their experiences of sexual violence for fear of rejection or stigmatization by their families or communities. In addition, children and adolescents who were abducted or recruited into fighting forces may fear further stigma if their experiences are made known.

For these reasons strict confidentiality must be observed when collecting information, and ethical considerations must receive priority so that all investigations are in the best interests of children. Truth commissions should provide guarantees limiting the use of information and safeguarding confidential matters. This is critical, because collecting information in small communities while protecting confidentiality is a challenging task.

Many truth commissions have narrowly defined the human rights abuses they have explored, focusing, for example, only on violations of bodily integrity. During armed conflict, however, violations of economic, social and cultural rights affect children disproportionately and may also compound the effect of other crimes. In Guatemala, 60 per cent of those who died during forced displacement were under the age of 18. Forced displacement increased the risks and vulnerabilities for children, many of whom lost their lives due to poor health care, nutrition, water and sanitation.¹⁸⁴ To expose the full extent of violations suffered by children, a commission should capture the full impact of a conflict on them.

Children's different roles in armed conflict pose an additional challenge for research and investigations. Children may simultaneously be victims, survivors and participants in the commission of violations. Special care is therefore needed to accurately reflect the complexity of their experience. It is important, for example, to document the conditions of recruitment – whether children were abducted, forced or coerced to join armed groups. Disaggregation by age is particularly important when collecting data on recruitment in order to analyse the factors specific to children, as this will not be captured in data collected on youth.

It is also essential to disaggregate data on the age and gender of victims to permit proper analysis of the conflict's impact on children. Disaggregation is useful for several reasons. First, it can reveal whether particular age groups have been targeted for abuse and verify patterns of violations against and by adolescents. Categories of violations will need to be adapted to the specific situation. They may include data on systematic rape, forced impregnation, genocide, torture, slavery, amputation and the use of children to carry out atrocities. Data should also include violence directed towards pregnant girls and women. Targeting of national, ethnic, religious and racial groups also needs specific attention and analysis.

Analysis of child rights violations should therefore include the following:

- Violations directly targeting children, such as abductions, recruitment and use of children in hostilities, torture and executions

- Violations that are unique to children, including underage recruitment and family separation
- Gender-specific violations
- Targeting of children on a discriminatory basis, such as membership in a particular national, ethnic, religious, racial or other group
- Barriers to accessing education or health care
- Violations or aggression against the family.

Statistical analysis has proven essential in providing evidence and establishing the scale and patterns of violations that occurred during conflict. Age- and gender-specific analysis can contribute to an understanding of why different groups of children are more or less vulnerable. Such an approach can enable a commission to highlight the institutional structures that may have contributed to violence and abuse against children as well as inform a broader examination of violations.¹⁸⁵ But these findings are insufficient by themselves. They need to be supported with testimonies and personalized accounts for qualitative research and analysis. A truth commission thus contributes to identifying areas for further research related to children.

Sources of information

Children can provide a unique source of information for truth commissions. Their statements can provide quantitative and qualitative data for analysis, giving an account of their experiences and expressing their views and perspectives. Participation in research also enables children and young people to contribute to the official history and can help them make sense of their personal and collective experience.¹⁸⁶

Truth commissions have also relied on other sources for information about children, primarily adults who either witnessed violations against children or experienced violations when they themselves were children. These sources provide critical perspectives on the experiences of children. In some cases parents have testified about the crimes committed against their children, but this information was not recorded because children were perceived as passive or indirect victims. It is therefore important to sensitize adult

witnesses and question them about violations against children when taking their statements.

Truth commissions can also request studies and reports from child protection agencies, NGOs, United Nations organizations, the media, academic institutions and groups led by children and young people. In Sierra Leone, for example, the Children's Forum Network prepared an official submission to the TRC on the impact of the war on children. Child protection agencies often possess important data about children in the communities where they work. Human rights NGOs regularly monitor violations against children in war zones and can provide detailed reports. Surveys are another useful method of gathering information about children's views and experiences. UNICEF and other child protection agencies regularly conduct child and adolescent surveys in schools or communities on a range of sensitive issues, such as violence, human rights, democracy and peace. Children have also played a key role in planning and implementing surveys in a number of conflict and post-conflict situations.¹⁸⁷

In 2007, the United Nations Security Council called for a monitoring and reporting mechanism to gather information on six categories of grave violations against children as a basis for improving programme response and accountability.¹⁸⁸ Implementation of the mechanism in specific countries has already made a significant difference in tracking grave violations against children and could provide a useful source for future truth commissions.

Information gathered through testimony or personal accounts may be politically sensitive and/or appropriate to share, in particular if children and their parents or guardians have not given consent. In all cases, protection of the identity of child victims, witnesses and alleged perpetrators must be not be compromised. All research conducted must give priority to the best interests of the child.

GUATEMALA

In Guatemala there were two truth-seeking efforts – the unofficial Recovery of Historical Memory Project (Recuperación de la Memoria Histórica, or REMHI), an initiative of the Catholic Church, and the official Historical Clarification Commission (Comisión de Esclarecimiento Histórico, or CEH)¹⁸⁹ – established in the peace

agreements between the Government and armed groups. These efforts used very different methods of research in documenting violations against children. CEH data and testimonies were collected by national and international investigators. Victims' testimonies were rapidly recorded through the use of questionnaires, concentrating on facts, dates and perpetrators, but little actual research was conducted on children.¹⁹⁰

The REMHI investigations were conducted over a longer period of time. They included thorough training of 600 statement-takers, many from local communities with an understanding of the culture and customs of the victims interviewed. The interviews were conducted in the victim's first language, and references to children were included in most of the testimonies.¹⁹¹

Findings from the research determined that one of every five victims of violations during the armed conflict in Guatemala was a child. More than half of the refugees and internally displaced persons were under the age of 18, and more than one quarter of those massacred were children.¹⁹² In addition, children were the direct victims of arbitrary execution, forced disappearance, torture, rape and other violations. In the Mayan community, children were specifically targeted for violence and rape. Testimonies of soldiers and members of patrols collected by the REMHI report confirm that children were deliberately murdered in an attempt to eliminate the future of the community.¹⁹³

TIMOR-LESTE

Research on children conducted by the CAVR in Timor-Leste reported a total of almost 3,000 victims under the age of 18. However, this number does not reflect the magnitude of violations against children, because in 73 per cent of cases the age of the victim was not recorded. According to the database, the majority of statement-givers did not know or could not remember the ages or dates of birth of the victims.¹⁹⁴ This can be partly attributed to the lack of emphasis given to age and birth registration in Timor-Leste.¹⁹⁵ The omission of specific information was also partly due to the narrative focus of the statement-taking process, which gave less attention to biographical details. It demonstrates the need for sensitivity

Box 4

Sierra Leone: Truth and Reconciliation Commission analyses children's status pre- and post-conflict

The final report of the Sierra Leone Truth and Reconciliation Commission examines children's traditional role in Sierra Leone society. It also explores their status before and after the war in all the major spheres affecting them, including education, health and other economic, legal and socio-cultural issues.ⁱ The report provides a brief overview of the national and international human rights instruments regulating and protecting children's rights. Based on children's statements and testimony to the truth commission, the report attempts to convey the impact of the armed conflict on children and their diverse experiences within the various armed groups. The status of children since the conflict is described, together with measures taken by both state and non-state actors in attempting to respond to their needs.

ⁱ See: Truth and Reconciliation Commission of Sierra Leone, *Witness to the Truth: Report of the Sierra Leone Truth and Reconciliation Commission*, Graphic Packaging Ltd., Accra, 2004.

and careful interviewing to enable witnesses to report more accurately on violations they witnessed.

There were also little data concerning children separated from their parents. This was partly due to a lack of information-sharing between the CAVR and the Office of the United Nations High Commissioner for Refugees (UNHCR) and political sensitivities surrounding the issue. Another reason was that some parents had consented or arranged for their children to be sent away. They may have intended to protect them from political instability and violence or may have accepted goods in exchange, creating a sense of guilt and denial.¹⁹⁶

In order to collect information about child rights violations throughout the period of the conflict, the CAVR conducted more than 100 interviews with adults who had suffered violations as children or had knowledge of the treatment of children during the occupation. It organized more than 250 community profile workshops (sessions of communal testimony) throughout the country, which included specific mention of violations against children.

The Sierra Leone TRC made significant advances in research and investigations on violations against children. Statistics on children were collected from numerous NGOs, UNICEF, UNAMSIL and the National Committee for Demobilization, Disarmament and Reintegration. The Gross Child Rights Violations Network circulated standardized forms, collecting thousands of written statements from children or their legal guardians that documented some of the most brutal acts of violence against children during the armed conflict.¹⁹⁷

From the start, the TRC decided to collect disaggregated data on children and victims of sexual violence, and its database recorded violations against children in every one of its categories. The Commission found that in specific categories – abduction, forced recruitment, rape and sexual slavery – children and adolescents suffered disproportionately high levels of abuse. This information was analysed in the chapter of the final report dedicated to the experiences of children.

The number of children and adolescents abducted by armed forces and groups was estimated based on official submissions, statements and additional research. Reliable information was difficult to obtain and data on sexual violence proved very difficult to verify, but the TRC database enabled some conclusions to be drawn. It was documented that 25 per cent of children were 13 years old or younger, 25 per cent of sexual slaves were 12 years or younger, and 50 per cent of children forced into sexual slavery were below the age of 15 when abducted.¹⁹⁸

Final report and recommendations

Despite being among those most affected, children and adolescents have often been overlooked in assessments of war and its aftermath. It is therefore important for the final report to include a full account of what happened to children. It should cover the violations of their rights, the various roles they played, the impact of war or legacies of abuse on their lives and their views, experiences and testimonies. The report should be based on careful research and analysis, and should

include recommendations for reparations and reform, both to address violations that have occurred and to prevent future violations. Several recent truth commission reports have dedicated a specific chapter to children's issues and concerns. These chapters have become an important factor in the political and public impact of truth commission reports.¹⁹⁹ The Argentina, Chile and Uruguay truth commissions included a focus on children in their reports, although a review of these reveals that the range of issues covered was limited.

Box 5

Guatemala: Two reports highlight the devastating effects of armed conflict on children

Violence against children in Guatemala during the country's more than three decades of armed conflict is documented both by the official truth commission (Comisión para el Esclarecimiento Histórico, or CEH), and the unofficial Recovery of Historical Memory project (Recuperación de la Memoria Histórica, or REMHI Project), run by the Catholic Archdiocese of Guatemala.

The CEH report notes with particular concern that "a large number of children were... victims of arbitrary execution, forced disappearance, torture, rape and other violations of their fundamental rights. Moreover, the armed confrontation left a large number of children orphaned and abandoned, especially in Mayan communities. These children saw their families destroyed, and they lost the possibility of living a normal childhood founded on Mayan culture".ⁱ

The mass murder of children was the basis for a verdict of genocide in the CEH report.ⁱⁱ The report also takes an in-depth look at the psychosocial effects of the violence on children.ⁱⁱⁱ While the REMHI report documents the perspectives of victims who relate what they saw, what they suffered, how they survived and what they expect from peace and reconciliation, the CEH report provides a historical perspective, analysing violations based on international law.^{iv}

i Commission for Historical Clarification, *Guatemala, Guatemala: Memory of silence – Report of the commission for historical clarification*, CEH, Guatemala, 1999.

ii Gibbons, Elizabeth, Christian Salazar and Guenay Sari, *Between War and Peace: Young people on the wings of the phoenix*, Lamuv, Goettingen, 2003, p. 78.

iii Commission for Historical Clarification, *Guatemala, Guatemala, Memory of silence*, Vol. IV, pp. 198–202. See also Gibbons, Salazar and Sari, *Between War and Peace*, p. 47.

iv Gibbons, Salazar and Sari, *Between War and Peace*.

Box 6

South Africa: Truth commission report looks at the impact of apartheid on children

The final report of the South African Truth and Reconciliation Commission dedicates an entire chapter to children. The report provides an overview of the impact of apartheid on children and youth who were victims of or witnesses to gross violations of human rights.ⁱ The chapter states that male children and youth were most likely to be killed, abducted, tortured or detained and to suffer other forms of ill-treatment.ⁱⁱ In terms of the ages of children and youth affected, the report states: “by far the largest category of victims to report to the Commission fell into the thirteen to twenty-four age bracket”.ⁱⁱⁱ In addition to reporting these violations, the chapter analyses their consequences for children, in particular the physiological and psychological impact. It also outlines the practical effects, such as disrupted education, dislocation, displacement and exile.^{iv}

The report provides considerable anecdotal evidence that children and young people suffered heinous violations, and it includes recommendations regarding reparations for them. These recommendations were drawn from comparative experiences in other commission reports, such as Argentina and Chile. The Reparation and Rehabilitation Policy identified children of victims as eligible for reparation. Victims who were children at the time of the violation also qualified for compensation.^v However, under the Commission’s mandate, children were not a primary target group but an ad hoc focus.

i South African Truth and Reconciliation Commission, *Truth and Reconciliation Commission of South Africa Report*, Vol. 4, ch. 9, para. 1, 2003.

ii Pigou, Piers, ‘Children and the South African Truth and Reconciliation Commission: Reflections and recommendations’, ch. 4 in Parmar, S., et al. (eds.), *Children and Transitional Justice: Truth-telling, accountability and reconciliation*, Human Rights Program, Harvard Law School, Cambridge, MA, March 2010.

iii South African Truth and Reconciliation Commission, *Truth and Reconciliation Commission of South Africa Report*, Vol. 4, ch. 9, para. 47.

iv Pigou, Piers, in Parmar, S., et al. (eds.), *Children and Transitional Justice*.

v Ibid.

The truth commissions of Guatemala, Liberia, Peru, Sierra Leone, South Africa and Timor-Leste all dedicated full-length chapters to children in their final reports.

A broader integration of children’s issues in the overall analysis is also important. This analysis may document violations of children’s social, economic and cultural rights, including access to education, health care and other basic services. It may also describe children’s experiences before and after the war. In addition, a children’s version of the report can engage young people, bring attention to their issues and give voice to their concerns.

The final report provides an opportunity to highlight human rights violations against children by combining individual case narratives with comprehensive analysis. First-person accounts also provide future generations with a more complete sense of how children experienced the conflict, as well as an understanding of the multiple roles they played. At the same time, most commissions receive thousands of statements, and the final report will not be able to provide narrative space for all of them. Most commissions have a summary record that includes the narratives

of a few broadly representative cases. A diverse representation of children’s narratives may be included, but no child should be named, nor should any information be given that could reveal the child’s identity, such as family relationships or birthplace.

A helpful reference for analysis of violations against children is the guidelines for states reporting to the Committee on the Rights of the Child.²⁰⁰ The Committee’s reporting guidelines are the most thorough international standard for assessing compliance and violations of children’s rights. Using them can help inform the structure of the commission’s reporting on children and ensure consideration of the full spectrum of child rights violations.

TIMOR-LESTE

In Timor-Leste, the CAVR final report, *Chega!* dedicated a chapter to children. The chapter discusses the violations of children’s rights as well as the role of children in Timor-Leste’s armed political conflict and liberation movement. It also addresses the controversy about whether children who were associated with the Indonesian fighting forces should be considered primarily perpetrators or victims. In the aftermath of the referendum that granted

independence to Timor-Leste, children who fought on the side of independence were considered heroes. Those who fought on the opposing side were stigmatized, and some were later targeted by supporters of East Timorese independence.²⁰¹

The *Chega!* report documents the detention, killing and sexual violation of children. It concludes that children suffered from the failure by all sides to protect civilians during hostilities.²⁰² It reports on the thousands of children who were separated from their parents and transferred to Indonesia, many of whom could not be traced and reunited with their families.²⁰³ The post-CAVR Secretariat produced a 50-page summary of the report's main findings, and a children's version of the report is anticipated.²⁰⁴

Truth commission recommendations

Truth commission final reports generally include recommendations. They typically address issues such as reparations for victims; prosecutions and amnesties for perpetrators; legislative and institutional reforms to prevent the recurrence of abuses; further exhumations or investigations; public education to disseminate findings and raise awareness; and specific follow-up measures regarding the timeframe of implementation.²⁰⁵ The commission, however, does not monitor the implementation of recommendations. Once the report is submitted, the burden of implementation is shifted onto the shoulders of government institutions, civil society and community organizations.

Box 7

Sierra Leone: The child-friendly truth commission report

The Sierra Leone Truth and Reconciliation Commission (TRC) prepared a children's version of its final report, which was presented to the President of Sierra Leone, together with the official report, on 5 October 2004. This child-friendly version of a TRC report was a first of its kind. The proposal for a children's version had first been discussed when experts and children met in Freetown in June 2001. In a written submission to the TRC, the Children's Forum Network had called for a version of the report that children could read and understand, as a measure to prevent a recurrence of what happened. The need for a children's version was anticipated because the final report would be too long and difficult for children to read. Indeed the final version of the official report was more than 2,000 pages.

Preparation of the child-friendly report was undertaken by the TRC with participation from UNICEF, the United Nations Mission in Sierra Leone (UNAMSIL) and a number of children's groups, including three national children's networks – the Children's Forum Network, the Voice of Children Radio and the Children's National Assembly. Formal submissions to the Commission by child protection agencies and others, in particular one prepared by the child-run Children's Forum Network, proved a valuable source of information. More than 100 children participated, with close involvement by a team of 15 children who met with the author daily.

Child-led discussions of the report were aired on the Voice of Children Radio in Freetown. During the country's first Children's National Assembly, held in Freetown in December 2003, children from districts all over the country met to discuss the report. Excerpts from the discussions at the Assembly were broadcast on national television and radio.

The final chapter of the child-friendly version of the report provides a plan of action for children to work with the Government, child protection agencies, community leaders, teachers and parents in reconciliation and peace-building, and in dissemination of the report.

In October 2004 when the report was presented to the President, the Children's Forum Network called for a pragmatic response to their agenda. They asked for more access to education and health care and for recreational spaces. They called for the elimination of child labour and sexual exploitation. They requested that the Parliament adopt the *Child Rights Act* and that the children most affected by the war be given special attention, especially girls who did not benefit from the demobilization programme. They appealed for the child-friendly version of the TRC report to be incorporated into the school curriculum. Many of their suggestions were not implemented due to lack of financial and political support. However, the *Child Rights Act* was adopted by Parliament in May 2007.

i United Nations Children's Fund, *Adolescent Programming in Conflict and Post-Conflict Situations*, UNICEF, New York, 2004, pp. 63–64.

Implementation of recommendations can prove to be the most challenging phase of the follow-up to the truth commission process because it depends on political will, financial resources and institutional capacity, which are often lacking. Additional factors that may either facilitate or hamper implementation are the circumstances surrounding the release of the report, how widely it is distributed, media coverage, support from civil society and the level of involvement of the international community.²⁰⁶

Early truth commissions did not specifically address children's issues in their recommendations. Among the few direct references to children and adolescents were recommendations calling for programmes of peace education and family reunification, and, in the case of Guatemala, the creation of the National Commission for the Search for Disappeared Children. More recently, truth commissions have begun to recommend measures specific to children.

Civil society organizations and child protection agencies can encourage the commission to include recommendations specific to children. Follow-up is especially important because truth commissions have short temporal mandates. Civil society can interpret the findings and recommendations of a truth commission and may prioritize the implementation of recommendations, as consensus may be lacking with regard to the implementation of others.²⁰⁷ Children and adolescents can contribute to the implementation process, engaging in their communities, schools and families to help make the report a reality.

When international actors help facilitate and support the implementation of recommendations, careful consideration should be given to balancing the importance of local ownership with the likelihood of limited national resources and other political factors. Truth commissions may be subjected to political forces, but international actors are also politicized and can be short-sighted.

Report dissemination

Final report planning should include a strategy and funding for wide dissemination of the report and its recommendations. Truth commission reports are usually lengthy, comprising multiple volumes. A children's version of the final report



Demobilized child soldiers attend a tutoring session in the village of Béoué, Côte d'Ivoire. Truth commissions aid the reintegration process by recommending long-term programmes to support demobilization, such as back-to-school campaigns, psychosocial counselling, vocational training and other services.

is useful because it can provide a summary of the full report in clear and simple language, focusing on children's experience and views. This makes the findings more accessible to both children and adults.

The final report's style, structure and content are no less important than its substance. Reports should be written clearly in an accessible style. This is especially true where literacy rates are low and where linguistic minorities, rural communities and other groups have less access to national media sources and official records. The report should be translated into local languages and made available in versions that do not require reading skills. Civil society groups and young people can assist in these efforts. For example, in Sierra Leone, in addition to the children's version of the truth commission report, a video version was produced by the NGO WITNESS in collaboration

with a local partner, Conflict Management and Development Associates, as part of the TRC follow-up project. Another group produced a senior secondary school version, including cartoon strips that illustrated simplified excerpts of the report and its recommendations accompanied by local proverbs.²⁰⁸

Culturally sensitive forms of dissemination can help make the report known to a broader audience, including children. Such measures can include:

- Production of simplified popular versions for adults as well as for children
- Wide circulation of the report among local child protection agencies and other civil society organizations
- Involving children's groups in promoting and disseminating the report
- Early engagement and collaboration with the Ministry of Education in preparing a truth commission component for the national curriculum
- Dissemination of the report to schools and teacher-training institutes so teachers can take a lead role in promotional activities
- Involvement of radio, television, newspapers and other media in awareness-raising campaigns to promote the report, while also focusing on child rights
- Design of an awareness campaign to reach children, including the use of drama
- Use of non-formal education to reach out-of-school children and to involve community and religious leaders.²⁰⁹



Liberia's Children's Truth and Reconciliation gallery opened at the Monrovia City Hall in September 2008. Inaugurated by the Vice President, it featured poems, stories and drawings by children from all parts of the country. Memorials and museums can serve as tools of human rights education, combining public art, civic space and the power of memory to build better societies in the future.

5

REPARATIONS AND MEMORIALS

“Now that you have asked us all these questions, what is the reason for this? Is it that you want to give some benefits to us?”

– Statement to the Sierra Leone Truth and Reconciliation Commission from a boy who was nine years old when abducted

Children and reparations

Reparations programmes attempt to repair the impact of violations suffered by victims during armed conflict and political violence.²¹⁰

Children’s right to remedy and reparation for grave violations of human rights and international humanitarian law is clearly established in numerous conventions, including the Convention on the Rights of the Child (article 39) and its Optional Protocol on the involvement of children in armed conflict (article 6).²¹¹ While truth commissions may recommend reparations, it is usually the responsibility of the government to implement a reparations programme.

The right to reparation has been mostly recognized in the context of legal proceedings, and few child victims have benefited.²¹²

Moreover, it is important to recognize that after widespread atrocity and war, children’s lives cannot be fully repaired. It is impossible to recover completely from the loss of family and friends, the interruption of learning and education, and damage to social and emotional development.²¹³

The key element of reparations is that they acknowledge the violations committed against victims and seek to establish their equal citizenship within society. Reparations also seek to rebuild trust among citizens and between citizens and public institutions. They do so by demonstrating to victims and others that past abuses are taken seriously and that the government is committed to making a contribution to the survivors’ quality of life.²¹⁴ While reparations can take diverse forms, the most fundamental distinctions are between material and symbolic benefits and between individual and collective distribution.

Material benefits can include financial compensation and service packages, including education, health and housing. Access to health care can include care for amputees and children with disabilities, reproductive health care and gynaecological services for victims of sexual violence, mental health care and drug rehabilitation. Children may also receive financial reparation for a parent who died as a result of human rights violations or may receive a percentage of a deceased parent’s pension. Children themselves may receive cash as a form of reparation.²¹⁵ Symbolic reparations may include measures such as public apologies, the creation of public memorials and monuments, artwork, learning centres and museums.

Both material and symbolic reparations can be distributed either individually or collectively. For example, symbolic benefits such as an official apology or a commemoration can

recognize an individual or a group of people. Likewise, material reparations can be provided individually as a scholarship or medical treatment, or collectively through the construction of a school or health-care facility. Collective reparations should have an explicit reparative aspect, for example, by targeting areas most severely affected by the conflict or by publicly acknowledging an effort to redress past wrongs.

Reparations are likely to be more effective when they are linked to other transitional justice initiatives such as truth-seeking, institutional reform, accountability mechanisms and commemoration measures. A reparations programme implemented in isolation from these other measures may prove counterproductive. Reparations without an attempt to uncover the truth about past abuses can be perceived as an effort to buy victims' silence or as 'blood money'. Or survivors may see such actions as a governmental strategy to "close the chapter on the past prematurely and leave the secrets of the past hidden".²¹⁶ Similarly, truth-seeking or other transitional justice mechanisms undertaken without a reparations component are likely to be less effective if they do not have direct impact on the victims' situation.²¹⁷

Designing and implementing a reparations programme for children

Truth commissions often make recommendations regarding the design and implementation of reparations programmes. However, providing reparations to children is a relatively new area of transitional justice and poses a number of challenges. In fact, there are few examples of successful implementation.

In Argentina, Chile, Guatemala, Peru and South Africa reparations programmes were recommended by truth commissions and have been at least partially implemented. In Timor-Leste the truth commission report recommended reparations, including for children, but this has not yet been implemented.²¹⁸ In Sierra Leone, the National Commission for Social Action initiated reparations payments in 2009 to those identified as most affected by the war, including



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amputees, victims of sexual violence and children. The sum reportedly given to each war victim was 300,000 Leones (approximately US\$78 as of publication date). Several victims noted that, while they appreciated the Government's efforts, the sum given was "not worth the salt".²¹⁹ In post-conflict contexts where resources are limited, the challenge is to design a reparations programme that is feasible but still meaningful. It is therefore essential to combine symbolic and material benefits and to link reparations programmes to other transitional justice mechanisms.

Reparations programmes should affirm the status of child victims as holders of rights, specifically the right to prompt, adequate and effective reparation.²²⁰ Elements to be considered in designing a child-friendly reparations programme include eligibility criteria and compensation, mechanisms for outreach and access to benefits, and potential funding sources.

Eligibility criteria for compensation

Determining the criteria for child eligibility is fundamental in designing a child-friendly reparations programme. An examination of how children are affected by conflict and legacies of abuse reveals that they suffer both direct and indirect violations of their rights, direct violations when they are targeted and indirect violations as a result of what happens to the adults in their lives. Children may be the victims of torture, murder, illegal detention, displacement, kidnapping or forced recruitment into armed groups. They are also affected by the killing, disappearance, death, detention, or flight of parents, teachers and caregivers, which often expose children to serious risks and leave them without access to food, shelter, health care, schooling or emotional support.²²¹

The assessment of children's eligibility for reparations should consider the multiple ways in which they have been affected. Criteria should be adapted to local conditions and should not be too narrow or too broad. If eligibility is narrowly defined, for example, by including only

In 2005, more than a decade after fleeing the country for the Democratic Republic of the Congo, traumatized children and adults reside at a transit camp in Rwanda. The truth commission was at the heart of Rwanda's effort to overcome the legacy of the genocide, and embraced a policy of community-building through dialogue.

Box 8

Chile: Reparations and children

The truth and reconciliation commission created following the end of the dictatorship in Chile outlined reparations measures for the relatives of victims of forced disappearance and killing, including children. The children of victims were eligible for a pension until age 25, and those with disabilities qualified for a pension for life; persons under age 35 were also eligible for a university scholarship. Boys who were victims and children of victims were exempted from military service. In addition, Chile's reparations law was inclusive of children born outside of marriage. In 2004, a lump-sum payment was provided to children whose age made them ineligible for the pension or who had received it for only a limited number of years before turning 25. Children of victims were also included as beneficiaries in the Comprehensive Reparations Programme in Health Care.

In 2003, another truth commission was established to examine the situations of victims of political imprisonment and torture, and to make recommendations for their reparations. Its report revealed that 1,080 of the identified 27,255 victims were younger than 18 years old at the time of their detention and torture, and 88 were younger than 13.ⁱ Several victims who had been children at the time of the violations but had not testified came forward to claim they had been excluded from the commission's mandate and outreach efforts. They stated that testimony given by their relatives had mentioned them, but they had not been advised that it was necessary for every victim, including children, to provide direct testimony to the commission in order to receive reparation. The commission reviewed these testimonies and identified an additional 164 cases of victims under 18 years of age.ⁱⁱ The most frequent request of the adults who gave testimony was to provide their children with an education.

Nevertheless, subsequent legislation limited reparations to direct victims, excluding benefits to families. In response to ongoing pressure from victims' organizations, the Government of Chile and Congress are debating a revised law that would grant a pension to widows and extend scholarships to the children of victims.ⁱⁱⁱ

i Interview conducted by Saudamini Siegrist, Child Protection Specialist, UNICEF Innocenti Research Centre, with Cristian Correa, Senior Associate, International Center for Transitional Justice, October 2009.

ii Ibid.

iii Ibid.

children who are victims of multiple crimes, the majority of war-affected children may be excluded.²²² On the other hand, if all war-affected children are given equal priority for reparations, those children most affected may not be identified for specific reparations.

In Timor-Leste, the truth commission included children affected by the conflict among the beneficiaries of the proposed reparations programme. This included children with disabilities due to gross human rights violations, children whose parents were killed or disappeared, children born out of an act of sexual violence to a single mother and children suffering psychological damage. However, only children 18 years or younger on the day the conflict ended – 25 October 1999 – were eligible for reparations as children. This excludes those who were children at the time of the violation but adults by the time the conflict ended.²²³

In a post-conflict context, eligibility for reparation is likely to be based on violations endured, as well as an assessment of what is

fair and feasible. Ideally, child survivors of serious violations should be granted reparation. This includes children orphaned by war, children who suffered amputations during war, children recruited by armed forces and groups, child mothers and their children born as a result of rape, and child survivors of torture, inhumane treatment, rape and other violations of a sexual nature.²²⁴ However, care must be taken in determining eligibility to avoid categorizing children, which could aggravate disparities or stigmatize groups identified. Assigning victims to categories can also lead to a false hierarchy in which some violations are considered to have inflicted greater suffering.

A related and important issue concerns how to assist children who may be described or perceived as both victims and perpetrators. For example, if former child soldiers are designated as eligible for reparations when other groups of children are left out, the result may exacerbate the stigma against children formerly associated with armed forces and groups. While specific groups may be identified

as eligible, reparations should be implemented with the participation and consensus of the broader community to prevent tensions and division within communities.

From a child rights perspective, the interdependence of children's political, civil, economic and social rights suggests that a child-friendly reparations policy must consider children who have experienced violations of a broad set of rights, such as forced displacement or lack of access to health care. It is important, however, that reparations are not seen as a substitute for or equivalent to the provision of state services. To have a reparative effect, they must acknowledge victims and be designed and distributed in a way that helps affirm their rights as citizens and reintegrates them into society with dignity and respect.

Outreach and access to benefits

A child-friendly reparations programme will need to consider how children will learn about, apply for and claim benefits. It will need to be sensitive to questions of language, literacy, transportation, infrastructure (i.e., identifying which government body will be responsible) and community support.

Outreach must be carefully planned so that it clearly informs children and their families, without raising unrealistic expectations. Lack of communication or miscommunication is most likely to occur in rural areas and among linguistic minorities. Outreach is especially important in establishing initial contact and helping to facilitate and verify claims. In South Africa, for example, the truth commission

Box 9

Memorials and children

Public museums and memorials, including creative projects for children, have been initiated to inform young people of past atrocities and to provide a public memory of those violations for future generations. Some examples are provided below:

- *The Children's War*: In 2005, the Imperial War Museum in London opened an exhibition titled 'Children's War: The Second World War through the eyes of the children of Britain'. Interactive and hands-on exhibitions allowed children and adolescents to explore details of children's experiences of air raids, rationing and wartime entertainment. The exhibition was part of the project 'Their Past, Your Future', aimed at bringing children together with adults who had lived through the Second World War to promote education and understanding between generations.
- *District Six Museum*: Based in Cape Town, South Africa, the District Six Museum was created to commemorate the eviction from their homes and community of 60,000 people under the apartheid regime. As part of an educational outreach mission, the Museum Ambassador Programme trains child and adolescent volunteers to talk with their peers about the history of District Six, promoting community values and tolerance. The young ambassadors are in charge of tours for schoolchildren, and explain the history of the museum while connecting the story of District Six to contemporary life. The programme is intended to be designed by young people for young people. It promotes team work and responsibility, and provides participants with work experience, practical skills and knowledge. It aims to change the perception of museums among young people and communities to a place of learning and an accessible community space that provides children and youth with a sense of ownership of their collective cultural and natural heritage.
- *Constitution Hill*: The Constitution Hill memorial, built in South Africa on the site of a prison that housed President Nelson Mandela and Mahatma Gandhi, includes a children's room that offers activities for children aged 3 to 12. Through puppetry, storytelling, creative art, poetry and drama, the room is designed to offer a safe and nurturing space to play, learn and express problems and hopes. Instruction and games are provided on the founding principles of democracy, including participation and communication. The room also contains a mural depicting artistic interpretations of children's rights, including the rights to health, nutrition, education and play.
- *Kigali Memorial Centre*: Established to commemorate the 1994 genocide in Rwanda, the centre includes an education programme designed for children and future generations of Rwandans. Officials are working with the Ministry of Education to develop a component on the history of the genocide for inclusion in the national curriculum and to further the aims of the National Unity and Reconciliation Commission.

had a clear policy on reparations, but this was not communicated to outlying communities, and many who should have received reparations were overlooked.²²⁵

In addition to engagement with children and their parents, teachers and community or religious leaders, cooperation with women's rights groups can be helpful, as women victims often prioritize opportunities for reparations in part to support their children. Follow-up is critical to ensure that children identified as eligible have actually received their intended share of benefits.

Access may be impeded by a lack of information, information provided in an inappropriate format or a lack of necessary documents, or by fear of reprisal, stigma and violence. For example, children are even more likely than adults to be illiterate and to lack financial resources that might be necessary (such as for travel, photocopying of documents, etc.) to be aware of, find out about or realize their rights. Additional challenges are that children are often not perceived as independent actors entitled to seek or receive reparation in their own right. This might be a result of cultural expectations that parents/families speak for children or the failure of many institutional processes to recognize children as legally independent.²²⁶ Addressing such challenges requires meaningful participation by children and their communities and by children's rights organizations.²²⁷

Access to benefits must also consider the specific needs of child victims of sexual violence, particularly girls. Due to fear of further stigma or threats to their physical safety, girls and women may be inhibited in presenting themselves before a truth commission and seeking reparations. Female victims of sexual violence or forced prostitution may prefer not to speak about their experiences to avoid jeopardizing their perceived eligibility for marriage or access to property, credit or other resources traditionally acquired through marriage. It is important that reparations programmes do not reinforce patriarchal constraints and gender discrimination.²²⁸

A truth commission that examines the various ways in which children have been affected and includes specific findings on children in the final report is likely to influence the extent to which children are addressed by reparations

programmes. Including gender-disaggregated data and gender analyses in a commission's report can increase the likelihood that reparations programmes will be sensitive to the different needs and experiences of girls and boys.²²⁹

Funding sources

Identifying funds to implement a reparations programme is another critical challenge. In the aftermath of war or legacies of abuse, governments are likely to be overburdened. They may be unable or unwilling to provide funds for reparations to survivors. However, the availability of resources for reparations remains a question of political will, as the same governments that claim a lack of resources for victim compensation may designate funds to spend on defence budgets or arms. Advocacy can help to influence governments in determining funding and other priorities.

While truth commissions make recommendations to governments on the design and implementation of a reparations programme, it is important to recognize that they are generally not mandated to carry out the implementation. In addition, many of the recommendations for designing and implementing a fair and effective reparations programme for children remain untested. More research and analysis is needed, in particular to assess how effectively children use the reparations they receive and the impact of reparations on individual children and their communities. This would provide a stronger basis for concrete guidance to truth commissions.

Memorials and museums

Truth commissions collect valuable information that can contribute to memorials, monuments and museums that document the violations that occur during conflict. The preservation and narration of personal and communal memory can be important for reconciliation. It may also help prevent the recurrence of human rights violations and abuses. Memorials and museums can serve as tools of human rights education, combining public art, civic space and the power of memory to build better societies in the future.²³⁰ By restoring memory

and documenting the history of war, these forms of symbolic reparation can play a role in public recognition of wrongs committed.

It is important to create opportunities to include children's testimonies and voices in the creation of public memorials. For example, memorials can commemorate the actions of young people who took risks to speak out against violence and abuse, and they can acknowledge a commitment to end the cycle of violence.²³¹ In a number of instances, symbolic reparations have helped promote inter-generational education.

Painting murals, organizing vigils of remembrance and erecting monuments can be a source of learning and healing for young people. In the words of the youth coordinator

of a teen group in the Balkans, which raised funds to rebuild a fountain in the centre of town following the war, "We wanted our past, our present, and our future to come together. The rebuilt fountain was to become a symbol of a united youth who know their roots and their past and who are willing to make progress and a better life for all. We wanted a symbol that gave hope but that also served as a lesson."²³²

Finally, it is important to create child-friendly memorial sites to avoid causing further trauma for children visiting the sites. The involvement of children and youth themselves in planning, designing and creating memorial sites can both help assure that sites are sensitive to their experiences and include the young generation in healing and reconciliation.

Children savour the chance to study again in a primary school in Dili, Timor-Leste. Education is fundamental if truth commissions are to have a long-term impact and to build a foundation of respect for human rights.



6

CHILD-FOCUSED INSTITUTIONAL REFORM

Linkages between truth commissions and institutional reform

Efforts to improve the future welfare of children in a post-conflict environment require a willingness to revisit the past, identify the root causes of violations against children and reform policies and institutions. A child-sensitive truth commission should analyse how state policies and institutions affected children before and during political violence and armed conflict. Once a truth commission has identified institutional gaps and failures that may have exposed children to violations, it can recommend institutional reforms to better protect children's rights.

Child-focused institutional reform should build a protective environment, emphasizing the importance of systems and the role of government institutions in protecting children from violence, abuse and exploitation.²³³ Such reform is holistic in scope, at both community and national levels. This means institutions and systems such as health, social welfare, education, the judiciary and the police and security sectors should promote child rights and support a protective environment for children.

The truth commission should call for state support of child rights and a participatory approach to engage with young people and listen to their views throughout the reform process. Support might include the adoption of a child rights act, implementation of a national

youth policy, provision of technical assistance to child and youth groups, and leadership training workshops for children.

Demobilization and reintegration

For children involved in hostilities during armed conflict, reintegration at the end of the war is crucial to reconciliation. Truth commissions can aid the process by recommending long-term programmes to support demobilization, back-to-school campaigns, psychosocial counselling, vocational training and other services. In Sierra Leone, the TRC called for strict rules limiting 'extra school fees' for books, uniforms or extra-curricular activities to promote free access to primary education. This was in response to children's statements to the commission expressing their overwhelming desire to return to school.

Opportunities to integrate the work of a truth commission with disarmament, demobilization and reintegration processes may be limited as children are likely to be demobilized before transitional justice mechanisms are in place. The reintegration phase may present the best opportunity for a truth commission to build on demobilization efforts. At that point it can convene community discussions and other events that help children and families understand the difficulties they face and how to overcome them. Truth commissions can recommend institutional support for reintegration and measures to prevent the re-recruitment of children.

The process of reintegration is likely to depend on the circumstances and the nature of violations that occurred during the conflict. If children have been abducted and forced to commit atrocities, direct engagement with communities may be needed to assist their return. In cases where children have been recruited into armed groups that demand loyalty to commanders, the reintegration process may require long-term support to re-establish community ties. Traditional rites and forgiveness ceremonies may help restore a child's family and community relationships and should complement the work of truth commissions.

In addition, life-skills training can build a sense of social responsibility and respect for human rights. Programmes in support of reintegration for former child soldiers need to be inclusive and community-based. Preferential treatment with regard to education, vocational training or other benefits for demobilized children may cause resentment within the community and among their peers. For this reason, the support provided should not only benefit child perpetrators and victims, but rather provide equal access and opportunities for all children.²³⁴

The reinvigoration of local economies, both formal and informal, can create opportunities and help ease the difficulties for children who return from war. This is crucial for their self-image and self-esteem. If children emerging from war have no real possibility for a future vocation they will become frustrated. Truth commissions should therefore recommend that state institutions and community groups support apprenticeship programmes based on the needs of the local economy. Economic development should also be stressed as a priority during transition.

Security sector reform

The security sector includes military forces and law enforcement, as well as governance, legislative and oversight bodies, including some civil society organizations. The reform of these structures should include measures to end societal abuses and violence against children, in all forms.²³⁵ Sensitizing and training authorities and public officials on international law and child rights can strengthen the state's ability to enforce protective procedures.²³⁶

Integrating police reform into broader security sector and institutional reform efforts, including reform of the judiciary and prisons, is needed. Child rights and human rights training for the police must be complemented by oversight mechanisms, rewarding integrity and good performance, transparency in all hiring and firing, budget accountability and efficient methods of administration, management and procurement.²³⁷ All of these elements can help establish a protective environment for children.²³⁸ For example, in Timor-Leste the establishment of a Vulnerable Persons Unit with the mandate to investigate crimes against children and women has been part of police reform. Special sessions on child rights and women's rights have been incorporated into police academy training programmes for newly hired police officers. In 8 of 13 districts a child-friendly investigation room has been established with assistance from UNICEF.²³⁹

A gender-sensitive approach is crucial for reforming the security sector. A truth commission that has gender-disaggregated data on the forms of violence experienced can make specific recommendations for security sector reform that are sensitive and appropriate to both boys and girls. Training may be required to inform law enforcement officials of new mandates, as well as to develop appropriate protocols for handling victims and survivors.²⁴⁰

Security sector reform is a complex process. It must often balance the short-term need to respond to direct threats to human or state security with long-term efforts to enhance domestic capacity to handle these threats. A process that actively encourages children and young people to participate in decision-making is likely to give them a sense of their contribution and role within the community.²⁴¹

Rule of law and legislative reform

An important focus of institutional reform is re-establishing the rule of law. Transitions provide unique opportunities to introduce reforms consistent with the principles outlined in the Convention on the Rights of the Child and to promote a focus on children in relevant law and legal processes. National law reform should aim to incorporate international standards into the domestic legal framework, including the Optional Protocols to the Convention on the

Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ('Beijing Rules'), the Convention on the Elimination of All Forms of Discrimination against Women and other international standards. A truth commission can recommend measures to end impunity and pursue prosecution for war crimes committed against children, including underage recruitment, sexual violence and slavery.

A comprehensive strategy of legislative reform requires commitment at all levels. Genuine reform is essential to build a foundation of trust in public institutions that will support and protect human rights and the rule of law. This will include allocation of sufficient financial resources

If violations have targeted children, the structures that permitted or facilitated the abuse must be disabled and replaced with properly functioning ones. Financial resources should be included in the government's budget for these purposes.

Recommendations for legal reform should call for a specialized system of justice for children, alternative processes for accountability and social welfare programmes.²⁴² All actors in the juvenile justice system, including judges, lawyers and social workers, should receive training on the Convention on the Rights of the Child and other human rights and humanitarian law. The primary objective of a juvenile justice system should be rehabilitation.²⁴³

In Timor-Leste, the CAVR report recommended harmonizing national laws with the Convention on the Rights of the Child, providing adequate capacity to institutions responsible for its implementation and promoting greater understanding of the Convention among communities, particularly through the education system, the media and the Catholic Church.²⁴⁴ Child rights has been placed high on the government agenda, including initiatives to establish a National Commissioner for Children in the Prime Minister's Office and to develop a Child Rights Code. However, given the minimal attention the CAVR recommendations have received, it is unlikely these initiatives have been generated as a result of the CAVR report.²⁴⁵

In Sierra Leone, the TRC report recommended legal reform based on the Convention on the

Rights of the Child. It also called for expansion of the Ministry of Youth and Sport to raise the profile of youth and to implement the National Youth Policy, which was launched in June 2003. The TRC recommendations further called for passage of the Child Rights Bill as part of the post-conflict agenda. The bill was approved by Parliament and entered into law in June 2007. Anticipating the countrywide elections later that year, the Youth Leaders, a group of 150 young people representing all districts of the country, drafted a manifesto for young people's rights as a tool for political advocacy and negotiation. The Manifesto calls for implementation of the TRC recommendations.²⁴⁶

Education and curriculum reform

Educational reform should be a centrepiece in national reconciliation and peace-building processes. This is crucial for post-conflict reconciliation because education is often implicated in national or civil conflicts, reflecting ethnic or cultural discrimination or injustice that can lead to societal intolerance and violence. Curriculum reform can help address prejudice that may have provoked discriminatory practices. It can also introduce civic and human rights education, conflict resolution, objective history and social studies, gender studies and related disciplines. To be successful, curriculum reform needs support from both the ministry of education and the wider community. Teachers, parents and children should be engaged in designing and developing the curriculum to promote acceptance for new policies and methodologies and build a sense of ownership.

Education is key for truth commissions to achieve long-term impact and to build a foundation of respect for human rights. Early engagement between the truth commission and the ministry of education is essential to build political support, establish information-sharing and identify common goals. It may be useful to appoint one commissioner or staff member to act as the focal point within the education ministry to coordinate on issues such as curriculum reform, community education and integration of the children's version of the truth commission report into the public school curriculum. The strategy should include both a civic education programme and the development of a TRC-based school

curriculum for primary and secondary schools, as well as for universities. In addition, public education can serve as an effective vehicle for disseminating truth commission findings and generating broad public support to implement TRC recommendations.

Some recent efforts have attempted to link truth commissions with education as a way of generating public awareness and building a foundation for human rights at local and national levels. Those efforts have been limited, however, by a lack of political will, a shortage of resources for curriculum development, or a failure to engage with the ministry of education early in the process of the commission's work.

In Liberia, a Peace, Human Rights and Citizenship Education curriculum is under development. It addresses issues such as human rights and responsibilities, conflict resolution, non-discrimination, gender roles and gender parity, democratic skills and justice and accountability. A component based on the Liberian TRC was proposed for the curriculum so that its findings and recommendations reinforce the importance of human rights and active citizenship among young people and serve as a tool in reconciliation and prevention of future conflict.

The introduction of a curriculum component based on truth commission findings will depend on political will within the government and its ministries. The school curriculum is an integral part of social identity, underpinning national beliefs and informing the broader political agenda. In a post-conflict situation, curriculum reform should be founded on principles of human rights, citizenship and representative government. Its successful implementation will depend on wide support from the government and the public.

Education in reconciliation contexts may also play a major role in facilitating the return and reintegration of children into families and communities. The most vulnerable groups – former child soldiers, out-of-school children, children with disabilities – frequently need additional assistance to overcome the obstacles they face in restarting their education. Support for back-to-school programmes and vocational training can address these issues and act as a catalyst for reintegration. In many cases, children are unable to return because their former communities are destroyed. Special

attention is needed to locate extended family or foster care and to follow up on the children's long-term welfare.

During periods of transition, education can help children and communities re-establish a daily routine. This can initially build on psychosocial support for children, with a focus on recreation and play.²⁴⁷ Schools can also become a hub for introducing new and essential educational components in post-war communities, such as landmine awareness, HIV and AIDS prevention, life-skills training, child rights and sports and recreation. Gender-based strategies are also needed to address the specific needs of girls. Community leaders, parents and young people must be involved in these efforts from the beginning to alleviate fears and create community ownership.

Post-conflict education, together with vocational training, helps children prepare for the future. Post-conflict economies are frequently unstable and uncertain, creating anxieties for young people who may have little trust in public institutions. If these anxieties are not addressed constructively they can become a source of further unrest and conflict. Truth commissions can help create awareness within communities of the need for educational reform.

Sierra Leone: Accelerated learning

In Sierra Leone, two educational programmes were crucial in facilitating the reintegration of children returning from the war. Thousands of children had been abducted or recruited into fighting forces. Their return was fraught with difficulties, including the resistance of communities to reconciling with children known to have engaged in atrocities. The National Commission for Disarmament Demobilization and Reintegration, with the support of UNICEF, implemented the Community Education Investment Programme (CEIP) and the Complementary Rapid Education for Primary Schools (CREPS). CEIP activities supported teacher training and provided school furniture and recreational supplies to schools that agreed to enrol demobilized child ex-combatants. These strategies and collaboration with community leaders, parents and teachers helped reduce the resentment against these children. The CREPS programme aimed at accelerating the education of adolescent-age former child soldiers. Both programmes helped children

gain access to future economic opportunities. Thousands of children benefited, but the reach of the programmes was limited by a lack of resources and weak government commitment to teacher support and salaries.²⁴⁸ The Government did not act on recommendations to include the TRC in the school curriculum.

Chile: Community-based non-formal learning

The Chile TRC called for its final report, published in 1991, to be incorporated into the formal education system and for community-based non-formal education to be provided to the general public. While the general concept of human rights has been introduced in some parts of the curriculum, overall, these recommendations have not been implemented due to a lack of consensus on critical issues among different political and social groups. However, a recommendation of the 2004 final report of the Commission on Political Imprisonment and Torture resulted in the distribution of all of the human rights investigative reports in Chile – including the 1991 TRC report, the 1996 report of the Corporation for Reparations and Reconciliation, and the 2004 report of the Commission on Political Imprisonment and Torture – to schools, universities and public libraries throughout the country.

South Africa: Human rights curriculum

The TRC recommended introduction of a human rights curriculum into the formal education system, addressing issues of racism, gender discrimination, conflict resolution and child rights. The Commission also emphasized the importance of education in promoting socio-economic rights and a culture of respect for human rights. Some mention of the TRC has been incorporated into the school curriculum, but teaching resources remain limited. In fact, most South Africans have never seen the findings and recommendations of the TRC. A popular report of the TRC's work was drafted but has not been published.²⁴⁹

Guatemala: Curriculum reform

In Guatemala, both the CEH and REMHI reports recommended curriculum reform to address human rights and promote tolerance and mutual respect. The CEH report specifically called for primary and secondary school

curricula to address the causes and consequences of the conflict. While the government has not given priority to implementing the recommendations, some steps have been taken to promote education in democracy, citizenship, tolerance and peace building. So far these have included a number of innovative NGO projects, with international and United Nations support. Results include the production of educational and training materials and a national workshop, Educating for Peace. The Ministry of Education has participated in some of the activities, and attempts have been made to initiate broader educational reform. But curriculum development and reform at the national level has not been supported.²⁵⁰

Peru: A CVR curriculum

In Peru, the CVR report emphasized the need for educational reform to promote human rights and democratic values and supported the development of a peace curriculum. The educational recommendations focused particularly on improving the quality of rural schools, prioritizing inter-cultural education, improving girls' literacy, transforming authoritarian pedagogy and violence in schools, and encouraging learning for citizenship and democratic values. A curriculum based on the CVR for primary and secondary school students was developed through an NGO-university partnership, with the intention of incorporating it into Peru's national curriculum as a supplementary resource. The curriculum was piloted and distributed in 2,600 schools, but due to a change in government the validation process for the CVR curriculum stalled and the curriculum was never approved by the Ministry of Education.²⁵¹

Timor-Leste: Popular version of the final report

In Timor-Leste, the CAVR recommended that the Ministry of Education work with the post-commission secretariat to develop a CAVR-based curriculum component and other educational materials on human rights, reconciliation, history, law, gender studies and relevant disciplines.²⁵² The Secretariat is being consulted by the Ministry of Education in revising the primary school curriculum and developing the pre-secondary curriculum to incorporate findings from the CAVR into history and civic education modules.²⁵³



Young children peer through an opening in the wall of their classroom in Kasese District, Uganda. Despite being among those most affected, children and adolescents have often been overlooked in assessments of war and its aftermath. The implementation of transitional justice mechanisms must take into account the rights, best interests and special needs of children.

CONCLUSIONS

“They need to put new laws in place, because the old laws are useless. Because, in the past, they put many mines in Tzalbal. That is why the war began. If they are going to make new laws, they should make them so that this history cannot repeat.”²⁵⁴

– A boy of unknown age in Guatemala

The period following political violence or armed conflict presents both challenges and opportunities for children and youth. New patterns of violence may emerge that directly or indirectly affect children. Young people who feel marginalized by a peace process that failed to consult them may be a source of renewed violence and unrest.

The importance of engaging children and young people in justice, reconciliation and peace-building efforts is clear. Children have a right to express their views and to contribute to decisions affecting them, including after a conflict has ended. In addition, children who may have participated in violations or crimes have the best prospects of dealing with their past if they are given the opportunity to account for their experiences through non-judicial processes. All children must be able to share their experiences, memories and hopes for the future in a protective environment.

As the examples in this study have illustrated, truth commissions present one venue for children’s voices to be heard and for their experiences and needs to be addressed. The more challenging questions are specific to each

context. They focus on which settings are most appropriate, what risks are involved, what children themselves have to gain through participation and what impact their participation has on their own rehabilitation and social reintegration. The meaningful participation by children in truth commissions requires adequate psychosocial assistance throughout the process as well as provisions for their physical safety and long-term community support. The long-term effects of conflict and violence can negatively affect the social, intellectual, mental and physical development of children and limit their full participation in their communities. It is therefore imperative to invest in and develop mechanisms that specifically help children to deal with the effects of violence in countries recovering from conflict.

Beyond the individual level is the question of what it means for society to consider the impact of conflict on children. Truth commissions play an important role in documenting the magnitude of violations committed against children and contributing to accountability for such crimes. They also provide an important means of understanding the impact of war on children, examining their involvement in conflict and linking them with other processes that may assist their reintegration.

However, as shown through examples provided from a number of experiences with truth commissions, no one mechanism can address all these requirements; truth commissions must

work in complementarity with other transitional justice processes. A spectrum of post-conflict initiatives must be considered and utilized to deal with the needs of these children and to ensure accountability, which serves sustainable peace and reconciliation. Examining the broader picture that has led to widespread rights violations against children can also help frame the need for child-friendly institutional reforms, create incentives for reparations programmes for children, and develop strategies for long-term reintegration measures such as educational programmes and vocational training. Truth commissions may also be well placed to recommend the creation of memorials that explicitly recognize children's experiences and their contributions to peace and reconciliation efforts.

Truth commissions offer significant potential for involving children, yet they are temporal bodies with limited mandates, resources and capacities. Programmes and organizations that seek to address children's needs and experiences in post-conflict settings should be cognizant of the need for longer-term follow-up and support, as well as for advocacy measures to implement truth commission recommendations related to children. Drawing on empirical evidence from countries with experiences of truth commissions, this study argues for involvement and ownership of child rights and child protection organizations in the work of these commissions from the outset. However, the real work begins when the truth commission closes its doors. It is these same organizations that will need to safeguard the interests of affected children by pushing for implementation

of recommendations and measures that specifically address the needs of children in these societies.

The challenges posed by children's involvement in truth commissions have generated great interest. The process has also exposed the need for effective collaboration between child protection agencies and child rights advocates on the one hand, and transitional justice practitioners and truth commissions on the other. It is anticipated that many of the concerns raised here will be a source of debate and the impetus for further discussion. Ideally they will also contribute to creative and innovative practice in improving the protection and participation of children in truth commissions.

Additional research and documentation of the work of existing and future truth commissions is also critical. This will help deepen the knowledge and understanding of the opportunities and challenges presented by children's participation in truth commissions and in peace-building activities.

Ultimately, as the evidence suggests, creating safe avenues for children to participate in justice and reconciliation processes can help shape a society's respect for children's rights. This will contribute to their protection and participation, and ultimately to preventing further violence and abuse. It is not only a question of how truth commissions can help societies to heal their children, but how the next generation of children can contribute to building a more just and peaceful future within their societies.

NOTES

EXECUTIVE SUMMARY

- 1 United Nations, The rule of law and transitional justice in conflict and post-conflict societies, report of the Secretary-General, S/2004/616, United Nations, New York, 23 August 2004, para. 8.
- 2 As articulated in the Convention on the Rights of the Child, A/RES/44/25, United Nations, New York, adopted 20 November 1989, article 12.
- 3 The Convention on the Rights of the Child addresses the full spectrum of rights and recognizes all rights as indivisible and interdependent. Many of the obligations in the Convention are affirmed and expanded upon in the Optional Protocol to the Convention on the involvement of children in armed conflict (articles 6, 7) and the Optional Protocol on the sale of children, child prostitution and child pornography (articles 8, 9, 10).
- 4 See: Walker, Margaret, *The Gender of Reparations: Unsettling sexual hierarchies while redressing human rights violations*, ed. Ruth Rubio-Marín, Cambridge University Press, Cambridge, 2009.
- 5 Ibid.

INTRODUCTION

- 6 This study uses the definition of child provided in the Convention on the Rights of the Child: every human being under the age of eighteen years. The definition for adolescents is taken from the World Health Organization: persons from 10 to 19 years of age, and 'young people' persons from 10 to 24 years of age.

CHAPTER 1

- 7 UNICEF Innocenti Research Centre, unpublished outcome document from the Expert Discussion on Transitional Justice and Children, UNICEF IRC Florence, 10–12 November 2005.
- 8 United Nations, Impact of Armed Conflict on Children, Report of the expert of the Secretary-General, Ms. Graça Machel, submitted pursuant to General Assembly resolution 48/157, A/51/306, United Nations, New York, 26 August 1996, para. 137.
- 9 Save the Children, *Forgotten Casualties of War: Girls in armed conflict*, Save the Children, London, 2005, pp. 1, 11. See also: Machel, Graça, *The Impact of War on Children: A review of progress since the 1996 United Nations report on the impact of armed conflict on children*, Hurst & Co., London, 2001, p. 17.
- 10 The total number of Member States that have ratified the Convention on the Rights of the Child has surpassed that of all other conventions: at time of publishing 193 states were

party to the Convention. See: United Nations Treaty Collection, chapter IV, Human Rights, 11, Convention on the Rights of the Child; and University of Minnesota, Human Rights Resource Center, 'From Concept to Convention: How human rights law evolves [webpage], www1.umn.edu/humanrts/edumat/hreduseries/hereandnow/Part-1/from-concept.htm, accessed 21 March 2010.

- 11 For Guatemala, see: Parmar, S., et al. (eds.), *Children and Transitional Justice: Truth-telling, accountability and reconciliation*, Human Rights Program, Harvard Law School, Cambridge, MA, 2009., ch.1. See also: United Nations Verification Mission in Guatemala (MINUGUA). For the Democratic Republic of the Congo, see: International Rescue Committee, *Mortality in the Democratic Republic of Congo: An ongoing crisis*, (updated 2006–7), IRC, New York, n.d.
- 12 The Committee on the Rights of the Child noted in its 1992 thematic debate on children in armed conflict that the Convention on the Rights of the Child includes no general derogation clause permitting a state to suspend some rights in certain situations, such as public emergencies; the human rights of children should be safeguarded at all times, including during public emergencies and in times of armed conflict. Committee on the Rights of the Child, 'General discussion on children in armed conflicts', CRC/C/10, Office of the United Nations High Commissioner for Human Rights, Geneva, p. 20.
- 13 The Optional Protocol on the involvement of children in armed conflict raises the age of voluntary recruitment by states and forbids non-state armed groups from all recruitment and use of children under 18 in hostilities. In 2007, the Paris Commitments to Protect Children from Unlawful Recruitment or Use by Armed Forces or Armed Groups and the Paris Principles on Children Associated with Armed Forces or Armed Groups were endorsed by 58 states. Although the Commitments and Principles are not legally binding, they give a clear indication of an evolving consensus to end the recruitment of children under 18 by armed forces or groups and their use in armed conflict, and to ensure their reintegration.
- 14 Security Council Report, *Cross-cutting Report No. 1: Children and Armed Conflict*, Security Council Report, New York, 4 February 2008.
- 15 United Nations Security Council Resolutions on Children and Armed Conflict include: 1261 (1991), 1314 (2000), 1379 (2001), 1460 (2003), 1539 (2004), 1612 (2005) and 1882 (2009). For more information, see the website of the Office of the Special Representative of the Secretary-General for Children and Armed Conflict, www.un.org/children/conflict/english.
- 16 Machel, Graça 'Impact of Armed Conflict on Children', report submitted pursuant to General Assembly resolution 48/157, A/51/306, United Nations, New York, 26 August 1996. For a Glossary of Progress on protection of children's rights in

- armed conflict, see Machel, Graça, *The Impact of War on Children: A review of progress since the 1996 United Nations report on the impact of armed conflict on children*, Hurst & Co., London, 2001, pp. 189–193. See also: The 10-year review of the Machel Study: United Nations, Report of the Special Representative of the Secretary-General for Children and Armed Conflict, A/62/228, United Nations, New York, 13 August 2007.
- 17 No Peace Without Justice and UNICEF Innocenti Research Centre, *International Criminal Justice and Children*, No Peace Without Justice/UNICEF IRC, 2002, pp. 62–66.
 - 18 Rome Statute of the International Criminal Court, A/CONF.183/9, adopted 17 July 1998, article 8(2)(b)(xxvii) and (e)(vii).
 - 19 Of the 12 individuals publicly indicted by the ICC to date, six are charged with crimes against children. Those charged in relation to the use of child soldiers in the Democratic Republic of the Congo include Thomas Lubanga Dyilo, Bosco Ntaganda, Germain Katanga, Mathieu Ngudjolo Chui and three leaders of the Lord's Resistance Army, Joseph Kony, Vincent Otti and Okot Odhiambo. For more information, see ICC Pre-Trial Chamber I, Case *The Prosecutor v. Thomas Lubanga Dyilo*, Decision on the confirmation of charges, 29 January 2007, pp. 153–157, available at www.icc-cpi.int/iccdocs/doc/doc571253.pdf; Warrant of Arrest for Joseph Kony issued on 8 July 2005 as amended on 27 September 2005, doc ICC-02/04-01/05-53, pp. 13–19, available at: www2.icc-cpi.int/iccdocs/doc/doc97185.pdf; Warrant of Arrest for Vincent Otti, 8 July 2005, doc ICC-02/04-01/05-54 pp. 12–20, available at: www.icc-cpi.int/iccdocs/doc/doc97189.PDF; Warrant of Arrest for Okot Odhiambo, 8 July 2005, doc ICC-02/04-01/05-56, pp. 10–11, available at: www.icc-cpi.int/iccdocs/doc/doc97197.pdf; ICC Pre-Trial Chamber I, Case *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, Decision on the confirmation of charges, 30 September 2009, pp. 113–115, available at: www.icc-cpi.int/iccdocs/doc/doc571253.pdf.
 - 20 Statute of the Special Court for Sierra Leone, articles 4 and 5.
 - 21 See: article 2(g) and article 3. Forced marriage was also adjudicated by the Special Court for Sierra Leone, although it had not been specifically included in the Statute. The Special Court for Sierra Leone has recognized that forced marriage constitutes a crime against humanity. There are continuing debates as to whether forced marriage should be acknowledged as a specific crime or whether it should be encompassed under other inhumane acts. In its first year of operation the Special Court issued 10 indictments, all of them alleging the use of children in active hostilities. Nine of the indictments included charges of widespread or systematic use of sexual slavery of women and girls.
 - 22 United Nations, Report of the Secretary-General, The rule of law and transitional justice in conflict and post-conflict societies, S/2004/616, United Nations, New York, 23 August 2004, para. 8.
 - 23 Many of the obligations in the Convention are affirmed and expanded upon in the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (articles 6, 7) and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (articles 8, 9, 10).
 - 24 Cohn, Ilene, 'Progress and Hurdles on the Road to Preventing the Use of Children as Soldiers and Ensuring their Rehabilitation and Reintegration', *Cornell International Law Journal*, Vol. 37, No. 3, 2004, p 7.
 - 25 United Nations, Resolution 1261 (1999), United Nations, New York, 30 August 1999, para. 7.
 - 26 United Nations, Resolution 1379 (2001), United Nations, New York, 20 November 2001, para. 9(a) and para. 8(e).
 - 27 See: The Principles and Guidelines on Children Associated with Armed Forces or Armed Groups, ('Paris Principles'), February 2007. This non-binding instrument had been endorsed by 76 States.
 - 28 The human rights approach is based on the principles of accountability and rule of law, universality, interdependence, indivisibility and participation, and the four foundation principles of the Convention on the Rights of the Child – non-discrimination; best interests of the child; right to life, survival and development; and respect for the views of the child. The rights-based approach to programming reflects the universally recognized principles that underpin the Convention and the Convention on the Elimination of All Forms of Discrimination against Women: inter alia, the equality of each individual; the inherent dignity of each person; and the rights to self-determination, peace and security. This approach is equally relevant for both development and emergency programming. Fundamental to it is the affirmation that children are subjects of rights and rights holders, not recipients of charity. This change in attitude also initiates a process whereby children, within the context of their evolving capacities, participate in the processes and decisions that concern them and affect their lives. For more details, see United Nations Children's Fund, 'Guidelines for Human Rights-Based Programming Approach', CF/EXD/1998-004 (internal document), UNICEF, New York, 21 April 1998.
 - 29 See: Discussion of the application of the 'best interests of the child' principle in the context of truth commissions in ch. 2.
 - 30 Volkmann, Christian Salazar, 'Child Rights in Truth Commission Reports', technical paper for the preparation of the Truth Commission for Sierra Leone; report of the technical meeting convened by UNICEF, National Forum for Human Rights, United Nations Mission in Sierra Leone, Human Rights Section, annex 6, pp. 14–28.
 - 31 See, for example: Mandani, Mahmood, 'The TRC and Justice', in Dorsman, Robert, Hans Hartman, and Lineke Noteboom-Kroenmeijer (eds.), *Truth and Reconciliation in South Africa and the Netherlands*, Netherlands Institute for Southern Africa, Amsterdam, 1999. See also: Pigou, Piers, 'Children and the South African Truth and Reconciliation Commission', ch. 4 in Parmar, S., et al. (eds.), *Children and Transitional Justice*.
 - 32 See: Simpson, Graeme, 'Shock Troops and Bandits: Youth, crime and politics' in Steinburg, Jonny (ed.), *Crime Wave: The South African underworld and its foesed*. Witwatersrand University Press, Johannesburg, 2001.
 - 33 UNTAET Regulation 2001/10, 'On the Establishment of a Commission for Reception, Truth and Reconciliation in East Timor', section 2, United Nations Transitional Administration in East Timor, Dili, 2001. See also: Hirst, Megan, and Ann Linnarsson, 'Children and the Commission for Reception, Truth and Reconciliation in Timor-Leste', *Innocenti Working Paper No. 2010-07*, UNICEF Innocenti Research Centre, Florence, June 2010.
 - 34 Bazemore, Gordon, and Lode Walgrave (eds.), *Restoring Juvenile Justice: An exploration of the restorative justice paradigm for reforming juvenile justice*, Criminal Justice Press, Monsey, NY, 1999, p. 19.
 - 35 Duthie, Roger, and Irma Specht, 'DDR, Transitional Justice, and the Reintegration of Children Formerly Associated with Armed Forces and Armed Groups', *Research Brief*, International Center for Transitional Justice, New York, February 2010, p. 15.
 - 36 See: Stovel, Laura, and Marta Valinas, 'Restorative Justice after Mass Violence: Opportunities and risks for children and youth', *Innocenti Working Paper No. 2010-15*, UNICEF Innocenti Research Centre, Florence, June 2010. See also: Bazemore, Gordon, and Lode Walgrave (eds.), *Restorative Juvenile Justice: Repairing the harm of youth crime*, Criminal Justice Press, Monsey, NY, 1999.
 - 37 Coalition to Stop the Use of Child Soldiers, *Child Soldiers Global Report 2008*, Coalition to Stop the Use of Child Soldiers, London, 2008, p. 30.
 - 38 Duthie, Roger and Irma Specht, 'DDR, Transitional Justice, and the Reintegration of Children', p. 15.
 - 39 See: 'Education and curriculum reform', ch. 6 of this publication for further discussion of education and curriculum reform.
 - 40 Coalition to Stop the Use of Child Soldiers, *Child Soldiers Global Report 2008*, p. 35.
 - 41 The text in this section has been adopted from materials prepared for the UNICEF Training Session for Liberian Truth and Reconciliation Statement-Takers, Monrovia, Liberia, 22–26 August 2006.

- 42 For a full discussion of the concept of evolving capacities embodied in the Convention on the Rights of the Child, see Lansdown, Gerison, *The Evolving Capacities of the Child*, UNICEF Innocenti Research Centre, Florence, 2005.
- 43 See: Chapter 5 of this publication for further discussion of the importance of evolving capacities in child and adolescent statement-taking.
- 44 Lansdown, Gerison, *The Evolving Capacities of the Child*, pp. ix–xi.
- 45 Agenda for War-Affected Children, endorsed by 132 governments at the International Conference on War-Affected Children, Winnipeg, Canada, September 2000.
- 46 The Argentine report registered 672 children from a total number of nearly 9,000 disappeared persons; in Chile victims under 19 years of age represented no more than 5 per cent of the total. The Salvadoran Commission mentions only two massacres involving victims under the age of 18. In Argentina, however, the truth commission was mandated to determine the whereabouts of children who were separated from their parents. See: National Commission on the Disappearance of Persons (La Comisión Nacional sobre la Desaparición de Personas, CONADEP), *Nunca Más*, Editorial Universitaria de Buenos Aires, Buenos Aires, 1984.
- 47 Gibbons, Elizabeth, Christian Salazar and Guenay Sari, *Between War and Peace: Young people on the wings of the phoenix*, Lamuv Verlag, Goettingen, 2003.
- 48 The report of the *Truth and Reconciliation Commission of South Africa Report*, Vol. 4, ch. 9, para. 7: “A critical debate arose before the hearings as to whether or not children under the age of eighteen should appear and testify at the hearings. It was felt that the formal structure of the hearings might intimidate children and subject them to additional trauma. In order to discuss this issue, the Commission held a series of meetings and workshops and sought the opinions of international organisations such as the United Nations Children’s Fund (UNICEF) and over thirty South African NGOs working with children and youth. The final decision of the Commission was that children under the age of eighteen would not testify.”
- 49 *Truth and Reconciliation Commission of South Africa Report*, Vol. 4, ch. 9, ‘Special Hearing: Children and youth’. See also: Gibbons, Salazar and Sari, *Between War and Peace: Young people on the wings of the phoenix*, and Pigou, Piers, ‘Children and the South African Truth and Reconciliation Commission’, in Parmar, S., et al. (eds.), *Children and Transitional Justice*.
- 50 During the internal armed conflict in Peru, hundreds of children were killed, witnessed the violent torture and death of family members, or were left orphaned and abandoned. Adolescents were recruited into the revolutionary movements and many were forced to use violence against the unsupportive people in their own communities. The Comisión de la Verdad y Reconciliación was in operation from 2001 to 2003.
- 51 Interview with Eduardo Gonzalez, former staff member of the Comisión de la Verdad y Reconciliación, 2008.
- 52 Bakker, Christine, ‘Truth and Reconciliation Commissions in Guatemala and Peru: The children’s perspective’, included in the annex of the outcome document of the expert meeting on transitional justice and children, convened at the UNICEF Innocenti Research Centre, Florence, November 2005.
- 53 See: Cook, Philip, and Cheryl Heykoop, ‘Child Participation in Truth and Reconciliation Commission’, ch. 5 in Parmar, S., et al. (eds.), *Children and Transitional Justice*.
- 54 For greater detail, see: Sowa, Theo, ‘Children and the Liberian Truth and Reconciliation Commission’, ch. 6 in Parmar, S., et al. (eds.), *Children and Transitional Justice*.
- 55 Agenda for War-Affected Children, September 2000.

CHAPTER 2

- 56 For a more detailed discussion of these crimes, see: Aptel, Cecile, ‘International Criminal Justice and Child Protection’, ch. 3 in Parmar, S., et al. (eds.), *Children and Transitional Justice*.
- 57 No Peace Without Justice and the UNICEF Innocenti Research Centre, *International Criminal Justice and Children*, pp. 71–72, 82. See also: Rome Statute of the International Criminal Court, articles 6, 7(1)(g), and 8(2)(b), and International Criminal Court Elements of Crimes, article 2(b)(xxvi) and (e)(vii). The inclusion of the war crime of attacking humanitarian operations in the Rome Statute marks an important development in international humanitarian law.
- 58 This is most likely due to the lack of child-specific provisions in the statutes of both tribunals, and the lack of statutory requirements for staff with expertise in child rights. It may also reflect a reluctance to call children as witnesses because of concerns regarding the impact of giving testimony and their capacity to provide it in a manner consistent with fair trial guarantees. See: No Peace Without Justice and the UNICEF Innocenti Research Centre, *International Criminal Justice and Children*, pp. 108–113. For an example of an International Criminal Tribunal for Rwanda case relevant to children, see *The Prosecutor v. Jean-Paul Akayesu* (ICTR-96-4-T), 2 September 1998, paras. 416, 421–424, 429–431 and 437. In the case against Akayesu, the former mayor of Taba commune in Rwanda, witnesses testified that girls thought to be as young as 12 or 13 had been raped, forced to parade naked and killed during the genocidal massacres. For an example of an ICTY case, see *The Prosecutor v. Dragoljub Kunarac, Radomir Kovač and Zoran Vuković* (Foca case, IT-96-23 and IT-96-23/1, 22 February 2001). In the Foca case, a 12-year-old girl (‘A.B.’) was among those abducted and taken to ‘Kuraman’s House’, where they were repeatedly raped by Serbian soldiers. Over the course of a few months, A.B. was sold as a sex slave a number of times before she finally disappeared. Kovac was charged and convicted of crimes against humanity and war crimes with respect to the rape and sexual enslavement of A.B. and three other girls. He was sentenced to 20 years’ imprisonment.
- 59 Articles 4 and 5 of the Statute of the Special Court for Sierra Leone.
- 60 See: The Special Court for Sierra Leone, Case No. SCSL-03-1 *The Prosecutor v. Charles Chankay MacArthur Dapkpana Taylor* [Charles Taylor] Indictment, 3 March 2003, available at www.sc-sl.org/LinkClick.aspx?fileticket=5gklHnmPYM=&tabid=159, accessed 4 November 2009. See also: Special Court for Sierra Leone, ‘Honouring the Inaugural World Day against Child Labour’, Press Release, 12 June 2003.
- 61 Special Court for Sierra Leone, ‘Special Court Prosecutor Says He Will Not Prosecute Children’, Press Release, 2 November 2002.
- 62 Special Court for Sierra Leone, ‘Honouring the Inaugural World Day against Child Labour’, Press Release, 12 June 2003.
- 63 Amicus curiae brief of UNICEF, No Peace Without Justice and others, 21 January 2004. When explaining its decision, the Appeals Chamber stated that “[p]rior to November 1996, the prohibition on child recruitment had crystallized as customary international law, as demonstrated by the widespread recognition and acceptance of the norm prohibiting child recruitment in these international instruments, reiterated in the 1990 African Charter on the Rights and Welfare of the Child.” See: Special Court for Sierra Leone, ‘Appeals Chamber Rules Recruitment of Child Combatants a Crime under International Law’, Press Release, 1 June 2004.
- 64 These charges were confirmed on appeal on 26 October 2009. See: Case No. SCSL-04-15-A, available at: www.sc-sl.org/LinkClick.aspx?fileticket=D5HojR8FZS4%3d&tabid=215. Regarding forced marriage, see ch. 1, note 15.
- 65 For more information, see International Criminal Court documents, available at: www.icc-cpi.int/iccdocs/, accessed 10 June 2010.
- 66 See: ‘Situation in the Democratic Republic of the Congo in the case of the *Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*’, Case No. ICC-01/04-01/07, available at: www.icc-cpi.int/iccdocs/doc/doc571253.pdf.

- 67 In this study, amnesties are conceived to refer to legal measures that have the effect of (a) prospectively barring criminal prosecution of certain individuals or categories of individuals in respect of specified criminal conduct committed before the amnesty's adoption; or (b) retroactively nullifying legal liability previously established. Different states have used a broad range of terms, including pardon and clemency, to denote laws that fall within the above definition of amnesties. See: Office of the High Commissioner for Human Rights, *Rule-of-Law Tools for Post-Conflict States: Amnesties*, OHCHR, 2009, available at: www.ohchr.org/Documents/Publications/Amnesties_en.pdf.
- 68 See: Office of the United Nations High Commissioner for Human Rights, *Rule-of-Law Tools for Post-Conflict States: Amnesties*, OHCHR, Geneva, 2009. See also: Scharf, Michael P., 'The Amnesty Exception to the Jurisdiction of the International Criminal Court', *Cornell International Law Journal*, No. 31, 1999, pp. 507, 514, and Robinson, Darryl, 'Serving the Interests of Justice: Amnesties, truth commissions and the International Criminal Court', in *European Journal of International Law*, No. 14, 2003, pp. 481, 490–491. Several Security Council resolutions reiterate that amnesties should not be granted to persons accused of having committed international crimes against children. See also: Bakker, Christine, 'Prosecuting International Crimes against Children and Questions of Criminal Responsibility: The international legal framework', *Innocenti Working Paper* No. 2010-13, UNICEF Innocenti Research Centre, Florence, June 2010.
- 69 Bakker, Christine, 'Prosecuting International Crimes against Children and Questions of Criminal Responsibility'.
- 70 Parmar, S., et al., (eds.), *Children and Transitional Justice*.
- 71 Nylund, Bo Viktor, 'UNICEF Child Protection Work in Practice – A Debrief' (internal document), UNICEF Innocenti Research Centre, Florence, January 2009.
- 72 An Act to Establish the Truth and Reconciliation Commission (TRC) of Liberia, enacted by the National Transitional Legislative Assembly on May 12, 2005 art.VII, sec. 26.j (iv).
- 73 Truth and Reconciliation Commission of Liberia, *Truth and Reconciliation Commission Final Report*, Vol. 2, p. 256.
- 74 Ibid.
- 75 The Liberian Truth and Reconciliation Commission was mandated to identify where possible "persons, authorities, institutions and organizations involved in violations" and to recommend "prosecutions in particular cases as the TRC deems appropriate"; see: Act to Establish the Truth and Reconciliation Commission of Liberia, article VII, sec. 26(b) and (j)(iv). Furthermore, in article VII, sec. 26 (g), the Liberian Truth and Reconciliation Commission Act specifies that "amnesty or exoneration shall not apply to violations of international humanitarian law and crimes against humanity in conformity with international laws and standards".
- 76 The Sierra Leone Truth and Reconciliation Commission was not mandated to recommend prosecution or assign individual responsibility for violations.
- 77 Siegrist, Saudamini, 'Child Participation in International Criminal Accountability Mechanisms: The case of the Sierra Leone Truth and Reconciliation Commission', in Arts, Karin, and Vesselin Popovski (eds.), *International Criminal Accountability and the Rights of Children, From Peace to Justice Series*, The Hague Academic Press, The Hague, November 2006.
- 78 Special Court for Sierra Leone Rules of Procedure and Evidence, Rule 54, last amended 27 May 2008; Statute of the Special Court for Sierra Leone, article 8.2.
- 79 In Sierra Leone the Truth and Reconciliation Commission functioned alongside the Special Court from late 2002 until late 2004. A dispute occurred over the Commission's access to persons in the custody of the Special Court for public hearings. The legal situation was settled by a decision of the Special Court for Sierra Leone, as an entity with jurisdictional capacity above ordinary Sierra Leonean courts, barring the Commission from access to defendants in custody.
- 80 Convention on the Rights of the Child, article 40(2)(b); United Nations Standard Minimum Rules for the Administration of Juvenile Justice ('Beijing Rules'), Rule 8.
- 81 See, for example: No Peace Without Justice and the UNICEF Innocenti Research Centre, *International Criminal Justice and Children*, pp. 51, 62–66.
- 82 Michels, An, 'Psychosocial Support for Children: Protecting the rights of child victims and witnesses in transitional justice processes', *Innocenti Working Paper* No. 2010-14, UNICEF Innocenti Research Centre, Florence, June 2010. See also: Parmar, S., et al., (eds.), *Children and Transitional Justice*, annex 1.
- 83 No Peace Without Justice and the UNICEF Innocenti Research Centre, *International Criminal Justice and Children*, p. 50.
- 84 United Nations Children's Fund, United Nations Office on Drugs and Crime and International Bureau of Children's Rights, *United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime Child-Friendly Version*, UNODC, Vienna, 2008.
- 85 Michels, An, 'Psychosocial Support for Children'.
- 86 Ibid.
- 87 Aptel, Cecile, 'International Criminal Justice and Child Protection', in Parmar, S., et al. (eds.), *Children and Transitional Justice*.
- 88 International Criminal Court, Resolution ICC-ASP/1/Res.3, ICC Rules of Procedure and Evidence, ICC-ASP/1/3, at 10, and Corr. 1 (2002), U.N. Doc. PCNICC/2000/1/Add.1 (2000).Rule 34(A) (B).
- 89 Michels, An, 'Psychosocial Support for Children'.
- 90 Côté, Luc, 'Prosecuting Child Related Crimes at the Special Court for Sierra Leone: A mid-term assessment', Outcome Document of the Expert Discussion on Transitional Justice and Children, Florence, 2005, annex 1.
- 91 The Machel study found that hunger and poverty are factors in child recruitment and "may drive parents to offer their children for service," or that "children themselves may volunteer if they believe that this is the only way to guarantee regular meals, clothing or medical attention". See: Machel, Graça, *The Impact of War on Children*, p. 12. See also: United Nations Department of Economic and Social Affairs, *World Youth Report 2005*, United Nations, New York, p. 141.
- 92 Aptel, Cécile, 'International Criminal Justice and Child Protection', in Parmar, S., et al. (eds.), *Children and Transitional Justice*.
- 93 The ad hoc tribunals – the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda – did not pursue prosecution of anyone under 18; the SCSL, mandated to prosecute anyone over 15, made it a policy to exclude children under 18 from prosecution, stating that children did not "bear greatest responsibility" for war crimes; the Rome Statute of the International Criminal Court does not have jurisdiction for persons under 18 years of age.
- 94 Since the national proceedings in Rwanda were lengthy and slow, however, and many children were being held interminably in prison (and in many cases had become adults since much time had passed), *gacacas* – traditional local courts – were established to hear cases involving persons who participated in but did not organize the killings. See: Stover, Eric, and Harvey M. Weinstein (eds.), *My Neighbor, My Enemy: Justice and community in the aftermath of mass atrocity*, Cambridge University Press, Cambridge, 2004.
- 95 See: article 7(1) of the Statute of the Special Court for Sierra Leone.
- 96 Special Court for Sierra Leone, 'Special Prosecutor says he will not prosecute children', Press Release, 2 November 2002.
- 97 Ibid.
- 98 Rome Statute of the International Criminal Court, article 26.
- 99 See also: Parmar, S., et al. (eds.), *Children and Transitional Justice*, annex 1.
- 100 Convention on the Rights of the Child, article 40(3).
- 101 The General Comment of the Committee on the Rights of the Child further elaborates this point. It states, "juvenile justice, which should promote, inter alia, the use of alternative measures such as diversion and restorative

- justice, will provide States parties with possibilities to respond to children in conflict with the law in an effective manner serving not only the best interests of these children, but also the short- and long-term interest of the society at large". Committee on the Rights of the Child, General Comment No. 10 (2007), Children's Rights in Juvenile Justice, CRC/C/GC/10, Office of the United Nations High Commissioner for Human Rights, Geneva, 25 April 2007, para. 3. See also: United Nations Standard Minimum Rules for the Administration of Juvenile Justice.
- 102 See also: Parmar, S., et al. (eds.), *Children and Transitional Justice*, annex 1.
- 103 See: Lansdown, Gerison, 'The Evolving Capacities of the Child'.
- CHAPTER 3**
- 104 For information on the format that outreach and publicity may take, see Freeman, Mark, *Truth Commissions and Procedural Fairness*, Cambridge University Press, New York, 2006, pp. 164–166.
- 105 Freeman, Mark, and Priscilla Hayner, 'Truth-telling', in *Reconciliation after Violent Conflict: A Handbook*, Institute for Democracy and Electoral Assistance, Stockholm, 2003, p. 133. The mandate of the South African Truth and Reconciliation Commission, for example, provided that "victims shall be informed through the press and any other medium of their rights in seeking redress through the Commission, including information on: (i) the role of the Commission and the scope of its activities; (ii) right of victims to have their views and submissions presented and considered at appropriate stages of the inquiry".
- 106 Ibid., p. 133.
- 107 Ibid.
- 108 Valji, Nahla, 'Ghana's National Reconciliation Commission: A comparative assessment', *ICTJ Occasional Paper Series*, International Center for Transitional Justice, New York, September 2006, pp. 42–43.
- 109 For an assessment of child protection network functions and capacities, see: Verhey, Beth, 'What Are Child Protection Networks? Global mapping and analysis in view of actions in monitoring and reporting of child rights violations in conflict-affected areas', UNICEF Innocenti Research Centre in collaboration with the Humanitarian Policy and Advocacy Unit, Office of Emergency Programmes, Child Protection Section of Programme Division, UNICEF IRC, Florence, 2006.
- 110 UNICEF is included among the child protection agencies. It often participates as a founding member of the network and initiates communications with a truth commission on children's issues.
- 111 See: International Center for Transitional Justice, 'Truth Commissions and NGOs: The essential relationship – The 'Fрати Guidelines' for NGOs engaging with truth commissions', ICTJ, *Occasional Paper Series*, New York, April 2004, p. 13.
- 112 Materials prepared for the UNICEF training session for Liberian Truth and Reconciliation Statement-Takers, Monrovia, 22–26 August 2006.
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- 188 United Nations Security Council Resolution 1612 (S/RES/1612 (2005)) of 26 July 2005, calls for systematic monitoring and reporting of six categories of grave violations against children in situations of armed conflict – killing or maiming; recruitment or use of child soldiers; rape or sexual violence; abduction; attacks against schools or hospitals; and denial of humanitarian access – in order to improve accountability.
- 189 The Recovery of Historical Memory Project "was undertaken by the Human Rights Office of the Archbishop of Guatemala in advance of the official truth commission. The standard interview format used by this project had a self-consciously qualitative – rather than just quantitative or factual – flavour, asking a series of questions that went beyond the act of violence to focus on the context and impact of the event, and it was structured to be emotionally and psychologically supportive of the deponent. Beyond gathering the facts pertaining to the specific human rights violation, the interviewer would ask the deponent to describe the victim, including the person's personality; to describe how the event affected the deponent and the community as a whole; and to talk about why it happened and what the deponent of the community would like to do now. [T]he REMHI project was much more focused on the process and impact of collecting testimony than on the final production of a report" – Marcie Mersky, Chief of the Transition Unit, United Nations Verification Mission in Guatemala (MINUGUA). In Hayner, Priscilla, *Unspeakable Truths: Facing the challenge of truth commissions*, Routledge, New York, 2001, pp. 83–84. "The Historical Clarification Commission operating with a mixed Guatemalan and international staff – collected testimonies throughout the country and presented its report in February 1999. Its resounding conclusion that acts of genocide, crimes against humanity, and other violations of human rights and humanitarian law had occurred, was contested by the government. As a result, many of the report's recommendations languished along with prosecutions for serious human rights abuses. However, some cases are still under investigation or pending prosecution in national courts, and victim organizations have continued to press for justice." See the International Center for Transitional Justice, 'Past ICTJ Activity: Guatemala', available at: www.ictj.org/en/where/region2/518.html (accessed 28 October 2009). See also: Hayner, *Unspeakable Truths*, p. 83.
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- CHAPTER 5**
- 210 In this publication, the term 'reparations' refers to the provision of benefits to victims of specific human rights violations. Under international law, the term has a broader meaning and can take the form of restitution, compensation, rehabilitation, satisfaction and guarantees of non-recurrence. The *Handbook of Reparations* also includes a detailed analysis of reparations programmes, including a taxonomy of reparation and a review of goals, objectives and policies, providing normative guidance for future practice. See: Pablo de Greiff, 'Justice and Reparations', in de Greiff, Pablo (ed.), *The Handbook of Reparations*, Oxford University Press, Oxford, 2006.
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- 224 Mazurana, Dyan, and Khristopher Carlson, 'Reparations as a Means for Recognizing and Addressing Crimes and Grave Rights Violations'. For general recommendations regarding children and reparation, see the Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime, United Nations Economic and Social Council resolution 2005/20, section 8, 'The right to reparation', 22 July 2005. A child-friendly version of the Guidelines has been prepared; see p. 11 for definition of and reference to reparation. United Nations Children's Fund and United Nations Office on Drugs and Crime with the support of the International Bureau of Children's Rights and the UNICEF Innocenti Research Centre, *United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime, Child-Friendly Version*, 2006.
- 225 Expert discussion on children and truth commissions, UNICEF Innocenti Research Centre and International Center for Transitional Justice, 26 March 2007, New York.
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- 227 Mazurana, Dyan, and Khristopher Carlson, 'Reparations as a Means for Recognizing and Addressing Crimes and Grave Rights Violations'.
- 228 *Ibid.*, p. 209.
- 229 *Ibid.*, pp. 176, 178. The authors point specifically to Sierra Leone as an example.
- 230 Information derived from interview conducted by Saudamini Siegrist, Child Protection Specialist, UNICEF Innocenti Research Centre, with Louis Bickford, International Center for Transitional Justice, October 2008.
- 231 Mazurana, Dyan, and Khristopher Carlson, 'Reparations as a Means for Recognizing and Addressing Crimes and Grave Rights Violations', p. 210.

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CHAPTER 6

233 Eight key elements are identified in the protective environment for children: government commitment and capacity; legislation and enforcement; culture and customs; open discussion; children's life skills and participation; capacity of families and communities; essential services; and monitoring, reporting and oversight. See: Landgren, Karin, 'The Protective Environment: Development support for child protection', *Human Rights Quarterly*, Vol. 27, No. 1, 2005, pp. 214–248.

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CONCLUSIONS

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Annex 1

MODEL CHECKLISTS FOR TAKING STATEMENTS FROM CHILDREN

1. Topics and elements to be checked by the statement-taker

This form can be adapted to the local context. Additional space may be included for notes and observations

Topic	Elements to be checked	Relevant documents
Vulnerability assessment	<input type="checkbox"/> Vulnerability assessment has been completed and indicates the child is eligible for statement-taking	Vulnerability assessment
Safety checklist	<input type="checkbox"/> A safety checklist has been completed	Safety checklist
Child-friendly setting	<input type="checkbox"/> The interview setting is safe and quiet, preferably a familiar environment for the child <input type="checkbox"/> The child feels comfortable with the surroundings and with the statement-taker <input type="checkbox"/> The interview is conducted privately, with the child and a statement-taker <input type="checkbox"/> The child is informed of the possibility of requesting the presence of a parent, guardian or social worker during the interview <input type="checkbox"/> Girls should be interviewed by a female statement-taker, unless they express a preference to be interviewed by a man <input type="checkbox"/> Boys are given the opportunity to indicate preference <input type="checkbox"/> Psychosocial support is available	
Interview	<input type="checkbox"/> The interview is conducted in the child's first language <input type="checkbox"/> The statement-taker is familiar with local expressions and customs <input type="checkbox"/> The method of recording the interview (written or audio recording) is explained <input type="checkbox"/> The interview is no more than one hour long, with breaks as needed	Statement-taking form for children
Questions	<input type="checkbox"/> Questions are open-ended, simple and clear <input type="checkbox"/> Leading questions are avoided <input type="checkbox"/> The child is not pressured to provide information <input type="checkbox"/> The child has time to remember and explain without interruption <input type="checkbox"/> Clarification may be requested but the child is never cross-examined <input type="checkbox"/> The same questions are not repeated <input type="checkbox"/> The child is told that she/he can indicate when a question is unclear or she/he does not know the answer	Statement-taking form for children
Follow-up and support	<input type="checkbox"/> A social worker is available to debrief the child following the interview <input type="checkbox"/> Psychosocial support is available as follow-up to the interview <input type="checkbox"/> The child, family and community are informed of the progress and outcome of the TRC's work	

2. Sample Vulnerability Assessment¹

Vulnerability assessment To be completed by the designated child protection agency social worker prior to referring the child to the truth commission statement-taker		
		Specific issues If any of the boxes in this column are checked, further consideration is needed before the referral can proceed
1. Information about the child		
Name		
Age		<input type="checkbox"/> 12 years and under
Child living with parent or extended family	<input type="checkbox"/> with parents/guardian <input type="checkbox"/> with extended family	<input type="checkbox"/> No
Date of reunification		<input type="checkbox"/> Less than six months ago
Last visit of child protection agency		<input type="checkbox"/> More than four months ago
Child's participation in community life (sports, traditional activities)		
Is the child attending or has she/he completed school?	Name of school: _____ Level: _____	<input type="checkbox"/> Child is not attending school or skills training
Is the child attending or has she/he completed skills training?	Name of organization: _____ Skill she/he is trained in: _____	
Is the child facing specific problems at school or in skills training? ² (e.g., poor attendance, behavioural problems, significant concentration problems...)		<input type="checkbox"/> Child has significant adjustment issues in school/at skills training
Progress in school: Does the child find it difficult to learn?		
Was the child exposed to significant stress at home or in the neighbourhood? ³		<input type="checkbox"/> Physically abused <input type="checkbox"/> Sexually abused <input type="checkbox"/> Neglected <input type="checkbox"/> Significant adjustment issues at home/in the community
2. Information about the community		
Does the community have a good understanding of the truth commission?		<input type="checkbox"/> The community has never heard about the truth commission
What type of messages has the community received about the truth commission?		
Have meetings with parents, teachers and others taken place?		
Is the community supportive of truth commission participation?		<input type="checkbox"/> The child needs special protection after providing the statement

1 Adapted from the Vulnerability Assessment designed for use by child protection agencies in Sierra Leone.

2 The social worker has to assess the child's level of education and skills.

3 The social worker has to assess the child's situation in the home and community.

3. Sample Safety Checklist

Safety checklist		
To be completed by the designated child protection agency social worker		
		If any boxes in this column are checked, further consideration is needed before the referral can proceed
1. Selection of the child		
Has the child passed the vulnerability assessment?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Who has referred the child for statement-taking?	<input type="checkbox"/> Parents <input type="checkbox"/> CPA <input type="checkbox"/> Community/religious leader <input type="checkbox"/> Others	
2. Preparation for the interview		
Has the social worker reviewed the TRC process with the child and guardian? ⁴	Information has been provided about: <input type="checkbox"/> Mandate of the truth commission <input type="checkbox"/> Statement-taking procedure <input type="checkbox"/> Hearings <input type="checkbox"/> Available support <input type="checkbox"/> Limitations of support <input type="checkbox"/> Truth telling and confidentiality	<input type="checkbox"/> No
Have the child and guardian given their informed consent for the interview?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Is there an active child welfare committee in the community?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Is there a private and confidential place available for the interview?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Will someone accompany the child during the statement-taking?	Yes: <input type="checkbox"/> A parent or guardian <input type="checkbox"/> A social worker <input type="checkbox"/> Someone else	<input type="checkbox"/> No
Has a support person been identified in case of difficulties after statement-taking? (e.g., chief, religious leader, teacher)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
3. Interview		
Has the child been informed that she/he can request the presence of a guardian or social worker during the interview?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Has the statement-taker provided further information about the TRC?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Have the statement-taker, social worker and child reviewed the safety plan and follow-up measures?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
4. Follow-up		
Is there a debriefing of the child by the social worker immediately after the interview?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Has a follow-up visit by the social worker been planned?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

4 Adapted from the Safety Checklist designed by UNICEF for use by child protection agencies in Sierra Leone.

Annex 2

MODEL FRAMEWORK AGREEMENT OR MEMORANDUM OF UNDERSTANDING BETWEEN A TRUTH COMMISSION AND CHILD PROTECTION AGENCIES

Structure of an agreement¹

(The topics provided are suggestions, and can be adapted according to local requirements, capacities and circumstances.)

Paragraph	Possible topics to cover
1 Introduction/preamble	<ul style="list-style-type: none">• Definition of the parties involved• Reference to articles in the truth commission mandate/legislative act that mention its responsibility towards children or the role of children in the work of the truth commission• Reference to role of the child protection agencies (CPAs).
2 Areas of collaboration between the truth commission and CPAs	<ul style="list-style-type: none">• Reference to measures to be taken by the truth commission to involve children:<ul style="list-style-type: none">- Statement-taking from children- Organization of special hearings for children (closed sessions)- Public special hearings for children- Formal submissions by CPAs on their work and experiences of children during the conflict, and their recommendations for law and other reforms relating to children- Research and investigations into experiences of children during the conflict- Special section in the final report of the TRC on children with focused recommendations• Reference to the areas of collaboration between truth commission and CPAs:<ul style="list-style-type: none">- On statement-taking and follow-up of children- On organization of special hearings- On submissions by CPAs- On outreach activities.
3 Guiding principles	Guiding principles for the protection of the rights of child and adolescent participants.

¹ See, for example: Framework for Cooperation between the Truth and Reconciliation Commission and child protection agencies, Sierra Leone, 2003; Memorandum of Understanding between the Truth and Reconciliation Commission and UNICEF Liberia, September 2007.

4 Responsibilities of the two parties	<p>Truth and Reconciliation Commission:</p> <ul style="list-style-type: none"> • Design, implement and monitor systems and safeguards to protect all children who participate in the truth commission process • Collaborate closely with CPAs to identify and support children who wish to participate in the truth commission process, to ensure their meaningful participation and prevent reprisals • Follow the advice of the CPA to identify the most appropriate way to interview the children • Ensure that statement-taking takes place in a safe and child-friendly environment • Ensure the presence of a social worker and/or guardian before, during and after the interview, if the child desires • Notify the CPA if a child needs special protection or is particularly vulnerable; make arrangements with the CPA for appropriate methods of support • Identify technical committees at the national and local level to support and coordinate truth commission processes in those locations. <p>Child protection agencies:</p> <ul style="list-style-type: none"> • Support training of truth commission staff on child rights and child participation and protection • Support hiring of a local child protection expert to provide technical assistance to the personnel involved in children’s participation in the truth commission secretariat • Provide technical support on children’s participation in the truth commission: <ul style="list-style-type: none"> - Identify children who might be suitable to give a statement to the truth commission, based on the criteria set out (<i>see also Annex I ‘Sample Vulnerability Assessment’ and ‘Sample Safety Checklist’</i>) - Contact children prior to sharing their names with the truth commission to explain the statement-taking process to the child and guardian and establish whether the child is able (<i>see also Annex 1</i>) and prepared (informed consent) to speak to a truth commission statement-taker - Share the outcome of the assessments with the local truth commission coordinator and advise on the most appropriate way of taking the statement that ensures the physical and psychological well-being of the child • Support the documentation of lessons learned.
5 Duration of the agreement	Start and end dates of the agreement.

Annex 3

TRUTH COMMISSIONS THAT FOCUSED ON OR DIRECTLY INVOLVED CHILDREN IN THEIR ACTIVITIES

	South Africa	Guatemala (Commission for Historical Clarification, CEH)	Guatemala (Recovery of Historical Memory Project, REMHI)*	Peru	Timor-Leste	Sierra Leone	Liberia
Children specifically mentioned in TRC mandate			X		X	X	X
Children provided statements to the TRC				X	X	X	X
Public hearings conducted on child-related issues	X				X	X	X
Chapter on children included in final TRC report	X	X	X	X	X	X	X
Specific mention of children in recommendations	X	X	X	X	X	X	X
Children identified as beneficiaries of reparations	X	X	X	X	X	X	X

* While the truth commissions listed in this table were all official bodies, the Recovery of Historical Memory (Recuperación de la Memoria Histórica – REMHI) Project was an unofficial truth-seeking body created by the Catholic Archdiocese of Guatemala. The project was initiated to establish the facts of the internal armed conflict that confronted the Guatemalan security forces and insurgents between 1960 and 1996. REMHI began its operations in April 1995 and ended in April 1998 when its final report, *Guatemala: Never Again!*, was released to the public by Bishop Juan Gerardi Conedera (dec.).

Annex 4

EXCERPTS FROM TRUTH COMMISSION ACTS ON PROTECTING THE RIGHTS OF CHILD PARTICIPANTS

Liberia: An Act to Establish the Truth and Reconciliation Commission (TRC) of Liberia¹

- Reaffirming the commitment of the Liberian people to peace and justice, unity, national healing and reconciliation...and other international conventions and protocols relating to the rights and protections of women and children. (Preamble)
- Adopting specific mechanisms and procedures to address the experiences of women, children and vulnerable groups, paying particular attention to gender based violations as well as to the issue of child soldiers, providing opportunities for them to relate their experiences, addressing concerns and recommending measures to be taken for the rehabilitation of victims of human rights violations in the spirit of national reconciliation and healing. (Article IV, sec. 4(e))
- The TRC shall consider and be sensitive to issues of human rights violations, gender and gender based violence thus ensuring that no one with a known record of human rights violations are employed by the TRC and that gender mainstreaming characterizes its work, operations and functions, ensuring therefore that women are fully represented and staffed at all levels of the work of the TRC and that special mechanisms are employed to handle women and children victims and perpetrators, not only to protect their dignity and safety but also to avoid re-traumatization. (Article VI, sec. 24)
- Helping restore the human dignity of victims and promote reconciliation by providing an opportunity for victims, witnesses, and others to give an account of the violations and abuses suffered and for perpetrators to relate their experiences, in an environment conducive to constructive interchange between victims and perpetrators, giving special attention to the issues of sexual and gender based violence, and most especially to the experiences of children and women during armed conflicts in Liberia. (Article VII, sec. 26(f))
- The TRC shall take into account the security and other interests of victims and witnesses when appearing for hearing, design witness protection mechanisms on a case by case basis as well as special programs for children and women both as perpetrators and victims under burdens of trauma, stigmatization, neglect, shame, ostracization, threats, etc. and others in difficult circumstances who may wish to recount their stories either in privacy or public, subject to the discretion of the TRC. (Article VII, sec. 26(n))
- The TRC shall employ specialists in children and women's rights and shall ensure that special measures or mechanisms are employed that will enable women and children to provide testimony to the TRC, while at the same time protecting their safety and not endangering or delaying their social reintegration or psychological recovery. (Article VII, sec. 26(o))
- A National Secretariat shall be established to render technical, professional, administrative and clerical assistance to the TRC; it shall comprise such sections or units and staff of diverse

professional background relevant to the work of the TRC in the areas of finance, investigation, law, women, children and vulnerable groups, psychosocial and trauma counselling, amnesty, reparation, statement taking and in as many other disciplines as the TRC may deem desirable. (Article IX, sec. 33)

- [The TRC shall] investigate and interview any individual, group or members of organizations or institutions in public or private at the TRC's discretion, including children, in furtherance of its mandate; administer oaths during investigation for the taking and making of statements the falsity of which is punishable for perjury. (Article VIII, sec.27(c))

Sierra Leone: Truth and Reconciliation Commission Act 2000²

- Without prejudice to the generality of subsection (1), it shall be the function of the Commission...
 - to work to help restore the human dignity of victims and promote reconciliation by providing an opportunity for victims to give an account of the violations and abuses suffered and for perpetrators to relate their experiences, and by creating a climate which fosters constructive interchange between victims and perpetrators, giving special attention to the subject of sexual abuses and to the experiences of children within the armed conflict; and
 - to do all such things as may contribute to the fulfilment of the object of the Commission. (III, 6.2, b, c)
- At the discretion of the Commission, any person shall be permitted to provide information to the Commission on a confidential basis and the Commission shall not be compelled to disclose any information given to it in confidence. (III, 7.3)
- The Commission shall take into account the interests of victims and witnesses when inviting them to give statements, including the security and other concerns of those who may wish to recount their stories in public and the Commission may also implement special procedures to address the needs of such particular victims as children or those who have suffered sexual abuses as well as in working with child perpetrators of abuses or violations. (III, 7.4)
- The Commission shall have power generally to organise its work and shall, in its operations, have power...
 - to gather, by means it deems appropriate, any information it considers relevant, including the ability to request reports, records, documents or any information from any source, including governmental authorities, and to compel the production of such information as and when necessary;
 - to require that statements be given under oath or affirmation and to administer such oath or affirmation
 - to issue summonses and subpoenas as it deems necessary in fulfilment of its mandate; and
 - to request and receive police assistance as needed in the enforcement of its powers. (III, 8.1, a, e, g, h)

Timor-Leste: UNTAET Regulation No. 2001/10 on the establishment of the Commission for Reception, Truth and Reconciliation in East Timor³

- The *Commission* shall allow for special measures [to] be taken in hearings which involve testimonies from special groups of *victims*, such as women and children. Such hearings may allow for accompaniment of *victims* by relevant *victim* support workers. (Public hearing, 16.4)
- If the *Commission*, in relation to any hearing it has convened, is satisfied that:
 - (a) it would be in the interests of justice; or
 - (b) there is a likelihood that harm may ensue to any person as a result of the proceedings being open, it may direct that such proceedings be held behind closed doors and that the public or any category thereof shall not be present at such proceedings or any part thereof; provided that the *Commission* shall permit any *victim* who has an interest in the proceedings concerned, to be present. (16.2, a, b)
- Where the *Commission* directs that the public or any category thereof shall not be present at any proceedings or part thereof, the *Commission* may:
 - (a) direct that no information relating to the proceedings, or any part thereof held behind closed doors, shall be made public in any manner;

- (b) direct that no person may, in any manner, make public any information which may reveal the identity of any *witness* in the proceedings;
- (c) give such directions in respect of the record of proceedings as may be necessary to protect the identity of any *witness*. (16.3, a, b, c)
- Before beginning hearings pursuant to Section 16 of this Regulation, the *Commission* shall take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of *victims* and *witnesses* who are to appear before the *Commission*. In so doing, the *Commission* shall have regard to all relevant factors, including age, gender, health and the nature of the crime, in particular, but not limited to, where the crime involves sexual or gender violence or violence against children or where there exists a credible threat against the safety of a *victim* or *witness*. (Victim and Witness Protection, 36.1)

1 *An Act to Establish the Truth and Reconciliation Commission (TRC) for Liberia*, approved 10 June 2005, Ministry of Foreign Affairs, Monrovia, 22 June 2005.

2 *Truth and Reconciliation Commission Act 2000 [Sierra Leone]*, Supplement to the Sierra Leone Gazette Vol. CXXXI, No. 9, dated 10 February 2000.

3 United Nations Transitional Administration in East Timor – Regulation No. 2001/10, UNTAET, Dili, 13 July 2001.

UNICEF Innocenti Research Centre
Piazza SS. Annunziata, 12
50122 Florence, Italy
Tel: (+39) 055 20 330
Fax: (+39) 055 2033 220
florence@unicef.org
www.unicef-irc.org

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