



Desafíos

ISSN: 0124-4035

revistadesafios.urosario@gmail.com

Universidad del Rosario

Colombia

Langer, Johannes

Are Truth Commissions Just Hot-Air Balloons? A Reality Check on the Impact of Truth  
Commission Recommendations

Desafíos, vol. 29, núm. 1, enero-junio, 2017, pp. 177-210

Universidad del Rosario

Bogotá, Colombia

Available in: <http://www.redalyc.org/articulo.oa?id=359650871006>

- How to cite
- Complete issue
- More information about this article
- Journal's homepage in redalyc.org

redalyc.org

Scientific Information System

Network of Scientific Journals from Latin America, the Caribbean, Spain and Portugal

Non-profit academic project, developed under the open access initiative

# Are Truth Commissions Just Hot-Air Balloons? A Reality Check on the Impact of Truth Commission Recommendations\*

JOHANNES LANGER\*\*

Article Received: May 8, 2016

Article Accepted: November 30, 2016

Doi: <http://10.12804/revistas.urosario.edu.co/desafios/a.4866>

To cite this article: Langer, J. (2017). Are Truth Commissions Just Hot-Air Ballons A Reality Check on the Impact of Truth Commission Recommendations. *Desafíos*, 29(1), 177-210.  
Doi: <http://10.12804/revistas.urosario.edu.co/desafios/a.4866>

## Abstract

*Truth commissions are widely considered to be a key tool of transitional justice mechanisms (TJMs), whose goal is to achieve truth, justice, and reconciliation after violent conflict or dictatorship. However, policy actors promoting these mechanisms have often not adequately engaged in a critical reflection of the policy measures they are suggesting. Instead, they usually argue from normative points of view rather than*

---

\* This paper forms part of the research project “Get the truth out of truth commissions,” which is being carried out at the Universidad de San Buenaventura, Bogotá, and Pontificia Universidad Javeriana, Bogotá. A draft of this article was presented at the 2016 Congress of the Latin American Studies Association (LASA) in New York, N.Y. on 27-30 May, 2016. In the first place I want to thank my interviewees for their time to talk with me. I also want to thank Saskia Nauenberg for her helpful comments. Moreover, I appreciate the feedback of Ferdaouis Bagga, Elisabeth Bünselmeyer, Eliana Jimeno, and Sebastián Yerovi. Finally, I want to thank the anonymous reviewers for their helpful recommendations.

\*\* Associate Professor of International Relations at the School at the Law and Political Science Faculty of the Universidad de San Buenaventura, Bogotá. Email: [jlanger@usbbog.edu.co](mailto:jlanger@usbbog.edu.co). ORCID: <http://orcid.org/0000-0002-0759-4660>

*relying on empirical evidence. During the last decade, there has been a continued debate as to whether or not TJMs actually work and what impact they have. Drawing on research from three case studies (Kenya, Sierra Leone, and Timor-Leste), this paper analyzes the (non)implementation of recommendations produced in the final reports of truth commissions created after armed conflict. The work focuses on the impact of truth commissions on democracy, peace, and institutional reform. The analysis roughly follows the four-step approach set out by Skaar, Maica, and Eide (2015) to measure the impact of truth commissions and illustrates both the opportunities they provide and their limitations.*

**Keywords:** *conflict, impact, Kenya, Sierra Leone, Timor-Leste, transitional justice, truth commission.*

## ¿Son las comisiones de la verdad tan solo globos? Un análisis del impacto de las recomendaciones de las comisiones de la verdad

### Resumen

*Las comisiones de la verdad (CDV), ampliamente reconocidas como herramientas clave de los mecanismos de justicia transicional (MJT), tienen el objetivo de lograr verdad, justicia y reconciliación después de dictaduras o conflictos violentos. Sin embargo, los actores políticos que promueven estos mecanismos no han, a menudo, ejercido una adecuada reflexión crítica sobre las medidas políticas sugeridas. Por el contrario, suelen argumentar desde puntos de vistas normativos, desestimando pruebas empíricas reales. Durante la última década, se ha debatido si los MJT funcionan realmente y qué impacto tienen. Partiendo de tres casos específicos (Kenia, Sierra Leona y Timor Oriental), este trabajo analiza la (no) aplicación de las recomendaciones resultantes de informes finales de CDV creadas después de conflictos armados. El trabajo se centra en el impacto de las comisiones de la verdad con respecto a la democracia, paz y reforma institucional, para averiguar qué impacto real tienen las CDV. El análisis sigue de cerca el enfoque cuadripartito de Skaar, Maica y Eide (2015) para medir el impacto de las CDV y muestra sus posibilidades y limitaciones.*

**Palabras clave:** *comisión de la verdad, conflicto, impacto, justicia transicional, Kenia, Sierra Leona, Timor Oriental.*

## São as comissões da verdade tão só balões? Uma análise do impacto das recomendações das comissões da verdade

### Resumo

*As comissões da verdade (CDV), amplamente reconhecidas como ferramentas chave dos mecanismos de justiça transicional (MJT), tem o objetivo de conseguir verdade, justiça e reconciliação depois de ditaduras ou conflitos violentos. No entanto, os atores políticos que promovem estes mecanismos não têm, com frequência, exercido uma adequada reflexão crítica sobre as medidas políticas sugeridas. Pelo contrário, costumam argumentar desde pontos de vistas normativos, desestimando provas empíricas reais. Durante a última década, se tem debatido se os MJT funcionam realmente e que impacto têm. Partindo de três casos específicos (Quênia, Serra Leoa e Timor Leste), este trabalho analisa a (não) aplicação das recomendações resultantes de informes finais de CDV criadas depois de conflitos armados. O trabalho centra-se no impacto das comissões da verdade com respeito à democracia, paz e reforma institucional, para averiguar que impacto real têm as CDV. A análise segue de perto o enfoque quadripartito de Skaar, Maica e Eide (2015) para medir o impacto das CDV e mostra as suas possibilidades e limitações.*

**Palavras-chave:** comissão da verdade, conflito, impacto, justiça transicional, Quênia, Serra Leoa, Timor Leste.

### Introduction

In recent years, actors and organizations in the field of transitional justice have relied on the assumption that after armed conflict it is necessary to tackle the past in order to move forward (ICTJ, 2014; UN Secretary General, 2004). While some saw the emergence of a justice cascade (Sikkink & Kim, 2013), others argued for justice ‘in balance’ and more limited expectations (Olsen, Payne, & Reiter, 2010). Transitional justice refers to a set of mechanisms aimed at providing accountability for human rights violations, ending hatred between different groups, and strengthening democratic structures (Teitel, 2000). Transitional justice, as the name implies, focuses on times of transition – from dictatorship to democracy or from armed conflict to a post-conflict situation – and may entail both retributive

and restorative forms of justice. Several mechanisms are included in transitional justice, namely tribunals, truth commissions, reparation programs for victims, and institutional reforms (Wiebelhaus-Brahm, 2010, pp. 10-12). This article focuses exclusively on one transitional justice mechanism (TJM) – truth commissions – in order to evaluate the extent to which this mechanism's effort to tackle the past has actually resulted in the proposed benefits.

Truth commissions, which are investigative bodies aimed at uncovering the truth about a history of violence, have come to be considered a vital part of transitioning from conflict (Nauenberg, 2015). However, getting to the 'truth' of what happened can be a controversial and contentious process. The publication of a truth commission's report is meant to mark a liminal moment between the conflict and a state's transformation, and commissions' recommendations are often aimed at promoting peace, human rights, democracy, and institutional reform (Mälksoo, 2012). Truth commission proponents argue that truth commissions provide space for restorative justice that allows societies to move away from vengeance and toward reconciliation (Freeman, 2006; Hayner, 2010; Minow, 1998). In spite of the prominence of truth commissions, the key question about the merit of this TJM has concerned scholars of transitional justice, and no consensus has been established as of yet (Olsen et al., 2010; Van der Merwe, Baxter, & Chapman, 2009). Meanwhile, critics such as Mendeloff (2004) have argued that the perceived benefits of truth commissions are often based on speculation rather than empirical tests, easily generating unrealistic expectations (also see Shaw, 2005; Wilson, 2001).

To address these concerns about the *impact* of truth commissions, this research is not focusing on the final report as a result of this TJM, but rather analyzes the (non)implementation of recommendations in the final report. This article draws on three case studies – Kenya, Sierra Leone, and Timor-Leste – to study the perceived impact of truth commissions in these countries. It follows the four-step approach developed by Skaar, Malca, and Eide (2015a). Three dependent variables – democracy, peace, and institutional reform

– measure the perceived impact of truth commissions. Examining the three cases can offer lessons learned, which can then be applied in countries – such as Colombia – that are in the process of establishing new truth commissions. This article proceeds in three parts: First, I will examine how impact is measured, thus providing a historical review of the debate on the impact of truth commissions. Second, the analytical framework of Skaar, Malca, and Eide (2015a) is presented with its adaption for this article. Finally, the three case studies are discussed in four steps – the context of the violence, the establishment of the truth commission, its implementation, and its perceived impact – to allow for a better understanding of how truth commission recommendations play out. These insights can be helpful in order to differentiate between what truth commissions ought to do and what they can actually achieve.

## 1. Previous research on truth commissions

Since the 1980s, regional human rights mechanisms in Latin America developed the ‘right to know,’ which today is a right for victims around the world (Méndez, 1997). Many victims want to know what really happened to their loved ones who were killed or disappeared during armed conflict or dictatorship (Lundy & McGovern, 2008, p. 337). However, assumptions about the benefits of a truth commission have grown over time. Today, proponents of truth commissions claim that these institutions can help overcome myths about conflict or dictatorship, provide reparations to victims, impose accountability on perpetrators, and reform state institutions (Hayner, 2010; Wiebelhaus-Brahm, 2010).<sup>1</sup> Yet further evidence is needed to measure the extent to which truth commissions deliver on these expectations.

Just claiming that a truth commission does no harm (Hamber, 2009, p. 69) is not enough to justify the efforts and financial resources involved in the work of this TJM. In fact, some scholars point out negative effects. For example, Laplante and Theidon (2010) argue

---

<sup>1</sup> These assumptions mentioned supposedly can help to overcome the age-old dilemma of peace vs. justice (Langer, 2015b).

that in the Peruvian case certain narratives became further enshrined and did not allow for a ‘grey zone’ between victims and perpetrators. Another study in Sierra Leone found that Western-imposed ideas clashed with local views on the value of truth-telling, because ‘social forgetting’ rather than remembrance allows for healing (Shaw, 2005). While the defenders of truth commissions point out that tribunals are an even more expensive exercise in comparison (Wiebelhaus-Brahm, 2010, p. 15), this argument is insufficient for establishing truth commissions. Instead, policy makers should take into account that truth commissions often do not live up to the expectations of victims and civil society, not least because the state simply ignores the (sometimes quite strong) recommendations that truth commissions include in their final reports (Freeman & Hayner, 2003, p. 135).

Scholars have disagreed on how to define a truth commission,<sup>2</sup> and databases have included between 30 and 57 cases between 1974 and 2014.<sup>3</sup> It is important for future work to rely on a specific and standard definition (Dancy, Kim, & Wiebelhaus-Brahm, 2010, pp. 46-49), whereby there is agreement that a truth commission is a victim-centered temporary body sponsored by the state that should focus on the past, investigate major human rights abuses with the intent to write a final report, and make recommendations (Freeman, 2006; Hayner, 2010). Truth commissions produce not just one but multi-

---

<sup>2</sup> The common disagreement includes the debate over whether a truth commission should be established by the state or if initiatives by non-state actors should be included as well. Another typical disagreement concerns whether a truth commission should have to have finished its work and published a final report to be included in the list (Bakiner, 2016, pp. 24-34).

<sup>3</sup> The recent book by Bakiner (2016, pp. 27-29) identifies 33 truth commissions from 1983 to 2014. Nauenberg (2015, p. 39) includes 39 truth commissions between 1974 and 2009, while Hayner (2010) lists 40 truth commissions from 1974 to 2009. Databases include the Transitional Justice Data Project, which includes 58 truth commissions (from 1971 until today), available at <http://www.tjdbproject.com/>. The Transitional Justice Research Collaborative, run by professors at the University of Oxford, University of Minnesota, and Harvard University, can be found at <https://transitionaljusticedata.com/>. At the United States Institute of Peace (USIP), there are many primary texts at <http://www.usip.org/publications/truth-commission-digital-collection>. A smaller set of ten truth commissions can be found at a project of Georgetown University and the Institute for Justice and Reconciliation at <http://www.ijr.org.za/trc-database.php>

ple discourses, including competing versions of history, that reflect various political or ideological viewpoints (Bock, 2008). Over the years, truth commissions have received ever-expanding mandates that should allow them to not only address gross human rights violations but also economic crimes such as corruption.<sup>4</sup> However, the international community and its advisors, like the International Center for Transitional Justice (ICTJ), have also argued for shorter time frames.<sup>5</sup> This has resulted in insufficient time for setting-up the commission, adequately preparing public hearings and engaging with communities across a country, as well as time to write an accurate report.<sup>6</sup>

Scholars have used various methodologies to test the impact of TJMs, including qualitative studies (Bakiner, 2014; Fletcher, Weinstein, & Rowen, 2009; Skaar & Wiebelhaus-Brahm, 2013), quantitative studies (Olsen et al., 2010; Taylor & Dukalskis, 2012), and mixed-method approaches (Dancy et al., 2010; Van der Merwe et al., 2009; Wiebelhaus-Brahm, 2010). In trying to assess the impact of TJMs, the biggest challenge has been isolating the effect of one specific TJM, in our case truth commissions, in comparison to other factors that come into play in periods of transition. The assumption is that the recommendations of truth commissions have a positive influence on new and accountable institutions (Brahm, 2007, p. 21), by calling for several responses: 1) acknowledgement of wrongs; 2) some form of

---

<sup>4</sup> Various authors criticize the broadening of truth commission mandates to topics like corruption because this would overwhelm the commission with additional work, and a more focused mandate is necessary to allow for better impacts. Examining corruption would overstretch the goals of transitional justice (e.g. Robinson, 2015).

<sup>5</sup> Several of my interviewees were critical of the role of the ICTJ in Sierra Leone and Timor-Leste, including the short time frame that they lobbied for, arguing that otherwise the 'momentum' would be lost. In the meantime, however, ICTJ has changed its position and argues that anything less than two years is inadequate (González, 2013, p. 17).

<sup>6</sup> In my interviews, several people spoke about the rushed process of producing a final report due to insufficient time. This was reflected in the need for several extensions of the mandate in all three case studies discussed in this paper: In Timor-Leste and Kenya there were three extensions and in Sierra Leone there was one extension of its six-month mandate but it took an additional nine months to finish a final report. The question is why the commissions did not have longer mandates in the first place.



healing in a divided society; 3) improved democracy to strengthen the rule of law; and 4) a stronger commitment to human rights.

One problem of quantitative methods is that studies with large samples do not allow for a nuanced view of the very different truth commissions. What are usually used are databases for human rights (Cingranelli-Richards (CIRI), Political Terror Scale) and democracy (Polity IV, Freedom House), but it remains a challenge to link this data with truth commissions because of the simplicity of statistical data that seem to miss key developments (Skaar & Malca, 2015). This is particularly true because there are few truth commissions in comparison to the explanatory variables, resulting in “omitted variable bias, endogeneity, and multicollinearity and yield misleading substantive results” (Bakiner, 2016, p. 93). In contrast, qualitative case studies have allowed for a more nuanced and profound understanding of the impact of truth commissions (Brahms, 2007, p. 24) and allow for causal connections to be established thanks to understanding the causal mechanisms (Bakiner, 2016, p. 93). With the qualitative approach, however, it is difficult to make causal claims without comparing multiple studies to understand the mechanisms producing particular results. Moreover, qualitative studies have often been based on single cases and lacked comparative data. To avoid the fallacies that can emerge from single case studies, it is important to integrate several cases. Still, the challenge remains, even with a qualitative approach, that key concepts like reconciliation, justice, truth, or healing are not easily defined and have a range of interpretations.

The evaluation of truth commissions was originally based on whether they completed their deliverables, like fulfilling mandates and publishing final reports (Brahm, 2007, p. 17). In recent years, however, interest has shifted to examining the extent to which truth commissions have been able to bring about changes in their countries. The difficulty of operationalizing key variables for understanding the implementation of truth commissions may explain why quantitative studies have resulted in such different findings. Olsen et al. (2010) establish that truth commissions, when used alone, “have a significant, negative effect” on democracy and human rights, they are

neutral when used together with trials, but show positive outcomes when combined with trials and amnesties. Kim and Sikkink (2010, p. 953), on the other hand, argue that truth commissions have positive independent effects on human rights conduct, that is even stronger when accompanied by prosecutions. Others find truth commissions to have weak negative impacts (Wiebelhaus-Brahm, 2010), or no observable impact on democracy and human rights.

## 2. Methodology

My study aims to analyze the perceived impact of truth commissions through qualitative means. The four-step analytical framework that is developed in Skaar et al. (2015a) is one of the latest proposals in the transitional justice literature to allow for a coherent assessment of TJM impacts. This structured comparative qualitative analysis method uses TJMs as the independent variable in four steps to analyze their impact. As a first step, it sets up the contextual parameters with an analysis of the national, regional, and global context to allow for a deeper understanding of the root causes of conflicts. Appreciating the history of violence can better explain why certain TJMs succeed or fail. Although commonly recognized as valuable, the understanding of history has often not been appropriately reflected in other analyses.

The next two steps are instrumental variables. The second step is to assess the establishment of TJMs, including the key actors involved, the objectives and scope, the timing and the sequencing. The third step is the evaluation of TJM implementation, differentiating between short-term and long-term goals and keeping in mind the unintended consequences of these mechanisms. Finally, the fourth step represents an impact assessment that allows scholars to understand the effectiveness and achievements of TJMs in relation to their stated goals, evaluating how TJMs contribute to peace and democracy. The authors also include quantitative analysis to allow for a mixed-methods approach in the last step (Skaar, Malca, & Eide, 2015b, pp. 46-55). This approach successfully addresses many of the limitations of previous research and provides an important starting point for further studies, as this article attempts to do.

In contrast to this four-step multi-layered framework of Skaar et al. (2015b), my research only examines truth commissions. This presents the challenge of isolating the impact of this TJM in comparison to other mechanisms that have been used.<sup>7</sup> Moreover, I only include qualitative analysis due to the shortcomings of the quantitative approach (Bakiner, 2014; Skaar & Malka, 2015). Finally, I add institutional reform<sup>8</sup> as a dependent variable, along with peace<sup>9</sup> and democracy,<sup>10</sup> because it is commonly included in truth commission recommendations and if implemented would show a clear impact of the TJM.

This paper focuses on three case studies: Kenya, Sierra Leone, and Timor-Leste. Although structurally quite different, these countries have important points in common: 1) truth commissions were not the only TJM to be established, but were always accompanied by an attempt to bring about retributive justice as well with a tribunal or a special court (or the International Criminal Court (ICC) in the Kenyan case); 2) all the truth commissions were established after violence or armed conflict;<sup>11</sup> 3) both the international community

---

<sup>7</sup> Probably the main limitation of this article is the difficulty of differentiating the impact of one TJM in comparison to the work of other TJMs or other processes that are simultaneous, such as DDR programs or the establishment of a new constitution. Rather than the implementation of truth commission recommendations, it can be other initiatives that provide the driving force to change the course of a country's history. I tackle this issue by analysing whether legislative or executive authorities have referred explicitly to truth commission recommendations when implementing certain measures.

<sup>8</sup> The final report of a truth commission almost always includes specific recommendations for institutional reforms, for example to the judiciary or the security forces. Ultimately, such reforms depend on the political will of the government and in some cases also on the armed forces (Freeman & Hayner, 2003, p. 126).

<sup>9</sup> Galtung (1969) differentiates between 'negative peace,' i.e. the absence of war and other deadly violence, and 'positive peace,' which also includes social justice. While Galtung calls for positive peace, this paper follows the definition of negative peace because it is easier to have a consensus around that notion.

<sup>10</sup> Dahl (1998, p. 85) develops an 'electoral conception' of democracy. This article follows a 'maximalist conception' of democracy with six requirements: elected officials, free and fair elections, associational autonomy, freedom of expression, alternative sources of information, and inclusive citizenship.

<sup>11</sup> Peru, Liberia, and Cote d'Ivoire were also considered as possible case studies because their post-conflict commissions were established after the South African TRC. The Peruvian case was an outlier in that no tribunal was established. Liberia and Cote d'Ivoire would have

and the ICTJ exerted a strong influence during the set-up phase; and 4) these truth commissions all belong to the ‘second generation’ of truth commissions:<sup>12</sup> all of them having been set up after the South African TRC, they offer insight on how a well-established model was implemented in different contexts.

My arguments are based on an analysis of the final reports, secondary literature, and expert interviews. From June 2015 to January 2016, I conducted 18 semi-structured expert interviews via Skype with people involved in the truth commissions of my three case studies, including commissioners and staff, civil society representatives, and academics. In the Kenyan case, I interviewed Lucas Kimanthi, Tom Onzere, Salah Sheikh, and Ronald Slye. In Sierra Leone, I interviewed Thijs Bouwknecht, John Caulker, Thierry Cruvellier, William Schabas, Susan Shepler, and a high-level TRC staff member who does not want to be identified. In Timor-Leste, I conducted interviews with Susana Barnes, Hugo Maria Fernandes, Lia Kent, Ben Larke, Piers Pigou, Kathryn Robertson, Simon Robins, and Pat Walsh.<sup>13</sup>

The process of a truth commission can contribute to its impact, and its work is carried out through public hearings, statement-taking, research interviews, and efforts at reconciliation. To properly analyze the impact of truth commission processes, it would be necessary to talk to victims and perpetrators who participated in different aspects of the process, including focus groups and surveys. This paper, however, focuses on the perception of the impact of truth commission recommendations, and the expert interviews and the analysis of the

---

been valid cases, but I decided to focus instead on Sierra Leone and Kenya since significantly more secondary literature was available for them.

<sup>12</sup> As Bakiner (2016, pp. 35–38) points out, most ‘first generation’ truth commissions were set up in Latin America, for example in Argentina and Chile, and focused on factual truth. The ‘second generation’ is primarily based on the South African experience and includes most truth commissions of the 1990s and the first decade of the 21st century. In contrast, ‘non-transitional’ truth commissions “incorporate a broader spectrum of political actors and ideologies” (Bakiner, 2016, p. 38).

<sup>13</sup> As several of the people interviewed requested generic attribution or anonymity, no names are attributed in this article, but I do cite their statements that identify the type of respondent in question and the date of the interview.

available literature allowed me to review the implementation of recommendations and the perceptions of their outcome in the countries in question. Regarding the structure of the analysis, I follow the four-step analysis of Skaar et al. (2015a) as outlined above.

### 3. Kenya

#### 3.1. *Stage 1: Understanding the national, regional, and global context*

Though long regarded as a safe haven in a volatile region, Kenya was rocked by post-election violence (PEV) in 2007-2008 that brought it to the brink of the abyss. The root causes of the PEV date back to colonial times and the period after independence in 1963, mostly linked to divisions among Kenya's more than 40 ethnic communities, corrupt political elites, and a long history of severe human rights violations including torture, assassinations, and state violence. The land question presented another challenge, as Kenya's many semi-arid regions have become more populous over the last several decades and tensions have risen over which ethnic communities are 'indigenous' to certain areas, as opposed to others who are considered to be 'invaders' (Kanyinga, 2009). Only when the Kenya African National Union (KANU) lost the 2002 general elections was institutional and social progress perceived to be possible. For the first time, the idea of establishing a truth commission that would address KANU government-sponsored human rights violations seemed within reach. But president Mwai Kibaki protected his own cronies by ignoring the recommendation of a task force to set up such a commission (Lanegran, 2015).

As other countries' troubles received most of the international and regional attention and resources, Kenya never had to fear any kind of intervention by its neighbors or by regional organizations. On a global scale, Kenya clearly aligned itself to the West during the Cold War. However, the international community pressured Kenya to transform its one-party state into a multi-party democracy in 1991. While complying with its donors' demands, corruption surged and

so did violence, particularly around the time of the 1992 and 1997 general elections. Tensions culminated in the 2007-2008 PEV after a presidential race between incumbent Mwai Kibaki and his rival Raila Odinga. The ‘negative ethnicity’ underlying the political competition (Wa Wamwere, 2008) led to violent clashes that killed over 1,000 people and left 600,000 displaced. Only due to the mediation effort of the Panel of Eminent African Personalities, a process led by the African Union (AU), were the parties to the conflict able to overcome their differences and agree to a peace deal dubbed the ‘National Accord’ on 28 February 2008, which included a power-sharing agreement, a new constitution, and various TJMs, including a truth commission, to stop the violence (Langer, 2011).

### **3.2. Stage 2: Assessment of the truth commission**

Renowned truth commission expert Priscilla Hayner and the ICTJ played a critical role in establishing the truth commission during a negotiation process, although it took months before parliament finally passed an act in October 2008 (Lanegran, 2015, p. 14). The mandate of the Truth, Justice, and Reconciliation Commission (TJRC) included an assessment of human rights violations from independence in 1963 up to the 2008 National Accord. Presumably a lot of ‘best practice’ sharing should have allowed for the smooth running of the TJRC, however there were severe problems from the beginning. Support for the truth commission dropped after the politically charged intervention of the ICC in Kenya with the ‘ICC-6’ (Mueller, 2014).<sup>14</sup>

The TJRC originally consisted of nine commissioners, three of whom were foreigners. The Commission faced several challenges: 1) a scandal about its chair, ambassador Bethuel Kiplagat, who had allegedly been involved in a massacre; 2) too broad of a mandate, with 45 years of

---

<sup>14</sup> The ‘ICC-6,’ also known as ‘Ocampo Six,’ refer to the six Kenyan individuals named by ICC prosecutor Luis Moreno Ocampo in December 2010. The ICC intervened in Kenya because no special tribunal was established as demanded by the Waki Report. Among them were today’s president Uhuru Kenyatta and his vice-president William Ruto. Ultimately, the ICC was unable to indict any of the six, as the cases against them collapsed one after the other (Murithi, 2015).

history to cover and the inclusion of economic crimes like corruption; 3) budget constraints; and 4) inability to comply with deadlines (Amaya & Langer, 2015, pp. 55-57). As a consequence, the TJRC lost the support of many victims and civil society organizations (CSOs), which ultimately severely weakened its work (Hansen, 2013). After many delays, and not two but four years of work, the final report was officially delivered to president Uhuru Kenyatta. It had four volumes with some 2,200 pages, and developed 18 different themes with 91 recommendations and a tight timeline for implementation. Among the recommendations are reparations for victims, public apologies, and a judicial review of possible perpetrators, who are mentioned by name, including the commission's own chair.

### 3.3. Stage 3: *Evaluation of implementation*

Following the third step of Skaar et al. (2015a), the implementation of truth commission recommendations are evaluated. The Kenyan case was overshadowed by a scandal about a rewriting of the chapter on land, where the president's office intervened in sections relating to the his family, thus undermining the legitimacy of the final report.<sup>15</sup> Moreover, the final report was immediately challenged in court, mostly by individuals who feared that the truth would come to light. Due to the refusal of parliament to discuss the report, there has still been no public dissemination of the report. Consequently, it is difficult to identify any implementation of the recommendations. As a matter of fact, the report is no longer available on the TJRC website, because their website was shut down.<sup>16</sup>

As a step forward, in his 2015 State of Union address, President Uhuru Kenyatta publicly apologized for the 1984 Wagalla massacre,<sup>17</sup>

---

<sup>15</sup> Skype interview with former commissioner, 14 July 2015.

<sup>16</sup> Seattle University, where former commissioner Ron Slye works, made the whole report available online, including the two different versions of Volume IIB, where changes in the land chapters were made by the Office of the President, as well as the letter of dissent by the international commissioners: <http://digitalcommons.law.seattleu.edu/tjrc/>.

<sup>17</sup> The Wagalla massacre refers to a Kenyan security operation carried out in Kenya's North Eastern Province in 1984, where some 500-3,000 people were allegedly killed. It was one



the 2007-2008 PEV, and for “all wrongs” committed by the state, a key demand of the TJRC (Ndungú, 2015). Importantly, he also announced the establishment of a national fund for PEV victims with the considerable sum of 10 billion Kenyan shillings,<sup>18</sup> thereby fulfilling (at least partially) another TJRC recommendation to provide reparations to victims. Both measures, however, are for Kenyatta explicitly not linked to the TJRC recommendations and no fund has been put in place as of yet (November 2016). Chief justice Willy Mutunga also expressed an apology for the first time in March 2015, referring explicitly to the TJRC recommendations (Maliti, 2015). Besides the public apology of president Kenyatta, the Kenyan government has done nothing to implement the TJRC recommendations, and the common perception is that “the report was shelved.”<sup>19</sup> Little will change until parliament discusses the final report and establishes a follow-up mechanism that will track the implementation of recommendations as foreseen in the TJR Act.<sup>20</sup>

### *3.4. Stage 4: Impact on peace, democracy and institutional reform*

The final step of this analysis focuses on the perceived impact of truth commissions related to the final report and its recommendations. In terms of negative peace or the absence of violence, Kenya has not experienced ethnic violence on a large scale since the 2007-2008 PEV, although other factors seem to be responsible for this. The 2013 general elections were rather peaceful, for example, because Kikuyu and Kalenjin—former ethnic rivals in the 2007-2008 PEV—, ran on the same political ticket. Nonetheless, the structural issues that fuel ethnic hatred have not been addressed and nationwide reconciliation

---

of the successes of the TJRC to shed more light on the events of the 1980s and continued injustice against the ethnic Somali population in the area. One of the ironies, however, was that TJRC chair Kiplagat was allegedly involved in the massacres as evidenced by his participation in relevant meetings before they were carried out (Anderson, 2014).

<sup>18</sup> In 2015, 10 billion Kenyan shillings were worth about 100 million U.S. dollars.

<sup>19</sup> Skype interview with human rights activist, 19 January 2016. The notion that no recommendations have been implemented is shared by all people involved in the Kenyan case who were interviewed.

<sup>20</sup> Skype interview with former commissioner, 14 July 2015.



initiatives have yet to materialize. While president Kenyatta made a public apology in 2015 and announced that he would establish a victims' fund, there has been no follow-up. The issue of peace is still a big topic in Kenya, but it is now largely associated with ending the activities of the Somali Al Shabaab terrorist group (Anderson & McKnight, 2015). In terms of democracy, old patterns of elite politics continue, particularly with respect to corruption, despite the new constitution (Cheeseman, Lynch, & Willis, 2016). When it comes to institutional reform, the TJRC has had no impact, in part because the country had already implemented a new constitution in 2010, before the truth commission started its work.

There are several reasons why the TJRC has had such a minimal effect on peace, democracy, and institutional reform since its final report was published in May 2013. First, parliament never accepted or even discussed the final report or its recommendations, thus no direct impact can be possible because it is not a public document. Moreover, the new constitution was intended to lead to 1) less corruption due to a stronger and more independent judiciary; 2) more inclusive politics thanks to the process of devolution; and 3) a more democratic state thanks to a clear separation of powers (Kanyinga & Long, 2012). In reality though, the new constitution did not bring about these changes, and Kenyans feel that the final report of the TJRC failed to create a shift, because the document is perceived to be "shelved."<sup>21</sup> One important success of the TJRC, on the other hand, is that it shed more light on state crimes against the ethnic Somali community in Kenya.<sup>22</sup>

---

<sup>21</sup> Skype interview with civil society representative, 19 January 2016.

<sup>22</sup> Skype interview with civil society representative, 19 January 2016.

## 4. Sierra Leone

### *4.1. Stage 1: Understanding the national, regional, and global context*

In comparison to Kenya's short three-month period of PEV, Sierra Leone suffered from a decade-long civil war. While this West African country was comparatively well-off for several years after its 1961 independence from the UK, a political power struggle between two major parties, the Sierra Leone People's Party (SLPP) and the All People's Congress (APC), later tore the country apart. The APC controlled Sierra Leonean politics from 1968 to 1992, a period characterized by growing repression, corruption, and electoral fraud. Disillusion and anger among the growing youth population led to increasing violence and 'war-lordism' (Abdullah, 1998). In March 1991, the Revolutionary United Front (RUF) invaded the eastern parts of Sierra Leone from Liberia, setting off civil war (Zack-Williams, 1997). Here the regional context is important as Colonel Gaddafi of Libya actively supported the RUF with military training in the 1980s. Moreover, Liberian war lord Charles Taylor used the RUF for his own interests in the first Liberian civil war (1989-1996).

Sierra Leone saw several changes of government over the course of its civil war. In April 1992, army captain Valentine Strasser toppled the APC government, promising to improve the economy and security. After he failed to do so, Ahmad Tejan Kabbah led civilian government in 1996 after election on a SLPP ticket. A year later (in May 1997), the RUF and army defectors seized power in the capital Freetown. Increasingly, the Civil Defense Forces (CDF), fighting for the Kabbah government, played an important role and struck a deal with RUF for a new government in the 1999 Lomé Peace Accords. However, the RUF backed out and launched new attacks. Only with the British military intervention in 2000 did the country become more stable, and in January 2002 the civil war was officially declared over. This paved the way for the establishment of the Truth and Reconciliation Commission (TRC) and a hybrid court later that same year. The civil war, resulting in some 50,000-70,000 deaths and the

displacement of half the population (Kaldor & Vincent, 2006), has often been characterized in the West as a war over diamonds (Keen, 2005), although the TRC stressed the youth crisis and corruption as key factors for the violence.

#### ***4.2. Stage 2: Assessment of the truth commission***

While the AU led the process in Kenya, the UN mediated the 1999 Lomé Peace Agreement, which included the proposal for a truth commission. At first, some form of legal reckoning was foreseen, and no tribunal was included. Only in August 2000, and due to international pressure, did the UN Security Council approve the Special Court for Sierra Leone (SCSL), and the TRC focus its work on truth-telling and reconciliation. Although the TRC Act was already approved by February 2000, it was not until July 2002 that the seven commissioners, three of them internationals, were sworn in and the commission started to comply with its main objectives: address the past, heal the wounds of the victims, and enable communities to reconcile. Throughout their simultaneous operations in 2002-2004, the SCSL and the TRC had troubles cooperating with each other, which led to confusion and a distrust of the TRC among the public, due to fears that information might be shared with the SCSL (Schabas, 2004b). In comparison to the tribunal, whose mandate began with the events of 1996, the TRC was able to cover the whole civil war, beginning in 1991.

From the beginning, the TRC faced severe challenges, particularly due to its dire finances and management problems (Naughton, 2014, pp. 40-42). Criticism emerged that the national commissioners would be too close to the ruling party and lacked charisma while the international commissioners were not visible enough (The Sierra Leone Working Group on Truth and Reconciliation, 2006). Despite these difficulties, after two years the TRC presented its final report to president Kabbah at the State House in Freetown on 5 October 2004. The document, comprising three volumes and over 2,000 pages, was well

received by all actors.<sup>23</sup> The TRC called for reforms at four levels of urgency and in 17 broad categories. A particular innovation was the 'National Vision for Sierra Leone' which allowed ordinary citizens to have their voices heard.<sup>24</sup>

#### 4.3. Stage 3: Evaluation of implementation

While the TRC suffered at the beginning from several crises, the final report was welcomed from all sides.<sup>25</sup> The TRC recommended the wide dissemination of its findings, including versions of the final report in video and documentary form, and the organization of workshops to promote dialogue and stimulate debate. One matter of concern is that the printed version of the report did not reach the average Sierra Leonean. However, the TRC did produce alternative versions: a video, a comic book, a child-friendly version, and a version for high school students.<sup>26</sup> Although the TRC hosted the report online for a period of time, most Sierra Leoneans do not have easily access to computers.<sup>27</sup> As no follow-up institution of the TRC was set up, the closest thing being a Human Rights Commission, it is difficult to hold the government accountable to implement recommendations. A Peace Museum that hosts the public records of the TRC opened its doors in December 2013, housed in the former SCSL building. Nevertheless, it has a very low visitation rate among the public (Zetterstrom-Sharp, 2015).

The recommendations of the TRC were varied and many. Some of them have been delivered, like the anti-corruption bill, although usu-

---

<sup>23</sup> Skype interview with academic, 18 January 2016. Together with the appendices, the final report has 5,000 pages.

<sup>24</sup> Skype interview with former TRC staff, 28 January 2016.

<sup>25</sup> Skype interview with academic, 18 January 2016.

<sup>26</sup> All these popular versions are available at <http://www.sierraleonetr.org/index.php/view-the-final-report/popular-reports>. The child-friendly and high-school version do not seem well-adapted to their intended audience, considering the use of very specific terms.

<sup>27</sup> The original website was taken down, thus the government does not fulfill its duty to allow for easy access to the report. Thanks to an NGO initiative, the report and its popular versions are available at <http://www.sierraleonetr.org/>

ally without referencing the TRC in the legislative proceedings. Thus, it is questionable if such legislation was an impact of the truth commission or if it would have been pursued anyway. Many have argued that the reconciliation efforts of the TRC have been minimal,<sup>28</sup> but the commission may have helped to spur other reconciliation efforts like *Fambul Tok* ('family talk' in Sierra Leonean Creole) which is a well-known example of community reconciliation that overcomes previous divides (O'Kane, 2014). While some CSOs and victim groups have used the final report and its recommendations for their advocacy, politicians and society in general have largely ignored the document.

#### 4.4. Stage 4: Impact on peace, democracy and institutional reform

Sierra Leone has not gone back to civil war or major violence, which in and of itself is a success (Mitton, 2013). The 'youth crisis,' often described as one of the triggers of the civil war, has been largely tamed although petty crime and gang violence is rather high due to poverty and the lack of economic opportunity (Allouche, 2014). The TRC, together with the Special Court, helped to bring about peace and stability although their efforts often contradicted each other (Nkansah, 2015). Additionally the TRC approach toward truth-telling and reconciliation failed to contribute to a sense of justice and healing among victims and local communities (Millar, 2011). Most TRC recommendations have not been tackled; only the 'National Vision for Sierra Leone,' developed by the commission by consulting people from across the country, was successful in envisioning a better future.<sup>29</sup> When it came to democratic developments and the reform of state institutions, however, the truth commission's recommendations did not help to bring about change and the political structures did not allow for the development of an inclusive democracy.

Several reasons can be identified for the limited impact of the TRC. First, the country still suffers from severe under-development, particularly in rural areas. Second, the country has been shaken for two

<sup>28</sup> Skype interviews with two academics, 22 January 2016 and 29 January 2016.

<sup>29</sup> Skype interview with former truth commission official, 28 January 2016.

years by the Ebola crisis, demonstrating the vulnerability of the state.<sup>30</sup> Third, the limited efforts to distribute the final report failed to make Sierra Leoneans aware of the document, even though ‘popular versions’ of the document were distributed (video, comic, child-friendly as well as high school version). Fourth, the HRC has not followed up actively on the TRC recommendations. Fifth, the truth-seeking mechanism was perceived to be foreign, while many people in the country preferred to “forgive and forget” (Shaw, 2005, p. 4). Finally, while a peace museum was established, it is hardly visited, and the Peace and Cultural Monument, which has existed since 2011 in the center of Freetown, is not building on the work of the TRC (Basu, 2013).

## 5. Timor-Leste

### *5.1. Stage 1: Understanding the national, regional, and global context*

The 24-year-long Indonesian occupation of Timor-Leste was brought to an end with a 1999 independence referendum, accompanied by a wave of violence unleashed by Indonesian security forces and pro-Indonesian militias. When Portugal announced that it would withdraw from Timor-Leste in 1974, East Timorese parties sprang up with different ideas about its political future, eventually resulting in a civil war. Just days after the left-wing Revolutionary Front for an Independent East Timor (Fretilin) unilaterally declared its independence, Indonesia invaded the Eastern part of the island, and officially annexed the territory in May 1976. The armed conflict continued as Falintil, the armed wing of Fretilin, continued to engage in armed resistance to the Indonesian occupying power, leading to the death of almost one third of the East Timorese population.<sup>31</sup>

---

<sup>30</sup> Skype interview with academic, 22 January 2016.

<sup>31</sup> The number of people killed during the Indonesian occupation remains controversial. For a long time, it was generally believed that some 200,000 people perished (mostly due to famine), while the CAVR established that most likely about 104,000 East Timorese died. According to the final report of the CAVR, more than 50% of the killings were carried out by Indonesian forces and their auxiliaries while Falintil was responsible for about 33% of the deaths (CAVR, 2005, p. 44).

The resistance continued after the end of the Cold War, which made Indonesia's allegation of a communist conspiracy by Fretelin more difficult to justify to Western powers. It was not until the 1998 fall of Indonesian president Suharto that change became possible. Despite intimidation and violence, the East Timorese voted overwhelmingly for independence on 30 August 1999. This referendum, backed by regional power Australia and by the UN, came with a high price: the Indonesian army and its auxiliaries killed more than 1,000 people and three quarters of the population was displaced, including 250,000 who fled as refugees (Pushkina & Maier, 2012, p. 329). UN missions supported the East Timorese in 1999 and for the first time established an East Timorese state, officially proclaimed in 2002. High on the UN agenda was the push for TJMs, including a truth commission and a hybrid court. Both TJMs were compromised because Indonesia refused to collaborate, even though it harbored the main culprits of major human rights violations.

## 5.2. Stage 2: Assessment of the truth commission

As in Sierra Leone, the UN played a key role in determining Timor-Leste's approach to transitional justice. After two formal inquiries, the UN established a hybrid court known as the Special Panel for Serious Crimes (SPSC), along with a truth commission. A Steering Committee held consultations across the 13 districts of East Timor at all levels and found widespread community support for a truth and reconciliation commission (CAVR, 2005, pp. 5-6). With the help of ICTJ, the UN mission together with the transitional Timorese government established the Commission for Reception, Truth, and Reconciliation (CAVR).<sup>32</sup> In February 2002, the CAVR began its work, which has been described as "unusual" due to the absence of the perpetrator (Indonesia) that was responsible for the

---

<sup>32</sup> CAVR is the Portuguese acronym for *Comissão de Acolhimento, Verdade e Reconciliação de Timor Leste*. The word 'reception' refers to all those East Timorese that fled to West Timor or Indonesia during or after the 1999 violence in fear of retaliation by East Timorese independence forces. The CAVR hoped to be a tool to bring these people peacefully back to Timor Leste.

majority of human rights violations in Timor-Leste, thus hampering the goal of achieving truth and justice (Roosa, 2007). The support of civil society for CAVR activities was limited, despite the fact that most commissioners were recruited from CSOs (Langer, 2015a).

Seven national commissioners from East Timor were responsible for leading the CAVR, and they had the task of fulfilling the four main objectives included in their mandate: 1) establishing the truth about human rights violations committed on all sides in 1974-1999; 2) facilitating community reconciliation for less serious crimes; 3) assisting in restoring the human dignity of victims; and 4) writing a final report that would include recommendations (Walsh, 2012, p. 4). The mandate of the CAVR incorporated an indigenous conflict resolution practice called *nabe biti*<sup>33</sup> with the Community Reconciliation Process (Babo-Soares, 2004). In 2005, the final report called *Chega!* (“Enough” or “Stop”) was finally completed, consisting of over 3,000 pages and including 204 recommendations.<sup>34</sup>

### 5.3. Stage 3: Evaluation of implementation

CAVR received an operational mandate of two years but this time period was extended by an additional 15 months with three amendments in order to finalize its final report, *Chega!* (CAVR, 2005, p. 6), which was delivered to parliament and to president and independence hero Xanana Gusmão. Gusmão accepted the report but also criticized it because he saw the results as foreign and did not like to see Timorese historiography focusing on victims rather than the ‘heroic’ resistance (Kent, 2016, pp. 58-62). Parliament was also critical; it never officially discussed *Chega!* and it took no action on its recommendations.<sup>35</sup> *Chega!* is welcomed as a major piece of East

<sup>33</sup> The practice of *nabe biti*, which literally means ‘stretching the map,’ is a traditional conflict resolution tool in Timor Leste to bring about reconciliation through dialogue.

<sup>34</sup> After the work of CAVR, Indonesia established another truth commission together with Timor Leste, the so-called Truth and Friendship Commission (TFC), which was strongly criticized at first. Later on many observers were surprised by the extent to which Indonesia admitted to its crimes (Strating, 2014).

<sup>35</sup> Skype interview with former truth commission official, 4 August 2015.



Timorese history, although some critics claim that it added no new information. Webster observes that “*Chegal* is plotted like a Catholic story, with original sin being washed clean through repentance and suffering until the final redemption” (2007, p. 590). Overall, CAVR developed 204 recommendations on 13 topics (CAVR, 2006, p. 10). The report also emphasized the need to continue its work and the process of recognizing and acknowledging the truth of what happened in order to achieve reconciliation in the long term.

In Timor-Leste, in contrast to Sierra Leone and Kenya, a post-CAVR secretariat was installed with three main objectives: 1) to implement the recommendations in *Chegal*; 2) to continue with reconciliation efforts; and 3) to transform the former Comarca prison into a national center for education about the human rights violations, which would house the CAVR archives (CAVR, 2005, p. 54). The first two points have not been implemented as of yet (Kent, Kinsella, & Rodrigues, 2016). While a museum exists in the former prison, the rather simple exhibition there is hardly known and hardly ever visited.<sup>36</sup> *Chegal* has been distributed to CSOs, often through public forums and workshops, with video and comic strip versions of the final report, yet this effort was not sustained and the final report has been mostly forgotten by political actors. At this time, only a handful of human rights NGOs refer to the document or advocate for the implementation of its recommendations.<sup>37</sup>

#### 5.4. Stage 4: Impact on peace, democracy and institutional reform

When it comes to issues of peace, the 2006-2007 tensions demonstrated the fragility of national unity discourse, as the army in particular tried to challenge the government (International Crisis Group, 2006). There has not been another outbreak of violence since that time, and Timor-Leste has had peaceful elections, even when there was a change of government. Moreover, there is now something of a civil society, although it is mostly based in the capital, Dili. It includes or-

<sup>36</sup> Skype interview with former CAVR advisor, 26 June 2016.

<sup>37</sup> Skype interview with former truth commission official, 4 August 2016.

ganizations that are involved in memory work, like *Assosiasaun Chega! Ba Ita* (ACbit or “*Chega! for us* Association” in English) or Asia Justice and Rights (AJAR). They build on *Chega!*, thus signaling that it has had at least a minor impact on civil society (Kent, 2016, pp. 64-65). Timor-Leste had to build a state from scratch after 1999, with a new institutional framework, but CAVR recommendations are not reflected in the institutional configuration of the state, illustrating that it “has had limited direct political impact” (Kent et al., 2016, p. 26).

CAVR has a somewhat more impressive record than the other two case studies. According to Hayner (2011), it is one of the five strongest truth commissions, although its impact has been limited. In contrast to the other two case studies, there is a follow-up mechanism in place. However, the post-CAVR secretariat continues to interpret its mandate in such limited ways that it does not further the aims of the truth commission.<sup>38</sup> In general, there is little knowledge about *Chega!*, and many East Timorese are not even aware of the document (Kent et al., 2016). In 2009 there was new hope for the implementation of its recommendations, in particular to fulfill demands to establish a reparations program as well as an ‘Institute for Memory’ that would oversee the implementation of other CAVR recommendations. But parliament delayed both draft laws indefinitely due to limited resources, the perceived need to prioritize paying veterans’ pensions, and the fear that victims of Fretilin violence, perceived as traitors, might receive reparations (Kent, 2013, p. 74).

## Discussion of findings

Using the four-step analysis developed by Skaar et al. (2015), an examination of the three truth commissions and their recommendations suggests that only little impact was possible. In Kenya, parliament has not even accepted the final report, thus there has been no direct impact. Independent of the TJRC, president Kenyatta publicly apologized to victims. The president also promised a reparations fund,

---

<sup>38</sup> Skype interview with former truth commission official, 4 August 2015.

which has not yet materialized, but his proposal does not refer to or comply with TJRC recommendations. In Sierra Leone, the truth commission suffered from competition with the tribunal and the perception that it was an alien idea. Although there have been more effective outreach efforts than in the other two cases, the actual impact has been slight because most victims and politicians are unaware of the final report and its recommendations. In Timor-Leste, the political elite has ignored the recommendations of the final report. Although a follow-up mechanism is in place, it is not doing its job. East Timorese victims continue to wait – without avail so far – for material reparations as demanded in *Chega!* To date, very few recommendations have been implemented, and when laws are passed, they do not specifically refer to CAVR recommendations. This matters because it shows whether or not the truth commission is bringing about change.

It is important to look more closely at the three variables at play: peace, democracy, and institutional reform. While Kenya's 2013 general elections were peaceful, ethnic tensions continue, now mostly overshadowed by religion. Sierra Leone can look back on a peaceful period, although it does not seem to be related to the reconciliation efforts of the TRC. In Timor-Leste, only one year after publishing the final report, the country faced two years of pronounced tension and violence (2006-2007). Truth commissions seem to have had no success in creating more inclusive democracies, particularly not in Kenya or Timor-Leste. In Sierra Leone, the National Vision allowed for some impact, as presidents took up suggestions that were laid out in the final report. However, even the government-led initiative 'Vision 2025' was already established before the TRC came to light (UNIPSIL, 2003). In none of the three countries were institutional reform undertaken as a consequence of the truth commission recommendations. The closest we get to an impact on institutions is in Sierra Leone, but even there, the processes of reforming the security sector had mainly occurred before the TRC finished its work.

In short, the perceived impact of the three truth commissions on democracy, peace, and institutional reform was minimal. This is in

line with the findings of Olsen et al. (2010, pp. 144-151), who show in their quantitative analysis that truth commissions accompanied by trials have no meaningful impact (as was the case in Kenya and Timor-Leste). However, their findings show that the more 'holistic approach' of a truth commission, trials, and amnesties (as in Sierra Leone) does have a positive impact on indicators of democracy and human rights. While Sierra Leone did experience a more positive impact than the other two countries, the 'holistic approach' is not working in this case, contrary to the findings of Olsen et al. (2010). It is important to add that in the three case studies in question the truth commissions did not seem to have any major negative impacts. The four-step approach of Skaar et al. (2015a) is a guide to analyzing the impact of TJMs and was tested on three additional cases in this article. Using this methodology shows that similar to the quantitative methods of Olsen et al. (2010) and the mixed-methods approach of Wiebelhaus-Brahm (2010), it is difficult to isolate the impact of a TJM on the dependent variables. While this four-step approach allows for a challenge to the normative claims of truth commission proponents, it is limited in effect, mostly because it only allows for descriptive analysis.

Truth commissions do matter, although in a limited way. They mostly serve as an effort to write a credible account of a country's past with a focus on victims. That is in itself a step forward. For most victims, however, the final report does not mean much, due to high levels of illiteracy and the time and other challenges entailed in reading a document of over 2,000 pages.<sup>39</sup> For victims, the recommendation of material reparations would be most important, yet none of the governments have established a victims' fund. While some CSOs in all three countries had called for truth commissions, none of them were strongly involved in the resulting commission processes, and

---

<sup>39</sup> The literacy rate across the globe is rising constantly and rapidly. The numbers available from UNESCO (2016) for the three countries in question show the following: Sierra Leone with 34.8% literacy in 2005 and Timor Leste with 50.6% literacy in 2007 had very low literacy rates following the release of their final reports, while Kenya with 78% literacy in 2015 had a relatively higher rate.

with few exceptions have not pressured governments to implement recommendations. Nor did it help that there were no changes in government that would allow for a clear break from the past (keeping in mind that the guerrillas in Timor-Leste took power from Indonesia, and even though a transitional government was established in Kenya for one legislative term, the rules of the game have not changed in practice).

## Conclusions

This paper shows that the establishment of truth commissions in three countries – Kenya, Sierra Leone, and Timor-Leste – had only limited impacts on the lives of people in those countries or on the pursuit of peace, democracy, and institutional reform. A major hindrance to change has been the lack of political will. Political elites ignored truth commissions' recommendations on different levels, either by not discussing the final report in the first place or simply by not referring to them in political debates. The recommendations are not generally implemented and when they are, there is often no reference made to them. While a few civil society initiatives lobby for the implementation of some recommendations, they are often not heard. As long as civil society actors are not more closely involved in the truth commission process, a key ally is missing in the afterlife of commissions to help implement their recommendations. For now, truth commissions are transitional justice mechanisms encouraged by the international community, whose practical importance is exaggerated. This is not to say, however, that truth commissions are not necessary or have no value.

The real importance of truth commissions seems to be that they allow countries to establish new national histories written from the perspective of victims. They should be combined with well-managed and sustained outreach programs that make their final reports accessible to victims and society at large. Otherwise, governments will ignore recommendations that they see as costly in financial and political terms, and take advantage of the fact that the public is

uninformed about proposed changes. These are important lessons for other countries, such as Colombia, that seek to establish truth commissions. Only if civil society strongly supports the work of a truth commission and its commissioners, is there a chance that the final report and its recommendations will help to acknowledge past wrong-doing and bring about institutional change and peaceful co-existence. Perhaps over time, truth commissions will contribute to increased justice, further reconciliation, and the strengthening of state institutions to allow for more inclusive states. The conclusion for now is that truth commissions seem to be mechanisms that are hyped and promoted by the international community but have relatively little impact in bringing about structural change.

## References

- Abdullah, I. (1998). Bush path to destruction: The Origin and Character of the Revolutionary United Front/Sierra Leone. *The Journal of Modern African Studies*, 36(2), 203-235.
- Allouche, J. (2014). *Undercurrents of Violence: Why Sierra Leone's Political Settlement is not Working*. London.
- Amaya, J., & Langer, J. (2015). Comisiones de la verdad como instituciones de aprendizaje: el caso de Kenia. *Economía & Región*, 9(1), 35-65.
- Anderson, D. M. (2014). Remembering Wagalla: State Violence in Northern Kenya, 1962–1991. *Journal of Eastern African Studies*, 8(4), 658-676.
- Anderson, D. M., & McKnight, J. (2015). Kenya at War: Al-Shabaab and its Enemies in Eastern Africa. *African Affairs*, 114(454), 1-27.
- Babo-Soares, D. (2004). Nahe biti: The Philosophy and Process of Grass-Roots Reconciliation (and Justice) in East Timor. *The Asia Pacific Journal of Anthropology*, 5(1), 15-33.
- Bakiner, O. (2014). Truth Commission Impact: An Assessment of How Commissions Influence Politics and Society. *International Journal of Transitional Justice*, 8(1), 6-30.
- Bakiner, O. (2016). *Truth Commissions: Memory, Power, and Legitimacy*. Philadelphia, PA: University of Pennsylvania Press.
- Basu, P. (2013). Recasting the National Narrative: Postcolonial Pastiche and the New Sierra Leone Peace and Cultural Monument. *African Arts*, 46(3), 10-25.

- Bock, M. (2008). Multiple Representations of a Human Rights Violation: Competing Discourses in TRC Narratives and Related Media Texts. *Stellenbosch Papers in Linguistics PLUS*, 36, 35-65.
- Brahm, E. (2007). Uncovering the Truth: Examining Truth Commission Success and Impact. *International Studies Perspectives*, 8(1), 16-35.
- CAVR. (2005). *Chega! The report of the Commission for Reception, Truth, and Reconciliation Timor-Leste: Executive summary*. Dili.
- CAVR. (2006). *Introducing... Chega!: The Report of the Commission for Reception, Truth and Reconciliation*. Dili.
- Cheeseman, N., Lynch, G., & Willis, J. (2016). Decentralisation in Kenya: The Governance of Governors. *Journal of Modern African Studies*, 54(1), 1-35.
- Cornell, A., & D'Arcy, M. (2014). Plus ça change? County-level politics in Kenya after devolution. *Journal of Eastern African Studies*, 8(1), 173-191.
- Dahl, R. (1998). *On Democracy*. New Haven, CT: Yale University Press.
- Dancy, G., Kim, H., & Wiebelhaus-Brahm, E. (2010). The Turn to Truth: Trends in Truth Commission Experimentation. *Journal of Human Rights*, 9(1), 45-64.
- Fletcher, L. E., Weinstein, H. M., & Rowen, J. (2009). Context, Timing and the Dynamics of Transitional Justice: A Historical Perspective. *Human Rights Quarterly*, 31(1), 163-220.
- Freeman, M. (2006). *Truth commissions and procedural fairness*. New York, NY: Cambridge University Press.
- Freeman, M., & Hayner, P. B. (2003). Truth-telling. In D. Bloomfield, T. Barnes, & L. Huyse (Eds.), *Reconciliation After Violent Conflict* (pp. 122-139). Stockholm: IDEA.
- Galtung, J. (1969). Violence, Peace, and Peace Research. *Journal of Peace Research*, 6(3), 167-191.
- González, E. (2013). *Drafting a truth commission mandate: A practical tool*. New York, NY.
- Hamber, B. (2009). *Transforming Societies After Political Violence: Truth, Reconciliation, and Mental Health*. New York, NY: Springer.
- Hansen, T. O. (2013). Kenya's Power-Sharing Arrangement and its Implications for Transitional Justice. *The International Journal of Human Rights*, 17(2), 307-327.
- Hayner, P. B. (2010). *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* (2nd ed.). New York, NY: Routledge.



- ICTJ. (2014). *Challenging the Conventional: Can Truth Commissions Strengthen Peace Processes?* New York, NY.
- International Crisis Group. (2006). *Resolving Timor-Leste's Crisis. Asia Report N°120.* Jakarta.
- Kaldor, M., & Vincent, J. (2006). *Evaluation of UNDP Assistance to Conflict-Affected Countries. Case Study: Sierra Leone.* New York, NY.
- Kanyinga, K. (2009). The Legacy of the White Highlands: Land Rights, Ethnicity and the Post-2007 Election Violence in Kenya. *Journal of Contemporary African Studies*, 27(3), 325-344.
- Kanyinga, K., & Long, J. D. (2012). The Political Economy of Reforms in Kenya: The Post-2007 Election Violence and a New Constitution. *African Studies Review*, 55(1), 31-51.
- Keen, D. (2005). *Conflict and collusion in Sierra Leone.* London: James Currey.
- Kent, L. (2013). *The dynamics of transitional justice: International models and local realities in East Timor.* New York, NY: Routledge.
- Kent, L. (2016). After the Truth Commission: Gender and Citizenship in Timor-Leste. *Human Rights Review*, 17(1), 51-70.
- Kent, L., Kinsella, N., & Rodrigues Tchailoro, N. (2016). *Chega! Ten years on: A neglected national resource.* Dili.
- Kim, H. J., & Sikkink, K. (2010). Explaining the Deterrence Effect of Human Rights Prosecutions for Transitional Countries. *International Studies Quarterly*, 54(4), 939-963.
- Lanegran, K. (2015). The Kenyan Truth, Justice and Reconciliation Commission: The Importance of Commissioners and their Appointment Process. *Transitional Justice Review*, 1(3), 41-71.
- Langer, J. (2011). The Responsibility to Protect: Kenya's Post-Electoral Crisis. *Journal of International Service*, 19(1), 1-19.
- Langer, J. (2015a). Including and Excluding Civil Society in the Truth-Seeking Efforts in Timor-Leste. *Perspectivas Internacionales*, 11(1), 89-113.
- Langer, J. (2015b). Peace vs. Justice: The Perceived and Real Contradictions of Conflict Resolution and Human Rights. *Criteria*, 8(1), 165-189.
- Laplanche, L. J., & Theidon, K. (2010). Commissioning Truth, Constructing Silences: The Peruvian Truth Commission and the Other Truths of "Terrorists". In K. M. Clarke & M. Goodale (Eds.), *Mirrors of Justice* (pp. 291-314). New York, NY: Cambridge University Press.
- Lundy, P., & McGovern, M. (2008). Whose Justice? Rethinking Transitional Justice from the Bottom up. *Journal of Law and Society*, 35(2), 265-292.



- Maliti, T. (2015, abril 9). Kenyan President and Chief Justice Apologize for Past Injustices. *International Justice Monitor*. Retrieved from <http://www.ijmonitor.org/2015/04/kenyan-president-and-chief-justice-apologize-for-past-injustices/>
- Mälksoo, M. (2012). The Challenge of Liminality for International Relations: The Challenge of Liminality for International Relations theory. *Review of International Studies*, 38(2), 481-494.
- Mendeloff, D. (2004). Truth-Seeking, 'Truth'-Telling, and Postconflict Peacebuilding: Curb the Enthusiasm? *International Studies Review*, 6(3), 355-380.
- Méndez, J. E. (1997). Accountability for Past Abuses. *Human Rights Quarterly*, 19(2), 255-282.
- Millar, G. (2011). Local Evaluations of Justice Through Truth Telling in Sierra Leone: Postwar Needs and Transitional Justice. *Human Rights Review*, 12(4), 515-535.
- Minow, M. (1998). *Between Vengeance and Forgiveness: Facing History After Genocide and Mass Violence*. Boston, MA: Beacon Press.
- Mitton, K. (2013). Where is the War? Explaining Peace in Sierra Leone. *International Peacekeeping*, 20(3), 321-337.
- Mueller, S. D. (2014). Kenya and the International Criminal Court (ICC): Politics, the Election and the Law. *Journal of Eastern African Studies*, 8(1), 25-42.
- Murithi, T. (2015). Ensuring Peace and Reconciliation While Holding Leaders Accountable: The Politics of ICC Cases in Kenya and Sudan. *Africa Development*, 40(2), 73-97.
- Nauenberg, S. (2015). Spreading the Truth: How Truth Commissions Address Human Rights Abuses in the World Society. *International Sociology*, 30(6), 654-673.
- Naughton, E. (2014). Sierra Leone: Case Study. In ICTJ (Ed.), *Challenging the Conventional* (pp. 35-48). New York, NY: ICTJ.
- Ndungú, C. G. (2015, mayo 26). Kenyatta's Apology Breaks Important Ground, Now Comprehensive Action is Needed. *ICTJ*. Retrieved from: <https://www.ictj.org/news/kenyatta-apology-actions-needed>
- Nkansah, L. A. (2015). The Dance of Truth and Justice in Postconflict Peacebuilding in Sierra Leone. *African Journal of International and Comparative Law*, 23(2), 199-225.

- O'Kane, D. (2014). Fambul Tok Director by Sara Terry (review). *African Conflict and Peacebuilding Review*, 4(2), 173-175.
- Olsen, T. D., Payne, L. A., & Reiter, A. G. (2010). *Transitional justice in balance: Comparing Processes, Weighing Efficiency*. Washington, DC: USIP Press.
- Pushkina, D., & Maier, P. (2012). United Nations peacekeeping in Timor-Leste. *Civil Wars*, 14(3), 324-343.
- Robinson, I. (2015). Truth Commissions and Anti-Corruption: Towards a Complementary Framework? *International Journal of Transitional Justice*, 9(1), 33-50.
- Roosa, J. (2007). How Does a Truth Commission Find Out What the Truth Is? The Case of East Timor's CAVR. *Pacific Affairs*, 80(4), 569-580.
- Schabas, W. A. (2004). Amnesty, the Sierra Leone Truth and Reconciliation Commission and the Special Court for Sierra Leone. *U.C. Davis Journal of International Law & Policy*, 11(1), 145-169.
- Shaw, R. (2005). *Rethinking truth and reconciliation commissions*. Washington, D.C.
- Sikkink, K., & Kim, H. J. (2013). The Justice Cascade: The Origins and Effectiveness of Prosecutions of Human Rights Violations. *Annual Review of Law and Social Science*, 9(1), 269-285.
- Skaar, E., & Malca, C. G. (2015). Conclusions. In E. Skaar, C. G. Malca, & T. Eide (Eds.), *After violence* (pp. 174-197). New York, NY: Routledge.
- Skaar, E., Malca, C. G., & Eide, T. (2015a). *After violence: Transitional justice, peace, and democracy*. New York, NY: Routledge.
- Skaar, E., Malca, C. G., & Eide, T. (2015b). Towards a Framework for Impact Assessment. In E. Skaar, C. G. Malca, & T. Eide (Eds.) *After violence* (pp. 29-66). New York, NY: Routledge.
- Skaar, E., & Wiebelhaus-Brahm, E. (2013). The Drivers of Transitional Justice: An Analytical Framework for Assessing the Role of Actors. *Nordic Journal of Human Rights*, 31(2), 127-148.
- Strating, R. (2014). The Indonesia-Timor-Leste Commission of Truth and Friendship: Enhancing Bilateral Relations at the Expense of Justice. *Contemporary Southeast Asia*, 36(2), 232-261.
- Taylor, L. K., & Dukalskis, A. (2012). Old Truths and New Politics: Does Truth Commission "Publicness" Impact Democratization? *Journal of Peace Research*, 49(5), 671-684.
- Teitel, R. (2000). *Transitional justice*. Oxford: Oxford University Press.

- The Sierra Leone Working Group on Truth and Reconciliation. (2006). *Searching for truth and reconciliation in Sierra Leone: An Initial Study of the Performance and Impact of the Truth and Reconciliation Commission*.
- UN Secretary General. (2004). *The rule of law and transitional justice in conflict and post-conflict societies*. New York, NY.
- UNIPSIL. (2003). *Sierra Leone Vision 2025*. Freetown, Sierra Leone.
- Van der Merwe, H., Baxter, V., & Chapman, A. R. (2009). *Assessing the impact of transitional justice: Challenges for empirical research*. Washington, DC: USIP Press.
- Wa Wamwere, K. (2008). *Towards genocide in Kenya: The curse of negative ethnicity*. Nairobi: Myule Africa.
- Walsh, P. (2012). *Post-conflict justice in Timor-Leste: A long and winding road for victims*. Canberra.
- Webster, D. (2007). History, Nation and Narrative in East Timor's Truth Commission Report. *Pacific Affairs*, 80(4), 581-591.
- Wiebelhaus-Brahm, E. (2010). *Truth commissions and transitional societies: The impact on human rights and democracy*. New York, NY: Routledge.
- Wilson, R. A. (2001). *The politics of truth and reconciliation in South Africa: Legitimizing the Post-Apartheid State*. Cambridge: Cambridge University Press.
- Zack-Williams, A. B. (1997). Kamajors, "sobels" and the Militariat: Civil Society and the Return of the Military in Sierra Leonean Politics. *Review of African Political Economy*, (73), 373-398.
- Zetterstrom-Sharp, J. (2015). Heritage as Future-Making: Aspiration and Common Destiny in Sierra Leone. *International Journal of Heritage Studies*, 21(6), 609-627.