

Children and Transitional Justice

An Overview of current practice

For every child
Health, Education, Equality, Protection
ADVANCE HUMANITY



Why to involve children in TJ?

- **Child Rights**
 - Individually: redress, recovery and social reintegration, right to be heard
 - As a group: bring attention to child rights violations; historical record
- Children among **main victims** + increasingly affected and targeted by armed conflict (Machel + 10)
- **World fit for Children (2002)**
 - Serious abuses involving children to be addressed
 - Child-sensitive procedures to be provided

Why to involve children in TJ?

- Important role as constructive and active citizens
- Build capacity for active citizenship
- Peace cannot prevail if this generation not on board
- Help breaking the cycle of violence

Overview of the international (and mixed) tribunals treatment of children

Through following angles:

- Jurisdiction over children as perpetrators
- Child-specific crimes
- Child-friendly procedures
- Specialized staff
- Children's actual participation
- Indictments/convictions to date

	Jurisdiction over children as perpetrators	Child-specific crimes
Ad hoc tribunals (ICTY, ICTR) 1993; 1994	No minimum age but no children indicted/pros.	Yes ; examples: -forcible transfer -Sexual violence
ICC (1998)	No jurisdiction over children	Yes , examples: -+measures to prevent birth -attacks on schools -starvation as method of warfare -use of children under 15
Example of the Special Court for Sierra Leone (2000)	15 yrs old + But: established to try only those with greater responsibility → not children	Yes ; examples: -recruitment of child soldiers under 15 -sexual violence incl. abuse of girls under 14

	Child-friendly procedures	Specialized staff
Ad hoc tribunals (ICTY, ICTR) 1993; 1994	Limited. Only possibility to testify w/o taking an oath.	No statutory requirement
ICC (1998)	Yes , examples: <ul style="list-style-type: none"> -Guidelines for investigators -Security assessment -Psycho-social pre-interview -Assistance of psychologist 	Yes ; <ul style="list-style-type: none"> - judges and advisors to Prosecutor with expertise on violence against children - victims and witnesses unit with staff with expertise in children's issues
Example of the Special Court for Sierra Leone (2000)	Yes ; examples: <ul style="list-style-type: none"> -Rehabilitation not to be placed at risk by prosecution of juv. offender -Alternative non-judicial mechanisms to be used when possible 	Yes ; <ul style="list-style-type: none"> - judges with child rights expertise - staff with experience in child trauma

	Actual child participation	Actual Indictments/convictions
Ad hoc tribunals (ICTY, ICTR) 1993; 1994	No	No cases focusing specifically on crimes against children
ICC (1998)	Children interviewed; none called as witness yet	Several indictments incl. recruitment of children and sexual violence (DRC, Uganda, Sudan)
Example of the Special Court for Sierra Leone (2000)	Called as witnesses before inter'l tribunal for the first time (15—25 children) – Large number of children interviewed	<ul style="list-style-type: none"> - June 07: first convictions for recruitment and use of child soldiers - Taylor as first former HoS to stand trial for crimes incl. sexual violence and recruitment child soldiers

Non-judicial processes: the example of Truth and Reconciliation Commissions

Might be more adapted to children as:

- More flexible
- Less intimidating
- Closer to community
- Better conditions for fully-fledged participation
- Linked with participation in community in general

Participate how?

- First experiences: information from adults, opinion polls
 - South Africa (95): separate hearings for children
 - Sierra Leone: for the 1st time:
 - 300 children gave statement to TRC
 - took part in closed, thematic hearings
 - child-friendly report
- Again, SL to set precedent for future practice & policies

Some criteria for participation

- Every step in the process is to be guided by child's **best interest**
- Any participation must be **voluntary** and based on **informed consent**
- Guarantees for child's **safety and security** – incl. confidentiality
- **Child-friendly procedures & trained staff**
- **Psychosocial support**

Upcoming documents

- Publication on Children and TRC, UNICEF IRC and ICTJ
- Expert Series on Children and TJ
- Documentation of process in Timor-Leste
- UN common approach to Justice for Children