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**Assessing the impact of truth commissions on post-conflict societies in
Africa**

A deviant case study analysis of the effects on governmental adherence to human rights

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Abstract

This research examines the impact of truth commissions on governmental adherence to human rights in post-conflict societies. This research examines the following question: Under what conditions do truth commissions contribute to the adherence to human rights in post-conflict societies? Sierra Leone and Liberia will be analyzed by means of a small-N deviant case study analysis. Drawing upon a congruence test and data triangulation, this research finds that the conditions under analysis, civil society mobilization and the presence of trials and amnesties in the truth finding process, do not contribute to a better adherence to human rights in Sierra Leone and Liberia. There appears to be no clear relationship between civil society mobilization and governmental adherence to human rights. Contrary to theoretical expectations, there appears to be a negative relationship between the presence of trials and amnesties and governmental adherence to human rights. This leads the author to question the enthusiasm for (the establishment) of truth commissions in post-conflict societies, since their expected positive impact seems to be overstated. Future research could address new conditions that have been identified in this research in order to determine under what conditions truth commissions might account for improvements in human rights conduct.

Keywords: Transitional Justice, Truth and Reconciliation Commission, Sierra Leone, Liberia, human rights

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“It’s difficult to remember this, it’s painful to remember,” he said, and you could feel it in how he told his stories. “Oh, how they killed the guerrillas,” he said. “I don’t like to remember these things. What good would it do to go to the truth commission? I would lose a day of work, and nothing would change.” He paused. “It’s painful to remember. But it’s important to fight for the rule of law” (Hayner, 2002: 2).

1. Introduction

The cynicism that is expressed by the victim towards the expected outcome (“*nothing would change*”) of a truth commission is in line with a current debate among scholars about the positive effects that truth commissions might have on post-conflict societies. Some scholars and human rights activists claim that truth commissions have a positive impact on post-conflict societies (e.g. by improving adherence to human rights or by recommending policy changes to post-conflict governments on human rights conduct). However, others contest this view and state that truth commissions do not have this expected positive impact on post-conflict societies.

The establishment of a truth commission in a post-conflict society is one of the many transitional justice mechanisms that have been applied to post-conflict societies. These mechanisms are defined as “*the norms and instruments on the basis of which a society or new government, in transition from armed conflict and/or authoritarian rule, addresses past injustices committed in war or by the previous regime*” (Albin, 2009: 589). Besides truth commissions, transitional justice mechanisms include “*lustration (administrative purges of those associated with the prior regime), memorialization, and reparation programs*” (Hinton, 2010: 4).

Although there are many definitions of the concept ‘truth commission’, the following widely used (e.g. Hayner, 2002) definition will be adopted for the purpose of this thesis. A truth commission is a temporarily established commission that is sanctioned by the state and has investigative powers. The commission is charged with the investigation of a pattern of abuses of personal rights that occurred over a period of time (Dancy, Kim and Wiebelhaus-Brahm, 2010: 49). Thus, truth commissions are different from traditional courts. Traditional courts are more involved in determining the culpability of alleged perpetrators of specific crimes. “*Truth commissions undertake a much broader inquiry, to provide a narrative of the kinds of abuses that occurred during a defined historical period*” (Chapman, 2009: 93). See table 1 for the differences in focus of inquiry by several truth commissions across the globe.

The scholarly debate does not stop at the defining characteristics of truth commissions.

Also the effects (both the direction and causal mechanism) of truth commissions on post-conflict societies are heavily debated. Scholars have not found a conclusive answer on the effects of truth commissions (e.g. Thoms, Ron and Paris, 2008: 51). More specifically, truth commissions’ impact on human rights conduct is a controversial issue in the scholarly literature (Bakiner, 2014: 7). Some researchers have found that using truth commissions alone is more likely to harm human rights conduct than to improve it (Olsen, Payne and Reiter, 2010: 996). However, other empirical research shows that truth commissions have improved human rights conduct in countries such as South Africa, El Salvador, Chile, and Uganda (Brahm, 2010).

Table 1. Differences in focus of inquiry of several truth commissions around the globe. Sources: Hayner, 2002: 35-38; Hayner, 2006: 300-307.

Focus of inquiry	Truth commission (and tenure)
Disappearances	Chile (1990-1991); Morocco (1998); Mexico (2001); Lebanon (2001-2001); Uruguay (2000-2003)
Murders	Poland (1989-1991); Taiwan (1992-2006); Grenada (2001-2006)
Specific events	UK/Northern Ireland (1998-2005) Bloody Sunday incident Bosnia and Herzegovina (2003-2004) Srebrenica massacre
Various	Uganda (1986-1995) Murder, arbitrary detention, torture, displacement and expulsion of peoples, discriminatory treatment, denial of fundamental freedoms South Africa (1995-1998) Disappearances, torture, killings by state agents, violence by individuals, abuse by police and armed forces Sierra Leone (2002-2004) Forced displacement, arbitrary detentions, abductions, killings, amputations of limbs, recruitment of children into armed groups, sexual slavery of girl children Liberia (2006-2009) Human rights violations and violations of international humanitarian law, sexual violations, murder, economic crimes and extrajudicial killings

Given the controversy in the literature on the effects of truth commissions on human rights conduct by states, I propose to research the following question: *Under what conditions do truth commissions contribute to the adherence to human rights in post-conflict societies?* Answering this question is of academic significance since a wide range of scholars have researched transitional justice mechanisms, such as truth commissions, but have called for a

more in-depth approach that examines new cases (Bakiner, 2014: 30; Cárdenas, Páez, Rimé and Arnosó, 2015: 528; Dancy et al., 2010: 59; Gready and Robins, 2014: 361).

My qualitative research will try to fill this gap by analyzing two cross-national cases (Sierra Leone and Liberia) in order to examine the conditions under which truth commissions have a positive effect on states' adherence to human rights. Researching truth commissions also has societal relevance since more knowledge in the impact of truth commissions on post-conflict societies might guide policymakers by setting up certain transitional justice mechanisms (or refraining from doing so). Policymakers do not always have full knowledge of the contextual factors of a post-conflict society that might hinder the impact of a truth commission. The establishment of truth commissions in Latin America for example was initially hailed by the human rights community. However, the establishment of these truth commissions was later on seen with more skepticism, since they were viewed as a soft alternative for criminal prosecution (Kritz, 2009: 17).

I argue that enthusiasm for truth commissions (and their expected positive impact on post-conflict societies) in scholarly literature, human rights activists' claims and policy recommendations for post-conflict societies is premature and overstated. Truth commissions might have a positive impact on the adherence to human rights, but in this research the positive impact of truth commissions on adherence to human rights is not abundantly clear. Both Sierra Leone and Liberia do not show consistent improvements in terms of human rights conduct as a consequence of the establishment of a truth commission. Therefore, I argue that future research should devise clear and precise methods of analysis to address new conditions that might account for improvements in human rights conduct as a consequence of a truth commission.

2. Literature review

Although there is a large body of literature on truth commissions, no general conclusion is reached whether truth commissions have a positive or negative impact on post-conflict societies. Therefore, this section discusses both sides of the scholarly debate on truth commissions. First, the positive effects of truth commissions on post-conflict societies are discussed. This section is followed by an assessment of the literature on the negative effects of truth commissions. The final section will discuss the literature on the effects of truth commissions on human rights adherence in post-conflict societies.

Positive effects of truth commissions on post-conflict societies

There has been a wide range of studies that have found a (weak) positive impact of truth

commissions on post-conflict societies. Based on the level of analysis, a distinction can be made between a positive individual impact and a positive societal impact of truth commissions.

On the individual level, truth commissions can provide psychological healing and dignity for victims (Elster, 2004; Mendeloff, 2009: 619). Truth commissions exercise this function by forging common understandings between former enemies. This diminishes the incentives for revenge and (re)unites a society “*through tolerance and forgiveness*” (Bakiner, 2014: 8-9). Many scholars have argued that the formal acknowledgement of a victim’s suffering is empowering or cathartic (e.g. Chapman, 2001; Freeman and Hayner, 2003; Quinn, 2003). On the societal level, truth commissions also can have a positive impact. A positive effect in the literature that is often attributed to truth commissions is the establishment of a proper record of committed wrongdoings in the past. Truth commissions are able to present an accurate account of “*who did what to whom, when, where, and occasionally why*” (Loyle and Davenport, 2015: 4). The provisioning of these records provides a society with an objective account of the past, which is supportive for the basis of reconciliation. The assessment of wrongdoings in the past and finding the truth are other important positive effects of truth commissions on post-conflict societies. This function of truth commissions is seen as an essential tool for achieving reconciliation on a societal level (Leebaw, 2008: 103; Chapman, 2009: 93). The provision of a historical record overcomes denial of past events, provides dignity for victims and creates an opportunity for national acknowledgement (Loyle and Davenport, 2015: 4).

Furthermore, the official record that is produced by truth commissions provides post-conflict societies with a means to ‘close the book’ on a painful episode (Mendeloff, 2004: 360). As a consequence of closing a painful episode of history, a post-conflict society may experience the evolvement of new social norms. “*As such, truth commissions may contribute to accountability and repair for past crimes while at the same time setting the stage for a brighter future*” (Brahm, 2007: 22).

Besides truth finding and the possibility of evolving social norms, human rights activists and scholars have argued that truth commissions (among other transitional justice mechanisms, such as reparation programs or memorialization) are an important factor for the promotion of democracy. Truth telling is said to be strengthening democratic institutions, promoting justice and consolidating the rule of law (the pillar of a democratic society) (Mendeloff, 2004: 361; Olsen, Payne and Reiter, 2010: 1005; Hayner, 2002: 105). Truth commissions can teach citizens of post-conflict societies important principles that are

necessary for developing a strong civil society and stable democracy (Loyle and Davenport, 2015: 5). Thus, truth commissions provide, among other transitional justice mechanisms, support for the process of democratization of a post-conflict society.

Last, truth commissions advance peace through pre-emption and deterrence (Loyle and Davenport, 2015: 4; Mendeloff, 2004: 361). Since truth commissions address individual grievances and establish an actual record of what happened in the past, they are able to preempt the continuation of violence or the outbreak of new violence (Loyle and Davenport, 2015: 4). By making perpetrators admit their faults, truth commissions have the ability to publicly shame perpetrators, which could lead to deterrence of future war crimes (Mendeloff, 2004: 361).

Negative effects of truth commissions on post-conflict societies

Other findings on truth commissions shed a different light on the effects of these transitional justice mechanisms. The different findings on the effect of truth commissions are most likely due to different applied research methods, conceptualizations and operationalizations (Bakiner, 2014: 10).

Truth commissions are found to have a negative impact on individuals involved in the truth telling process. Victims who had to testify often experience traumatization, ill health and social isolation (Brahm, 2007: 23; Brounéus, 2008: 72). Also, victims (or relatives of victims) who decide to testify in front of a truth commission experience threats and harassment (Brounéus, 2008: 72; Samii, 2013: 3).

Second, truth commissions may generate insecurity and resentment on the aggregate level (Brahm, 2007: 23). Post-conflict regimes may be unwilling to let truth commissions do their work *“for fear that doing so may destabilize society or impede the recovery process”* (Van der Merwe, Baxter and Chapman, 2009: 96). This attitude towards truth commissions may result in deliberate attempts to impede truth commissions in carrying out their assigned task (Loyle and Davenport, 2015: 6). *“For victims, lack of punishment may seem a travesty of justice and for perpetrators the proceedings may be threatening to reputations and social position, thereby leading both sides potentially to extra-constitutional tactics in support of their interests”* (Brahm, 2007: 23). These attempts could destabilize a fragile post-conflict society and could lead to the resumption of violence. This violence can be either process-specific (e.g. targeted violence to justices or witnesses) or on the national level (e.g. groups that are under scrutiny of the justice process may resume violence in order to avoid punishment) (Loyle and Davenport, 2005: 7; Snyder and Vinjamuri, 2003: 43).

Furthermore, there is little empirical evidence that truth commissions are able to provide for reconciliation, strengthening of the democratic state or peace (Dancy et al., 2010: 46). Due to a weak institutional set-up, truth commissions are not always able to find ‘the truth’. This “*promotes denial of certain events and national or institutional forgetting*” (Loyle and Davenport, 2015: 7).

Given the controversy in the scholarly literature on truth commissions (Bakiner, 2014: 7), this research will focus on truth commissions’ effect on the adherence to human rights by post-conflict governments. Examples of scholarly disagreement on truth commission impact can be found in research on democratization, reconciliation and individual level impact (e.g. Brahm, 2007; Brounéus, 2008; Hayner, 2002). There appears to be no clear answer on whether truth commissions have a positive or a negative impact on democratization, reconciliation and individual level impact. Similar to the debate on other effects of truth commissions no clear answer is found on the (positive or negative) effects of truth commissions on human rights. Second, although individual level impact is important (e.g. providing psychological healing for victims), the societal impact of truth commissions is more widespread and therefore of a greater importance. The following section will address the ambiguity in the literature on truth commissions’ effect on the adherence to human rights.

Truth commissions and human rights

Some scholars have argued that truth commissions (if empowered properly) are able to help post-conflict states to comply with international law and respond to human rights abuses (Hayner, 2002: 105). This view is based on the assumption that truth finding provides insight to how and why human rights abuses occurred and thereby help preventing new abuses to occur (Brahm, 2007: 26; Chapman, 2009: 92). Some studies have found that truth commissions have a (moderate) positive effect on the prevention of future human rights abuses (e.g. Brahm, 2006; Sikkink and Walling, 2007; Abrams and Hayner, 2002).

However, others have concluded that truth commissions have a negative effect on human rights conduct of post-conflict societies (e.g. Olson et al., 2010). This research seeks to address the gap in the literature on the (positive or negative) effects of truth commissions on human rights conduct by post-conflict states. The cross-national comparison of this research contributes to the scholarly debate by exploring the direction and specific causal mechanism of truth commissions’ impact on the adherence to human rights by post-conflict governments.

3. Theoretical framework

The theoretical framework of this research is derived from the work of Bakiner (2014/2016) and Olsen et al. (2010). The hypotheses under analysis fit within frameworks on macro-level analysis of truth commission impact, since both hypotheses are aimed at macro-level improvements in adherence to human rights. The hypotheses are not theoretically connected to each other: there is no theoretical link between truth commissions' ability to mobilize society around the findings and the presence of trials and amnesties after truth commissions. Therefore, both hypotheses serve as alternative hypotheses in this research design.

Based on the work of Bakiner (2014/2016) it is argued that truth commissions who manage to mobilize civil society have a larger impact. When truth commissions increase their societal impact, they are able to draw more attention to past violations. This generates activism from human rights organizations and victims associations, which pressure officials to reform human rights policy in accordance with the recommendations of a truth commission. The societal pressure could lead to an improved human rights track (Bakiner, 2014: 22). Thus, it can be expected that this larger impact of truth commissions could lead to a better human rights track by post-conflict governments.

Hypothesis 1 (H1): Truth commissions that are able to mobilize civil society around the truth finding process and the final findings of the commission will result in a better adherence to human rights.

The second hypothesis is derived from the work of Olsen et al. (2010). The authors concluded in their quantitative analysis that the establishment of truth commissions in combination with trials and amnesties have a positive effect on adherence to human rights. Trials and amnesties are likely to contribute to the success of improvements in human rights conduct, since the presence of trials ensures that there is accountability for committed crimes, while amnesties ensure the stability of the transitional justice process (Olsen et al., 2010: 476). Therefore, it is hypothesized that societies that have experienced the establishment of a truth commission in combination with trials and amnesties will have a better adherence to human rights.

Hypothesis 2 (H2): When the establishment of truth commissions is accompanied by trials and amnesties adherence to human rights will improve.

These hypotheses have been chosen since they are derived from influential and reliable recent scholarly research. Second, these specific hypotheses are chosen since they are derived from research that used different methods of analysis. H1 has been derived from qualitative research, whereas H2 is derived from a quantitative research design. Testing these

hypotheses will help to explore the specific conditions that encompass a better adherence to human rights after the establishment of truth commissions. This research will build upon the conclusions of earlier scholarly work and will test the findings on new cases, which may lead to revision of existing theories, revision of specific causal mechanisms or the development of new conditions under which truth commissions could improve adherence to human rights.

4. Research design

Conceptualization of the dependent variable

The major concept of the outcome of interest is defined in the following way: the adherence to human rights in post-conflict societies in Africa that have experienced the establishment of a truth commission. I suggest that truth commissions do not immediately have an impact on a government's adherence to human rights. Therefore, the adherence to human rights in post-conflict societies will be analysed in the 10-year period following the presentation of the final report / final findings of a truth commission. This is similar to previous research on truth commissions' impact on human rights conduct (e.g. Olsen, Payne, Reiter and Wiebelhaus-Brahm, 2010: 463).

Following Olsen et al. (2010: 463) the Physical Integrity Rights Index (PHYSINT) from the "Cingranelli-Richards (CIRI) Human Rights Dataset" and the Political Terror Scale (PTS) will be used in order to establish a solid score for the adherence to human rights. From the PTS dataset a scale can be extracted that indicates to which extent a state's population is safe from state terror, such as torture or wrongful imprisonment (Olsen et al., 2010: 463).

The CIRI Human Rights Dataset provides a broad overview on government human rights practices and is a "*widely accepted cross-national measure of human rights violations*" (Olsen et al., 2010: 463). It is based on U.S. State Department Country Reports on Human Rights Practices and on Amnesty International's Annual Report (Cingranelli and Richards, 2010: 402). The CIRI Human Rights Dataset contains data on multiple years (1981-2011). This enables the researcher to compare cases of truth commissions that have not published their final report in the same year. Both data sources are used since they are widely accepted cross-national measures for human rights violations (Olsen et al., 2010: 463).

Conceptualization of the independent variables

The major concept to test H1 is 'the ability of a truth commission to mobilize civil society around the final findings'. This concept is borrowed from Bakiner (2014) and will be applied under the same conceptualization and operationalization. Following Bakiner's conceptualization on civil society mobilization and Olsen et al.'s (2010) conceptualization on

human rights adherence will eliminate the problem that is sometimes present in research on truth commissions: arriving at different conclusions, even when using the same data collection and method of analysis, due to differences in conceptualization of key variables (Bakiner, 2014: 10).

The conceptualization of “civil society mobilization” entails “(1) *nongovernmental initiatives to publish and/or disseminate the commission’s final report if the government fails to do so, and (2) activism on the part of local, national and international NGOs to monitor progress on the implementation of recommendations, especially concerning a reparations program*” (Bakiner, 2014: 22). A broader timeframe has been used in order to determine “civil society mobilization” in both cases. Due to a lack of reliable data not only the period following the truth commission’s presentation of the final reports has been analyzed, but also civil society mobilization during the truth finding process itself.

H1 can be confirmed when truth commissions with strong civil society mobilization have resulted in a better adherence to human rights. H1 is rejected when truth commissions with a strong civil society mobilization have resulted in no changes or even a worse adherence to human rights.

The major concept to test H2 is ‘the presence of trials and amnesties’. Trials and amnesties need to be related to the issue areas and topics that were under examination by a truth commission. These mechanisms are linked to the work of the truth commission. Following Olsen et al. (2010: 462) data will be retrieved from the Keesing’s World News Archive¹. H2 can be confirmed when trials and amnesties are present in the cases that show a better adherence to human rights. H2 is rejected when trials and amnesties are present, but there is no improvement on human rights conduct.

Case selection

As indicated above, only cases that have experienced both the establishment of a truth commission and the presentation of a final report / final findings will be analyzed. In order to test the effect of truth commissions on the adherence to human rights, two cases have been selected: Sierra Leone and Liberia. Both cases experienced internal conflicts, resulting in large-scale deaths and disappearances of civilians. These cases will serve as deviant cases in order to contribute to “*the cumulative refinement of contingent generalizations on the conditions under which particular causal paths occur*” (George and Bennett, 2005: 112). Sierra Leone and Liberia are deviant cases since the patterns in the variation of the

¹ See <http://www.keesings.com/> (accessed March 30th 2016).

independent variables are (theoretically) unexpected (see table 2). Based on H1 and H2 a positive relation between adherence to human rights and the independent variables is expected.

However, in Sierra Leone and Liberia no relation between the dependent variable and the independent variables becomes visible, which is a challenge to the theories. Researching these theoretically challenging cases could yield insights for refinement or improvement of the theories under consideration. Second, researching deviant cases could result in uncovering new conditions, alternative explanations or causal pathways that could be addressed by future research. Third, in order to explore the deviant cases (Sierra Leone and Liberia) H1 and H2 are the most pertinent hypotheses, since these hypotheses have been derived from recent scholarly findings that have not been tested on these cases. This could lead to new insights on truth commissions' impact or to new findings in terms of alternative explanations for improvements in human rights conduct of post-conflict societies. The deviation of these cases on H1 and H2 thus enables this research to explore the specific context of both cases in order to test existing explanations and to find potential new explanations.

I expect that the findings of this research will be generalizable to other societies that have experienced the establishment of a truth commission after a civil war. The effects of the independent variables (IV's) will be examined in the truth finding process and the period following the presentation of the final findings of a truth commission. Based on theoretical predictions, it is expected that either the truth commission's ability to mobilize society or presence of trials and amnesties, *ceteris paribus*, has a positive effect on the adherence to human rights.

Sierra Leone and Liberia experienced a similar type of conflict that had roughly the same duration. The governments of both countries were involved in the conflict, which is another factor that can be controlled for when comparing these two cases. Furthermore, the truth commissions in both cases operated in the same context; a transitional context after the ending of a conflict, which means that the truth commissions were created within three years "*following the transition from authoritarianism to democracy and/or from conflict to peace*" (Bakiner, 2016: 29). This controls for reluctance of a regime that was involved in a conflict and is still in power when a truth commission examines human rights violations. Furthermore, both cases are similar in the circumstances that created the establishment of the truth commissions in Sierra Leone and Liberia: the truth commissions in both countries were a result of an UN-backed peace accord (Bakiner, 2016: 35).

Table 2. Variation in (control) variables of the selected cases in this research.

Sierra Leone	Liberia
Adherence to human rights ^{DV}	Adherence to human rights ^{DV}
<i>No improvements in adherence to human rights</i>	<i>Over time an increase in adherence to human rights</i>
Ability to mobilize society ^{IV}	Ability to mobilize society ^{IV}
<i>Moderate societal mobilization</i>	<i>Weak societal mobilization</i>
Presence of trials and amnesties ^{IV}	Presence of trials and amnesties ^{IV}
<i>Yes</i>	<i>No</i>
Post-conflict government change ^{CV}	Post-conflict government change ^{CV}
<i>Yes</i>	<i>Yes</i>
Governmental involvement in violations during conflict ^{CV}	Governmental involvement in violations during conflict ^{CV}
<i>Government was involved</i>	<i>Government was involved</i>
Type of conflict ^{CV}	Type of conflict ^{CV}
<i>Civil war</i>	<i>Civil war</i>

^{DV} = Dependent Variable, ^{IV} = Independent Variable, ^{CV} = Control Variable.

5. Method of analysis

This research addresses the research question by means of a small-N deviant case study analysis. In order to answer the research question a congruence test will be conducted to determine whether theoretical predictions are present in the cases. The method of data triangulation (using multiple sources to contrast different explanations and to validate findings) will be used to ensure a valid and empirical accurate result.

The data sources of this research include the final reports of the truth commissions, documents in which their mandates are laid down, media reports on the final findings of the truth commissions and scholarly assessments of the truth commissions².

A final source of data will be the results of semi-structured interviews with experts that were involved in the process of truth finding³. The data that is retrieved from these interviews will serve as another information source for this research and as a validation of earlier findings. The experts that will be contacted for an interview have a direct affiliation to the truth finding process in Sierra Leone or Liberia and have worked in the country. Data that is retrieved from experts that have worked within a truth commission will be triangulated with other data sources in order to control for professional biases. As indicated by the “integrative approach” that is advocated by Hirsch, MacKenzie and Sesay (2012: 397).

² See <https://www.ictj.org/> (accessed March 30th 2016).

³ Requests of participants not to publish the transcript have been respected. Therefore, some transcripts remain confidential in the possession of the author. Other transcripts of the interviews can be found in the appendix of this thesis.

Data and sources

Data concerning the adherence to human rights will be collected from the CIRI Human Rights Dataset⁴, which is publicly available (this includes the raw data, the codebook and interrater reliability data) and the PTS⁵. The selected cases have not experienced a 10-year period after the presentation of the final results of the truth commission (or do not have enough years of data on human rights adherence available). Therefore, a shorter period of time is analyzed, which could result in a lower adherence to human rights compared to cases that have experienced the full 10-year period following the presentation of the findings of the truth commission.

Data concerning the final report of truth commissions under consideration can be accessed through the U.S. Institute of Peace⁶. Scholarly literature and media reports on these cases will be used in order to assess whether the truth commissions have been able to mobilize society around the findings and/or the truth finding process.

6. Analysis

6.1 Analysis of the Truth and Reconciliation Commission in Sierra Leone

A dual approach to transitional justice in Sierra Leone

The Truth and Reconciliation Commission in Sierra Leone was part of the UN-brokered Lomé Peace Accord in 1999 between the Government of Sierra Leone and the rebel Revolutionary United Front (RUF) (Bakiner, 2016: 178; Schabas, 2004: 3). The truth commission was established after a violent civil war with the death of 50.000 civilians, 4.000 amputation survivors, 2.000.000 internally displaced people and at least 5.000 children that were turned into combatants as a result (Evenson, 2004: 733).

Sierra Leone is a rare case that pursued a dual approach to transitional justice (Svärd, 2010: 36). Sierra Leone's truth commission was required to provide an impartial historical record of the conflict and the atrocities committed against civilians, to examine the causes of the conflict, to examine human rights violations and examine the role of foreign actors (Svärd, 2010: 35-37). The Special Court for Sierra Leone was mandated to prosecute those people who had the greatest responsibility for the atrocities (Special Court Agreement, 2002: 1).

The Truth and Reconciliation Commission started its work two years after the Lomé Peace Accord and presented the final report in 2004. The 5.000 pages long report consisted of 3.500 pages devoted to testimonies. *"It established the institutional responsibility to the RUF,*

⁴ See <http://www.humanrightsdata.com/p/data-documentation.html> (accessed March 30th 2016).

⁵ See <http://www.politicalerrorscale.org/Data/> (accessed March 30th 2016).

⁶ See <http://www.usip.org/publications/truth-commission-digital-collection> (accessed March 30th 2016).

the army, civil defense patrols, as well as the National Patriotic Front of Liberia headed by Charles Taylor” (Bakiner, 2016: 179). The final report named perpetrators and presented corruption and the lack of checks on the executive as main factors for the civil war (Final report of the SLTRC, 2004).

Assessment of governmental adherence to human rights

Two data sources are used to determine whether changes in post-conflict governmental adherence to human rights are visible after the presentation of the final report of the Truth and Reconciliation Commission for Sierra Leone.

Based on the CIRI Human Rights Dataset, which is an index that is constructed from the indicators for torture, disappearances, extrajudicial killing and political imprisonment, no clear improvements become apparent. The years following the presentation of the truth commission’s final report (2004-2011⁷) are marked by intermediate scores on the PHYSINT index (Cingranelli, Richards and Clay, 2014). The scores of the PHYSINT index could range from 0 (no government respect for the indicators that were mentioned above) to 8 (full respect).

In the post-truth commission period (2004-2011) Sierra Leone scores an average of 5,5 on the index (Cingranelli, Richards and Clay, 2014), which indicates that Sierra Leone is doing quite well. These scores are impressive, given that Sierra Leone scored poorly on the index during the civil war (see table 3). However, Sierra Leone has not made consistent improvements on the PHYSINT index between 2004 and 2011. With PHYSINT scores shifting between 5 and 6 over the years, no clear pattern of improvement in governmental adherence to human rights becomes visible.

⁷ Due to limitations in data availability only a period of 7 years can be studied.

Table 3. PHYSINT scores of Sierra Leone in the CIRI Human Rights Dataset (1991-2011). Source: Cingranelli, Richards and Clay (2014).

Year	PHYSINT score
1991	3 *
1992	0 *
1993	1 *
1994	0 *
1995	0 *
1996	3 *
1997	*
1998	*
1999	*
2000	*
2001	4 *
2002	8 *
2003	5
2004	6
2005	5
2006	5
2007	6
2008	6
2009	
2010	5
2011	6

* Ongoing civil war in Sierra Leone.

Drawing upon the PTS the same pattern in governmental adherence to human rights in Sierra Leone becomes visible. The PTS ranges from 1 (“countries under a secure rule of law, people are not imprisoned for their views, and torture is rare or exceptional. Political murders are extremely rare”) to 5 (“terror has expanded to the whole population. The leaders of these societies place no limits on the means or thoroughness with which they pursue personal or ideological goals”) (PTS, 2016).

Table 4. Average Political Terror Scale (PTS) scores of Sierra Leone (1991-2014). Source: PTS, 2016.

Year	Average PTS score*
1991	3
1992	4
1993	4
1994	5
1995	4
1996	5
1997	4,5
1998	5
1999	5
2000	4,5
2001	4
2002	2,5
2003	3,5
2004	2,5
2005	2,5
2006	2,5
2007	2,5
2008	2,5
2009	2
2010	2,5
2011	2
2012	2,5
2013	3 **
2014	2

* The average PTS score is the calculated mean of scores given by the U.S. Department, Amnesty International and/or Human Rights Watch.

** This score was only based on one source (the U.S. Department)

In the post-truth commission period (2004-2014) Sierra Leone follows the same erratic pattern on the PTS as the country did on the CIRI Human Rights Dataset (see table 4). Although the country does have an intermediate score on the PTS (which indicates that the country is quite weak on adherence to human rights), no major improvements in governmental adherence to human rights are visible.

Drawing upon reports on human rights conduct in Sierra Leone, the same pattern becomes visible. Whereas the country made improvements in terms of social and economic rights (e.g. by providing healthcare programmes for certain groups in society or by raising the salaries of healthcare workers), the country is still lacking a strong rule of law system. Examples can be found in bribe-taking and extortion by officials or unprofessional (and

sometimes criminal behaviour) by police officials (Human Rights Commission of Sierra Leone, 2016).

Thus, based on the PHYSINT index from the CIRI Human Rights Dataset and the PTS it can be concluded that Sierra Leone has not made substantial improvements in adherence to human rights in the period following Sierra Leone's Truth and Reconciliation Commissions' final report (2004-2014).

Civil society mobilization in Sierra Leone

Before Sierra Leone's Truth and Reconciliation Commission (SLTRC) was formed, civil society support for establishing a truth commission was not particularly strong. Recommendations from the expert commission that advised the set-up of a truth commission were not widely distributed across Sierra Leone. Thus, an opportunity to build public support and understanding for the SLTRC was missed (Hall and Kazemi, 2003: 289). Besides, it remains doubtful whether Sierra Leoneans have committed themselves to the establishment of a truth commission (Schabas, personal communication, April 18th, 2016).

Although many local elites heard about the SLTRC on the radio, they had little information about the truth finding process (Millar, 2010: 110). The lack of clarity about the truth finding process sometimes resulted in disappointment, since the SLTRC did not live up to the expectations and needs of the people (Millar, 2012: 720). E.g. Sierra Leoneans who testified in front of the commission were sometimes disappointed that they did not receive any money (Schabas, personal communication, April 18th, 2016). Second, the establishment of a truth commission was not what the people in Sierra Leone needed. Other facilities, such as schools or hospitals, were deemed more needed than a truth commission (Schabas, personal communication, April 18th, 2016).

Furthermore, it should be noted that the SLTRC faced multiple challenges throughout its operational phase and in disseminating the final findings among the population of Sierra Leone. Among other challenges, the SLTRC faced a severe budget cut from its international donors, reducing the budget from the original figure of \$10 million to \$4,6 million (Svärd, 2010: 42). The final budget can be said to be inadequate for covering all issues that the SLTRC was mandated to cover (Rapp, personal communication, April 29th, 2016).

Another major challenge of the SLTRC, especially given inadequate resources for outreach purposes (Rapp, personal communication, April 29th, 2016), was to reach out to the population, which was done during a public education and media campaign through radio and television programs prior to the public hearings. During this campaign the SLTRC tried to

explain the commission's mandate, role and the processes that were involved in the truth finding process (Millar, 2011a: 519).

The lack of clarity among the population on the SLTRC and the Special Court had some consequences for civil society mobilization. First, given the un-clarity on the function and role of both institutions, the SLTRC and the Special Court failed to integrate Sierra Leoneans in the post-conflict processes (Nkansah, 2015: 221), which might have contributed to poor attendance rates during some of the hearings (Schabas, personal communication, April 18th, 2016). Moreover, *“the contemporaneous existence of the two mechanisms caused division among civil society groups and this trickled down to international nongovernmental organisations”* (Nkansah, 2015: 221). Civil society was split on the question of whether both institutions should work concurrently or whether the institutions should be sequenced.

The disagreement among several civil society groups trickled down to the establishment of the TRC working group (favouring sequencing) and the SCSL working group (favouring concurring operation) (Nkansah, 2015: 221). Thus, some NGO's continued to support the SLTRC in educational activities, while others turned to other issue areas out of frustration. This frustration is caused by the feeling of betrayal in civil society; Sierra Leone's civil society feels betrayed by a process that has been lobbied and advocated for since 1999 (ICG, 2002: 10). Also, given Sierra Leone's dual approach to transitional justice, the more famous NGO's tended to focus their attention more on the activities of the Special Court (Rapp, personal communication, April 29th, 2016). The division within civil society and NGO's might account for the moderate degree of civil society mobilization around the findings of the SLTRC. Second, although the truth finding process itself can be considered to be positive for society, the overall impact of the process was limited: *“I intend to think that it was useful for people to know what occurred but I don't think it changed people's lives very much”* (Rapp, personal communication, April 29th, 2016).

Nevertheless, the SLTRC received a lot of attention from (inter)national NGO's and the media. The NGO's were very involved in the truth finding process by sending people to attend hearings and providing the commission with advice (Schabas, personal communication, April 18th, 2016). Also media attention (e.g. through radio broadcasts and local scandal sheets⁸) was given to the SLTRC: *“We were news, we were a news item all the time”* (Schabas, personal communication, April 18th, 2016).

Although there appears to be a quite strong degree of civil societal mobilization during

⁸ A thorough search through Keesing's World News Archive did not yield many media references to the SLTRC, which can be explained by the lack of credible media outlets in Sierra Leone.

the truth finding process, one could argue that the dissemination of the final report of the SLTRC lacked the same amount of societal mobilization. This can be explained due to the misunderstanding of the Sierra Leoneans in the truth finding process and ambiguity in the role of the SLTRC and the Special Court, but it is also due to the fact that the printed final report was not accessible to the average Sierra Leonean (Svärd, 2010: 50). Even though the report is digitally accessible, it might not be accessible for the majority of the people that do not have access to the Internet (Svärd, 2010: 50) or the group that is not literate in English (roughly 80%) (ICG, 2002: 3). Given that the printed final report was not widely distributed and that the number of printed versions was limited (Rapp, personal communication, April 29th, 2016), one could conclude that the report is not easily accessible for civilians. Also, given Sierra Leone's irregular electricity network, access to the Internet is not always possible (Rapp, personal communication, April 29th, 2016).

Furthermore, civil society pressure from Sierra Leonean media outlets and/or NGO's lacked thrust to pressure the government to make reforms. Media coverage (e.g. television coverage) does not cover the whole country (Millar, 2011b: 181). Second, the media outlets in Sierra Leone face restrictions in their operational activities due to the limitations in freedom of expression (by the Public Order Act) (Svärd, 2010: 56). Therefore, there has been little pressure from Sierra Leonean media outlets on the government of reform human rights policy in accordance with the final findings of the SLTRC. Furthermore, the SLTRC also lacked adequate funding and resources for a successful media strategy, especially in comparison with the media outreach of the Special Court, which can be said to be very successful (Rapp, personal communication, April 29th, 2016).

Although NGO's (both local and international) did their best to disseminate the final findings of the SLTRC (Svärd, 2010: 50) not much pressure on the government resulted from these activities. This can be explained by reviewing some information sessions and workshops, which had (as a consequence of lacking sufficient resources) low numbers of participants, thereby limiting the impact (ICG, 2002: 4). The same problem (lacking sufficient resources) was at play for the SLTRC that had to pay for its own sensitization and outreach projects (Millar, 2011b: 181).

Thus, all these factors limited the impact of the commission's final report, the dissemination of the findings and the civil societal pressure on the government to reform human rights policy. The inability for the Sierra Leoneans to take knowledge of the final findings inhibits a strong and united form of societal pressure on the government to reform human rights policy in accordance with the SLTRC's recommendations. This resulted in a

slow implementation of the SLTRC's recommendations (e.g. in terms of an all-encompassing reparations program) (Rapp, personal communication, April 29th, 2016), thereby slowing progress in terms of human rights conduct. Nevertheless, given the large amount of media attention and NGO involvement during the truth finding process, it can be argued that overall civil society mobilization was moderate in the Sierra Leonean case.

Trials and amnesties in post-conflict Sierra Leone

Given Sierra Leone's unique dual approach to transitional justice (Svärd, 2010: 36) the SLTRC and the Special Court for Sierra Leone operated for 18 months (which was the lifespan of the SLTRC) in parallel (Schabas, 2004: 4-5). Whereas the SLTRC was mandated to 'create an impartial historical record' on human rights violations (Schabas, 2004: 10), the Special Court was mandated to prosecute "*persons who bear the greatest responsibility*" (Schabas, 2003: 1037). In the end the Special Court for Sierra Leone indicted 13 people (Nkansah, 2015: 223)⁹. Thus, trials related to the issue areas and topics that were under examination of the SLTRC (e.g. human rights violations or murders) are present in the case of Sierra Leone.

Although the SLTRC and the Special Court operated in parallel within the realm of transitional justice, the coordination between both institutions could have been better. An example of friction between both institutions can be found in the 'fight over detainees'. The SLTRC requested hearings with some detainees of the Special Court, but after several legal procedures this was denied by the Special Court. These occurrences can be explained by a lack of sufficient coordination between the leadership of both institutions (Nkansah, 2015: 216-218). Also, both institutions faced the difficulties in terms of legal issues: should someone's testimony at the SLTRC be used in proceedings of the Special Court? This issue, for which no legal provisions were made in Sierra Leonean law, became especially apparent in the case of Samuel Hinga Norman, who was under prosecution of the Special Court, but also might give a public testimony in front of the SLTRC (Rapp, personal communication, April 29th, 2016). These 'frictions' lead some to conclude that the truth finding process could have had a greater impact if both institutions better coordinated their activities (Nkansah, 2015: 224), while others find that both institutions had a 'synergistic relationship' that benefitted the overall process (Schabas, 2003: 1065).

Besides trials by the Special Court for Sierra Leone, amnesties (that were related to the

⁹ Among the indicted people are several leaders of the RUF and former Liberian President Charles Taylor (Special Court for Sierra Leone, 2016).

human rights abuses during the civil war) were also present. However, these amnesties were already granted by the Lomé Peace Agreement before the establishment of the SLTRC (Hall and Kazemi, 2003: 293; Schabas, 2004: 8; Nkansah, 2015: 223). The “blanket of amnesties” that provided the military leader of the RUF, Foday Sankoh, and all combatants of several rebel groups, an “*absolute and free pardon*” (Lomé Peace Agreement, 1999: 14-15) was widely critiqued by western human rights activists (Hall and Kazemi, 2003: 293) and was not viewed with much enthusiasm by the SLTRC (Schabas, 2004: 51). However, the SLTRC did not revoke the amnesties that were granted since this decision could have been a dangerous precedent that would harm future peace agreements and promises for amnesties (Schabas, 2004: 51).

Lacking the ability to grant amnesties, the SLTRC was substantially weaker than for example its South African counterpart. Since amnesties were already granted to ex-combatants, it seems most likely that some ex-combatants refused to appear in front of the SLTRC, “*seeking instead to invoke immunity*” (Lamin, 2003: 305). Second, given the weakness of the SLTRC on this element, the commission was not able to exchange testimonies on the truth for amnesties (Nkansah, 2015: 223). Overall, granting amnesties before the operation of the SLTRC does not seem to have benefited the truth finding process in Sierra Leone because an incentive for perpetrators to tell the truth in front of the SLTRC (the possibility of obtaining an amnesty) had already been granted (Rapp, personal communication, April 29th, 2016).

Assessing the hypotheses in the Sierra Leonean case

Based on the evidence it can be concluded that overall civil societal mobilization was moderately present in the truth finding process in Sierra Leone. Several factors, such as a restrictive law on freedom of expression (limiting media pressure on the government), limited media coverage across the country or inadequate budgets for the SLTRC (limiting outreach efforts and limiting involvement of civil society and pressure from civil society on the government) account for the moderate degree of civil society mobilization. Given Sierra Leone’s moderate rates on indicators for governmental adherence to human rights (the PTS and CIRI Human Rights Database) and the moderate degree of civil society mobilization no clear relationship seems to be present. H1 can neither be accepted nor rejected in the Sierra Leonean case.

The empirical findings of the Sierra Leonean case weaken the second hypothesis. The truth finding process in Sierra Leone was accompanied by trials and amnesties. The trials

were conducted by the Special Court for Sierra Leone and resulted in the indictment of 13 people. The SLTRC did not grant the amnesties, since they were already granted by the “blanket of amnesties” covered by the Lomé peace agreement. However, even though amnesties and trials were present in the post-conflict period, the adherence to human rights by the Sierra Leonean government did not improve over the years. The absence of improvements in human rights adherence thus leads to weaken H2.

6.2 Analysis of the Truth and Reconciliation Commission in Liberia

The Liberian Truth and Reconciliation Commission (LTRC) was established by an Act of Legislature in 2005 (Gberie, 2008: 455) and was charged with the investigation of human rights violations, international humanitarian law violations and economic crimes committed between 1979 and 2003 (Bakiner, 2016: 181).

The time period under examination involved the First Liberian Civil War and following insurrections against former president Charles Taylor (De Ycaza, 2013: 191). Especially Liberia’s civil war was notorious for its brutality: roughly 250.000 people were killed during the conflict and thousands more suffered other abuses (Wiebelhaus-Brahm, 2010: 386). The commission collected around 16.000 statements from victims prior to conducting public hearings (Gberie, 2008: 455).

The commission presented its final report after three years of operation in 2008/2009. The commission stated that all parties to the conflict were responsible for widespread and systematic abuses (Bakiner, 2016: 181). The commission made some of the boldest recommendations in the history of truth commissions (Bakiner, 2016: 182) by holding 116 people responsible for gross human rights violations and barring 49 persons from public office (including former president Ellen Johnson-Sirleaf) (Harris and Lappin, 2010: 184). Furthermore, the commission recommended the establishment of an extraordinary tribunal to prosecute key individuals for gross violations of human rights (De Ycaza, 2013: 191).

Governmental adherence to human rights in Liberia: over time improvements

The LTRC released the first volume of the report in the end of 2008 and presented a final version in 2009 (USIP, 2016). Therefore, the following period of time can be studied for the CIRI Human Rights Dataset (2008-2011) and the PTS (2008-2014).

Based on the physical integrity index (PHYSINT) no changes in governmental adherence to human rights become clear in the post-truth commission period (see table 5). In the Liberian case no changes in the index become apparent, thereby maintaining a score of 5

on the index (Cingranelli, Richards and Clay, 2014)¹⁰. This score indicates that the country is doing quite well, but the absence of improvements is worrying. Nevertheless, Liberia overall scores better on the PHYSINT-index in comparison with Sierra Leone. However, due to the limited amount of data that is available for this case, another data source (with more data available) for governmental adherence to human rights should receive more attention; the PTS.

Table 5. PHYSINT scores of Liberia in the CIRI Human Rights Dataset (1999-2011).
Source: Cingranelli, Richards and Clay (2014).

Year	PHYSINT score
1999	1 *
2000	0 *
2001	1 *
2002	1 *
2003	1 *
2004	7
2005	7
2006	5
2007	6
2008	5
2009	5
2010	5
2011	5

* Ongoing civil war in Liberia.

Drawing upon the scores of the PTS (2016) it becomes clear that Liberia is making improvements in the score on the index. This indicates that the Liberian population is experiencing a higher degree of protection under the rule of law, compared to earlier years. In the time period under analysis (2008-2014) the Liberian score on the PTS improves from an average score of 2,5 to a score of 2 (PTS, 2016). The improvement in the PTS might seem insignificant, but this would be a premature statement. A recent assessment on the PTS indicates that it is very difficult for countries to show improvements on the index, even when those improvements do occur (Olsen et al., 2010: 467). Thus, Liberia’s improvements on the PTS are noteworthy and are clear indicators that the country has improved somewhat in terms of governmental adherence to human rights (see table 6).

In Liberia basic rights, such as freedom of speech and expression, are generally

¹⁰ The minimum score is 0 (no government respect for multiple indicators) and the maximum score is 8 (full respect for the indicators).

respected by the Liberian government. Also, election proceedings have been fair and free, according to domestic and international observers. However, Liberia still faces human rights abuses that are linked to deficiencies in the administration of justice, official corruption, and violence against women and children (U.S. Department of State, 2016), which explains why Liberia does not have the highest score on the PTS.

Thus, based on the PTS (since this data source has more data available than the CIRI Human Rights Dataset) it can be concluded that Liberia has made improvements in terms of governmental adherence to human rights in the period following Liberia’s Truth and Reconciliation Commission’s presentation of the final report (2008-2014).

Table 6. Average Political Terror Scale (PTS) scores of Liberia (1999-2014). Source: PTS, 2016.

Year	Average PTS score*
1999	4,5
2000	4
2001	5
2002	4,5
2003	4,5
2004	3
2005	3
2006	3
2007	3
2008	2,5
2009	2,5
2010	2,5
2011	2
2012	2
2013	2
2014	2 **

* The average PTS score is the calculated mean of scores given by the U.S. Department, Amnesty International and/or Human Rights Watch.

** This score was only based on one source (the U.S. Department)

Civil society mobilization in Liberia: making enemies out of natural allies

Although the conditions that preceded the establishment of the LTRC were roughly similar to the establishment of the SLTRC, the overall truth finding process in Liberia took a different course compared to Sierra Leone. The LTRC, born as the result of a compromise between

several parties in the peace process that wanted to avoid prosecution (De Ycaza, 2013: 194), experienced a backlash in the truth finding process. Internal strife among commissioners, a damaged media image and perpetrators that did not show remorse during proceedings negatively impacted the truth finding process and account for the low degree of civil society mobilization that is present in the Liberian case.

Similar to the SLTRC, the LTRC also faced budget shortages, which made it difficult for the unexperienced commissioners (Gberie, 2008: 457) to gather credible evidence against the accused (De Ycaza, 2013: 196). The lack of adequate funding resulted in delayed payments of LTRC-personnel, who in 2007 stormed the headquarters and demanded their payments. This event was widely publicized in the media and tarnished the LTRC's public image (De la Cruz Gitau, 2008: 73). Second, according to an observer, some accused *"behaved less like a contrite sinner than a hero seeking a national platform"* (Gberie, 2008: 458). Even worse was the odd response of onlookers, including some commissioners, by giggling at testimonies of unusual forms of rape (Gberie, 2008: 459). Furthermore internal strife among the commissioners eventually led two commissioners to not sign the final report (De la Cruz Gitau, 2008: 71; Harris and Lappin, 2010: 186). Overall, these factors have severely impacted the public image of the LTRC, the truth finding process and the dissemination of the final results. *"From the initial mass awareness campaign in 2005, the 18 months of stagnation that followed incubated the notion that the TRC was all talk and no action. The TRC has received rather damaging publicity during this period that nothing has come of its role as a distributor of justice"* (De la Cruz Gitau, 2008: 75).

Taking these factors during the truth finding process into account it is not surprising that support for and credibility of the LTRC was largely absent in the Liberian case. Although the presentation of the final report received a large amount of societal attention (Twose, 2012: 68), it generally received quite some criticism from civil societal actors, including (international) NGO's and government officials (Weah, 2012: 334). Especially the pardoning of certain individuals that were involved in the civil war, while simultaneously barring others from public service without proper justification was controversial (De Ycaza, 2013: 205; Gberie, 2008: 463; Twose, 2012: 68). Amnesty International criticized the report for its lack of clarity among local media and the general public on key issues, the lack of a comprehensive program for psychological assistance to victims and witnesses and the inadequate protection for victims and witnesses (De Ycaza, 2013: 205). Thus, due to the poor truth finding process and controversial final report *"the TRC has made enemies of its natural allies"* (Harris and Lappin, 2010: 186).

Besides critique and lacking support from NGO's, the committee also lacked support from government officials, who denounced the LTRC's recommendations and made clear that these should not be adhered to (Weah, 2012: 335-336). Liberians themselves also did not seem to be supporting the LTRC's findings; *"A loosely formed 'coalition for peace' argued that the report had the propensity to foment chaos and derail the already fragile peace process and democracy. The group maintained that the TRC was mandated to set the basis for genuine reconciliation (Weah, 2012: 336). Furthermore, due to mass poverty and competing needs, the Liberian civil society, similar to other African countries, is largely a slave to donor interests. "A great number of local civil society groups, especially in the pro-democracy and human rights arena, 'follow the money'" (Pajibo, 2007: 293). This limits the ability of civil societal actors to sufficiently support the process of the LTRC (Pajibo, 2007: 294).*

Thus, due to several factors there appears to be a weak civil societal mobilization around the final finding of the LTRC. Given that those who were mentioned in the commission's report are in the political elite of Liberia, makes it unlikely that these people will permit the LTRC's recommendations to come into effect (Harris and Lappin, 2010: 189). *"The present composition of postwar Liberia's legislature does not inspire much hope, as some recently elected officials are former perpetrators who exploited the platform of the TRC's public hearings and are now actively campaigning to shelve the Commission's report"* (Weah, 2012: 342). Last, although President Sirleaf created the Independent National Commission on Human Rights to oversee the implementation of the LTRC's recommendations, progress has been slow (Twose, 2012: 67). The President for example has stopped submitting quarterly reports on implementation of the commission's recommendations, which was one of the commission's requirements (Twose, 2012: 68) and the Liberian Supreme Court ruled the banning of several individuals from public services unconstitutional (Those, 2012: 69; USIP, 2016).

Absence of trials and amnesties

As mentioned before, the LTRC made one of the boldest recommendations in the history of truth commissions (Bakiner, 2016: 182). Among other recommendations the LTRC recommended barring 49 people from public office, establishing an extraordinary tribunal for prosecutions of key individuals and by holding 116 people responsible for gross human rights violations (Harris and Lappin, 2010: 184; De Ycaza, 2013: 191).

Nevertheless, these bold recommendations were not fully implemented. The establishment of the extraordinary tribunal, similar to the Special Court for Sierra Leone, has

not been created and no prosecutions have been initiated (Twose, 2012: 67). Thus, no one has been punished for the crimes committed during the civil war (Twose, 2012: 69).

The question whether amnesties were present in the Liberian case is debatable. The Cotonou Accord, signed in 1993, granted a general amnesty for all people involved in the Liberian conflict (De Ycaza, 2013: 202). However, there is no official provision for granting amnesties in the Comprehensive Peace Agreement that established the LTRC in 2003 (De Ycaza, 2013: 203). However, the LTRC did have the power to recommend amnesties for perpetrators of certain crimes (excluding violations of international humanitarian law and crimes against humanity (De la Cruz Gitau, 2008: 70; TRC Act, art. VII¹¹). In its final report the LTRC recommended a general amnesty for children and for lesser crimes “*in an effort to foster national healing and reconciliation if individuals admit their wrongs and express remorse*” (USIP, 2016). Nevertheless, amnesties seem to be to a large extent, if not completely, absent in the Liberian case.

Assessing the hypotheses in the Liberian case

In the Liberian case, a low degree of civil societal mobilization is present, which can be explained by several factors, such as the lack of support for the LTRC among the population, the lack of oversight on implementation of the LTRC’s recommendation and the lack of strong civil societal actors. However, even though there appears to be a low degree of civil societal mobilization, which reduces the pressure on the Liberian government to change human rights policy, the country did make improvements in terms of governmental adherence to human rights. This empirical development defies the theoretical expectations concerning civil societal mobilization and is not in support of H1.

Contrary to Sierra Leone, no trials and amnesties accompanied the work of the truth commission in Liberia. Even though trials and amnesties were absent in Liberia, governmental adherence to human rights did improve over the years. This weakens H2 in the Liberian case.

6.3 Alternative conditions for improvements in governmental adherence to human rights

The analysis of H1 and H2 on the deviant cases did not yield all-encompassing conditions that account for improvements in governmental adherence to human rights. Therefore, this section will discuss some plausible alternative conditions that were present in (one of) the cases under analysis. Drawing upon the information that was retrieved from the expert-interviews, several

¹¹ The TRC Act was retrieved from the U.S. Institute of Peace database on truth commissions <<http://www.usip.org/publications/truth-commission-liberia>> (Accessed April 20th 2016).

conditions might account for improvements in governmental adherence to human rights. These conditions can be classified into “internal truth commission conditions” and “external truth commission conditions”.

Internal truth commission conditions might affect the overall result of the truth finding process, the impact of the truth commission and the changes in governmental human rights conduct. First of all, genuine commitment of the staff and commissioners to the truth finding process might affect the whole truth finding process. As Schabas noted, when funding for the SLTRC ran out, some commissioners did not continue to work on the truth finding process since they were not paid anymore (personal communication, April 18th, 2016).

Second, the way the truth commission is organized and managed could also affect policy changes in governmental adherence to human rights after the truth finding process is completed. The SLTRC for example operated in a dysfunctional and chaotic country, which impacted the way the SLTRC operated: “*chaotic, corrupt, dysfunctional*” (Schabas, personal communication, April 18th, 2016). It seems plausible that when a truth commission does not operate smoothly, effectively and functionally changes in governmental policy are less likely to occur, since a post-conflict government can easily dismiss the recommendations of the truth commission due to the flaws in the truth finding process.

Third, adequate funding (and related to funding) a well-trained and experienced staff seem to be important conditions for improvements in governmental adherence to human rights. Both Schabas and Rapp acknowledge that funding was an important issue in the truth finding process in Liberia and Sierra Leone. The amount of funding does not only determine the quantity of staff members, but also their amount of training and skills. Truth commissions have the difficult task of analyzing and assessing complicated conflicts, which requires well-prepared and well-trained staff that can understand the underlying dynamics and causes of the conflict (Rapp, personal communication, April 29th, 2016). When a truth commission experiences a lack of funding or does not have well-trained staff, the commission could be unable to find the truth or to properly address the underlying causes of the conflict. Finding the truth after a conflict took place is the first step in transitional justice, followed by prosecutions, reparations and guaranteed non-occurrence of violence. If this first step cannot be completed successfully due to a lack of funding or a lack of well-trained staff, this could discourage undertaking other steps in the transitional justice process (Rapp, personal communication, April 29th, 2016).

In terms of external truth commission conditions the way a truth commission is established (either bottom-up, which is accompanied by local ownership or top-down, which

indicates that the international community more or less has imposed a truth commission on a post-conflict society) could affect improvements in governmental adherence to human rights (Schabas, personal communication, April 18th, 2016). The example of Sierra Leone is illustrative to highlight this point; The SLTRC was established in a top-down way (Schabas, personal communication, April 18th, 2016). After the SLTRC completed its work the implementation of commission's recommendations for policy changes was slow (Rapp, personal communication, April 29th, 2016). It seems plausible that a governmental lack of commitment and ownership to the truth finding process, affects the pace of implementation of recommendations, thereby affecting improvements in terms of human rights conduct.

Thus, these internal and external conditions might account for why Sierra Leone and Liberia do not show consistent improvements in terms of governmental adherence to human rights.

7. Conclusion

This research is aimed at the conditions under which truth commissions could provide for a better adherence to human rights by governments of post-conflict societies. Drawing upon the methods of data triangulation and conducting a congruence test, this research addresses the following research question: *Under what conditions do truth commissions contribute to the adherence to human rights in post-conflict societies?* Sierra Leone and Liberia are similar in multiple variables (e.g. the type of conflict that preceded the establishment of a truth commission) and therefore have been selected for a small-N research design. The conditions that have been examined are the extent to which civil society mobilizes around the truth finding process and the presence of trials and amnesties in the truth finding process.

The results from the analysis between both deviant cases have not yielded solid and consistent empirical proof for the conditions under which truth commissions might result in a better adherence to human rights. Civil society mobilization in the truth finding process of Sierra Leone can be said to be moderate. Although NGO's and other civil society organizations did their best to disseminate the final findings of the SLTRC, not much pressure for reforms on human rights policy resulted. Several factors, such as insufficient resources, low numbers of participants in SLTRC activities or limited media coverage, can account for this. Nevertheless, human rights conduct in Sierra Leone did not improve over time.

In Liberia, there appears to be a low degree of civil society mobilization, which is caused by untidy proceedings of the LTRC, lack of adequate funding and a lack of strong civil societal actors in general. Nevertheless, Liberia does experience moderate improvements in

terms of governmental adherence to human rights, which defies theoretical expectations concerning civil society mobilization. Thus, proof for the positive impact of civil society mobilization on improvements in governmental adherence to human rights seems to be absent.

The second condition for improvements in adherence to human rights, which is the presence of trials and amnesties in the truth finding process, also lacks strong empirical support. Although trials and amnesties were present in the Sierra Leonean case (e.g. the establishment of the Special Court for Sierra Leone and the “blanket of amnesties” provided by the Lomé Peace Accord), human rights conduct did not improve over time. Contrary to Sierra Leone, Liberia did not experience either the prosecution of perpetrators or the provision of amnesties. Nevertheless, human rights conduct did improve over time. Therefore, a negative relationship between the presence of trials and amnesties in the truth finding process and adherence to human rights have been found. The negative direction of the relationship defies theoretical expectations (see “3. Theoretical framework”) and should be further examined in future research.

This research faces two main limitations, which narrow the scope of the conclusions. First, the generalizability of the results is limited, since only African post-conflict societies are chosen for the analysis. Therefore, one might argue that the specific conditions of Sierra Leone and Liberia do not apply to other cases. Second, this research faces limitations in data availability. Ideally, a 10-year period after the publication of the final results of a truth commission is studied. However, this is not possible due to a lack of data. Therefore a shorter period is researched, which could have an impact on the adherence to human rights since changes over the full period of 10-years cannot be studied.

Acknowledging these limitations, this research nevertheless has contributed to the rich and controversial scholarly literature on the impact of truth commissions on post-conflict societies. Foremost, this research contributed to the literature by examining new cases through an in-depth approach, which responds to the call for more research on truth commissions by several scholars (e.g. Bakiner, 2014: 30; Gready and Robins, 2014: 361). Second, by examining two conditions (civil society mobilization and the presence of trials and amnesties) that might result in a better adherence to human rights, this research explored (and disconfirmed) causal pathways in the realm of truth commissions, thereby extending knowledge on truth commissions’ impact on post-conflict societies. Last, by conducting research on the conditions under which truth commissions might impact human rights conduct new conditions and causal pathways have been identified. These new conditions should be

examined by future scholars in order to determine whether truth commissions have a positive impact on human rights conduct of post-conflict governments.

Drawing upon this research, which examined two deviant cases, some alternative conditions that might affect truth commissions' impact on adherence to human rights have been identified. First, future research could address whether the way a truth commission was established (either bottom-up, which is accompanied by local ownership or top-down, which indicates that the international community more or less has imposed a truth commission on a post-conflict society) (Schabas, personal communication, April 18th, 2016). A second condition for a successful truth commission impact on human rights conduct may be the staff of the truth commission. Is there a well-prepared staff that understands the conflict and that engages very actively with civil society (Rapp, personal communication, April 29th, 2016)? The more the staff is prepared and engages with civil society, the more prominent the truth finding process may be, possibly resulting in a bigger impact in terms of human rights conduct. Third, based on Sierra Leone and Liberia the amount of funding for a truth commission also seems important for the outcome of the truth finding process. Future research could examine the influence of these conditions on the impact of a truth commission on human rights conduct in post-conflict societies. Finally, in assessing the impact of truth commissions on adherence to human rights, scholars should devise clear and consistent methods for analysis, thereby overcoming the issue that is raised by Bakiner (2014: 10): arriving at different conclusions due to differences in conceptualization of key variables.

Until scholars have achieved more clarity on the extent to which truth commissions might positively impact governmental adherence to human rights, I argue that enthusiasm for (the establishment of) truth commissions in post-conflict societies is premature. The often assumed positive impact on governmental adherence to human rights seems to be overstated and needs continued scholarly scrutiny.

8. References

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