

EXECUTIVE SUMMARY

Psychosocial Support for Children: Protecting the Rights of Child Victims and Witnesses in Transitional Justice Processes

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This paper reviews and analyzes psychosocial support as an essential tool for the protection of the rights of children participating in transitional justice mechanisms.

Strategies for offering psychosocial support to children involved in transitional justice mechanisms can cover a wide range of interventions. Experiences show that the availability of psychosocial support in combination with effective protection strategies allow children to participate in a safe environment, improve the quality of their testimony and protect them against potential harm caused by their participation.

The article first looks at psychosocial factors which impact on children's participation in transitional justice mechanisms. These factors largely determine children's need for protection and support and can reflect children's responses to their involvement in transitional justice processes. A distinction has to be made between psychosocial factors related to the children and their experiences during the conflict on the one side and factors determined by the type of transitional mechanism on the other.

Children's participation in transitional justice processes is influenced significantly by their personal experiences during the conflict; their cognitive, social and emotional development; their coping skills and their social support. These factors influence children's capacity to give an accurate statement, to deal with the stress of testifying, to be confronted with the accused, and to deal with cross-examination. This has important implications for the necessary support strategies.

While all children are affected by armed conflict, some children are particularly vulnerable, for example children who were direct victims of violence, children associated with armed forces or groups, victims of sexual violence or those who have very limited support in the current situation.

The nature of the transitional justice mechanism determines children's role in the process, for instance giving a statement, testifying in court, participating in a hearing, making a submission or being cross-examined. These characteristics also influence the consequences of children's involvement, including possible threats to which the child will be exposed.

In judicial mechanisms such as international or hybrid tribunals, witnesses are mainly considered providers of evidence and their involvement is very much shaped by strict rules of procedure and evidence. The adversarial system, common in many of these mechanisms, also puts a heavy burden on witnesses, in particular children. At the same time, international or hybrid tribunals usually have significantly more resources to set up support mechanisms and to put in place the necessary protective measures for witnesses.

Non-judicial mechanisms, in particular truth commissions, can tailor their procedures more easily to meet the needs and capacities of children. Children's participation can also take different forms and include innovative forms of child participation,

including special hearings on children or submissions by children's groups. In addition, the absence of punitive element and an adversarial process reduces the burden on witnesses and the potential threat against them. However, these mechanisms often lack the resources and mandate to ensure the necessary support and protection for children who participate.

Second, this paper summarizes the existing legal framework guiding psychosocial support and protection of children in justice, truth, and reconciliation processes. The Convention on the Rights of the Child forms the backbone of the legal framework for the protection and support of children involved in transitional justice mechanisms. Other instruments relevant for child victims and witnesses include the 1985 Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, which outlines benchmarks for the protection of victims of crime, and the UN Guidelines on Justice in Matters involving Child Victims and Witnesses.

Further, this article analyzes the strengths and weaknesses of past and current policies and procedures regulating the psychosocial support of children. Throughout the short history of transitional justice mechanisms psychosocial support for witnesses has developed in response to the increased involvement of child victims in processes. Examples of current policies and procedures from the Special Court for Sierra Leone, the International Criminal Court as well as from the truth commissions in Sierra Leone and in Liberia show a variety of measures that have been put in place to protect the rights of child victims and witnesses participating in procedures. The following measures are discussed in the article:

- Integration of provisions for protection and support into the regulatory framework of transitional justice mechanisms
- Selection of specialized staff and adequate training of all staff on issues related to dealing with child witnesses
- Vulnerability assessment of potential child witnesses
- Individual support and counseling before, during and after testimony
- Establishment of protective measures before, during and after testimony
- Long term support and referral
- Involvement of the community in support strategies and the use of local approaches to healing

On the basis of these experiences, a number of challenges related to the involvement of children in transitional justice mechanisms are presented. This includes the need to balance the right to participation and the right to protection. The paper looks as well at the discrepancy that exists between the resources made available for different justice mechanisms and the possibilities for child participation that they can offer. Also the necessity to manage expectations of victims and witnesses involved in transitional justice mechanisms is discussed.

The paper concludes with a number of recommendations for enhancing the protection of children in transitional justice mechanisms.