

UNICEF IRC Expert Paper Series on Children and Transitional Justice

Background

During armed conflict, children are targeted for the worst possible violence and abuse, including abduction, rape and recruitment as child soldiers, and may be forced or coerced to take part in atrocities. Because children are among the most affected by conflict they become victims and witnesses of these offences. The lack of accountability for conflict-related crimes against children can leave child victims vulnerable to further violation and abuse.

Accountability in post-conflict situations can fulfil a number of important functions. It contributes to the process of healing and helps children understand that they are not to blame for what has happened. By investigating and documenting violations committed, accountability processes raise public awareness of the impacts of conflict on children. Accountability can also help to break the cycle of violence, restore confidence in democracy and the rule of law, and strengthen the legitimacy and authority of the new government.

In recent years, truth, justice and reconciliation processes have begun to focus specifically on crimes committed against children and have involved children proactively, including through testimony that bears witness to their experiences. The recent involvement of children and adolescents in providing testimony to international and national courts and truth commissions has demonstrated their unique role as participants and as members of their communities. But if children are to engage in transitional justice processes their rights must be respected.

The review and analysis of emerging good practices on the involvement of children and adolescents in truth, justice and reconciliation processes has brought to light a number of dilemmas. For example, it is recognized that children and adolescents who have been recruited to take part in hostilities are primarily victims of armed conflict. At the same time, many argue that some form of accountability for crimes committed by children is in their best interests and could contribute to processes of reconciliation and reintegration. Mechanisms of accountability for serious violations committed during armed conflict include a wide range of options, such as judicial prosecutions, truth commissions, restorative justice processes and traditional practices.

When children engage in truth, justice and reconciliation processes, new possibilities and new challenges are encountered. In a number of instances, child-friendly procedures have been introduced to safeguard the rights of children who become involved, and to support their protection throughout the process. This can help build children's confidence and restore their sense of justice in the social and political order, while also establishing a mechanism of accountability for crimes committed against them. But many questions remain as to how best to protect the rights of children involved as victims and witnesses in these contexts.

Ideally children's participation should strengthen and enhance their protection, and protection measures should enable participation. In the long term, if children are excluded from transitional processes, they may become frustrated and vulnerable to a continuing cycle of violence, impacting future generations. Failure to address their concerns also wastes the capacity and potential of children and adolescents to serve as catalysts for reconciliation and peace-building within their own communities.

The importance of furthering efforts to support children's involvement in transitional justice processes was identified during an expert discussion on Transitional Justice and Children convened by the UNICEF Innocenti Research Centre (IRC) in November 2005. As an outcome of the meeting it was proposed that research on children and truth commissions be undertaken, identifying good practices and lessons learned, and recommending strategies to improve and facilitate children's participation in future truth commissions. Documentation on the role of children in truth commissions was initiated by UNICEF IRC and the International Center for Transitional Justice (ICTJ).

In the course of research underway on children and truth commissions, a number of issues emerged requiring further research and analysis in order to better understand the potential and the limits of children's participation in transitional justice processes. As a result it was decided to initiate an *Expert Paper Series on Children and Transitional Justice*, addressing a broad range of issues, including judicial accountability, truth-seeking, local, traditional and restorative justice processes, and institutional reform. The Series has helped to build a network for sharing information and expertise, generating discussion and debate among child protection advocates, legal experts and academics, and building consensus on the way forward. In addition, a Peer Review Oversight Panel was convened to monitor the progress of the Expert Paper Series, and to provide guidance and advice on the development of the Series and the process of peer review.

Objective

The objective of the expert paper series is to improve accountability for crimes against children and to protect the rights of children involved in transitional justice processes. Specific papers will document and analyze emerging good practices and lessons learned; evaluate the potential role of children; and anticipate and promote strategies for involving children in future transitional processes. It is anticipated that studies undertaken in this series will help to guide the involvement of children in truth, justice and reconciliation processes in post-conflict transition.

The topics under consideration include:

- *Basic assumptions Concerning Children and Transitional Justice;*
- *Children and Accountability for Grave Crimes: Emerging International Practice and Standards*
- *Children and Criminal Responsibility: the International Legal Framework;*
- *Children and Torture: Legal Framework and Medical and Psychological Impacts;*
- *Protection Measures and Psychosocial Support for Child Witnesses;*
- *Children and Reparations;*
- *Children and Transitional Justice in the Colombia and Peru;*
- *Genetic tracing, disappeared children and justice;*
- *Children and the South African Truth and Reconciliation Commission;*
- *Child and Adolescent Participation and Agency in the Sierra Leone Truth and Reconciliation Commission;*
- *Children's involvement in the CAVR in Timor-Leste;*
- *Child and Adolescent Participation in the Liberian Truth and Reconciliation Commission;*
- *Restorative Justice After Mass Violence: Opportunities and Risks for Children and Youth;*

- *Community and Family Responses to Youth Formerly Associated with Armed Forces and Armed Groups;*
- *Accountability for sexual and gender-based crimes within the LRA;*
- *Traditional Mechanisms for Accountability: Mato Oput and Children in Northern Uganda*
- *Children, Education and Reconciliation;*
- *Truth Commissions and National Curriculum: the Recordandonos Resource in Peru;*
- *Children and economical opportunities and reform in transitional justice contexts.*

The papers are individually authored by experts with experience and proven ability to address each of the themes, representing a range that includes local and global perspectives, academic to practitioner experience, and international legal and child rights expertise. The papers will be electronically published under the author's name as part of the UNICEF IRC Expert Paper Series on Children and Transitional Justice.

The Expert Paper Series on Children and Transitional Justice lays a foundation for the development of further expertise in child rights and child protection, and in legal practices and processes. The dialogue and exchange of ideas also provides a context for expert peer review, both to raise questions and to assess work undertaken, and ultimately to build consensus on steps forward.