“OUR PERSPECTIVE IS JUST AS VALUABLE AS THEIRS” : WHY SHOULD – AND HOW CAN – CHILD PARTICIPATION BE FACILITATED IN TRANSITIONAL JUSTICE?

by

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ABSTRACT

The thesis makes the case for why, and how, child participation should be facilitated in transitional justice, arguing for a framework grounded in the rubric of the 'right to be heard' as outlined in article 12 of the Convention on the Rights of the Child ('Convention'). In doing so, it employs an interdisciplinary approach drawing on the areas of children's rights and development studies to address the gap in transitional justice and human rights law scholarship on child participation in transitional justice.

Through a systematic literature review, the thesis examines to what extent, and in what ways, transitional justice mechanisms of the past have specifically included the participation of children - and what this tells us about assumptions made by transitional justice designers, practitioners and scholars about the value of child participation in those processes. The thesis then explores the extent to which article 12 of the Convention contributes toward an understanding of child participation in transitional justice, outlining a conceptual and analytical framework rooted in international child rights law.

Using a qualitative approach, the thesis utilises data collected from adolescent children in Rwanda in focus groups at secondary schools to demonstrate how these children know and understand transitional justice (particularly the interaction between national and local processes) and article 12 of the Convention, as well as what processes, activities, and spaces they associate with these concepts. In doing so, the thesis argues that children should 'be heard' in decision-making processes in transitional justice in line with article 12 of the Convention.

The thesis constitutes a crucial original contribution to scholarship on transitional justice from the perspective of children's rights and of development studies and will serve as a key resource in terms of future efforts to bring children's rights and views to bear on transitional justice policy and practice.

Dedication

For my children, George and Sophia.

Thank you for being so patient with me whilst I wrote my special book. Thank you for understanding that I had to spend less time with you than I would have loved to do, and for sitting with me (sometimes falling asleep next to me) whilst I was writing, just to spend time with me. Thank you for understanding, even though it was hard, that I had to take long journeys to faraway places and couldn’t bring you along. Thank you for wanting to learn about the children of Rwanda, for wanting to learn about where they go to school, whether they played the same games and liked the same sports, for learning Kinyarwanda, and for wanting so much to be a part of this journey with me. I hope you will always remember the value and power of your voice, even in the hard times, and that you use your voice wisely to make your own special, unique difference in the world and in the lives of others. You are, and will always be, my biggest blessing in life, my greatest inspiration, and my sky full of stars. I love you both so much, all around the universe, times infinity, forever.

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Table of Contents

CHAPTER ONE 1

Introduction 1

1. Research questions: context and justification 2

1.1 Central Research Question 2

1.2 Secondary Research Questions 2

2. Thesis contributions and the rationale for an interdisciplinary approach 4

2.1 The underexplored role of child participation in transitional justice 5

2.2 Proposing a framework rooted in the right of the child to be heard in international law 7

2.3 The importance of an interdisciplinary lens 8

3. Choice of research setting: Rwanda 9

3.1 The Genocide against the Tutsi 10

3.2 An intergenerational legacy 12

3.3 Child participation, the gacaca courts, and memorialisation in Rwanda 13

3.3.1 The gacaca courts 14

3.3.2 Memorialisation 16

4. Thesis Overview 18

CHAPTER TWO 24

Introduction 24

1.Origins, function, and context: the concept of transitional justice in international law and the first 'three phases' of transitional justice 25

1.1 The Tokyo and Nuremberg tribunals: phase one 25

1.2 Civil society and social justice: phase two 26

1.3 The nexus of accountability, justice, and reconciliation: phase three 27

2. Challenging the dominance of legalism: the 'fourth phase' of transitional justice 28

2.1. Transitional justice 'as law' and 'as development' – a 'tense' relationship? 29

2.2 Demonstrating the necessity for an honest appraisal of the limitations of legalism 32

2.3 Children, transitional justice, and the potential for knowledge exchange 36

3. The (non)engagement of transitional justice with the participation of children: an assessment of past practice 38

3.1 International criminal justice and the ICC 39

3.1.1 Review of the literature 39

3.1.2 Child participation and international criminal justice 42

3.1.2.a Factor 1: age of the child 43

3.1.2.b Factor 2: the choice of the child 44
3.1.2.c Factor 3: protecting the child from harm 45
3.2 Truth commissions 48
3.2.1 Review of the literature 48
3.2.2.b Child participation in truth commissions since South Africa 57
3.2.2.c Context: Sierra Leone 57
3.2.2.d Context: Timor Leste (East and West Timor) 59
3.2.2.e Context: Liberia 60
3.2.2.f Context: Kenya 62
3.3 Reparations programmes 65
3.3.1 Review of the literature 65
3.3.2 Child participation in reparations programmes 69
3.4 Guarantees of non-recurrence 73
3.4.1 Review of the literature 73
3.4.2 Child participation and guarantees of non-recurrence 77
3.4.2.a DDR 77
3.4.2.b Education 79
3.4.2.c Legal reform and re-establishing the rule of law 81
4. The question of socio-economic rights 84
Conclusion 86
CHAPTER THREE 89
Introduction 89
1.Justification of source material: hierarchy of sources in international law 90
1.1 International Treaties 90
1.2 Travaux Preparatoires 91
1.3 General Comments of the Committee on the Rights of the Child 92
1.4 Teachings of the most highly qualified publicists 92
2 The United Nations Convention on the Rights of the Child 93
2.1 The rights of the child as "standard setting" in international law 94
2.2 From 'standards' to 'legal obligations.' 99
2.3 Forging new spaces for children as independent agents of rights 100
3. Establishing links between article 12 and transitional justice 103
3.1 The child of the Convention. 103
3.1.1 'Child' defined: the importance of Article 1. 103

3.1.2 'Childhood' defined: the Committee on the Rights of the Child 105
3.1.3 The dangers of a false uniformity 108
3.2 Doctrinal analysis of article 12 109
3.2.1 'Shall (always) assure'? balancing participation and protection. 110
3.2.2. The 'capable' child. 113
3.2.3 'Choosing' to express views 'freely.' 115
3.2.4 Without limitation: the 'all' in 'all matters affecting the child.' 119
3.2.5 The importance of defining 'due weight' in the participation process 122
4. The legitimacy of the Convention in the African context: the interplay between article 12 and article 7 of the ACRWC 124
Conclusion 132
CHAPTER FOUR 136
Introduction 136
1. Case study choice: Rwanda 137
1.1 Rwanda as the sole case study context 137
1.2 Memory in Rwanda 139
1.3 The inkiko-gacaca courts in Rwanda 142
2. Research Design and Methodology : data collection phase 145
2.1 Ethnography 145
2.2 Grounded theory 146
2.3 Grounded theory ethnography 149
3. Scoping visit, affiliation process and ethical review 150
3.1 Scoping visit to Rwanda 150
3.2 Affiliation process and the role of Never Again Rwanda 152
3.3 Ethical Review process at the University of Birmingham 154
3.3.1 Obtaining informed consent: participating children, parents, the school 155
3.3.2 Safeguarding 160
3.3.3 Risk of disclosure of sensitive information 161
4.Focus groups with children: justification, practicalities and challenges 162
4.1 Using focus groups to collect qualitative data 162
4.2 The multifaceted involvement of the Research Assistant 164
4.3 Participant selection and justification 169
4.4 Participant recruitment 170
4.4 Participant demographics 171
5.Research Design and Methodology : data analysis phase 173

5.1 Step 1: Interviews, fieldnotes and memos: transcription and upload 174
5.2 Step 2: surface-level coding 176
5.3 Step 3: In-depth coding 177
5.4 Step 4: creating framework matrices 179
5.5 Step 5: analysing data 181
6.Challenges and Reflections 182
6.1 Lack of balance achieved between participants of different genders and ages 182
6.2 Ethical challenges 183
6.3. Logistical challenges 184
6.4 The impact of the Covid-19 pandemic 192
Conclusion 193
CHAPTER FIVE 195
Introduction 195
1. 'Ways of knowing' transitional justice and the rights of the child in Rwanda 196
1.1 Knowledge production on transitional justice, human rights and the rights of the child: the education system 197
1.2 Knowledge and understanding of transitional justice 202
1.3 Knowledge and understanding of the rights of the child. 207
1.3.1 Access to Education (Article 28) 209
1.3.2. Abolition of child marriage (Article 24(3)) 213
1.3.3 Abolition of child labour (Article 32) 214
1.3.4 Life, survival, and development (Article 6, Article 24(2)(c), Article 27) 215
1.3.5 Freedom from violence (Article 19) 217
1.3.6 Access to healthcare (Article 24) 219
1.3.7 Provision for children with disabilities (article 23) 221
1.3.8 The right to pray (article 14) 223
1.4 Understandings of transitional justice and human rights: reflective of a competence-based education system? 225
2. Understanding the right to be heard 229
2.1 Understanding the right to be heard as a Convention right 229
2.2 Understanding the right to be heard by way of article 12 231
3. Contextualising the right to be heard in the lives of children in Rwanda 234
3.1 Perceived benefits of the implementation of article 12 in Rwanda 235
3.2 Perceived challenges faced by children in their enjoyment of the right to be heard in Rwanda 242

Conclusion 252
CHAPTER SIX 255
Introduction 255
1.Children's understanding of the scope and purpose of transitional justice in Rwanda 256
1.1 The inkiko-gacaca courts 256
1.1.1 Ensuring accountability 256
1.1.2 Achieving reconciliation 261
1.2 Memorialisation processes 266
1.2.1 Physical Memorials 266
1.2.2 Commemoration (or 'Kwibuka') 268
2. Child participation past and present: the inkiko-gacaca courts and memory processes 270
2.1 Exploring child participation of the past: the inkiko-gacaca courts 270
2.1.1 Opinion: the gacaca courts were no place for children. 272
2.1.2 Justice is for everyone, including children. 275
2.1.3 The middle ground – children had a choice. 277
2.2 Exploring child participation of the present: memory processes 280
2.2.1 State-facilitated participation 281
2.2.1.a Child-led initiatives 282
2.2.1.b Adult-guided initiatives at the state level 285
2.2.1.c Adult-guided initiatives at the community level 289
3. Understanding the relevance of article 12 in transitional justice for future generations 297
3.1 An increase in child participation in line with an understanding of children's rights 297
3.2 A decrease in child participation because of a lack of engagement across the entire country 301
Conclusion 306
CHAPTER SEVEN 309
Introduction 309
1.Overview of the thesis 309
2.Contributions to research 314
3. Future research 319
3.1 Limitations to current research 319
3.2. Areas for further research 322
Conclusion 329

BIBLIOGRAPHY 332
APPENDICES 368

CHAPTER ONE

"LET'S HEAR THE CHILDREN, LET'S SEE WHAT THEY CAN DO" : CHILD PARTICIPATION IN TRANSITIONAL JUSTICE.

Introduction

This chapter provides an introduction to the research undertaken in the thesis. I begin by setting out and addressing the central research question, specifically why should - and how can - child participation be facilitated in transitional justice, as well as the three sub-questions that underpin the research. I then explain the three-pronged focus of the thesis: firstly, to examine the role of the child, in particular the extent of their participation, in past practices of transitional justice; secondly, to set out and justify the importance of a framework for future child participation being rooted in the right of the child to be heard in international law; and thirdly, the choice to use an embedded interdisciplinary approach to examine how transitional justice is known and understood in both international development and international law. I then explain how and why Rwanda was chosen as the case study country for the research, providing a short introduction to the specific mechanisms of transitional justice the thesis will be examining in the country (the gacaca courts and memorialisation), and clarifying how a focus on both mechanisms is necessary to answer the research question.

The chapter ends by presenting an overview of the structure of the thesis, including the contributions of each chapter towards the specific research questions, and the overall

contributions made by the thesis to scholarship and practice on both transitional justice and child participation.

1. Research questions: context and justification

1.1 Central Research Question

The central research question asks:

Why should – and how can – child participation be facilitated in transitional justice?

At first glance, there appear to be two distinct elements to the question: the 'why should' element, and the 'how can' element. The 'why should' element focuses on why the views, opinions and experiences of children should be heard in the mechanisms of transitional justice. This encourages a focus on exploring the value that the participation of children can add to the process as a whole, and of course the value that child participation in transitional justice may have for the children who participate. The 'how can' element assesses how the participation of children can be best facilitated in these mechanisms, specifically how this might be achieved using the guiding framework of article 12 of the Convention on the Rights of the Child as a core point of reference. However, it is important to note at this juncture that the 'how can' and 'why should' questions naturally overlap, and this overlap will be demonstrated and acknowledged at different points in the thesis.

1.2 Secondary Research Questions

This section moves on to set out and justify the three sub-questions that underpin the central research question.

1. To what extent and in what ways have transitional justice mechanisms of the past specifically included the participation of children?

A systematic literature review undertaken in Chapter Two will explore existing scholarship, practice and debates surrounding the participation of children in mechanisms of transitional justice. This allows for a 'teasing out' of explicit and implicit assumptions that specific examples of child participation in transitional justice reveal about how those designing and enacting these mechanisms view and value children's participation. Through an extensive critical review of the conceptual literature on transitional justice, including literature on the interplay between transitional justice, the sustainable development goals and the rule of law, as well as consideration of examples of past practice, the thesis will make a significant contribution to answering the first secondary research question.

2. To what extent does article 12 of the Convention on the Rights of the Child contribute to understanding child participation in transitional justice?

Chapter Three presents a doctrinal analysis of article 12(1) of the Convention on the Rights of the Child, answering the second secondary research question by framing the case for child participation in transitional justice in terms of the framework of the rights of the child in international law. In doing so, it is argued that to fail to include the voices of

children in transitional justice processes, whether deliberately or unconsciously, represents a failure to comply with article 12, as well as other interdependent rights in the Convention. However, in making this assertion, the chapter also links back to the work undertaken in Chapter Two and those other factors which influence the approach taken when deciding whether to facilitate the participation of children in transitional justice, and the extent to which these factors are acknowledged in international child rights law.

3. To what extent do children's understandings of concepts such as 'the right to be heard,' 'participation,' and 'transitional justice' underpin the case for child participation in transitional justice?

Through the collection and analysis of primary data from focus groups with adolescent children in Rwanda, I demonstrate the importance of understanding the views and opinions of children on the right to be heard, participation and transitional justice when making the case for their participation in transitional justice processes. Analysis of this data provides context-specific evidence when it comes to answering why the design and implementation of transitional justice mechanisms should facilitate the participation of children. In taking such an approach to answering the third secondary research question, the richness of the views and opinions of children, as well as the chosen research design and methodology employed in the collection and analysis of these views and opinions, ensures that the thesis is academically rigorous and constitutes an original contribution to scholarship.

2. Thesis contributions and the rationale for an interdisciplinary approach

This section will address and justify the three contributions of the thesis, which are: to address the gap in scholarship and practice on child participation in transitional justice; to outline a framework for such participation based on the rubric of article 12 of the Convention on the Rights of the Child; and to demonstrate the importance of using an interdisciplinary lens in the research (specifically connecting international development and international law).

2.1 The underexplored role of child participation in transitional justice

Transitional justice has been defined by the United Nations Security Council as “the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation” (UNSC, 2004, p4). Built upon the foundation of human rights, justice, and the rule of law, transitional justice is based on the assumption that “it is necessary to deal with a traumatic past in order to build a stable future” (Aptel and Ladisch, 2011, p6).

Transitional justice consists of both judicial and non-judicial mechanisms, including criminal prosecutions, truth commissions, material and symbolic reparations, and measures to guarantee non-recurrence. This is not an exhaustive list of mechanisms; many societies have developed and implemented their own ways of dealing with past abuses, approaches which take into account local political, economic, social and cultural contexts.

Nonetheless, it is vital to view all mechanisms of transitional justice, whether international, national or local, as interdependent. Each mechanism has a specific function, but more than one can (and should) be implemented at the same time and in the same context as part of a wider effort to foster peace, justice, and reconciliation.

A limited number of studies in various global contexts have shown that children have a strong desire to be heard in mechanisms of transitional justice. In one such study, conducted by the International Centre for Transitional Justice (ICTJ), it was found that children consulted in the study felt that telling their stories, recounting their experiences and sharing their views and opinions would not only put their voices in the public sphere, but would also mean their views and opinions could be used as part of a vital healing exercise for themselves and for societies in transition (Aptel and Ladisch, 2011, p13). This was important for children whether they were the direct victims of an atrocity or suffered from the intergenerational effects of human rights abuses (ibid). Yet, although children feel that they should be recognised for their capacity to change society according to their own ideas and perspectives, transitional justice policy and practice has failed to support participation from children under the age of eighteen in a consistent and meaningful way. As a result, there remains limited evidence regarding the impact of their participation in these processes. Similarly, child participation in transitional justice is under-explored in existing scholarly research, which has led to gaps in knowledge and practice about what we know of the experiences, views and opinions of children, and how they are (and how they should be) heard in transitional justice.

The thesis contributes directly and significantly to the limited existing studies and scholarly research, adding to the evidence base by bringing together literature from academic and organisational sources in one place.

2.2 Proposing a framework rooted in the right of the child to be heard in international law

Article 12 of the United Nations Convention on the Rights of the Child (henceforth 'Convention' or 'the Convention') requires states parties to "assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child" (Convention, article 12). This right is understood as the right to be heard. The thesis argues that the participation of children in transitional justice must be built on a sound understanding of, and the principles set out in, article 12.

The thesis does not assume that there is a 'one-size-fits-all' position on what participation means for all children, or indeed that it is always desirable. Instead, the thesis argues in favour of a contextual approach when thinking about the specific mechanisms that are most appropriate and feasible in each setting. In addition, it makes clear that it is important to explore any differences and similarities in terms of child participation that emerge for different groups of children within the same context, and the factors that might influence these similarities and differences (such as socioeconomic background, access to education, or whether they live in a remote or urban area, for example). To do so allows for a questioning of those factors which "complicate possibilities" for children's participation (Coppock and Phillips, 2013, p100).

2.3 The importance of an interdisciplinary lens

The thesis has an embedded interdisciplinary lens, rooted in the ways in which both international development and international child rights law 'know' transitional justice. The definition of 'interdisciplinary' referred to is taken from that of UNESCO, which is split into two parts.

Firstly, an interdisciplinary approach generates an understanding (or "knowing") of themes and ideas that cut across disciplines (UNESCO, no date). In defining "knowing," I refer to the term "ways of knowing," defined as "the struggle over what constitutes valid knowledge" (Jones, 2021, p164). More specifically, the analysis of secondary literature in Chapter 2 (section 2, pp26-35) will direct attention to those points of tension (or "struggle") between two ways of knowing transitional justice 'as law' or 'as development,' over what constitutes valid knowledge (Jones, 2021, p164). The thesis will demonstrate that, despite existing points of tension, an interdisciplinary exchange on transitional justice has the potential to create a solid foundation on which to understand human rights violations and their consequences from different perspectives (Jones and Viebach, 2015, p177). In the case of the thesis research, such potential comes from understanding the perspective of the child.

The second part of the UNESCO statement makes clear that interdisciplinary research shines a light on connections between different disciplines and their relationship to the real world (UNESCO, no date). Indeed, ascertaining and responding to the local realities of children in transitional societies is an issue which cuts across both international development and international law. The thesis recognises that in transitional societies,

“changes are significant and fundamental, and permeate almost every aspect of life, including the social, cultural, political, and economic dimensions” (Naude, 2017, p101). Focusing on the experiences of children when asking why - and how - child participation can be facilitated in transitional justice is of vital importance when considering what constitutes “valid knowledge” about transitional justice. This is because theory must be illuminated by real-life experience, but it must also be illuminated by real-life struggles (Lather, 1986, p262).

3. Choice of research setting: Rwanda

The decision to concentrate on Rwanda as the context for the research was made after undertaking a period of desk-based research in the areas of transitional justice and the rights of the child in international law. During the initial stages of this research, I seriously considered conducting fieldwork research in South Africa to complement my research in Rwanda, particularly on the extent to which memory processes engage with the participation of children. The consideration of South Africa as a comparative case study context was in large part prompted by my review of the literature. Specifically, I was interested in examining the extent to which children in that country are involved in the memorialisation of the apartheid. In turn, this interest provoked questions on the extent to which a comparison could be made between memorialisation and the work of the TRC in South Africa, and how this could compare to the context of Rwanda, both in terms of memorialisation and the gacaca courts. The context of South Africa is discussed in Chapter Two (section 3.2, p44) concerning the right to truth and the work of the South African TRC.

In addition, I considered conducting fieldwork research in Sierra Leone, looking at the relationship between the Special Court of Sierra Leone and the TRC, and the similarities and differences of those bodies in terms of their engagement with the participation of children. Chapter 2 (section 3.2.2.1, p46) discusses the work of the TRC in Sierra Leone (though the chapter does not focus on the work of the Special Court). I also seriously considered other country contexts that have endured past genocide, such as Cambodia and Armenia, but particularly Bosnia, as the genocide there occurred in 1995, very shortly after the Genocide against the Tutsi in Rwanda. Of all contexts considered, the most significant desk-based research was done into South Africa, Bosnia, and Sierra Leone.

In undertaking further desk-based research, as well as a scoping trip to Rwanda undertaken in 2019 (discussed in more detail in section 3.1 of Chapter 4), the decision was made to focus solely on Rwanda rather than undertake a comparative case study design as was initially anticipated. This is because much more is known and understood about the benefits and limitations of child participation in these other contexts, as evidenced by scholarship and practice, in comparison with child participation in the gacaca courts and memorialisation activities in Rwanda. Therefore, to focus on Rwanda as the sole country context fills a significant, contextual gap in scholarship on child participation in transitional justice in the country.

The following sections focus in greater depth on those contextual factors which influenced the decision, with detail on methodological factors outlined in Chapter 4.

3.1 The Genocide against the Tutsi

Desk-based research on the Genocide against the Tutsi in Rwanda was an influencing factor on choosing it as a case study to answer the central research question.

The meaning of the word “genocide” is found when splitting the word into two parts: the Greek prefix ‘genos,’ meaning race or tribe, and the Latin suffix ‘cide,’ meaning killing (Lemkin, 1944). In international law, genocide is codified as an independent crime in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (referred to as ‘the Genocide Convention’), which states that genocide is defined as “any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such: Killing members of the group; Causing serious bodily or mental harm to members of the group; Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; Imposing measures intended to prevent births within the group; Forcibly transferring children of the group to another group” (1948, article 2).

The events leading up to the Genocide against the Tutsi have been well-documented, and as such will not be reproduced here. However, although the narrative of how the Genocide against the Tutsi affected children is a familiar one, it is worth repeating here given the specific focus of this study. Children were not spared: hate media, particularly radio, invoked the now infamous phrase “he who kills the serpent should not spare it’s eggs” to mark Tutsi children out directly for slaughter. This was with the aim of ensuring that a new generation of Tutsi would never emerge. Furthermore, testimony exists from survivors of the Genocide against the Tutsi that children were manipulated or forcefully recruited into committing human rights abuses during the genocide against their own communities, families, friends, and neighbours (University of Concordia, no date; Genocide Archive of Rwanda, no date).

Bearing these factors in mind, Rwanda was chosen as the country case study due to the fact that the Genocide against the Tutsi was a relatively recent conflict, but sufficient time has passed that it raises less risk of trauma for child participants in the research.

3.2 An intergenerational legacy

The impact on children past and present of the Genocide against the Tutsi was also a factor that influenced my choice to use the context of Rwanda as my sole case study country.

Rwanda has a population of almost 12 million; it is one of the smallest countries in Africa and it is the most densely populated (The World Bank, 2022). The population is growing rapidly, projected to increase to 25.3 million in 2065 (UKGOV, 2018). UNICEF estimates suggest that around 5.4 million (45%) are under 18 years old (UNICEF Rwanda(a), no date). Rwandan official figures break this figure down further, suggesting that in 2017 children aged 0-14 accounted for 38% of this population and children known as 'youth' (aged 15-35) accounted for 40% (Government of Rwanda, 2017). This compares to 22% of the total population who are above 35 (ibid). These statistics are important when considering the legacy of the Genocide against the Tutsi for present-day children of Rwanda, and particularly how that legacy has shaped the views and opinions of society, including children, on the importance that should be given to the voices of children in international, national and local transitional justice.

Rwandan children suffer from lasting socioeconomic effects and transgenerational trauma from the Genocide against the Tutsi (The World Bank, 2022; UNICEF Rwanda(a), no date). In particular, children with parents who are survivors of the Genocide against the Tutsi carry trauma passed down from their parents, with each family having their own

physical and psychological wounds and difficult memories (Never Again Rwanda(a), 2019). There is a limited understanding of "the mechanisms underlying the intergenerational transmission of the experiences of mass violence and its aftermath," including how and why to address this in research, policy and practice (ibid). Using qualitative research to explore such issues as they arise when working with children in Rwanda allows me to assess the extent to which the Genocide against the Tutsi has shaped their understanding of participation, both in their own lives and in transitional justice. It also enables me to consider how the agency of children is (or is not) recognised within the broader historical, social and political decision-making processes in Rwanda which are part of their everyday lives, as well as the extent to which children in Rwanda feel that their right to be heard matters in contesting injustice and building sustainable peace.

Such issues are discussed in Chapter Two (section 2.2, pp30-33) when assessing the remit of the sustainable development goals (particularly SDG16, which aims to build strong and just institutions in support of peaceful and inclusive societies around the world), and why the participation of children should be included in this aim.

3.3 Child participation, the gacaca courts, and memorialisation in Rwanda

The research focuses on two mechanisms of transitional justice: the gacaca courts and memorialisation, discussed in turn below. In selecting these mechanisms, I have deliberately chosen to look at locally embedded transitional justice practices and their relationship with the state as well as the local communities. This is because local mechanisms are often regarded as more flexible and accessible than international and national level mechanisms, offering greater scope for inclusion of children.

3.3.1 The gacaca courts

The word gacaca has been translated into English many times, with different variations depending on whether it is seen as a noun, or a process. For example, some translate the word gacaca as a noun, such as “lawn,” or “grass,” and even delineate the length of the grass as being “short grass,” or even “long grass.” Other translations define gacaca as a process, meaning “justice on,” “justice in,” or “justice among” the grass.

The definition of gacaca I use in the thesis translates to ‘justice on the grass’ in English; both children and facilitators in Rwanda told me that the name gacaca derives from the word ‘umucaca,’ describing a type of grass that is particularly soft to sit on, usually under a tree, where community members meet to sit together and discuss or settle disputes. The word gacaca also has roots in the Kinyarwanda phrase ‘gucoca amagambo,’ meaning ‘word of mouth,’ which is used to describe the importance of speaking the truth on a matter in front of others.

As a system of pre-colonial community justice adapted for use post-genocide, the gacaca courts were a system of justice that consisted of around 12,000 community-based courts, which tried more than 1 million Rwandan citizens who took part in the genocide (Human Rights Watch, 2011). After several years of preparation and an initial pilot phase, the first gacaca court opened in March 2005. Since then, the courts have garnered much scholarly attention (Nyseth Brehm et.al, 2020, p446).

The literature covering the scope and purpose of the gacaca courts has been extensively analysed by numerous authors. As “special tribunals set up to handle specific categories of suspects” (Haile 2008, p. 23), the gacaca courts were based on an indigenous justice system in Rwanda, the principles of which were integrated into the national criminal justice

system in the country to provide accountability for crimes committed during the Genocide against the Tutsi (Kiyala, 2022, p432). The gacaca courts “prioritised the agenda of reintegration of perpetrators into society,” and as an “African accountability paradigm,” the gacaca courts are argued by scholars such as Kiyala and Graybill to have “achieved what prosecutorial trials would not” (Kiyala, 2022, p442, citing Graybill, 2004).

In terms of the possible role children under the age of 18 played in this process, scholarly literature discussing children and the gacaca courts is grouped around specific themes. These include: the suitability of the gacaca mechanism for the inclusion of children who were both victims and perpetrators in the Genocide against the Tutsi; critiquing the lack of success of gacaca in providing protection to children who had multiple roles in the genocide; and analysing whether the justice dispensed by the gacaca courts met international child justice standards (see for example Barrett, 2019; Sullo, 2018; Kiyala, 2019). Despite this, the lack of attention devoted to the extent to which children participated within these courts in line with international child rights standards, including article 12(1) of the Convention, is clear when looking at existing literature. In addition, given that the last gacaca court was held on the 4th of May 2012, it is important to assess the extent to which children under the age of eighteen know and understand the purposes for which the gacaca courts were implemented. These children are very often born from survivors of the genocide, and/or live with genocide survivors in their communities, who would have witnessed the gacaca courts in action. Children may have information that has been passed down to them by their relatives and community members about the extent to which children participated within the gacaca system. In addition, as there is considerably less scholarship on the impact of the gacaca courts, this study provides valuable insights into the legacies of this initiative.

Given the chosen analytical framework used in this thesis (set out in detail in chapter 3), attention is specifically devoted to considering whether the views and opinions of children on matters that affected them within gacaca courts met the requirements of article 12 of the Convention, if indeed children participated at all. Child participation in gacaca is however generally not assumed to have taken place, and this is something the study will explore further. If the children of today do not believe children participated, then it is also important to assess whether children in Rwanda were deliberately excluded from the process, and if so how and with what justifications, or whether instead the scope for child participation was simply not considered. In this respect, the existence (or not) and nature of child participation in the gacaca courts is not assumed but explored through empirical analysis.

3.3.2 Memorialisation

The purpose of memorialisation is explored and justified in the Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence as establishing “a dialogic truth” to create the conditions for a debate within society (UNGA, 2020). The thesis argues that the views and opinions of children should be central to such debates as part of “a comprehensive transitional justice process in which the participants effectively address all components without losing sight of the goal of establishing democracy and a culture of peace” (ibid). The inclusion of child participation in memorialisation requires that conditions must be created which foster the agency of children as rights holders (Brett et.al., 2007, p3), as well as recognition that children should not just “have a voice” in decisions, but also “have a role and capacity for changing society according to their own ideas and perspectives” (ibid, p5).

Rwandan society is an example of one where children make up a substantial part of the population (see section 3.2 of this chapter). However, involving new generations in a memorialisation process is complex because they have no personal memories of this increasingly distant past, even though they may have (or may have had) close relationships with immediate victims that were caught up in the events (Brett et.al., p1). Despite this, it must be acknowledged that present-day children in Rwanda experience the enduring legacy of the Genocide against the Tutsi and are "caught between the grand ambitions of those seeking to build a new future and those struggling to restore their lives and repair the irreparable" (van der Merwe and Lykes, 2018, p381). Literature in this sphere acknowledges this point in discussions on 'post-memory,' describing "the relationship of the second generation to powerful, often traumatic, experiences that preceded their births but that were nevertheless transmitted to them so deeply as to seem to constitute memories in their own right" (Hirsch, 2008, p103).

Child participation is a vital way of investing in memory in a way which means that it "can be harnessed for future productive dialogue and public engagement" (Brett et.al., 2007, p1). Children are seen as current and future drivers of political change (Orjuela, 2020, p362). Therefore, memorialisation practices which are directly aimed at children present a rich site through which to explore the views of children in Rwanda on historical conflict dynamics within their context, knowledge of (and any aspirations for) child participation in transitional justice, and to consider the extent to which the design and delivery of memorialisation processes in Rwanda meet the article 12 obligations in the Convention.

For both the gacaca courts and memorialisation efforts in Rwanda, I assess the extent to which any child participation taking place within them is consistent with the requirements of article 12. The use of the word ‘meaningful’ is deliberate; Firchow and Selim argue that much secondary literature on transitional justice is preoccupied with “greater more than more meaningful participation” (2022, p3). Contributing to the knowledge gap on children’s lived experiences of transitional justice, my study is instead situated with those that make “a concerted effort to focus on everyday actors, including their voices, needs and priorities” (ibid, p1). By using a conceptual framework rooted in the right to be heard for children in international law, I assert my position that such a concerted effort in transitional justice must include hearing the views and opinions of children on matters that affect them.

4. Thesis Overview

In order to address the research questions in a way which makes new contributions to knowledge on child participation in transitional justice, the thesis must first locate this study in relation to relevant wider scholarship across two disciplines, international law and development.

To do so, Chapter Two presents a systematic literature review on transitional justice. The review has three main sections.

Firstly, a genealogical timeline of transitional justice is set out in order to historicise and examine how transitional justice has come to be known and understood in the sphere of international human rights law. Secondly, literature on different understandings of transitional justice is reviewed, with specific focus given to development-focused literature, as well as the relationship between transitional justice, the rule of law and the Sustainable Development Goals (henceforth SDGs), in order to engage with current research, policy

and practice of transitional justice outside of international human rights scholarship. Exploring supposed ‘tensions’ between these two fields of knowledge provokes debate and propels forward important discussions on the very purpose of transitional justice, encouraging consideration of how these assumptions on what transitional justice is, what it is for, and who should be involved, have been operationalised. Finally, I examine four elements of transitional justice and the mechanisms associated with them in order to assess the extent to which the mechanisms have specifically included the participation of children. These are: criminal justice (specifically international criminal justice); truth commissions; reparations; and guarantees of non-recurrence. These groupings are in common with what are known as the Joinet Principles (OHCHR(f), 1997; OHCHR(g), 2005). Examining these mechanisms in terms of what they have or have not achieved when it comes to the participation of children provides a new contribution to scholarship on child participation in transitional justice. It is also crucial to understand these historical experiences given that this study intends to critically assess the extent to which transitional justice mechanisms have demonstrated a capacity to “hear” children.

The gaps in practice identified through this review will underpin the thesis’ argument for developing a more deliberate (and article 12 informed) approach to working with children as a central component of transitional justice, not a side topic or an afterthought.

Chapter Three sets out the conceptual framework of the thesis, located in the right to be heard as enshrined in article 12 of the Convention on the Rights of the Child. I critically analyse the decisions behind the choice of terminology on the part of the drafters of article 12, and how such decisions have been addressed in scholarship and practice both past and present. I also assess the relationships between article 12 and other rights in the Convention. In regarding transitional justice processes as ‘matters affecting the child’ for

the purposes of article 12, my analysis makes it clear that article 12 imposes an obligation on states parties to involve children, when they wish, in all matters affecting them, in mechanisms of transitional justice (emphasis added) (Detrick, 1999, p219). Therefore, to not include the views, opinions and experiences of children in transitional justice processes, deliberately or unconsciously, represents a failure to comply with article 12 of the Convention.

The chapter concludes that every child must be given the opportunity to express their views on matters that affect them, and that those views must be given due weight within those processes in a way which is compatible with a principled interpretation of article 12. In arguing that children should be included in the development of policies, programmes and measures in all relevant contexts of children's lives (ComRC, 2009, paragraph 13; Tobin, 2019, p433), I simultaneously argue that this should also include transitional justice. Therefore, this chapter will establish the framework for analysing relationships between transitional justice and an article 12 based approach.

Chapter 4 presents the research design and methodology developed to explore how children in Rwanda define and conceptualise child participation in transitional justice, how they feel it was reflected in the past, how it is reflected in the present, and how they feel it will or should look for future generations of children. The timescale of 'future' participation in terms of transitional justice is in the next 25-30 years to 2050. The reason for this choice was not arbitrary; 2050 was chosen as it correlates with Rwanda's *Vision 2050*, a large-scale development project undertaken by the Government of Rwanda and the World Bank, which acknowledges the role of children in Rwanda (particularly its 'youth') as future human capital in the development of the country (MINECOFIN/'Vision 2050,' 2021). In describing the scope and purpose of fieldwork research with children in Rwanda, I set out

in detail the design and methodology decisions made at all points of the research process, including: the importance of my partnership with the peacebuilding organisation Never Again Rwanda; the necessary rigour of the ethical review process; and why the choice was made to undertake focus groups with children in Rwanda, including how participants were selected, and how planning took place in response to possible challenges that may be faced whilst conducting fieldwork research with children. The chapter serves to highlight that desk-based research identified a gap in knowledge production about child participation in transitional justice that the empirical data collection seeks to fill, using Rwanda as a case study for an exploration of both past (gacaca courts) and present day (memory processes) practice when it comes to the participation of children.

Chapters Five and Six present the analysis of data collected in Rwanda.

Chapter Five sets out how children in focus groups know and understand transitional justice and the rights of the child in general terms. This sets the foundation for further analysis of how children critically assess the relationships between the two concepts by explaining what processes, activities, and spaces they associate with these terms. The chapter then moves on to discuss how children in focus groups specifically understand the right to be heard in the context of article 12 of the Convention, using the words of the children to describe how they understand and situate the right to be heard in their own lives. This is important when making the connections between the views and opinions of children about their own lived experiences and how they know and understand the role of children, particularly their participation, within transitional justice. As such, it is important to assess the extent to which the views, opinions and perceptions of children, specifically

with respect to how much space there is for them to participate, may be influenced by their own circumstances or other factors, and the extent to which article 12 considers these factors.

Chapter Six discusses how children in focus groups understand and engage with the relationship between the right to be heard and the participation of children in transitional justice mechanisms in Rwanda, specifically in the gacaca courts and through processes of memorialisation. It extends on the findings of Chapter 5 by assessing how children in focus groups engaged directly with article 12 to galvanise and refine their discussions on child participation in the gacaca courts and memory processes in Rwanda, with data suggesting that children in focus groups feel that the participation of children can (and should) make a significant contribution to transitional justice processes at both the national and local levels by influencing decision-making according to their own ideas and perspectives. Children feel this understanding of child participation should take prominence in all institutions at the national and local level, but also within their own communities, and that this understanding should be ensured for children of future generations, particularly when using a child rights framework rooted in article 12 of the Convention.

Finally, Chapter Seven contains the concluding remarks of the thesis, summing up the main findings of the study in relation to the research questions, as well as the relationship of the findings to previous research. Limitations of the research will be addressed, and suggestions as to how the research can be expanded and built upon in future will be provided. In summing up the major contributions of the thesis, the Chapter explains that it is important to understand children's experiences of participation in their own contexts when it comes to making the case for child participation in transitional justice. Such an approach will, in turn,

be useful for actors designing, implementing, monitoring and evaluating future transitional justice policy and practice when considering why should, and how can, child participation be facilitated in transitional justice.

CHAPTER TWO

‘WAYS OF KNOWING’ TRANSITIONAL JUSTICE: RESPONDING TO THE REALITIES OF CHILDREN.

Introduction

This chapter will examine the extent to which transitional justice mechanisms have specifically included the participation of children. By way of a systematic literature review, I begin by looking at the origins, function, and context of transitional justice, setting out how transitional justice came to be known and understood in three ‘phases’ in international law. I then move on to examine a ‘fourth phase’ of transitional justice, characterised by challenges to the dominance of legalism in scholarship and practice. In looking at both international law and international development as two “ways of knowing” transitional justice (with the term “ways of knowing” used to describe the debates over what constitutes valid knowledge), I examine the driving forces behind the aforementioned challenges to legalism in order to set out why a pluralistic, interdisciplinary approach to transitional justice is necessary for transitional justice to function effectively, and is of particular importance when making the case for why and how child participation should be facilitated in transitional justice. As such, I do not undertake a genealogical assessment of the phases of transitional justice to present a progressive history, but as a “critical tool” to “help move away from essentialising approaches” and to situate transitional justice in its political and social context (Sharp, 2013, p156).

The chapter then looks specifically at the past practice of transitional justice mechanisms and the extent to which they have engaged (or not) with the participation of children within

them. In doing so, the chapter demonstrates how far it is possible to say that there has been progress made on the assumptions about the capacity of children to contribute to transitional justice mechanisms, and the appreciation given for their rights. In doing so, a gap in scholarship and practice is established, which in turn mandates for a new approach to understanding and facilitating child participation within the mechanisms of transitional justice.

1.Origins, function, and context: the concept of transitional justice in international law and the first 'three phases' of transitional justice

This chapter first sets out how transitional justice "has become a field academically, in practice, and an object of international cooperation," before moving on to address how transitional justice "managed to consolidate itself despite the centrifugal forces that characterised its beginnings" (de Grieff, 2020, p251). A genealogical inquiry is undertaken to allow for reflection on the evolution of transitional justice processes over time, as well as the particular aims associated with different periods of political (and social) transformation (Teitel, 2003). The introduction will be brief, as the genealogical history of transitional justice has been covered extensively in secondary literature. However, this will set the scene for further discussions on the challenges of facilitating the participation of children within transitional justice, and how to better understand the limitations of current approaches in order to find ways of overcoming them.

1.1 The Tokyo and Nuremberg tribunals: phase one

The first phase of transitional justice is that of the Nuremberg and Tokyo Trials, put in place to judge Nazi and Japanese war criminals after the Second World War. These

tribunals are set alongside the early development of international criminal law (particularly surrounding interstate cooperation, war crimes trials and sanctions) (Teitel, 2005, p839).

Salmon explains that transitional justice during this first phase was primarily concerned with the obligation to "suppress all violations of international humanitarian law, and to search for and prosecute those who have committed grave breaches of [it] in international armed conflicts" (2006, p328). The investigation and prosecution of international crimes is understood today as a fundamental component of transitional justice; it is just such investigation and trial of powerful leaders, whether political or military, which "helps to strengthen the rule of law and send a strong signal that such crimes will not be tolerated in a rights-respecting society" (ICTJ(b), 2022).

Zunino (2019) notes that as a result of the focus of this phase of transitional justice, it was for a long time understood as comprising of specific international criminal justice mechanisms used to respond to certain situations of serious violations of human rights or international crimes throughout the world.

1.2 Civil society and social justice: phase two

The second phase of transitional justice is marked with "the explosion of democratic transitions associated with the end of the Cold War and the crumbling of the Soviet Union" in the 1980s and 1990s (Sharp, 2013, p149). Notable transitions also took place in Latin America, as well as in the responses to serious mass violence committed during wars leading to the independence of the territories of Bosnia and Rwanda. The second phase therefore evolved as a response to political changes as well as in response to social upheaval as a result of grave human rights abuses committed against civil society, and the ensuing demands by the local populous of post-conflict societies for justice (ibid).

As Stepakoff notes, a key assumption underlying this phase of transitional justice is that victims of wrongdoing “have a need to tell their story in order to seek recognition from perpetrators, family and community members and the larger public, or to speak on behalf of the dead or those unable to speak” (Stepakoff et. al., 2014, p429). Large-scale social movements, defined by Robbins and Gready as “collective challenges by people with common purposes and solidarity in sustained interactions with elites, opponents and authorities,” are credited with being integral to the creation of the contemporary discourse of transitional justice, where those who are marginalised or disenfranchised can challenge the dynamics of power in society (2017, p958).

The term ‘transitional justice’ was taken up by academics to describe the different ways that countries had approached the problems of new regimes coming to power faced with massive human rights violations by their predecessors. Questions raised by scholars and practitioners during this phase were not only to do with achieving justice and accountability, but about “how to balance competing moral imperatives, reconcile claims for justice with equally legitimate claims for stability and social peace, and foster the relationship between justice for crimes of the past and a more just political order in the present” (Arthur, 2009, p323). As such, this phase is referred to as a time in which there was a marked “turn away from Nuremburg-style international tribunals and towards national-level prosecutions inside the newly democratized or democratizing states” (Sharp, 2013, p155).

1.3 The nexus of accountability, justice, and reconciliation: phase three

The third phase of transitional justice was a period where transitional justice became “a normalized response to post-conflict atrocity” (ibid). Balkan (2015) notes that with a “focus

on individual prosecution, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof," transitional justice was now understood to incorporate four essential elements: criminal justice, truth, reparations, and guarantees of non-recurrence (section I, citing UNSC, 2004, paragraphs 10 and 64c). Understandings of justice were indicative of a "regard for the rights of the accused, for the interests of victims and for the well-being of society at large" (UNSC, 2004, paragraph 9). Instead of questioning "whether to conduct some form of transitional justice," focus turned instead to "what the scope, modalities, and sequencing of transitional justice might be" (Sharp, 2013, p156; Nagy, 2008, p277-278). Indeed, as Ladisch explains, transitional justice during this phase had two overarching aims: to provide recognition to victims, and to "foster civic trust on the path towards the long-term objectives of facilitating respect for the rule of law, democracy and stable peace" (2013, p505).

By this point, as de Grieff explains, transitional justice was becoming "a comprehensive policy implemented to cope with the legacies of massive and systematic violations and abuses, and to restore or establish anew the currency of human rights" (2020, p251).

2. Challenging the dominance of legalism: the 'fourth phase' of transitional justice

Cohen clarifies that to recover from mass atrocities, human rights abuses and longstanding systems of oppression, individuals, communities and societies face hugely complex challenges (2020, p1). Such challenges include understanding the meaning of what has transpired, how best to hold those responsible to account, how to transform the underlying systems of power and privilege that contributed to the violence, and how to build (or rebuild) trust in both people and institutions (ibid). Despite these overarching aims, and the corpus of knowledge produced over the last three decades as a result, there

is currently no single, authoritative definition of transitional justice - a truth likewise recognised by the United Nations Security Council (UNSC, 2004, paragraph 5). Instead, as Bell notes, the way that transitional justice is defined and perceived is very much dependent on its relationship as a 'field' with other 'fields' (2009, p7).

This section will explore the nuances of the transitional justice field, in both research and practice, by way of referring to two "ways of knowing" transitional justice, namely 'as law' and 'as development,' and how the struggle for dominance between them is not only demonstrative of a fourth phase of the evolution of transitional justice, but is also of vital importance when examining the extent to which such conversations have the potential to impact upon the case of why should, and how can, child participation be facilitated in transitional justice.

2.1. Transitional justice 'as law' and 'as development' – a 'tense' relationship?

"Ways of knowing" is a term that describes the debates (or "struggles") over "what constitutes valid knowledge" (Jones, 2021, p164). For example, the genealogical inquiry set out in the previous section of this chapter demonstrated that transitional justice 'as law' rapidly became the dominant international framework for responding to past injustices and in overcoming these challenges, based on a foundation of international human rights (Henry, 2015, p119). However, a growing body of scholarship, including that rooted in international development, promotes transitional justice as a field which should be moving beyond legalism and instead towards an interdisciplinary understanding of its application. It is therefore important to explore the conceptual, practical and ethical implications of "knowing" transitional justice in international law, and how (and why) multiple

interdisciplinary voices now coexist in transitional justice, creating different relationships between research, policy, and practice (Jones, 2021, p21).

According to Ramirez-Barat, the interaction “between the legal and the political, the local and the global, and the practical and the theoretical” in transitional justice has contributed to the development of “a web of varied understandings and perspectives from which to differently assess what transitional justice is and, most importantly, what it can and/or should accomplish” (2020, p243). The ICTJ asserts that to “increase its potential for success,” transitional justice “should also be strategic, comprehensive, and aligned with political, peacebuilding, human rights, and development strategies” (ICTJ(e), 2019, p5). Unsurprisingly, such an interdisciplinary understanding does not come without points of tension.

Such tension points are explored here by way of current academic scholarship, particularly in how the “dominance of legalism” is said to be at the detriment of transitional justice in scholarship and in practice (McEvoy, 2007, p411). Those who suggest that the dominance of law within the field of transitional justice is a detriment do so on the understanding that the consolidation of transitional justice around historically bequeathed understandings of violence and mechanisms can crowd out other potential ways of conceiving of human rights violations and responding to them (Zunino, 2019). As a result, as argued by Lundy and McGovern, although transitional justice is inclusive of complementary goals, these goals are often in tension with one another because of the various ways they are understood by different ways of knowing the field (2008, p267). Jones asserts that what results is “a constant struggle” over how to define what “qualifies as valid knowledge”

(2021, p164). The result of this struggle is a “blockage in knowledge” of transitional justice, with a clear “identifying preference” towards transitional justice ‘as law’ in both scholarship and practice (ibid, p173). This has resulted in development scholars drawing attention to how this plays a role in marginalising other ways of knowing, and the implications of this for potential beneficiaries of transitional justice (ibid, p164).

Scholars in the development sphere, such as Akech, posit that lawyers should not “be the sole protagonists in the transitional justice narrative” (2020, p317). On this point, Colvin notes that there is too much of a focus on “technique, process and best practices,” which ultimately “does not provide guidance on the substantive normative issues at stake” (2008, p423). Moreover, as Jones notes, there is no doubt that such an approach is helpful for transitional justice ‘as law’ as a way “to increase knowledge, generate change and to ensure the effectiveness and even accountability of transitional justice interventions” (2021, p174). However, as a consequence, there is a significant limitation placed on “frames of reference” in academic scholarship on transitional justice, which only serves to contribute to a “growing preference for technical knowledge” (ibid).

Indeed, a similar critique exists towards what Nagy describes as the “worrisome tendency” of transitional justice mechanisms to impose a one-size-fits-all approach to transitional justice by the international community, particularly in the way that such an approach leads to “decontextualised solutions” (2008, p275). Criticisms stem from the perceived “vision” of transitional justice in international law as being focussed on putting into practice a set of mechanisms as part of a “toolkit” for use all over the world, without any regard for the “frequently marked disconnections between international legal norms and local priorities and practices” (Shaw, Waldorf and Hazan (eds), 2010, p3). In this sense, it is important to

think about what measures of justice are not included, such as those associated with distributive justice or traditional local justice measures, which implies that the only reason preference is given to other mechanisms is that they are “recognised” as the “legitimate” justice initiatives during a time of political change (ibid, p3). The ramifications of this are that generalised rules and universalism is imposed on societies without any consideration of context. De Grieff explains that indifference to context results in ignoring relevant differences in favour of replicating the very same institutional responses as if they worked equally well in all situations (2020, p255). This is a phenomenon referred to by de Grieff as ‘isomorphic mimicry,’ or “the tendency to think that the very same institutions work equally well regardless of context” (ibid). Subsequently, this has resulted in transitional justice becoming “insufficiently attentive to context, formulaic, and technocratic” (ibid, p254). This has led to transitional justice ‘as law’ being described as “divorced from serious considerations of the wider political, social or cultural contexts which produced violence in the first place” (McEvoy, 2007, p419).

2.2 Demonstrating the necessity for an honest appraisal of the limitations of legalism

Vielle explains that transitional justice is informed by a given knowledge base and view of the world, which in turn influences the social, economic, and political strategies employed (2012, p61). The historical underpinnings of transitional justice are grounded in human rights, justice (both legal and social), and the rule of law, making transitional justice a well-established fixture on the global terrain of human rights and dominated by the plethora of academic research and scholarship of international law, particularly international human rights and international criminal law (Ramirez-Barat, 2020, p242). As a result, most discussions about transitional justice are based on a series of empirical and normative

questions within the context of law, and around issues such as “the proper functioning of specific mechanisms in different contexts or the challenges that these types of processes face” (ibid).

However, the “universe” of transitional justice is “growing,” with a “critical turn” being reached whereby the processes of transitional justice are being scrutinised and questioned more than ever before from ‘ways of knowing’ outside of the field of international human rights (Palmer, Jones and Viebach, 2015, p173). This “critical turn” marks a sea-change from the transitional justice of the past, turning instead, as McEvoy notes, towards giving “a more honest appraisal of the limitations of legalism” (2007, p411). Jones and Viebach note that challenging the dominance of legalism in transitional justice allows for the exploration of an interdisciplinary line of questioning, with the potential to shed much-needed light on what (or indeed who) is made visible and rendered invisible when responding to human rights violations (2015, p175).

One example of the aforementioned “growth” in the “universe” of transitional justice is evident when observing the evolving connection between the rule of law and development, in particular sustainable development, defined by the United Nations General Assembly as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs” (UNGA, 1987, p43). The rule of law “fosters development through strengthening the voices of individuals and communities, by providing access to justice, ensuring due process and establishing remedies for the violation of rights” (United Nations Thematic Areas (1), 2022). To understand the position

of transitional justice in this relationship, we must look to the Sustainable Development Goals.

The SDGs, of which there are 17 in total, came into effect in January 2016, after being approved by the member states of the United Nations in September 2015 as part of the 2030 Agenda for Sustainable Development (henceforth “2030 Agenda”). The 2030 Agenda “recognises the need to build peaceful, just and inclusive societies that provide equal access to justice, and which are based on respect for human rights,” as well as the importance of “effective rule of law and good governance at all levels, and transparent, effective and accountable institutions” (UNGA, 2015, paragraph 9).

Scholarship on the interlinkages between transitional justice, development, and the SDGs focus on SDG 16, officially titled as: “promoting peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels’” (UN Department of Economic and Social Affairs, no date). Access to justice, including transitional justice, “is a basic principle of the rule of law,” and it is the rule of law, “consistent with international human rights, which can provide for development that is also inclusive and sustainable” (United Nations Thematic Areas (2), 2022). As such the United Nations, as demonstrated by SDG 16, recognises that “in the absence of access to justice, people are unable to have their voice heard, their rights respected, challenge discrimination or hold decision-makers accountable” (UN Rule of Law, no date). The SDGs demonstrate the importance of exploring the ways in which transitional justice ‘as law’ and ‘as development’ can “work together to ensure that

accountability for human rights abuses has a stronger place in the global development agenda" (Tolbert, 2014, p1).

In order to pursue these goals effectively, a pluralistic, interdisciplinary approach to transitional justice should be fostered through advocating for "a multipronged effort to restore or establish anew the force of fundamental norms" (ibid). Yet, as Colvin notes, the "imbalance in power" between transitional justice 'as law' and 'as development' remains undeniable (2008, p424). The relationship between transitional justice and the SDGs, particularly in light of SDG 16, is valuable when it comes to arguing for an interdisciplinary approach to transitional justice. In many countries throughout the world, both ongoing and past human rights violations have had, "enormous consequences at the individual, societal, and institutional levels" (Hope, 2020, p59). The SDGs do not refer explicitly to human rights violations, even though they "include objectives to which transitional justice contributes" (ICTJ(e), 2019, p5). Nonetheless, the link between transitional justice and the SDGs, particularly through SDG16, is clear. As the ICTJ explain, "because it is universal, the 2030 Agenda for Sustainable Development provides political opportunities to make the case that the legacies of massive human rights violations must be addressed in order to move that agenda forward" (ibid). Human rights violations "reduce people's capacity for agency and social coordination, both of which reduce their engagement with institutions," including justice institutions (ibid, p12). As such, transitional justice "makes a valuable contribution to a range of sustainable development targets, including but not limited to those in SDG 16" (ibid, p5).

2.3 Children, transitional justice, and the potential for knowledge exchange

Miller notes that transitional justice is based on “a series of promises to society and to individuals: of a reformed state, of accountability, of reconciliation, of rights, and fundamentally, of change” (2008, p291). Yet, as Bell explains, the current interdisciplinary position of transitional justice can be likened to a battle between different actors “who seek to ‘do good,’ but who have competing ideas of what doing good requires” (2009, p25). On the one hand, if the “goals and ends” of transitional justice are purely to “insert normative requirements of accountability into complex political transitions,” the field is correctly dominated by international law and its umbrella considerations (ibid). If on the other hand, the aims of transitional justice include reform, reconciliation or peace, transitional justice could validly be posited as part of “a different multidisciplinary constellation” (ibid). The question now arises: where does this leave the case for why, and how, child participation can be facilitated in transitional justice?

Palmer, Jones and Viebach explain that an interdisciplinary exchange on transitional justice has the potential to create a solid foundation on which to ask questions of how to understand structural and societal injustices, human rights violations, and their consequences (2015, p177). This should include the views, opinions and experiences of children. Jones notes that transitional justice research, policy and practice, in both law and development, have “at their core a sense of purpose,” and it is this sense of purpose “that can explain much of the tension in scholarship on the ‘rights’ and ‘wrongs’ of the transitional justice process itself” (2021, p171). As such, addressing these tensions should be taken up beyond the realm of international law and human rights in order for transitional justice to be embraced as a diverse, interdisciplinary field for the benefit of all concerned, especially children.

Looking at child participation in transitional justice using an interdisciplinary approach, combining the perspective of international law and international development as ways of knowing transitional justice, provides a way to "rethink the very terms of their separation in the first place," and space to reflect on the relationship "to reconsider some of their common relationships and practices with the 'others' whose lives they aim to improve" (Colvin, 2008, p420). Only in doing so, Colvin explains, is it possible to be reflective about "what they make visible and what they make invisible; what kind of change they render possible and what kind they render unimaginable" (ibid, p422). To this effect, Colvin issues "a plea to go beyond metaphors" when thinking about the relationship between transitional justice 'as law' and 'as development,' for the benefit of "those for whom it is carried out" (ibid, p424).

To summarise, Jones notes that "any discussion of transitional justice and its ways of knowing atrocity needs to be contextualised in an appreciation of the evolution of the field" (ibid, p165). Through undertaking this specific task in this chapter, it is clear that, as Lather notes, "not only must theory illuminate the lived experience of progressive social groups; it must also be illuminated by their struggles" (1986, p262). Yet scholars and practitioners in international development question the extent to which this takes place in the confines and structures of transitional justice 'as law,' and point out with conviction the real risk of overlooking the ways in which the effects of various forms of inequality can inform personal and collective experiences. Addressing the nuances of such understandings is key to positioning the lived experiences of children within them, providing the foundation for the creation of a framework to address their experiences, and their views and opinions on these experiences as matters that affect them, in transitional justice.

As Akech asserts, “the tickets to the transitional justice party should be accessible to people from all walks of life, and the invitation should be written in a language that communities understand without a lawyer needing to ‘translate’ the invitation” (2020, p317). Extending this invitation to children will “provide an avenue for exchange across and within these current epistemic divides” (Palmer, Jones and Viebach, 2015, p174).

3. The (non)engagement of transitional justice with the participation of children: an assessment of past practice

Now that the ‘ways of knowing’ transitional justice ‘as law’ and ‘as development’ have been examined, it is important to assess the extent to which both positions are reflected in the way children have (or have not) been facilitated to participate in transitional justice mechanisms thus far.

The following is not intended to provide an exhaustive list of mechanisms. Instead, guided by the literature, I will be examining four specific elements of transitional justice: criminal justice (specifically international criminal justice), truth commissions, reparations, and guarantees of non-recurrence (Balkan, 2015, p1) These four elements are also framed according to what the United Nations General Assembly refers to as the ‘four pillars’ of transitional justice (OHCHR(f), 1997; OHCHR(g), 2005). In addition, I will also include and address some of the critical academic literature on the transitional justice processes discussed, to provide a fuller, more complete picture of how that specific transitional justice process is understood today in research, policy and practice. This is of particular importance when setting out the relevance of each mechanism to the examination of child participation within these processes.

Where possible, selected contextual examples are grouped together to show different approaches to child participation. Similarly, in reflecting the fact that some transitional

justice mechanisms have made greater progress than others when it comes to facilitating the participation of children, discussion of some elements will be shorter than others.

3.1 International criminal justice and the ICC

3.1.1 Review of the literature

In international law, the right to justice requires that “all victims shall have the opportunity to assert their rights and receive a fair and effective remedy, ensuring that their oppressors stand trial and that they obtain reparations” (Guidelines, 1997, paragraph 26). As such, “it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes,” to investigate those crimes and, if there is sufficient evidence, to “submit to prosecution the person allegedly responsible for the violations and, if found guilty, the duty to punish” (ibid).

This section will review the literature in international criminal justice, specifically the role of the International Criminal Court (henceforth ICC) as a mechanism of transitional justice. The Rome Statute of the International Criminal Court (henceforth the Rome Statute) recognises the importance of cooperation between national and international court systems to deal with the most egregious crimes: war crimes, crimes against humanity, and genocide. As such, accountability for these crimes is a central principle of transitional justice.

However, as Schneider notes, an “initial euphoria on what the ICC could achieve was quickly replaced by a lot of criticism” (Schneider, 2020, p90). One such critique of the ICC is rooted in its foundations in international criminal law (henceforth ICL), specifically the perception of ICL as being “built on an inherent structural inequality between the Global North and Global South,” which in turn results in a failure to “properly situate crimes within

a broader structural context underpinning suffering" (McAuliffe and Schwobel-Patel, 2020, p1001). As Palmer (2022) explains, criminal law is "increasingly being used to respond to complex social issues of global concern" (p261). However, in ICL, the dominant focus remains to hold individuals "accountable for the 'core international crimes' of genocide, crimes against humanity, war crimes and the crime of aggression (ibid, p262, citing Cryer, Robinson and Vasiliev, 2019; Stahn, 2018). As Aksenova and Rieff note, law is "analytical and formulaic," and as such "is oriented towards achieving a certain definite outcome, conviction or acquittal" in an "outcome-driven approach" (Aksenova and Rieff, 2020, p496).

It should be acknowledged that it is "it is no mean feat to spell out how the vehicle of international criminal law could effectively protect against other forms of violence" (McAuliffe and Schwobel-Patel, 2020, p1006). Nonetheless, as Sander (2018) notes, a "division of thought" has emerged within the field of ICL "between adjudicative and socio-political conceptions of the historical function of international criminal courts" (p337). For example, Sander argues that "focusing international criminal trials narrowly on their adjudicative function represents an overly restrictive view of justice," and that international criminal courts should also be seen as a mechanism "for achieving a range of broader socio-political objectives" (p338). This is because "the adjudicative perspective views the accused as the primary audience of international criminal courts," whereas "socio-political perspectives are also concerned, to a far greater degree, with audiences beyond the courtroom" (ibid). A combination of both approaches reflects the fact that international criminal courts "are at once expected to render formal justice to the accused whilst rendering representational justice to the mass atrocity situation in the interests of victims and society" (ibid, p339). However, others have suggested that the idea that international criminal courts and tribunals "have the ability to go beyond the essence of what courts are

there to do" is admittedly a "lofty and idealised" aim of international criminal law (Thorne, 2021, p128).

Also relevant to the critical scholarship on such debates are the "so-called radical critiques" of international criminal law from scholars specialising in Third World Approaches to International Law (TWAIL) (Vasiliev, 2019, p15). Schneider notes that TWAIL scholars "focus on the notion of international law as embedded in the social, historical and political context and argue that law is a crucial site for the creation of ideological ideas and the manifestation of social power" (Schneider, 2020, p97). Such critique, as Vasilev notes, unpacks the contentious origins, workings, and effects of international criminal law to "expose the extent to which international criminal justice may be a part of the problem rather than solution" (2019, p16). Indeed, scholars in Third World Approaches to International Criminal Law (TWAICL) use post-colonial critiques to "demystify ICL as a Western imposition and an oppressive tool" which implicitly portrays the Global South "as a lawless, barbarian space [with] communities to be salvaged by turning them into the beneficiaries of the West's 'civilizing mission'" (ibid, p23). As such, TWAIL scholars critique international law as a phenomenon that "is not universal but rather reflects Western ideology," with this ideology "being pushed on non-Western cultures in the name of universality" (Schneider, 2020, p98).

As shall be seen in Chapter Two (section 2), such critique is also raised in scholarship pertaining to the rights of the child in international law, particularly the idea of the "universal child," the ideological differences in the conception of childhood and children's rights on the African continent, and efforts to decolonise scholarship on children's rights to create space for voices from the Global South. Indeed, another critique of the operationalisation of the ICC is the seemingly "overwhelming focus" on Africa, which has

“fostered the perception that the ICC represents a European court for Africans” (p1000) Schneider notes that since its inception, “ten out of thirteen situations under investigation of the ICC concerned African states,” and “all of the concluded cases of the ICC are African” (Schneider, 2020, p93). Not only is the ICC viewed as a Western court set up to try “African crimes against humanity,” but it is also viewed as “a tool for Western powers to further demean the already demeaned victims of past colonialism, with the help of law which is a mere tool of Western domination” (ibid). This has led to the ICC receiving “increased resistance” from African states, particularly those who suggest that “their national are the ones mostly convicted by the ICC,” so much so that the African Union has contemplated a mass withdrawal from the Rome Statute (ibid, p90). This is not to suggest that international criminal courts and tribunals cannot aid African societies transitioning from conflict and atrocities particularly, as Thorne notes, “by producing, via the testimonies of witnesses, a collective understanding of why and how the atrocities occurred” (Thorne, 2021, p128). However, in what Thorne calls the orientation of transitional justice “towards the primacy of international criminal justice,” the ICC has been accused of having a “fetishization with Africa” (ibid, p128 citing Murithi 2008, Nkansah 2011, Nyawo 2017, Clarke 2019, Muleefu 2019). This has led, according to Thorne, to “a negative rather than positive impact on those that international justice is purportedly aiming to help” (ibid citing (Igwe 2008, Nyawo 2017, Clark 2018). In this respect, a post-colonial critique is seen as “a chance to identify some of the main weaknesses of the ICC and improve them” (ibid, p91).

3.1.2 Child participation and international criminal justice

This section will assess child participation in criminal justice at the international level, specifically the International Criminal Court (henceforth ICC). The Rome Statute of the International Criminal Court (henceforth the Rome Statute) recognises the importance of

cooperation between national and international court systems to deal with the most egregious crimes: war crimes, crimes against humanity, and genocide. Accountability for these crimes is a central principle of transitional justice, and as part of a global struggle to end impunity, the ICC has one fundamental aim: to prosecute and convict those who are accused of the most serious human rights violations.

As part of this overarching agenda, the Rome Statute makes explicit reference towards crimes committed against children, recognising that “millions of children have been, and continue to be, victims of unimaginable atrocities that deeply shock the conscience of humanity” (Rome Statute, second preambular paragraph). The Rome Statute sets out significant rules of procedure which must be put in place to protect all witnesses, including children, on a general basis (Rome Statute, Article 68(1)). These rules of procedure provide an avenue for children to share their views and experiences, and to do so safely (Balkan, 2015, section 8). Some of the procedural ways in which this takes place are set out below. In addition, where possible, the approach taken by the ICC when facilitating child participation will be compared with the approach of the gacaca courts in Rwanda, which were adapted from their original purpose in order to respond to an overwhelmed national court system (Organic Law 8/96), and a mechanism of transitional justice with a fundamental aim of expediting justice and increasing public participation in the process (Sosnov, 2007, p125).

3.1.2.a Factor 1: age of the child

The age of the child is given great consideration by the ICC when it comes to how best to facilitate child participation. According to the UN ‘Guidelines on justice in matters involving child victims and witnesses of crime,’ the testimony of a child “should not be presumed

invalid or untrustworthy by reason of the child's age alone" (UNGA, 2005, paragraph 18). The word 'alone' here refers to the fact that the ICC must also consider the age and maturity of the child when allowing for "the giving of intelligible and credible testimony" (ibid).

The following chapter deals with how the child is defined in international law, namely that they are under the age of eighteen (Chapter 3, section 3.1.1, pp78-80), as well as how, and why, age and maturity are taken into consideration when considering the 'due weight' to be afforded to the views and opinions of the child (ibid, section 3.2.5. pp97-99). In addition, cultural factors at play when considering how the age of a child as a barrier to participation in the gacaca courts will be discussed in more detail in Chapter 5.

3.1.2.b Factor 2: the choice of the child

Neither the Rome Statute or the Rules of Procedure and Evidence exclude children from any form of participation within proceedings. Indeed, child witness testimony is expected in international criminal proceedings when children are the 'direct victims' of the crimes that are prosecuted, or when they are able to provide insider information on other alleged crimes as a result of specific and unique knowledge (Beckmann-Hamzei, 2015, p31).

However, choice is an important distinction in determining whether a child is participating or being exploited and is crucial for the ICC to demonstrate that child participation is genuine (Hart, 1992, p21). For example, international law stipulates children should be given the option as to whether they want to communicate directly or through a representative" (Committee on the Rights of the Child, 2009, paragraph 24). Such choice includes whether to participate in the first place, and no adverse inference should be drawn if a child chooses to remain silent (Committee on the Rights of the Child, 2019,

paragraph 45). Therefore, a child should never be compelled to give testimony (ibid, paragraph 58). Expressing views and opinions is a choice that is to be made with the informed consent of the child and should not be understood as an obligation (ibid, paragraph 134(b)).

In addition, discussions on what children in focus groups understood to have taken place in the gacaca courts, particularly around the notions of 'participation by consent' and 'what counts' when thinking about direct and indirect participation (by the child or through a representative) is discussed in Chapter 6.

3.1.2.c Factor 3: protecting the child from harm

Leading on from the above, if the participation of a child leaves them exposed to harm, the ICC must act to ensure that their participation "is exercised ensuring full protection of the child" (ibid, paragraph 21). A case at the ICC that vividly demonstrates the importance of such protection is that of Thomas Lubanga (The Prosecutor v. Thomas Lubanga Dyilo), who was accused, and convicted, of enlisting and conscripting children under the age of fifteen and using them to actively participate in hostilities. Lubanga was charged with the offence in reference to the conflict that took place in Ituri, a district of the Orientale Province in the northeast of the Democratic Republic of Congo. The conflict in the region is well known for the use of vast numbers of child soldiers. Lubanga, a Congolese warlord and leader of the Union of Congolese Patriots (UPC), was accused of enlisting and conscripting children under the age of fifteen, using them to actively participate in hostilities in the Democratic Republic of the Congo between September 2002 (when the UPC was founded), and August 2003. Such activities constitute war crimes, and the Prosecutor of the ICC charged him accordingly under Article 8 of the Rome Statute.

The Prosecution set out to prove that Lubanga systematically recruited, trained, and used hundreds of young children to kill, pillage and rape. Lubanga also ordered children to watch and carry out killings, as well as to be raped, as a form of coercive control. Both boys and girls were used as soldiers, sexual slaves, porters and cooks, as well as nurses and translators (The Prosecutor v. Thomas Lubanga Dyilo, paragraph 577).

The forms of trauma documented when former soldiers participate in such international trials are re-traumatisation, coming face-to-face with the accused, and self-incrimination (Beckmann-Hamzei, 2015, p38). These risks are amplified for child participants. As a result, additional protective measures were ordered by the ICC during the Lubanga trial for those who were still children at the time they testified, such as voice and face distortion, the use of a pseudonym, and being accompanied to trial by a support person. The necessity for such protections is demonstrated in relation to the first child witness, who changed his account during the trial due to the overwhelming nature of the trial process (The Prosecutor v. Thomas Lubanga Dyilo, paragraph 32). The child witness was given voice and face distortion and referred to by way of a pseudonym, but this was not felt to be enough by those children who voiced their concerns on whether they would be safe from further reprisal on their return home. Article 68(2) of the Rome Statute makes an explicit instruction for the ICC to use ‘in-camera’ proceedings when children give testimony, in addition to the options available to all witnesses as set out in Article 69(2) (“the giving of viva voce (oral) or recorded testimony of a witness by means of video or audio technology, as well as the introduction of documents or written transcripts”). In addition, the Rules of Procedure and Evidence make explicit provision for special protective measures that can be applied to traumatised children, including a legal representative, psychologist and family member presence at the hearing (Rules of Procedure and Evidence, 2000, p88).

The Lubanga case reflects the delicate balance the ICC must strike when allowing children to give evidence. However, it is by no means the only case at the ICC to give a glimpse into how the court views the role of children with different experiences within the international criminal justice process.

For example, the case of Dominic Ongwen is one where Ongwen was forcibly recruited as a child and grew up in the ranks of the LRA in Uganda. As both a child and adult, Ongwen was responsible for war crimes in the country. The case is not applicable to discussions here as Ongwen was tried, and convicted, of crimes committed as an adult and not as a child. However, as a child he had a complicated status, being representative of a "generation stolen, and yet responsible for wars that are not their own" (Baines and Ojok, 2008). Legal approaches do not uncover much about the complexity of such victims and the context in which they took on this complicated status. As the ICTJ states, the reality of Ongwen's actions and the context in which they occurred is much more complex than whether he is guilty or innocent, as it is for so many other children conscripted illegally (ICTJ(g)). It is therefore important for criminal justice to engage with this reality, to not be abstracted from their lived realities either prior to or during conflict (ibid). However, the Lubanga case is the best case to demonstrate the difficulties of balancing the full and protected participation of children in the international criminal justice process.

Such discussions are prevalent throughout the operationalisation of other transitional justice mechanisms (particularly, as seen in the following section, among truth commissions). In addition, the notion of 'finding a balance' between the participation and the protection of children in such processes is an issue raised by children in focus groups in Rwanda, particularly their views on child participation in the gacaca courts and how their purpose and function was adapted from a pre-colonial forum of community participation to

a post-genocide system of accountability and justice. The views of children in focus groups on such matters is discussed in further detail in Chapter 6.

It is clear that scholarship on ICL, including that which focuses on the creation and operationalisation of the ICC, has "opened itself up to critical voices and become more introspective" (Vasiliev 2019, p15). International criminal law is a project "that has multiple goals, emphasizing the need for justice in the courtroom for a society that has experienced mass atrocity to be able to transition to a peaceful one" (McAuliffe and Schwobel-Patel, 2020, p988). However, the past practice of the ICC when facilitating child participation has demonstrated that the ICC "can also become liable to accusations of hypocrisy" by "appropriating to themselves the right to speak on behalf of broader constituencies they ostensibly represent" (Vasilev, 2019, p40). As Vasilev notes, "a more effective legitimacy practice would be to devise ways for the Court to engage and communicate effectively with all of its constituents" (ibid). These constituents, of course, include children.

3.2 Truth commissions

3.2.1 Review of the literature

Perry and Sayndee (2015) define truth commissions as "an investigatory body established by the state (or by a dominant faction within the state) to determine the truth about widespread human rights violations that occurred in the past; and to discover which parties may be blamed for their participation in perpetuating such violations; in order to investigate, over a specified period of time, a pattern of abuses, rather than a specific event" (p.xiv). Truth commissions differ in purpose from the international criminal trial, focusing not on individual responsibility, but on the structural reasons for particular events and the resulting human rights abuses on a collective group of society. However, as a

justice process, the central premise of a truth commission is to “shape and create meaning systems that can gain the status of “truth” and that can come to dominate how we understand and organize ourselves as well as our social world” (Destrooper, 2022, p3, citing Weedon, 1999).

Hayner sets out five criteria she uses to propose a working definition of a truth commission: it is focused on past, rather than ongoing, human rights violations; it investigates a pattern of events that took place over a period of time; it engages directly and broadly with the affected population, gathering information on their experiences; it is a temporary body, with the aim of concluding with a final report; and it is officially authorized or empowered by the state under review (Ochoa-Sánchez, 2019, p1473, citing Hayner, 2011). However, as Skaar (2018) notes, the boundaries for what a truth commission is and what it should aim to achieve are “continuously being pushed” as scholarly and policy debates address “tensions over the contextual limits of truth commissions” (p5). Over the past three decades, more than 40 countries have established truth commissions, with hope for success being rooted in restorative justice providing “greater healing than the retributive justice modelled most memorably by the Nuremberg Trials after the Second World War” (Ibhawoh, no date). Indeed, Kochanski notes that the “rapid proliferation” of truth commissions “has attracted significant interest from academic and policy communities” and as a result, there is now an expansive literature relating to their operationalisation (Kochanski, 2020, p114). It is in this literature where the mandate, design, and operational practice of truth commissions are heavily debated, particularly when they come addressing tensions “between various actors with diverse, and sometimes mutually exclusive, priorities and understandings of human rights” (Destrooper, 2022, p4).

One such tension point is seen when looking at the priority given to socioeconomic rights in truth commissions. As Ochoa-Sanchez notes, “arguments made for and against” their inclusion mirror those “on the broader question of whether to include socio-economic issues in transitional justice” (Ochoa-Sánchez, 2019, p1470). As addressed in section 2 of this chapter, opponents of the inclusion of socio-economic issues and rights violations warn against expanding the mandates of truth commissions in this way as doing so could undermine their capacity and effectiveness, particularly as there is no guidance on how to fulfil such a task (ibid). In addition, as recommendations made by truth commissions are not usually binding, local policymakers will still “retain the power to decide on any measure that a TC can recommend, including in the area of ESR” (ibid, p1473). As a result, scholars such as Skaar warn against “diluting the definition” of the truth commission “so much that the core functions of truth commissions (namely, addressing human rights violations) disappear among too many other broad aims and visions” (2018, p5). In doing so, Skaar argues, “we end up comparing apples and pears” (ibid).

However, as shall be seen in the analysis of the following truth commissions, such an approach is by no means universal. In the African context, the African Union (AU) defines transitional justice as “the various (formal and traditional or non-formal) policy measures and institutional mechanisms that societies, through an inclusive consultative process, adopt in order to overcome past violations, divisions and inequalities and to create conditions for both security and democratic and socio-economic transformation” (African Commission, 2019, preface). Therefore, the purpose of transitional justice in the African context is understood as not only “ending violence and the attendant injustices in societies emerging from armed conflict or authoritarian repression,” but also “establishing an inclusive rule-based political and socioeconomic system that is able and willing to enforce

human and peoples' rights" (ibid). As such, "achieving […] socioeconomic inclusion" is a vital part of transitional justice on the continent (African commission, 2019, executive summary). As shall be seen in the following section, truth commissions in Africa grappled directly with the legacy of socioeconomic injustice in various contexts.

Although there are undoubtedly obstacles to the effective operation of truth commissions, as will be seen in the analysis of the past practice of these commissions when it comes to facilitating child participation, the efforts made "are, overall, a significant push in the direction of more respect for human rights" (ibid). It is perhaps in recognition of this that there are more commissions in the making, in various different contexts (ibid). For example, more recently, truth commissions have begun operating with targeted mandates related to the rights of Indigenous peoples and the aftermath of colonialism. Such commissions provide opportunities to shed light on institutional and structural human rights violations that occurred during colonial rule and that have a continuous, subsequent legacy on future generations. Examples of these truth commissions include Belgium (on their colonial past in the Congo, Rwanda and Burundi), Canada (addressing historic injustices perpetrated against Canada's Indigenous peoples through forced assimilation), and Australia and New Zealand (formally recognising the historic wrongs and ongoing injustices against its First Nations peoples). At the time of writing, there are also calls to create the first Commission on Truth, Racial Healing and Transformation in the United States, "to address hundreds of years of injustice suffered by Black Americans," including "centuries of enslavement, state-sponsored racism, denial of civil rights and ongoing economic and social disparity" (Ibhawoh, no date).

As such, the "universe" of truth commissions has changed considerably (Skaar, 2018, p5). It is therefore important to undertake a detailed consideration of "how a commission's work

is received, and how it can potentially affect changes in the human rights discourse and practice in the short and long term" (Destrooper, 2022, p4). It is through this lens that the following analysis of the engagement of truth commissions with the participation of children should be viewed.

3.2.2 Child participation and truth commissions

The 'right to truth' relates to the right of an individual victim (or closely related persons) to know what happened during a period of grave human rights abuse (OHCHR(g), 2005, p126). It is also a collective right, understood as the 'right to know,' in which every person in society "has the inalienable right to know the truth about past events concerning the perpetration of heinous crimes and about the circumstances and reasons that led, through massive or systematic violations, to the perpetration of those crimes" (ibid).

The concept of a 'right to truth' and its importance in the transitional justice process is expanded upon in Chapters 5 and 6, particularly with respect to the perception of children on the link between the right to truth and article 12 (Chapter 5, section 2.1, p170), the right to truth as a right for the whole society (Chapter 6, section 1.1.1, p201), access to technology and truthful information (Chapter 5, section 3.1, p181-182), as a collective right for children who feel that they 'deserve to know' the truth (Chapter 5, section 2.2, p210) and the frustration of children that adults feel that they are 'too young' to know the truth (Chapter 5, section 3.2, p188). However, this section will focus on the right to truth as both an individual and collective right and how this is (or is not) recognised in the past practice of truth commissions when it comes to the participation of children.

The overarching aims of such commissions are to discover, clarify, and formally acknowledge past abuses, to respond to the specific needs of victims, to contribute to justice and accountability, to outline institutional responsibility and recommend reforms, and to promote reconciliation and reduce conflict over the past (Aptel and Ladisch, 2011, p167; Hayner, 2001, p24). To function effectively, close cooperation is needed between truth commissions, victims' groups, and civil society (Balkan, 2015, section 3). In focusing on both individual and social truth, truth commissions recognise the importance of knowing the identity of the perpetrators and the causes, facts and circumstances in which such violations took place (ibid, section 8). As Tolbert notes, the findings of truth commissions are therefore "critical for development" (Tolbert, 2015, p3). Truth commissions are intended to be flexible instruments which adapt according to context (Balkan, 2015, section III). On a related point, the idea of a 'right to truth' and how this is operationalised and realised in practice is interesting when thinking about the function and purpose of the gacaca courts in Rwanda, as well as the role of children within these courts. Such discussions are noted in Chapter 6.

Before discussing child participation in the truth commission of South Africa, it is important to note that transitional justice, particularly truth commissions, have become "a common feature of peacebuilding in Africa" (African Commission, 2019, executive summary). African states looked increasingly at transitional justice to "help address historical divisions and prevent the recurrence of conflict… rooted in social inequalities established under colonialism, as well as abusive and extractive practices by dictatorships, military juntas and the elites of post-independence states" (ibid). The African Commission on Human and People's Rights notes that "Africa's engagement with the issues pertaining to transitional

justice has a long history," becoming a "core tenet of processes to deal with the consequences of conflict and authoritarian rule" (African Commission, 2019, preface). In particular, truth commissions came to prominence in Africa "because of their ability to facilitate political and/or social transition when the retribution is unlikely due to the expansiveness of the violence and the number of victims that were affected" (Perry and Sayndee 2015: xii).

Children are both individual rights holders and members of collective societies, and as such truth commissions represent a rare opportunity for children to grapple with events if they are provided with a safe environment in which to express complex views and opinions (Rana and Zvogbo, 2021, p282). However, existing research demonstrates that children are often overlooked in the practice of truth commissions (Aptel and Ladisch, 2011, p12). This is a "striking oversight" given that the involvement of children can shape the development of truth commissions, their nations, and the political communities using them for the better (Rana and Zvogbo, 2021, p282). It is important to look at the reasoning behind such a lack of focus by way of examining the past practice of such commissions in various contexts, as well as how the approaches taken in these contexts provide an interesting counterpoint to that of the gacaca courts and memorialisation processes in Rwanda.

3.2.2.a South African TRC

The TRC of South Africa was mandated to investigate human rights violations (particularly murder, disappearances, torture, and assaults) during the period of apartheid. However, this mandate was extended to include discussions on the historical events that culminated

in the apartheid regime. Both colonialism and the events of World War One had a profound effect on the region which led to a power politics that not only aimed to separate South Africa's white minority from the non-white majority, but also to separate non-whites from each other, and to divide black South Africans along tribal lines in order to decrease their political power (SAHO, no date). Although a detailed history of the period of apartheid in South Africa is beyond the scope of this chapter, the importance of these historical events on the South African TRC is paramount, particularly when thinking about the intergenerational trauma suffered by children in the country, and how this trauma is understood in the Rwandan context.

The Commission found that there were a substantially high number of child and adolescent victims of human rights violations during apartheid. These violations included targeted killings by police forces, wounding, detention without trial, arrests on charges arising out of protest, or being held for extended periods awaiting trial in police cells, often on spurious charges (Pigou, 2010, p118). In all respects, apartheid was a full assault on the fundamental rights of children, who witnessed gross violations of human rights, experienced serious disruptions to education, and suffered other consequences of structural racism and violence (ibid, p117). In particular, black children were "on the front lines and were specific targets of state violence" as they were directly involved in school protests, boycotts, and "radical actions linked to anti-apartheid structures" (Rana and Zvogbo, 2021, p292). Repression went beyond civil and political abuses, and permeated most aspects of the political, social, economic, cultural, and linguistic life of children (UNICEF and ICTJ, 2010).

Although the South African TRC held a series of meetings and workshops with national and international NGOs working with children, the Commission decided against taking

testimony directly from children (Pigou, 2010, p118). Erring on the side of caution, the TRC decided that it was not in the best interests of children to testify. Instead, the TRC provided for professionals to advocate on behalf of children, allowing their statements to be read out by representatives from national child protection agencies in the children's hearings, fearing that the formal structure of the hearing might intimidate children and subject them to further trauma (Pigou, 2010, p178). This is, of course, a valid concern and represents an important dilemma faced by the South African TRC; the active participation of children "both assures [children of] their rights […] and plays an essential role in ensuring the ability of the mechanisms to achieve their goals," but "without the appropriate support and protection," participation poses a risk to the child (Gidron, 2015, p509).

However, opting instead to effectively prohibit their participation in such a fundamental decision ran the risk of perpetuating the harms they experienced (Rana and Zvogbo, 2021, p286). It is clear that the South African TRC did not give children the choice to be heard, and instead made the decision on their behalf that they could not participate. As a result, the TRC has been criticised for opting to "sidestep" the right of the child to be heard and to participate, using "concerns for their well-being" as a convenient excuse (ibid, p293). This "compromised the potential of children's participation in the process," even if their statements were read out by representatives (Pigou, 2010, p145). It is difficult to argue on balance that the TRC met its article 12 obligations in this respect.

As shall be seen in focus group discussions with children on the benefits of, and challenges to, child participation in the gacaca courts in Rwanda, similar concerns were also raised in the operationalisation of these courts and influenced national law on whether children under the age of 18 could, in fact, participate in these courts, and if so, the extent to which such participation could take place (see section 2, Chapter 6).

3.2.2.b Child participation in truth commissions since South Africa

The approach taken by the TRC in South Africa acted as a catalyst for international discussion and debate on why, and how, children could be involved directly in the work of a TRC (UNICEF and ICTJ, 2010, p11). This set new international precedents in efforts by truth commissions to address issues surrounding children (Pigou, 2010, p118). However, the role of children in truth commissions has evolved gradually, with mixed results across different contexts.

The following section looks at the approaches of truth commissions in four such contexts: Sierra Leone, Timor Leste, Liberia and Kenya.

3.2.2.c Context: Sierra Leone

During Sierra Leone's civil war from 1991–2002, children were victims of, witnesses to, and forced perpetrators of violence, abduction, rape and other sexual abuse, torture, mutilation, amputations, and killings. Between 5,000 and 10,000 children were forcibly recruited as soldiers or worked as cooks, porters, spies, sex slaves, human shields, or manual labourers. Children saw their homes and communities destroyed, subsequent displacement and separation, interrupted or halted education, inadequate nutrition and health care, and emotional and psychological trauma. The Sierra Leone Truth and Reconciliation Commission, established as part of the Lomé Peace Accord in response to the 11-year war in the region, was the first to mention children specifically in its mandate (Truth and Reconciliation Commission for Sierra Leone, no date).

A core part of the agenda for the TRC was analysing how previous commissions had engaged with the participation of children, and as a result of this analysis, it was decided that the needs and rights of children should be specifically mentioned in the founding

statute and mandate of the commission (Mann and Theuermann, 2001). Children were allowed to participate directly, through testimony, with additional protections in place (ibid). In addition, children were involved in the planning and design, outreach efforts, statement giving, hearings, and opportunities for creative expression (Rana and Zvogbo, 2021, p294). In a markedly different approach to the TRC in South Africa, the TRC ensured collaboration with child protection agencies, resulting in an agreement to balance the protection of children from harm at the same time as aiding them in statement giving (ibid). Because of this, statements from children “were collected on a one-on-one basis unless the child requested a parent, guardian, or social worker be present” (ibid).

The production of a child friendly version of the Final Report, produced hand-in-hand with children and used in the educational curriculum of Sierra Leone, was innovative and allowed for children to directly participate not just in the commission, but in its impact and legacy in the country (TRC of Sierra Leone, 2015). Although numerous truth commissions had been convened in various countries prior to the setting up of the Sierra Leone TRC, “never before had a report focussed on children as victims and also profiled their role as actors in the reconciliation process” (UN ECOSOC, 2004). Children who participated expressed “a sense of relief and even pride in their contributions” and were “eager to play a role and give shape to a report that would bring about positive action for and by children” (ibid).

As shall be seen when considering in more detail at the Rwandan context, particularly when considering how memory processes in the country provide similar opportunities for the participation of children, a similar sense of relief and eagerness is demonstrated by children in Rwanda, a generation after the genocide has ended. However, in comparison to the approach taken by the gacaca courts, the approach taken by the TRC of Sierra

Leone, although similar, also has marked differences when it comes to child participation, as will be demonstrated in Chapter 6.

In addition, although a success from the perspective of the facilitation of child participation, the Sierra Leone TRC is not without criticism. As Billingsley notes, the “educated elite minority” appeared to have divergent experiences and perspectives of the success of the TRC as compared to the nonelite majority, as the former had “greater access to resources and power” and as such “were more likely to feel as if the TRC helped them, while non-elite interviewees expressed negative attitudes about their experiences of the TRC” (Billingsley, 2019, p195, citing Millar, 2010). In contrast, the Special Court of Sierra Leone – not examined here - “created an innovative outreach program that sent its chief prosecutor and top administrator to villages around the West African country to answer questions from ordinary citizens” (O’Connell, 2021, p104).

3.2.2.d Context: Timor Leste (East and West Timor)

Timor Leste has been subjected to three hundred years of colonial rule by Portugal, bitter conflict between local groups, independence followed by a swift invasion by Indonesia, annexation and occupation, protests for self-determination in the East, and brutality from Indonesia as a response to a UN mediated independence referendum. Children suffered greatly as the result of famine and illness, and were the direct target of gross human rights violations, such as rape, sexual exploitation, torture, arbitrary detention, and unlawful recruitment by armed groups (Hirst and Linnarsson, 2010).

Although violations against children were not explicitly mentioned in its mandate, detailed research took place on violations conducted against children, and their experiences were

assessed (Hirst and Linnarsson, 2010, p217). However, due to the lack of express provision for children in the official mandate of the TRC, “very few children participated in most core activities” and attempts to create a policy encouraging “appropriate and safe” child participation dwindled and have since “been largely forgotten” (ibid). This is in stark contrast to the approach taken in Rwanda, a country which also has a history of colonialism and independence (an independence process which stoked ethnic tensions rather than quelled them) and recognises the importance of the direct and indirect participation of children in the development of the country, including in transitional justice processes. This is discussed further in Chapter 6, section 2.

At this juncture, it would be remiss not to address the fact that although child participation efforts in the Timor-Leste TRC did not amount to what was initially hoped, a success of the TRC was that the truth commission investigated economic and social rights violations as part of its mandate (Ochoa-Sanchez, 2019, p1484). The final report devoted a full section to economic and social rights violations whilst at the same time recognising that it faced evidential limitations in dealing with them, and also made the distinct link between “the close inter-relationship between the violation of those rights and the abuses of civil and political rights” (ibid).

3.2.2.e Context: Liberia

Liberia is the only country in Africa formed as a colony for the United States by freed slaves originating from the continent. On their return, the freed slaves established the country as a Republic and modelled its government on the United States. In the 1980s, a military coup overthrew the pro-American government and began two back-to-back civil

wars. Much like Rwanda, the context is incredibly complex. The civil war in Liberia involved multiple armed groups and neighbouring West African countries and killed millions of Liberians. Due to the length of the civil war, many children have grown up only ever knowing conflict. Thousands were victims of killings, rape and sexual assault, torture, forced labour and displacement. All sides of the conflict, both government and opposition groups, militias, and paramilitaries, used child soldiers. In some cases, the majority of the units were made up of children under the age of eighteen. Not only did they witness numerous human rights violations, but they were also forced to commit them. In addition, girls were raped and sexually enslaved (Human Rights Watch, 2004).

The experiences of these children were specifically acknowledged by the Truth Commission in Liberia. Children were invited to give testimony at either a general hearing, or at a special thematic hearing which had the mandate of focussing on the experiences of children (Aptel and Ladisch, 2011, p12; Hayner, 2001). In affording protection to children who shared their experiences, including counselling and psychosocial support, most children participated in the thematic hearings ‘in camera’ (in private and pre-recorded). Where they testified in general hearings, they did so from inside a cubical “so that commissioners and the audience could hear their voice but not see them” (ibid).

The Final Report provides an overview of the commission’s “mandate and operational aspects with respect to children,” which includes details of the “various ways children were targeted and affected by the conflict” (ibid). It also “highlights children’s expectations” for the commission and the “enduring consequences” of the conflict on them (ibid). Although follow-up on these recommendations has been mixed, the focus on children in the report “provides a useful tool for future advocacy on behalf of children and youth in Liberia” (ibid).

3.2.2.f Context: Kenya

Although tasked primarily with investigating violations committed against the Kenyan people in the post-election violence in 2007-2008 (the most violent post-election period in the country's history), the Truth, Justice and Reconciliation Commission (TJRC) had a mandate which spanned almost four decades worth of atrocities, during which time children were the target of specific human rights violations such as torture, sexual violence, forced labour and displacement. Moreover, the loss of education, child homelessness ('street children'), being forced to join militia groups and gangs, and child-headed households were prevalent in Kenya. The Truth, Justice and Reconciliation Act in the country specified that "the Commission may put in place special arrangements and adopt specific mechanisms and procedures to address the experiences of [groups including] children" (ICTJ(g), 2011). This paved the way for a specific acknowledgement of "the particular impact that long-standing historical injustices and continuous human rights violations have on children" and how important it is to give "special attention to their experiences" (ibid).

A thematic hearing on issues affecting children was an integral part of the Commission, hearing testimonies from children on their own experiences of living in Kenyan society, as well as their recommendations for government to act upon. Protections were put in place for those children who testified, both to protect their identities and to avoid exposure to double-victimisation and re-lived trauma. Counsellors met with children before, during and after the process (a majority of those charged with taking statements from children were also trained counsellors). In addition to statements from the children themselves, the Commission also received testimony from child protection agencies on their behalf. Because the thematic hearing was a public one, all personal information pertaining to the

identities of child witnesses were obscured and omitted from publicly accessible documents (ICTJ(g)).

The Final Report made a very specific set of recommendations, including (but not limited to) a call for more psychological and social support to be provided to children and young people who suffered injustices, as well as for economic support to be provided to children in extreme economic needs so they can access their right to education (Kenya Transitional Justice Network, 2013). Moreover, the Commission produced an educational tool about the process. (ICTJ(f), 2015). The Commission also recognised that allowing children to participate in this way would not only address their specific needs, but also support their effective participation in the future (ICTJ(g), 2011). Similar efforts are also taking place in Rwanda, particularly in memorialisation processes, and including (but not exclusively) children who are suffering from intergenerational trauma, as will be seen in Chapter Six.

Like the truth commission in Timor Leste, the Kenyan truth commission also examined economic and social rights violations by considering “the socio-economic impact of violations that targeted individual’s bodily integrity or their civil and political rights,” recognising that “violations of civil and political rights … go hand in hand with violations of socio-economic rights” (Ochoa-Sanchez, 2019, p1482). The Commission also inquired into and established “ the reality or otherwise of perceived economic marginalisation of communities,’ and considered violations of socio-economic rights as independent violations (ibid).

The analysis of truth commissions in this section, both in terms of critical literature and analysis of past practice when it comes to child participation, is “ but a rough sketch of a vast intellectual landscape” (O’Connell, 2021, p174). Skaar notes that truth commissions

are “one of many mechanisms or processes that may in best-case scenarios contribute in a positive manner toward making societies more democratic and more respectful of human rights” (Skaar, 2018, p18). However, current scholarship on truth commissions notes that such commissions “are notoriously under-theorised,” with proponents “yet to answer why their record is so inconsistent” (Kochanski, 2020, p113). Truth commissions have “proliferated globally despite conflicting evidence on their ability to transform social relations” (Whitlinger, 2022, p4). As Whitlinger notes, although individual case studies on truth commissions highlight their achievements and shortcomings, “cross-national research has been inconclusive” (Whitlinger, 2022, p4). Indeed, this has been demonstrated in the analysis of child participation in the past practice of truth commissions in this section.

The South African TRC “represented a “tipping point” in the transnational diffusion of the TRC model” (noting “the temporal and ideational shift” in the naming and design of TCs “from fact-finding inquiries to bodies seeking to advance reconciliation and healing on a societal level”) (Kochanski, 2020, p118). As such, the South African model was expected to spread rapidly; as Kochanski notes, the South African TRC represented a watershed moment, and subsequent transitional states often “catch” the new policy or institutional model and seek to imitate it (Kochanski, 2020, p118).

However, as seen in the analysis above, the opposite approach to the South African model was taken by many of the subsequent truth commissions when considering how best to facilitate the participation of children. In part, this was in recognition of the fact that, as Ramirez-Barat explains, “to be effective, transitional justice institutions must listen as well as speak” (O’Connell, 2021, p11 citing Ramirez-Barat, 2011, p7). The analysis of the past practice of truth commissions clear that ensuring specific provision for children in the

mandate of a truth commission improves prospects for their participation, which in turn enables a child-sensitive approach to setting a Commission's priorities and makes the inclusion of child-specific recommendations in a final report more likely (Rana and Zvogbo, 2021, p283; Aptel and Ladisch, 2011; Gonzalez and Varney, 2013). This is not to say that concerns about intimidation and traumatisation of children, such as those exhibited by the Commission in South Africa, are unfounded. However, it does mean that "the Commission's research was, by design and by choice, partial and incomplete," resulting, as Rana and Zvobgo note, in a curious paradox: "children are simultaneously included but excluded, supported but undermined, seen but not heard" (2021, p296).

Given the disparity of approaches demonstrated here by the selected examples of truth commissions, it is interesting to compare the approaches of these truth commissions to that of the inkiko-gacaca courts and memorialisation processes in Rwanda. This is addressed, where appropriate, in Chapters 5 and 6.

3.3 Reparations programmes

3.3.1 Review of the literature

Reparations are "the process and result of remedying the damage or harm caused by an unlawful act" (Ferstman, 2017). Mueller-Hirth notes that reparations are "most directly and immediately centred on victims and their needs" (Mueller-Hirth, 2021, p465).The purpose is to re-establish the situation that existed before a 'harm' occurred, either to an individual or a group of people. In this way, reparations serve to both end ongoing breaches and to deter future ones (Ferstman, Goetz, and Stephens, 2009).

As a pillar of transitional justice, the right to reparation entails measures that are both individual and collective, fulfilling a number of functions dependant on whether the form of

reparation is material or symbolic. Material reparations should cover all injuries suffered by victims, apply equally to victims, relatives and dependants, and include financial compensation and packages such as pensions, cash payments, special conditions to access education or health care services, livelihood implements, or training. Symbolic reparations are intended to provide moral reparation, and include public apologies, memorials, the erection of monuments, establishing periods of commemoration, or the building of learning centres and museums. As shall be seen when examining the function of the gacaca courts (see Chapter Four, section 1.3, and Chapter Six, section 2), such reparations were particularly important in the function of these courts when it came to damage to property in the genocide, with reparations awarded being both material and symbolic.

Studies on the effectiveness of reparations show that the most effective are those which adopt a mix of material and symbolic benefits, and address both the whole person and a collective group (UNICEF and ICTJ, 2010, p5). In addition, reparations programmes can also have “a catalytic effect on the delivery of on-going development services,” by helping to build the capacity of the regional government institutions that deliver reparations programmes to affected communities (Tolbert, 2015, p3).

Reparations are a vital element of dealing with the past in transitional justice, so much so that over the past three decades, as Gilmore and Moffett (2021) note, there has been “a plethora of state practice, jurisprudence, and international norms requiring states and other responsible actors to redress victims’ harm” (p455). However, both academics and practitioners alike have criticised the notion of re-establishing a situation that existed before a harm occurred when it comes to reparations for human rights violations (Leyh and

Fraser, 2019, p39). This is because while reparation “seeks a return to a status quo ante,” for many this is neither possible nor desirable (Robins et.al., 2022, p8).

For example, for women and girls in transitional settings, a return to a status quo ante “can frequently imply reparation or restoration of, and return to, hetero-patriarchal societal structures,” which are often “characterized by vast gendered inequalities and systematic discrimination of women and girls” (Schulz, 2020, p697, citing Mertens and Myrttinen 2019). On the other end of the spectrum, it has also been noted that many women in conflict zones “take on traditionally male-dominated roles and responsibilities – including active combat roles or positions as heads of households – thereby (at least temporarily) gaining some sort of autonomy or economic independence” (Schulz, 2020, p697, citing Ní Aoláin, Haynes, and Cahn 2011). As Schulz notes, repairing the status quo in this sense means that “these relative gains can often be undone […] implying negative consequences for women’s equality” (2020, p697). As most reparations programmes “primarily concentrate on civil and political rights, at the expense of other violations, including socio-economic or cultural rights,” these issues are often not addressed (Schulz, 2020, p697, citing Rubio-Marín 2009). Those advocates and scholars who have “critiqued the traditional restitution concept of reparations” have done so by insisting that rather than “restoring and perpetuating these inequalities,” particularly for women and girls, reparations should instead “transform the economic, social, cultural and political dynamics that oppress women and girls and often cause their victimisation” (Leyh and Fraser, 2019, p46). Indeed, the UN Committee on the Elimination of Discrimination Against Women has “accused transitional justice mechanisms of failing women by inadequately delivering justice and reparation for all of their harms suffered” (ibid, citing UN Committee on the

Elimination of Discrimination Against Women, ‘General Recommendation No 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations’ (2013)).

This critique of reparations policy stresses “the importance of broad and meaningful participation and consultation with women and girls,” particularly in “the early stages of planning [and] through the design, implementation and evaluation of reparations”(Leyh and Fraser, 2019, p48). This is particularly important for those women and girls who are “disadvantaged or precluded from participating in or benefiting from reparations programmes by gendered impediments such as restrictions on mobility, limited literacy skills, burdensome care responsibilities, and vulnerability to social stigmas” (ibid, citing Walker 2016). As Leyh and Fraser note, “the right to participate is not simply about authorities providing a menu of options but is an opportunity for victims to exercise their agency” and “establishing a dialogue where victims share their views, needs and concerns, and have a say on how reparations are shaped” (ibid, p48).

Another critique of the traditional approach to reparations is how they should apply to human rights abuses committed in democratic countries with a history of colonialism. At the time of writing, a particular focus in this respect is the United States where, as Ward notes, “the issue of reparations has been one of the most enduring debates in American history” particularly when discussing the “demand for justice” for the African American community “for centuries of slavery, segregation, and discrimination” (Ward, 2022, p25). Discussions such as this are a relatively new phenomenon, and as such will not be examined in great detail here. However, the current shift in focus to historical violence and its link to intergenerational harms, including on children, underscores that “racist violence has imposed harm beyond victims and for many decades and generations after the violent event” (Gaston, 2021, p78). As Gaston (2021) notes, the resulting long-term,

intergenerational harms, particularly psychological, familial, and economic harms, “can fundamentally impact the well-being of individuals, families, and communities as well as contribute to structural and macrolevel forces” (p79).

Gilmore and Moffett (2021) note that human rights law has “constructed the right to reparations as mainly an obligation of the state,” with a focus “on claims making, forms, and processes,” with “little written on the lived experience for victims who are left waiting for redress” (p457). As Mueller-Hirth (2021) explains, no matter how reparations are conceived by scholars and practitioners, “to delay or deny them is to keep the violent past and its injustices firmly in the present,” and represents “a brick to the idea of a peaceful future” (p476). As Mueller-Hirth (2021) notes, “uncertainty about the “whether” and “how much” of reparations or assistance is entangled with other existential insecurities for people living in contexts of marginalisation, poverty and neglect,” which in turn “increases feelings of powerlessness and lack of agency” (p473). In addition, as van der Merwe and Lykes suggest, the “unaddressed racial injustices of colonialism and neo-colonialism and their present-day implications for post-colonial societies and global inequalities are increasingly foregrounded by scholars and practitioners” and the way in which reparations have developed as a mechanism of transitional justice adds value to this debate (Van de Merwe and Brinton Lykes, 2020, p416)

3.3.2 Child participation in reparations programmes

It is beyond the scope of this chapter to look at each form of reparation on individual terms. However, it is important to address the fact that reparations have mixed success when it comes to facilitating the participation of children. Given that many reparations programmes face increasingly multifaceted and complex resourcing challenges in their work due to

cultural and implementation barriers, this is unsurprising, as the dismantling of these barriers is crucial to the reception of the mechanism (UNICEF and ICTJ, 2010, p56; Aptel and Ladisch, 2011, p27).

For example, in terms of cultural barriers, children may not have the means to access or participate in reparations programmes because they fear reprisal, stigma, or violence. In some societies, reparations are perceived of by communities as an effort to buy victims' silence or as 'blood money' (UNICEF, 2010, p52). Work undertaken with survivors has highlighted that they "may see such actions as a governmental strategy to "close the chapter on the past prematurely and leave the secrets of the past hidden" (ibid). As UNICEF note, this is particularly the case with the reintegration and rehabilitation of former child soldiers, many of whom may have committed acts of heinous barbarity against members of their own communities. Where these former child soldiers receive reparation, community members may feel resentment, and even perceive those children are being rewarded for having taken part in hostilities. The fact that children and youth among the most seriously affected are not just limited to those who take part in hostilities complicates the situation even further (ibid). Cultural barriers for children not only impact on their access to reparations, but in transitional justice mechanisms rooted in the local communities in which they live. This will be discussed in more detail in Chapter 5 (section 2.2, p187-189).

In respect of implementation barriers, both policy and practice have been inconsistent with how they regard children and their right to reparation. A significant issue for implementing reparations provision for children is the gap between children and youth (Aptel and Ladisch, 2011, p28). The effects of violations on youth of different ages have shown that "older child survivors tend to be worse off than younger ones in their physical health,

mental well-being, ability to recover opportunities to support themselves economically, and ability to recover lost educational opportunities" (ibid). It is recognised that those who were older at the time that violations occurred "may sometimes be in the greatest need, yet they are also the ones most at risk of being excluded from the reparations programs" (ibid).

Many recommendations made by truth commissions for both the design and the implementation of reparations programmes for children remain untested; as UNICEF and the ICTJ note, "while truth commissions make recommendations to governments on the design and implementation of a reparations programme, they are generally not mandated to carry out the implementation" (UNICEF and ICTJ, 2010, p56). As a result, attention and resources given to children in reparations programs is negligible (Miano, 2013, p28).

In practice, then, the right to reparation is often overshadowed by competing priorities, such as bringing security to war-affected regions, enhancing governance, and rebuilding economies (Miano, 2013, p28). Indeed, in looking at the inkiko-gacaca courts in Rwanda, similar competing concerns are found, as noted in Chapter 4, including the speeding up the genocide trials (Sosnov, 2007, p136). Further,as Msane notes, dialogue surrounding reparations is largely absent (2021, p119). This does not however mean that reparations were completely absent from the gacaca courts, particularly with respect to property offences, but also in judgements made by the courts to restore damaged buildings and institutions such as medical care facilities, schools and churches, as well as maintaining roads, community gardens and prison feeding schemes (ibid, p121). This type of community service was an alternative to the prison system if perpetrators showed remorse, which allowed for victims "to see them working to rebuild the community as well as their broken relationships" (ibid). Such reparations are also referred to in Chapter Five as understood by children in focus groups.

The assessment of past practice undertaken in this section makes it clear that there are "significant deficiencies in delivering reparations on the ground to those affected" (Gilmore and Moffett, 2021, p455). In addition, when looking at recent scholarly debates on the potential and challenges of linking reparations to development, to socioeconomic transformation and to gender transformation, it is clear that such debates reflect much wider critiques "about the marginalisation of socio-economic and structural concerns in favour of civil and political rights violations in transitional justice," some of which have been outlined in section 2 of this chapter (Mueller-Hirth, 2021, p465). In all respects, Klutse (2018) argues, reparations are being asked to "repair the irreparable" (p184). A not insignificant part of the issue "resides in the generally accepted definition of transitional justice," which is widely understood as addressing 'large-scale' abuses, with "a lack of understanding of the distinctions between structural and direct violence, as well as civil and political and socio-economic abuses" (p185). Whereas civil and political crimes "fall easily into the category of 'large-scale' abuses that are individually justiciable," socio-economic abuses of regions, groups, or communities "are not considered grave enough, or ably justiciable, to warrant attention within transitional justice" (Gready, 2022, p185 citing Cahill-Ripley 2014). This remains the case even though it is these structural abuses which "serve to enforce entrenched and continued inequalities throughout the transitional period and beyond," and "which should bring transitional justice's singular focus on 'large-scale' abuses into disrepute" (Gready, 2022, p185).

It is important to "consider what reparations can achieve in terms of the acknowledgement and remedy of harm" (Gilmore and Moffett, 2021, p480). Reparations cannot heal victims as a standalone mechanism of transitional justice (Gilmore and Moffett, 2021, p456). Nor can they "rebuild social harmony and civic trust and fully remedy victims' harm" (Gilmore

and Moffett, 2021, p480). This is perhaps why, as demonstrated in this section, reparations programmes in a diverse range of post-conflict settings “have been divisive, creating tensions and competition between different groups of victims” (Mueller-Hirth, 2021, p465). As Leyh and Fraser note, “the desire to transform the lives of victims as well as the power structures that sustain unequal relationships and promote victimisation is compelling” (2019, p49). It is true, as De Grieff (2020) notes, that “the larger universe of potential beneficiaries coupled with economic scarcity make comprehensive reparations much less feasible” (p255). However, it is also clear that there is great scope for reparations with transformative potential, which can only truly be realised when victims and affected communities, including children, “play a central role in the decision-making, and when linked with other non-temporary, structural changes” (Leyh and Fraser, 2019, p39). As it stands, and as demonstrated in the analysis of child participation in reparations programmes in this section, there remains a valid critique of “victims’ agency and voices being ‘picked out, appropriated and then re-presented to suit’ other transitional justice actors” (Gilmore and Moffett, 2020, p456). In addition, as shall be seen in the data analysis chapters of the thesis, violations of both civil and political rights and economic, social and cultural rights have transgenerational harmful effects, which only cements the need for such participation for both current and future generations.

3.4 Guarantees of non-recurrence

3.4.1 Review of the literature

Measures of non-recurrence are “interventions taken to prevent the future reoccurrence of armed conflict or prevent future rights violations” (Bayor, 2021, p2). Guarantees of Non-Recurrence (henceforth GNRs) play a vital role in “preventing future violations of human

rights and reinforcing the rule of law, respect for human rights, and contributing to sustaining peace and development" (OHCHR(a), no date). As a principle of international law, GNRs focus on disbanding armed groups, repealing emergency laws, and removing senior officials from office who are implicated in serious human rights violations (Sisson, 2010, p13).

Prosecutions, truth-telling, and reparations "are not enough to do justice" - expedient ways of halting the violations and preventing their repetition are also needed, which is "the terrain of guarantees of non-recurrence" (Davidovic, 2022, p104; Mayer-Rieckh, 2007). As Davidovic notes, "while other pillars of TJ can also be preventative, GNRs embrace prevention as their core function" (2022, p104). However, although guarantees of non-recurrence occupy "a central position" in the field of transitional justice, Davidovic (2022) notes that "much ambiguity and disagreements arise when transitional justice scholars undertake the task of defining GNRs as simultaneously a pillar of transitional justice and a norm borrowed from international law" (p103). Indeed**,** Bayor (2021) notes that In the post-conflict context in particular, transitional justice literature "tends to conceive measures of nonrecurrence narrowly, as state-centric, driven mainly through national and international level actors" (p3). However, as De Hoon (2020) explains, an important component of transitional justice is "allowing local civil society actors to propose initiatives and encouraging innovative justice solutions shaped by local contexts and priorities" (p175). It is therefore important to understand that knowledge production concerning GNRs and subsequent practices "are conditioned by both political and legal factors and cannot be analysed in a vacuum" (Davidovic, 2022, p115). This includes acknowledging that "domestically, GNRs cannot only be shaped by the ideas and guidance TJ as an ideational structure puts forward, but also by actors' own context-specific conceptions" (ibid).

As such, there are calls for civil society organisations, who “can represent communities and bridge these communities with the national level in designing the transitional justice strategy and deciding when transitional justice processes will take place,” to play more of a role in GNRs, either “in cooperation with and/or complementary to mechanisms established by the state” (ibid). In this respect, “more attention should be given to other actors, in particular civil society organisations,” which can “contribute significantly to prevention by providing civic education, disseminating messages about tolerance and peace and thus reducing tensions in societies” (Hulova, 2022, p37). This further recognises that civil society should also play a role “in providing checks and balances,” including holding governments accountable and “advocating the fulfilment of rights” (ibid, p38). Bayor explains that the “increasing complexity and multidimensional character of contemporary armed conflicts require a more flexible and broader approach to measures aimed at non-recurrence” (2021, p69). However, at present, GNRs “remain ambiguous, normatively flexible, and generally unexplored in the burgeoning TJ scholarship” (Davidovic, 2022, p1). This is despite the fact, as Hulova (2022) notes, that current understandings of GNRs comprise of “interventions in the societal, cultural and individual spheres” in addition to the “legal-institutional changes” (p59). As a result, GNRs “remain the missing piece of the transitional justice puzzle” as despite being a widespread topic of discussion in scholarly literature, “there is very little implementation on the ground” (Davidovic, 2022, p103).

GNR measures “encapsulate a broad range of possible responses for post-conflict societies” (Kinder, 2021, p512). However, generally speaking, post-conflict societies “have approached guarantees of non-recurrence by demonstrating tangible institutional reforms” (ibid, p513). Institutional reform can include justice-related measures such as vetting,

structural reform, oversight, transforming legal frameworks, disarmament, demobilisation and reintegration, and education (Aptel and Ladisch, 2011, p32). Institutions that undergo reform are usually public (such as the police, military or judiciary), and involved in violations of human rights, including against children (ibid). Based on the assumption that "the same causes produce the same effects," and therefore measures need to be taken "in order to avoid victims having to endure new violations affecting their dignity" (OHCHR(g), 2005), institutional reform "ensures the genuine accountability of public powers in order to re-establish trust, prevent repetition of human rights violations in the future, and ensure the protection of human rights" (Balkan, 2015, section 3).

All of these factors are also "necessary preconditions for the development of societies" (Tolbert, 2015, p4). Indeed, measures of institutional reform create "the conditions for GNRs, and in doing so enable them "to better perform transitional justice functions," therefore bridging "the two grand tasks" of "repairing past violations and ensuring a peaceful future" (p104). However, Holova (2022) notes that Pablo de Greiff, in his time as the UN TJ Special Rapporteur, underlined that "due to the institutional weakness, TJ measures in post-conflict contexts should rather include a dimension of the institutional building than institutional reform" (p37, citing de Grieff). Such institutions "do not need to be reformed but rather built (almost) from scratch" (ibid, citing de Grieff). This is because if state institutions are weakened, "the implementation of other TJ measures is much more difficult and the whole process thus may be seriously undermined" (ibid). Subsequently, this results in the greater likelihood of human rights standards being severely compromised "as the State's ability to ensure and protect them is diminished" (ibid). In addition, Kinder notes that "initiatives fixating on sectors most closely related to violence, such as military or security forces, exemplify a highly visible manifestation of the state

dismantling of its violent past" (2021, p513). However, Kinder also notes that linking GNRs to perpetrators of violence "has inadvertently encouraged the narrow conceptualisation of non-recurrence as limited to the specific actors or collective bodies that directly carried out human rights abuses" (ibid).

As Davidovic notes, measures of international reform "are rarely exercised as planned," and are often criticised for their failure to "redistribute wealth and power, therefore reinforcing the status quo" (Davidovic, 2022, p98). Nevertheless, the "underlying idea" of institutional reform is to weaken violence-prone ideologies, improve civil trust, and "serve as a political confirmation of the new, peaceful order" (ibid, p99).

3.4.2 Child participation and guarantees of non-recurrence

For reasons of space and relevance, this section will focus on three specific examples of institutional reforms: Disarmament, Demobilisation and Reintegration (henceforth DDR), educational reform, and legal reforms as they pertain to the participation of children.

3.4.2.a DDR

Disarmament, Demobilisation and Reintegration is "a process through which members of armed forces and groups are supported to lay down their weapons and return to civilian life" (United Nations Institute for Training and Research, no date). A complex process, it must consider political, security, social, economic, and humanitarian dimensions in order to create an environment where a peace process, political and social reconciliation, and sustainable development can take place (ibid). Disarmament, demobilization, and reintegration (DDR) processes can foster trust in ex-combatants, prevent future violence, and achieve a sustainable peace and reconciliation (De Hoon, 2020, p169). However, DDR programs are often conducted separately from the rest of the transitional justice

process, diminishing the effect they can have on the reintegration of ex-combatants and the reconciliation with victims and communities (ibid).

During the procedure of disbanding armed groups within the DDR process, special attention is paid to the demobilisation and reintegration of child soldiers (Sisson, 2010, p13; Integrated Disarmament, Demobilization and Reintegration Standards (IDDRS), 2020). However, this aspect of the DDR process has come under considerable criticism in certain contexts.

One such context is Colombia, with programmes not being tailored to different populations of child combatants, even though each conflict context sees children join armed groups for different reasons (Torres, Yaneth and Sergio, 2009, p22; Duthie and Specht, 2009). Children were either abducted and forced to commit atrocities or recruited into armed groups that demand loyalty to commanders (UNICEF and ICTJ, 2010). As a result, children were simultaneously victims, witnesses and perpetrators, yet these different experiences (and the views and opinions of the children on these experiences) were hardly considered in the DDR process in Colombia (UNDDR, 2009). Instead, the same DDR package was offered to child combatants without any consideration being given to the diversity of the child soldier population (Torres, Yaneth and Sergio, 2009, p22).

Criticism also surrounds the DDR process in Colombia for failing to consider the needs of girl soldiers who have circumvented official processes and “self-demobilised” (Aptel and Ladisch, 2011, p4). The reason for this surrounds the lack of consideration of complex cultural and societal perceptions of girls, both before and after the DDR process. This includes “fear of the stigma of being associated with armed groups, as well as military commanders’ perceptions of girls as “wives” or property belonging to their officer

“husbands,” as opposed to children who must be released” (Aptel and Ladisch, 2011, p12; Hayner, 2001, p33). Cultural barriers most prevalent for girls when accessing their rights is discussed in further detail in Chapter 5, (section 1.2, pp154-168) when it comes to rights violations specific to girls, how cultural perceptions of girls impact on their right to be heard, and how girls see education as a ‘way out’ of the cultural impositions (and indeed rights violations) that they may be subjected to on account of their gender.

Colombia is not the only context to suffer criticism of the DDR processes as they relate to the treatment of children. Similar criticisms are seen in the contexts of Nepal, Sri Lanka, Liberia and the DRC (Macfarlane, 2021; Brownell, 2020; Thill, 2021). However, what the Colombian context demonstrates is that when DDR is not implemented efficiently, obstacles to children’s reconciliation and reintegration, as well as their full and protected participation, remain. This means that the voices, preferences, and desires of former child soldiers are often ignored (UNICEF and ICTJ, 2010). The Colombian example also demonstrates, as Dixon and Firchow (2022) explain, that “while the notions of ‘individual’ and ‘collective’ provide useful heuristic devices for understanding and categorizing post-conflict processes related both to TJ and DDR, they greatly oversimplify what in reality are complex social processes” (p435).

3.4.2.b Education

Education systems are a target in civil wars and violence globally (Obura, 2003). Children and education are often targeted when they are perceived as “threats to the oppressors” (Mathisen, 2012, p10). Tactics include burning and looting schools, killing and abducting children on school grounds, and stealing materials and equipment (Obura, 2003). In addition, there are also those contexts where hatred and ideology of ethnic division was

(and in some cases, still is) spread through educational institutions as a form of propaganda, in turn responsible for leading to increased mistrust among children and the communities in which they live (Ekmeščić, 2021). Examples of past practice in this regard include Nazi Germany, South Africa, Rwanda and Cambodia. A notable example of this practice taking place in the present is Bosnia and Herzegovina, in what is known as the 'Two Schools under One Roof' policy (OSCE, 2018; Aptel and Ladisch, 2011, p34).

As an integral element of GNR, it is important to identify and evidence connections between violations of human rights and the changes in education that follow (Mathisen, 2012). This is because education is "often implicated" in national or civil conflicts by way of reflecting ethnic or cultural discrimination, and it is important to understand the power of curriculum reform in helping to address the prejudices that may have provoked such discriminatory practices (UNICEF and ICTJ, 2010). Educational reform provides an avenue for children to contribute to national reconciliation and peace processes, particularly if linked to truth commission findings and recommendations (ibid, pxiii). As such, it is crucial in providing recognition, through their participation, to the experiences of children in an important sphere of their lives, as well as encouraging their participation in peace and reconciliation efforts through the incorporation of human rights and peace education into the national curriculum (ibid, p9). These areas of educational reform are discussed in Chapter 5 (section 3., pp175-176) as they pertain to challenging discrimination in schools in Rwanda.

A good example of best practice is Sierra Leone, where educational programmes were crucial in facilitating reintegration of those children who were returning from the civil war as part of the fighting forces. The National Commission for Disarmament, Demobilisation and Reintegration worked in collaboration with community leaders, parents, and teachers to

help reduce resentment against these children by their communities. Unfortunately, in other cases, such as Chile and Peru, recommendations for curriculum development and reform at the national level have not been supported at all while others, such as in Guatemala, have been limited in terms of their impact, being project based rather than curriculum based. In still more contexts, such as Timor Leste, efforts are still ongoing (UNICEF and ICTJ, 2010, p37). Educational reform in Rwanda, particularly pertaining to the recognition of how education of the past contributed to the ethnic hatred so prevalent during the genocide, as well as how a new 'competence based' curriculum has been implemented by the government of Rwanda to combat divisive genocide ideology, is discussed in more detail in Chapter 5 (section 1.4).

3.4.2.c Legal reform and re-establishing the rule of law

Another important focus of institutional reform is re-establishing the rule of law. The rule of law is "a principle of governance" in which "all persons, institutions and entities" are held accountable to "laws publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards (United Nation Thematic Areas (2)). The specific principles underpinning the rule of law include "supremacy of the law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency" (UNSC, 2004, paragraph 6). Legislative reform "may help eradicate former injustices embodied in the law," and include strengthening the legal framework "to allow for fair and equal treatment by the government" (De Hoon, 2020, p170). In addition, as Gomez (2022) notes, such legislative strengthening should include recognition for victims, without which "truth, justice, reparation, closure, guarantees of non-recurrence or accountability are

impossible" (p6). In writing about "the relationship between transitional justice 'from below' and recognition," Gomez notes that this relationship "envisions democratic social justice as circular: democracy determines social justice, and, at the same time, social justice is a necessary condition for new structures of democracy in transitional justice scenarios" (ibid). The links between the rule of law, sustainable development, human rights and transitional justice have been discussed in this Chapter (section 2) and are referred to in further discussions by children in focus groups in Rwanda on why the participation of children should be seen as a central component of restoring the rule of law in Chapter 6 (section 3).

Transitions provide unique opportunities to introduce reforms consistent with child rights principles outlined in international law. Indeed, as discussed in Chapter 5 (section 2), in the intervening period of almost three decades after the Genocide against the Tutsi, the government of Rwanda has made great strides in reforming national law with respect to education, in line with its obligations under the Convention on the Rights of the Child. National law reform can incorporate international standards into the domestic legal framework which, if implemented properly, can make much tangible difference in the lives of children, including in terms of their access to (and participation in) transitional justice (UNICEF, 2010, p60).

The assessment of the past practice of GNRs when it comes to the participation of children demonstrates that lasting societal transformations to guarantee non-recurrence "require interventions not only in the institutional sphere but also in the cultural sphere and at the level of personal, individual dispositions" (Bayor, 2021, p67). However, achieving this holistic purpose is hindered when considering the fact that GNRs have been regarded for a long time in scholarship and practice as the "'poor cousin' of other, much more

researched TJ mechanisms" (Davidovic, 2022, p98). GNRs are, "if not from the standpoint of practice, certainly from the standpoint of doctrine," the least developed element of transitional justice (Davidovic, 2022, p103, citing de Grieff). Bayor (2021) notes that "the debate about guarantees of non-recurrence in post-conflict settings is highly influenced by the post-authoritarian human rights context" p66). However, literature "does not adequately address how other mechanisms beyond the purview of the state," and how these mechanisms "could contribute to any guarantee of non-recurrence" (ibid, p66).

Preventing recurrence deals with "confronting specific acts that were committed in the past and maybe committed again in the future, and that can be studied in terms of their causes, effects, agents, resources, and structures used to make them happen" (Bayor, 2021, p68) In this respect, as Kinder (2021) explains, non-recurrence "enforces definitive temporal boundaries; conflict and trauma occurred in the past and should not occur again in the present or future" (p512). However, such measures, including those presented in this section, may take "years, decades, and even generations to manifest" (ibid). In addition, Davidovic (2022) notes the success of GNRs is reliant on how they are "informed by systemic analyses of the root causes of violence and patterns of exclusion" (p105). It is only once this is established that a ""roadmap" of the process and practices needed for recurrence would need to be created, following mapping of relevant actors, both state and non-state" (ibid).

This recognises the fact that although state-centric measures are essential, they "often fail to secure those kinds of guarantees to prevent societies from reverting to armed violence" (Bayor, 2021, p2). This has "prompted scholars and practitioners to consider the utility of other forms of mechanisms that could prevent the reversion of armed conflict and advance the conditions of peace," including customary and grassroots practices (ibid, p4).

4. The question of socio-economic rights

Section 2 of this chapter discussed the interdisciplinary scholarship of transitional justice, more specifically the benefits and limitations of widening the scope of the field to include human rights abuses outside of those that are civil and political in nature. These discussions were continued when examining the past practice of transitional justice mechanisms, the critical literature surrounding the expansion of the mandates of such mechanisms to include these abuses, and the importance of doing so when making the case for the participation of children.

To conclude the chapter, it is important to acknowledge one such area of contention in this respect: socioeconomic rights. With discourse around transitional justice rooted squarely in the legal framework of international human rights law, the field has been criticised by development scholars for having “an overly narrow, legalistic focus that elevates certain civil and political rights and fails to address other pervasive social and economic realities and dynamics” (Rooney and Aolain, 2013, p1). This is as a result of what Jones and Viebach call “clashes” over the ways in which “lawyers, scholars and local populations make sense of both the experience of violence, or more broadly construed harm, and the response to these harms” (2015, p174). Balint, Evans and McMillan argue that transitional justice can, and should, look past the legal framework to engage with other injustices, particularly those of a structural or societal nature that enable or facilitate human rights violations in the first place (2014, p199). Given the fact that interdisciplinary scholarship on transitional justice addresses the lack of consideration of the field towards socioeconomic rights, it would be remiss not to address how these concerns are addressed in past practice. The past practice of two specific mechanisms of transitional justice in this respect, international criminal justice (exemplified by the ICC) and truth commissions,

demonstrate this point, particularly when it comes to the socioeconomic matters that affect children.

For example, although there is no doubt that international criminal trials are a key component of transitional justice, Palmer, Jones and Viebach argue that it is also the case that an over-reliance on international criminal trials produces “subjects and truths that are blind to social injustice” (2015, p173). Armed conflict and political violence imperil all the rights of children, including their economic, social and cultural rights, with children exposed to displacement, hunger, disease and a lack of education, in turn depriving them of physical, mental, spiritual, moral and social development (Parmar, Roseman, Siegrist and Sowa, 2010, p7). The stripping of these rights affect children with the same devastating effects, yet “relatively little attention” has been given to other child-specific crimes in the practice of international criminal mechanisms, “despite the fact that children are usually the first victims of these crimes in all conflict situations” (Cedranglo, 2015, p6). Tolbert notes that while “some headway” has been made to “bring development actors” into the international criminal justice process, “it is clear that stronger partnership is needed” (Tolbert, 2015, p3). This point is amplified when contemplating the lack of consideration of socioeconomic rights violations in transitional justice.

Similarly, when looking at the past practice of the TRC in South Africa, the lack of consideration of social, economic, and political consequences of the apartheid for the general population, including children, is evident both in the TRC process and in the publication of the Final Report. This “effectively marginalised the forms of violation that most seriously affected a wider cross section of citizens, particularly children” (Pigou, 2010, p122). Instead, hearings on children and youth focused solely on issues of grave human rights abuses, which could not be appreciated fully without the broader context of

the apartheid and its pervasive victimisation of children, which had a devastating impact at the family and community level (ibid). As Miller notes, “the constructed invisibility of economic questions” in transitional justice, as represented here in the TRC, has resulted in “the tendency either to mention inequality or structural violence as a problem and then to ignore it” (Miller, 2008, p273). By focusing on truth, justice and reconciliation, the importance of economic factors is obscured (ibid). This is not to say that children are the only group whose socioeconomic rights are ignored by transitional justice mechanisms. However, the treatment of these rights in mechanisms of transitional justice when it comes to children is demonstrative of the fact that the “dominant paradigm” of transitional justice is “still seen to focus heavily on civil and political rights and legal remedies to the exclusion of other violations and remedies” (Jones, 2021; Miller, 2008; Palmer et. al., 2015; Evans, 2016). The issue of whether socioeconomic rights should be included in mechanisms of transitional justice will not be afforded further attention here for reasons of space. However, this is an issue of ever-increasing importance that is being addressed in current interdisciplinary scholarship on transitional justice. In addition, socioeconomic rights are those that children clearly feel affect their everyday lives, and as such are given the necessary attention in Chapters 5 and 6. It is not only important to assess the extent and quality of child participation in mechanisms of transitional justice, but also the extent to which matters that affect children are considered, including the effects of human rights abuses on the social and economic rights of children. This is of growing importance as transitional justice continues expanding to address new harms that cannot be comprehensively tackled through a narrow legalistic approach.

Conclusion

This chapter has presented a systematic literature review around transitional justice on three fronts: a genealogical timeline of transitional justice in international law, an examination of literature around different understandings of transitional justice (with specific focus given to development literature), and an examination of four elements of transitional justice and their mechanisms (international criminal justice, truth commissions, reparations, and guarantees of non-recurrence) to assess the extent to which they have specifically included the participation of children.

The analysis of secondary literature directed attention to those points of tension (or "struggle") between different 'ways of knowing' transitional justice, particularly 'as law' and 'as development,' over what constitutes valid knowledge (Jones, 2021, p176). The chapter explored these tensions as a way of provoking debate and propelling forward important discussions on the very purpose of transitional justice. Only in doing so is it possible to find a place for child participation within these discussions, and to begin to construct a framework in which this can take place. To complement this analysis, the review of past practice of transitional justice mechanisms in different contexts, and the benefits and limitations of these approaches, demonstrated that both national and international policymakers involved in the conceptualisation and implementation of transitional justice initiatives have "largely failed" to consider children as important stakeholders, and the views and opinions of children have not served as an imperative for transitional justice processes to engage with and enable children's full and protected participation (Parmar, Roseman, Seigrist and Sowa, 2010, pxviii).

In order to better understand how transitional justice can lead to more meaningful outcomes, transitional justice practitioners can, and must, shift their thinking to develop a

more deliberate approach to working with, and facilitating the participation of, children as a central component of transitional justice, not a side topic or an afterthought. This would mean recognising that the "goals" of participation in transitional justice are "more ambitious than simply increasing presence in these processes" (De Waardt and Weber, 2019, p213). Therefore, the following chapter will make the case for how such an approach to child participation in transitional justice can, and should, take place using a framework based on article 12 of the Convention on the Rights of the Child.

CHAPTER THREE

ARTICLE 12, CHILD PARTICIPATION AND TRANSITIONAL JUSTICE: THE INTERNATIONAL CHILD RIGHTS FRAMEWORK.

Introduction

The previous chapter began to tease out explicit and implicit assumptions that specific examples of child participation in transitional justice reveal about how those designing and enacting these mechanisms view children's participation. This chapter moves on to discuss the creation of a conceptual framework rooted in the right to be heard in international law, in order to examine the extent to which article 12 of the Convention on the Rights of the Child contributes to understanding meaningful child participation in transitional justice. This is structured as an overview of article 12 in the extent to which it can be used to assess whether transitional justice mechanisms have (or have not) engaged with the participation of children in a way that is reflective of international child rights law.

In first setting out (and providing a justification of) the sources of international law used in this chapter, I then move on to discuss how an international treaty for children evolved from idea to reality. In doing so, I also include some of the more critical academic literature on the Convention, specifically that which discusses the conceptualisation and implementation of the Convention in Africa (particularly through the African Charter on the Rights and Welfare of the Child). I also address pertinent scholarship on decolonising children's rights, and why such scholarship is important to bear in mind when creating a framework for child participation in transitional justice rooted in article 12 of the Convention.

I then take a closer look at the links between article 12 of the Convention and the scope and purpose of transitional justice, consolidating those links through engaging with specific terminology used in article 12 and how this terminology has been interpreted in scholarship and practice both past and present. To undertake such analysis is a vital component of the research; it is the legal and symbolic importance of article 12 that will weave together discussions on transitional justice, the right to be heard and participation to create a framework for how the participation of children can (and should) be facilitated in transitional justice. The chapter will conclude by presenting a framework which stresses the importance of viewing the participation of children, and the sharing of views and opinions on matters that affect them, not as a momentary act but a vital, long-term contributor to lasting change.

1.Justification of source material: hierarchy of sources in international law

The corpus of international human rights law consists of a complex structure of various interrelated normative instruments. The Statute of the International Court of Justice lists these sources as: international conventions, international custom, general principles of law and judicial decisions and the teachings of the most highly qualified publicists “as subsidiary means for the determination of rules of law” (1998, Article 38(1)). The sources of international law I will be referring to throughout the analysis, and the way in which I will approach these, is set out below.

1.1 International Treaties

International treaties, also known as Conventions, enter into force when they have been both signed and ratified by states in accordance with the Vienna Convention on the Law of

Treaties (1969). The signature does not establish the consent to be bound. However, it is a means of authentication and expresses the willingness of the signatory state to continue the treaty-making process. The signature qualifies the signatory state to proceed to ratification, but it also creates an obligation to refrain, in good faith, from acts that would defeat the object and the purpose of the treaty (Vienna Convention on the Law of Treaties, 1969, Articles 10 and 18). Ratification defines the international act whereby a state indicates its consent to be bound to a treaty (Vienna Convention on the Law of Treaties, 1969, Articles 2(1)(b), 14(1) and 16).

As an example of a multilateral treaty (a treaty agreed between multiple states parties) containing specific rights for individuals and groups of children, I will consult the Convention on the Rights of the Child in the first instance, using it as the primary reference point for the construction of the framework.

1.2 Travaux Preparatoires

The travaux preparatoires ('preparatory works') to the Convention are the official documents that record the negotiations, drafting, and discussions during the treaty creation process (Jennings and Watts, 1992, pp921-922). These documents are viewed as an efficient and complete record of treaty negotiations thanks to the thorough preparation and full deliberation taken during the drafting process, and as such may be consulted and taken into consideration when interpreting treaties (ibid). The travaux preparatoires are of great interest when looking at how the text of the agreement (or part of the agreement, in this case article 12(1)) evolved into its final form, and as such I will use these to set out further contextual detail on the drafting of specific elements of article 12 where necessary.

1.3 General Comments of the Committee on the Rights of the Child

General Comments are a treaty body's interpretation of human rights treaty provisions, thematic issues or its methods of work, and a valuable tool in the development, understanding and practice of international human rights law (Blake, 2008, abstract). They are conceived and developed by a specially formed Committee, whose role is to clarify the reporting duties of State parties and suggest approaches to implementation of treaty provisions.

The Committee on the Rights of the Child (henceforth 'ComRC') consists of eighteen independent experts who monitor implementation of the Convention on the Rights of the Child by States parties. These persons are "of high moral character and recognised competence in the field of human rights," who are elected for a four-year term by States parties in accordance with article 43(6) of the Convention on the Rights of the Child (see OHCHR(d), no date; OHCHR(e), no date).

Although General Comments are non-binding, they can be viewed as authoritative, interpretive instruments which give rise to a normative consensus on the meaning and scope of particular human rights (Blake, 2008, p1). The present analysis will be particularly reliant on General Comment No. 12, with reference made to the other General Comments as appropriate.

1.4 Teachings of the most highly qualified publicists

The Statute of the International Court of Justice refers to ‘teachings of the most highly qualified publicists’ as an important source of international law (see Helmersen, 2019, p509). The purpose of the chapter is to set out the scope, content and obligations imposed by article 12(1) in order to provide the normative backbone of the thesis. Therefore, grounding the doctrinal analysis of article 12 in secondary literature as an example of such teachings will allow for the necessary explication of the links between the right to be heard and the notion of participation, and the lessons that can be applied to transitional justice and its engagement with the participation of children.

The Chapter will refer in the first instance to the Commentary on the Convention on the Rights of the Child edited by John Tobin, as well as other scholarly literature in the field of the rights of the child. The commentary provides article-by-article analysis of the Convention, addressing its drafting history as well as subsequent practice and case law. In addition, the commentary also contains contributions from leading scholars, which makes this resource indispensable for understanding the Convention as a source of international law.

The analysis will not be referring to Days of Discussion, Concluding Observations or Working Methods as these sources are not legally binding. In particular, the effectiveness of Concluding Observations often depends on the voluntary compliance of state parties with their observations and recommendations, so are not reliable sources to use here.

2 The United Nations Convention on the Rights of the Child

This section discusses the historical and theoretical underpinnings of the Convention, moving from simple standard setting to concrete obligations in international law. I recognise that a nuanced understanding of the history of the Convention “requires that we

stop to examine the historical landscape" (Fass, 2011, p18). Fresh concepts on childhood were very often the product of their particular historical situation, and as such, reference to broader contextual factors will serve as crucial background when setting out the theoretical underpinnings of the Convention, rather than being an explicit focus.

2.1 The rights of the child as "standard setting" in international law

The historical roots of the Convention lie in the "complex and contradictory" developments of the twentieth century, when "elevated expectations regarding the welfare of children confronted the realities of war" (Fass, 2011, p17). Therefore, the clearest way of presenting the importance of the Convention is to provide a detailed chronological history of the rights of the child in international law, beginning at the point of the First World War and the consequent suffering of children. This is because the very concept of the rights of the child occurred in response to a sea-change in the way society (particularly Western society) moved towards understanding childhood through the lens of children-as-rightsholders, and away from childhood as "a highly complex and engineered trajectory towards adulthood" (Peleg, 2019, p16).

After the First World War, the main concern for Western states was how to protect the welfare of children by way of 'standard setting' (OHCHR(a), 2007 (Vol. 1), piii). The first international document to focus on the rights of the child was the Geneva Declaration on the Rights of the Child in 1924 (ibid, p3). Although it is a short, one-page document and not a hard law treaty, it is nevertheless the first international instrument explicitly acknowledging children's rights (ibid).

The 1924 Declaration marked the first time that rights for children were specifically and explicitly recognised, alongside the responsibility of adults towards children in the realisation of these rights. However, the child was not yet seen as a holder of rights of its own but rather as an object of the protection that the Declaration aimed to afford (OHCHR(a), 2007, p3). A change in this perception would not come until much later in the twentieth century. Moreover, despite being the first milestone on the landscape of child rights, it is noticeable that the term 'rights' is not referenced in any of the paragraphs within the documents. In fact, what is mentioned in place of the word "rights" is the word "needs," which is intended to be synonymous. The "need" account of the rights of the child has been criticised as one which is "pointed in the wrong direction" (Archard and McLeod, 2002, p25). Needs lack personhood, and as a result "do not make a promising account of human rights" (ibid). Although it is possible to say that the Declaration "created international standards for children's rights," interpretation of the word "needs" as synonymous with "rights" is incorrect in terms of modern-day conception of the term.

In addition, Declarations are non-binding and merely suggestive, whereas Covenants (and synonymously 'Conventions') are legally binding documents creating international norms and standards upon ratification. This means that a Declaration cannot impose legal obligations on States (Jennings and Watts, 1992). Nonetheless, the Declaration is demonstrative of the fact that the prevailing mood towards the end of the First World War was to view children as part of a "concern for the future of the nation" (Hendrick, 1997, p11). Such concern is echoed in the purpose of transitional justice, particularly as it relates to the notion of sustainable development and its impact on future generations, as demonstrated in Chapter 2 (section 2.2, p32).

Unfortunately, this focus was hastily redirected when the Second World War broke out fifteen years later, once again subjecting children to the horrors of war and conflict. It was at this point in history that international action in the field of children's rights came to an almost complete standstill (OHCHR(a), 2007, p3). Yet, all was not lost; the end of the War in 1945 led to the establishment, by Charter, of the United Nations (henceforth UN), to replace the League of Nations (Charter of the United Nations, 1945). A primary concern of the newly formed United Nations was discussing the question of a second Declaration of children's rights (OHCHR(a), 2007, p4). The UN General Assembly examined the issue "with regularity" in discussions between Member States and non-governmental organisations, which also included the idea of a UN Charter on the Rights of the Child (ibid). Eventually, agreement was reached that instead of a charter, discussions should result in a non-binding declaration, and a committee was formed to draft it (ibid).

In the meantime, the adoption of the Universal Declaration of Human Rights (henceforth UDHR) in 1948 "ushered in an era of prolific standard-setting in the field of international human rights law" (OHCHR(a), 2007, piii). The overarching purpose of the UDHR is to recognise "the inherent dignity" and "the equal and inalienable rights of all members of the human family" (UDHR, 1948, preamble). It also stipulates that childhood is "entitled to special care and assistance" and that "all children shall enjoy the same social protection" (ibid, article 25). However, as Tobin explains, the UDHR is problematic in that it subsumes the rights of children within those rights afforded to adults, presenting an idea of rights in a way that suggests "all those who enjoy a particular status do so equally and without any further distinction of lesser or greater status" (Tobin and Archard, 2019, p22). By way of example, the UDHR states that "all human beings are born free and equal in dignity and

rights" (1948, article 1). There is no specificity as to particular rights that should be afforded to children, instead favouring the approach that children should be afforded the same rights as adults. Indeed, the UDHR also states that "everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind" (1948, article 2). Consequently, children are not afforded any special "status or rank" when it comes to their rights under the UDHR, only that their rights are equal to adults (Tobin and Archard, 2019, p22).

After World War II had concluded, human rights ideals, as reflected in the UN Charter and the UDHR, looked to establish "the basis for defining the rights of children in full and legally binding ways" (Fass, 2011, p18). In doing so, thoughts once again turned to the drafting of a second Declaration on the Rights of the Child, which was adopted in 1950 and referred to the Commission on Human Rights for further consideration in 1951 (OHCHR(a), 2007, p7). At the time, the Commission was deep in the process of drafting two international covenants to reinforce both civil and political, and economic, social and cultural rights set out in the UDHR. Initially intended to be encompassed by a single Covenant, the drafting history shows that profound disagreement existed between States Parties as to which rights – civil and political, or economic, social and cultural - should take precedence. As a result, two Covenants were created instead of the intended single Covenant. The Preamble in both documents state that the rights contained within the two are indivisible and, together with the UDHR, are the core legislative texts which comprehensively and internationally protect fundamental human rights (Jennings and Watts, 1992).

There was therefore some delay in considering the second draft declaration on the rights of the child. However, in 1959, the new declaration detailed specific, fundamental protections for children, including the right to a name and nationality, the best interests of the child, the right to development, specific assistance for physically, mentally or socially handicapped children, education, play, protection from neglect, cruelty and exploitation, and discrimination (UNGA, 1959). These elements would continue to be of integral significance to the future development of international child rights law. However, although the Declaration was the immediate predecessor of the Convention, it "expressed a much more restricted conception of rights than would finally emerge" when the General Assembly adopted the Convention (Fass, 2011, p18). In addition, rights that embraced children's liberties, freedoms, or autonomy were not considered at all in the Declaration (Freeman and Veerman, 1992, p4). The focus was instead on adult duties to children (ibid).

In 1966, the two Covenants being discussed by the Commission on Human Rights on civil and political rights and economic and social rights were adopted. These Covenants were the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant of Economic, Social and Cultural Rights (ICESCR). There is not the scope within this chapter to examine both Covenants thoroughly with respect to the language used to describe the rights of children. However, by way of example, the ICCPR provides every child with "the right to such measures of *protection* (emphasis added) as are required by his status as a minor, on the part of his family, society and the State" (1966, Article 24). Moreover, the ICESCR contains a "special assistance" mandate in stating that children "should be *protected* (emphasis added) from economic and social exploitation," including

from unlawful employment and child labour (1966, Article 10). Both Conventions clearly refer to the rights of children, but once again, these rights were couched in the language of standard setting for, rather than specific obligations toward, the protection of the child.

2.2 From ‘standards’ to ‘legal obligations.’

Despite the progress made by the two Covenants, a specific document encompassing the rights of the child still did not exist. It was the state party of Poland that initiated the Resolution which would give rise to the Convention on the Rights of the Child.

The Polish draft of the Convention was published on the 18th of January 1978, the Preamble to which noted the need to strengthen the comprehensive care and well-being of children all over the world, as well as to assist children in the developing countries in a manner consistent with the goals of the new international economic order (OHCHR(h), 1978). Interestingly, the delegation of Poland also actively participated in the process of drafting the Declaration of the Rights of the Child in 1959, and Ludwik Rajchman, a Polish Physician, inspired the United Nations General Assembly to create UNICEF in 1946. There was therefore “an international tradition of Polish engagement for the improvement of the situation of children” (OHCHR(a), 2007, [Vol I], pxxxvii).

In 1979, to mark the International Year of the Child, the UN Commission on Human Rights established a Working Group tasked with creating a Convention for the rights of children. The draft convention submitted by Poland was to form the basic working document (OHCHR(i), 1988). At the first reading, the Working Group discussed each article in the draft Convention until agreement was reached, at which point the article was adopted

(Quennerstedt, Robinson, and l'Anson, 2018, p41). At the technical reading, overlaps and repetition with the draft convention was identified, consistency of language was checked, and the standards established in the Convention were compared with those in other human rights instruments (ibid). Finally, at the second reading, the working group made the final revisions to the text, taking the reports from the technical reading into account (ibid, p42). The final draft was submitted first to the Economic and Social Council for consideration, and then to the General Assembly for adoption (ibid).

After a decade of negotiations, the Convention was adopted and opened for signature, ratification and accession on the 20th of November 1989, entering into force on 2 September 1990 in accordance with Article 49 (UNGA, 1989). The Convention sets out a list of rights for children, with the substantive rights (listed in Articles 2-41) intended to read as interdependent and indivisible (OHCHR(a), 2007, pxliv).

As of June 2022, the Convention has achieved near-universal ratification, with only the United States still to ratify (although they are a signatory). As Reynaert et. al. note, not only does the near-universal adoption of the Convention symbolise an important validation of changing societal ideas on childhood, but States parties to the Convention commit to respect and ensure the civil, political, economic, social and cultural rights of children (Reynaert, Bouverne-de-Bie, and Vandevelde, 2009).

2.3 Forging new spaces for children as independent agents of rights

In the years between the two world wars, a contemporary concept of childhood was developed based on the idea that the child is an autonomous person, not only an object of care and concern but also a subject whose interests and rights should be respected

(OHCHR(a), 2007, pxxxvii). As Verhellen explains, in both respects, the Convention is an international treaty of great legal and symbolic importance, hailed as a manifesto for children “to be regarded as individuals with their own human rights and as competent to exercise them independently” (2015, p43). As a consequence, the Convention has “forged new spaces of contestation,” recognising that “the child, at a certain stage of his or her development, is capable of formulating and expressing his/her own opinions which ought to be taken into consideration” (OHCHR(a), 2007, pxxxvii).

At this juncture, it is important to point out that theories of childhood by Western scholars have dominated discussion on the rights of the child. As such, it is also important to mention that scholarship has now turned to addressing questions such as how the imposition of international child rights law affects the lives (and rights) of children in the global south.

More specifically, such issues are discussed in critical scholarly literature on the notion of decolonising children’s rights recognising that knowledge production on the rights of the child remains predominantly western (see Faulkner and Nyamutata, 2020; Quennerstedt and Robinson, 2018). Decolonial theory is “premised on the de-emphasis of Western knowledge and modes of conception of the world,” and “seeks to transform Western colonial epistemologies by stressing the importance of creating space for cultural, political and social memories and epistemologies from different geopolitical contexts” (p81, citing Richardson, 2012). Such aims are similar to those of the aforementioned TWAIL (Third World Approaches to International Law) scholars in critiquing the aims and operationalisation of transitional justice, as set out in Chapter 2 (section 3.1), as a

phenomenon that “reflects Western ideology” with this ideology “being pushed on non-Western cultures in the name of universality” (Schneider, 2020, p98).

To decolonise children’s rights literature would be to form “an intellectual and political project […] from the standpoint of the Third World […] opposing colonialism and the abuse of power” (ibid, p81, citing Barreto, 2013), for the purpose of focusing on a pluralised approach to pedagogy on children’s rights, aiming at “incorporating theoretical, conceptual and analytical tools which widen the knowledge base” (Faulkner and Nyamutata, 2020, p82). This is not to suggest that a decolonising agenda does not recognise the right of western knowledge and conceptions of the world, including children’s rights, to exist. Rather, critical literature pertaining to the decolonisation of children’s rights argues vociferously against such an approach being “the narrative for the rest of the world” (ibid, citing Mignolo, 2013, p19).As such, this section demonstrates the importance of understanding the roles played by social, political and economic forces in order to better frame discussions on how the right to be heard should be facilitated in transitional justice. The right of the child to express their views freely in all matters that affect them is a crucial linchpin of the thesis research. This right is provided for in article 12 of the United Nations Convention on the Rights of the Child (henceforth Convention).

It is also important to assess the implications of the right to be heard for all children, state obligations in facilitating the right, and barriers faced by children when participating in decision-making processes. It is with this in mind that such an assessment takes place in the following section, adding a much-needed extra dimension to the understanding of transitional justice as both a field of inquiry and in practice, and why it should be concerned about, and engaging with, the participation of children.

3. Establishing links between article 12 and transitional justice

The ComRC describes the right of all children to be heard in article 12 as “one of the fundamental values of the Convention” (Report of the ComRC, 2010, p61). However, before delving into an in-depth examination of article 12, it is important to first understand how the Convention frames ‘the child’ (and indeed ‘children’ and ‘childhood’).

3.1 The child of the Convention.

3.1.1 ‘Child’ defined: the importance of Article 1.

The 1924 and 1959 Declarations, the UDHR and the two International Covenants all refer to ‘the child’. However, none contain “an explicit *definition* of a child” (emphasis added) (Tobin and Archard, 2019, p22). Article 1 of the Convention is the first international human rights instrument to do so, defining a child as a human being below the age of eighteen (Convention, 1989, article 1). In doing so, the article sets out the scope of the Convention (in other words, “those to whom the remaining articles apply”) (Tobin and Archard, 2009, p22).

Of all the articles of the Convention, the drafting of article 1 was the most contentious of all, with the parameters of ‘who is a child’ being “discussed many times over, often in a strained atmosphere,” causing “a great deal of disagreement and argument” (OHCHR(a), 2007 [Vol 1]; Report of the Working Group, 1980, paragraphs 28-36). For example, much discussion was had on the “initial” and “terminal” points which define the concept of a child. In terms of the latter, the imprecise nature of the article in stating that the child can mean every human being “below the age” of 18 years, left some states parties to question whether 18-year-olds were in fact adults, and therefore should not be included in the definition of childhood at all. In particular, the drafters reflected on the fact that the age of

18 is “quite late in light of some national legislations,” with some States parties recommending a restrictive definition of the term “child” to reflect the fact that “the age at which a child attains his majority varies from one country to another” (OHCHR(a), 2007 [Vol. 1]).

Interwoven within these discussions were considerations to do with the notion of ‘age of majority.’ Article 1 goes on to say that a child is under the age of 18 “unless under the law applicable to the child majority is attained earlier” (Convention, 1989, article 1). A consensus was reached on the fact that the age of 18 “was an appropriate age at which to end childhood for the purposes of the Convention, provided that states had a discretion to adopt an earlier age of majority” (Tobin and Archard, 2019, p27). This creates “a presumption in favour of an age-based conception of childhood which ends at 18,” but this presumption can be rebutted “where a state determines that the age of legal majority should be younger” (ibid). Therefore, issues surrounding ‘who is a child’ is covered by specific legislation in each country (Tobin and Archard, 2009, p39). The Convention “provides protection for the rights of the child at a minimum level, below which States should not go,” yet also provides for a higher level of protection “where those standards already exist” (OHCHR(a), 2007, pxxxvii). In this way, the Convention applies to as large an age group as possible. This consensus was not easily reached, with some states insisting the use of the age of majority “as one of the central devices to delimit the scope of application of the Convention could weaken the whole Convention considerably” (Dietrick, 1999, p115). This was in particular with respect to “the emphasis to be given to the crucial links between article 1 and other articles, such as article 20 on children in armed conflicts” (ibid, p117). In addition, the Committee has been critical of those states which, although adopting the age of 18 as the official age of majority under their national legislation, “still

tolerate customary practices which adopt alternative conceptions of childhood" (Tobin, 2019, p27). For this reason, commentary on the Convention explains that the Committee is, albeit arguably, "within its mandate to demand that states must at least justify any definition of a child that does not extend to 18 years" (Tobin, 2019, p27-28). This is because of the very real risk of "giving licence to a state to avoid its obligations under the Convention by simply reducing the age of majority for reasons of convenience as opposed to a need to respect and accommodate long standing cultural or customary conceptions of childhood" (ibid).

What this demonstrates is that the scope of article 1 is still contentious even in current child rights scholarship. Defining who is a child, why children should be entitled to rights and which rights they should be entitled to are issues that are still deeply contested, for reasons that are beyond the scope of the thesis. The question of 'who is a child,' both for the purposes of the Convention and how this is challenged when bearing in mind cultural considerations, is discussed in Chapter 5 (section 3.2, pp186-188), in relation to what cultural perceptions of childhood mean for the participation of the child at the national and local level, as well as when accessing their other Convention rights.

3.1.2 'Childhood' defined: the Committee on the Rights of the Child

The following section discusses how the ComRC defines various 'stages' of childhood by way of General Comments.

The ComRC defines the stage of "early childhood" as encompassing the period below the age of 8 years (2005, paragraph 4). However, the ComRC recognises that definitions of

early childhood vary in different countries and regions according to local traditions and the organisation of primary school systems (ibid).

In terms of the relationship between early childhood and article 12, respect for the views and feelings of the “young child” is central to reinforcing them as “an active participant in the promotion, protection, and monitoring of their rights… [and] as a participant in family, community and society” (ibid, paragraph 14). Article 12 imposes no lower age limit on the right of the child to express their views, underlining the fact that the concept of the child as a rightsholder “should be anchored in the child’s daily life from the earliest stage" (2009, paragraph 14). In discouraging States parties “from introducing age limits either in law or in practice which would restrict the child’s right to be heard,” the ComRC notes that “it is not necessary that the child has comprehensive knowledge of all aspects of the matter affecting her or him, but that she or he has sufficient understanding to be capable of appropriately forming her or his own views on the matter” (ibid, paragraph 21).

In contrast, the ComRC presents adolescence as the period of childhood from 10 years until the 18th birthday, but also notes that individual children reach maturity at different ages on a broad spectrum (2016, paragraph 5). Acknowledged as a dynamic transition period to adulthood and a period in the life of a child characterised by rapid physical, cognitive and social changes, the ComRC states that adolescence is defined by the “gradual building up of the capacity to assume adult behaviours and roles involving new responsibilities requiring new knowledge and skills” (2003, paragraph 2). The ComRC also recognises adolescence as a period of positive changes, including the significant capacity to learn rapidly, to experience new and diverse situations, to develop and use critical thinking, to familiarise themselves with freedom, to be creative and to socialise (ibid). In mentioning the “second decade” of adolescence as one in which children “begin to explore

and forge their own individual and community identities on the basis of a complex interaction with their own family and cultural history," the ComRC refers directly to the creation of "an emergent sense of self," with identities built and expressed through language, arts and culture, "both as individuals and through association with their peers" (2016, paragraph 10). The ComRC also recognises that the process of transitioning from childhood to adulthood is "influenced by context and environment, as reflected in the wide variation in cultural expectations of adolescents in national legislations" (ibid, paragraph 5). This reflects the way different societies across the world afford different thresholds for entry into adult activities (such as participation in transitional justice) (ibid). These factors also influenced my decision to work with children between the ages of 13-18 in fieldwork research. Clarification on the decision-making process in this respect can be found in Chapter 4 (section 4.2).

Although two sub-groups of childhood are identified and defined by the ComRC, it appears that there may be a gap between the two sub-groups that is not addressed. One General Comment discusses early childhood or 'younger children' as being up to the age of 7 (or "below the age of 8"), whilst the other discusses 'adolescence' or those in their teenage years from the age of ten until 18. In actuality, the ComRC recognises not two, but three broad yet distinctive dimensions of childhood: early childhood, middle childhood, and adolescence (Tobin and Archard, 2019, p31). Middle childhood covers the period from when a child has made the transition to school to the time when he or she reaches adolescence (ComRC, 2005, paragraph 8). This is to reflect the fact that children reach maturity at different ages (ComRC, 2003, paragraph 2).

In recognising three dimensions of childhood, the ComRC ensures that the definition of a child under article 1 “is not used to inadvertently deny or overlook the extraordinary difference in the needs, interests and capabilities of children over the period from birth until 18 years of age” (Tobin and Archard, 2019, p31).

3.1.3 The dangers of a false uniformity

The framing of the child and children of the Convention here is a cursory glance only, with the explicit intention of demonstrating how article 1 must be used as a lens through which to view the right to be heard in article 12. Article 1 should not be interpreted in a way that understands children as a homogenous group; the ComRC considers the intricacies of the developmental stages of childhood and their different needs. As Ochaita and Espinosa explain, the ComRC understand the inherent diversity of children and childhood, as well as the dangers of establishing a “false uniformity of needs and rights for an evidently heterogenous group” (1997, p285).This is why it is all the more important to understand, as Tobin explains, that although disputes over the precise boundaries of childhood in law are inevitable, “they do not impugn the need for some boundary markers” (2019, p40). As Freeman and Veerman note, enacting the Convention is one thing: implementing it in different countries of the world is another (1992, p40). It is important to bear this in mind when thinking about how to facilitate the participation of children in transitional justice, the mechanisms of which must similarly be mindful of context. Some scholars argue that contextual conceptions of childhood “undercut the premise” of the Convention “as the embodiment of the “universal child,”” suggesting that a universal approach to the rights of the child ignores the fact that “cultural particularities are objective realities” (Faulkner and Nyamutata, 2020, p76). However, for scholars such as Woodhouse, the Convention “while

it is universal in application, addresses the specific needs of different groups of children in the specific contexts and environments in which they are embedded" (2019, p357). Despite the tension points evident from these points of view, what they clearly demonstrate is that the law "need not characterise all children as alike in all respects" (Tobin and Archard, 2019, p40).

3.2 Doctrinal analysis of article 12

The full text of article 12 of the Convention is as follows:

> "States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child."

There is no equivalent to article 12 in any of the aforementioned declarations or covenants of international human rights law. As such, article 12 has emerged as one of the most influential of the Convention's provisions for children in both international and domestic law, making a greater contribution than any other article in the Convention to the idea of the evolving autonomy of the child (Lundy, Parkes and Tobin, 2019, p398). However, it is precisely for this reason that article 12 is also known as one of the most contentious rights in the Convention, with resistance to the idea that children should influence the decisions that impact on their lives remaining widespread (ibid). To undertake a thorough doctrinal analysis of article 12 and consider it from a transitional justice perspective serves to underscore the significance of the right and the need to ensure that proactive strategies exist to secure its implementation (ibid).

The following analysis is structured so as to demonstrate the intricate relationship between article 12 and transitional justice. It is intended to be an overview of article 12 in the extent to which it can be used to assess whether transitional justice mechanisms have (or have not) engaged with the participation of children in a way that is reflective of international child rights law. In particular, the analysis emphasises that article 12 consists of two elements. The first is that the child has the right to express his or her own views freely in all matters affecting them; the second is that these views shall be given due weight (Lundy, 2007, p931).

3.2.1 'Shall (always) assure'? balancing participation and protection.

Article 12 provides that States parties "shall assure" the right of the child to express views freely (Convention, 1989, article 12(1)). As a legal term, the wording 'shall assure' has a particular meaning and explicit strength, leaving no leeway for the discretion of States to do otherwise (ComRC, 2009, paragraph 19). Indeed, article 4, in setting out the obligations of state parties, stipulates that they "shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognised in the present Convention," including the right to be heard in article 12 (Convention, 1989, paragraph 4; ComRC, 2003, Foreword).

The previous chapter noted the reluctance of members of the Truth Commission of South Africa to facilitate the participation of children, with members struggling to find a balance between hearing the experiences of children and being wary of the possible harm this may cause. Yet on its face, the wording "shall assure" in article 12 demands that states parties meet their legal obligation "to undertake appropriate measures to fully implement this right for all children" (2009, paragraph 19). Does the legal strength of the wording 'shall assure'

used in article 12 have ramifications for the way transitional justice should, in fact, engage with the participation of children?

Article 3, in setting out the general principle of the best interests of the child, plays a significant role in this discussion. Article 3 places a legal obligation on states, who “shall take all appropriate legislative and administrative measures” to ensure that the child has “such protection and care as is necessary for his or her well-being, taking into account the rights and duties of […] other individuals legally responsible for him or her” (CRC, 1989, article 3; ComRC, 2003, paragraph 4).

For example, if the participation of a child in a mechanism of transitional justice leaves them exposed to harm in some way, it is the duty of those adults who make the decision on who can participate to bear this in mind, in order that the best interests of the child are protected. As Herbots and Put note, although the Convention itself recognises children as rights holders with the right to interact with their environment at distinct social levels and on various topics affecting their lives, it is also the case that the right to be heard is inextricably linked with the protection and provision rights of the child (2015, p180). Measures taken to adopt article 12 must be consistent with other rights under the Convention that protect children from harm, including article 3. These measures must be “effective, ethical and meaningful” in enabling children to express their views consistent with article 12 (ComRC, 2009, paragraph 19).

The relationship between Articles 3 and 12 requires that a balance must be achieved between these two aspects of children’s rights, which should be considered on a case-by-case basis (Lucker-Babel, 1995, p394). This strikes at the heart of the relationship between participation and protection in the Convention; the ‘shall assure’ terminology

ensures that the right to be heard is not only a universal right that all children can access, but a right for which there is a strict obligation placed on states. The ComRC emphasise the importance of the views of the child being taken into consideration when assessing his or her best interests (2013, paragraph 43). It is possible to argue the case that the decision to exclude children's direct testimony "clashed with" the right of the child to share experiences and express views (Rana and Zvogbo, 2021, p295). However, the ComRC also notes that "care needs to be taken to protect children from exposure to situations that are likely to be traumatic or harmful" (2009, paragraph 125). This is important when referring back to the past practice of the South African TRC. Therefore, a fair balance must be struck between the two competing interests of the child's right to be heard and the child's right to be protected and have their best interests considered. The quandary that the TRC faced when deciding on the extent to which they should facilitate child participation was how such a balance should be achieved.

As Henaghan explains, adults are not the only arbiters of a child's best interests, and children should have a much greater role in shaping future policies and legislative changes about issues affecting them (2017, p550). However, Brunnberg and Visser-Schuurman note the acknowledgement of the ComRC that in such instances, "the "hearing" of a child is a difficult process that can have a traumatic impact on the child," as well as the negative consequences of "an inconsiderate practice of this right," more so for very young children or for children who have undergone sexual abuse, violence or other forms of mistreatment (2015, p569). In these cases, states parties "must undertake all necessary measures to ensure that the right to be heard is exercised ensuring the full protection of the child" (2009, paragraph 21). This is something to consider when thinking about how best to

ensure that child participation in transitional justice is facilitated in a way which is the most effective not only for the process itself, but for the child.

For children who come into contact with transitional justice mechanisms, there will always be a critical ethical dilemma “to balance the right of children to be heard about matters that affect them and the right to be protected from any possible exploitation or harm” (Brunnberg and Visser-Schuurman, 2015, p569). This is not to say that concerns about intimidation and traumatisation of children, such as those exhibited by the TRC in South Africa, are unfounded. However, by using a child rights framework based on article 12 of the Convention, strategies that both empower and promote the informed participation of children, in a way which minimises risks, are indeed possible (ibid). Some of these strategies will be explored in later chapters of the thesis.

3.2.2. The ‘capable’ child.

Article 12 provides that every child 'capable of forming his or her own views’ should be facilitated to do so. The way in which I will assess the notion of the capable child in the Convention is through its relationship with article 5 and the principle of ‘evolving capacities.’ Varadan notes that the ComRC “ascribes three functions to “evolving capacities” in its interpretation of article 12: (1) interpreting ‘capable of forming his or her own views’ in a manner that enables all children to engage their rights under article 12; (2) providing a framework for assessing and attributing ‘due weight’ to the views of the child; (3) recognising the right to be heard as a condition precedent in the child’s right to receive appropriate direction and guidance from parents, guardians and adult carers under article 5” (2019, p317). I will address the latter two points by way of further doctrinal analysis of article 12 in following sections. Here however, I will look at the first point, reading the

phrase “capable of forming his or her own views” in a way which facilitates all children, in accordance with their evolving capacities, to engage with their article 12 rights, particularly in transitional justice. As such, the relationship between article 12 and article 5 will be given the necessary attention here.

Article 12 assures the right to be heard “to every child capable of forming his or her own views” (ComRC, 2009, paragraph 27). In invoking the concept of evolving capacities in article 5, the ComRC therefore dispel “the notion that a child must meet a threshold of competency to be ‘capable of forming his or her own views’ under article 12” (Varadan, 2019, p323). The ComRC explain that the use of the word ‘capable’ in the article “should not be seen as a limitation, but rather as an obligation for States parties to assess the *capacity* of the child to form an autonomous opinion to the greatest extent possible” (emphasis added) (2009, paragraph 20).

The word ‘capable’ in article 12 is “central to the balance embodied in the Convention between recognising children as active agents in their own lives, while also being entitled to protection” (Lansdown, 2005, p3). Nonetheless, for some the word ‘capable’ is of great contention in child rights scholarship for those who feel it harks back to notions of childhood which “perceive children as partly formed human-becomings rather than as human-beings capable of full experiences and relationships” (Alderson and Goodwin, 1993, p307). For others, the Convention begins with the assumption that the child *is* competent and capable and assert that the childhood image of the “competent, autonomous child” lies at the very heart of the Convention itself, not just in article 12 (Reynaert and Bouverne-De Bie, 2012, p157). Recognising the agency of children is a vital step forward in promoting respect for their views, and this begins with the word ‘capable’ understood in the way the drafters intended (ibid).

As Smith notes, the Convention must strike a balance between “welfare rights and liberty rights,” with the former requiring that the interests of the child are preserved, promoted and protected and the latter recognising that the child is capable of making and exercising choices (2007, p148). This does not mean that the Convention fails to recognise the importance of the agency of the child or that their interests as people capable of acting are not recognised (Leibel, 2018, p621). Nonetheless, as Morrow explains, the fact remains that there are many children that are “effectively denied rights to make decisions about their affairs which as adults, we take for granted” (1999, p150).

The ComRC notes that it is “a clear and immediate legal obligation of states parties under the Convention” to invest in the realisation of article 12 for every child without discrimination (2009, paragraph 135). However, as it stands, the implementation of article 12 is viewed as being highly dependent upon adult perspectives of how ‘capable’ they consider children to be in voicing their opinion and on which perspectives adults choose to place the most emphasis (I’Anson, Quennerstedt and Robinson, 2017, pp50–67). This is despite the fact that the ComRC asserts, strongly, that states parties cannot begin by assuming that a child is incapable of expressing her or his own views (2009, paragraph 20).

3.2.3 ‘Choosing’ to express views ‘freely.’

The word “freely” in the construction of article 12 should be understood in two ways. First, the child must be provided with the opportunity to express her or his views “without pressure” (ComRC, 2009, paragraph 22). Second, the child has the sole choice of “whether or not she or he wants to exercise her or his right to be heard” (ibid). Both understandings of this element of article 12 require more detailed analysis when it comes

to thinking about child participation in transitional justice, and each will be discussed in turn.

Firstly, the word “freely” entails that the child must not be manipulated or subjected to undue influence when giving their views and opinions (ibid, paragraph 20). As such, the space offered to children must be a safe space where they are protected from abuse and able to express their views without fear of rebuke or reprisal (Lundy, 2007, p934). This has particular relevance when thinking about the role of children in transitional justice, particularly in those situations where children under 18 find themselves within national or local justice mechanisms as offenders, victims, or witnesses (ComRC, 2009, paragraphs 60-63). In such cases, article 19 provides a buttress by obliging states parties to ensure that children are protected from harm (Lundy, Parkes and Tobin, 2019, p407).

On a related point, the General Comments were drafted by the ComRC in recognition of the fact that certain groups of children require special measures in order to fully enjoy their rights, including their right to speak freely. Specific General Comments exist (for example) for children with disabilities, street children, indigenous children, and children in juvenile justice. The ComRC also sets out how article 12 should be implemented in different settings and situations, such as in the family, in alternative care, healthcare, education, immigration and asylum proceedings, and emergency situations. The Committee therefore avoids the accusation of ‘decontextualised solutions’ made against transitional justice mechanisms by way of the specific attention afforded to diverse groups of children and how they should be treated in different settings and situations. This also includes barriers to child participation, including the combination of social, cultural, attitudinal, and physical obstacles which children encounter in their daily lives.

For example, Føleide and Ulvik note that assuring the right of the child to express their views freely is challenging when there are those adults who believe that children "can only speak freely when they are instructed to speak truthfully or honestly" (2019, p624). Moreover, children are also much more likely to face discrimination due to disability, ethnic background or social disadvantage (Lundy, Parkes and Tobin, 2019, p407). These factors serve to complicate the child's right to be heard in the sphere of their everyday lives, but also in transitional justice at both the national and local levels. The ComRC assert that "the conditions for expressing views that account for the child's individual and social situation," as well as "an environment in which the child feels respected and secure when freely expressing her or his opinions," must be ensured (2009, paragraph 23).

Secondly, the choice to be heard always lies with the child (ibid, paragraph 16). Children should never be coerced into expressing views against their wishes (ibid, paragraph 134(b)). Expressing views is a choice for the child alone to make, and one that should be made with their informed consent (ibid). In order for consent to be fully informed, children must be provided with "full, accessible, diversity-sensitive and age-appropriate information" about the scope and purpose of their participation in any given process (ibid, paragraph 134(a)). The ComRC recognises the role of those who are responsible for hearing the child in ensuring that children are "informed about the matters, options and possible decisions to be taken and their consequences," as well as "the conditions under which she or he will be asked to express her or his views" (2009, paragraph 25). This is essential because the right to information is "the precondition of the child's clarified decisions" (ibid).

Indeed, article 13 of the Convention, in setting out the right of the child to freedom of expression, also includes the right to "seek, receive and impart information and ideas of all

kinds" (CRC, article 13). This is particularly important in those contexts where children are prevented from expressing themselves freely, and where traditional cultural attitudes towards children require that they are 'seen but not heard.' However, the ComRC is clear when it asserts that states "have to ensure that the child receives all necessary information and advice," including about the pros and cons of participating through a representative, "to make a decision in favour of her or his best interests" (ComRC, 2009, paragraph 16). The relationship between traditional cultural attitudes towards children and freedom of information as a complicating factor for child participation will be discussed in greater depth in Chapters 5 and 6.

It is clear then, when looking back at the past practice of the TRC in South Africa, that those "responsible for hearing the child" should have ensured that children were informed about their right to express their opinion and that they received information about the option of either communicating directly or through a representative, and the consequences of this choice (ibid, paragraph 41). Indeed, the participation of children in the TRC could have been "in the format of a talk rather than a one-sided examination," but this option was not offered to children (ibid, paragraph 43). The ComRC state that when a "case-by-case analysis" indicates that the child is capable of forming their own views, the child's views must be given due weight (ibid, paragraph 44). This includes their views on whether they wish to speak for themselves and participate directly in the TRC process, or whether they have a representative do so on their behalf, and "the decision maker must consider the views of the child as a significant factor in the settlement of the issue" (ibid). Unfortunately, as acknowledged by the ComRC, "good practice for assessing the capacity of the child has yet to be developed" (ibid). Nonetheless, it is clear that the South African TRC did not

give children this choice, and instead made the decision that they could not participate on their behalf, without consulting them in the first instance.

3.2.4 Without limitation: the ‘all’ in ‘all matters affecting the child.’

The travaux preparatoires show that a proposal to define specific matters that affect a child by way of a list was rejected by the drafters, instead referring to “all matters” affecting the child (Report of the Working Group, 1981, paragraph 78). We can gather from this that “when faced with a choice between adopting a restrictive and open-ended understanding of those matters on which children were to enjoy a right to express their views, the drafters of the Convention adopted the least restrictive formulation” (Lundy, Parkes and Tobin, 2019, p408).

Similarly, the ComRC “has not seen it necessary to confine the scope of article 12 to those matters which are specifically or exclusively concerned with and have a *direct effect* on a child or children” (emphasis added) (ibid, p409). This is a point that bears direct relation to the consideration of the intergenerational legacy not only of conflict, but of transitional justice, as noted in the introduction to the thesis (section 2.1, pp6 - 7) and discussed further in Chapter 4 (section 4.4, p127), and an element demonstrated throughout Chapters 5 and 6. The ComRC places great importance on the fact that the views of children can add "relevant perspectives and experience and should be considered in decision-making, policymaking and preparation of laws and/or measures as well as their evaluation" (ibid, paragraph 12). This commitment to follow-up and evaluation is essential for children, who are entitled to “clear feedback on how their participation has influenced any outcomes” (ibid, paragraph 134(i)). There is a considerable benefit to listening to the

views of children “wherever their perspective can enhance the quality of solutions” (ibid, paragraph 12). As McMellon and Tisdall note, this should include the views and opinions of the child on matters outside of the remit of the Convention, as well as contextual matters, such as socio-economic, political, cultural or organisational factors – all of which can dramatically impact on the participation of children (2020, p161). Indeed, the ComRC note that the monitoring and evaluation of children’s participation “needs to be undertaken, where possible, with children themselves” (2009, paragraph 134(i)).

This is of growing importance as transitional justice continues expanding to address new harms that cannot be truly ‘dealt with’ through a narrow legalistic approach, but nevertheless are “matters” that affect children. For example, an area that has received much attention is how transitional justice has grappled with issues surrounding socioeconomic inequality, including (but not exclusively) for children, as presented in Chapter 2 (section 4, p59). The UN Secretary General has stated that the UN “must promote dialogue on the realization of economic and social rights, and provide concrete results through transitional justice mechanisms” (ICTJ(e), 2019, p15) Nevertheless, as Lykes and Van Der Merwe explain, most transitional justice mechanisms “continue to be embedded in civil and political rights” and frequently fail “to redress the violations of social, economic and cultural rights and the structural inequities that underlie and have given rise to or supported violations of civil and political rights” (2017, p372). Moreover, as Shmid and Nolan explain, scholars and practitioners are engaging all the more in “an important and increasingly complex debate about whether transitional justice should and/or can incorporate economic and social concerns” (2014, p363). Such debates are reflective of research on transitional justice which views the field as an interdisciplinary one (although this is not without contention, as demonstrated in Chapter 2).

Be that as it may, the wording of ‘all matters affecting the child’ in article 12 requires that children “should not be precluded from expressing their views on a matter simply because its impact is considered to be unintended, indirect, incidental, or marginal” (Lundy, Parkes and Tobin, 2009, p409). There are no limits provided as to the matters that affect children, either in their everyday lives or in broader political matters (Henaghan, 2017, p540). As such, children should be facilitated to share their views and opinions in mechanisms of transitional justice on matters of socioeconomic injustice (and indeed cultural harms and injustice as barriers to their participation), as these too are ‘matters affecting the child’ for the purposes of article 12.

In addition, the ComRC stresses the importance of including children in the social processes of their community and society (2009, paragraph 27). In this respect, the implementation of the right to be heard should take place “in the diverse settings and situations in which children grow up, develop and learn” as it is in these settings and situations that “different concepts of the child and her or his role exist, which may invite or restrict children’s involvement in everyday matters and crucial decisions” (ibid, paragraph 89). The importance of this is demonstrated in the previous chapter, which noted the negative treatment of girl ex-combatants in the DDR process in Colombia. Article 2 of the Convention provides that every child has the right not to be discriminated against in the exercise of his or her rights, including those provided under article 12 (2009, paragraph 75). As an “inherent right,” States parties “shall take adequate measures to assure to every child the right to freely express his or her views and to have those views duly taken into account,” without discrimination on grounds of gender (ibid). As a state party, Colombia must address the discrimination girls face in the DDR process, to ensure that

they “are enabled to participate in all matters affecting them on an equal basis with all other children” (ibid).

The ComRC explains that children affected by emergencies should be encouraged and enabled to participate in analysing their own situation and future prospects” (2009, paragraph 125). Article 12 has particular relevance in these situations because it has a “transformative agenda,” recognising that “if such situations have a real impact on their lives, then children have a right to express their views in relation to how best to respond in such situations” (Lundy, Parkes and Tobin, 2019, p410). This demonstrates the importance of understanding that an approach to prevention should not only include judicial, legal and constitutional reforms, but also go beyond institutions to cover activities of civil society and in the cultural and individual spheres (ICTJ(e), 2019, p10). Therefore, states parties play a direct role in overcoming existing barriers to the participation of children, which means a dismantling of “the legal, political, economic, social and cultural barriers that currently impede children’s opportunity to be heard and their access to participation in all matters affecting them” (ComRC, 2009, paragraph 135).

3.2.5 The importance of defining ‘due weight’ in the participation process

As aforementioned, article 12 of the Convention consists of two elements, with the second element being that the views and opinions of children shall be given due weight (Lundy, 2007, p931). Simply ensuring the provision of opportunities for children to express their views “is not sufficient to satisfy the requirements of article 12” (Parkes and Tobin, 2019, p451). The article also requires an additional element, that the views of the child must be given “due weight in accordance with their age and level of maturity” (Convention, 1989, article 12(1)).

In short, the phrase ‘due weight’ requires that the views of the child be given serious consideration when making decisions (ComRC, 2009, paragraph 28). On its face, to consider the concerns and perspectives of children in decision making is important if the views and opinions of the child or children are to inform a decision which will affect their lives. However, a question remains with respect to how far this should be realised in contemporary practice (in other words, how much weight, or how seriously, children’s views must be treated) (Lundy, Parkes and Tobin, 2019, p411).

Article 12 lists two elements which must be considered when determining the weight to be afforded to the views of children: their age, and their maturity, and how both impact on the child’s level of understanding of the implications of the matter (Lansdown, 2011, p23). The underlying assumption is that as a child ages and matures, the weight to be afforded to his or her views must increase as a result (ComRC, 2009, paragraphs 84-85). To fully understand what this means in the context of article 12, we must once again refer to article 5 and the principle of ‘evolving capacities,’ this time focussing on the responsibilities, rights and duties of adults to the child in this respect (including parents, extended family or community, legal guardians or any other duty bearer responsible for the child) (Convention, 1989, article 5). The view expressed by the child is examined not only in the context of *what* has been said, but according to the child's *age* and *maturity* (emphasis added) (Lucker-Babel, 1995, p399). The ComRC states that the child has a right to direction and guidance, which has to compensate for the child’s lack of knowledge, experience and understanding (2009, paragraph 84).

The ComRC has made clear that the level of understanding of a child is not linked to their biological age (ibid, paragraph 29). Much research has taken place that has informed the position of the ComRC on the fact that “information, experience, environment, social and

cultural expectations, and levels of support, all contribute to the development of a child's capacity to form a view" (ibid). In addition, the ComRC understands maturity to be "the ability to understand and assess the implications of a particular matter," and "the capacity of a child to express her or his own views on issues in a reasonable and independent manner" (ibid). The 'ability' of the child in this regard is influenced by "a range of factors including the child's own lived experiences, his or her level of education, intelligence, and empathy," as well as the information made available to the child (Lundy, Parkes and Tobin, 2019, p412).

The best interests of all children must be "established in the same way as when weighting individual interests," and opportunities should be provided to hear children and to give their views due weight when planning actions, including in legislative decisions (ComRC, 2009, paragraph 73). The ComRC note that "the greater the impact of a matter on a child or group of children, the greater the weight that should be accorded to his or her (or their) views (Lundy, Parkes and Tobin, 2019, p414). In turn, if children are affected by a decision, greater effort should be made to understand the children's views and position, and the better the decision is likely to be (Henaghan, 2017, p540). The challenge occurs when trying to find ways of ensuring that adults not only listen to children but that they take children's views seriously, irrespective of their 'age,' and with a balanced view on their 'maturity' (Lundy, 2007).

4. The legitimacy of the Convention in the African context: the interplay between article 12 and article 7 of the ACRWC

The above analysis of article 12 of the Convention serves to provide the analytical framework of the thesis. However, given that qualitative fieldwork research takes place in Rwanda, it is important to address the ways of knowing and understanding the rights of the

child – including the right to be heard and to participate –in the context of the African continent.

Such understanding is addressed here through the African Charter on the Rights and Welfare of the Child (henceforth ACRWC). The ACRWC is a regional human rights instrument “addressing issues of particular interest and importance to children in Africa” (see website for the African Committee of Experts, no date). By looking in more detail at the ACRWC, how this instrument compares with the Convention and how both instruments have been received at the national and local levels, critical scholarship on the Convention, particularly that of African scholars, will be brought to the fore to provide important context for the fieldwork research, particularly when it comes to understanding article 12 through the lens of children in Rwanda. Specifically, although it might be argued that the ACRWC is a duplication of most of the rights already in the Convention, it will also be seen that in reality, there is no direct equivalent of article 12 of the Convention in the ACRWC; instead, what exists is a significant weakening of the provision, the reasons for which will also be explored in this section in line with critical literature. Acknowledgement of this point provides important context for why I chose to use article 12 of the Convention rather than the equivalent provision in the AWCRC for the purposes of the research.

The ACRWC was adopted by the Assembly of Heads of State and Government of the Organisation of African Unity (OAU) in July 1990 and came into force in November 1999. In a similar way to the Convention, the Articles of the ACRWC are bound together by four overarching general principles designed to aid in the interpretation of the Charter as a whole, but also to guide national programmes of implementation (Oluwu, 2002, p129).

The reasoning behind the idea of a regional charter was the perceived "side-lining of Africans from the UN drafting process" of the Convention, and "the exclusion of 'African-Specific' issues" within it (Oyeyemi, 2022, p116). The ACRWC was therefore created as a distinct charter for the children of Africa which reflected the specific realties of the African context (Faulkner and Nyamutata, 2020, p76, citing Viljoen, 1991; Ankut, 2006). This is not to say that the Convention has not been widely accepted on the continent. In fact, all countries in Africa have ratified the Convention, the latest being Somalia and South Sudan in 2015. Moreover, the ACRWC is not designed to be opposed to the Convention; the two are complementary and "provide the framework through which children and their welfare are increasingly discussed in Africa" (Olowu, 2002, p128). However, as Olowu (2002) notes, the ACRWC "stresses the need to include African cultural values and experience in considering issues pertaining to the rights of the child in Africa" (p128).

The consideration of such context-specific cultural values in the ACRWC when it comes to the right of the child to be heard and participate is demonstrated in article 7, and its relationship with another article of the Charter, article 31. Article 7 of the ACRWC (under the label of 'freedom of expression') states the following:

> "Every child who is capable of communicating his or her own views shall be assured the rights to express his opinions freely in all matters and to disseminate his opinions subject to such restrictions as are prescribed by laws."

In comparing this with article 12(1) of the Convention, Oyeyemi (2022) points out that the extent to which children exercise their autonomous participatory rights under the Convention and the ACRWC differs considerably (p119-120). For example, Oyeyemi asserts that discrimination on the basis of the ability to communicate is "clearly present" within article 7, and additional restrictions are also imposed by national, municipal laws in

the country in which the child lives (ibid). Such a limited scope makes it difficult to suggest that children have true 'freedom' of expression, and as a result there is a clear, consequential impact on the right of the child to be heard or to participate given such a limited scope.

However, to truly understand the limitations of article 7 ACRWC in comparison to article 12 of the Convention, it is important to see how both are understood and realised in practice. The ACRWC is a document "born out of the feeling by African member-states that the Convention missed important socio-cultural and economic realities of the African experience" (ibid, p128, citing Viljoen, 2000). With reference to the former socio-cultural realities of the African experience, ideas of dignity "are central to African conceptualisations of human rights," which are often "grounded in community" and include "the capacity to conceive of oneself as 'we'" (Metz, 2012). The latter, economic realities of the African experience refer to the extent that poverty and underdevelopment "underpin the assertion by many Africans that economic and social rights must take precedence over civil and political rights" (ibid, p61, citing Ibhawoh, 2001, p59). Interestingly, the importance of 'broadening the scope' to consider the socio-cultural and economic experiences of different contexts, as well as arguments against doing so, are also referred to when discussing the scope and purpose of transitional justice, as seen in Chapter 2 (section 2).

As Higgins (2019) notes, although "Western-centric human rights perspectives tend to emphasise individual freedoms and liberal ideals," African conceptualisations of human rights "emphasise dignity, communitarianism, holism, spirituality, the sacred, and socio-economic responsiveness," which in turn "distinguishes African conceptualisations of human rights from Western-centric ones" (p56). Indeed, as is demonstrated by data presented in both Chapters 5 and 6, the link created within Rwandan society between

human rights and communitarianism also impacts on how the rights of the child are known and understood in Rwanda by adults within the communities in which children live. The community “provides a framework – a viable framework – in which an individual can attain their potential” and “a practical route to personhood” (Higgins, 2019, p58, citing Gyekye, 1997, p. 44). For example, In addition, “African values of mutuality, commonality, relationship of the self with the community, and responsibility” are significant aspects of African conceptualisations of human rights, as are “emotion, spirituality, and ancestral wisdom” (Higgins, 2019, p60). Section 4 of the previous chapter demonstrated how such values are included in the curriculum of mainstream education in Rwanda. As such, Article 12(1), has been the subject of much debate and controversy on the African continent, particularly in the way that it presents the autonomy rights of the child “as having a separate identity from others” (Oyeyemi, 2022, piv). These critics “question the desirability and applicability of the UNCRC construction of a child’s autonomy within those socio-cultural contexts where the autonomy of the individual is not emphasised as much as his/her interdependence and duties within the family and the community” (ibid).

Such interdependence and duties are visible in Article 31 of the ACRWC, which states the following:

> “Every child shall have responsibilities towards his family and society, the State and other legally recognized communities and the international community.”

As part of this aforementioned responsibility, and “subject to his age and ability,” the child has the duty of working “for the cohesion of the family, to respect his parents, superiors and elders at all times and to assist them in case of need,” to “serve his national community by placing his physical and intellectual abilities at its service,” to “preserve and strengthen social and national solidarity” as well as “African cultural values in his relations

with other members of the society," to "preserve and strengthen the independence and the integrity of his country," and "to contribute to the best of his abilities, at all times and at all levels, to the promotion and achievement of African Unity" (ACRWC, article 31, paragraphs (a)-(f)). When read in conjunction with article 7 of the Convention, it is clear that article 31 has ramifications for the right of the child to be heard and to participate. As Twum-Danso (2005) notes, in such contexts, childhood is perceived and conceptualised "in terms of inter-generational obligations" (p13). Fokala (2021) explains that there are "a plethora of provisions" in the ACRWC that "accentuate the importance of strengthening and promoting positive African ethical, cultural, religious and social practices in the family," the practicing of which is "profound in the lives, upbringing and development of an African child relating to a child's right to participate" (p125). Indeed, according to article 31 of the ACRWC, the child has the responsibility to "preserve and strengthen African cultural values in [the child's] relations with other members [of the family], in the spirit of tolerance, dialogue and consultation" (Fokala, 2021, p126).

However, despite the responsibility placed on the child to engage in dialogue and consultation on such matters, collaborative decision-making "is not a very common practice across most African families" (Fokala, 2021, p127). This could be viewed as surprising given that "most ancient traditions across the African continent "allow children to participate in cultural, religious and leadership matters" (Fokala, 2021, p116). However, the overarching aim of such participation by children "is to transfer certain African practices to the next generation," rather than to facilitate child participation for its own sake (ibid). This demonstrates that a significant issue pertaining to child participation in the ACRWC as compared to the Convention is how the ACRWC conceives of the relationship between children and adults. Ensor and Reinke (2014) note that the Convention was "hailed as a

significant milestone" in the promotion of children's rights at the global level, while the ACRWC "was similarly lauded for its ambition to offer correctives and fill any gaps left by the CRC with respect to the rights of African children" (p73). This demonstrates that the ACRWC is "not only shaped by views of the rights of children universally" but, due to communitarian principles rooted within the socio-cultural context of the African continent, "also seeks to detail the rights and responsibilities of African children more specifically" (Ensor and Reinke, p77). However, although there are many similarities between the Convention and the ACRWC, the ACRWC is nevertheless representative of "ideological differences in the conception of childhood and children's rights" between those that are Western-centric and those which are centred on the "African child" (Faulkner and Nyamutata, 2020, p76).

As Ensor and Reinke (2014) explain, the Convention "constructs children as independent subjects," whilst the ACRWC places stronger emphasis on protection and provision, and as such "has been interpreted as highlighting children's *interdependence*" [emphasis added] (p77, citing Abebe, 2013, p88).The worst case scenario for the child's right to be heard and to participate as a result of this focus on interdependence is "the pervasive belief that children should be seen and not heard," something that Ofodile (2009) asserts "is, perhaps, the most dangerous and damaging of all silences in Africa" (p59). Indeed, Fokala (2021) explains that in the African context there are "several barriers extant within the family that hinder children from meaningfully participating," including "parental authority and control, power relations, children's presumed immaturity, and the legal protection of the family as a private unit" (p119). Such barriers are also referred to in more detail by children in focus groups in Rwanda (see Chapter Five, section 3.1).

It is important to note at this juncture that both the Convention and the ACRWC obligate and strengthen the need for a child to participate decision-making process in all matters concerning the child, with child participation governing “the interpretation and implementation of all children’s rights (Fokala, 2021, p117) Yet, Arts (1993) notes that “on average, the more political or participation-oriented rights and freedoms are formulated more weakly in the African Charter than in the Convention” (p147). In stark contrast to the ACRWC, child participation as construed in the Convention “requires far more than just including children in ceremonies” (ibid, p117). In this respect, the ACRWC is more limited than the Convention.

It is certainly possible to argue that the progress of the Convention, and of the ACRWC, has “been constrained by a number of factors which have prevented their positive impact on the lives of African children from being as significant as had been hoped” (Ensor and Reinke, 2014, p73). For Ensor and Rienke, the most notable of these constraints is that the Convention “stands accused of attempting to impose Western ideals on African societies” (Ensor and Reinke, 2014, p73). Such subject matter is addressed by TWAIL (Third World Approaches to International Law) scholars, as set out in section 2.3 of this chapter, and will therefore not be reproduced here. Nonetheless, this section demonstrates that it is important to foreground the African experience of human rights, as well as the experience of the African child of their rights as children, whilst setting out the intended analytical framework for addressing why and how child participation can, and should, be facilitated in transitional justice by way of article 12 of the Convention.

To conclude this section, Ekundayo (2015) notes that both the CRC and the ACRWC have had a remarkable impact on the lives of millions of children worldwide (p156). Not only do both instruments “recognise children as rights holders with a voice and a contribution to

make to the wider community," but "it is evident that African states have become increasingly child-friendly" since their ratification (ibid). However, as Chukwu (2019) notes, the biggest challenge for current and future generations "is bridging the gap between the opportunities children have been promised and reasonably do expect, and the denial of those opportunities" (p172). This includes their right to be heard and to participate, not only in transitional justice, but in the communities in which they live. The ACRWC should not be understood as "just a list of rights," but a document which "represents a different way of viewing children and the relations between children and the society" (Olowu, 2002, p135). Indeed, as Ofodile (2009) notes, it is by "working within the existing framework to support efforts to increase the participation of children in decision making," as well as "ensuring that the voices of all children-particularly economically active children-are heard," that "African nations can make certain that the experiences of all children count without compromising their right to special protection" (p62).

As Woodhouse (2019) explains, it is important to understand that children's rights "must be regarded as a fabric of interwoven threads that stabilize and strengthen the whole," no matter the context, and for the benefit of all children (p357). Equally, when it comes to the right of the child to be heard and participate, Oyeyemi (2022) asserts that the "progressive application and interpretation of the global and domestic idea of children's participation rights within the family and the society can be aided by Article 12(1)," but can also be aided by "cultural values of rights and duties" (p116). On this basis, it is possible, and important, "to agree on 'basic human rights standards, but enriched by the African cultural experience" (Higgins, 2019, p66, citing Ibhawoh, 2001, p. 58).

Conclusion

This chapter argues that to not include the views and opinions of children in transitional justice processes, whether deliberately or negligently, represents a failure to comply with international obligations under article 12 of the Convention. It evidences this by using the aforementioned sources of international law, particularly the Convention and the General Comments of the ComRC, to “further develop an understanding of the scope of the interest enjoyed by children under article 12, and the nature of the obligation imposed upon states to secure this interest” (Lundy, Parkes and Tobin, 2019, pp432-433).

The Convention does not provide a list of rules on how the right to be heard is to be guaranteed in every situation or prescribe the ‘ideal’ form of participation activity for every decision-making context. This is because children bring a whole host of complexities and specific circumstances, such as age, sex, level of maturity, experience, belonging to a minority group, having a physical, sensory or intellectual disability, as well as the social and cultural context in which the child or children find themselves (ComRC, 2013, paragraph 1). It is also because to provide an idealised form of participation would serve to underscore transitional justice and its mechanisms as a ”toolkit” to be replicated in all contexts, instead of being driven in their planning and implementation by the contexts themselves. This issue has been discussed in more detail in Chapter Two (section 2.1, p30) when looking at the benefits of understanding transitional justice as an interdisciplinary field, particularly when it comes to the consideration of contextual factors.

What the Convention does do, alongside the General Comments, is recognise the agency of children and acknowledge just how much they know about their lives and about their world (Peleg, 2018, p20). The premise of article 12 is that every child must be given the opportunity to express their views and for those views to be heard (Henaghan, 2017, p540). This basic condition has to be respected and understood broadly (ComRC, 2009,

paragraph 26), being mindful of context, and take place in a way which is compatible with a principled interpretation of article 12 of the Convention, one which “demands new conceptions of participation that have the capacity to transform the decision-making process” (Lundy, Parkes and Tobin, 2019, p433). The participation of children “should not be a momentary act, but the starting point for an intense exchange between children and adults on the development of policies, programmes and measures in all relevant contexts of children’s lives” (ComRC, 2009, paragraph 13).

True universalism is “the belief in universal truths, such as human rights, applying everywhere, and for everyone, regardless of context” (Higgins, 2019, p64, citing Ife, 2012, p.336). This includes the right of the child to be heard and to participate in transitional justice. Critical scholarship on the Convention supports the pursuit of cultural understandings of human rights, including the rights of the child, but also advocates for pluralistic and inclusive approaches to “promote consensus building about human rights across cultures” (ibid). Indeed, when advocating for child participation in transitional justice, such an approach is premised on a view of human rights “as a practice negotiated between learning agents capable of growth on the one hand and a culture capable of change on the other” (p66, citing Bauman, 1993, p. 32).

Efforts to promote the right of the child to participate in all matters affecting them “have reached boiling point in Africa” (Fokala, 2021, p115). This is as a result of “a growing edge amongst children’s rights actors to adopt progressive ways to comprehensively and meaningfully realise a child’s right to participate […] in the public and private setting” (p115-116). Bearing this in mind when advocating for a child rights approach to facilitating child participation in transitional justice, the analysis undertaken of article 12 of the Convention will be utilised when undertaking fieldwork research with children in focus

groups in Rwanda (particularly how children perceive the importance of finding a balance between participation and protection, how they feel the capability of the child to form a view should be understood, what it means to express views freely, who should define what matters affect the child, and why and how to ensure that due weight is given to the views and opinions of the child in transitional justice). Article 12 clearly imposes an obligation on States parties to *involve* children, when *they* wish, in *all* matters affecting them" (emphasis added) (Detrick, 1999, p219). As a result of their experiences, children "hold a unique view of what happened, and are a crucial constituent for building a more peaceful future" (Balkan, 2015, section 8).

Therefore, children can (and should) offer guidance on and shape transitional justice approaches (Ladisch, 2018, p7). It is my contention that this can only be sufficiently achieved by the implementation of the rights of the child in international law in transitional justice, specifically article 12 of the Convention, which in turn will render the participation of children in transitional justice not only relevant to, but absolutely critical in achieving, its purpose.

CHAPTER FOUR

METHODOLOGY AND FIELDWORK CONTEXT.

Introduction

This chapter connects the doctrinal analysis of article 12 (Chapter 3) and the extent to which the past practice of transitional justice mechanisms facilitated the participation of children (Chapter 2) to a specific country context: Rwanda. The chapter does so in order to address the third secondary research question, assessing the extent to which understandings of concepts such as 'the right to be heard,' 'participation,' and 'transitional justice' underpin the case for child participation in transitional justice.

The chapter commences by setting out the justification for my chosen case study choice, including the two mechanisms of transitional justice that will be the focus of the thesis: the gacaca courts and memorialisation. The chapter then moves on to explain and justify the use of focus groups to collect qualitative research data, before justifying the chosen methodology for the data collection phase of the research, grounded theory ethnography. In explaining the choice to undertake a scoping visit prior to conducting fieldwork research, as well as an outline of the affiliation process in Rwanda and the ethical review process at the University of Birmingham, the chapter then discusses the practicalities and challenges faced when undertaking focus groups with children, before moving on to explain and justify the chosen methodology for the data analysis phase of the research, framework analysis.

The chapter concludes by setting out the main challenges in, and reflections on, undertaking fieldwork research in Rwanda.

1. Case study choice: Rwanda

1.1 Rwanda as the sole case study context

Stake (1995) defines case study research as an investigation and analysis of a single or collective case, intended to capture the complexity of the object of study. It is important to explain and justify the choice to undertake fieldwork research in a single case study country, rather than take a comparative approach across multiple cases. This section does so by referring to secondary literature on the benefits and limitations of single and collective case studies.

I acknowledge that the limitations of a single country study are reflected in methodological literature on case studies, particularly in arguing that a theory or approach cannot be built on an observation of a single case. However, a single case study approach is useful for "responding to how and why questions about a contemporary set of events" (Meyer, 2001, p330). The Genocide against the Tutsi is just such an event, with its contemporary legacy on the participation of children in transitional justice being an important complicating factor to address when answering the research question. A focus on Rwanda as a single case study country allows me to respond to the overall research question of how and why child participation should be facilitated in transitional justice, exploring the views and opinions of children in Rwanda on child participation in transitional justice in sufficient analytical depth.

Moreover, using Rwanda as a single case study means that I can examine the extent to which child participation in transitional justice has (or has not) changed over time. Indeed, when thinking about intergenerational impact of the success or failure of transitional justice measures, it is widely recognised that the aims of transitional justice "can only be realised over time, perhaps generations of time" (Jones, 2021, p173). Not only do transitions "create opportunities for addressing past injustice," they also retain "continuities with the past that pose constraints or obstacles for doing so" (Duthie, 2011, p1). The "assumptions, standpoints and positionalities" of those affected by such injustices "will shape what a given individual will see and what they imagine to be possible" (Jones, 2021, p173). As children today suffer from lasting socioeconomic effects and transgenerational trauma, using qualitative research to explore these assumptions when working with children in Rwanda allows me to assess the extent to which the Genocide has shaped their understanding of participation, both in their own lives and in transitional justice, and the consequences of this when making the case for why and how the participation of children should be facilitated in transitional justice mechanisms. As the thesis examines the 'why should' and 'how can' questions of child participation in transitional justice through the views and opinions of children who did not live through the Genocide, I recognise that I am investigating the participation of children within their real-life context at the same time as "addressing a situation in which the boundaries between phenomenon and context are not clearly evident" (Meyer, 2001, p331). As such, as a researcher I also take into account "biased or uneven ways in which context is experienced," including those who live with the intergenerational effects of it" (Jones, 2021, p173). This includes the context of those children who live with the intergenerational trauma of the Genocide against the Tutsi.

I acknowledge that the questions raised in the thesis can be applied to many case studies, and that the answers to these questions are highly likely to vary according to context. As such, I am not arguing for a single approach to child participation in transitional justice that can be applied across all contexts, as doing so would be antithetical to what the thesis hopes to achieve, as well as to current scholarly arguments on the importance of viewing transitional justice as an interdisciplinary practice grounded in individual contexts. Although there are clear limits to generalising one particular case study for 'illustrative' purposes, such an approach is reductive and is not what I set out to do. Instead, in focusing solely on Rwanda as the case study country, I acknowledge that "good studies should be read as narratives in their entirety," and that such narratives should not be summarised or generalised purely for the sake of comparison (Flyvbjerg, 2006).

1.2 Memory in Rwanda

Transitional justice serves to ensure accountability, serve justice and achieve reconciliation (UNSC, 2004). Assessing the extent to which memorialisation activities in Rwanda meet these three components of transitional justice in a number of ways.

Firstly, in terms of ensuring accountability, truth-telling (a full accounting of the past) is a vital component of memorialisation efforts in transitional justice. This relates to the 'right to truth' in transitional justice, which is the right to know what happened during a period of grave human rights abuse (UNGA, 2005, p126). The right to truth is discussed in more detail in Chapter 2 (section 3.2, pp42-43) in relation to truth commissions, alongside the right to justice, to reparation, and to non-recurrence. This right applies to every person in society, who "has the inalienable right to know the truth about past events concerning the

perpetration of heinous crimes and about the circumstances and reasons that led, through massive or systematic violations, the perpetrations of those crimes" (ibid).

Memorialisation efforts at the state level usually follow on from the culmination of truth-telling and legal accountability processes and are often "intimately linked to educational efforts to engage the public and school children in a dialogue about the past" (Barsalou and Baxter, 2007, p9). These efforts "are essential to extending the impact of truth commissions and tribunals," and "promote participation by local actors from all sides of social/political/ethnic divides" to ensure transparency and accountability (ibid). Memorialisation efforts in Rwanda recognise that children (particularly 'youth') have to "be a part of the conversation about how to remember," and children are therefore being equipped with sufficient knowledge and understanding to spark meaningful, healing conversation with adults, but also amongst their peers (Never Again Rwanda(a), 2019). Children are not only historically situated within memorialisation, but the agency of present-day children is becoming more recognised within the broader historical, social, and political processes of the country. More generally, the participation of children in memorialisation efforts can serve as "tools of human rights education, combining public art, civic space and the power of memory to build better societies in the future" (UNICEF, 2010, pp56-57). As such, activities associated with memorialisation such as the creation of physical memorials, commemoration ceremonies and education initiatives, are an exemplar of a mechanism of transitional justice that creates the space needed to allow the views, opinions, and experiences of children to be heard and acted upon.

Secondly, in terms of serving justice, national and international justice mechanisms need to "consciously lay the groundwork for national memorialisation projects designed to advance the goals of earlier transitional justice initiatives" (ibid). This is because memorialisation efforts seek to raise the moral consciousness of past abuse to prevent such abuses from happening again. However, the success of the impact of memorialisation efforts, both broadly speaking and in Rwanda, is under-researched in this respect. In the case of Rwanda, the Genocide against the Tutsi was an attempt by perpetrators to deny the right of existence to a specific group of people, an act which "violates moral law and the spirit and aims of the UN" (ibid, p7, citing UNGA Res 1(1946)). As Amir notes, "in order to restore its collective mental health, a trauma-stricken group must retrieve the repressed memories and deal with them" (2014, p3). As transitional justice "intersects history, memory and collective identity," memorialisation is an important tool in achieving justice for those who live with a "society's particular legacies of fear and injustice" (ibid).

In terms of reconciliation, memorialisation efforts, particularly when it comes to their engagement with the participation of children, can specifically advance those narratives which are marginalised, strengthen the role of children as social actors, and take place on many levels simultaneously at the national/institutional and grassroots/neighbourhood levels. In considering this statement in line with article 12 of the Convention, I also assert that memorialisation efforts in transitional justice, when implemented sensitively, provide an opportunity to reflect on the present and identify contemporary problems related to exclusion, discrimination, marginalisation and abuses of power, as well as promote the development of a culture of respect for human rights – including for children.

Memorialisation efforts actively and meaningfully engage with personal and collective experiences of the populous to preserve memory (International Coalition of Sites of Conscience, 2017). Where children are participating in these efforts, this serves to strengthen the role of children as local actors, promotes the local ownership of memorialisation efforts by children, expands upon the political space by allowing children to raise issues of concern to them, and brings children together with their communities to construct shared identities and narratives. To examine how children themselves view their participation within these activities in relation to their knowledge and understanding of article 12, provides a clearer picture of the benefits and limitations that still exist for child participation in memorialisation processes in Rwanda.

To address this is all the more important when considering that children carry transgenerational trauma passed down from their parents, unique to their experience, with each family having their own wounds and difficult memories (Never Again Rwanda(a), 2019). It is important to bear this in mind when examining the consequences of this transgenerational trauma, including in the fulfilment of the rights of children, and how memorialisation activities in Rwanda serve to counter the effects of such trauma by way of facilitating child participation.

1.3 The inkiko-gacaca courts in Rwanda

As noted in the introduction to the thesis (section 3.3.1, pp13-14), the word "gacaca" is indicative of a system of community justice that takes place “in the grass” or on a lawn, where communities assemble to resolve community disputes (Goldstein-Bolocan, 2004, p355). It is a system of justice deeply entrenched in Rwanda’s historical past; a pre-

colonial system of justice used for many centuries in the country as a method of dispute resolution for ‘local’ crimes (ibid, p375). The gacaca system of justice was revived to try genocide crimes by order of Rwandan President Paul Kagame under national law (Organic Law No. 40/2000 of 26/01/2001) and renamed as the Inkiko-Gacaca (with the term Inkiko meaning "jurisdictions") (Goldstein-Bolocan, 2004, p355).

The courts had the following five objectives: (1) "to reveal the truth about what has happened;" (2) "to speed up the genocide trials;" (3) "to eradicate the culture of impunity;" (4) "to reconcile the Rwandans and reinforce their unity;" and (5) "to prove that Rwandan society has the capacity to settle its own problems through a system of justice based on the Rwandan custom"" (Sosnov, 2007, p136). Consisting of around 12,000 community-based courts, the inkiko-gacaca courts were put in place “to try thousands of genocide suspects by means of a decentralised, community-based system of courts inspired by local traditions” (ibid). In what President Paul Kagame termed "the only way forward" (ibid, citing ‘Interview with Paul Kagame,’ President of Rwanda (July 16, 2002)) the fundamental aim of reviving (and modifying) the gacaca courts of the past was to expedite justice and increase public participation in the process (Sosnov, 2007, p125).

After several years of preparation and an initial pilot phase, the first Gacaca court opened in March 2005. Since then, the courts have garnered much scholarly attention (Brehm, Roberts, Uggen and Gasanabo, 2008, p446). Inkiko-gacaca courts are understood as being a forum for justice that blends retributive and restorative approaches to ensure accountability and achieve reconciliation, representing “a unique opportunity to seek justice in an open, accessible, and participatory fashion” (Goldstein-Bolocan, 2004, p355). The government turned to gacaca courts because of the likelihood the population would be

familiar with the system and were therefore confident in its “ability to engage all Rwandans in the process of accounting for a genocide that involved mass societal participation” (Sosnov, 2007, p135).

The literature covering the scope and purpose of the gacaca courts has been extensively analysed by a number of authors (Schotsmans, 2011, p391). Despite this, far less attention has been given to the extent to which children participated within these courts. As such, a vital contribution of the thesis is to fill this gap in empirical literature by examining the views and opinions of children in focus groups in Rwanda on the appropriacy of child participation in these courts, based on the knowledge gained through their participation in the education system as well as from family members or members of their local community. To do so is important to establish the value that can be attributed to the participating children’s views by qualifying and contextualising their involvement further, particularly as these children were not alive when the gacaca courts were underway and yet live with the impact of intergenerational trauma. As explained in Chapter Two (section 2), there are numerous understandings of the purpose of transitional justice as a result of the interaction “between the legal and the political, the local and the global, and the practical and the theoretical,” resulting in points of tension (Ramirez Barat, 2020, p243).

Such tensions are often exacerbated when factoring in contextual considerations; therefore, to ask children who were not part of the gacaca process to reflect on their views and opinions on the place of child participation within the process is to consider other potential ways of conceiving of human rights violations and responding to them which are rooted in that context, including how children know and understand the role of child

participation within the processes, as well as how their understanding of the right to be heard, as framed in article 12 of the Convention, impacts on this understanding.

Examining the views and opinions of children on such issues brings to the fore any competing ideas of what “doing good” requires when considering how, and why, the participation of children should be facilitated in the gacaca courts. Addressing the resulting tensions demonstrated by children in focus groups on this point requires being mindful of how children in Rwanda today contextualise their knowledge on the gacaca courts, and the role of child participation within it, with reference to their lived experiences and struggles. In turn, this avoids the risk of overlooking the ways in which the effects of various forms of inequality – including those faced by children of the generation after the Genocide - can inform personal and collective experiences and understandings of the role of child participation within the gacaca courts. Chapter 6 demonstrates the wider discussion on these issues had by children in focus groups in Rwanda.

2. Research Design and Methodology : data collection phase

I will now set out how the research design and methodological approach was constructed to meet the objectives of the thesis, detailing my chosen approach during the data collection phase in grounded theory ethnography.

2.1 Ethnography

In the earliest stages of the planning process, I set out to use a purely ethnographic approach to data collection. Ethnography is the study of people in naturally occurring settings using specific methods of data collection to capture their ordinary activities and

the social meanings that are attached to these activities (Heath, Brooks, Cleaver and Ireland, 2009, p99). Intrigued by the fact that ethnography is understood as an open-ended, exploratory approach that aims to "investigate some aspect of the lives of people who are being studied," ethnography seemed like the perfect approach to finding out how children "view the situations they face, how they regard one another, and also how they see themselves" (Hammersley, 1983, p3).

An ethnographic approach to data collection fits well with what the fieldwork research is trying to achieve. However, serious consideration was given to the fact that ethnographic research is said to be "synonymous with some form of sustained observation" (Heath, Brooks, Cleaver and Ireland, 2009, p99). The goal of ethnography is to facilitate knowledge production by way of "taking part in close social interaction with informants over extensive periods of time" (Christensen, 2004, p166). Interpretivist scholars emphasise the importance of this 'soaking and poking' approach, where the researcher embeds themselves within the culture and institutions that the research question/s are asking about (King, Keohane and Verba, 1994, p38). In my case this observation and interaction would only take place for 2-3 weeks per visit to the country. This led me to think about other methodologies that would combine the interpretivist approach of ethnography with a much more pragmatic, staged approach to data collection. One such approach was that of grounded theory.

2.2 Grounded theory

Grounded theory was initially developed by Barney Glaser and Anselm Strauss as a way to merge quantitative and qualitative research approaches in social research (Glaser and Strauss, 1967). Applied in multiple disciplines and to a variety of subjects, grounded theory

has slowly evolved from its traditional form into other forms, the most notable of which are those presented by Strauss and Corbin (1990) and Kathy Charmaz (2008).

Charmaz notes that “most qualitative research has not addressed why questions” (Charmaz, 2008, p397). On the other hand, grounded theory has a long history of engaging with both *why* questions, and *what* and *how* questions, as the term “refers to both the research product and the analytic method of producing it” (Charmaz, 2008, p397). The appeal of grounded theory was the possibility of moving ‘from data to theory’ very quickly, but in a way that was ‘grounded’ in the words and descriptions of the children. In other words, grounded theory affords space for children in Rwanda to form their own theory of participation in transitional justice, based on their views, opinions, and life experiences. As such, grounded theory provides the interdisciplinary researcher with a way to rethink ways of bringing *why* questions into qualitative research (ibid). This does not mean that the research should show a disregard for the role of the rights of the child as my conceptual and analytical framework. Rather, it means that I should acknowledge these biases openly and put them aside (in other words, ‘bracket’ them) (Groen, Simmons and McNair, 2017; Creswell and Miller, 2000).

Grounded theory insists that I should not enter fieldwork with preconceived ideas about what I might find with respect to what ‘participation’ can or should look like for children. In this respect, it provides a way to develop an understanding of participation in a way that is not pre-formed with existing theories. Bracketing occurs when a researcher “acknowledges his or her own preconceived notions, biases, and beliefs so that readers may understand the researcher’s position (i.e., reflexivity), and the researcher may bracket or suspend

those biases as the research continues" (Tufford and Newman, 2012). Grounded theory literature refers to the aforementioned notions, biases and beliefs that underpin decisions on a research process as 'sensitizing concepts,' or background ideas that inform the overall research problem (Charmaz, 2008; Bowen, 2006). A term first defined by sociologist Eric Blumer (1954), social researchers view sensitizing concepts as interpretive devices and as a starting point for a qualitative study, despite whether or not researchers are aware of them. Although not a straightforward thing to do in practice, bracketing is a method used in qualitative research to mitigate the effects of any preconceptions that may taint the research process (Tufford and Newman, 2012).

Despite the obvious strengths of the grounded theory approach, I feel nonetheless that it fails to understand just how embedded a researcher can be in any fieldwork context involving human beings in terms of the bias the researcher brings to the table, and in their own agency in data construction and interpretation which will affect the way results are presented. For the former, it is important to acknowledge my own biases towards the paramount importance I give to article 12 of the Convention, which is a significant driving force behind the analytical framework of the thesis. For the latter, it is of course the case that my use of article 12 as a thread woven throughout the thesis has affected the way I deconstructed (and reconstructed) the data collected from children in Rwanda, and my interpretation of this data in line with article 12 of the Convention has affected the way the results are presented later in the thesis.

Other concerns in considering the grounded theory approach were both ethical and logistical. For the latter, grounded theory sees value in, and makes use of, all data

collected whilst conducting fieldwork, including general observations, fieldnotes, seating plans and memos as well as interview transcripts. This involves analysing layers of data, which can be vast and difficult to manage. For the former, as an interdisciplinary researcher who connects with two distinct 'ways of knowing' transitional justice, it does not sit comfortably to ignore previous research findings (or indeed my own biases) when generating a completely new theory from the empirical data, or to generalise the findings of a study. The latter is something I considered a particular risk, as doing so suggests that any theory of participation generated by children in Rwanda can explain all examples of participation as understood across transitional justice, which is what the systematic literature review undertaken in Chapter 2, as well as the conceptual framework rooted in article 12 as set out in Chapter 3, argues vociferously against.

2.3 Grounded theory ethnography

By way of a balance between the two approaches, grounded theory ethnography combines the unique attributes of both grounded theory and ethnography (Babchuk and Hitchcock, 2013). Both approaches have a number of features in common, including an emphasis on research being conducted in the settings and life-worlds in which people live, the use of inductive data analysis, viewing the researcher as the primary data collection instrument, a flexible research design, a focus on rich description and understanding of the participants' points of view, the triangulation of multiple sources of data, and the use of memos, journals, or fieldnotes (ibid).

As a strategy for data collection, grounded theory ethnography, in blending beneficial aspects of both ethnography and grounded theory, can produce a level of detail and interpretation that is unavailable from other methodologies (Pettigrew, 2000). The

ethnographic elements facilitate entry into the everyday lives of children in Rwanda, and the grounded theory elements permit the freedom to explore a novel research topic in a way that ensures valid conclusions are drawn based on the views, opinions, and experiences of children.

Therefore, grounded theory ethnography allowed for a combination of the strongest aspects of ethnography and grounded theory in a way which describes actions and situations that have significant consequences to the lives of children, including the contextual and social barriers children face within their own communities, but also to discuss these challenges sufficiently by working with (not just observing) children.

3. Scoping visit, affiliation process and ethical review

3.1 Scoping visit to Rwanda

A scoping visit to Rwanda took place in the first two weeks of April 2019. The purpose of this visit was primarily to meet organisations interested in supporting my fieldwork research.

However, two further issues were also addressed. The first was the importance of building credibility and trust with potential organisations. To receive the permission needed for my research to begin, affiliation is needed with one of a limited number of organisations authorised to sponsor researchers. It was therefore important for me to demonstrate my commitment to collaborating with a host organisation, and meeting in person allowed me to create a space for the research plan to be shaped and informed by these partners, including co-developing research methodology that best suited the needs of my project as well as the children in focus groups. Once I identified and contacted potential host

organisations with an offer to visit the country to meet with them to present my work, as well as to scope the links between my research and their programmes at the national and local levels, the response to my request for affiliation improved greatly. I was also conscious of the fact that the scoping visit would allow me to ensure that my research builds on, and contributes to, ongoing transitional justice and child participation activities in the field, therefore maximising the value of the research for local partners. Being in Rwanda in person allowed me to work with organisations to explore what was possible, ethically and practically, in terms of identifying, accessing, and engaging with children.

Secondly, being in Rwanda during the Kwibuka commemoration period allowed me to see how the views and experiences of children are reflected at the state and community levels first-hand, and my observations from visiting national and local memorial events provided many valuable insights that informed my fieldwork plans and data gathering tools. As the scoping visit was not a formal research trip, I also organised and visited local sites of interest, particularly memorial sites at the national and community level. During the scoping visit I met representatives from many organisations because word of my presence spread through word of mouth. Without my presence in Rwanda, organisational representatives I met with in person made it clear that the access I had been granted was very unlikely to have happened, particularly during the Kwibuka period. As the whole country observes the annual national genocide mourning period, with many thousands taking part in local and national memorialisation efforts, observation of the memorial activities and exhibitions allowed me to refine my research plans to get the most out of my subsequent fieldwork visit.

It was during my observations of Kwibuka that it emerged that the teenage/young people/'youth' end of the childhood spectrum are the most actively engaged in Kwibuka commemoration and memorialisation events held across the country, not only setting up Kwibuka events but attending them in their hundreds, particularly in Kigali. It was this aspect of the scoping trip that led me to finalise a decision to focus on Rwanda as the sole country focus of the thesis, not only because of the potential richness of the data, but also because of how this potential richness defied what the literature had led me to expect, and therefore convinced me of the need for a context-specific single case rather than the comparative approach to case study research.

3.2 Affiliation process and the role of Never Again Rwanda

Never Again Rwanda (henceforth NAR) is a peacebuilding and social justice non-governmental organisation that is committed to fostering teamwork, networking, and partnership to promote sustainable peace in Rwanda. It was founded in 2002 in direct response to the social and economic legacy of the Genocide against the Tutsi in 1994. I decided to enter into the affiliation process with NAR because of their activity in empowering children (particularly 'youth') in Rwanda and the Great Lakes region with practical opportunities to become active citizens for a peaceful society. Their work with children, particularly aforementioned teenagers or 'youth,' concentrates on human rights and peace education, training them in critical thinking skills as well as creating safe spaces for dialogue. NAR also supports youth-initiated projects, facilitates intergenerational dialogues and engages children and young people in democratic processes.

The clear focus of NAR on issues of human rights has led to tangible impact in Rwanda, with many projects implemented to promote participatory and inclusive decision-making

processes in order to advance rights-based approaches with children and adults alike. In creating spaces for dialogue using a human rights framework, NAR educates citizens, including children, on their rights and responsibilities and uses various participatory approaches to raise awareness on rights issues in Rwanda. As a result of this work, NAR are recognised as being a thought-leader in citizen participation, peacebuilding, governance, research, and advocacy. My relationship with NAR was shaped during several months of online meetings and email communications with the research team.

Additionally, my research assistant, Steven Gakuru. was recommended to me by Felix Manzi, who was my ‘fixer’ whilst on the scoping trip to Rwanda in 2019. Felix was himself recommended to me by both NAR and the IRDP prior to the scoping trip and has extensive experience of working alongside international researchers in the country. At the time fieldwork was planned to take place, Felix informed me that he would be visiting the United States to study for a funded postgraduate course at Tufts University in Boston. Felix worked hard to find a replacement for me and recommended Steven to take his place, a decision which was approved by NAR. Steven was responsible for assisting me in the facilitation of focus groups, including reading out consent scripts in both English and Kinyarwanda and direct translation of what was said by focus group participants from Kinyarwanda to English where necessary. Alongside me, Steven was also responsible for briefing and de-briefing the NAR fieldwork and facilitation teams on the ground, which included Sauti Arts Rwanda (who promote peace through various forms of art including songs, theatre, poetry, and dance), and the ENHA-GiraUbuntu Initiative (who educate children and youth on peace building, human rights, fighting injustice and economic empowerment).

All focus groups took place with both myself and Steven present, a local NAR representative, and 1-3 representatives of the community groups mentioned above who work with the children on a regular basis.

Permission to conduct research in Rwanda is granted by the National Council for Science and Technology (NCST) (Park and Shema, 2019). All applications are subject to a four-stage process: screening, ethical review, permission, and registration. The NCST reviews the details of any planned project, as well as the legitimacy of the proposed research, which includes the benefits and limitations of it for the people of Rwanda. Completion of my application entailed extensive collaboration with my local supervisor at NAR (Dr. Nkurunziza Joseph Ryarasa, Executive Director). Moreover, other colleagues at NAR not only helped me secure research approval but assisted me in familiarising myself with best practice for ethics when working with children in the country (which assisted me greatly when it came to submitting the paperwork for my university ethical review process) as well as securing research and logistical assistance whilst I was in the field (including advice on how to shape and frame interview questions when speaking to groups of children). NAR committed not only to facilitating my fieldwork research, but to disseminating its findings with other organisations across the country.

3.3 Ethical Review process at the University of Birmingham

Children have the right to be properly researched, and as such it is important that ethical considerations weave their way throughout planning, data collection and data analysis stages of fieldwork (Morrow, 2008, p52). My home institution sets out its commitment to

maintaining the highest standards of scholarly and scientific integrity in its research, and the expectation that all researchers are to work to these standards, in its Code of Practice for Research. As part of these rigorous standards, ethical approval for fieldwork research is a mandatory requirement and without this approval my research could not go ahead. I submitted my application for ethical review to the University following discussions with my supervisors and Rwandan partner organisations and this was approved before data collection began.

Some of the ethical considerations given due attention were as follows:

3.3.1 Obtaining informed consent: participating children, parents, the school

Informed consent is crucial when planning and implementing fieldwork with children under the age of 18. Consent to participate must be voluntary and involve taking the time to decide, ask questions, and say yes or no to participating. I worked on the premise that all children have the capacity to consent and to withdraw consent autonomously, as per the Gillick competence test (the balance between the need to listen to children's wishes with the responsibility to keep them safe). Gillick competency refers to a standard outlined in a UK House of Lords decision which is widely used to help assess whether a child has the maturity to make their own decisions and to understand the implications of those decisions (Gillick v West Norfolk and Wisbech AHA).

I ensured that consent was obtained from participating children at each stage of the fieldwork research process in a multitude of age-appropriate ways and being mindful of context. In addition to consent forms issued prior to my entering the country, ongoing

consent was an important factor in planning the fieldwork research. I also obtained consent verbally from children in focus groups by way of a pre-prepared audio script that was read to the participants and recorded in audio format. Children across all focus groups were informed about the right to withdraw and to retract their data, both in writing and verbally before the start of a focus group. The focus groups took place in January 2020, and the children were given six months, until the end of July 2020, should they wish to do so. This is corroborated in the documentation in the appendix. In doing so I recognised that consent requires much more than agreeing to participate in research, and as such the children were told that they hold the power to leave the process at any time (Morrow, 2008, p52). In this way, consent was an ongoing, rather than a one-off, event (ibid, p54).

Parental consent was also obtained. Consent from parents is especially important when they are highly likely to be survivors of the Genocide, some of whom child survivors. The most recent figures on the number of Tutsi survivors of the Genocide, published in 2020, notes that a “reliable estimate” of Tutsi survivors stands at between 278,000 and 309,000 based on “a credible Tutsi baseline population almost exactly 800,000 or 10.8% of the overall population on the eve of the Genocide” (Meierhenrich, 2020, p76-77). This works out at an average of around 30% of the Tutsi population at the time (ibid, p77, citing Verpoorten, 2020). However, as Shahabudin McDoom notes, counting the survivors of the Genocide is no easy task, as “the reliability of all estimates depends on two crucial numbers: the number of Tutsi in Rwanda on the eve of the genocide; and the number of Tutsi who survived the genocide” (McDoom, 2020, p5). The approach taken by McDoom is to estimate the number relying on the 2006 census, which asked the local heads of communities “to enumerate the survivor households in their communities” (ibid, p8). To

this, McDoom adds a further figure based on the inkiko-gacaca data held by the Rwandan government, a summary of which was published in 2007, which included the number of survivors in local communities (ibid, p9, citing Verpoorten 2020). McDoom places the best overall estimate for the number of Tutsi genocide survivors at 309,000. Moreover, McDoom strongly asserts his position that establishing the number of Hutu who were killed during the Genocide, as well as those who survived, is vitally important for three reasons: "it shapes the characterization of the violence; it raises questions of the experience of memory and justice following the genocide; and, by extension, it has implications for the possibilities of interethnic reconciliation" (p10).

As noted by Never Again Rwanda in their work with victims, survivors, perpetrators, women and the youth, the after-effects of survivorship of the Genocide against the Tutsi include refugee related wounds, genocide related wounds (including the loss of loved ones and incomplete mourning, rape, labelling and stigmatisation, loss of identity, transferred guilt and witnessing violence first hand), and other wounds (such as increased use of drugs and alcohol as well as perpetrating domestic violence) (Never Again Rwanda(d), p22-24). In addition, the population of survivors who suffer from the psychological effects of the Genocide go "beyond survivors to include perpetrators and passive bystanders," who "engaged in or observed atrocities" and express "feelings of guilt related to their participation in violence or their failure to take action to stop it" (Never Again Rwanda(d), 2015, p7, citing Staub, 2003). In addition, research conducted by Never Again Rwanda notes that survivors of the genocide who were children seem to have "a fundamentally different experience than surviving genocide as an adult," with studies indicating that "the social, behavioural, cognitive and emotional wounds, such as depression, withdrawal,

alienation, posttraumatic stress disorder as well as health and physiological malfunctioning associated with genocide survivors are most pronounced in youth" (Never Again Rwanda(d), 2015, p1, citing Amone-P'Olak et al., 2007). It is unsurprising that those survivors who have become parents in the intervening period between the end of the Genocide and the present day do not always engage in intergenerational dialogue on their experiences. As shall be seen in Chapter 6 (section 1.2.2), children in focus groups feel that this is a significant contributor to the intergenerational trauma suffered by future generations of children. Bearing in mind such cultural factors and how they had the potential to make obtaining informed consent from parents challenging, I relied on the professional experience of my colleagues at NAR to steer me in the right direction when obtaining parental consent for their child to participate in focus groups, including in the design and delivery of documentation.

In a majority of instances, as explained in section 4.3, an NAR representative from the district where the school is located visited the school in person to speak to the Head of the school about the purpose of my visit, the inclusion and exclusion criteria of the children I wanted to speak to in focus groups, and to give them consent forms for the school and for the parents. Where these children were in NAR affiliated / community groups that took place during the week, the NAR Rep and the Head of the school spoke to children in advance about my visit, gave them my pre-prepared topic guides to read (in both English and Kinyarwanda) and asked them to take additional information home for their parents (consisting of a topic guide and consent forms written in Kinyarwanda). These documents are in the appendix. In most instances, NAR obtained this parental consent prior to my arrival, and the paperwork was given to me by Debby Karamera at the NAR Headquarters

in a sealed envelope, prior to setting off to conduct the focus group. In those cases where parental consent was not confirmed, my team and I would speak to the Head of school when we arrived, who would speak to the children in advance of the focus group. All children in such groups insisted that their parents understood the project but that they didn't sign the consent form in time, or in some cases gave verbal agreement to the Head of the school instead. Where questions were raised by parents or caregivers about the research prior to focus groups commencing, there was instruction to contact the NAR Rep, the Head of the school, or myself by email or telephone. As part of this information, parents were informed that they could insist their child did not take part, or could retract their participation at any time before, during or after the focus group had ended, up until the end of July 2020.

In other cases, where visits to schools took place at the last minute (due to delayed contact by the NAR Rep), or in those cases where teachers instead randomly selected children to take part in the focus groups, parental consent was not obtained due to insufficient notice. However, I was told that the children in these groups had worked with NAR for a long time, often from the age of 11, and parents and guardians of these children had signed consent forms for this purpose with NAR. Such consent forms included working with NAR affiliated researchers, as well as community groups and local organisations. However, erring on the side of caution, my team and I ensured that consent was at the very least obtained from the Head of school by way of a consent form before the focus groups began. Although this delayed the start of focus groups in these cases, such consent was important to obtain.

In addition, in these cases, children who chose (or were chosen) to take part in the focus groups were given the pre-prepared topic guides (in Kinyarwanda) to read whilst the group was being set up, as well as verbal information by NAR or community group members regarding why I wanted to talk to them and what data I would be collecting and the chance to ask any questions. These children were then asked at the beginning of the focus group whether they had any questions for me before we began, and in all cases I reiterated that I was there to learn about what they knew about transitional justice, children's rights and participation, that they were the experts, and that there were no right or wrong answers, and I wanted to hear their genuine views and opinions on these topics. All children consented to participate in the focus groups (with consent audio recorded). These children were also given documentation to take home to their parents or caregivers, with contact details of NAR and myself should any queries arise.

3.3.2 Safeguarding

The decision to hold focus groups in schools was made in conjunction with my NAR partners. As spaces that children were already familiar with, with trusted adults (such as teachers and other staff) always accessible to children should they request them, holding focus groups within the school environment made sense from a safeguarding perspective.

I also made sure that information was given to children, both verbally in focus groups and in print beforehand, on safeguards that would be in place to protect their information both during and after the focus group had concluded. This was of particular importance to me because the power relations considered are not just those between the children and

myself, but children and teachers, as well as their families and members of their own communities.

3.3.3 Risk of disclosure of sensitive information

I was very aware that I could not eliminate the risk of children disclosing information which might be sensitive in this context, such as discussions of ethnicity and/or discrimination. To mitigate this, I made the protection of information and issues of confidentiality of the utmost importance, applying the same rules as those pertaining to adults under the UK Data Protection Act 2008 plus additional safeguarding, anonymity, and privacy issues due to their status as children under national and international law. I consistently clarified verbally to the children that anything that took place within the confines of the research environment would remain confidential. I let each child participant know that they have the right to the erasure of data should they wish to (and under certain conditions) as well as the right to withdraw, and the consequences of both.

However, although the data collected from children in focus groups in Rwanda is confidential, it is not anonymous. This is because if it were, I would not be able to link data to the person who provided it, which is necessary if participants choose to withdraw data after submission. To ensure confidentiality, an assigned ID code is used for each child in each focus group, being classified only by school and gender. Alongside my supervisors and in line with my ethical review submission, I planned for what research data will be stored, where, for what period and the measures put in place to ensure data security, as well as who will have access to the data and the method and timing of its disposal.

Whilst in Rwanda I used pre-prepared, encrypted USB sticks for storage of data. A secure and University approved platform, Bear Research Data Store, was used for storing transcripts of interviews, consent forms and audio recordings, access to which is granted only to myself as the primary researcher and to my supervisors. The duration of time for storing this data and conditions for future access similarly follows institutional guidelines.

4.Focus groups with children: justification, practicalities and challenges

The fieldwork aspect of the research is designed to examine the third secondary research question, namely the extent to which understandings of 'the right to be heard,' 'participation,' and 'transitional justice' underpin the case for child participation in transitional justice. Bearing this in mind, this section will justify the use of focus groups for collecting qualitative data from children in Rwanda, the practicalities and challenges that were faced in the field, and the impact of these factors on answering the research question.

4.1 Using focus groups to collect qualitative data

With a well-established history of application in the field of development, focus groups are particularly useful when trying to understand group dynamics and viewpoints (Lloyd-Evans, 2006). Focus groups are also "an excellent tool for exploring group behaviours, interactions and norms" and are used to "ascertain information on collective views of social issues" (Lloyd-Evans, 2006, p154). The results obtained from the application of a focus group are particularly effective in "supplying information about how people think, feel, or act regarding a specific topic" (Freitas, Oliveira, Jenkins and Popjoy, 1998, p1). Focus

groups are very useful when wanting to understand collective social action and group beliefs, understandings, behaviours and attitudes (Lloyd-Evans, 2006).

Focus groups are a conduit for multiple voices and perspectives to be discussed. Conducting focus groups with children allows for conversation and exchange about the concepts of transitional justice, the right to be heard and participation to take place in a way that engages children with the topics, but also in a way that encourages children to listen to their peers and build on each other's ideas. As the composition of the group is carefully planned and curated ahead of time, a safe and supportive environment is created where children are free to talk openly and are encouraged (and encourage each other) to actively express their opinions. This often stimulates new thoughts, talking points or even debates, which may not have happened in a different setting. Examples of the latter, debates, can be found in Chapters 5 and 6 and are signposted where necessary. In addition, non-verbal communication can also be observed, which adds depth and nuance to the data, and examples of non-verbal communication are also signposted in the aforementioned chapters. Therefore, focus groups are a particularly effective way of answering the research question, with the potential to generate rich and abundant data in a relatively short period of time.

There are also limitations to be aware of when conducting focus groups. Without sufficient moderation, such groups can be dominated by the most powerful voices, with other voices being silenced (Lloyd-Evans 2006). In addition, as focus groups are often "intended to benefit the group," there is an inherent risk that the researcher examines the data and sees "a 'homogeneous community' or 'group consensus' where tensions and

contradictions in fact exist" (ibid). In relation to this point, in the context of Rwanda, it is important to be sensitive to the fact that some topics, particularly if they relate to the Genocide against the Tutsi, might encourage confrontation, conflict and contradiction, which could hinder those participants who wish to speak freely. However, focus groups work particularly well when participants feel comfortable sharing their views, opinions and experiences in a group setting, and if a sensitive, ethical approach is taken when designing and implementing them, focus groups can provide a forum for spontaneous, true discussion.

4.2 The multifaceted involvement of the Research Assistant

As mentioned in section 3.2 of this chapter, my research assistant Steven Gakuru had multifaceted involvement in the research process, acting as translator, facilitator and mediator. Further clarification is required at this juncture on the differences between these roles, and the decision behind referring to him as a research assistant when in fact he held these roles in tandem as part of his role.

As Deane and Stevano (2016) note, it has "long been acknowledged" in development research that when a researcher "conducts qualitative fieldwork in a setting in which they are not fluent in the local language(s)," there is a "strong degree of reliance on the support of local research assistants in the data collection process" (p213; citing Devereux and Hoddinott, 1992; Green and Thorogood, 2009). With translation defined by Muller (2007) as "the search for an equivalent in another language," or by Esposito (2001) as "the transfer of meaning from a source language [. . .] to a target language," I viewed Steven's role as interpreter as an integral part of his research assistance. As Abfalter et.al. (2021) explain, "translation into another language (to enable understanding of concepts or

phenomena) is a basic cultural technique and a prerequisite for international research" (p469). Steven's role as an interpreter was to translate the spoken language of the children orally immediately after a response was given, preserving the original meaning, and rephrasing or clarifying terms that I was not familiar with (particularly those that were culturally specific references). In this respect, the term research assistant is understood in the thesis as one which "fulfils an expanded and active role" including acting as an interpreter (ibid, citing Freed, 1998; Turner, 2010).

Choosing to combine the roles of research assistant and translator whilst conducting fieldwork was made for practical reasons, particularly to do with cost. However, the decision was also made because Steven came highly recommended due to similar work he had undertaken with international researchers in the past which combined both roles together under the remit of research assistant. Steven is fluent in both Kinyarwanda and English, but his dominant language is Kinyarwanda, meaning that he was viewed as an "insider" by the children in terms of his linguistic position (Abfalter et.al., 2021, p477). In terms of his social position, Steven was closer in age to the participants (and is indeed part of the 'youth' demographic in the country) and was therefore particularly good at building a rapport with the children. This meant that he had a heightened awareness of how important it was for him to take active responsibility for making ethical translation choices in the data collection process (Abfalter, 2021, p477; citing Gawlewicz, 2020; Venuti, 1998). In addition, Steven simultaneously explained specific terms or concepts raised by the children in focus groups that he was aware that I may not be familiar with. In this respect, Steven also fulfilled what is referred to in the methods literature as a "cultural-consultant role" (Turner, 2010; citing Freed, 1988: 315). As Bello notes, "a high level of cultural

awareness and specific cultural knowledge are required skills of interpreters" (2021; Angelelli, 2004; Wadensjö, 2008). As he facilitated communication, understanding and action between persons or groups who differ with respect to language and culture (in other words, between myself and the children), he also acted as an "intercultural mediator" (Bello, 2021; citing Taft, 1981)).

There are, of course, limitations to be aware of in translations which are discussed at length in methods literature and briefly summarised here.

Firstly, as Esposito notes, the "truth value" of translated focus group data is only supported when "the participants' expressed meaning is understood by the listener," which means that any failure to "accurately portray the intended meaning of the participants' words and actions renders data useless" (2001, p571). Such a risk "grows tremendously when language is a barrier" (ibid). However, to ensure that the responses given by a child were accurately interpreted and translated, I would ask the other children in the group, as well as the stakeholders from NAR and the community groups, to clarify whether what Steven said was an accurate reflection. All stakeholders to the research process were well-known and respected within the school communities of the focus group participants, and as such, they would speak freely to both me and these stakeholders. In this respect, increasing the number of bilingual stakeholders in the room, particularly those with the intellectual skills and familiarity with the children themselves, helped to minimise this problem, which in turn limited the potential for misinterpretation (ibid).

Secondly, a vital role of the translator is to “translate the researcher’s questions and meanings […] into a form that is understood by the participant,” as well as “to translate the participant’s communicated meanings into a form that is understood by the researcher” (ibid, p573). Both require that data collection and analysis “occur simultaneously and are fluid, adaptable, and change course when appropriate,” which is a complicated task (ibid). However, as Steven undertook both tasks in “real-time,” this meant that I could actively participate in the data collection process as it occurred. It also meant that Steven could further probe and process the meaning of the responses made by children in focus groups and clarify their understanding of terminology where necessary, and later suggest ways of adjusting questions in response to either repeated or unanticipated answers. It also meant that I could make decisions based on the data as it was being produced, in line with grounded theory ethnography.

Thirdly, I was aware that as both a research assistant and a translator, Steven came to the field with his own preconceptions, values and belief systems. As Turner (2010) notes, “one’s position within the social world influences the way in which you see it” (p210, citing Temple and Young, 2004: 164). I was very much aware that Steven would come to the project with his own questions and understandings on my topic of research which would have the potential to influence his views on the responses given by children to a given question. I mitigated this by having a briefing meeting with Steven the day before focus groups commenced, to give Steven the opportunity to over my research, define key themes and areas, examine and probe the questions I would be asking, and to answer any of his questions about their suitability. It was during the briefing that I instructed him to properly translate the focus group questions and advised him that he should not interpret

questions or answers for himself, nor should he try in any way to steer the participants by indicating that there is a desired answer. Instead, I indicated he should translate everything I say directly, and ask for clarification where needed. I did so mindful of the fact that I did not wish to undervalue his previous experience, skills, knowledge and perceptions of my research. As both a translator and a research assistant, Steven had ”grammatical, discourse, and strategic competences” as well as “a minimum of socio linguistic competences and background knowledge about the research project” (Abfalter, 2021, p478, citing Squires, 2009). As a result, we agreed to have a debrief at the end of each focus group interview in order that he could ask questions about my interview questions and strategy, including making suggestions on how to approach questions according to factors such as age, gender, type of school and the backgrounds the children came from in following focus groups.

Finally, it is important to note that Steven’s translation process did not begin and end with the focus groups. He also provided translation assistance during the post-fieldwork data analysis phase where necessary, giving extra clarification on terminology used by the children. Even though it required greater investment in time, such post-fieldwork translation led to higher quality results, and also worked well with the framework analysis methodology utilised during this stage of the research process. Such ongoing reflection on translation allowed for “continuous refinement of translated material and a more nuanced meaning” (Abfalter, 2021, p475; citing Behr, 2017; Santos et al., 2015).

Being transparent about why I chose to combine the role of research assistant with that of translator ensures that the relevance and rigour of the qualitative research undertaken in

the thesis is evidentially supported. Doing so also highlights the benefits of harnessing the "lingua franca" of children in Rwanda whilst being candid about the limitations that were necessary to overcome in the field as a result. Allowing children to answer questions in focus groups in either English or Kinyarwanda (or both) created a sense of "linguistic comfort," which in turn created a set of results for data analysis which were rigorous, representing the genuine views and opinions shared freely by the child participants (Abfalter, 2021; citing Carless, 2008; Gawlewicz, 2016). Such freedom to choose which language to use when responding to my questions was also necessary to create an equal relationship and balance of power between myself, my research assistant and the children, which was of additional importance when in a power-sensitive, post-colonial context (ibid, citing Berger, 2015; Fawcett & Hearn, 2004).

4.3 Participant selection and justification

The choice to engage specifically with children between 13-18 as participants in the research was arrived upon after referring to the literature collected during desk-based research, as explained in the introduction to the thesis. In addition, Chapter 3 sets out how the sources of international law, particularly General Comment 12, influenced my decision to work with adolescents. Issues considered included memory recall (what I would expect a young child to remember - the amount of recall would not be the same as a much older child, for example); competence (to answer particular questions about particular topics in a particular way); language and literacy barriers (will children and young people feel at ease responding to questions in both English and Kinyarwanda or would I need to adapt my approach to overcoming language barriers), and attention spans (which will also affect the amount of timing available for the methodology to be implemented - the younger the child, the smaller the attention span and the methodology needs to adapt to suit). These factors

are well researched in scholarship in child development studies, education, and childhood studies, as well as scholarship on the rights of the child and article 12 of the Convention. However, it was scholarship on the latter which influenced my decision to conduct qualitative interviews in focus groups with teenagers, as presented in Chapter 3 (section 3.1.2, pp80-82).

Moreover, discussions with NAR revealed that young people, specifically teenagers, are exposed to a lot of information about the genocide through various sources, including education, local and national commemoration activities, and their families. As younger children are less likely to have been exposed to these activities and discussions, working with teenagers has more potential to maximise the chances that the children I speak to will be familiar with transitional justice, and are able to offer their views and opinions on child participation.

4.4 Participant recruitment

Children were identified, approached, and recruited through secondary schools who work, or have worked, with NAR. A formal letter of permission and letters of consent were drafted for schools in Rwanda, in English and Kinyarwanda. The formal letter asks for permission to speak to children within their school environment and provides a summary of the project. This documentation was pre-approved by both the ethical review process and NCST in Rwanda. NAR would then contact a district representative, someone who works for NAR within a particular community and has a strong relationship with schools in the area. This person would either be emailed the documentation, or they would be paid to come to Kigali and pick them up by hand from the NAR office. A table of the schools visited by district (and province) is listed in the appendix (Appendix A, table 1(j)).

The NAR representative would then seek permission from District Officials to visit schools in that locality or seek permission from the school directly to facilitate my access. Once consent was given and a date arranged, the consent letter drafted for the school was signed and stamped by the relevant staff member, returned to NAR, and then to me. Where consent forms could not be given to me in advance of the focus groups taking place, hard copies were given to me in person, with online copies emailed to me on my return to the UK.

4.4 Participant demographics

The decision to undertake research within schools in different geographical areas was based on two specific factors.

Firstly, there is a longstanding, and evolving, relationship between education, conflict, and peacebuilding in Rwanda, as explored in Chapter Two (section 3.4.1.2, pp57-58) when discussing institutional reform. It is therefore important to understand how education was used to spread hatred and division as a predicator to genocide, as well as how it is used in memory processes to ensure that the genocide will never be repeated.

Secondly, acknowledging that children in Rwanda today are living with the intergenerational trauma of their parents and its consequences also requires the same acknowledgement to be given to the fact that survivors living in different areas of the country experienced the genocide in different ways. Rwanda is divided into four provinces and the City of Kigali, itself further divided into 30 separate districts. These districts are divided into sectors, cells, and villages. While genocidal violence was widespread

throughout Rwanda, some regions experienced more violence due to the demographic in the region. For example, most Tutsi lived in central or Southern Rwanda, which bore the brunt of genocidal killings and systematic human rights abuses. The appendix contains a map of total deaths by commune (See Appendix A, Graphic 1(a)). It is important to see how these different experiences influence the ways that children know and understand transitional justice, the rights of the child and the right to be heard, and the source of this knowledge (whether this be through the education system, parents, or community members).

I asked NAR to facilitate my access to schools that would provide a variety of perspectives on my research question (e.g., urban/rural, public/private, single/mixed). A table providing a breakdown of the schools in which I conducted focus groups by type is in the appendix (Appendix A, table 1(a)). Schools were situated in both urban and rural areas across all provinces.

NAR chose the schools themselves based on the relationship they already had with these schools through running peace and reconciliation groups, often in association with other community peacebuilding organisations. There are advantages and problems with this approach to participant selection. In terms of the former, children in focus groups were identified as members of the aforementioned clubs at their school, and therefore already had a strong knowledge of, and relationship with, NAR. This meant that children were more likely to trust my motives and intentions for wanting to speak to them as part of my research. Logistically speaking, participant selection by NAR, based on criteria I sent to the organisation beforehand, also meant that I would avoid the challenges of locating

schools myself from the UK. This included barriers such as unfamiliarity with the language, the lack of internet and telephone communication in some areas of Rwanda, and time zone differences.

In terms of the latter, as NAR predominantly selected schools that they themselves work with on a regular basis, this meant that schools outside of their remit would not necessarily be taking part in the research, unless through a contact outside the organisation (this happened for only one school).

5.Research Design and Methodology : data analysis phase

Qualitative data collected from children in focus groups underwent a rigorous data analysis process by way of framework analysis.

Framework analysis facilitates the researcher in ensuring that the data is explicitly described, which enhances the credibility of the findings (Smith and Firth, 2011). The approach requires that the researcher transcribe the interviews, immerse themselves within the data to gain detailed insights of the phenomena being explored, develop a data coding system, and link codes or units of data to form overarching categories/themes which may lead to the development of theory (ibid). A strength of the approach is that it makes the process of data analysis transparent by illustrating the links between these different stages of the analysis (ibid). These stages are interconnected, enabling movement back and forth across the data until a coherent account emerges (Ritchie and Lewis, 2003).

Doing so also requires a constant refinement of themes in order that they relate to the conceptual and analytical framework of article 12 of the Convention. The way in which this process was undertaken is explained and justified below.

5.1 Step 1: Interviews, fieldnotes and memos: transcription and upload

The first step of qualitative data analysis was to transcribe all interviews, in my case based on audio recordings, into Word documents. However, transcripts do not reflect the entire character of the discussion, and as a result I also relied additionally on my fieldnotes as well as my reflections of the focus group. Both sets of data reflected nonverbal communication of participants, gestures, and behavioural responses, which were then written up as a memo for each focus group. Examples of these fieldnotes can be found in the appendix.

I used the content of my field notes as the basis of memos. Memos include the information of who was present at the meeting (myself, my research assistant Steven Gakuru, one NAR or community organisation representative, and others if applicable), as well as a seating plan, the age, gender split and language considerations of that focus group, and a photograph taken at the time of the seating arrangements to aid my memory recall when listening to the audio recording and typing up the transcript. Memos also set out the total recording time for audio files and any recording issues faced during the focus group, as well as a summary of my own reflections on that group. Memos were written after each focus group ended, either on the same day or, if a focus group ran late into the evening, early the next morning.

It is important to acknowledge the tensions, as well as the complementarities, between memos and fieldnotes as different sources of data collection. The fieldnotes were written at the time of the focus group, and therefore contain detail collected at that specific point in time, over a certain amount of time (focus groups lasted on average between 45 minutes/an hour to two hours, with two lasting for 2 and a half hours). Conversely, the memos were drafted hours after the focus group and are reflexive, containing my own thoughts and recollections on the focus group. The two sources of data collection also have a different focus. For example, in the fieldnotes, the views and opinions of children in focus groups are firmly in the foreground, whereas in the memos, it is my interpretation and description of the views and opinions of children in focus groups that is in the foreground.

This is not to say that the two sources do not have similarities. Both the fieldnotes and memos are closely aligned with the data collected from children in focus groups, which meant that I could use both sources to look at the data both ‘in the moment’ and reflexively to decide whether I had reached theoretical saturation on a given line of questioning (which signalled that I should change my approach to a question). However, the nature of recording observations in fieldnotes and memos is very different, with fieldnotes representing the researcher being in the thick of the data, and memos being more reflexive because of the distance in time and physical space between myself as a researcher and the focus group. Overall, any elements of tension between the two sources have been useful points of struggle to prompt me to analyse the focus group data in a holistic way.

Once completed, I then uploaded all focus group interview transcripts to NVivo. There are many data management systems, all of which have pros and cons. The decision to use NVivo was made after talking to colleagues, as well as attending specialised courses on NVivo as well as other systems, and finally through reading various library guides and academic source material (Bazeley and Richards, 2000, Leech and Onwuegbuzie, 2011). I then 'linked' each memo in NVivo to the transcript it describes, which aided me when cross-correlating data across multiple data sources. For the purposes of NVivo 12, 'data' is a term for research material connected to the NVivo project, such as transcripts or field notes, academic articles, research plans, pictures, audio recordings, videos, notes, and online materials. All documentation pertaining to fieldwork research in Rwanda was prepared in advance using Microsoft Word. This is standard practice for NVivo users, as it is easier to prepare data for importing into NVivo than to manipulate it once it has been imported. I chose to prepare documentation in Word format because NVivo has been designed to recognise Word document heading styles, which makes Word documents easier to upload and code.

Linking memos to transcripts in NVivo meant that I could recall the focus group seating position, time of day, school type and gender balance, as well as content which drew connections between items in my project to external literature. For example, I could use literature gathered in the literature review to point out similarities and contradictions to what children understood about the role of children in the transitional justice process.

5.2 Step 2: surface-level coding

The second stage is to undertake the coding process. First, I conducted an initial analysis of each transcript. I would read the transcript systematically, looking for answers given by

children in focus groups to the open questions I asked based on the following broad categories:

Transitional justice
The rights of the child/the Convention
The right to be heard/article 12
Child participation in transitional justice

As I came across different themes related to these broad categories, I coded them by creating a ‘node’ in NVivo for that theme and ‘coding’ the data from the transcript within that node. A node is a container of information, and whole or parts of sources (in this case transcripts) are stored within the node for later analysis.

At this stage, themes were emergent in nature, so I first conducted a very general, surface level analysis, including coding patterns - a repetitive, regular or consistent occurrence of action/data that appears more than twice - to find trustworthy evidence for my findings, since patterns demonstrate habits, salience and significance in people’s daily lives (Saldana, 2021, p8). These trends in the data assisted me by solidifying my observations into concrete instances of meaning (ibid). Where diverging views and opinions arose, parent and child nodes were created, with the parent node being the broader theme (such as transitional justice) and the child node being the theme raised by the children in focus groups (reconciliation, history, government role, etc).

5.3 Step 3: In-depth coding

The next stage involved creating ‘coding scripts’ for each individual transcript containing open and focused coding. Each coding script arranged the content of that transcript into three central columns.

The first column breaks down the transcript into cells of information by speaker. In NVivo, a researcher can create attributes for a person or group of people according to gender, age, role, or status, to conduct a deeper level of analysis. Classifying text from a transcript by case/focus group participant provides a way to describe the demographic attributes of the participant as well as a way to compare responses and points of view between one person to another, one group to another, and/or across all data or some of the data. In addition, creating cases according to gender and school type gives me a point of reference when presenting my data analysis, in a way that does not breach the confidentiality of the child in the focus group who gave me the information. This means that when framework matrices are created, each participant and their response to a question will be set out clearly, but confidentially (University of Oxford, 2016, p17-19).

The second sets out the detailed analysis of each of these cells using open coding, which generates the bare bones of data analysis. Open coding allows the researcher to delve into the material itself for its own sake, not simply to impose a theory. Doing so allows the researcher to explore the implicit and explicit in the data, using the participants own words to guide them. An example of an open coding script is in the appendix (Appendix A, Table 1(b)).

The third contains focused coding, which is much more directive, selective and conceptual, allowing the researcher to begin interpreting the data in a more nuanced way by identifying strong analytic directions. This is the stage of analysis which can also involve refining existing codes, as well as defining and unpacking them to develop further categories and lines of questioning if necessary. The difference between open and focused coding is that open codes are reflective of what the participants are telling the researcher, whereas

closed codes are how I, as a researcher, am making sense of what is being said through cross-comparison and previous knowledge of scholarship (as presented in both Chapter 2 and 3). An example of focused coding is in the appendix (Appendix A, table 1(c)).

The final coding element involved theoretical coding. This step was optional, but one I deemed necessary to answer the research question, particularly from an interdisciplinary gaze. Theoretical coding links, associates and relates focused codes together to form a coherent narrative, relating broad categories to theoretical ideas (in my case, ideas related to the conceptual and analytical framework of article 12). Where necessary, this led to the refinement of codes emerging from the data, and to their removal if they did not contain enough evidentiary links to article 12. An example of theoretical coding is in the appendix (Appendix A, table 1(d)).

5.4 Step 4: creating framework matrices

Once coding was completed, the next step of data analysis was to create framework matrices representing a range of views and opinions of children on transitional justice, the right to be heard and participation. By creating these matrices in NVivo, a researcher can provide ‘attributes’ for a person or group of people according to gender, age, role, or status, to conduct a deeper level of analysis. Classifying text from a transcript by case/focus group participant provides a way to describe the demographic attributes of the participant as well as a way to compare responses and points of view between one person to another, one group to another, and/or across all data or some of the data. For example, I could want to answer a question such as ‘How do younger teenagers know and understand the role of child participation in Kwibuka? Do their attitudes differ from those of older teenagers?’ and run numerous searches based on case attributes to find the answer.

Doing so also meant I could run queries in NVivo to assist me in answering more meaningful questions about the data in relation to my research question. In addition, creating cases according to gender and school type gives me a point of reference when presenting my data analysis, in a way that does not breach the confidentiality of the child in the focus group who gave me the information. This means that when framework matrices are created, each participant and their response to a question will be set out clearly, but confidentially.

In total, six framework matrices were created. An example of a framework matrix in NVivo is in the appendix (Appendix A, table 1(e)). Each row represents a case node identifying a child participant in a code referring to the focus group in question. Next, one child has three levels of attribution. The first is an identifier of the school. The second is gender (B for boy or G for girl). The third is a number which tells me which child in the group. Each column represents a theme, with information related to that theme coded and attributed to a focus group participant. The example in the appendix (Appendix A, table 1(f)) demonstrates that participant APAB4 described transitional justice by way of both education and history, but the participant below him, APAB5, related transitional justice to education but did not relate it to the history of the country. Where responses were given to a question by a participant, the cell will contain coded quotes from a transcript about what a particular participant said about a given topic. I summarised these cells if I felt that the information within them was particularly relevant to that theme, and if it did not repeat what another participant had said. These matrices contained data relating to the responses of children across all focus groups around the following broad topics:

Transitional justice

Gacaca courts

Memorialisation
Rights of the Child
The right to be heard and ‘participation’
Closing thoughts

A benefit of framework matrices is that the researcher can see a snapshot of all transcript content related to that theme and decide on whether to summarise it or not based on familiarity with the data.

5.5 Step 5: analysing data

The final stage of framework analysis involves making sense of the concepts and themes raised in the six framework matrices. Rather than look at all transcripts at the same time, the decision was made to analyse each transcript separately according to topic or question asked. This meant I could be meticulous in looking at the views and opinions of every child participant in an individual focus group, but also that I could cross-compare the responses received on each topic by age, gender, and school type if necessary.

Once I had completed this process for all focus groups, I then cross-referenced content in the spreadsheet for each school on a given theme to two other sources: the coding script (containing open and focused coding), and detailed fieldwork memos that I wrote at the time of the focus group. This was to ensure that I did not miss out any information given by that participant, but also so I could recall things like sentiment, expression, and non-verbal communication, which might influence the way I interpret what a particular child said on a given theme. An example of this cross-referencing is given in the appendix (Appendix A, table 1(g)).

A distinctly appealing characteristic of the framework approach is that my interpretations of participants experiences are transparent from the outset as they are built into the structure of a framework matrix (Smith and Firth, 2011). Although lengthy, this process ensured that the views, opinions, and experiences of children were accurately reflected and minimised the possibility of misinterpretation. Organising and managing data through summarisation allowed me to condense large volumes of material into more manageable quantities, which in turn helped me to gain further insight and familiarity with the data. Using NVivo meant that I could reduce data without losing quality, which allowed me to stay grounded in my data and conduct a systematic and comprehensive investigation of it in line with my research question.

6.Challenges and Reflections

The fieldwork research process was a success in terms of access, recruitment of participants and alignment to the research strategy outlined above. However, there were also several challenges faced during the research process which require further discussion.

6.1 Lack of balance achieved between participants of different genders and ages

I held focus groups specifically with children between the ages of 13-18, with a rule of a maximum of ten children in each group, and with a 50/50 gender split wherever feasible. A total of 161 children participated in focus groups across 20 schools. 60 of these participants were male, and 101 participants were female. This is not the equal split that I hoped for initially. In addition, two of the schools I visited were single sex schools for girls, with the rest being co-educational.

I also asked for an equal split of child participants according to age range across focus groups. A table showing the age range of children who participated in focus groups across all schools is in the appendix (Appendix A, table 1(h)), as well as a table demonstrating the age and gender of focus group participants (Table 1(i)). It is clear from the table that there was greater participation from older children between 16-18 (102 participants), with younger children between 13-15 accounting for less of the total number (49 participants). This requires explanation. I decided that where possible, focus groups should have children who are close in age. This meant that in some groups there were children between 13-15, and in others between 16-18. In the end, there were more focus groups with 16–18-year-olds than there were with 13–15-year-olds.

6.2 Ethical challenges

I was particularly conscious that there was a possibility of children raising issues which are considered taboo subjects in Rwanda and the importance of taking great care around these issues. One such issue is the conceptualisation of the Rwandan people according to past labels for ethnicity (Jessee, 2012, p267). Not only is it inappropriate, but it is also illegal to refer to people as Hutu, Tutsi, and Twa/Batwa (ibid). The only exception to this is if I were to be conducting fieldwork research on the Genocide against the Tutsi itself. This, admittedly, was a challenge in some instances. For example, in one group, a child attempted to begin a heated discussion about why the Batwa social class have been excluded from the narrative of the genocide (a discussion which is for all intents and purposes prohibited in Rwanda). I steered discussion away from this topic by using the rights of the child as a springboard for discussion on the idea of justice being for everyone, the role of colonisation in creating division through discriminating against social classes, and how this affected the narrative which caused the genocide. Researchers to the

country are expected to refer to the local population as Rwandans to avoid maintaining and promoting divisive terminology reminiscent of pre-genocide Rwanda (ibid). Indeed, a phrase used by many Rwandans to describe the populous is “Twese Turi Abanyarwanda,” or “we are all Rwandans.” It is still acceptable to talk about differences in economic class, but past labels related to ethnicity are no longer part of the official discourse in Rwanda (ibid).

6.3. Logistical challenges

Other challenges were logistical in nature. One such challenge was the multilingual environment of the focus groups. Before visiting the country, I made sure I could speak some phrases of greeting and knew a few basic verbs in the most commonly spoken language in Rwanda, Kinyarwanda. Moreover, on further discussions with NAR, I began researching the education system in Rwanda prior to my arrival. In doing so, I found that three official languages are used in the Rwandan education system. Kinyarwanda is used in primary school classes 1-3 (UK nursery through to Year 2/3 equivalent) and English is used from class 4 (Year 4 upper primary) through to university. Though I was confident that all children I spoke to would at least have a rudimentary knowledge of English, I did not want to unwittingly create any barriers to their participation by making assumptions about their English proficiency. This situation becomes more complex when considering that even older children in rural areas outside of the capital are much less likely to be able to converse confidently in English. I therefore decided to give all children a choice as to whether to respond in English or in Kinyarwanda. Many children did try to respond in English and did a fantastic job in doing so. However, others found it much more difficult, sometimes visibly so, and asked permission to revert to their first language with my research assistant translating what was said for the benefit of the recording. Although

giving children the option to respond in Kinyarwanda made the focus group process lengthier, it did open up an avenue for participation for some children that would simply not have existed if they did not have this choice.

Another example of a logistical challenge faced in the field was accounting for the number of 18+ children that were in some focus groups. My research assistant and I were in sole charge of conducting the focus groups, with representatives from community organisations charged with making sure everyone in the room was between 13-18 and had signed a register to this effect. This decision was made in accordance with my conceptual framework, which states that the child in international law is defined as a person under the age of 18.

Unfortunately, I later found that in 2 focus groups, some participants were in fact 19 or 20. I did not find this out until long after the focus group had ended, and once NAR emailed me copies of the registers when I returned to the UK. I checked back with the community groups who all insisted that they double checked the ages of the participants before they let them proceed with taking part (indeed, the audio recordings confirm this is the case). As a consequence, I do not refer to the data from these participants anywhere in the thesis.

In a separate group, this was quickly remedied before it took place. In this instance, I found out that some children were above 18 only after my research assistant read out the audio consent script in Kinyarwanda which required them to confirm that they were eighteen or under. Once I realised that some of the group were over the age limit, I stopped recording to find new focus group participants and recorded consent again with these new participants. When I checked what had happened, the Headmaster shared that

he had understood I needed to talk to ‘children and youth.’ As noted in the introduction to the thesis (section 3.2, p12), youth in Rwanda are viewed as including those up to the age of 35, so he presumed that older youth could take part.

At this juncture, it is important to address the exclusion of data collected from participants in focus groups who were over the age of 18, problematising and justifying this decision through the lens of the analytical framework of article 12 of the Convention as presented in Chapter Three (section 3.2).

To do so, it is imperative to examine the relationship between article 12 and article 1 of the Convention. As noted in Chapter Three (section 3.1.1), Article 1 reads as follows:

> “For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.”

The definition of the child in article 1 - namely that they are under the age of 18 - is used as the baseline for designing and implementing the inclusion and exclusion criteria for focus group participants. In addition, as noted in section 3.1.2 of Chapter Three as well as in section 4.3 of this chapter, the research focuses specifically on children between the ages of 13-18 (or ‘adolescents’ as defined by the ComRC). A range of terminology applies to adolescence (World Health Organisation, 2018, p3). This includes ‘adolescent,’ ‘child’ and ‘minor,’ but also includes ‘young adult,’ ‘young person’ and – as in the Rwandan context - ‘youth’ (ibid). Although these terms appear similar and overlap in their meaning, they do in fact “have particular legal, social, and cultural […] connotations and implications,” with differences in understanding “between countries, within and between regions, and even at the international level” (ibid).

This is evidenced in the research by examining how ‘the child’ or ‘adolescence’ is understood at the national and local level in Rwanda, most notably through the use of the term ‘youth.’ The United Nations notes that in April 2022, there were 1.2 billion young people aged 15 to 24 years across the globe, which accounts for 16 per cent of the global population (UNICEF ‘Global Issues - Youth’ (April 2022). This is of significance to the research, particularly the links between child participation in transitional justice to the goal of SDG16. By 2030, “the target date for the Sustainable Development Goals that make up the 2030 Agenda,” the number of youth is projected to have grown by 7 per cent, to nearly 1.3 billion (ibid). Although ‘youth’ are recognised by the United Nations as those between the ages of 15-24 (“without prejudice to any other definitions made by Member States”), there is in fact no universally agreed international definition of the youth age group (UNICEF ‘Global Issues - Youth’ (April 2022), Resolution A/36/215). As a result, all statistics on youth produced by the United Nations across all agencies are based on this definition (ibid).

As noted in Chapter One (section 3.2), ‘youth’ in Rwanda account for above 40% of the population, (Government of Rwanda, 2017), and this is an important consideration when thinking about how the legacy of the Genocide against the Tutsi has shaped the views and opinions of these children on the importance that should be given to the voices of children in international, national and local transitional justice, and the extent to which children in Rwanda feel that their right to be heard matters in contesting injustice and building sustainable peace. Such issues are also discussed in Chapter Two (section 2.2) when assessing the remit of SDG16, and why the participation of children should be included in this goal.

As will be evidenced in the following chapter, in Rwanda, children who fall into the inclusion criteria of the research (those between 13-18) are often referred to as 'youth,' including by the children themselves. However, the understanding of 'youth' is one which applies additionally to those over the age in 18, including those between the ages of 19-35 (National Youth Policy, 2006, p8). The National Youth Policy of Rwanda, in acknowledging that according to the United Nations, "the youth comprises of people that are between 15 and 19 years old (adolescents) and those who are aged between 20 and 24 (young adults)," also recognises that although at first glance these parameters appear static, the actual meaning of the word youth "varies from one society to another and has evolved depending on political, economic and socio-cultural contexts" (ibid, p28). In referring to the importance of such contexts, the Policy argues that "a young person is that person who is considered as such by the society" (ibid). Indeed, such an understanding of 'youth' as being between 14-35 is one which is common across the African continent, as corroborated by examining the language of the African Youth Charter, "where "youth" and "young person" are defined as "every person between the ages of 15 and 35 years"" (Preamble, p3. See also World Health Organisation, 2018, p10, Ruppel, 2009, p82).

Anderson and Corneli note that researchers must display cultural competence, which "involves demonstrating respect for differences," and includes the requirement that "researchers do not blindly apply ethical principles to research conducted in cultures that may have different interpretations" (in this case, of childhood) (Anderson and Corneli, 2017, p126). As an interdisciplinary researcher from the global north, I was cognisant of the fact that there is different terminology used in Rwanda to describe the children I would be talking to in focus groups. Similarly, I was also aware of the fact that the terminology I used to refer to children between the ages of 13-18 when devising my inclusion and

exclusion criteria had to be both appropriate and consistent, so there was no ambiguity as to who was included and who was excluded (and why).

By triangulating the definition of ‘the child,’ ‘adolescence’ and ‘youth’ from various international and national legal sources, as well as discussing the most pertinent issues with both my supervisors and my partners at NAR, I made the decision to keep the inclusion criteria for children in focus groups as those between the ages of 13-18, and to exclude the data collected from children over the age of 18. Many countries, including Rwanda, “draw the line” on youth “with regard to the age at which a person is given equal treatment under the law,” which is in accordance with the age of majority in article 1 of the Convention (UNICEF ‘Global Issues - Youth’ (April 2022). In Rwanda, the definition of a ‘child’ in the Constitution of Rwanda is in line with article 1 of the Convention, and states that a child is any person under the age of 18 (Abbott and Sapsford, 2012, p8, citing Constitution of Rwanda, article 1). In addition, Article 2 of the African Charter on the Rights and Welfare of the Child (or ACRWC) also defines a child as a person below age 18, in line with the Convention on the Rights of the Child, for the purposes of the Charter.

Although I acknowledge that not including the data collected from participants over the age of 18 is a decision that leaves room for further discussion on ethical considerations (particularly as the focus group participants over the age of 18 had given up their time to share their views and opinions), the importance of precision when setting out the inclusion and exclusion criteria was crucial to ensure that the study population could inform clear research, policy and practice implications, as well as facilitate comparison with other studies in future research. It is for this reason I stand by my decision to exclude the data collected from focus group participants over the age of 18.

This did not mean that I dismissed outright the importance of tailoring my approach to fieldwork research to Rwanda's social and cultural context. The reference to 'age of majority' in article 1 of the Convention reflects the fact that communities view the time-bound nature of childhood differently. As Twum-Danso (2008) notes, childhood is "neither a natural nor universal feature of human groups but appears as a specific structural and cultural component of many societies" (p400, citing Hendrick, 1997, p9). As such, childhood is viewed as a transitional period where children occupy the social space that is created for them by adults within their society (Archard, 2014, p31). In which case, it is important to address how the 'child' is known and understood in Rwanda, on both a legal and societal basis, and the extent to which such considerations had any bearing on the exclusion criteria (and therefore decision to exclude data from participants who were over 18). I was fully aware, through my literature review and as a consequence of my scoping trip to Rwanda, that how both national law and everyday society in Rwanda views 'the child' will be characterised for a long time by the consequences of the Genocide against the Tutsi (a fact itself acknowledged in the National Youth Policy) (2006, p4). I was also aware that the scope of article 1 of the Convention, as set out in Chapter 3 (section 3.1.1, pp78-80), is still a contentious issue that is deeply contested in various international contexts.

However, whilst it is important to provide this acknowledgment of contextual factors that were considered before making this decision, I nevertheless choose to adopt the definition of the child as expressed in article 1 of the Convention. By embedding my inclusion and exclusion criteria in the analytical framework of article 12, particularly in how it relates to article 1 of the Convention and the parameters of who is a 'child' (rather than a specific focus on 'youth'), I made the decision that it was indeed legitimate – and necessary – to

exclude the data given by focus group participants over the age of 18, as including this information could raise issues about the integrity of the data in accordance with the framework of article 12 of the Convention. Just as the law must in some instances operate with fixed-age criteria “for the sake of legal certainty and practicality” (Van Der Vyver, 1997, p752), the decision was made that all participants between 13-18 in focus groups are ‘children’ in line with article 1 the Convention, and as understood in national law in Rwanda. Doing so meets the objectives of the research but also considers the ethical considerations and principles outlined above. The inclusion and exclusion criteria are not “based on convenience” (Anderson and Corneli, 2017, p106). Instead, they are determined by the analytical framework of article 12 of the Convention which (as explained in section 1.1 of Chapter Three) is a multilateral treaty containing specific rights for individuals and groups of children across the world, and as such is the primary reference point for the construction of the framework.

The final logistical challenge were those instances where there were focus groups consisting of children from two completely different schools. Often, these groups were organised at the last minute because of unexpected issues. By way of example, one focus group had two groups of five children. The first group of five were children between 16-18 and privately educated. The second group of five were 13-15 and came from the equivalent of a state school. The dynamic between the children was difficult, with the younger children reticent to get involved in discussion at all, whereas the older pupils dominated discussions from the very beginning despite my efforts to engage the younger group. I left regretting that the younger students did not have a focus group of their own, as I felt that they would have contributed much more if they did. However, to not combine the groups in this way would have meant one group missed taking part altogether, so my

team and I decided it was worth the risk. Afterwards, I reflected on the fact that I would not have put these two groups of children together if I had any other choice, because the confidence shown by the older children meant that the other group of younger children felt their participation had to be restrained.

6.4 The impact of the Covid-19 pandemic

Three trips to Rwanda were originally planned. The first was a scoping visit to the country, which took place in April 2019. The second visit formed the first phase of fieldwork research with children in schools across the country, which took place in January 2020.

The third phase of the fieldwork research was to involve face-to-face interviews with state officials, law and policy makers, and NGO representatives who work with children and young people under the age of eighteen, as well as Rwandan academics. Although planned for May 2020, this stage of the fieldwork was postponed by the first national lockdown in the UK,[1] with further lockdowns throughout 2020 and 2021 both in the UK and in Rwanda meaning that I could not return to the country to complete this phase of the research.[2]

During this third visit, I was also due to facilitate community dialogue groups alongside the Institute for Research and Dialogue for Peace (or IRDP), with teenage participants within their predominantly rural communities. Not being able to do this meant that I could not speak to those teenagers who had less opportunity to get the chance to speak to me in my role as a researcher, nor could they share their views and opinions about my research question. I was also due to meet with senior stakeholders from government and NGO

[1] For a timeline of COVID-19 lockdowns in the UK see the Institute for Government website [located at: https://www.instituteforgovernment.org.uk/sites/default/files/timeline-lockdown-web.pdf] [last accessed: 01 February 2022].
[2] The Rwandan response to the COVID-19 pandemic can be found at the World Health Organisation website [located at: https://www.afro.who.int/news/covid-19-rwanda-countrys-response] [last accessed: 01 February 2022].

representatives whose focus is on child rights and/or transitional justice, in order to conduct interviews with them based on the information shared with me from focus groups. Not being able to do this meant that I did not get what I perceived as the 'fuller picture' about the extent to which children in Rwanda are involved in decision making processes in the country, or indeed whether these children see memorialisation efforts and the inkiko-gacaca courts as decision making processes. Nor did I get the chance to know and understand the extent to which the senior stakeholders mentioned above view the inkiko-gacaca courts and memorialisation efforts as decision making processes, and the importance they place on child participation within them.

The challenges faced in my research as a result of the Covid-19 pandemic are set out in more detail in Chapter 7.

Conclusion

The thesis serves to highlight the lack of existing research on the topic of why should, and how can, child participation be facilitated in transitional justice. To this end, desk-based research identified a gap in knowledge production about child participation in transitional justice that the empirical data collection seeks to fill. Using Rwanda as a case study allows for an exploration of both past (inkiko-gacaca courts) and present day (memorialisation processes) practice when it come to the participation of children.

The research methodology is designed to position the analytical framework of article 12 of the Convention on the Rights of the Child at the forefront of the thesis. As noted in the conclusion to the previous chapter, when thinking about why should, and how can, child participation be facilitated in transitional justice, it is important for the individual elements of the article 12 framework to be utilised when undertaking field research with children in

focus groups, particularly when assessing the views and opinions of children on how they perceive the importance of finding a balance between participation and protection, how they feel the capability of the child to form a view should be understood, what it means to express views freely, who should define what matters affect the child, and why and how to ensure that due weight is given to the views and opinions of the child in transitional justice. To do so also requires an assessment of how children in Rwanda between the ages of 13-18 define and conceptualise child participation in transitional justice, how they feel it was reflected in the past (whether in their everyday lives or through transitional justice mechanisms), how it is reflected in the present, and how they feel it will or should look for future generations of children.

Using grounded theory ethnography in the field allows for a combination of the strongest aspects of ethnography and grounded theory to be utilised in a way which describes actions and situations that have significant consequences on the lives of children, including the contextual and social barriers children face within their own communities. In the data analysis phase, framework analysis of all sources ensures that the data is explicitly described, which enhances the credibility of the findings.

CHAPTER FIVE

TRANSITIONAL JUSTICE, CHILDREN'S RIGHTS AND THE RIGHT TO BE HEARD: THE VIEWS AND OPINIONS OF RWANDAN CHILDREN.

Introduction

This chapter sets out how children in focus groups know and understand transitional justice and the rights of the child in general terms. The chapter first explores the extent to which children in focus groups know and understand transitional justice by way of its historical and conceptual underpinnings. In discussing first the education system in Rwanda, particularly as it pertains to transitional justice, human rights and the rights of the child, the chapter then sets out how children in focus groups know and understand the rights of the child in international law and how they apply this understanding of their rights to their own lives. This is important when making the connections between the views and opinions of children about their own lived experiences and how they know and understand the role of children, particularly their participation, within transitional justice. Next, the chapter moves on to discuss the understanding of children in focus groups on article 12 of the Convention, setting the foundation for further analysis of how children critically assess the relationships between article 12 and those processes, activities, and spaces they associate with the specific terminology in the article. As such, it is important to assess the extent to which the views, opinions and perceptions of children, specifically with respect to how much space there is for them to participate, may be influenced by their own circumstances or other factors. This takes place by examining what children in focus

groups in Rwanda feel are the benefits of, and barriers to, their article 12 participation in the country.

The chapter concludes by setting out how the findings play an important role in setting the scene for thinking about the extent to which children's understandings of concepts such as 'the right to be heard,' 'participation,' and 'transitional justice' underpin the case for child participation in transitional justice. The data presented in this chapter will form the baseline for further in-depth analysis in the following chapter, which looks specifically at the inkiko-gacaca courts and memorialisation processes (particularly, but not exclusively, Kwibuka).

1. 'Ways of knowing' transitional justice and the rights of the child in Rwanda

This section of the chapter explores the extent to which children in focus groups know and understand transitional justice and the rights of the child. It first sets out the educational landscape for children in secondary schools in Rwanda, particularly as it pertains to subjects on the curriculum which teach adolescent children about transitional justice, human rights and the rights of children, before moving forward by setting out how children in focus groups know and understand the rights of the child in international law and how they apply this understanding of their rights to their own lives. This takes place to establish those important, initial connections between the views and opinions of children about their own lived experiences and how they know and understand the role of children, particularly their participation, within transitional justice.

At the outset, it should be noted that there is an increased use of footnotes in both this and the following chapter, used to refer to specific participants when setting out the information

they provided when answering focus group questions. In addition, the chapter refers to children between the ages of 13-15 as ‘younger children’ and those between 16-18 as ‘older children.’ Chapter 3 (section 3.1.2, pp80-82) sets out the basis for this categorisation by way of the Convention, particularly in the relationship between article 1/article 12 and the General Comments of the ComRC, with further justification provided in the previous chapter from a methodological perspective. The categorisation of ‘younger’ and ‘older’ children is used in both this and the following chapter.

1.1 Knowledge production on transitional justice, human rights and the rights of the child: the education system

When speaking to children in focus groups about where they learned about transitional justice, human rights and their specific rights as children, the most common response was at school, in particular through Citizenship and History classes. This is corroborated by a closer examination of the curriculum in these subjects and requires further explanation here. However, at this juncture, it should be noted that children in focus groups also gave another source of information on transitional justice and the rights of the child as being family and community members; as this discussion is a lot more complex, dealing with issues which can also be seen as barriers to their knowledge and participation, this will be discussed separately later in the chapter.

The ‘Education Sector Strategic Plan 2018/19 – 2023/24’ outlines the importance of a national strategy for Rwanda’s education sector “in accordance with global, regional and national development agencies,” to meet the requirements of the SDGs and Vision 2050 (Education Sector Strategic Plan 2018-2024, Foreword). The SDGs are discussed in Chapter 1 of the thesis (section 2.2-2.3 in particular) and will also be referred to where

necessary in the course of this and the following chapter. ‘Vision 2050’ in Rwanda is referred to in the Introduction to the thesis (section 4).

A “core objective” of the education policy framework, as represented by the Strategic Framework, is “the promotion of a culture of peace and placing an emphasis on what are understood as “Rwandan values,” as well as “the universal values of justice, peace, tolerance, respect for human rights, gender equality, solidarity and democracy” (ibid. p3). Underpinning these core objectives are eight specific policy objectives, including the promotion of an education “oriented towards the respect of human rights” (ibid, p4).

One way in which the education policy framework intends to meet these aims is by way of the implementation of a competency-based curriculum in secondary education. A competency-based approach encourages learners “to think of themselves as world citizens, rather than citizens of a particular nation of homeland,” and promotes the use of “critical thinking skills to survey and thoughtfully prioritize problems, identify possible solutions, [and] assess options and plan actions based on evidence” (Mugiraneza and Andala, 2019, p87, citing Mansilla & Jackson, 2011). The aim of such a curriculum is to take learning “to higher levels by providing challenging and engaging learning experiences which require deep thinking rather than just memorisation” (in other words, “what young people can do rather than just on what they know”) (Rwanda Education Board, 2015). Indeed, in referring to the competence-based curriculum, one child in a focus group made the distinction between it and the more ‘traditional’ ways of learning in the past, and her positive feelings about the new curriculum making her learning more relevant to her everyday life:

> G: “Education now, it is about applying what you studied […] some people like, older people before us, you know? They have this thing

of saying that you must take what you know and you put it on the paper and that is it, that is your learning and that is how you are schooled, but that is no longer uh… that is to say, that is not our way, like, the CBC, it is more about you applying what you have been learning and which ways you're going to do it and where, how, these kind of things, it is more about your voice on these matters and sharing it to expand our like, knowledge."

JR: "Hmm, OK,I see, thank you! Before I move on - you mentioned something there, something I have never heard of before today - the CBC? What is that, can you explain it to me? Is that OK?"

G: "Oh er… Yes! Certainly! So, um… so it is a more… they call it a competency-based curriculum, the CBC, it is through doing not just learning in the old sense on the papers and with pens or pencils or… you know? That is to say, like… the CBC it is important because it shows, it encourages every single teenager who is still studying, or any single person who is still in the youth, it is showing that I also have to give my views out loud, to take action. So they have found so many ways of asking all of us in maybe an artistic or in a scientific way, asking us what do we feel about things, in all subjects not just this one then another one separately, and this like, it encourages us to do something with what we are learning, to make it uh…uhm, how you say it… active? You know, like that? Not only on the page, but in participation, in our schooling and in our lives, so we really understand it's like, relevance for us and things like this... *Urumva*? Sorry, um… that means, do you understand this what I am saying?"[3]

The Government of Rwanda explain that there are "two categories of competence" that are measured and evaluated for children in education settings: basic competencies, ("key competences based on expectations and aspirations reflected in the national policy documents") and generic competences ("higher order thinking skills" which "apply across the curriculum" and "help students deepen their understanding of subjects and apply their subject learning in a range of situations ") (Rwanda Education Board, 2015, p8). In taking such an approach, the Department for Education in Rwanda plan to ensure that by 2030, "all learners acquire the knowledge and skills needed to promote sustainable development, including, among others, through education for sustainable development

[3] Participant BSKSG1

and sustainable lifestyles, human rights, gender equality, promotion of a culture of peace and non-violence, global citizenship and appreciation of cultural diversity and of culture's contribution to sustainable development," in line with SDG target 4.7 (MINEDUC(1), July 2021, p35; see also MINEDUC(2), November 2021, p10). In plans to monitor the progress of this indicator in the education system of Rwanda, the Ministry of Education state that they will continuously monitor the extent to which both global citizenship education and education for sustainable development (which include gender equality and human rights) are mainstreamed at all levels, including in national education policies, the curriculum, in teacher education and in student assessment (MINEDUC(1), p35).

It should be noted too that in addition to this curriculum, there is also a significant focus on what is referred to as 'peace education' in Rwanda. In the immediate aftermath of the Genocide against the Tutsi, the national concern was the restoration and maintenance of peace and security, and as such, the Government of Rwanda "put in place different policies, institutions and mechanisms to promote reconciliation and social justice," including gender policies, the National Examination Council (now integrated into the Rwanda Education Board), Office of the Ombudsman, Commission of Human Rights and National Commission of Unity and Reconciliation (Nzahabwanayo, S. (no date), p23). With the aim of "replacing fear, mistrust and hatred with mutual confidence," peace education in Rwanda became, and has remained, an "essential initiative" contributing to the reconstruction process, with peace education on human rights "raising students' awareness of the importance of human rights so that they can strive to respect them and become agents of human rights protection" (ibid, p25). Indeed, in the competence-based curriculum used within the school environment, such education is commonly understood as 'Peace and Values Education' (or PVE), which "promotes social cohesion, positive

values, including pluralism and personal responsibility, empathy, critical thinking and action in order to build a more peaceful society" (Rwanda Education Board, 2015, p5).

Such education on human rights is vital when a society recovering from violence and human rights abuses are in the midst of confronting this past and striving to achieve justice, accountability and reconciliation (Taka, 2020, p111). Although the data collected does not discuss peace education directly, it is important to note the importance of it in the education system and curriculum of Rwanda, as peace values are integrated in all aspects of the curriculum and educational activities at the upper secondary/senior level (Nzahabwanayo, S. (no date), p25). In addition, for many children, an important 'added source' of information on transitional justice, human rights and the rights of the child is through Kwibuka activities, either at the state level or in the school system, much of which is embedded in the values of peace education. These activities, and the stakeholders that support them, are discussed in more detail later in this chapter, as well as in the following one.

Both the competency-based curriculum and peace education are examples of how educational reform, in policy and practice, "has a unique role in transitional justice to uncover past violence and build a future where democracy can prevail" (ibid). Structural reforms in education have great potential to "improve the curriculum in the teaching of history, human rights and citizenship; transform pedagogy and institutional culture to embed critical thinking and democracy; as well as to address discrimination and inequality" (ibid, p112).

As the chapter moves forward, both the competency-based curriculum and peace education will be assessed for their effectiveness at improving the knowledge and

understanding of transitional justice, human rights and the rights of the child for children in focus groups. In particular, and in response to the data collected from children in focus groups, I will focus on how these concepts are taught in two subjects at the secondary/senior school level: Citizenship and History. However, on a point of clarification, it should be noted that lower-secondary education (called “ordinary level”) in Rwanda encompasses children in the equivalent of grades seven to nine in the U.S. education system (referred to in Rwanda as Senior 1 to Senior 3, between the ages of 12-14), and upper-secondary programs, including technical secondary education (referred to in Rwanda as “advanced level”) encompasses children in the equivalent grades of 10 to 12 (again referred to in Rwanda as Senior 4 to Senior 6, between the ages of 15-18). As explained in Chapter 4, the children I spoke to in focus groups were between 13-18, therefore encompassing Senior 2 - Senior 6) (See US vs. UK age/grade/year equivalents as used at the American School in London for further clarification).

1.2 Knowledge and understanding of transitional justice

A primary objective of the fieldwork research was to find out what children in Rwanda know and understand about transitional justice. As such, I began each focus group by asking child participants to raise their hand if they had ever heard of the term ‘transitional justice’ before.

Younger children did not reference specific mechanisms of transitional justice, but instead referred to preconceived ideas or principles that they understood lay behind transitional justice in Rwanda. In doing so, these children used terminology such as ‘resolving conflict

between two sides,'[4] 'reaching a common understanding,'[5] 'restoring relationships,'[6] 'reconnecting people,'[7] or 'returning to normality' with others in the community.[8] There was also a focus on an idea of 'justice' in the interests of the population. In this respect, younger children equated justice with human rights, using language such as 'justice being for everyone,'[9] 'equality for all,'[10] 'being fair in the eyes of the law,'[11] and 'achieving a balanced outcome regardless of gender, disability or social class.'[12]

Older children used much more precise and nuanced terminology, appropriately defining and using words commonly associated with transitional justice such as accountability, truth, and reconciliation. These children set out what they recall as the purpose and scope of transitional justice as being anchored by a two-stage approach. Firstly, transitional justice must operate under the remit of the rule of law (a person is tried, prosecuted, and convicted of a crime and serves a sentence, pays reparation, or undertakes community work). Secondly, and only once the first stage has been completed, must come reconciliation – the guilty party must speak directly to the victim or the family of the victim and ask for their forgiveness, and once this forgiveness is granted healing can begin for both sides.[13]

These older teenagers also perceived reconciliation as the most important part of the transitional justice process, but also stressed that there is a strict order that is to be

[4] Participant GARB2
[5] Participant APAG4
[6] Participant BSKSG5
[7] Participant GSGB1
[8] Participant CICB5
[9] Participant BSKSG1
[10] Participant MISG3
[11] Participant GASCMRB1
[12] Participant KCBG4
[13] Participants MPESB1, MPESB2, BSKSG3, GSNDLG3, NB1, SHSB1, SHSB2, SHSB3, SHSB4, SMZB1, SMZB3, APAG1, BSKSG1, BSKSG2, GASCMRG1, GASCMRG2, GASCMRG3, GSNDLG4, IWEG2, IWEG3, IWEG5, and KCBG2 all specifically referred to transitional justice being this two-sided process.

followed. It is important for accountability to come first: those who are guilty must first be held accountable for their crimes, and reconciliation comes only once this has taken place.[14] Without both accountability and reconciliation, there is no transitional justice. To have 'only' accountability or reconciliation is simply not enough, and children were clear about this; as one participant explained to my research assistant, "it does not mean that you don't punish people for what they have done. You punish them, but then you try to unite them. You must have both, you absolutely must have both."[15] Some children gave real-life examples from their communities to emphasise this point:

> SG: "He gave me an example from his real life […] one person killed the relative of another one in his community during the Genocide against the Tutsi and was put in prison. But when he came back from the prison, they sat down with an elder and they reconciled. And these days, they participate in everything in their communities. And the one whose relatives were killed when he take part in this, he invites the fellow who did it to come and eat in his home. So, he sees it here in Rwanda as one example of transitional justice, but he adds why you must have both, punishment and reconciliation, for justice to really be done."[16]

Both older and younger focus group participants understand transitional justice as intrinsically linked to the history of the country, and how Rwandan society was constructed and the principles that communities lived by before Rwanda was colonised. Children explained that reconciliation between peoples is a concept rooted in their cultural heritage, particularly during a time when Rwanda was ruled by a monarchy. It was this monarchical system that emphasised the importance of reconciliation in coming to terms with (and finding solutions for) problems in familial, communal or working relationships with other individuals in their community, or indeed in similar relationships with those in different

[14] Participants SHSG3, APAB3, SHSB3, BSKSG3, and GASCMRG3 made this point specifically.
[15] Participant GSOBB3
[16] Participant SHSB2

communities. One child recalled that before colonisation, the “great Kings” (or *mwami*) taught their people about the importance of unity and reconciling with one another if crimes were committed in the village.[17] Another explained that it was during this “Kingdom Regime” that true transitional justice, by way of accountability and reconciliation, was a part of the culture of the Rwandan people, but that in events leading up to the genocide, “justice was no longer transitional.”[18] This is because “there was no reconciling of people, no changing of minds so that we can rebuild what was lost.”[19] This was blamed on the colonial powers of the past and the propaganda of the colonisers (or *umuzungu*) being used to spread division and discrimination through the Rwandan population through the ages, which culminated in the genocide.[20]

It is important at this juncture to contextualise the point made by children here. In the late 1800s, Rwanda and its neighbour Burundi were one territory (known as Ruanda-Urundi). After the Berlin Conference of 1884-5 (otherwise known as the West African Conference, the agenda being the portioning of Africa to divide resources among the Western countries in order to bring “civilisation,” in the form of Christianity, as well as trade), the territory became a German colony. In 1924, after Belgian forces occupied the region during World War One, a League of Nations mandate awarded the territory to Belgium. Rwanda and Burundi did not exist as two separate territories until independence in 1962. Although the classification of Hutu and Tutsi was put in place before colonialism, it was the colonisation of the Belgians that fostered the idea that the Tutsi were superior to the Hutu, a fact

[17] Participant MPESB2
[18] Participant NG3
[19] Participant NG3
[20] Participants SOSB4, BSKB3, GSOBB5, MPESB2, NB1, GSNDLG1, NG3, MPESB2 and IWEG2 all referred to the colonial past of the country being at least partly responsible for ethnic division in the country.

recognised by United Nations Resolution (A/RES/63 (I) of 13 Dec. 1946).

The introduction of identity cards in Rwanda was also introduced by the Belgian colonisers and retained by those who took power after independence in 1962. A crucial element of these cards was distinguishing people by their ethnic classification (Hutu, Tutsi, or Twa/Batwa). This classification was central in shaping, defining, and perpetuating ethnic identity, so much so that once the Genocide against the Tutsi began, “an ID card with the designation "Tutsi" spelled a death sentence at any roadblock” (Fussell, 2001, p1). These ID cards were the most significant factor in facilitating the speed and magnitude of the one hundred days of mass killing in Rwanda (Van Brakel and Van Kerckhoven, 2014).

Children in focus groups explained that when the genocide ended, the government looked to their past to draw on cultural traditions and principles of justice and reconciliation to reunite the people, establishing and embracing new accountability and reconciliation mechanisms to reconstruct and redevelop the country.[21] In particular, children referred to the gacaca courts as a pre-colonial system of local justice, which were ‘revived’ as a response to community demands for access to justice after the Genocide.[22] Making this clear distinction between the gacaca courts of the pre-colonial past and of the post-Genocide era is in line with current literature on the gacaca courts, which acknowledges that the gacaca system put in place after the Genocide is adapted from their original purpose in order to respond to an overwhelmed national court system (Goldstein-Bolocan, 2004; Nyseth Brehm et.al., 2020; Beswick, 2010). Moreover, the Transitional Assembly of Rwanda adopted Organic Law No 40/200 (also known as ‘The Gacaca Law’) which

[21] Participants SOSB4, BSKB3, GSOBB5, MPESB2, NB1, GSNDLG1, NG3, MPESB2 and IWEG2 referred to this point.
[22] Participants SHSB3, SMZB4, GSNDLG4, IWEG5, MPESG1, APAB2, and SHSG3 all made this point.

adapted the traditional, pre-colonial system of community justice and dispute resolution for the purposes of adjudicating crimes involving the gross human rights violations committed during the Genocide. In this respect, the Rwandan government too makes a clear distinction between the traditional, pre-colonial gacaca courts and those implemented after the Genocide against the Tutsi.

My initial observations were that knowledge and understanding of transitional justice was patchy and inconsistent across focus groups. This was in line with what I was told to expect by my in-country partners, who informed me that children in Rwanda are unlikely to be aware of the term 'transitional justice' either as a concept or by way of a specific definition. If they are aware of the term, it is only in as far as it applies to systems of accountability and reconciliation in Rwanda after the Genocide against the Tutsi. Moreover, as a specific term, transitional justice is less likely to be understood by children than specific mechanisms unique to Rwanda, such as the gacaca courts or memory/commemoration activities. In large part, this is because the education system in Rwanda at the secondary level reflects the notion of Rwandan Basic Values or national civic values, particularly in the 'social sciences' subjects which encompass (among others) citizenship, history and genocide studies. These values "permeate the curriculum and all the processes of schooling" (Rwanda Education Board, 2015, p3). This aspect of the curriculum, and the challenges, is discussed in more detail in section 1.4.

1.3 Knowledge and understanding of the rights of the child.

Before initiating discussions focused specifically on article 12 of the Convention, I introduced the Convention itself as a springboard to propel discussion forward from transitional justice to the right to be heard. I did so by asking children to tell me whether

they knew of any particular law or legal instrument which contains all the rights of children, as well as whether they could give me examples of any rights that they know of that are specifically for children, and their ideas on where these rights may have come from.

In some groups, this led to fervent discussions about how they perceive the interdependent nature of their rights; children in focus groups were adept at linking various rights of the child together in order that one right might act as a springboard to access another. On many occasions, children also steered the discussion towards the role that rights for children played in their everyday lives and the challenges faced by children in Rwanda when accessing their rights. For example, access to education was discussed according to various factors, such as access for children with disabilities, affordability of education, quality of education for children from various socioeconomic backgrounds, and access to education for children in village locations and poorer areas of cities and towns. Children then linked these factors to accessing employment and jobs after leaving school, which would in turn provide a path out of poverty.

The rights that children across focus groups referred to as specifically applying to children are set out below, alongside their corresponding article in the Convention. It should be noted that children in focus groups did not refer specifically to these individual articles. They are used in the chapter only to demonstrate their place in the Convention. In addition, and in line with the focus of Chapter 2 (section 2.2, pp32-34) on the link between the rule of law, transitional justice and the SDGs, I also note the corresponding Sustainable Development Goal addressing the issues raised by children in focus groups with respect to the link made between their rights and development issues. This is also in line with the interdisciplinary nature of the thesis. Again, children in focus groups did not refer to the SDGs directly.

Where answers are provided as statements of fact, the views and opinions provided by the children are verified by colleagues at NAR wherever possible, with evidence provided to substantiate the points made. Any inaccuracies or clarifications are duly noted.

Finally, links made to Rwandan national law and the extent to which these specific rights are protected, including by way of ratification of the Convention in Rwanda, are noted in the main body text. The Convention on the Rights of the Child was ratified without reservation by Rwanda in 1991. Since ratification, Rwanda has further ratified Law No.54/2000 (Relating to the Rights and Protection of the Child) to act as a “Bill of Rights” for children in Rwanda (Abbott and Sapsford, 2012, p9). For clarity, Law 54/2000 defines a child as “anyone under the age of 18 years,” and clearly defines the differences between "child" and "youth" within Rwandan law (the definition of which includes people up to the age of 35) (ibid). In doing so, Rwandan national law as it pertains to children covers all aspects of the rights of children and complies with all ratified international treaties, although the country has still not fully harmonised its domestic laws with the articles within it. Indeed, Abbott and Sapsford note that the laws, policies and programmes on the rights of children in Rwanda demonstrate a lack of precise definition in line with the Convention on the Rights of the Child, with legislation often focused on “formal,” state aspects of society (Abbott and Sapsford, 2012, p21). Examples of areas where laws and policies need to be harmonised will be discussed in this section as they arise from the views and opinions of children.

1.3.1 Access to Education (Article 28)

Of all Convention rights mentioned by children in focus groups, the right to education was mentioned the most, with some referring to it as "the first child right" for all children.[23] All children who referred to the right of education asserted that it is "against the law to deny access to education" for any child, regardless of "the child's gender," "whether they are rich or poor," or "family background."[24] Indeed, article 20 of the Constitution of Rwanda states that every child has the right to education, and Chapter 5 of Law Nº54/2000 of 14/12/2011 (Relating to the Rights and the Protection of the Child) states that parents/guardians "must ensure" that their children attend school. However, in considering precisely why the right to education is held in such high esteem by Rwandan children, there are two important points to make.

Firstly, I was informed by NAR that the reconstruction process in Rwanda after the Genocide against the Tutsi was focused on vastly improving the education system in schools, particularly due to the role the education system played in perpetuating the hate speech that culminated in the Genocide (discussed forthwith in Chapter 5, section 3.1, pp175-176, and also discussed in Chapter 2, section 3.4.1.2, pp57-58). However, such work also took place within communities. As part of these efforts, community platforms such as "inteko y'abaturage" (community forums) and "umugoroba w'ababyeyi " (family meetings) were implemented to educate adult survivors of the Genocide, with children welcome to attend. These platforms are still used today to raise awareness on development issues, including the link between development and the right to education. NAR informed me that it is at these forums where parents are educated about the

[23] Participants MISG3, MISG4, GSGB1, GSGB3, KCBB2, NB3, GSGG2, GSGG3, IWEG1, and IWEG2 all referred to the right to education as being the "first right" for all children, with others using their own similar words to convey their view that it was the most important right for a child in Rwanda.
[24]Participants MISG3, MISG4, GSGB1, GSGB3, KCBB2, NB3, GSGG2, GSGG3, IWEG1, and IWEG2.

importance of their children attending school on a regular basis. To supplement these national efforts, NAR organise safe spaces for dialogue on issues surrounding peace and justice for different groups of Rwandans, where they discuss their traumatic experiences of the genocide but are also trained on the importance of children's rights in preventing recurrence.

Secondly, Rwanda is one of the top-performing countries in sub-Saharan Africa when it comes to education (UNICEF Rwanda(b), no date). The Ministry of Education in Rwanda reports that in 2020/21, the number of children under the age of 18 enrolled in the education system was 4,033,046. Of these learners, 51% (2,022,723) are female, and 49% (1,977,323) are male. Across all levels of education offered in Rwanda to children below the age of 18, 42.3% of children between 4-6 attend nursery, 99.3% of children between 7-12 attend primary school, and 76.4% of children attend secondary school (Education 2020/2021 Statistical Yearbook, pxiii). A further breakdown of these figures, including how these statistics were affected by the Covid-19 pandemic, can be found at the Ministry of Education of Rwanda (MINEDUC) website. All children now have the right to 12 years basic fee-free education (although the law only legislates for free primary schooling). In addition, progression and completion rates have improved alongside basic literacy levels, and gender differences in educational participation and achievement have been eliminated at primary and junior secondary levels.

Both factors may well explain the views and opinions of the children in focus groups on the importance of their education.

Children also insisted that because of the Convention being ratified in Rwanda, scholarships are available "for children who come from poor families to attend school."[25] This has been verified by NAR; both NGO and local donor organisations provide scholarships for secondary school students. This is particularly the case for children who attend Technical, Vocational and Educational Training schools (TVET). These organisations include Rwanda Children's Hope (who work with local schools to offer free education/scholarships to children from the poorest families), and Love the Kids Rwanda (who provide children, particularly street children, with fully funded scholarships to enable them to get quality education). In addition, some children felt that it is because of the Convention that "transport agencies go to remote places to take children to and from school each day."[26] This has also been independently verified by NAR, though they admit that this system has not yet been adopted in all areas across the country. The agencies that provide these transportation services are Jali Holdings Ltd, Rwanda Federation of Transport Cooperatives (RFTC), and Volcano.

SDG4, which aims to "ensure inclusive and equitable quality education and promote lifelong learning opportunities for all," states that all girls and boys should have "completely free, equitable and quality primary and secondary education" by 2030, including "equal access to affordable technical, vocational and higher education" (SDGs, 4.1-4.5). In terms of the latter, this should be made progressively free. In addition, the SDGs aim to eliminate gender disparities in education and ensure equal access to all levels of education and vocational training (ibid, Target 4.5). Finally, the SDGs aim to address the need for adequate physical infrastructure and safe, inclusive environments, by building and

[25] Participant IWEG3
[26] Participant NB2

upgrading education facilities, as well as expanding higher education scholarships for developing countries (ibid, Target 4b). However, in Rwanda, some of the underlying socio-economic inequalities which lead to unequal educational outcomes among all children still persist. The main drivers of this are poverty, residence (urban/rural), mothers' education, disability and family situation (Abbott and Sapsford. 2012, p10; Abbott, 2013).
Nonetheless, the Ministry of Education in Rwanda insists that SDG4 is part of the "central ambition" of the Education Framework 2018-2024 when planning and implementing policy at every level of education, from pre-primary to tertiary, with specific targets set for skills development, education for global citizenship and education for sustainable development (p5).

1.3.2. Abolition of child marriage (Article 24(3))

Some children suggested that because the Convention rights of children are recognised by the government in Rwanda, child marriage is "no longer allowed" in the country.[27] When speaking to girls in particular, there was a palpable sense of relief at this as this meant that they could "finish my education like my girlfriends do also,"[28] and that this would mean girls would "have a better life, we can go somewhere different to the path that may have been chosen for us."[29]

According to article 194 of the Penal Code, it is a crime to force a child into marriage in Rwanda. Moreover, article 195 of the same Penal Code increases any sentence given for this crime if the perpetrator is the child's parent/s or guardian. The government has mandated the youngest age a person can get married in the country at twenty-one, in line

[27] Participants IWEG5, MPESG2, SOSG3, SOSG1, NG3, SHSG5, SHSG2, GSNDLG3, and GSNDLG4.
[28] Participant NG3
[29] Participant GSNDLG4

with its understanding of the age of majority of a child. However, it is possible for 18-year-olds to get permission from local leaders to marry. In addition, although abortion was at one point illegal in Rwanda, the government have since modified the law on abortion so as to protect women and girls who become pregnant as a result of forced marriage, permitting abortion under carefully controlled regulation (Abbott and Sapsford, 2012, p16; Abbott, 2013).

The root causes of child marriage often lie in factors such as gender inequality (covered by SDG5) poverty (SDG1), and education (SDG4). Therefore, the SDGs aim to "eliminate all harmful practices, such as child, early and forced marriage and female genital mutilations" by 2030 (Target 5.3).

1.3.3 Abolition of child labour (Article 32)

Some children recalled that because of the recognition by the government of their Convention rights, child labour is now against the law.[30] Others cited the positive impact of this for both the girl child and the boy child. For the former, one child suggested that it is "against the law for girls aged sixteen and under to work as maids" in Rwanda.[31] For the latter, another child explained that you cannot force boys to "work hard on farmland for excessive hours."[32]

Rwanda is a signatory to the International Labour Convention, and the Ministry of Labour is responsible for implementing policies with important implications on children. Chapter 1 of Law Nº54/2000 of 14/12/2011 (Relating to the Rights and the Protection of the Child)

[30] Participants APAB1, APAB2, APAG2, BSKSG1, BSKSG2, GSNDLG4, GSNDLG1, SOSB1, SOSB3, BSKSB3, and BSKSG1.
[31] Participant BSKSG1
[32] Participant APAG2

sets out the definition of ‘worst forms of child labour’ according to the definition used in the ILC. Moreover, Labour Law Nº 66/2018 (Regulating Labour in Rwanda) lists the forms of work that are expressly prohibited for children under the age of 18. However, the minimum age for “admission to employment” in Rwanda is sixteen. Children are at greatest risk of child labour if they live in rural areas. School aged girls are less likely than boys to be child labourers outside the home, but they do significantly more domestic work in the household (Abbott and Sapsford, 2012, p9; Abbot 2013). In addition, the SDGs aim to “promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all” (SDG8). More specifically, target 8.7 aims to eliminate the worst forms of child labour, including the recruitment of child soldiers, and to end all forms of child labour by 2025, particularly as child labour is “both a cause and consequence of poverty, reinforcing social inequality and discrimination” (UNICEF Data, no date).

It was not possible to verify whether labour laws exist that legislate against specific types of labour for boys and girls. However, NAR confirmed that the government has adopted specific policies that sanction employers, whether companies or individuals, who employ underage children or subject them to poor working conditions. For example, the Ministry of Public Service and Labor (MIFOTRA) in collaboration with the Rwandan National Police, employ labour inspectors who work in different districts of the country to monitor and inspect child labour in these areas (see Chapter IV, article 6 of Ministerial order Nº06 of 13/07/2010).

1.3.4 Life, survival, and development (Article 6, Article 24(2)(c), Article 27)

Some children recognised their right to life, survival and development, with one child insisting that all children need “basic things to have a good standard of living,” such as

"food to sustain us, housing and adults to care for us."[33] These children felt that the Convention means that all adults must provide this for all children all across Rwanda.[34] This means that children "feel empowered to speak out if adults do not do as they are supposed to do in this matter."[35]

It is a criminal offence to deprive a child of food or other required care, whether as a parent or as an institution such as a school. Chapter 5 of Law Nº54/2000 of 14/12/2011 (Relating to the Rights and the Protection of the Child) legislates for the implementation of governmental programmes to combat malnutrition. However, the government of Rwanda recognises that the rates of chronic malnutrition have fallen significantly but still remain high in rural areas where child malnutrition is at 40% compared to 27% in urban areas. The government also recognise that "the nutritional status of children, particularly those from poor settings is still a serious issue," but that active efforts to address this are underway as a result of calls for the inclusion of nutrition education as part of the health education curriculum, something which is important to ensure that all children are adequately nourished (Abbott and Sapsford, 2012, p9). The SDGs call for an end to hunger and to achieve food security and improved nutrition, as well as the promotion of sustainable agriculture, by 2030 (SDG2). In what UNICEF calls the "triple burden" of malnutrition on children (undernutrition, hidden hunger and overweight), the link is made between the survival, growth and development of children and their ability to participate in their communities (UNICEF Data, no date). UNICEF asserts that to put children's nutrition

[33] Participants GSGB3, NB3, GSGG1, IWEG1, IWEG2, IWEG5, and MISG3 all referred to the right to food and housing for children.
[34] Participants IWEG2, GSGB3, and NB3 referred to the role of adults in providing these rights.
[35] Participant NB3

rights first, governments should empower children and young people to demand for themselves affordable nutritious food (ibid).

1.3.5 Freedom from violence (Article 19)

Children felt that they deserve to be free from violence, particularly at home. One child (who requested to remain anonymous) gave an account of such violence that his friend experienced (as interpreted here by ENHA-GiraUbuntu Initiative Founder, Freedom Kabarere):

> FK: "So he say, when the children like his friend were needing a sweet in their home like a bonbon chocolate, and they ask the mum I need a chocolate the mum say no, no chocolate. Then the children go in the house they find the coin on the table and take it to the shop […] the Mum find out he stole the money, money to be used for food as they don't have much or for school fees, and she put his hand in a fire, as punishment for his stealing. It is the heaviest punishment firing the hands or the chest something like that. He was hurt seriously, very seriously, and other locals like, local children were very shocked and scared. But now, the government does advocacy on this in his community, and they did serious lessons on those people who are doing the injuring of the children. […] the government did a lot of awareness for protecting the children against heavy punishment and sanctions, and my friend here he says that no child deserves punishment such as this, it is against their childhood, against their rights as children."[36]

Another child explained that it is as a result of the Convention that "we have places to go if our rights are violated and we are subjected to violence."[37] Organisations cited by children across different focus groups were the police, the RIB (Rwandan Investigation Bureau), the Isange One Stop Centre, and numerous toll-free hotlines where children can report abuse against them or concerns about the safety of other children.

[36] Freedom Kabarere (ENHA-GiraUbuntu Initiative). Participant kept anonymous.
[37] Participant MISG5.

Children in focus groups feel that access to these organisations is of greatest importance for girls, as they are more likely to be subjected to gender-based violence.[38] In looking at official statistics for violence against children in the country, this is indeed the case, with 37% of males and 60% of females experiencing physical violence before the age of 18 (UNICEF/Government of Rwanda Ministry of Health, 2018). Article 1.1 of Law Noº59/2008 Of 10/09/2008 (On The Prevention And Punishment Of Gender Based Violence) defines gender-based violence as "any act that results in bodily, psychological, sexual and economic harm to somebody just because they are male or female" (see also Abbott and Sapsford, 2012, p13). Violence against children is categorised in three ways: physical violence (boys and young men report that their first incident of physical violence happened when they were aged 6–11, and for girls and young women physical violence in childhood started when they were aged 12 or over), sexual violence (two out of every 10 young women reported having been exposed to sexual violence before the age of 18, compared to one in 10 young men), and emotional violence (the second most common form of violence towards boys in Rwanda (after physical violence), and is the least common form of violence suffered by girls) (ibid). In addition, when looking at the SDGs, there is a specific target to end all forms of violence against children, particularly abuse, exploitation, trafficking and torture (SDG16, Target 16.2). In recognising that the protection of children from all forms of violence is a fundamental right enshrined in the Convention on the Rights of the Child, SDG16 "gives renewed impetus towards the realization of the right of every child to live free from fear, neglect, abuse and exploitation" (UN Sustainable Development Goals). As aforementioned, several other SDGs address specific forms of violence and

[38] Participants SHSG1, SHSG2, SHSG3, SHSB1, SHSB3, BSKSB2, BSKSB3, SOSB1, SOSB3, SOSG2, SOSG4, GSOBB2, GSOBB3, GSOBG1, and GSOBG3 all made this specific point.

harm towards children, including child marriage and child labour (including the use of child soldiers).

The Rwandan Constitution states that “every person has the right to physical and mental integrity. No person shall be subjected to torture, physical abuse or cruel or inhuman or degrading treatment” (Article 14). In addition, the National Integrated Child Rights Policy of 2011 (conceived of in order to be a comprehensive national policy to “rationalise and coordinate the implementation of Child Rights throughout the Rwandan Government”) states that “abuse, exploitation and violence against children are intolerable.” However, as this is policy, it does not have the effect of law (Abbott and Sapsford, 2012, p11).

1.3.6 Access to healthcare (Article 24)

Other children said that it is thanks to the Convention that children can have access to specific healthcare that is tailored to their needs as children. For example, one child I spoke to insisted that “in the past it was difficult, especially for girls, to get to see a healthcare professional alone for private things, children’s things.”[39] Children across focus groups echoed this point. Another child asserted that because, in their view, the government take the Convention rights of children seriously on this point, “doctors and nurses now offer care that is just for us, boys or girls, you know? We can go in privacy, and they even see children quicker than adults.”[40] Others specifically mentioned access to healthcare for the girl child and told me about a government drive to reduce teenage pregnancies to improve the future prospects of girls in the country.[41]

[39] Participant SOSB4
[40] Participant CICG2
[41] Participants MPESG2, MPESG3, BSKSG2, BSKSG4, GSOBB1, GSOBG1, SHSG4, SHSB6, SHSB7, SOSB4, SOSG1, and SOSG2.

Article 21 of the Rwandan Constitution states that all citizens “have the right […] to health,” and the state “has the duty of mobilising the population for activities aimed at promoting good health and to assist in the implementation of these activities.” In addition, Chapter 6 of Law Nº54/2000 of 14/12/2011 (Relating to the Rights and the Protection of the Child) “provides for the right of a child over 12 to consult a medical professional with no need for the permission of a parent/guardian” (Abbott and Sapsford, 2012, p10). Chapter 5 of Law Nº54/2000 of 14/12/2011 (Relating to the Rights and the Protection of the Child (concerning the health and welfare of the child)) states that children must be ensured access to “preventative and curative care,” including medical insurance.

However, in reality, specific healthcare tailored towards children seems to be mostly in the realm of sexual reproductive health. This is echoed in the education system where children are taught about hygiene and health, including sexual and reproductive health, with a focus on the importance of protection against HIV/AIDS (Education Sector Strategic Plan 2018-2024, p4), in line with the national strategy for education and skills for healthy lives linked to SDGs 3, 4 and 5 (ibid, p5). As NAR colleagues explained, Rwanda has a national policy surrounding reproductive interventions for children, beginning from the age of 10, both in and out of school. These are mostly implemented in collaboration with the Ministry of Gender and Family Promotion and the Ministry of Youth alongside non-governmental stakeholders. The National Family Planning/Adolescent Sexual Reproductive Health strategic plan (2018–2024) “defines key strategies and interventions to provide confidential, objective and age-appropriate reproductive and sexual health services and information to adolescents” (see also UN Committee on the Rights of the Child (2020)).

All health centres in Rwanda must have at least one healthcare provider who specialises in adolescent sexual and reproductive health, and 'Isange One Stop Centres' exist in all districts to provide care and support to sexual violence victims (these centres were mentioned directly by some children in focus groups as an initiative that was prompted by the high rate of teenage pregnancies in the country).

The Sustainable Development Goals recognise that ensuring healthy lives is essential to sustainable development, with specific targets to achieve universal health coverage (SDG3, Target 3.8), universal access to sexual and reproductive health care services, family planning, information and education, and the integration of reproductive health into national strategies and programmes (SD3, Target 3.7). However, progress remains slow due to a number of factors, including conflict, environmental, financial, health and humanitarian crises. In addition, it still remains the case that low-income countries are less likely to be able to respond effectively due to weaker health systems (OHCHR(c), 2020).

1.3.7 Provision for children with disabilities (article 23)

In addition to ratifying the Convention on the Rights of the Child, the Convention on the Rights of People with Disabilities was ratified by Rwanda in 2008. With respect to the former, some children asserted that children with disabilities are being heard thanks to the Convention.[42] One child insisted that it is the recognition of the Convention rights of disabled children by the government which is resulting in "changes in society so that they face less of a discrimination from adults and from other children in their communities."[43] Another child explained that adults "must come and listen to them regardless of disability,

[42] Participants GSNDLG2, GSNDLG5, IWEG2, IWEG5, MPESG2, MPESB4, GSOBB4, and GSOBG2.
[43] Participant IWEG1

they cannot say that these children are not worth being listened to or discriminate against them like I have seen some in the community do."[44] Another asserted that the government has integrated the needs of children with disabilities into the design of newly built schools and has adapted older buildings "so disabled children can access an education alongside us."[45] In turn, "these efforts educate other adults and children to prevent stigma, which can stop their access to other rights."[46] Another child explained that children "are also taught about why we should not be discriminating against these children with disabilities and view them as equals and why they are deserving of their rights with us."[47]

NAR confirmed that this is indeed the case. For example, an NGO in the country called Tubiteho focuses on advocacy and education for children with "mental and intellectual disabilities," and the Rwandan government, through the Ministry of Education, has funded the construction of their building. Moreover, Murama School in the Bugesera district in the Southern Province has adopted specific ways to cater for children with special needs and educates the surrounding communities about children with disabilities in order to prevent stigma and discrimination (Relief Web, no date).

Disability is mentioned in several of the Sustainable Development Goals, including those on education (SDG4), employment (SDG8), inequality (SDG10), and monitoring (SDG17). In addition, the SDGs make the link between childhood disability and poverty (SDG1), malnutrition (SDG2), and serious health conditions (SDG3). The social integration and protection of disabled children in Rwanda is dealt with in Chapter 6 of Law Nº54/2000 of

[44] Participant GSNDLG7
[45] Participant NG3
[46] Participant NB2
[47] Participant IWEG3

14/12/2011 (Relating to the Rights and the Protection of the Child). Moreover, in terms of development rights, Article 11 onwards of Law Noº01/2007 The Law on Disabled Persons (2006), states that the government "recognises the right to an appropriate education for children living with disabilities and obliges the state to provide for such education." The Education Sector Strategic Plan 2018-2024 acknowledges that "children with disabilities continue to be a highly stigmatised group, with one of the lowest levels of access and participation in education of any marginalised group," as well as the "limited awareness about the rights of children and young people with disabilities to access and participate in education on an equal basis" (p34). The Strategic Plan also sets out the necessary requirement of "persistent awareness-raising campaigns to change attitudes, both within the system and public, and to identify and minimise the barriers that prevent these children from participating in school" (ibid). Although positive change has clearly begun to take place, the identification of learners with disabilities or special educational needs "remain a challenge and therefore need to be improved to ensure that leaners are supported" (ibid, p35).

1.3.8 The right to pray (article 14)

Children referred to their right to pray as a specific right protected by the Convention. One child explained that "our rights as children include the right to pray, and the right to be associated with others who share our faith."[48] Another suggested that it is because of the Convention that "there are many schools here of different faiths."[49]

[48] Participant KCBG4
[49] Participant GASCMRB5

The importance of the ‘right to pray’ for children in focus groups in Rwanda is even more important given the role played by religious leaders in perpetuating the Genocide against the Tutsi in 1994 (this will be discussed in the following section). Circular Noº08.02/03/9860 of 8 August 1996, issued by the Ministry of Education (very shortly after the Genocide against the Tutsi had concluded) placed special emphasis on respect for freedom of religion in all primary and secondary educational establishments in the country. Since then, the Rwandan Constitution states that “freedom of thought, opinion, conscience, religion, worship and the public manifestation thereof is guaranteed by the State in accordance with conditions determined by law” (article 37). As well as this, article 39 states that freedom of association “is guaranteed.” Finally, the Penal Code makes it a crime to discriminate against anyone based on religion. This is because such discrimination is “aimed at depriving a person or group their rights as provided in Rwandan laws and by International Conventions ratified by Rwanda” (Penal Code, article 44).

The freedom of religion or belief is closely aligned to access to justice (SDG16), gender equality (SDG5), education (SDG4), and healthy lives and wellbeing (SDG3). Indeed, for the SDGs to meet their core pledge of ‘leaving no one behind,’ leaving anyone behind who is experiencing inequality or discrimination because of their religion or belief “makes the realisation of the SDGs impossible” (IPFORB, 2021). In recognition of this, the Education Sector Strategic Plan makes clear the importance of planning activities and content in subjects such as history, religion and citizenship, to help learners not only understand the importance of freedom of religion and association, but also showing them how their religion can be used and manipulated by others with a darker agenda, demonstrating “the effects of blind obedience which can lead to disastrous events such as the Genocide

against the Tutsi" (2015, p25). In linking the freedom of religion to the study of the Genocide, a "channel" is created which "can help learners to think about the importance of identity, unity in diversity and interdependence" as well as "the importance of human rights, citizens' responsibilities and obligations and suggestions of ways of preventing human rights violations" (ibid).[50]

1.4 Understandings of transitional justice and human rights: reflective of a competence-based education system?

Before concluding this section of the chapter, it is important to stress the preliminary data finding that children in focus groups appeared to understand transitional justice purely through the lens of the past and present mechanisms operationalised in Rwanda. In addition, discussions on the rights of the child in international law, and how these rights are applied in practice in Rwanda, were related directly to their knowledge obtained in school as well as to examples based on their everyday life experiences. It is important to look closer at how the views and opinions of children in focus groups are reflective of the education system, particularly in how the aforementioned competence-based curriculum provides for opportunities to learn about both transitional justice and the rights of the child (and indeed human rights generally). I do so by referring to the policy and curriculum of those subjects children in focus groups referred to – citizenship and history.

[50] The way in which children in secondary education are taught about freedom of religion, particularly when relating it to the Genocide against the Tutsi and discussions of a politically sensitive nature around minority rights, is an interesting area of discussion. Previous research on how and why group rights or multiculturalism, including religion, are largely absent from the curriculum in Rwanda, include the fact that rights for minority groups are mentioned in the context of religion and language. Such issues will not be discussed further here due to their sensitive nature, and because such issues were not raised as issues of pertinence by children in focus groups. (See Russell, 2015, p398; Bamusananire et al., 2006, p63).

In the competence-based curriculum, History and Citizenship are referred to as a singular subject of study (Rwanda Education Board, 2015, p6). In reality, a focus on citizenship in the education system of Rwanda is a relatively recent development, having been integrated into the curriculum in 2015 at the same time as the competence-based curriculum was implemented. The word 'citizenship' is "interpreted very broadly to incorporate both political concepts like human rights, democracy, unity and justice, and personal development such as dignity, self-reliance, gender, sexuality, disability and inclusive education and 'family and personal values'" (Bertram, 2019, p136). Within this focus, citizenship is taught by way of understanding the importance of citizen rights and responsibilities to the nation state, as derived from membership in a distinct national community (Buckner and Russell, 2013, p739).

In classes focusing on citizenship and "transformative education," adolescent children in Rwanda are taught about the values related to Rwandan culture, the importance of respecting other people (including their views and opinions) regardless of their origin, age, culture, religion or gender, and the importance of diversity (Nzahabwanayo, S. (no date), p25). Indeed, section 2.1.2 of the 'Education Sector Strategic Plan 2018 to 2024' states that a core objective of the education sector policy framework is "to contribute to the promotion of a culture of peace and to emphasise Rwandan values, particularly agaciro (self-dignity), kwigira (self-reliance) and ubumwe (unity) and the universal values of justice, peace, tolerance, respect for human rights, gender equality, solidarity and democracy," as well as "to develop in the Rwandese citizen autonomy of thought, patriotic spirit, a sense of civic pride, a love of work well done and global awareness, as well as to educate a self-

resilient citizen who is free from all kinds of discrimination, including gender based discrimination, exclusion, and favouritism" (MINEDUC, p3).

However, the citizenship curriculum is said to be moving away from "the traditional notion of citizenship as territorially bound and politically constituted," particularly as it is becoming more widely recognised that "universal human rights and personhood trump national rights and nationhood" (Bruckner and Russell, 2013, p739, citing Soysal 1994:142). In this respect, education policy in Rwanda is said to be "increasingly responsive to the global environment and to international actors," rather than being "the exclusive domain of the nation-state" (Russell, 2015, p599). This is demonstrated by the data collected from children in focus groups when discussing the benefits of visiting organisations to their school during the Kwibuka period, to educate them about their rights as children (see section 3.1 of this chapter). This is also to reflect the fact that Rwanda is building on its progress in the sustainable development goals and recognises the importance of "global integration, economic interdependence, and international migration," as well as "the ascendancy of a universal human rights discourse" (Bruckner and Russell, 2013, p739).

Conversely, as a standalone subject, History was integrated into the education system in Rwanda in 2008, and was a compulsory subject often taught alongside social studies (Awgichew and Ademe, 2022, p1). When they first enter secondary education, children in Rwanda are taught History with a clear focus on Rwanda and Africa, "starting from the late Stone Age and early Iron Age, to pre-colonial, colonial and post-colonial Rwanda" (Bertram, 2019, p137). Included within this history curriculum as a cross-cutting issue, Genocide Studies is taught within the History curriculum in a way which also cross-

references those areas focused on in citizenship classes. In doing so, Rwandan children learn about the Genocide against the Tutsi “alongside the Holocaust and other genocides,” with the view that all children in Rwanda “should know what caused the genocide in Rwanda, its planning and execution, how it was stopped and what the consequences have been” (Rwanda Education Board, 2015). As such, the curriculum also encourages Rwandan children to “take part in fighting genocide ideology and genocide denial,” as well as to “remember the genocide, which is a means to protect the memory of those that were lost” (ibid). In all respects, education, particularly history education, is viewed as “crucial for shaping a new, unified civic identity but also as a tool to address the past genocide” (Russell, 2018, p385).

As such, education on human rights is also included in the history curriculum, where “at least half the topics in each year focus on human rights, democracy and personal values” in order that a stronger focus is given to “history that is ‘near’ to the learner” (ibid). As children progress through senior school, there then becomes a stronger focus on external history to Africa, particularly European History (ibid).

The competence-based curriculum in Rwanda, particularly as it pertains to citizenship and history under the umbrella of social sciences, “intends to inculcate a traditional notion of citizenship, emphasizing patriotism and loyalty to the state,” at the same time as including “global norms oriented toward human rights and global citizenship” (ibid). What results is a tension between addressing “a contentious past by drawing on global models around citizenship and human rights while also promoting national civic values” (ibid). Much research exists with respect to the likelihood of conflict-affected, post-conflict and

transitional contexts emphasising a rights-based discourse in their education curriculum over discourses that focus on nationalism (see for example Russell and Tiplic (2014), Lerch et al. (2017)). These discussions are outside of the scope of the thesis. However, in Rwanda, it is clear that although "the values of patriotism and global awareness are mentioned in tandem," there is a clear emphasis on forging first "a unified Rwandan identity and reconciliation" (Russell, 2015, p389) This is a characteristic that is reflected in the data collected from children in focus groups, particularly on transitional justice, but certainly including too the rights of the child.

2. Understanding the right to be heard

The focus of this section is to examine the data collected from children on their knowledge and understanding of the right to be heard, both as a concept (or what they would call 'a Convention right') and in relation to their direct understanding of article 12.

Children were introduced to the right in one of two ways. Firstly, if a group of children referred to the right when explaining their knowledge of the rights contained in the Convention (as demonstrated above), I would pick up on this and ask children to explain what they understood by the right and why they feel it is important. These discussions are presented in section 2.1 below. Secondly, if children did not refer to the right in discussions on the Convention, I would instead direct children to think about the right to be heard by way of reading the text of article 12 to the children and asking them to tell me about their thoughts on the article. These discussions are presented in section 2.2 below.

2.1 Understanding the right to be heard as a Convention right

Children in focus groups who refer to the right to be heard understand it as being synonymous with the right "to talk" or "to speak,"[51] to "hold a conversation" or "be part of a dialogue,"[52] the right to "express our ideas,"[53] the right to "participate in any way we decide" or "using different forms of our choice" (by this, children mean that they want to be allowed to participate by way of the arts (such a drama, music, poetry and prose)),[54] the right to be "listened to,"[55] to be "understood,"[56] the right to take an "active role in decision making,"[57] to "influence decisions,"[58] the right to be "properly advised,"[59] the right to "access and share truthful, accurate information,"[60] and to "take part in decisions on development, democracy, and justice."[61]

More than one child suggested that the only reason they know about the fact that all children have the right to be heard is because of the seriousness with which the Convention is taken in national law in Rwanda, and that efforts are made to educate them about it. For example, one child suggested that "it is because of the Convention for Children [*sic*] that we now know and understand that we have the right to talk, to speak, to participate as children and the freedom to say what we need and what must change."[62] However, as shall be demonstrated in the following Chapter, children in focus groups also recognise that there is some disparity in this knowledge among children. For example, one

[51] Participants BSKSG4, GASCMRB2, GASCMRB3, GSOBB2, GSOBB3, GSOBB5, SHSB3, SHSB4, SOSB5, SOSB6, GSNDLG3, GSNDLG4, GSNDLG9, GSOBG2, AND GASCMRG2.
[52] Participants GSNDLG2, GSGB4, GSOBB5, BSKSG2, GSGG4,and MPESG1.
[53] Participants CICG3, GSNDLG4, GSNDLG6, GSOBG2, GSOBB5, GSNDLG9, MPESG1, and SHSG2.
[54] Participants IWEG2, MPESG4, SOSG3, SOSG4, and SHSB6. This will be discussed in more detail in the following chapter.
[55] Participants MISG1, SOSB6, GASCMRB1, and GSGG4.
[56] Participants MPESG1, SOSG4, and GSOBB3.
[57] Participants GASCMRB3, GSNDLG4, SOSG1, GSNDLG2, APAB4, BSKSG4, NB4, NG3, and SOSG3.
[58] Participants GNSDLG4, SOSB2, BSKSG3, CICG4, and GSNDLG2.
[59] Participants GSGG6, MPESG3, SHSG2, GASCMRB4, NB4, and SOSG3.
[60] Participants GASCMRG2, SHSG2, SOSG3, APAB4, GSOBB5, SHSB1, MPESG2, and SOSG3.
[61] Participants GSOBB5, BSKSG2, CICG3, GASCMRG3, IWEG4, MPESG1, BSKSG4, GSDLG4, SOSG3, SOSG4,
[62] Participant GSOBB3

child noted that “this is not the same for all children in the country. There are many challenges to fix with this knowledge and there is still much work left to do.”[63]

Discussions on the right to be heard, particularly those provisions in the national law of Rwanda as they relate to child participation in different spheres of the lives of children, including in transitional justice, will not take place here. Instead, this discussion will take place in the following chapter, as well as in section 3.1 of this chapter pertaining to barriers to their article 12 right raised by children in focus groups. However, it is worth noting at this point that for many children, the right to be heard comes to particular prominence during the Kwibuka commemoration period, when children feel they are encouraged and facilitated to participate so that their views and opinions on the development of the country can be ‘heard.’

2.2 Understanding the right to be heard by way of article 12

Children in focus groups explained that they understood article 12 as consisting of two distinct elements. The first is that children must be allowed to freely express their views and opinions, and to do so on matters that affect them in their lives, in a way which can (and must) influence decisions. The second is the legal duty for governments in making sure children can access this right.[64]

Across all groups, a common theme amongst children when talking about article 12 was that if their right to be heard is truly being respected, their views on matters that affect their lives will result in tangible, lasting change in their lives and the lives of others. If such

[63] Participant SHSG2
[64] Participants BSKSB5, BSKSG4, GASCMRB1, GASCMRB5, GSGB4, GSOBB3, GSOBB4, GSOBB5, MPESB2, MPESG1, NB3, BSKSG1, GASCMRG2, GSNDLG2, GSNDLG4, BSKSB3, GASCMRB3, MPESG4, SOSG1, and GASCMRB1 all referred to article 12 as having two distinct elements.

change is not achieved, children felt that the right to be heard should extend to cover the option for children to challenge this lack of tangible change as a result of their exercise of their article 12 right directly with the decision-makers. Children explained that they understand article 12 as a guarantee that children can freely speak their mind, by sharing their views and opinions on matters that affect them, and in which they are confident that because of their experiences, they can make a positive contribution through their participation.[65] Indeed, one child explained that the article 12 right for all children must be respected "all of the time, not only some of the time," including when influencing decision-making and seeing the outcome of exercising their article 12 right to change the lives of children in a positive way.[66]

Children were also probed further on their understanding of why article 12 refers specifically to states parties within the text of the article. Children did not use the expression 'states party' themselves but did refer to specific roles and institutions (such as the Minister for Education, the government, etc) who they perceive have a legal obligation to fulfil when it comes to facilitating their participation under article 12 of the Convention.

Some explained that they thought this was because the government has an obligation under article 12 to make sure all children can access their right to be heard and help them overcome barriers which might prevent them from being heard.[67] Others went further, suggesting that governments were included in article 12 to facilitate the right to be heard, but also to protect it for the best interests of the child, and to offer children guidance as to how to ensure that they are heard by adults in the first place.[68] One child put this point

[65] Participants GSNDLG2, BSKSB3, GASCMRB3, MPESG4, SOSG1 all shared this view openly.
[66] Participant GASCMRB1
[67] Participants GSOBB4, BSKSB5, GASCMRB1, GASCMRG1, GSOBB2, MPESB2 and NG3 were particularly vocal about this issue.
[68] Participants MPESG3, BSKSG4, GASCMRB4, NB4, SHSB1, SHSB6, SOSB2, and GSGG4 were particularly vocal about this issue.

across by suggesting that adults must understand that hearing the child is an important obligation and it must be taken seriously:

> G: "The children have the right to say what is on their mind, they have the freedom of speech, and the government, what they have to do is to execute (this) […] give them the chance to speak as said by the human rights Convention for children. […] but the government also have to guide us in this way and take care of the things to make sure our voices are heard […] so it is great that we have this right, and the government must protect this for all children."[69]

Another child explained that governments must understand that being able to speak freely about matters affecting them will help children to feel empowered to overcome barriers to do whatever they want to do in their lives.[70] The following chapter discusses this point in relation to child participation in transitional justice in Rwanda, and as such this will not be addressed in great detail any further here.

Efforts to understand the scope of article 12 also led children in focus groups to reflect on the role that adults in other positions of authority outside of the sphere of government have in facilitating their right to be heard. Children in focus groups made a clear distinction between adults in positions of power in their everyday lives (such as parents, community leaders, teachers, those who work for NGOs) and those who work for the government. For some children, it is just as important for adults in the everyday life of the child to play an equally active role as those adults in government in facilitating their article 12 right. These adults are respected elders in their communities, and some children feel they should always seek their guidance to be heard effectively and meaningfully in all spheres of their lives, including in transitional justice.[71] Children place great value on the fact that most adults in Rwanda are survivors of the genocide, with some children feeling that this status

[69] Participant BSKG2
[70] Participant NB3
[71] Participants GSOBB5, SHSG2, BSKG4, GASMRB4, and NB4 were very vocal about this issue.

is enough to justify the fact that children should afford respect to adults' views and opinions before forming their own:

> B: "When you are below 18 years, you don't have enough experience of life. […] adult experience is totally different from your experience. It is better to let those advocates who are children of the past take a decision based on their experience of life. […] look at the history of the country, many children grew up somehow living an extremely hard life, before and during genocide, it was not alright for them to study, to get food, to live and survive, all rights that they should have given to them. Do you think that a child who is below 18 years now, who has a short life experience of these things, can make a decision on how to live? How to get the food? How to survive? How to be heard about these things?"[72]

Others feel that irrespective of their experience of the genocide, adults should be helping children to shape and refine their ideas so that their views and opinions have a much higher chance of being heard by decision makers (whether in government or in other spheres of their lives). For one child, the survivor experience of the genocide does not take precedence over the right of the child to be heard, and adults should not prioritise their own views and opinions over the views and opinions of children. Instead, children should be seen as equal contributors:

> G: "Adults, survivors, they are our elders yes, but they are also our helpers, as we are under 18 so that means we still need guidance, we still need someone to show us how to be heard appropriately, correctly. In Rwanda, the adults still have that thing that children under 18 are still children in mind, you know? But I think […] let's hear the children, let's see what they can do, let's see what their ideas are. Let's hear them. Even though we need them, the adults, yes, we do need them, but we should also add our thing, our views, our perspective is just as valuable as theirs."[73]

3. Contextualising the right to be heard in the lives of children in Rwanda

[72] Participant SJKB2
[73] Participant SJKG2

3.1 Perceived benefits of the implementation of article 12 in Rwanda

Children across all groups displayed a unified view on the point that all children have the right to be heard in education in Rwanda, without discrimination as to age, gender, socioeconomic or other status, whether verbally or non-verbally (by using their body language to communicate their agreement with peers).[74] Children feel that the right to be heard facilitates children to engage in open dialogue with teachers on what they are learning, but also empowers them to use their voices to question and to challenge what they are learning where necessary. For one child, this was an important distinction between education for children today and education for children in the years leading up to the genocide:

> G: "Some people were taught, it was actually part of the curriculum, even in schools like ours like, Christian ones, to go and tell students that they are not equal, that there is one that is the enemy and one that is the best and all that. It was allowed, it was actually allowed. And then today, I find it great that […] the education gets applied in such a positive way, that we are inspired to apply what we are being taught proactively and use our right to speak our minds in the law of our rights as children, to speak out and challenge this kind of division wherever we find ourselves, in school, at home, in life, wherever we may find ourselves."[75]

The mention of the role of the church in the Genocide against the Tutsi requires further explanation. The church is understood as having been complicit in the genocide, not only through the participation of clergy, but particularly through the reinforcement of ethnic divisions within Rwandan society, including through the establishment of Catholic schools in the country and the education provided to Rwandan children in these institutions. The

[74] Participants SHSG2, GSGB4, GSOBB5, MPESB2, NB3, SHSB1, BSKSG2, SJKG3, CICG4, GASCMRG2, GSGG4, GSNDLG5, MPESG3, IWEG4 and MISG5 were the most vocal about this issue, however many of their peers nodded or expressed their agreement with this by saying words such as 'yego,' 'yes' or 'exactly.'
[75] Participant CICG2

Catholic Church has since been instrumental in the process of reconciliation and has recently issued a formal apology for its role in the Genocide (Fertitta, 2020; Carney, 2012). Such apologies are important; however, just as important is the reform of education as part of the institutional reform process, as explored in chapter 2, section 3.4.1.2.

Another child put it to me that their right to be heard in education shows them an alternative to the social problems faced within their communities, including those referred to in section 1.2 of this chapter. For example, for one participant, education means that girls have an alternative to child marriage, as "to study and to be able to finish well means it doesn't have to be this way."[76] Another explained that education prevents many children from being forced to undertake child labour, and that she herself has "avoided any child labour that happens to children" because she is going to school and being heard by teachers.[77] Children in similar circumstances shared their view that simply being in the education system means that the voice of the child is heard, and their rights are being protected.

Some children expressed their personal view that it is because of the implementation of article 12 in Rwanda that children have access to various NGOs and community associations through their schools which have established projects to educate children about their rights, how they are important in their everyday lives, and the importance of child participation at the national and local levels to influence social change.[78] There are two ways in which access to these organisations takes place for children; through the state

[76] Participant NG3. See also section 1.2 of this chapter.
[77] Participant CICG1
[78] Participants GSNDLG7, MPESG3, MPESG1, BSKSG5, GASCMRG3, SHSG2, SOSG1, GSOBB2, GSOBB3, NB3, NB4, MPESB2, BSKSG3, GSNDLG9, and IWEG2 all related the implementation of article 12 in national law in Rwanda to the fact that they have access to NGOs and community associations in this way.

during the official period of commemoration of the genocide, and through the education system. Although focus in this section will be on the latter, the two are interlinked, particularly during the official commemoration (Kwibuka) period.

Facilitators from NGOs speak regularly to the children in their school environment and actively encourage them to share their views, opinions, experiences, and concerns in order that they can participate in their education to the greatest extent possible. These organisations function as enablers of the right to be heard and encourage child participation. They do so in two distinct ways.

Firstly, a large focus of NGOs and community associations is to implement 'Unity Clubs' educating children about the vital role of child participation in achieving unity and reconciliation throughout the country. This work takes place in schools at the secondary level with teenagers between the ages of 13-18. As a colleague from the ENHA-GiraUbuntu Initiative informed me, clubs in schools are run in line with what is known as the 'artificial household' model, which is influenced by the way in which orphans of the genocide gathered themselves into 'families' to support one another (including in their participation at the inkiko-gacaca courts). These children meet during breaktimes at school to talk about their views and opinions on the genocide, how it is affecting them as children, and the experiences of their family members. They then work together to find solutions.[79] Children are taught by facilitators provided by NGOs and community associations about their rights as children, and how important it is for their rights to be respected. Children

[79] Participants APAB1, APAG2, APAB4, APAB5, GSNDLG4, GSNDLG5, MISG1, MISG2, MISG3, MPESG1, MPESG2, MPESB1, MPESB4, GSOBB1, GSOBB2, GSOBG1 and GSOBG4 all informed me about such a model being a crucial part of the structure of a unity club.

learn from these organisations that is important for them to understand their rights, including the right to be heard, to prevent genocide from happening again in Rwanda. Overall, children in focus groups feel that the government of Rwanda has done a lot to help children through the implementation of these clubs in schools, particularly when it comes to their knowledge of, and access to, their rights through these organisations.

There is also an intergenerational aspect to these clubs, as children are encouraged to go home and teach their parents about what they have learned so they can try to implement the principles in their own lives. As a consequence, children feel that they are "empowered by these organisations" to use their right to speak and to demand that they are heard.[80] However, this point is a contentious one for some children, who insist that children should not be left to "fend for themselves" when it comes to educating families and members of their community about their right to be heard, and instead NGOs should work with them in their communities. Some children also cited fear of corporal/other punishment as a result. As children referred to these factors as barriers to their participation, this discussion will be taken up in detail in section 3.2 of this chapter.

Secondly, both NGOs and community organisations provide the means to implement debate clubs. These clubs allow children to share their views and opinions by way of debates centred around a theme such as peace, justice, or reconciliation. The outcome of these debates is to share messages of advocacy among their peers and in their communities. Clubs such as these also organise competitions, and if they show aptitude, organisations facilitate their participation in national debates so that children can share

[80] Participant NG2

their ideas with the government. These children are then encouraged to lead the youth of their community at the national level. Some children explained that they took this as proof that children are rewarded for their ideas, but more importantly that other children can see that their participation, their sharing of their ideas to benefit the nation, has resulted in implementation and change.[81] This is taken by many children as being "the first proof" that what they say is being heard and implemented.[82]

Extensive literature exists on the role of NGOs in facilitating child participation, particularly in educational settings. When it relates to transitional justice, this literature talks about the work of outreach programs by NGOs as pertaining to their role in involving children in organisational components of such projects, the expertise needed by NGO outreach staff in order to work alongside children in educational (and other, such a psychosocial) settings, security and safeguarding issues, and coordination with external actors (see Ramírez-Barat (2012), Underwood (2015), Shepler and Williams (2017), Martin (2010) and Imoh and Okyere (2020)). Practical examples of such NGO work in other country contexts include 'Spaces of Peace' (Syria and Turkey), 'Genocide Education Project' (based in California, USA), 'Facing History and Ourselves' (based in Massachusetts, USA) 'Legacy of Hope foundation' (Ontario, Canada), and 'Youth for Peace' (Cambodia).

Children further recognised/noted that the country has a ministry of government which is solely responsible for matters affecting children. The Ministry of Gender and Family Promotion (MIGEPROF) is mandated to ensure strategic coordination of the implementation of national policies, strategies, and programs regarding children's rights'

[81] Participants GSNDLG7, MPESG4, SHSG2, GSOBB2, NB3, NB4, MPESB2, and GSNDLG9 made this specific point.
[82] Participant MPESG4

protection to facilitate their integration in the socio-economic and political context of Rwanda. An important organ of MIGEPROF is the National Commission for Children, with a mandate to continuously work to ensure a child friendly society that places children at the centre of development, recognising their individuality, respecting their voices, observing their best interests and protecting them from violence, neglect, abuse and exploitation (NCC, no date). In relation to the protection of children's rights, the Commission works with national and international partners, to implement the Integrated Child Rights Policy (ICRP), comprising of seven thematic areas including Justice and Child Participation.

At this juncture, it is important to note that since the data was collected, the NCC has been dissolved. In its place, established by Presidential Order N° 083/01 of 28/08/2020, is the National Child Development Agency (NCDA), merging the NCC and the National Early Childhood Development Program which were both established to address and advocate for child rights. However, as the NCC was still in existence when data was taken from focus groups, the information given by children in focus groups on the organisation will remain in the thesis.

One such avenue children in focus groups referred to that is provided by the NCC for the participation of children is the National Children's Summit. Launched in 2004, the Summit provides children with an opportunity to express their views and wishes about building the nation, using their right to be heard to talk to governmental leadership about "what is done or planned for them, about the country's policies and programs, about their rights, the country's economic and social development, the challenges and the responses as well as

about children's own role in all that concerns them" (NCC, no date). At the annual meeting, children can meet and speak with national leadership, including the President, and tell them where they feel they should focus their efforts for the benefit of children, but also for the communities in which they live.[83] Some children explained that they receive advice and guidance from the leadership, including ministers and policymakers, which they share with other children in their communities when they return home.[84] These children felt that every child is welcome irrespective of their age, gender, background, disability, or any other factor, and are enthusiastic about the fact that the NCC allows children to come together and share their views on the different concerns of children across the country. Children took great pride in explaining that the very reason that the Summit exists is because of the call to action made by children for President Paul Kagame to provide a platform for child participation and dialogue with decision-makers and development partners. This point is verified by information provided by UNICEF (Press release, 2019).

Finally, some children referred to one of the benefits of the right to be heard being respected in Rwanda as the increased access to technology by children, particularly the internet, which they felt results in children receiving true information from trusted sources.[85] Access to technology and the right to 'truthful' information is discussed in more detail in the following chapter and will not be expanded upon further here. However, children feel that such access to technology/the internet means that they can contribute to matters that adults are discussing, as well as in more detail on matters that directly affect them, particularly if these issues are to do with the development of the country.

[83] Participant MISG5
[84] Participants MPESG1, SHSG2, SOSG2, BSKSB5, GSOBB2, GSNDLG9, and MISG1.
[85] Participants BSKSB1, BSKSB3, MPESG1, MPESB2, SMZB4, GSOBB5, GSOBG1, GSOBB3, KCBB3, KCBB4, SOSG2, and SOSG5.

3.2 Perceived challenges faced by children in their enjoyment of the right to be heard in Rwanda

Children explained that they are aware of when their right to be heard is being respected, because the things they say have tangible impact in their lives, and in the lives of other children. However, they also feel that even though the government has provided spaces for children to be heard, this is not commonplace in all places and spaces for children, which has led to "a big gap" in understanding the purpose and scope of the right in the first place.[86]

Most children agreed that they are heard by the government, recognising efforts being made to educate community leaders about the value of hearing the views and opinions of children. Nonetheless, children feel this is diametrically opposed to their experiences at the local level. It is in this area of their lives that the right to be heard "comes at a cost":

> G: "All children have the right to be heard, but it comes at a cost. It is depending on where someone comes from, on their family background, where educated, whether someone stays in a village or town, the right is not the same for all children in Rwanda. It must be recognised properly those things that get in the way of this right in our lives, not just here where we are, but in all places."[87]

For some children, this has led them to think that knowledge and understanding about the importance of the rights of the child, particularly the right to be heard, is not filtering down to adults in communities as quickly as it should be, and in some cases, such knowledge is not reaching the communities at all:

> B: "Today, they are trying to educate children on their rights through clubs, through organisations, right? But children don't want to practice it in front of the parents who know nothing about child rights. And some, when their children put it in practice, the right to speak, for

[86] Participant GSNDLG1
[87] Participant GASCMRG2

> them to hear us, they are punished, sometimes physically, because adults know nothing about child rights, nothing about the role of children, even if the voice of children makes it easier for their own right, their own voice, to be heard."[88]

Some children gave examples of community leaders, community members and parents openly condemning the very idea of the right of the child to be heard suggesting that for parents and community members, the only rights of importance for children are for them to be provided with food, shelter and school fees.[89] Others felt that having their right to be heard restricted to contributing to solving matters that adults feel affect the children, is the best-case scenario; as one child put it, this is "better than nothing."[90] Discussions on this point in relation to the doctrinal analysis of article 12 are found in Chapter 3 (section 3.2.1, pp84-87), specifically surrounding the best interests of the child and the importance of understanding that adults are not the arbiters of what matters affect the child, or whether a child is capable of participation.

These same children feel that their right to be heard is deliberately ignored in favour of adult voices, views, and opinions, and the worst-case scenario is that this will lead to potentially dangerous situations for children, particularly when their rights are violated, because they will be fearful of speaking out and sharing their experiences.[91] Other children are highly doubtful that parents or community leaders will either listen to their views or even find the time to talk to them in the first place and as a result, some children feel an immense sense of detachment from their community leaders and parents, as well as intense disappointment and frustration at the government that the effort being made to

[88] Participant GASCMRB4
[89] Participant GSOBG4, GSOBB2, MPESB2, MPESB5, SOSB1, SOSB3, SOSG2, SHSB1, SOSB4, SOSG3, BSKSB2, BSKSG1 and BSKSG4 all made this point.
[90] Participant GSOBG5
[91] Participants GSOBG5, SOSG2, SHSB1, GASCMRG1, and SJKB2 spoke animatedly about this point at length.

promote the right to be heard at the national level is not enough under their article 12 obligations.[92] In addition, concerns were raised by children in one group about the time it takes to implement solutions that children raise themselves on matters that affect them at the community level:

> SG: "There is something you mentioned that we want to ask you guys more about. You told us that you think there are two things that participation is all about for you, right? There is youth being given the chance to speak out, but again there is implementation of the views given out, something actually happening that will benefit your life as a result of this speaking out from you. How is it in Rwanda? Like, if you happen to go to someone else in authority for you today, and you go to them and you say you know what, maybe we need to think about doing something, something about this and this because it affects our lives as children, all of your lives, will it happen? What do you think of this?"
>
> - *Silence, children looking at each other, thinking, whispering* -
>
> G: "Mmmmm, it is slow, very slow. Compared to when adults say the same thing? So slow, honestly, I don't understand why it is like this…"
>
> B: "It is low, low chance. Of something happening because of what we say? It is low. Low everywhere, I think, anywhere in Rwanda."
>
> G: "I don't agree it is like that everywhere, but…I think in Rwanda it is happening, but only by a little bit and in certain places for certain, like, children. It is still low, it is not bad everywhere, but there is still much to do about this…."
>
> B: "I think the same, it happens, but… but it is limited. It depends on a lot of things, it is not an easy thing to answer because sometimes yes, sometimes definitely no…"[93]

This was a feeling shared by other focus groups too, with lengthy discussion taking place. The common theme in these discussions is that when a child shares an idea about how to solve a particular problem they are facing within their communities, implementation is

[92] Although children in other focus groups raised this as a single point to think about, children in three focus groups, based at SOS, GSOB and SHS, spoke about this issue at some length.
[93] Extract taken from GSOB transcript

slower compared to when adults suggest something similar.[94] This results in children feeling that if they share their views and opinions on a matter which affects their lives, community leaders "will say they will do something but in fact ignore the voice of the child or dismiss their opinions outright."[95] They believe this is because the adults in question do not feel that the views and opinions of children add any value to the social issue they are discussing.[96] This comes across to children as tokenism: even though children have meetings with community leaders so they can implement ideas given by children about how to improve their communities, they feel they may be being "listened to" but question whether their views are "being taken seriously" or given the weight that they deserve, as this quote demonstrates:

> B: "There are people who are there to listen to us, but […] the people to be there is not enough. Do they hear? Do they hear what they must hear from us, not what they imagine they hear from us, you know? They are there but you find that maybe sometimes, you speak but there are more important things than to hear than you, your small low voice. […] you find it is difficult for your voice to be understood and for them to put in action what they have heard from you."[97]

Children also questioned the point of sharing their views, opinions and ideas on matters that affect their lives, and of suggesting solutions to implement within their communities, if nothing is done as a result:

> G: "In their homes, in their communities, so many children they say that there is no reason, no reason to talk like, at all. […] if we talk and nothing is done, what is the reason of talking? I think that that's the problem. Not all children are being heard, this is true, but children truly believe that if they talk and something is done, then that's very right and good, and they are surprised at this, but why? Why should they be surprised at this when it should be happening?"[98]

[94] As well as the GSOB focus groups, children from the GSNDL, SOS, GASCMR, MPES, and SHS focus groups picked up on this same issue and talked about it at length.
[95] Participant SOSG2
[96] Participant SHSG5
[97] Participant GSOBB4
[98] Participant GSNDLG3

Children in all groups were strikingly clear about the role of community leaders in terms of the challenges faced by children when participating in communities. They felt that these leaders should not think of their article 12 obligations as being discharged simply by gathering children together collectively to 'hear' their problems. Instead, children argued they must understand that their obligation also includes being present throughout the entire participation process, actively empowering children to share their views and opinions on matters that are affecting them within their communities, at the same time as continuously reinforcing the value and weight of their views and opinions.[99] Children will then know they will be heard, and they will also see the tangible effects of what their participation has achieved.[100]

Another significant factor children feel is a barrier to their right to be heard are cultural beliefs surrounding the status of children in Rwandan society. Indeed, colleagues at NAR informed me that the level of understanding by adults on children's rights (and human rights) varies considerably according to a number of contextual factors, including the level of intervention by NGOs. For example, in some districts of the country, there is minimal - if any - intervention aimed at educating that population about children's rights. Even in those areas where there is strong intervention, a significant challenge is that some members of the community do not see the need to attend forums that discuss children's rights unless they encounter an issue that, in effect, 'requires' them to be aware of such rights. NAR confirmed that this was demonstrative of clear cultural barriers that affect community

[99] Participants from GSOB, GSNDL, SOS, GASCMR, MPES, and SHS focus groups discussed this at length.
[100] Again, participants from GSOB, GSNDL, SOS, GASCMR, MPES, and SHS focus groups expressed this point as part of their discussions above.

participation in these initiatives, as some parents/caregivers see the need to engage in dialogue with their children, particularly around issues of development and their participation, whereas others do not, for reasons that are complex and often to do with intergenerational trauma.

For organisations such as NAR, this is why it is vital to actively organise critical thinking sessions for teenagers in schools, as well as in their communities, so that this cultural barrier can be broken. Children were adamant that every child across the country wants to participate in the development of Rwanda, but that there are persistent cultural barriers preventing them from doing so at the community level. Although they feel that they want to play an active role in family and in the community, many children feel they often lack a voice in these contexts. As one participant put it:

> B: "Every child wants to participate in things that lead to development of the country, but parents and community adults, sometimes they don't give them the chance to fully participate. They don't believe that children's ideas (are) that great (that they need) to be shared."[101]

Children feel that the reason behind this is that Rwanda is an example of a country which has strong customary and traditional values, attitudes, and practices when it comes to the role of children in society.[102] They also recognise the presence of a 'seen but not heard' culture, where children must 'earn their place' in the community before they can be heard.[103] This often happens in accordance with age; the older a child becomes, the more capacity he or she is presumed to have in sharing their views and opinions effectively.[104] For the younger teenagers in the focus groups, this can often mean that even if they give

[101] Participant SHSB4
[102] Participants BSKB5, SHSB6, GASCMRG3, GSNDLG9, GSOBG2, MPESG1, GSNDLG7, SOSG2, GSACMRB2, GSOBB2, GSOBB5, SHSB6, SOSB4, GSNDLG2, and GSNDLG8 referred to these attitudes and practices as being barriers to their participation.
[103] Participants BSKB5, MPESG1, GSOBB2, SOSB4, and GSNDLG8.
[104] Participants BSKB5, SHSB6, GSACMRB2, GSOBB2, GSOBB5, SHSB6 and SOSB4

their views and opinions, the weight given to them is negligible or non-existent. In echoing the same point, another child explained that if a child speaks about their views and opinions on a situation that is affecting them, they are “labelled as a rebel” and told that they must speak less and listen more to what adults tell them to do.[105] Children feel that this is because they are perceived to be too young to understand the truth of a situation as adults view children as 'still developing,' and therefore not yet entitled to a right to be heard.[106] This issue is discussed in the context of the Convention in Chapter 2 (sections 3.2.2 and 3.2.5).

This often results in the creation of an invisible ‘red line’ that children must not cross. The right to be heard for children is therefore dismissed by adults, who do not give weight to their views on account of them being a child:

> G: “Sometimes when a kid tries to raise their voice, other people may say oh, you know, that (is a) child talking, so they try to silence them, because they think they’re just talking childish talks.”[107]

Children feel that because of this ‘silencing’ by adults, children cannot speak up about the rights they are missing in their daily lives that would give them a better standard of living.[108]

This invisible line between children and adults means that even though children rely on adults to provide for their basic needs, “children do not feel at ease holding conversations with adults on how to best ensure their rights are provided for.”[109] This means that all too often, adults presume that they do not have any useful views to share. But children insist

[105] Participant GSOBB1
[106] Participants GSOBB1
[107] Participant SOSG2
[108] Participants MISG2, SOSG1, SOSG2, GASCMRB3, and GSOBB3
[109] Participant GSARG3

that this could not be further from the truth. Children believe they have much to contribute, and that when children see that what they say is taken seriously, they will become confident members of society.[110]

Socioeconomic hardship is also a factor in whether children feel they have their right to be heard respected in communities. For some children, this is best demonstrated by talking about the size of the communities in which they live. For these children, the right for children to be heard is valued far less in the larger, “overpopulated” communities. I use the term ‘overpopulated’ cautiously here but do so as one that children themselves used in the focus groups to describe their perception of how living in a large community population might affect the weight given to their views and opinions. In particular, children linked such large populations with socioeconomic disadvantage, which in turn is a factor they feel has impacted on the understanding of adults and children of that community of the right to be heard. However, it is important to note that although a genuine opinion of some children, the point is context-dependant. As colleagues at NAR confirmed, there are some adults who are from socioeconomically disadvantaged families that do understand the importance of child rights as they have undergone various interventions and dialogue programmes which make enhancing their knowledge and understanding about children’s rights a primary focus. Therefore, the understanding of child rights cannot only be attributed to families that are socioeconomically better off or live in smaller communities.

For example, children from larger communities insisted that because of the sheer number of children within them, it is difficult for children to feel that their right to be heard is being

[110] Participants from BSK, GASCMR, KCB and N expressed strong views on this point in discussions on this point, particularly when thinking about what they hope child participation will look like in the future.

consistently respected by adults in positions of power. For those children I spoke to who had this view, this appears to be a case of logistics. The way in which these children addressed this concern was in the context of education. The schools which serve the larger communities have many pupils that attend them. Therefore, children feel it is increasingly difficult for the voices of all children to be heard. In reality, as confirmed by NAR, despite this perception the issue is in fact more relevant to large class sizes, limited resources, and the staff-student ratio rather than the number of children.

Some children explained that children are instead listened to as a collective, rather than individuals, which can sometimes lead to the different needs of children being ignored.[111] For others, the worst-case scenario in these environments is that adults 'give up' on hearing the views and opinions of children entirely:

> B: "In the big communities, where they have the many children who are at this school, it is very hard for everyone's voice to be heard. Mostly they give up and instead they choose to… well let me say this, we tend to hear from the leaders, the community leaders, not the children, that's all I can say..."[112]

For other children, it is more about the education attained by the duty bearers (particularly parents) in their lives. NAR informed me that through their work with teenagers, they often hear that parents do not like being 'questioned,' and are told that elders/parents are supposed to speak and children to listen. This is an issue further complicated with those children who have parents who were severely wounded, either physically or mentally, by the events of the Genocide, with many finding it incredibly difficult to share their experiences with their children. Many NGOs in Rwanda, including NAR, are trying to tackle

[111] Participant GASCMRB4
[112] Participant GASCMRB5

the issue of intergenerational dialogue which will ensure that children are well informed about their history, that they understand the importance of preserving existing efforts, and to ensure that children have the choice of contributing towards ensuring a better future for the next generation of children. NAR believe that once such intergenerational dialogue is adopted, it will make it easier for parents and others in their communities to discuss issues such as children's rights with their children.

In relation to this point, children in some focus groups were keen to explain their view that some parents feel that as their own education (and indeed their human rights as children) was not of any use in solving the problems they are facing today as a legacy of the genocide, this will not change for their children.[113] This situation is something these children feel is further compounded if the parents and/or community members that the child is surrounded by are survivors of the genocide. Children consider the legacy of the genocide on survivors a significant threat to their right to be heard. Even though they were not alive during the genocide, children in Rwanda are deeply affected by the legacy of social and economic problems faced by survivors, which has a knock-on effect on their right to be heard. Children referred to the existence of cultural barriers, including a predominantly patriarchal society and the prevalence of domestic violence and corporal punishment by parents, as being long-standing issues for children in some communities, which they believe stems from the trauma that adults survivors, particularly those who were children at the time of the genocide, still suffer today. This point is corroborated in secondary literature (see Blewitt, 2009; Neugebauer et.al., 2009; Hamburger, 2020; Rugema, et.al., 2013).

[113] Participants NB2, GASCMRG2, SHSG2, SOSG3, GASCMRB3, SHSB6, GASCMRG1, and GSNDLG5.

On a similar point, one child explained if the right to be heard for children is not respected within the family or the community in which they live, it is because adult priorities are elsewhere, trying to maintain access to other rights so that they can have a good standard of living:

> B: "The families where there is not enough food on the table and they are busy trying to get money, all they know is that the children, they cannot give the children (the) right, the voice to speak, because […] they are busy trying to get money, so they say we don't want to hear anything from you. But the families where they are aware of (the right to be heard, it is) because the kids already know that OK, I already have anything I need […], so that's their basic needs part of it, so then they can speak out. But the children too, they know that the family needs to give them their basic needs. They don't realise about there is a place for these other things like voice."[114]

Some children feel that the origin of this mindset began after the genocide, when the country was trying to recover socially, economically, and culturally from the atrocities.[115] But on the other hand, children are being told by the government that they are tomorrow's leaders. Children suggest that this means that children are receiving mixed messages, one from the national leaders and another from adults in their everyday lives. As one child explained, children are told that anyone can be a leader, yet they know that there are children facing insurmountable socioeconomic challenges who will never reach this goal.[116]

Conclusion

There are two pivotal findings of this chapter. First, children in focus groups view the right to be heard as intrinsically connected with the realisation of their other rights. Second,

[114] Participant SOSB6
[115] Participants SHSB6, SOSB6, BSKSG5, GSNDLG3, SHSG1, SOSG3, and GSOBB3.
[116] Participant SHSB4

children in focus groups also feel that their right to be heard, as enshrined in article 12 of the Convention, includes a requirement that the views and opinions of children directly influence decision-making, resulting in tangible outcomes that improve their lives and the lives of others in society when accessing their rights. These findings play an important role in setting the scene for thinking about the extent to which children's understandings of concepts such as 'the right to be heard,' 'participation,' and 'transitional justice' underpin the case for child participation in transitional justice.

For example, children in all focus groups understood transitional justice purely through the lens of Rwanda, whether in reference to the pre-colonial justice of the past, the lessons learned in the present through the lens of the genocide, or the legacy of both for future generations of Rwandans. It was this understanding of transitional justice which prompted further discussion on the two elements children in focus groups feel are necessary for 'true' transitional justice to be achieved: accountability for crimes committed to give justice to the victims and, once accountability is ensured, reconciliation to complete the healing process for society.

However, discussions held on the rights of the child in international law, and how these rights are applied in practice in Rwanda, were those which children engaged with the most. Children related their knowledge and understanding of their rights to examples based on their everyday life experiences. In bringing these discussions forward to talk about their understanding of article 12 of the Convention, children saw the right to be heard as connected intimately with the realisation of their other rights. In addition, a majority of children in focus groups feel that the respect afforded to their views and

opinions on matters that affect them is demonstrated at the national level in the upper echelons of government and gave clear examples of how they perceive this in their everyday lives. However, in emphasising their view that there is still room for improvement, children were clear that it is the responsibility of the government to make sure that all children under the age of eighteen are given access to platforms where they can share their views and opinions on matters that affect them.

For the right to be heard to be truly respected, adults in power and the wider society must acknowledge that the views and opinions of children are valid and should shape the society that they live in - not simply because they are the future adults of Rwanda, but because children are equally valued members of Rwandan society. This is because doing so will, in turn, encourage children to participate in sharing their ideas on development in the social and political spaces, the very spaces in which transitional justice takes place.

Children acknowledge that the government has a legal obligation under article 12 to ‘hear’ children share their views and opinions on matters that affect them and were clear that the government must also give due weight to their views and prove this has taken place by acting on these views to enact tangible, lasting change within their communities. However, children expressed their desire for their participation to be facilitated not just by national leaders, but local community leaders, including within families. Unfortunately, for children in focus groups it remains the case that adults in their communities are yet to recognise, or are unwilling to act upon the fact, that children have a right to be heard.

CHAPTER SIX

GACACA COURTS, MEMORY PROCESSES AND ARTICLE 12 PARTICIPATION: 'LEANING IN' TO THE ANALYTICAL FRAMEWORK.

Introduction

The previous chapter presented findings on the ways in which children in Rwanda know and understand transitional justice and the rights of the child, and how they critically assessed and understood the content of article 12 in line with this knowledge. This chapter uses this data as a springboard for discussion on how children in focus groups understand and engage with the relationship between the right to be heard and the participation of children in transitional justice mechanisms in Rwanda.

Employing the analytical framework provided by article 12 of the Convention, I assess the extent to which children in Rwanda feel that two mechanisms, the inkiko-gacaca court and memorialisation processes, meet article 12 obligations in the Convention. In a similar manner to the previous chapter, there is an increased use of footnotes to provide further information with regard to referring to specific participants and their contributions. Verification of statements of fact given by children are used to substantiate what children say has happened, what children think may have happened, and to add or correct detail, which is of particular importance when thinking about the inkiko-gacaca courts, where the children in focus groups were not yet born (or were noticeably young) when they took place.

To conclude, I present the views and opinions of children in Rwanda on what they feel child participation will look like for future generations of Rwandan children, before

reflecting on the data presented in the chapter to make the case for the participation of children in transitional justice in a way that is both valuable to the process and to the children themselves.

1.Children's understanding of the scope and purpose of transitional justice in Rwanda

1.1 The inkiko-gacaca courts

As noted in the previous chapter (section 1.1, p 157-158), children in focus groups made a clear distinction between the gacaca courts 'of the past' (referring to their pre-colonial function as a community dispute mechanism) and those that were revived by the government to specifically deal with crimes committed during the genocide. When children wanted to make this distinction, they would use the phrase 'gacaca courts in our history' (or similar) to refer to the historical origin of the gacaca courts, and simply 'gacaca' when they were talking about the mechanism used post-genocide. They did not use the phrase inkiko-gacaca, but as they made the distinction (and after discussion with NAR partners) I use it here in line with how secondary literature delineates between the two versions of the gacaca courts.

1.1.1 Ensuring accountability

Children in focus groups recognise the inkiko-gacaca courts as a mechanism representative of 'Rwandan' transitional justice, asserting that they were implemented as a response to community demands for access to justice in order that those affected could give their testimony of what happened to them in front of their communities and hold perpetrators to account for their crimes. All children were keen to explain the significance of the fact that inkiko-gacaca courts were held in the very place where *genocidaires* ('those

who commit genocide') were accused of committing their crimes, in front of their accusers, as this quote demonstrates:

> B: "[…] it was a justice that really was on the grass ground, like, on that very ground, you know? People were tried where they committed the crimes. […] if you are born here and you committed a crime here, and you try to go instead to the big court in Kigali, the authorities say no, they bring you back straight away to the same location you did what you did, so that people who know you, who know what happened, they can testify (whether) he is participating in the genocide or not."[117]

Although the way children in focus groups describe the process of the inkiko-gacaca courts is on the whole correct, there is some additional, contextual information missing from their descriptions. This is unsurprising, as children were not alive - or were very young - at the time the gacaca courts took place. For instance, although the trials certainly took place outside, they also took place in classrooms and conference rooms - wherever there was space available (Nyseth Brehm et al, 2014). Judges, wearing green, yellow and blue sashes, would face the victims who would be sitting between the judges and the public (ibid). The perpetrators were seated on the other side, with ample space between them and the victims (ibid).

Children in focus groups explained that many living in remote or rural communities could not attend a national criminal court in person, as it would often be many miles away from where they reside, and many had no means of transportation to access these courts.[118] Children asserted that as a result, the inkiko-gacaca courts were put in place within each community across the country, so that whole communities ("those who are old, those who had young children, those who were disfigured or those in deep trauma") did not have to

[117] Participant APAB3
[118] Participants APAB2, MPESG1, NG5, SHSG2, SMZG3, SMZB6, SOSG4, APAB4, APAB6, BSKSB1, BSKB2, CICB1, and CICB2 all spoke about this point at length.

travel to the nearest big town to access justice at “the big courts.”[119] Because of this, “the people could participate in the justice process and play their part in ensuring accountability for crimes committed against them.”[120] This was vitally important for those communities where perpetrators “did not only kill one person but killed more than ten people in one village.”[121]

Secondary literature corroborates what the children in focus groups had to say on this point. The gacaca courts were adapted from their original purpose in order to respond to an overwhelmed national court system (Organic Law 8/96). In addition, although the International Criminal Tribunal for Rwanda was created to prosecute high-level offenders of the genocide, this was not enough for many of those in communities who could not travel to the court (based in Arusha, Tanzania). As a result of these factors, a Commission was set up by the government to “look at possible mechanisms for increasing public participation in judicial proceedings” (Tully, 2003, p385) An official document detailing a proposal for gacaca tribunals was published on June 8 1999, 5 years after the end of the Genocide against the Tutsi (Vandeginste, 1999, p1).

The Transitional Assembly of Rwanda adopted Organic Law No 40/200 (also known as ‘The Gacaca Law’) on October 12, 2000. This law adapted the traditional, pre-colonial system of community justice and dispute resolution for the purposes of adjudicating crimes involving the gross human rights violations committed during the Genocide against the Tutsi. The government therefore “substantially modified the institution, essentially creating a new organisational form” (Nyseth Brehm et.al., 2020, p444). As a more accessible

[119] Participant SMZB6
[120] Participant SMZB6
[121] Participant SMZG3

alternative to national courts and to the ICTR, the adapted gacaca courts prosecuted lower-level perpetrators within the communities where crimes took place, and courts were located in communities across the country (ibid). Participation was compulsory for all Rwandans, as per Organic Law n°16/2004, article 29, with fines being levied at those who did not participate (Office of the President, 1998, p55; Dumas, 2020; Nyseth Brehm et.al., 2014). Secondary literature on whether members of a community had difficulty accessing the inkiko-gacaca courts themselves has not been located. The gacaca courts retained elected panels of judges who "volunteered their time to try grave crimes each week" (Nyseth Brehm et.al., 2020, p444). Operational at the cell and sector levels, courts at the former "had jurisdiction over property crimes," with the latter courts trying "crimes against people" (ibid, p446). The number of courts in the local area were determined by the caseload (ibid). The most severe punishment given was life in prison, reserved for the most serious crimes without confession before or during the trials. On confession, sentences would become lighter and include community service, fines, and other restoration-based reparations (Nyseth Brehm et.al., 2014, p337; Schabas, 2005).

Children explained that the inkiko-gacaca courts played "a very big role" in ensuring accountability for crimes committed during the genocide by taking those accused "back to the roots where the crime was done" so the community could identify them and share what they saw.[122] Children in focus groups see this as a way that communities across the country could contribute to the justice process. The presence of the public, and the idea of public confession, was used as a way to "serve the punitive and restorative goals of transitional justice" (Nyseth Brehm et al, 2014, p337). Some children explained that those who asked for forgiveness before or upon sentencing would have their sentences reduced;

[122] Participant MPESG2

both the admission of guilt and the request for forgiveness would constitute reconciliation, a vital part of the transitional justice process.[123]

Children feel that inkiko-gacaca courts provided accountability by establishing truth, both in terms of due process and community participation, through a fair trial:

> G: "The victims and the judges, they will go and meet the person in the court whom they said this person killed the other person, and then there will be a person who will defend that person and say no we were together at that time, or there could be another person who said yes, I was there, he really killed that person. So like, it is about giving a fair judgement, there are supposed to be proofs, or er, what do you call it… evidence, yes. Evidence."[124]

This child is correct in stating that the accused could have someone within the community to provide an alibi for them at the court. However, the inkiko-gacaca courts have been widely criticised on the fact that the accused was not allowed to obtain legal counsel, despite the fact that both Rwandan and international law guarantee the right to legal counsel and representation for all those accused of any crime (see Clark, P. (2010); Thorne, B. and Viebach, J. (2019); Sullo, P. (2018)).

One child summed up the knowledge of children in focus groups on the inkiko-gacaca courts, explaining that they are viewed by children in Rwanda as "an institution that was acting as the voice of all people after the genocide."[125] Judges and mediators were there to find a way to guide people on how to take part in the process in a way which stood the greatest chance of establishing the truth, and communities worked together with professionals who were there to "analyse, verify and justify the views and the experiences of the people."[126] Another child explained that this outcome relied heavily on community

[123] Participants IWEG2, BSKSG4, MPESB1, SHSB3, and SHSB7.
[124] Participant BSKSG3
[125] Participant SJKB2
[126] Participant SJKB2

participation to ensure justice was both fair and equal for all, so that the "never again" agenda of transitional justice became a reality for everyone.[127] Finally, another child explained that sharing and knowing the truth in the inkiko-gacaca court is "a right for all people," and one which "makes justice equal for all of us."[128]

1.1.2 Achieving reconciliation

Children feel that the most essential element of the inkiko-gacaca court process is the creation of space for community dialogue and reconciliation, and the inkiko-gacaca courts provided people in communities with an open, inclusive environment to share their views, opinions, and experiences of the genocide.[129] Though they feel transitional justice requires both accountability and reconciliation being present to achieve its purpose, reconciliation is the hallmark of what children feel makes transitional justice 'transitional.'[130] One child gave an example of this from his own life, using it to suggest that when people return to their communities after serving their prison sentence, not only should others no longer fear them, but they themselves should not fear reintegrating into their communities again and going about their daily lives:

> SG: "One example he gave of a man that he knows. He was imprisoned after gacaca because he killed a child during the genocide, and after being released from prison, the mother forgive the man and he returned to the community. And when this young child you are speaking to now tried to ask him "are you not scared of going to the market?" The guy replied, "I'm not scared because I asked and was forgiven by the lady whom I killed her child, so I feel free to come and to participate in the society and even go to the market.""[131]

[127] Participant SHSB4
[128] Participant BSKG3
[129] Participants BSKSB3, BSKSG2, CICB2, APAB3, APAB5, SMZG2, SMZG3, SMZB1, SMZB5, KCBG4, IWEG4, MPESB4, NB2, SHSB7, SHSG2, and SOSG1.
[130] Participants SMZG2, IWEG4, SOSG1, NB2, SHSB7, and BSKB3 made this point.
[131] Participant SHSB5

Children feel that the justice dispensed by the inkiko-gacaca courts must benefit both sides, victim and perpetrator, for reconciliation to be achieved. In addition, children were clear that irrespective of the role (or even multiple roles) an individual played in the Genocide against the Tutsi, all people suffered, and as such all people deserved to receive justice. However, children pointed out that this process did not happen without significant support from community leadership, particularly from mediators (or *abunzi*).

Translated as 'those who reconcile,' abunzi are community mediators who are elected by members of their community based on the respect they had earned from community members as persons of integrity, or "inyangamugayo" (Nyseth Brehm et.al., 2020; Gasanabo et.al., 2020; Rwiyereka, 2014). The role of the abunzi is understood by children in focus groups to encourage participation and dialogue between two parties, who would be asked to sit down face to face and explain their situation so the other party can understand their point of view.[132] The abunzi have roots that are deeply entrenched in the pre-colonial culture and social structures of Rwanda. Prior to 1994, the abunzi dealt with minor crimes within the community, mediating between two parties in the pre-colonial gacaca courts in order to come to a solution through reconciliation, for relationships to be restored (Mutisi, 2012; Inglaere, 2008; Sullo, 2018). For this reason, some children explained that the role of the abunzi in pre-colonial gacaca courts was to resolve conflict between two people when there has been an infringement upon human rights within a village, such as the theft of produce resulting in lost livelihood, the requisitioning of land, or boundary disputes.[133] Once a dialogue took place between the parties and an

[132] Participants GSNDLG3, GSNDLG8, NG4, BSKSB3, BSKSG2, CICB2, APAB3, APAB5, SMZG2, SMZG3, SMZB1, SMZB5, KCBG4, IWEG4, MPESB4, NB2, SHSB7, SHSG2, and SOSG1 all made significant reference to the role of the abunzi in the inkiko-gacaca courts, with their peers nodding or saying 'yego' when they were providing explanations.
[133] Participants MPESG1, SOSG4, APAB2, GSOBB4, SHSB3, and SMZB5.

understanding was reached, accountability was admitted, and either a sentence was given, or reparations were awarded.

It is important to note at this juncture that there is some confusion from children between two terms used to describe judges and mediators at the inkiko-gacaca courts: abunzi (mediators) and inyangamugayo (a Kinyarwanda term for persons of integrity). As confirmed by colleagues at NAR, abunzi are community mediators who are elected by members of their community. Usually forming part of a committee of mediators, these committees are asked to intercede during a conflict between people in their communities, and if their intervention fails to lead to a positive outcome, the case is taken to court. The election process of the abunzi is based on the fact that they are considered as people of integrity (or inyangamugayo). Inyangamugayo is therefore a term used to describe a 'characteristic' that abunzi need to have. A similar approach was used when electing judges who led the inkiko-gacaca courts, who were not lawyers, but were elected based on the respect they had earned from their community members as well as their integrity. Some communities once referred to judges at the inkiko-gacaca courts as being called inyangamugayo, which has resulted in the term coming to prominence when understanding the function of judges, However, it is important to note that the abunzi (mediators) and the judges at the inkiko-gacaca court have contrasting functions (Nyseth Brehm et.al. 2020, p444). Some children in focus groups picked up on this distinction, whereas others used the term interchangeably to describe both judges and mediators.

Children explained that they understand accountability as only one of two outcomes of the inkiko-gacaca process, an outcome which is purely retributive.[134] However, in their view, it

[134] Participants MPESB1, MPESB2, NB2, BSKSB1, BSKSG3, GSOBB3, GSGG2, KCBB1 and GASCMRG1 all spoke about accountability being part of what they understand as 'retributive' justice.

must also be restorative, as “this is the type of justice that our country, particularly the children, advocate for.”[135] Restorative justice is a process where all the parties with a stake in a particular offence come together to deal with the aftermath and its implications for the future (Marshall, 1999, p5). Offenders have the opportunity to acknowledge the impact of what they have done, to make reparations and to make amends, and victims have the opportunity to have their harms or losses acknowledged. Children explained that the role of the *abunzi* in the inkiko-gacaca courts facilitated conflict resolution by bringing people together in dialogue (to reach what some children call ‘a common understanding’).[136] Therefore, children asserted that the role of the *abunzi* in the inkiko-gacaca courts was not simply to ensure accountability, but also to ensure that forgiveness was granted to the perpetrator for reconciliation to take place.

Children explained that the inkiko-gacaca courts made a significant contribution to reconciliation in communities that were scarred by the genocide. One child explained that the inkiko-gacaca courts are actively responsible for changing the mindsets of individuals, and even whole communities, by “making a new forgiveness between the people who have been left with trauma and the ones who perpetrated it.”[137] An example given by the children of reconciliation in action was in respect of reparations for material damage as a result of the genocide, particularly for property damage.[138] Children asserted that the inkiko-gacaca courts also included reparations for material damage which was a result of the genocide; many properties were destroyed in the violence, leaving survivors with no home or livelihoods to return to. Children recalled that the judges would ensure that, if

[135] Participant BSKSG3
[136] Participants BSKSB3, SMZB2, SMZB4, SOSB2, KCBB1, APAG3, GASCMRG1, GASCMRG4, IWEG3, IWEG4, IWEG5, KCBG2, SMZG1, and GSGB1.
[137] Participant SMZG6
[138] Participants GSNDLG4, MPESB2, MPESG1, BSKSB1, BSKSB2, BSKSG3, SHSB1, SHSB3, and SOSB1.

guilty, the person/s accused would pay compensation to the victim for the material things they had lost.[139]

This point requires clarification. Property offences were handled in two ways: the first allowing for the victim and offender to arrive at an amicable settlement related to the type and amount of restitution (with judges simply supervising and ratifying the agreement), or the second involving a trial if no mutual agreement took place, with the judges coming to a final decision on the nature of the restitution. As Ingelaere notes, “this has no legal basis, only a customary basis” (2008, p38). In addition, as verified by colleagues at NAR, the inkiko-gacaca courts would sometimes mandate for the perpetrator and victim to come together to build what is known as a ‘reconciliation village.’ On the agreement of both parties, a perpetrator and victim would meet to talk about what happened to them in the genocide, before agreeing to work together to build a village. Both would begin by working together to build a house, before then building another house across the street from that house, and in the middle of both of the houses they would build a well to share. The perpetrator would move into one house and the victim would move into the other. Eventually, they would be surrounded by a community of others working towards the same goal, reconciliation (see Mafeza, 2013; Traverso and Broderick, 2020; Grayson, Hitchcott, Blackie, and Joseph, 2019).

The inkiko-gacaca courts were courts of both accountability and reconciliation, but it is the latter that is seen by children as representative of true transitional justice “in action at the grass roots level.”[140]

[139] Participants GSNDLG4, MPESB2, MPESG1, BSKSB1, BSKSB2, BSKSG3, SHSB1, SHSB3, and SOSB1.
[140] Participant APAB4

1.2 Memorialisation processes

1.2.1 Physical Memorials

Children across all focus groups were keen to explain the importance of physical memorials. Some children did so by providing me with a timeline of transitional justice in Rwanda.[141] These children explained that community members began building physical memorials at the centre of their communities soon after the genocide, to mark the burial places of their dead. These community memorials were small and maintained by the communities themselves with no input from the government, whilst much larger, state funded memorials were established in larger towns such as Kigali (there are eight state memorials to the genocide, located at Kigali, Murambi, Nyamata, Nyanza, Bisesero, Ntarama, Nyarubuye, and Gisozi - other, 'local' memorials are kept by district and local governments, agencies, groups, and families).

Children asserted that the physical memorials built and maintained by the state were the catalyst for the criminal courts in larger towns, as they were a visible reminder that justice needed to be done and those responsible for war crimes and crimes against humanity committed during the genocide needed to be held accountable.[142] However, these children also feel that physical memorials at the community level were largely neglected by the state, which in turn prompted local communities to demand that the government implement mechanisms of justice so that all communities could access "not only the national criminal courts for those who live in larger towns who can visit them."[143] Children asserted that the government then realised if they did not respond to this call for justice, it was possible that

[141] Participants BSKSB1, BSKSG3, CICB2, SMZB5, KCBG4, KCBB1, KCBB2, KCBG2, and APAB4.
[142] Participant APAG3
[143] Participant GSOBB3

the smaller, community memorials could act as a catalyst to spark revenge attacks within these communities, so they needed to find a way to ensure that accountability took place "for all, not just for some."[144]

In discussions with colleagues at the IRDP, I was informed that for some small communities and grassroots organisations, these national, state memorials overshadow, if not undermine the efforts that are made daily to remember the genocide, leading to some community stakeholders suggesting that there are significant shortcomings of Rwanda's nationalized system of memorialisation, at the expense of the potential successes of grassroots memorialisation. Instead, community stakeholders feel that more resources should be invested in partnerships with grassroots methods of memorialisation – a point echoed in secondary literature on the matter (Dickson, 2017; Ibreck, 2010).

Moreover, the question of whether or not community memorials do in fact prevent acts of revenge in Rwanda is a difficult one to answer and is outside the scope of this chapter. However, much secondary literature is published on the theme of revenge and memory, particularly on the politicisation of memory in light of the rise in interest in the study of memorials in memory and genocide studies (Mason, 2019; Mwambari 2021; Shepard, 2019).

The role that physical memorials have in ensuring that the 'never again' narrative of transitional justice is not just rhetoric, but a reality, is very important to these children, who believe that such memorials empower whole communities, even those in remote areas, to demand justice and decisive action.[145] Indeed, some of these same participants informed

[144] Participant SHSG5
[145] Participants APAB4, APAG3, APAG4, BSKSG1, GASCMRB2, GASCMRB4, GASCMRG1, MPESB3, MPESG2, MPESG3, and SMZB1.

me that often, the inkiko-gacaca courts took place on the ground in front of the very community memorial that inspired the community call to action for their implementation.[146] One child informed me that many communities still refer to these communal places as "gacaca" sites today and hold community meetings in the same place.[147]

1.2.2 Commemoration (or 'Kwibuka')

Translated into English as 'we remember,' Kwibuka describes the state-led, annual commemoration of the Genocide against the Tutsi, specifically the official 100-day mourning period between April and July.

Kwibuka is of great symbolic importance for children, as it constitutes what one child called the "social reflection" process, a time to "reflect on the ones that were lost in the Genocide against Tutsi, and the reasons why it has happened."[148] Children explained that Kwibuka is important to teach children the truth and for communities to reconcile with one another to restore social cohesion, particularly when families and communities are suffering from intergenerational trauma and shame.[149] One reason for such shame is because of the role a community member or a loved one played in the genocide, and children can "see what this has done to our friends, our parents, our country."[150] Children were clear that they felt without Kwibuka, those who are still suffering from trauma due to their experiences of the genocide would not be talking about it at all. This would therefore have a negative effect on future generations; because much of the population alive today were born after the genocide took place, survivors of the genocide are "outnumbered by those who did not live

[146] Participants SMZB1, BSKSG1, APAB4, APAG3, MPESB3, MPESG3.
[147] Participant KCBG4
[148] Participant GSGG2
[149] Participants SHSB6, SHSB7, GSNDLG3, MISG1, MPESG1, SOSG4, and BSKSG1.
[150] Participant SKJG2

through it."[151] The introduction to the thesis (section 3.2, pp11-13), supported by the information set out in Chapter 4 (section 4.4, pp127-129) sets out the current demographic statistics for Rwanda, and how understanding these statistics is important when considering the legacy of the Genocide against the Tutsi for present-day children. As survivors of the genocide are understandably very hesitant to talk about their experiences to children, children fear that there is a gap in first-hand knowledge of the genocide that children can learn from.[152] Children insist that their participation during official Kwibuka commemoration events reminds adults that children continue to suffer the many socioeconomic consequences of the genocide due to the legacy of intergenerational trauma, and because of this "are entitled to know the truth:"

> G: "There are some parents and elders nowadays that think that if children, their children, know what's happened, I don't want my child or that child to know that I have been through this, I don't want that child to participate in all of that. But this just makes us think Rwanda has some parents and elders that think that my child does not deserve to know, that we must have done something wrong. But this is unfair, so what if we are children, this still has to be done, I am deserving. We are all deserving to know the truth."[153]

In some groups, this sparked long conversations with their peers about alternative sources of information outside of the family and community environment. One child explained that schools only provide a 'surface level' of information, with children instead preferring to get information from mass/social media or from attending official state commemoration events.[154] Children in focus groups were aware of which mass media sources in Rwanda were, in their view, reliable in the country, and openly spoke about getting information from these sources online to 'supplement' their education at school, or to receive information

[151] Participant SJKG2
[152] Participants GASCMRB3, SHSB1, SOSG4, GSOBG5, IWEG2, GSNDLG2 and MPESG2 all raised this as a topic of concern to them.
[153] Participant SOSG1
[154] Participant SOSG3

that was not being shared by their traumatised parents.[155] Such media sources have for a long time demonstrated a favourable attitude towards restorative, over retributive, justice after the Genocide (Rwanda Times, 2008; Rwanda Times, 2019). Such conversations are reminiscent of the 'right to know' in transitional justice, as discussed in Chapter 2 (section 3.2, pp42-44), and the right of the child to receive accurate and truthful information as set out in Chapter 3 (section 3.2.3, pp90-92).

Some children also mentioned that they worry for their peers who do not have the internet or cannot travel to state commemoration events, as they have no way of getting 'true' information, which could lead to ignorance about their history, or even getting incorrect information from the wrong sources who have a divisive, revisionist agenda.[156] One child asserted that children in Rwanda believe that Kwibuka is even more important in this respect, as it allows survivors of the genocide to participate in a way that is "comfortable" and "safe" at both the national and local level, which, through mutual dialogue and respect, benefits the knowledge and understanding of children who otherwise would not have access to information.[157]

2. Child participation past and present: the inkiko-gacaca courts and memory processes

2.1 Exploring child participation of the past: the inkiko-gacaca courts

Before looking in detail at the data collected on child participation in the inkiko-gacaca courts, it is important to note at the outset that children in all focus groups would always, without exception, caveat their contributions on child participation in the inkiko-gacaca

[155] Participants MISG3, GSGG2, GASCMRG4, SOSG6, and BSKSG3 all made this point specifically.
[156] Participants NG3, NB2, MISG4, GSGB3, GASCMRG1, GASCMRG6, MPESG1, MPESB2, MPESG3, SOSG1, SOSB4, BSKSB1 and BSKSB5 made this point specifically.
[157] Participant BSKSG5

courts by stating “we were not there” or “we were not alive at the time.” Those older children in focus groups informed me that they were “very young children” or “little babies” when the inkiko-gacaca trials took place.

In addition, a majority of children in focus groups stated that they had never even thought about the participation of children in inkiko-gacaca courts before, as demonstrated in this example:

B: “The role of…?”
SG: “Children.”
B: “Children? In gacaca?”
SG: “Yego [yes], the role of children in the gacaca courts after the genocide.”
G: “Gacaca? Are you sure? Children were there, this I know for sure, but to participate in the way we are speaking about, like…?”
SG: “Do you know whether children, children like you, participated actively or were heard in these gacaca? *Urumva* [do you understand]?”
- *[energised group discussion in Kinyarwanda]* -
B: “Interestingly, we…”
G: “So, like… what, erm, age? You know, like us or, or younger like, little kids? Because I don’t know about this but perhaps like, this is important to…”
G: “We have never thought about this before, we have not been told about it, but that’s... I am provoked by this question!”
B: “I haven’t heard about it at home or at school before today, *ufite* [what about you]?”
G: “I have heard little things about this from other places, people in the villages, yes, I think, but I don’t think it was a thing, like… we would know, people would tell us more about this I think…?”[158]

Irrespective of previous knowledge, children engaged in animated rights discussions about the benefits and limitations of children being heard in the inkiko-gacaca courts, particularly in line with their understanding of article 12 of the Convention. These discussions echo debates on child participation in current scholarship in children’s rights. For example, as

[158] Extract taken from GSOB focus group interview.

noted in Chapter 3 (section 3.1.1, pp77-79), article 12 is one of the most contentious rights in the Convention, with resistance to the idea that children should influence the decisions that impact on their lives remaining widespread. It became clear that such resistance is also met by children in Rwanda. However, there are also echoes of conversations held in Chapter 2 (section 3.2.1, pp84-87), with respect to the balance that must be struck between participation and protection when facilitating the participation of children in transitional justice.

It soon became apparent that for many children in focus groups, the participation of children in the inkiko-gacaca court system was a contentious issue, in many cases echoing similar contention present within their own communities.

2.1.1 Opinion: the gacaca courts were no place for children.

Some children in focus groups insisted that child participation in the inkiko-gacaca courts simply did not take place, as children were deemed too young to hear the views, opinions, and experiences of the genocide from adults in their community, or to understand what was happening and why.[159] The same children were adamant that children under 18 were far too young to be present, let alone speak and be heard in the inkiko-gacaca courts. This is exemplified by the following quote from a child who insisted that the inkiko-gacaca courts were not the place for children to be, particularly when decisions were made:

> G: "Children like, their participation will be indirect, to report something that they saw or maybe heard, like maybe say I saw this one I heard this one doing something bad, they say this to the parent or the mediator, you know like, the abunzi, so the court could follow up and know what is going on. But like, being involved in making decisions, when decisions were being made, I don't think the kids

[159] Participants CICB2, APAG1, APAG4, GSNDLG1, GSNDLBG3, GSNDLBG5, GSOBB1, GSOBB4, GSOBG4, IWEG5, MPESG1, MPESG2, MPESG3, SJKB2, SJKB3, and SOSG4 all voiced this opinion.

were there, it was not their place to be there, no. That would have been wrong, like, incorrect, that would not have happened."[160]

Another child insisted that the inkiko-gacaca courts were run on "the older people's philosophy," namely that "there are some things there that children should not know or understand."[161] This participant strongly believed that as a parent, you should never allow children to share their experiences of the genocide at the inkiko-gacaca courts, or to hear the experiences of others, because of the risk of further trauma to the child, which she felt "very uncomfortable thinking about."[162] Another child expressed her doubts about whether children at the time the gacaca courts were implemented would grow up thinking it is justice to be "made to go" to the inkiko-gacaca court and talk about their experiences of the genocide in too much detail, even if they wanted to do so at the time:

G: "Even if they wanted to come, you know that parents say there are some things you cannot say in front of kids, they say we can't share everything we went through in front of the kid, that kid will not think it's justice to hear too much detail, they too will be traumatised and grow up with memories that are not theirs which will negatively impact their lives. That isn't fair, they shouldn't be made to go, that isn't justice for the child."[163]

This participant also stated emphatically that if she were a parent at the time of the gacaca trials, she would not bring her children "no matter the age."[164]

Other children made a distinction between 'older' and 'younger' children in this regard, suggesting that younger children (usually determined as being in primary level education) should have been prevented from attending the court at all or from hearing about what

[160] Participant MPESG3
[161] Participant GSOBG4
[162] Participant GSOBG4
[163] Participant MPESG2
[164] Participant MPESG2

went on in the proceedings, due to their young age.[165] Very young children of primary school age "had no clue about what was happening" and should not have been given any details to protect them from trauma.[166]

However, the majority of children of the opinion that the inkiko-gacaca courts were no place for children insisted that all children under the age of 18 were prevented from attending the inkiko-gacaca courts because of the traumatic experiences of adults in their community that they would be exposed to, resulting in a heightened risk of intergenerational trauma being passed to that child or group of children.[167] In such cases, children in focus groups insisted that children would attend the court but would be playing out of earshot in the surrounding area, with "older youth" (usually aged 18+) "watching them to ensure that they did not slip through and hear too much of the details."[168] Alternatively, children would be at home or at school and not be aware of what was happening at the inkiko-gacaca courts.[169]

All children who expressed their view that the inkiko-gacaca courts were no place for the participation of children were united on one thing: to allow children to participate in the gacaca trials would cause long-term, unnecessary trauma to the child. Secondary literature pertaining to the possible risks of child participation in transitional justice mechanisms is referenced extensively in Chapter 2 (3.1.3, p39-42) when undertaking an assessment of past practice, as well as in Chapter 3 (section 3.2.1, pp84-87) when undertaking doctrinal analysis of article 12 of the Convention. However, children insisted that this did not mean if children had information which might help the trial, they did not

[165] Participants CICB2, GSOBB1, GSOBB4, SJKB2, SJKB3, and SOSB4
[166] Participant GSNDLG5
[167] Participants CICB2, APAG1, APAG4, GSOBB1, GSOBB4, IWEG5, MPESG1, MPESG2, MPESG3, SJKB2, SJKB3, and SOSG4. Similar discussions were had in the South African TRC, as discussed in Chapter 2.
[168] Participant SJKB3
[169] Participant GSNDLG3

share that information with the court. On the contrary, children suggested that a child or group of children could attend the court privately if they approached an adult within their community and shared information with them that may help the trial process – an approach they believe represents a form of indirect child participation.[170]

2.1.2 Justice is for everyone, including children.

The view that the inkiko-gacaca courts were no place for children was not shared by all children in the focus groups.[171] This often steered the discussion towards a heated debate on what children felt did and did not happen in the inkiko-gacaca courts, as demonstrated by this example:

B:
"That is what the right we are speaking about says! Come on… Look, I believe that there can be some child who know like, the name of a person who also see that happening, and that person say yeah, that child is telling the truth. That guy killed this one and this one. This information must be heard! People have to hear him and do something about what he said not ignore him!"

- *animated discussion between the two participants in Kinyarwanda* -

- *muffled talking and laughter from peers in the room* –

G:
"Look, what my friend is saying is true, he can participate as a witness, but the kid cannot do it in the court, he cannot sit in the court and participate in the court, he has to ask some adult to do it, to speak his views for him, it is not safe for children like us, it is not safe. I know this, I have asked this…"
B:
- *mumble of disagreement in Kinyarwanda* -
G:

[170] Participants APAG4, GSNDLBG3, GSOBB1, IWEG5, MPESG1, and SJKB3 all voiced this opinion.
[171] In particular, participants APAG4, APAB5, BSKSG1, SOSG4, CICB2, GSOB3, MPESB2, SHSG4, SOSG4, CICB5, SHSB3, and SOSB2 all voiced their opinion in agreement with this point.

"*Inshuti* [friend] no, I'm sorry *inshuti* stop, they are not allowed; they are just not allowed. It wouldn't be the right thing to have children participate directly, you are wrong about this *inshuti* sorry…"

B:

"But they were there also in the court, yes to watch but also to testify as to…."

G:

"No, no *inshuti*, the kids were not there…"

B:

"Eh?! Who told you this because… Come on, that's not true at all, that makes no…? They were there because they have something to say, something happen to them, to speak out and see justice done! They deserve justice too, no?"[172]

Other groups reached a much clearer consensus about the role of children in the inkiko-gacaca courts, insisting that children did indeed take an active, participatory role in the justice process, and that this was the right thing to do:

JR:

"So, just so I am clear on this… you all say that you know for certain that children did participate, they did 'speak out,' in their own words, in the gacaca courts? They did actually stand up and testify and say I saw this, I did this, I witnessed this, by choice? Without the support of adults? Is that what you're saying?"

SG:

[Direct translation of what was said into Kinyarwanda]

- *Emphatic nodding of heads around the room, whispering 'Yego'/Yes* -

G:

"Yego, yego..."

B:

"Yego, that's what happened, that's what I was told at home and in my er, in my village..."

G:

"Of course, certainly it happened, I know this from my community they are allowed, children have informations and things like this so why, why no like…?"

G:

[172] Extract taken from MPES focus group. The word 'inshuti' is Kinyarwanda for 'friend.'

> "Yego, I know this happened, I was told this and… and told that it was the right thing to do to let children speak and to er… to share at our inkiko-gacaca and things..."
>
> - *More nodding of heads around the room, whispering to one another* -
>
> SG:
> "They say yes, that's the truth."[173]

The data is not clear on whether children in focus groups were aware of whether the age of a child was a factor in whether child participation was facilitated in the inkiko-gacaca courts. However, children in focus groups who held the view that children certainly participated in the inkiko-gacaca courts explained that the courts recognised the effect of trauma on children of all ages and would give them a safe space to feel free to talk about what they saw and what they experienced without fear of reprisal, in front of their communities.

2.1.3 The middle ground – children had a choice.

Although in the minority, some children in focus groups refuted the idea of a binary distinction between children who participated and those who did not participate in the inkiko-gacaca courts, insisting that the reality was more complicated for children after the genocide ended.[174] One child explained that I needed to consider that this this was not a peaceful time for children, as many adult perpetrators were people they knew and were "still free or waiting to face justice."[175] Therefore, children had a choice of whether or not to participate, and those children who did not feel safe sharing their experiences, even as older children, did not have to do so.[176] Participation was by consent, meaning "children

[173] Extract taken from SMZ focus group
[174] Participants SJKB2, SOSG3, SHSB4, GSOBG3, NG3, GASMRG4, NB1, MPESG2, MPESG3, SJKB2, and SOSG4
[175] Participant NG3
[176] Participant NG3

could say yes or no, they were never forced to speak out."[177] Another child insisted that children could ask for protection or for someone to speak out for them.[178]

If children made the decision to participate in the court, it was because they knew that their views, opinions and experiences would help the justice process, that these views and opinions would directly influence decision-making in the courts, and children knew they would be protected if they chose to participate. One child explained that this latter point was a persuading factor for children when deciding whether to testify, with children fearing that "speaking out" about what they saw could result in them "dying by the hands of the perpetrators" should they be freed.[179] This was an issue of personal security; children need to feel safe from perpetrators and to be surrounded by trusted adults, but for many children everything and everyone they knew had "disappeared," or "vanished." Secondary literature corroborates this point - traditional protective structures for children (such as family networks, the judicial system, and the education system) were almost completely destroyed in the Genocide. One of the most devastating legacies of the genocide is the sheer number of children that were left on their own, struggling to survive without one or both parents. These children were orphaned, had parents who died of AIDS contracted during rape (with many children born as a result of this rape) or have parents who are in prison as a result of abuses they committed during the genocide. Many 'abandoned,' or 'orphaned' children have since been exploited, which has resulted in thousands of street children (Gupta, 1996; Lee, 2017; Denov et.al., 2020; Berckmoes et.al., 2017).

The distinction between these children and those who had supportive families and communities was noted, with one child suggesting that if all children had this security, they

[177] Participant GASMRG4
[178] Participant NB1
[179] Participant SOSG3

would have participated in the inkiko-gacaca process because they would have felt protected, and because they had “reassurance and guidance” from adults.[180]

Another child explained that although everyone deserves justice, including children, children should have a choice as to how (and whether) to contribute to the justice process.[181] Whether children participated by sharing their testimony directly or by asking someone else to speak on their behalf “was not the point” - instead, the focus should be on the fact that mediators gave due weight to the views and opinions of the child in the justice process irrespective of their choice and wanted to solve the problems they were experiencing as a result.[182]

The element of ‘choice’ when thinking about the participation of children is something which is discussed throughout the thesis. Past practice in transitional justice mechanisms, particularly the lack of choice given to children on whether and how to participate, is dealt with throughout Chapter 2 (section 3). In Chapter 3 (section 3.1.2, pp89-93), choice is discussed in relation to article 12 and under the purview of the Committee on the Rights of the Child, as exemplified in General Comment 12.

Given the differing views of children on whether children had in fact participated in the inkiko-gacaca courts, it is important to note that upon speaking to colleagues at NAR (and verified by a contact who was a judge in the inkiko-gacaca courts), I was told that children could be ‘present’ at these courts if they chose to, but they were not permitted to be part of the General Assembly of Gacaca Courts, the decision-making body. The General Assembly consisted of the population of the cell where the inkiko-gacaca court was taking

[180] Participant SJKB2
[181] Participant SHSB4
[182] Participant SHSB4

place who were above the age of 18. National law did not specifically mandate for child participation in the inkiko-gacaca court process. Article 2 of the Gacaca Organic Law (No. 33/2001) stipulates that “the general assembly of the Gacaca Cell of the Cell Court shall be composed of all the residents of the jurisdiction of that Cell Court aged eighteen (18) years and above” (see also Organising Prosecutions for Offences Constituting the Crime of Genocide or Crimes Against Humanity, Committed Between October 1, 1990 and December 31, 1994 (2001)). However, the data from the focus groups suggests that the extent to which children could (or did) participate within the inkiko-gacaca courts is unclear. Children in more remote communities would insist that children did, in fact, participate in the court process, whereas children in larger towns would insist that they did not, or at least have very mixed opinions on whether this was the case. This is discussed further in Chapter 7 in relation to areas of future research.

2.2 Exploring child participation of the present: memory processes

Unlike their discussions on child participation in the inkiko-gacaca courts, children in focus groups have lived experience of participating in memorialisation. Children were quick to volunteer their views on the importance of Kwibuka for children. Indeed, several children made a clear distinction between the participation of children in Kwibuka and in the inkiko-gacaca courts, as exemplified by the following quote:

> B: “During gacaca, so in the time of the Kingdom of Rwanda but also after the Genocide against the Tutsi, there were many adults who were there to participate or to give their views, so even though there was a lot of children who had really pressing issues and wanted to voice them, the adults participated like, were heard, more than the children. Kwibuka is the other way around, so we can give our views

and we can be heard, we can change things, we can make the difference to the development of Rwanda for ourselves."[183]

This section will focus on the commemoration of the genocide (Kwibuka) in some detail. This is for three reasons. Firstly, the facilitation of child participation in Kwibuka is seen by children as a significant part of their lives in terms of how they can contribute to the legacy of transitional justice in Rwanda. Secondly, Kwibuka is seen as responsible for many other ways that children can be heard in their lives at both the national and local level. Thirdly, children felt that there is a distinct difference between the respect afforded to their participation in Kwibuka at the state level and the local community level, and they addressed this difference using the framework of article 12.

The views and opinions of children in focus groups on the importance of child participation in Kwibuka are detailed below, with reference to both state and community-facilitated participation.

2.2.1 State-facilitated participation

Discussions had by children in focus groups on the importance of Kwibuka as a facilitating mechanism for their participation were emotional, with all children saying that they felt engaged with the commemoration process at the state level, irrespective of whether they were younger or older focus group participants or their socioeconomic background. Children explained that there are many elements to child participation during the Kwibuka period at the state level and were keen to tell me about two of these elements: child-led initiatives where children oversee participatory activities for Kwibuka, and activities in which children participate with adult guidance, often from NGOs.

[183] Participant SMZG3

2.2.1.a Child-led initiatives

An example many children gave of the former is the ‘Walk to Remember’ (Rwanda Times, 2017). Taking place annually as part of the state Kwibuka commemorations, the Walk to Remember was devised and implemented by teenagers (or ‘youth’) of Rwanda who formed a collective called the Peace and Love Proclaimers, now an NGO (Goldberg, 2019). The Walk to Remember is a silent walk, attended by thousands of adults and children alike, beginning at the Parliamentary Building in Kigali and weaving through the surrounding districts picking people up on the way. Those gathered walk for miles to the Amahoro ‘Peace’ Stadium before nightfall. I undertook the Walk for myself with my fixer, Felix Manzi, whilst in the country on a scoping visit in April 2019.

It is at the Amahoro Stadium where the ‘night vigil’ takes place, and where performances are put on for the audience of thousands who attend, including children. These performances are mainly by teenagers or ‘youth’ of Rwanda. Children in focus groups informed me that children in Rwanda travel for long distances outside of Kigali by foot or by bus to either take part in official performances or simply to attend, which can take many hours. The Walk to Remember now includes the President and First Lady of the country, as well as parliamentarians, NGO representatives and international visitors. The Walk is intended to empower children of Rwanda, particularly teenagers, to stand together against genocide by using “knowledge as a means of prevention” of recurrence in the future.[184]

Children in focus groups place great symbolic importance on the fact that children and adults taking part in the Walk are of completely different ethnicities, socioeconomic and educational backgrounds. Some children explained that this teaches society, particularly

[184] Participant BSKSG5

the children, to cooperate and work together with others in achieving justice, regardless of age, ethnicity or other factors.[185] These children felt that this would benefit children when they enter adulthood; as a country entering almost three decades since the genocide, as adults they are more than likely to be working with those who have a different history of the genocide and yet have suffered the same intergenerational trauma and socioeconomic effects that they have. Recognising and overcoming these challenges as one society, or as 'one Rwanda,' is something that children believe will contribute significantly to the development of the country.[186] Chapter 4 (section 6.2, pp139-140) discusses the use of the phrase "Twese Turi Abanyarwanda," or "we are all Rwandans" to describe the population of Rwanda instead of referring to past labels related to ethnicity. In this respect, children believe that their participation in the Walk is important not just as a symbol of reconciliation, but as a determined action to create a positive change in society through "walking towards the future," as this participant explains:

> G: "We created the Walk, we as children, and our government sees this and allows us to do it for ourselves […] the children help to communicate the messages of how and what happened in the genocide and why it should not happen again. It is not just a symbol; it is actively walking towards the future. Our participation is a positive action, we decided to do something ourselves, as teenagers collectively, to say never again, we will make sure the future is safe from this."[187]

Children in focus groups feel that the Walk creates an environment where children are granted respect as rights-holders and are afforded a national space in which to participate in a way they designed and implemented for themselves. The Walk certainly creates an opportunity for participatory involvement, and the views and opinions of children are at its

[185] Participants NB4, IWEG4, MPESG1, MPESG2, BSKSG4, NG2, and MISG1.
[186] Participants MISG1, MPESG1, NG1, NG2, SOSG1, APAB2, APAB4, APAB5, BSKSB3, MPESB2, SMZB1, and BSKSG5.
[187] Participant BSKSG3

core. However, one child questioned whether child participation in the Walk was representative of article 12 participation, as “it is symbolic, it doesn’t really achieve anything else.”[188] This child would like to see the participation of children in the Walk spur on other projects within their schools and communities, and to see it used it as a platform to “do more than commemoration, but action, do things, for the future.”[189] Another child informed me that the implementation of the Walk to Remember is not without adult critics, particularly at the community level, as adults in some communities “do not think well to this idea because it was put in place by the youth, by children. They do not understand how we could come up with this all alone, you know? Some adults do not take it seriously.”[190] This point is also evidenced in secondary literature. Goldberg, who worked with the Peace and Love Proclaimers during fieldwork for her thesis, noted that “they [parents] could not understand how kids who were not there [during the genocide] could come up with something like that,” with some openly suspicious and suggesting that the idea came from adults who sent children to defend them (2019, p27). Other adults would heckle children trying to fundraise for the Walk to Remember and tell them “you are young, you do not know what you are talking about” (ibid). However, “although hesitant, the older generations attended and began to open up to the influx of young activists in their community” (ibid, p45).

For children who explained their views on these points, for child participation in the Walk to mean something, children should be able to “see something has changed as a result of our participation,” to ensure that “our walking, our commemorating, it will not have been for

[188] Participant GSNDLG3
[189] Participant GSNDLG3
[190] Participant NG3

nothing."[191] Indeed, the founder of the Walk to Remember has discussed this and other related points in media interviews (see for example CNBC Africa, 2019).

Despite probing children in focus groups for further examples, the Walk was the sole example given of a child-led initiative in state commemoration. Some children also explained that they run their own group projects in schools, but upon further research, these projects appear quite often to be overseen by teachers or by NGOs. I therefore address these in the following category.

2.2.1.b Adult-guided initiatives at the state level

An example given by children in focus groups of adult-guided initiatives during the Kwibuka period was their participation in national dialogues.[192] This was a point I needed extra clarification on once the focus groups had concluded, as there are many national dialogues that take place in Rwanda, not all of which involve children.

Colleagues at NAR informed me that the national dialogue platforms children referred to in focus groups were two-fold. The first were those organised by their schools through visiting organisations. For example, NAR organise a national youth conference (known as the 'Youth Conference') annually, and invite children, usually teenagers, from associated schools, clubs, and associations to take part, as well as various stakeholders at the national level. During the conference, children talk about themes aligned to Kwibuka, such as human rights, healing and reconciliation, peace education, and social cohesion. The latest conference, held in 2021, discussed the importance of engaging with children to preserve memory, where it was emphasised that intergenerational dialogue should be

[191] Participants GSNDLG3 and NG3.
[192] Participants MISG1, MISG3, BSKSG3, BSKSG4, BSKSB1, APAG2, APAG3, APAB1, APAB4, SMZG2, SMZG3, GSGG6, MISG3, MISG2, KCBG4, KCBB5, NB1, and NG3 all referred to national dialogues.

reinforced to sustain memory preservation. Parents were also urged to open up to their children about their experiences of the genocide to build resilience and offer a platform and safe space for children to hold open discussions with older people about their past.

Another set of national dialogues children could have been referring to are those that are part of 'Umunshykirano,' an annual event which takes place during the same 100 days as the Kwibuka commemoration. The word Umushyikirano translates to "meeting," and is a platform where participants are able to exchange ideas, share experiences and question each other. As noted on its website, the Umushyikirano is run by the National Dialogue Council, and The Office of the Prime Minister is responsible for its overall co-ordination. Umunshykirano draws on aspects of Rwandan culture and traditional practices to enrich and adapt its development programs to the country's needs and context. There are similarities with the gacaca courts to be noted here. In the same way that Umunshykirano focuses on culturally owned practices translated into sustainable development programs, the inkiko-gacaca courts focus on pre-colonial, culturally owned practices translated into transitional justice outcomes.

The Umunshykirano is usually attended by various national and central government officials as well as international delegates and is chaired by the President of Rwanda. Thousands of people from across the country are able to participate and follow the proceedings through live TV coverage, online and radio. This is an element of participation discussed in the following section, particularly how access to mass media makes children feel they are part of official state commemoration activities, even though they live in a remote village so cannot attend in person. A significant achievement of the Umunshykirano is considered to be that it gives Rwandans from all levels of society the opportunity to ask questions regarding the development of their country directly to their

leaders, which encourages the participation of Rwandans in national decision making. Evidence as to whether or not this does in fact happen is provided by the National Umushyikirano Council, who have produced a report which details the level of influence citizen participation has on law and policy decisions in Rwanda, and whether the citizens who take part in Umushyikirano are satisfied or dissatisfied with this (Shyaka, et al., 2016; Odhiambo, 2020). Nevertheless, even though the Umushyikirano is recognised as a decision-making process at the state and NGO level in Rwanda, it is not a platform for children, and as such there is not a specific platform for children to attend or dedicated to their participation (NAR and Interpeace, 2019, p11).

The only other 'dialogue groups' children could have been referring to are those 'Unity Clubs' that take place within the school environment, facilitated either by teaching staff or alongside local community groups who come to visit the school (as set out in Chapter 5, section 3.1, pp177-178). I worked with one such community group in Rwanda, the ENHA-GiraUbuntu initiative, who regularly visit schools across the country and run these dialogue groups with children. These groups are either sole operators or operate in affiliation with NGOs such as NAR.

I acknowledge the confusion present in the data in terms of which dialogue groups children in focus groups were referring to. Nonetheless, the overarching finding is that children feel that the guidance received from adults when participating in dialogue groups is paramount. In particular, children in focus groups feel that such guidance is vital to ensure that they counter the challenge of pervasive ethnic discrimination among adults, which is then passed down to the children:

> G: "So within two families, one has this view of genocide another has this view of genocide, and with that view, it is spread to their children, and it makes those two not to unite and not to be friends. But if they go to these dialogues in Kwibuka, they get guidance from adults, they can ask questions and be answered truthfully by those who are elders in power, and they can be given the honest conversation they need with them and the truth about genocide and the truth about reconciliation. So, adults, their like, guidance in dialogues, helps us as children come together and talk when we can't talk in our communities, and to understand how to reconcile with children who have the wrong thing, the wrong understanding."[193]

Another example given of adult-guided initiatives are those that involve local performing arts companies and NGOs who specialise in the performing arts. Secondary literature covering child participation in transitional justice by way of the creative arts is a newly emerging field of interest under the umbrellas of 'creative peacebuilding' and 'creative memory' in local social justice (Fairey and Kerr, 2020; Cohen, 2020; Shefik, 2018). Many children in focus groups place unqualified importance on their participation in Kwibuka through artistic expression, and believe that participation through the arts is the most accessible way for children in Rwanda to participate in Kwibuka in a way that respects their right to share their views and opinions with the government and wider political society.[194] In particular, children place great importance on their participation in the form of the spoken word.[195] By using literature that they themselves have created, particularly poetry and prose, children can share messages of hope and lessons for the future based on their understanding of the genocide.[196]

[193] Participant MISG3
[194] Participants APAB4, APAG1, BSKSG4, BSKSB1, GASCMRG2, MPESG2, MPESG3, MPESB2, SOSB5, SOSG1, SMZG4, and SMZB1 all discussed the participation of children by way of the arts in memory processes, particularly during the Kwibuka period, as of great importance to them in this way.
[195] In particular, participants SOSB5, SMZG4, MPESG2, MPESB2, BSKSG4, and BSKSB1 all discussed the importance of the spoken word (poems, plays and prose) as being of importance to them when it comes to their participation in memory processes, particularly during Kwibuka.
[196] Participant BSKSG4

Children greatly value the importance of drama, dance and music as vehicles for their participation in Kwibuka and were keen to emphasise the support of the state in providing various avenues to access the arts in schools, alongside local groups and NGOs who prepare artistic contributions with the children for official Kwibuka events. One such organisation is 'Sauti Art Rwanda,' a group who assisted NAR in facilitating my access to three focus groups. Sauti Art Rwanda focuses on educating children about the importance of community development, peacebuilding, and human rights through the performing arts.

These events are often showcased in Kigali during the official Kwibuka period, with audiences including adults and children from Rwanda, as well as state parliamentarians and academics, dignitaries, and "people in power across the world who are visiting our country to remember alongside us."[197] I witnessed one such example on my scoping trip to Rwanda in April 2019 (see Rwanda Times, 2019). One child explained that their participation through the arts helps them to know "with certainty" that their right to be heard is respected, and that they will influence the minds of leadership at the national and community level."[198] Another noted that it is through their participation in the arts during Kwibuka that the government realises that listening to those who hold seats of power in the country is not enough, it must "also come from us children, us small people, we are living the lives they are making decisions on and we are capable of determining what we need to make things change."[199] In many cases, these performances will be followed by panel discussions from children, survivors, and government representatives.

2.2.1.c Adult-guided initiatives at the community level

[197] Participant MPESB3
[198] Participant MPESG2
[199] Participant SOSG3

As well as informing me about child participation in state commemoration activities, children also gave me an insight into their participation in Kwibuka within their communities, both in the family and alongside community elders.

For those who live in large towns, their participation involves watching television coverage of state commemoration activities, either as a family or inviting people from their neighbourhood into their homes to "share food and talk about their experiences of genocide."[200]

For those children who live in remote areas, commemoration activities are symbolic and involve the entire community. Children I spoke to who live in rural communities explained in detail how their communities take part in Kwibuka commemoration. They described how households light a small fire at the front of their homes to signal that they are remembering family members who died during the genocide.[201] These children explained that it is common for all homes in their community to have these small fires, which magnifies the loss felt in that community to the children. One child described how whole families, including children, would "visit all the homes with the fires and pay their respects to those who perished, listen to their stories or just sit with them in silence and sing songs and things if something like, trauma, memories of what happened, is preventing them from talking about it."[202] In participating in community commemoration, children feel empowered to ask questions and to 'speak out' to obtain information from survivors on what happened.[203] Children would then go to school and speak about their community

[200] Participant NB1
[201] Participants BSKSG5, APAG3, APAB5, MISG1, NB3, NB5, NG2, SMZB3, and SMZG5.
[202] Participant NG2
[203] Participants BSKSG5, APAG3, NG2, SMZB3

experiences with their teachers and peers and feel “inspired” to find a way to regularly participate in both community and national events.[204]

One child explained that community participation is even more important for rural communities because “many people there have never attended a state commemoration event as it is too far from their village.”[205] Most state commemoration activities happen in Kigali, the capital, and other larger towns or districts in close proximity. Some children told me that in many more remote villages or small towns, you will not find one person who has ever visited Kigali or even the nearest large town; instead, the lives of that person and their family are centred around that one community.[206] Children I spoke to who live in these communities said that where possible, they would try to make sure they could access coverage of the state Kwibuka commemoration activities. If families did not have a television, they would make sure to listen to radio coverage. For those families who do not have a radio, a community leader would take the families and the children of those families to a place where they could join the entire community in listening together, usually outside the house of someone who had a radio.[207]

The use of the radio as a tool of community education and commemoration is markedly different from the purposes it was used for prior to the Genocide against the Tutsi. The media, particularly radio and newspapers, used language which set out to dehumanise the Tutsi population for a number of decades in order to incite violence. Radio played a significant role in dehumanising the Tutsi population. Broadcasters lied about uncommitted atrocities and lied about fictitious events to frame the Tutsi population as evil. They

[204] Participant BSKSG5
[205] Participant APAB5
[206] Participants BSKSG5, APAG3, APAB5, and NB5
[207] BSKSG5, APAG3, APAB5, MISG1, NB3, NB5, NG2, SMZB3, and SMZG5.

frequently used the words ‘Tutsi’ and ‘RPF’ (Rwandan Patriotic Front) interchangeably to create a homogenous enemy, convincing the public that they were a population who wanted war, death, and slavery for the Hutu population. Rwandan newspapers picked up on the language used by radio stations and called for violence against those who were Tutsi, even going as far as naming specific people and areas to attack. For example, staff at the Kangura Newspaper wrote and published ‘The 10 Hutu Commandments’ promoting anti-Tutsi propaganda, urging Hutus not to marry, engage in business with, or trust any Tutsi. The newspaper also incited violence and announced killings would take place, even giving open orders to carry out mass killings, areas to be targeted for attack, and roads to block (Kangura Newspaper No. 6, p6; Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza, Hassan Ngeze).

On pressing these children further about whether they believe this participation is what is intended by article 12 of the Convention, answers were mixed. One child explained that it was in these remote areas that the genocide took hold the most, with “entire families, even whole villages, being killed, just wiped out, because they could not escape from where they lived.”[208] Secondary literature corroborates this point; the Genocide against the Tutsi took place during the rainy season in Rwanda, so when the Interahamwe ("those who work together," with the word “work” used as colloquial slang on radio stations to mean using the machete to kill Tutsi) entered a village, particularly those in remote locations, very often mud and landslides would create conditions that made it exceptionally difficult – sometimes impossible – for people to escape. I witnessed similar conditions for myself when I visited the country in April 2019, where on one occasion the roads out of the city were impassable due to a sudden thunderstorm. Kigali is situated on the top of a hill, and

[208] Participant BSKSG2

rainwater was rushing down into surrounding roads and properties. On another occasion, I was on my way to a genocide memorial outside of Kigali with Felix Manzi, my fixer, and we had to turn back due to a large mudslide because of intense rainfall the previous day. This mudslide blocked access in and out of the nearest town not only for us, but for the residents, and it is these residents who were busily trying to clear away the debris with spades when we came upon it.

Not only is community commemoration during Kwibuka markedly different from state commemoration, but community commemoration is different in both towns and across villages as it is dependent on the resources a community has to hand to take part, "even if it is just listening to the radio as they may not have internet, may not have nothing. If you have a TV, you can be lucky enough to see it for yourself and feel like you are there, you are contributing, you are kind of like, present."[209] This was a theme which was echoed across focus groups which took place in rural or remote locations. Others said that they did not feel that this participation was true participation; as one child noted, "sitting and listening to what is happening in Kigali doesn't change anything for the person or for the people in their community, but it is all some people have."[210] However, one child explained that "many people, many children here have never attended a state commemoration event as it is too far from their village," so any way that they can access the state commemoration "is enough for us to feel like we are part of it, even if we cannot really be due to our remoteness."[211]

In exploring other avenues of community participation in commemoration, one avenue explored were community dialogue groups, which have a long history dating back to pre-

[209] Participant BSKSG2
[210] Participant NG2
[211] Participant SMZG5

colonialisation. Facilitated by community elders (and sometimes with the assistance of NGOs or academic thinktanks), these groups enable whole communities, including children, to come together and share their views and opinions of the genocide. Both NAR and the IRDP hold just such community meetings across the country. This can include sharing their personal experiences, but more often consists of discussion on the issues they face in their role within the family and community as result of the lasting impact of the genocide, and how the community can come together to help overcome them.[212] One example given by children of such a dialogue group is the "evening of the mothers," where mothers of children in a community would gather together on the ground, often with their children, and talk about issues affecting them, their children, and their community. Moreover, if there was conflict between two people or two families, the mothers would encourage reconciliation to restore peace in the community.[213] During my time in the country, I briefly witnessed one of these groups taking place on the side of a road under a tree in a remote village where I had held a focus group that day. One child explained that they feel that their participation in these community dialogue groups allows them to contribute towards healing and reconciliation in the wider community, by sitting with the elders to "obtain knowledge about the history of what happened during the genocide, what happened to the elders and the families they know, and we share our ideas on how to make things better."[214]

Children also explained that visits to community memorials with others in their community are a form of child participation; if they visit community memorial sites and participate in organised Kwibuka activities, children will then be able to return to their communities and

[212] Participant APAB3
[213] Participants APAB3, APAG2, SMZG3, NG2, MPESB3.
[214] Participant APAG2

share what they have learned, as well as their views and opinions about their role as children in changing the future.[215] Physical memorials have three 'commitments': to interpret history, to engage in programs that stimulate dialogue on pressing social issues, and to share opportunities for public involvement in those issues (Anheier and Isar, 2011, p116). In all three respects, physical memorials work "at the intersection of historic preservation, human rights, citizen engagement, and education," and in Rwanda, a primary goal in doing so is to involve the inclusion of (and education of) children of the current and future generations (ibid, p114). Public memorials, particularly at the state level but also at the local community level, are explicitly integrated into the civic life of children, particularly through the education system, as a catalyst for their participation. As part of the memorialisation agenda of transitional justice, physical memorials provide a space where children "who did not live through trauma come to identify strongly with it," and are therefore motivated to "take on the task to continue the struggle" (Orjuela, 2020, p371). In this respect, visiting physical community memorials "can advance real progressive social change," sparking conversation with their peers in their community about the events of the genocide, and how they can play a role in ensuring it never happens again (Rolston, 2020; Lundy and McGovern, 2008). This point was echoed by this participant:

> B: "In that time of remembering, we go there, and they teach us how genocide was taking place and why children, the right as you say our being heard, is important for everyone in the community. And in our communities, we start teaching between us like, do you know about the genocide? Do you know about what happened in Rwanda? Do you know we have to speak out, to make them listen to us, to make sure this never happens again?"[216]

[215] Participant MPESG2, MPESB3, SOSG2, GSGG2, APAB4, MB4, SMZB2, SOSB5, BSKSG2, and SHSB4.
[216] Participant SMZB2

The importance of physical memorials for children, and those who conduct local memory work around these memorials, are that they provide a platform for children to participate in ways that "enable them to engage as active citizens, whose capacity to think, to speak, to act, is acknowledged and respected" (Rolston, 2020; Madlingozi, 2010). When visiting community memorials, children today "have the benefit of learning directly from those who lived through the genocide, those who built the memorials, those who share their stories."[217] As adults, they will help children and young people of future generations to understand these same lessons as they were taught by survivors. This is linked to an important concept of memory in Rwanda - preservation - of memories, of identity, of history. One child explained that as the current generation of children grow up, they will themselves become living memorials, the instruments of preservation for the lessons of the past to teach children of the future.[218]

However, as children who have grown up with such "overwhelming inherited memories," there is the very real risk that their own stories and experiences are "displaced, even evacuated, by those of a previous generation" (Hirsch, 2008, p107). It is certainly the case that there is a growing recognition of intergenerational harms on children (Miller, 2021), and in Rwanda, the intergenerational effects of the Genocide against the Tutsi is central to political, legal and rights-based projects, particularly during Kwibuka. However, although the events of the genocide happened in the past, their effects continue into the present. Though children in Rwanda are "shaped by responsibility, by the desire to repair," their own experiences should not be overshadowed (Hirsch, 2008, p112). Indeed, one child likened the participation of children in Kwibuka as important in creating what she called a

[217] Participant SMZB5
[218] Participant MPESB2

"chain of participation," one that begins with them but reaches backwards to survivors and forwards to future generations:

> G "Because they see what we do in Kwibuka, there will be er, there will be a chain of participation, you know? A chain of knowing that through being heard in this way, with our right of speaking. We will make sure that we continue to do so and extend the chain back to genocide survivors and forward to children of future generations. Everyone has to be involved, everyone has to participate in transitional justice, including the children, because they have the right, and this is recognised by the government in Kwibuka."[219]

3. Understanding the relevance of article 12 in transitional justice for future generations

I closed each focus group by asking children to reflect on our previous discussions on article 12 and transitional justice to tell me what they think child participation could or should look like for their own children, either in transitional justice or in general terms, based on current practice at the national and local level. If children were unclear on what I was asking them, I rephrased this question where necessary to 'what do you hope child participation in Rwanda will look like for your children?'

I also asked children in focus groups to tell me whether they feel child participation will increase or decrease both generally and in transitional justice, and what factors they feel will influence this trajectory.

This section discusses their responses.

3.1 An increase in child participation in line with an understanding of children's rights

[219] Participant MPESG2

Children in focus groups who are hopeful that child participation will increase in Rwanda feel that children today understand their rights, including their right to be heard, to a much greater extent than their parents did as children. In turn, they believe that future generations of children will therefore benefit from having parents who know about their article 12 participation rights, and who will share this knowledge with their children.[220] These children feel that child participation will therefore increase in the future, including in the legacy of transitional justice in Rwanda, as demonstrated by the following quote:

> B: "The level of participation will increase […] in the past they were ignorant about their rights, and the government did not do what it should have done, like, the role it had in making sure they know their rights whether they were young or old. As time goes on and the level of education in the children increases, especially about their rights and about their voice, it will again create a new awareness to give voice to children so they can participate in their life, in their development, and the development of the country in really important things, like the legacy of our justice projects."[221]

Other children who shared a similar view framed it by way of the challenges they face to their participation because of the intergenerational trauma of the genocide on their parents and communities. For some, their recognition of intergenerational trauma would result in them using their own experiences of not being heard as children to change this for their own children. As one participant explained:

> B: “In 25 years to come, there will be a great improvement, because children today, we will be the next parents. For myself, I know how tiresome it is to live under someone else’s delimitations of what my views and opinions should be or whether I should speak out and be heard, so I will show my children that I know about this and favour their rights and I will favour their right to be heard in all areas of their life…”[222]

[220] Participants APAB4, APAG4, MPESB1, SHSB3, SHSB6, SOSB1, BSKSG3, MISG5, and SOSG4 all spoke about this point at length.
[221] Participant SOSB1
[222] Participant SHSB3

Some children took a different approach to the discussion, suggesting that it is not enough for children to know about their right to be heard, but parents and community leaders must know and understand it too.[223] As one child noted, as children today who are aware of their rights will grow up and become parents and leaders, to not pass on this knowledge to their children would be to reproduce the inherent sense of injustice children today feel at not being heard:

> G: "We already know that thing, injustice, right? We already know how it hurts to not be heard, how it hurts to not see your ideas being put into reality for us, or even like, contemplated, in decision-making because you are a child, so our views and things mean nothing to them. In the next generation of children, because we participated in things like Kwibuka and because this inspired us to be in charge of the next government, we are going to change that. From the bottom to the top and back again, we will change that, this I know. I know it."[224]

Another child explained that the children of future generations "will be able to speak out and testify for themselves if they want to, in all areas of life, on all things that affect their lives."[225] Expanding on this point, another child insisted that "there are things that affect only us, as children, that we should be able to raise and be heard for ourselves."[226] On probing the children further on what matters that affect the lives of children that they would want to raise for themselves, answers predominantly concerned what they perceive of as the country being "on the right track for development" and as a result they hope that child participation will be much higher than it is today:

> B: "The right to be heard is very close to us children, you know? It recognises us, our potential and our power to contribute to development, yes even in transitional justice it is part of this, it allows us to make sure things change for the better. We are on the right

[223] Participants GASMRB5, SHSG1, SOSG3 and MISG2 spoke about this point the most with their peers showing other forms of agreement.
[224] Participant GSNDLG3
[225] Participant SHSB6
[226] Participant SHSB7

> track for development in Rwanda and it is because of this that, you know…children know the importance of speaking out and giving a new perspective on Rwanda and its future, to change the direction, to make sure adults hear us and implement our ideas to make sure never again is really never again. This is what our article 12, like, our right to be heard and the idea of child participation in justice and in all things, really means for children in Rwanda. This is how we see it, understand it, live it, you know?"[227]

Finally, children also made connections between child participation and increased access to information, particularly from online sources, for future generations, as exemplified by this quote:

> B: "I think in 25 years to come, I think it will increase along with the development of the country. Like, now I do not have a phone, we are not at that level. But that phone has apps like Google and other things, and e-Learning, which has great potential to reduce illiteracy. For now, less teenagers have phones or even the internet, but in the future, the whole country will be able to access the internet and then we will have access to so much, so much information, which will increase our participation in lot of ways because we have the knowledge, including in these justice things, these development things, in Rwanda."[228]

Another child explained that participation will increase for children of future generations if there is continued investment in the internet, so that children can have access to online sources to counter the misinformation received by elders in their communities:

> G: "If there is a kid who has parents, but they don't take care of him or her because they teach and give him a lot of bad things and wrong things, you won't blame the kid, you will blame the source of the thinkings of the kid. So what I think, the participation due to the level of the nation, is standing good because we have a lot of kids who are motivated to help people, who are motivated to changing the nation, who are motivated to get the right information from the right sources,

[227] Participant KCBB1
[228] Participant GSOBB3

even like, online, so they can teach the children of the next generation to do the same. There needs to be investment in this."[229]

3.2 A decrease in child participation because of a lack of engagement across the entire country

Although a majority of the children in focus groups expressed hope for the future of child participation in Rwanda, this was not a feeling shared by all children. Many others expressed the view that they thought child participation would be "worse" or "lower" in the future than it is today. For example, some children questioned whether a future government would "rise to the challenge" of ensuring that children of future generations would be aware of their right to participate under article 12.[230] One child in particular explained this point succinctly:

> B: "I think it is hard for me to say but… if the country develops as it should, OK? So, including in the communities, the places where it matters for us, the participation of children will also develop, that makes [a] lot of sense, right? But if it does not, the problems we face in our participation, in being heard as the Convention says, will be the same for children of tomorrow as they are for them today. Of course, this will also like, be reflected, I think, in whether our views and thoughts are being heard in transitional justice, in development of our country, all these things. It will be clear, it will be right there for us to see."[231]

One child explained his concerns for children of the future in this respect by referring to what he described as the link between transitional justice and the rule of law, and what he thinks this should mean for the facilitation of child participation in transitional justice:

> B: "We have seen that transitional justice involves the commitments of the law. The obedience of the law and the transition of the state from one state of being to another. The link that can communicate the reason [purpose] of transitional justice is that everybody has to

[229] Participant MPESG2
[230] Participants SOSB1, SOSB7, GSNDLG1, GSNDLG7, SOSG3, SOSG4, SHSB6, SHSB7, MPESB2, SMZG1, SMZG3, SMZB4, SMZB5, IWEG1, MPESG2, and MISG3 all shared this opinion and spoke about it in their groups.
[231] Participant SHSB6

> think that he or she is not separate to the law, even those in powerful places, which also means that adults cannot think that they are above the children in the law. So like… I describe the law as the strong determination of the people's welfare. Children are part of the people. So, without the law, you cannot know that if you are a child, you are protected in transitional justice but that you can also share your point of view with powerful people in government and communities. And if there is really equality and authority in the law, children must be included in this. You cannot make something the law if it is compromising the rights of children, our ability to participate in justice, in development, in the rule of law, in such things as these."[232]

Other children in focus groups insist that there is still a large percentage of children who remain uneducated about their rights.[233] Of these children, some also believe that this is a particularly acute issue for those who attend public schools in the country. One child expressed this concern using his first-hand experience of being a lead for unity and reconciliation for schools across the country (working alongside an NGO). As part of his role, he meets with children, particularly teenagers, from schools across the province in which he lives on a weekly or 2-weekly basis. Based on this experience, this participant feels that there is still a lot of "ignorance" and "lack of knowledge with some of the children about their rights, including the right to be heard," particularly among children who go to public schools in the province. Although he said he cannot say for sure that this is the case across the country, this experience still led this participant to express his concerns that child participation in the future will be impacted because of the inequity of child rights education across different types of schools.[234]

These children believe there is a "real risk" that child participation in decision-making processes in the future will be low, because the children who are in the public school

[232] Participant SJKB2
[233] Participants SOSG5, GASCMRB5, GSNDLG7, SHSB7, MPESB2, IWEG1 and MISG4 all expressed this view.
[234] Participant SOSB7

system will not become adults who are educated about their rights and therefore will not be able to teach other children about them.[235] One child explained that "in private schools the children come out different because they have clubs, where they talk about the child rights, and they sometimes invite experts like you and your colleagues who know about human rights and child rights to come in and talk to them."[236]

On probing them about this point, children explained their view that the approach taken to educate children about their rights is not the same across all schools, even during Kwibuka:

> G: "[…] the government and like, NGOs, should come to all schools, not just those that are like, private or have money, in order to have Kwibuka activities being the same for all children. They never have this chance to be heard in Kwibuka stuff, they never have that in all schools. I often wonder about this. All children in the country, they should have that in their school."
>
> JR: "So… to clarify what you said, they only have Kwibuka education, so with visiting NGOs and experts who teach children about their rights and the importance of their participation in Kwibuka, in certain secondary schools, then? Is that what you're saying?"
>
> G: "Yego, it is not the same across the country, not for all of us, not for all children..."[237]

An important addition to this point is that some children insist that even when unity and reconciliation clubs are set up in schools to educate them about their rights and the importance of their political and social participation, in practice, as one child explained, "this only goes so far."[238] Many children spoke about the wide-ranging difficulties and challenges in realising their article 12 participation by way of putting it into practice in their

[235] Participant SOSB7, SOSG5, GASCMRB5, GSNDLG7, SHSB7, MPESB2, IWEG1 and MISG4
[236] Participant SOSB5
[237] Participant SMZG3
[238] Participant GASCMRB5

communities.[239] One child explained this point by saying that “these children are there in the schools with the NGOs and all, but they are also in the communities, and they need adults in those places to acknowledge the capacity of children to participate, so that we can prevent genocide from happening again as leaders in the future.” [240] Another child explained that those who run the clubs tell children to go and educate their communities. However, this child insists that adults “won’t listen if we fend for ourselves. We need those who run the clubs with us to have our back, to facilitate with us to the leaders, to the adults in communities.”[241]

For children who hold this view, although child participation in Kwibuka is undoubtedly a positive thing, it is important to recognise that this is “only one side of the story, the real issue is within the communities, child participation is not respected for all children where they live, Kwibuka or no, with these organisations or no.”[242] In this respect, one child explained it “would be better if the government or the NGOs here could first encourage the parents and local leaders, showing them the disadvantages of making children feel they do not have their right to be heard, disadvantages not just for us, but for them." [243]

Children in focus groups who feel that child participation will decrease in the future insist that because of the challenges faced by children when it comes to knowing and understanding their article 12 right and putting it into practice, not enough children “will understand the importance of this right you speak of, it will mean nothing to them because

[239] Participants SOSB1, SOSB7, GSNDLG1, GSNDLG7, SOSG3, SOSG4, SHSB6, SHSB7, MPESB2, SMZG1, SMZG3, SMZB4, SMZB5, IWEG1, MPESG2, and BSKSB1 all picked up on this point.
[240] Participant SOSG3
[241] Participant SHSB6
[242] Participant SMZB4
[243] Participant SHSG1

they have no foundation to build on."[244] There was a consensus among these children that "what participation for the next generation will be like depends on how the government protects and facilitates our right to be heard now, today, everywhere we are, for every child."[245] In one group, a child explained that he hopes that the right to be heard "does not vanish for children completely in Rwanda because they are not being heard in their communities, because this will lead to children becoming disillusioned and this will damage everything we worked for in the development of our country."[246]

In closing the focus groups by giving children a choice to discuss article 12 participation for children in the future either in general terms or in transitional justice, children predominantly chose to do the former. This reflects data presented in the previous chapter; not only are children in focus groups predominantly unfamiliar with transitional justice outside of Rwanda, but in their critical assessment of transitional justice in Rwanda by way of the inkiko-gacaca courts and memorialisation, children were much less critical of child participation in transitional justice of the present than they were of transitional justice in the past. This could be why there was very limited engagement on the role of article 12 in transitional justice mechanisms of the future. Nevertheless, article 12 functioned as a vehicle for children to think deeper about the importance of article 12 participation for children of future generations, particularly when it comes to the development of the country. It is these discussions which demonstrate that some children feel that they have good reason to be discouraged not only about their own article 12 participation in Rwanda, but for future generations of children as well. These concerns should not be dismissed when thinking

[244] Participant MPESB2
[245] Participant SOSG4
[246] Participant MPESB2

about how and why child participation can and should be facilitated in transitional justice. Indeed, this is exemplified by the following quote from a child, who states what she wants to see the government doing to increase the participation of children in the future:

> SG: “This girl wants to see a society where the adults don't just, say, listen to children’s ideas, but they actively ask them for themselves to contribute them for a specific purpose that they will see come to life. By way of that, she says she wants to be able to go and speak to him or her or any adult and say you know what? We want more food. You know what? We want to give our view on these things, these rights we have. Not to say among themselves I have no this or we have no that, we are always hungry why don’t they bring milk. No. She say we should not have to ask where our rights are. The adults should come to them and ask them about the matters that impact the quality of their lives or give them more spaces to meet with them. For her it is not up to them to find the adults who will do something. In that, this will mean that children themselves will see what their voices are capable of doing and how adults are going to put it in action.”[247]

Conclusion

The previous chapter presented findings on the ways in which children in Rwanda know and understand transitional justice and the rights of the child, and how they critically assessed and understood the content of article 12 in line with this knowledge. This chapter extends on these findings. Children engaged directly with article 12 to galvanise, and then refine, their discussions on child participation in the inkiko-gacaca courts and memory processes (including Kwibuka) in Rwanda, with interesting results. Even though children in focus groups did not participate in the inkiko-gacaca courts, they were nonetheless engaged in discussions on article 12 participation and what this should mean for children in this setting. In contrast, when talking about memory processes a majority of children did not apply their knowledge of article 12 to critique child participation in these processes to

[247] Participant GSOBG2

the same degree. Although children insisted that their participation did influence decision-making at the national level, there was not any concrete example offered of this. Moreover, when it comes to community memory processes, the participation of children appears to be subsumed within the norms of the communities in which they live, rather than to influence decision-making and enact tangible change for the children in that community.

However, the data suggests that children in focus groups overwhelmingly feel that the participation of children can (and should) make a significant contribution to transitional justice processes at both the national and local levels, not only by having a voice in decisions, but that their views, opinions and experiences should influence decision-making, and result in tangible change in society according to their own ideas and perspectives. As one child explained:

> G: "Where adults are always shooting like, arrows, lots of arrows at a problem that do not hit the target, a child will shoot a single arrow that will go directly to where it is supposed to be, because if it affects us like, if it concerns us and our lives, children know what needs to be done, how and when it needs to be done, and why it needs to be done. We know, we see, we observe, we know what is going on and what can solve these problems. You just need to ask us, you know? Ask us and hear us and we can show you where the target is and how to reach it with a single arrow instead of many, you know?."[248]

Children in focus groups also give great importance to the fact that such consideration must extend to future generations, particularly children, when planning, implementing and evaluating decisions that affect their lives. Yet, children in focus groups also recognise that the process of children's participation in transitional justice occurs through interdependent and intergenerational networks of connection between a variety of actors, which can either enable or constrain the participation of the child. As another child explained:

[248] Participant GSNDLG3

> G: "Nobody builds a house and doesn't put like, a roof on it, right? We are building the roof. The participation of the youth, the children, it shall not like, stop right here and say that this is it, we are stopping right here. By the time all of us get older, we shall have been prepared and will then prepare that generation of children and youth and teach them. We are not stopping with us, because if we do then the roof won't be finished, children of future generations will not be able to be heard, to participate in the way that the rights we speak about say they deserve. You cannot have never again without thinking about children like this."[249]

There are certainly lessons to be taken away from how transitional justice mechanisms in Rwanda have facilitated or do facilitate child participation. However, the data also shows that there are significant improvements to be made in Rwanda when it comes to understanding how and why children can and should be facilitated to participate in transitional justice, and the extent to which the views and opinions (and experiences) of children on matters that affect them should influence decision-making processes and outcomes, particularly when using a child rights framework rooted in article 12 of the Convention.

[249] Participant BSKSG1

CHAPTER SEVEN

"THE LAW, JUSTICE, DEVELOPMENT, THE VIEWS OF CHILDREN – THEY ARE ALL JOINED, THEY ARE ALL NECESSARY" :

CONCLUSION, CONTRIBUTIONS, AND FUTURE RESEARCH.

Introduction

The thesis sought to answer the research question of how can, and why should, the participation of children be facilitated in transitional justice, using a framework rooted in article 12 of the Convention on the Rights of the Child. Focusing on Rwanda as a case study, the thesis utilised the qualitative data collected from children aged between 13-18 in focus groups at 20 secondary schools. Engaging in both grounded theory research and framework analysis, the thesis sought to centre the perspectives of children on transitional justice, the right to be heard, and participation in order to provide an extra layer of analysis in answering the research question posed by the thesis.

To conclude the thesis, I will first present a brief overview of the chapters to address how each responds to the research questions, specifying how each chapter makes a contribution towards them. I will then present the contributions to new knowledge that the thesis provides, before considering the limitations of the study. The chapter will conclude with an examination of the implications and directions for future research.

1.Overview of the thesis

The thesis has explained and justified the thesis focus on why should – and how can – child participation be facilitated in transitional justice.

In Chapter One, I introduced and explained the scope and purpose of transitional justice before setting out the case for why there should be a specific focus on the participation of children (both as a 'field' and in practice), evidenced by the use of secondary literature and existing qualitative studies with children in various contexts. Next, I set out my position that in order to best facilitate child participation in transitional justice, a framework should be developed specifically for this purpose based on article 12 of the United Nations Convention on the Rights of the Child. I also justified the interdisciplinary approach of the thesis, based in international development and the rights of the child in international law, and why such an approach has the greatest potential to answer the research question and meet the thesis objectives. In moving on to justify the decision to choose Rwanda as the research setting and the focus on the inkiko-gacaca courts and memory process in the country, I summarised the importance of assessing the extent to which child participation within these mechanisms (if it took place) can be argued to fall under the scope of article 12 of the Convention. The chapter therefore provided insights into what the extent of this participation can provide in terms of how and why a case can (and should) be made to support the participation of children in transitional justice, in a way that is both valuable to the process and meaningful to children.

Chapter Two examined the extent to which transitional justice mechanisms have (or have not) specifically included the participation of children in order to present the case for why their participation should be facilitated in transitional justice. The chapter began by setting out the origins and function of transitional justice, rooted in the contextual development of international human rights, using a genealogical approach. Next, I presented how the field of transitional justice has moved away from its conceptual origins in legalistic approaches towards an interdisciplinary application and understanding, particularly in reference to the

links between transitional justice, the rule of law and the sustainable development goals, and the subsequent effect this has had on interdisciplinary research, policy, and practice. The chapter moved on to assess the extent to which these positions are reflected in the way children have (or have not) been facilitated to participate in transitional justice mechanisms (particularly international criminal justice, truth commissions, reparations and guarantees of non-recurrence), teasing out explicit and implicit assumptions that specific examples of child participation in transitional justice reveal about how those designing and enacting these mechanisms view children's participation, as evidenced in the approach taken by decision-makers to either welcome, constrain, or prevent child participation within them. Engaging in this analysis created the space to examine why child participation is crucial to the purpose of transitional justice. The literature review therefore demonstrates that the participation of children in mechanisms of transitional justice has only taken place on a partial basis and identifies some of the reasons for this.

Chapter Three extended the analysis of the previous chapter, this time to provide a framework rooted in article 12 of the Convention on the Rights of the Child. The chapter began by discussing how the idea of an international Convention for children first developed to set out standards of protection for children before evolving to transform these standards into concrete legal obligations, then finally, by way of the Convention on the Rights of the Child, created a manifesto for children to be regarded as individuals with their own human rights and as competent to exercise them independently. Next, a methodical, doctrinal analysis of article 12 of the Convention was undertaken to provide the framework for the thesis. The chapter concluded by emphasising that an understanding of the importance of child participation in transitional justice can only be achieved sufficiently by the implementation of article 12 of the Convention, which in turn will render the

participation of children in transitional justice not only relevant to, but absolutely critical in achieving, its purpose. The analysis undertaken in this chapter therefore provides the evidentiary justification for assessing the extent to which article 12 of the Convention on the Rights of the Child contributes to understanding child participation in transitional justice.

Chapter Four set out why the decision was made to focus on the way participation is understood and practiced by children (both in terms of their everyday lives and in terms of their knowledge of the rights of the child). In doing so, the chapter presented why I chose Rwanda as my sole case study, how desk-based research informed my choices on research design and methodology (particularly how the decision was made to utilise grounded theory ethnography in the data collection phase), and the importance of conducting an initial scoping visit to Rwanda, as well as the affiliation and ethical review process. The chapter moved on to discuss the justification, practicalities and challenges of running focus groups with children during fieldwork research, before explaining and justifying the choice to use framework analysis to analyse focus group data, including a step-by-step account of how this was conducted. The chapter concluded by reflecting on the practical, ethical and logistical challenges of the fieldwork process. The chapter therefore identifies a gap in knowledge production about child participation in transitional justice that the empirical data collection seeks to fill and justifies why using Rwanda as a case study allows for an exploration of both past (inkiko-gacaca courts) and present day (memory processes) practice when it come to the participation of children in seeking to fill this gap. The chapter also demonstrates that although the impact of the covid-19 pandemic meant that the project was re-designed, this took place in a way that is nonetheless robust and provides original contributions.

Chapter Five presented the data on how children in focus groups in Rwanda know and understand both transitional justice and the right to be heard at the conceptual level, laying the foundation for further analysis on how children critically assess the relationships between the two concepts by explaining what processes, activities, and spaces they associate with these terms. Beginning by presenting the interesting discussions had by children in focus groups on their understanding of the rights of the child and how the right to be heard connects with these rights, I then deliberately distinguished between the right to be heard as a 'concept' and article 12 'in practice,' by presenting how children in focus groups specifically understand the right to be heard in the context of article 12 of the Convention. This is important when making the connections between the views and opinions of children about their own lived experiences and how they know and understand the role of children, particularly their participation, within transitional justice. To conclude the chapter, I presented what children in focus groups in Rwanda perceived to be the benefits for children as a result of the implementation of article 12, as well as their perceptions of existing challenges faced by children not only when trying to be heard on matters that affect them in their everyday lives, but in ensuring that their views and opinions on these matters are given due weight. Therefore, the chapter presents two pivotal findings: that children in focus groups view the right to be heard as intrinsically connected with the realisation of their other rights, and feel that their right to be heard, as enshrined in article 12 of the Convention, includes a requirement that the views and opinions of children directly influence decision-making.

Chapter Six presented an examination of the knowledge and understanding of children in focus groups on whether there was (in the case of the inkiko-gacaca courts) or is (in the case of memory processes) a place for child participation in either mechanism, or the

extent to which children view both mechanisms as part of an official decision-making process. The chapter then moved on to consider the extent to which children engaged with the legal and symbolic importance of article 12 when thinking critically about the participation of children in either mechanism. The chapter concluded by presenting discussions had by children in focus groups on what they hope participation will look like for future generations of children at the international, national, and local levels, based on their knowledge and understanding of article 12 of the Convention, therefore answering the 'why should' and 'how can' questions from the perspective of the child. The chapter therefore extends on the findings of the previous chapter by highlighting the 'lessons' to be taken from how transitional justice mechanisms in Rwanda have facilitated or do facilitate child participation, but also demonstrates that there are significant improvements to be made in Rwanda when it comes to the extent to which the views and opinions of children on matters that affect them should influence decision-making processes and outcomes, particularly when using a child rights framework rooted in article 12 of the Convention.

2.Contributions to research

In this section, I will consider how the research undertaken in the thesis provides new contributions to knowledge.

Firstly, it was established in the introduction that children have a strong desire to be heard in mechanisms of transitional justice, yet policy and practice has failed to consistently and adequately support contributions from children under the age of eighteen (Firchow and Selim, 2022; Aptel and Ladisch, 2011). In addition, child participation in transitional justice is under-explored in existing research, which has led to gaps in what we know of the

experiences, views and opinions of children, and how they are (and how they should be) heard in transitional justice.

The thesis sought to address these challenges by building upon interdisciplinary literature on transitional justice in both international development and international law, contributing towards the growing body of scholarship promoting the field of transitional justice as one which should be moving beyond legalism towards interdisciplinary understanding and application. The 'call-to-action' by development scholars, policy makers and practitioners to counter the dominance of legalism in the field of transitional justice is bolstered when considering why and how to facilitate the participation of children, particularly when using a conceptual and analytical framework based on article 12 of the Convention. This is because how (and why) to ascertain and respond to the local realities of children in transitional societies is an issue which cuts across both international development and international law. Therefore, the thesis contributes to existing scholarship on transitional justice by suggesting that the consolidation of transitional justice around historic understandings of both violence and mechanisms of transitional justice can crowd out other potential ways of conceiving of human rights violations and responding to them, particularly from children.

Secondly, the thesis sought to construct a framework for child participation in transitional justice based on article 12 of the Convention on the Rights of the Child. At this juncture, it is important to take the opportunity to position the research undertaken in the thesis among the wider literature on child participation in international child rights law. The choice to engage with the right to be heard in international law to construct a framework for child participation in transitional justice was influenced by research, policy and practice on article 12 in the field of children's rights. At the time of writing, significant work has been

undertaken in identifying trends, challenges and opportunities prevalent in participation literature within the sphere of the rights of the child. This has resulted in finding a "remarkably consistent narrative" on child participation over the last three decades, including limitations on a. domains considered, b. geography and c. conceptual clarity, with "far more [being] written about challenges than solutions" (McMellon and Tisdall, 2020, p157). A significant contribution the thesis makes is to challenge the existing narrative on all three of these limitations, as well as towards addressing the challenges in providing 'solutions' to why and how child participation should be facilitated in transitional justice. This latter aspect of the research will be discussed in section 3, whereas this section will now move on to discuss the former.

Firstly, the systematic literature review in Chapter 2, in being deliberately interdisciplinary in the way it approaches child participation in transitional justice, opens up new ways of understanding child participation in the domains of both development and law. Significant fundamental challenges continue for child participation that are widely recognised in both international development and international law, but nonetheless "remain stubbornly consistent" (McMellon and Tisdall, 2020, p157). This picture is the same for transitional justice. Although there is still much to debate about the role that children (particularly their participation) can play in policymaking and the possible impact on the shape, direction, and effect of policy, the thesis addresses gaps in secondary literature on child participation in transitional justice in the interdisciplinary domains of children's rights and development studies. This is evidenced in the analysis of the extent to which the past practice of transitional justice mechanisms engaged (or not) with the participation of children. Therefore, the thesis contributes to existing knowledge (and interdisciplinary understandings) of both transitional justice and article 12, in order to prompt a widening of

disciplinary boundaries geographically, comparatively, intergenerationally and across disciplines (ibid, p173). This is of substantial benefit to discussions held in the thesis on child participation in transitional justice.

Secondly, although Rwanda is a country that is heavily researched, a distinct lack of attention has been paid in scholarship, policy and practice to the extent to which 1. memorialisation in Rwanda engages with the participation of children, particularly their article 12 right to be heard (and what this means for child participation in memory processes as a mechanism of transitional justice) and 2. the extent to which children did (or did not) participate within the inkiko-gacaca court system, and if not, whether this is reflective of a deliberate exclusion of children from the process or simply a lack of consideration of child participation as being important. Both questions focus on the 'geography' of article 12 in the domain of transitional justice, with the potential for research to open up to other 'geographies' when thinking about child participation in transitional justice.

Finally, concerns have been raised in both scholarship and practice about the lack of theoretical underpinning and development of child participation in child rights research, which has limited the opportunity to help develop child participation in policy and practice (Tisdall et.al., 2014).

The thesis makes the case for the participation of children in transitional justice to be built on a framework rooted in article 12 of the Convention, with a doctrinal analysis of article 12 setting out the obligation for states to "assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the

child" (Convention, article 12). However, in doing so, the thesis considers the importance of contextual considerations when implementing article 12, particularly in how political, social, economic and cultural formalities influence the context, space and environment of how participation takes place, and in turn how this determines the style of participation that is possible for children (Cahill and Dadvand, 2018, p244). Indeed, this is evidenced upon the examination of the past practice of transitional justice mechanisms when facilitating (or not) the participation of children, as presented in Chapter Two (section 3) by way of the specific examples given of approaches taken in Sierra Leone, Timor Leste, Liberia, Kenya, Colombia, Nepal, Sri Lanka, the DRC, Cambodia, Bosnia, Chile, Guatemala, Peru and, of course, Rwanda.

By conducting fieldwork with children in Rwanda, the thesis set out to prove that children can illuminate their own socio-cultural-political contexts (a fact seemingly recognised by the truth commissions in Sierra Leone, Liberia, and Kenya in Chapter 2 (section 3.2)), as well as their own conceptual ideas surrounding their article 12 participation in transitional justice (Imoh and Okyere, 2020). Therefore, the approach taken to knowing and understanding the theoretical underpinning of article 12 in the thesis represents a "shift in perspective," where instead of "prioritising the universal and a top-down approach in [child rights] research," the opposite position is taken and "priority is given to context, particularity and a bottom-up approach" (Quennerstedt, 2013, p244). The thesis therefore makes a contribution to addressing the theoretical concerns surrounding article 12 research by way of assessing the "actualisation" of the right to be heard by children in Rwanda, as set alongside their knowledge, understanding and application of article 12 in the inkiko-gacaca courts and memory processes (McMellon and Tisdall, 2020, p158).

3. Future research

I will now identify areas for future research in the areas of transitional justice and article 12 of the rights of the child, based on the qualitative data obtained from children in focus groups.

3.1 Limitations to current research

As well as conducting focus group interviews with children in educational institutions across Rwanda, I also planned to facilitate dialogue groups alongside a second affiliated organisation, the IRDP, with teenage participants within their (predominantly) remote communities. This was of particular importance to ensure that the views and opinions of *all* children, including those who are not in the education system, were represented in the research. The fact that this did not take place is a limitation to the research on three important fronts.

Firstly, Chapter 2 demonstrated that when memorialisation efforts specifically engage with the participation of children, they can advance those narratives which are marginalised and strengthen the role of children as social actors, including at the grassroots/neighbourhood levels. The chapter also notes that when implemented sensitively, memorialisation efforts provide an opportunity for children to reflect on the present and identify contemporary problems related to exclusion, discrimination, marginalisation and abuses of power, and promote the development of a culture of respect for human rights (Impunity Watch, 2019; OHCHR(c). 2020). However, children in focus groups mentioned that participation in memory in Rwanda, even during Kwibuka, is not the same for all children in the country, particularly those who live in remote locations or do not take part in the education system. To have had the chance to facilitate community

dialogue groups with children in these areas would have meant that I was able to cross-reference the data from children in focus groups in schools to data collected within these dialogue groups. In focusing solely on children who attend educational institutions, even though there were a good cross section of children from across various demographic areas of the country, the research lacks the broader context that would have been provided with the input of the views and opinions of children from these community dialogue groups.

Secondly, the data presented in Chapter 5 demonstrates that children in focus groups were unclear about the extent to which children did or did not participate within the inkiko-gacaca courts, and what form this participation may have taken. However, the data also makes clear that children who attend schools in rural communities insist that children did in fact participate in the process. These children informed me that they received first-hand knowledge of this from members of their family or communities who were survivors of the genocide, despite the fact that national law did not specifically mandate for child participation in the inkiko-gacaca court process. Article 2 of the Gacaca Organic Law stipulates that “the general assembly of the Gacaca Cell of the Cell Court shall be composed of all the residents of the jurisdiction of that Cell Court aged eighteen (18) years and above” (see also Organising Prosecutions for Offences Constituting the Crime of Genocide or Crimes Against Humanity, Committed Between October 1, 1990 and December 31, 1994 (2001)). However, the data presented in this chapter also suggests that some children have had information passed down to them by their relatives and community members about the extent to which children participated within the gacaca system and influenced decision making, which runs contrary to this legal understanding. It would have been interesting to explore this angle to child participation in the inkiko-gacaca

courts. Not only would this give evidential clarity, but in addition, as these dialogues would have taken place within the very communities where the inkiko-gacaca courts were held, it may have been possible to verify information with survivors. This would have provided important findings on what this could mean for making the case for child participation in transitional justice, particularly for those actors in charge of designing future transitional justice processes at the national and local level.

Responses to whether child participation was facilitated at the inkiko-gacaca courts were the most intriguing in terms of findings. Children clearly see the inkiko-gacaca courts as a decision-making process. Despite their knowledge about the scope, purpose and implementation of the courts, a majority of the children in focus groups had never contemplated whether or not children were involved in any way in the process. For those that did, who insisted that they had second-hand information from people in their (predominantly rural) communities, I could not verify whether this was truly the case. This would also have added an extra layer to how we know and understand child participation in the courts in terms of secondary literature.

Thirdly, the views and opinions of children in community dialogue groups would have provided an extra dimension to those findings presented by children in focus groups on the importance of including the participation of children in the social processes of their community and society.

Finally, an important aspect of the fieldwork research was to involve face-to-face interviews with state officials, law and policy makers, NGO representatives who work with children and young people under the age of eighteen, and Rwandan academics specialising in transitional justice and the rights of the child in the Rwandan context. In

addition (and on reflection), it is very possible that this list of senior stakeholders would have been widened to include community leaders and adults who served as abunzi or inyangamugayo, to corroborate (or challenge) evidence given by children in focus groups.

However, because of the short period of time between my first fieldwork research trip and the spread of the covid-19 pandemic, a comprehensive list of stakeholders to interview and corresponding interview questions were not sufficiently developed at the time the decision was made to abandon the interviews. However, the line of questioning would certainly have been influenced by the framework provided by article 12 of the Convention, as well as the qualitative data collected from children in focus groups, particularly factors such as the perceived role of these stakeholders by children when facilitating article 12 participation, their views on efforts made by the state to engage adults in communities with the importance of the right to be heard for children (both individually and collectively within their communities, but also within mechanisms of transitional justice), and how these stakeholders can further encourage and facilitate their participation, particularly in sharing their ideas on development, in the community space. All of these elements would have provided rich data from which to extrapolate useful findings to answer the research question.

3.2. Areas for further research

This section sets out areas for future research that flow from the thesis. In doing so, I recognise and acknowledge once again that much more attention has been given so far in the thesis to the challenges of child participation than solutions (McMellon and Tisdall, 2020, p157). However, the thesis still moves beyond this critique, particularly in terms of geographical considerations (adding Rwanda to the geographical spread of articles on

child participation, and addressing child participation for children in Rwanda as those who live in the Global South), policy or practice contexts (a particular emphasis on child participation in transitional justice), and bringing in scholarship to the study of the rights of the child that are predominantly found in international development (ibid, p162). On the latter point, such scholarship includes discussions on the growth of transitional justice as an interdisciplinary field using the evolving connection between transitional justice, sustainable development and the rule of law, particularly by way of the Sustainable Development Goals and SDG 16, which opens up the field of transitional justice to consider the effects of various forms of inequality on children, and how these can inform personal and collective experiences.

Data analysis revealed that knowledge and understanding of children in Rwanda on transitional justice was very much focused on the national narrative, with children in focus groups referring to mechanisms in the context of their home country rather than to specific international mechanisms. This is unsurprising given the significant efforts taken by the Rwandan government to overhaul the education curriculum from that which promotes ethnic discrimination against the Tutsi prior to the Genocide (as set out in Chapter 2, section 4) to what it is today by way of the CBC (as set out in Chapter 5, section 1.1), and how deeply entrenched this curriculum is in the notion of 'Rwandan values.' Such values are interpreted in the CBC as looking both inwards and outwards – in other words, children are taught about looking inwards to learn lessons from their own cultural contexts and understanding the national civic values (values which cut across the entire curriculum) and the responsibilities of citizens to the nation state as part of being a member of a distinct national community, at the same time as looking at the 'global' to understand the importance of promoting a culture of peace and the universal values of justice, peace,

tolerance, respect for human rights, gender equality, solidarity and democracy. However, for children in focus groups, there is a clear emphasis on a unified Rwandan identity and reconciliation which permeates their knowledge and understanding of transitional justice.

In addition, the chapter also revealed that there are gaps in knowledge and understanding on the part of children about the right to be heard in international child rights law. As noted in Chapter 5 (section 1.1), a vital education policy objective is the promotion of an education oriented towards the respect of human rights in order to build upon its progress in the sustainable development goals. In this respect, “the ascendancy of a universal human rights discourse” is crucial to the success of this policy objective (Bruckner and Russell, 2013, p739). In the citizenship curriculum in particular, significant emphasis is placed on human rights and the rights of the child (though the data suggests that children in focus groups achieve more understanding of the latter by way of visiting organisations to the school rather than through the curriculum itself, which focuses on the child’s place in Rwandan society and the values that children should be looking to aspire to).

In addition, the biggest differences in terms of demonstrated knowledge of the rights of the child were noticed between older and younger children, as well as between those who go to private schools and other schools. The data presented suggests that children in focus groups think it vital to educate all children about their right to be heard and the framework provided by article 12. Future research is therefore needed on how other contexts have used approaches such as cross-school activities to level the knowledge playing field, as well as how the use of digital tools can encourage connection between children in different contexts within/across countries in this respect. This will then open up critical thinking and discussion on how the rights of children in Rwanda, particularly when it comes to their

participation in transitional justice can be improved and strengthened. Indeed, this was an area that one child in a focus group picked up on as needing much more input from the government, in order that Rwanda becomes a country that is a role model to others:

> SG: "So she's saying er, even though the voice of children and their opinions are being heard in Rwanda they are not 100%. She wish to see that children know their rights and parents know their rights as children, but also that she thinks the kids need to know more about this thing of transitional justice and how it applies to her and future generations, and how this applied to people of the past, not only here but in other places too so she can understand her role and other children role in it. And with that, Rwanda can be a role model to other countries and can stimulate their lessons and er, their knowledge in terms of children's rights and participation."[250]

Second, the thesis demonstrates that there are many social and cultural barriers which serve to prevent children from sharing their views and opinions freely on matters that affect them in their everyday lives. Indeed, these cultural barriers are also reflected in the past practice of transitional justice mechanisms presented in Chapter Two (section 3). These issues are a common thread throughout the data analysis in both Chapters 5 and 6, and children felt that article 12 places a specific obligation on the government for overcoming these challenges on behalf of children.

This includes reducing the gap between national and local leadership when it comes to child rights education, including the right to be heard, in order that the leadership can in turn educate members of the community. Children in focus groups felt there is a clear contradiction between the lessons children are taught at the national level about the importance of community participation and the importance of children as a vital part of

[250] Participant CICG3

these communities, and how community members themselves perceive the role of children, which negatively impacts on their article 12 participation.

With respect to child participation in Kwibuka, further research is needed on whether child participation in state commemoration/memory processes goes beyond simply ‘being heard’ or ‘participating’ in the tokenistic sense. If such processes are decision-making processes, and if child participation is facilitated using an article 12 framework, the views and opinions of children should be expressed freely on all matters that affect them from the start to the end of the process, including influencing law and policy. Although children in focus groups see their participation in Kwibuka in particular as a vehicle for their views to influence law and policy making, whether this is actually the case is unclear from the data collected and requires further research. For example, even though children cite their participation in panel discussions alongside survivors and government representatives during the Kwibuka period as directly influencing law and policy, there is no evidence given in the data to support this assertion. I suggest that further research is needed with senior stakeholders in the Kwibuka process at both the national and local level to assess whether commemoration, as a vehicle for participation in memory processes, is indeed a decision-making process, and what these stakeholders think the role of children within these processes actually is.

On a related point, given the clear importance children in focus groups give to their participation in dialogue groups both on the national and local level, I suggest that there should be a specific platform created for child participation at the Umushyikirano dialogues, using an approach based on the framework of article 12 of the Convention. Given that Umushyikirano is a recognised decision-making process, it makes sense that

children should be a part of this process. After all, all matters discussed at the Umushyikirano affect the lives of children.

Children in focus groups suggest that education on the rights of the child is most acutely needed by adults in families and communities, with particular emphasis given by children to educating adults in these spheres of their lives about their article 12 participation, particularly as it pertains to the development of the country. However, due to the longstanding trauma suffered by survivors of the genocide, it is important that further research on how to provide child-rights education to these communities takes place in a way that is culturally sensitive, particularly given the links between socioeconomic background, survivorship and trauma. Children sense that the communities in which they live are not ready to accept that children should have a similar role in accountability, justice or reconciliation processes at the local level. As a result, children feel that their views and opinions on these matters are deliberately ignored.

Ultimately however, actively involving children in decision making should not be presented as an option but as a legally binding obligation (Lundy, 2007, p930). The issues which most concern children in focus groups are those more concerned with “the everyday, even mundane problems of being accorded little dignity or respect and having little opportunity to simply have a say and contribute to discussions” (Morrow, 1999, p149). Though they acknowledge the complexities of doing this given the presence of intergenerational trauma from the genocide among adult survivors, children still felt that they should be seen as equal contributors in the community and that their right to be heard should still be recognised and implemented in all areas of their lives. Future research should look at ways to overcome these social and cultural issues in more depth, particularly in how best to facilitate education for community leaders on the right to be heard for children using a

framework of article 12 and involving children of the local communities (Lundy, 2007, p930). In addition, to not make children and adults aware of the right to be heard is itself a breach of Article 42 of the Convention, which requires states parties to “make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike” (ibid, citing Convention, article 42).

Bearing all these factors in mind, I suggest that a critical area for further research is to develop a contextually appropriate (and sufficiently flexible) model of participation for the participation of children in transitional justice, rooted in article 12 of the Convention. This model must be based on qualitative data surrounding the views and opinions of child participation in transitional justice (such as those from children in focus groups in Rwanda) but should also include key stakeholders from the state as well as local community social structures, in order to reflect upon current good practice and enable changes where children feel such changes are necessary. As data could not be collected from these stakeholders due to the impact of the Covid-19 pandemic on plans for a ‘third stage’ of research, the creation of such a model is not possible in the thesis. The impact of the pandemic on research plans in this regard is further explained in Chapter 4, section 6.4. Furthermore, the model must be set out using criteria devised by the ComRC, particularly those describing the nine characteristics of effective child participation (ComRC, 2009, paragraph 134 (a)-(i)). This will allow for a new model of participation to act as a blueprint for child participation in transitional justice from the perspective of the child, with the right to be heard at its centre.

Such a model must focus in particular on the legal construction and implementation of article 12, in order to ensure that the model is effective in terms of its practical application. However, the symbolic importance of transitional justice in the lives of children should be

reflected in the model in line with the widely understood symbolic importance of article 12 of the Convention, as set out in Chapter 3. As is in keeping with the interdisciplinary position of the thesis, a model must also embrace input from the expertise and experience of different disciplines, particularly international development, to provide fresh opportunities to reflect and work together to develop new theorisations and models of children's participation which may benefit different contexts (Hinton, 2008, p297).

Conclusion

This chapter has presented how the thesis research has contributed to the prevailing trends, challenges and opportunities in current scholarly research when dealing with child participation in transitional justice. In doing so, the chapter reflects the content of the thesis by acknowledging that there is much to be learned from the views and opinions of children on matters that affect them, as well as their own personal and collective experiences in their own real-life contexts.

Indeed, one child I spoke to referred to transitional justice as being a "code" which contains instructions on how to ensure the goals of transitional justice are met:

> G: "Transitional justice, it is like a code, right? Because the pieces need to fit with one another for it to be completed, and it is the people who need to come together to fit these pieces in the correct order. So, like, accountability, that is one part of the code of transitional justice. But the other, reconciling with one another, that is the other bit of the code. You need both parts of the code to provide true transitional justice."[251]

Including article 12 of the Convention in this 'code' will ensure that the participation of children is critical to transitional justice achieving its purpose. Recognising this includes

[251] Participant MPESG2

responding to the views and opinions of children appropriately as well as consideration of how their participation can – and should - influence decision-making (Charles and Haines, 2014, p142). Using a child-rights framework rooted in article 12 of the Convention on the Rights of the Child makes it clear that children should not just have a voice in decisions, but also have a role and capacity for changing society according to their own ideas and perspectives (Berkley and Lister, 2020). This would not only unveil children's suffering, but also give children a voice and a space for acknowledgement and justice, both now and in (and for) future generations (Aptel and Ladisch, 2011, p7).

As social contributors, it is important to understand children's experiences of participation in their own contexts when it comes to making the case for child participation in transitional justice (McMellon and Tisdall, 2020). This is a point best represented by the words of this child:

> G: "Many of us here did not live through the genocide, right? But we hear this story, this history, not always from the places we should hear it, but we hear it, and we suffer from the trauma of it like, in our own life. So, like, when I give birth in future, I'll tell them that through listening, and being helped to act on the trauma we suffer by using our rights like the one we talk about, we changed the future of Rwanda. So that thing, that legacy of our being heard, will keep moving forward to the next generation. I rise up, I get up, I share my view, I'm being heard. If my kid sees that, she also say OK, I will also do that. So, it will move on, it won't die. But if adults, with their power or position, if they are not hearing us or not putting anything into action, my kid will say no, what's the point. Because we want to be useful, right? To the development of our country, to transitional justice, our fellow children, to our communities, and our rights can help us do this. But if adults listen to us, really listen to us, at the highest levels, if I want to rise up and I give up my view and I'm being heard, I am not going to fall asleep or sit back, I'm going to keep moving, I'm going to keep rising up and giving up my points in future, and so will my children, because they can see their words have influenced our country positively. So for me, all these things are

> joined – law, justice, development, the views of children - they are all joined, right? They are all necessary."[252]

As such, it is hoped that the research undertaken in this thesis – and the views and opinions of children in Rwanda - may be useful for actors designing, implementing, monitoring and evaluating future transitional justice policy and practice when considering why should, and how can, child participation be facilitated in transitional justice… vehicles for the views and opinions of the child to influence law and policy making in transitional justice

[252] Participant MPESG1

BIBLIOGRAPHY

1. Journal articles

Abfalter, D., Mueller-Seeger, J. and Raich, M. (2021) 'Translation decisions in qualitative research: a systematic framework.' *International Journal of Social Research Methodology*, 24(4), pp.469-486.

Akech, J.G. (2020) 'Rethinking Transitional Justice in South Sudan: Critical Perspectives on Justice and Reconciliation.' *International Journal of Transitional Justice,* 14(3), p585-595.

Alderson, P. and Goodwin, M. (1993) 'Contradictions within concepts of children's competence.' *International Journal of Children's Rights*, 1(3-4), p303-313.

Amir, R. (2014) 'Transitional Justice Accountability and Memorialisation: The Yemeni Children Affair and the Indian Residential Schools.' *Israel Law Review*, 47(1), p3-26.

Arthur, P. (2009) 'How "transitions" reshaped human rights: a conceptual history of transitional justice.' *Human Rights Quarterly,* 31(2), p321-367

Aksenova, M. and Rieff, A.N. (2020) 'Setting the scene: The use of art to promote reconciliation in international criminal justice.' *Leiden Journal of International Law*, 33(2), pp.495-516.

Arts, K.C. (1993) 'The International Protection of Children's Rights in Africa: The 1990 OAU Charter on the Rights and Welfare of the Child.' *Afr. J. Int'l & Comp. L*., 5, p.139.

Awgichew, S. and Ademe, E (2022) 'History education for nation-building in Ethiopia, Germany, Rwanda, South Africa, Switzerland, and USA: A comparative analysis.' *Cogent Education,* 9(1), p.2113210.

Balint, J., Evans, J. and McMillan, N. (2014) 'Rethinking transitional justice, redressing indigenous harm: A new conceptual approach.' *International Journal of Transitional Just ice*, 8(2), p194-216.

Barrett, J.C. (2018) 'Balancing Pragmatism and Principle: UNICEF, Child Rights and Child Génocidaires.' *Human Rights Law Review*, 18(1), p31-59.

Bell, C. (2009) 'Transitional justice, interdisciplinarity and the state of the 'field' or 'non-field.'' *International Journal of Transitional Justice*, 3(1), p5-27.

Bello, Y.M. (2021) 'Narratives in conflict and the limits on the interpreter's agency.' *Linguistica Antverpiensia, New Series–Themes in Translation Studies*, vol. 20, pp.94-114.

Berckmoes, L.H., Eichelsh, V., Rutayisire, T., Richters, A. and Hola, B. (2017) 'How legacies of genocide are transmitted in the family environment: A qualitative study of two generations in Rwanda.' *Societies*, 7(3), p.1-18

Berkley, N. and Lister, R. (2020) 'Multidisciplinary perspectives on the child's voice in public policy: an introduction.' *Journal of the British Academy*, 8(4), p1–6 [located at: https://www.thebritishacademy.ac.uk/publishing/journal-british-academy/8s4/] [accessed: 17 March 2022]

Bertram, C. (2019) 'What is powerful knowledge in school history? Learning from the South African and Rwandan school curriculum documents.' *The Curriculum Journal*, 30(2), pp.125-143.

Beswick, D. (2010) 'Managing dissent in a post-genocide environment: the challenge of political space in Rwanda.' *Development and change*, 41(2), p.225-251.

Billingsley, K. (2019) 'Making them accountable: victim-activists' critical engagement with truth commissions in Nepal.' *Journal of Human Rights Practice*, 11(1), pp.190-208.

Blumer, H. (1954). 'What is wrong with social theory?' *American Sociological Review*, 18, p3–10

Bowen, G.A. (2006) 'Grounded theory and sensitizing concepts.' *International journal of qualitative methods*, 5(3), p12-23.

Brownell, G.E., Mercado-Sierra, M.A. and Smith, M. (2020) 'Reintegration as a Social Development Strategy for Liberia's Ex-Child Soldiers: Addressing Structural Barriers.' *Social Development Issues*, 42(3), p34-60

Buckner, E. and Russell, S.G. (2013) 'Portraying the global: Cross-national trends in textbooks' portrayal of globalization and global citizenship.' *International Studies Quarterly*, 57(4), pp.738-750.

Brunnberg, E. and Visser-Schuurman, M. (2015) ''Speak up! Voices of European Children in vulnerable situations: An explorative study of children's rights in Greece, Bulgaria, Hungary, Poland, Sweden, the UK, Ireland and the Netherlands.' *The International Journal of Children's Rights,* 23(3), p569-601

Cahill, H. and Dadvand, B. (2018) 'Re-conceptualising youth participation: A framework to inform action.' *Children and Youth Services Review*, 95, p243-253

Carney, J.J. (2012) 'Beyond tribalism: The Hutu-Tutsi question and Catholic rhetoric in colonial Rwanda.' *Journal of Religion in Africa*, 42(2), pp.172-202,

Charles, A. and Haines, K. (2014) 'Measuring young people's participation in decision making: What young people say.' *International Journal of Children's Rights*, 22(3), pp.641-659.

Christensen, P.H. (2004) ‘Children's participation in ethnographic research: Issues of power and representation.’ *Children & society*, 18(2), p165-176

Chukwu, M.C. (2019) ‘International Law Recognition, Promotion and Protection of the Rights of the Child: A Critique.’ *African Journal of Constitutional and Administrative Law*, 2.

Clark, J.N. (2010) ‘The ICC, Uganda and the LRA: re-framing the debate.’ *African Studies*, 69(1), p141-160

Cohen, C.E. (2020) ‘Reimagining Transitional Justice.’ *International Journal of Transitional Justice*, 14(1), p1-13

Colvin, C.J. (2008) ‘Purity and planning: Shared logics of transitional justice and development.’ *International Journal of Transitional Justice*, 2(3), p412-425

Coppock, V. and Phillips, L. (2013) ‘Actualisation of Children's Participation Rights.’ *Global Studies of Childhood,* 3(2), p99-103

Corbin, J.M. and Strauss, A. (1990) ‘Grounded theory research: Procedures, canons, and evaluative criteria.’ *Qualitative sociology*, 13(1): p3-21.

Creswell, J.W. and D.L. Miller (2000) ‘Determining validity in qualitative inquiry.’ *Theory into practice*, 39(3), p124-130

Dancy, G. and Thoms, O.T. (2022) ‘Do Truth Commissions Really Improve Democracy?’. *Comparative Political Studies*, 55(4), pp.555-587.

de Greiff, P. (2020) ‘The future of the past: Reflections on the present state and prospects of transitional justice.’ *International Journal of Transitional Justice,* 14(2), p251-259

De Waardt, M. and Weber, S. (2019) ‘Beyond victims’ mere presence: An empirical analysis of victim participation in transitional justice in Colombia.’ *Journal of Human Rights Practice*, 11(1), p209-228.

Deane, K. and Stevano, S. (2016) ‘Towards a political economy of the use of research assistants: reflections from fieldwork in Tanzania and Mozambique.’ *Qualitative Research*, 16(2), pp.213-228.

Denov, M., Woolner, L., Bahati, J.P., Nsuki, P. and Shyaka, O. (2020) ‘The intergenerational legacy of genocidal rape: The realities and perspectives of children born of the Rwandan genocide.’ *Journal of interpersonal violence*, 35(17-18), p3286-3307

Destrooper, T. (2022) ‘Belgium’s ‘Truth Commission’ on its overseas colonial legacy: An expressivist analysis of transitional justice in consolidated democracies.’ *Journal of Human Rights,* pp.1-16.

Dixon, P. and Firchow, P. (2022) ‘Collective justice: Ex-combatants and community reparations in Colombia.’ *Journal of Human Rights Practice*, 14(2), pp.434-453.

Dumas, H. (2020) ‘Judging neighbors: the gacaca courts in Rwanda.’ *South Central Review*, 37(2), p133-143.

Dyregrov, A., Gupta, L., Gjestad, R. and Mukanoheli, E. (2000) ‘Trauma exposure and psychological reactions to genocide among Rwandan children.’ *Journal of Traumatic Stress*, 13(1), p3-21.

Eichelsheim, V., Berckmoes, L.H., Hola, B., Rutayisire, T. and Richters, A. (2019) ‘Before my time?: addressing the intergenerational legacies of the genocide against the Tutsi in Rwanda.’ *Intervention: Journal of Mental Health and Psychosocial Support in Conflict Affected Areas*, 17(1), 31-39

Ekmeščić, T. (2021) ‘The phenomenon of two schools under one roof–When apples and pears do not mix.’ *International Journal on Rule of Law, Transitional Justice and Human Rights*, 12(12), p79-91

Ekundayo, Osifunk (2015) ‘Does the African Charter on the Rights and Welfare of the Child (ACRWC) only underlines and repeats the Convention on the Rights of the Child (CRC)’s provisions? Examining the similarities and the differences between the ACRWC and the CRC.’ *International Journal of Humanities and Social Science*, 5(7), pp143-158.

Ensor, M.O. and Reinke, A.J. (2014) ‘African children’s right to participate in their own protection: Perspectives from South Sudan.’ *The International Journal of Children's Rights*, 22(1), pp.68-92.

Esposito, N., (2001) ‘From meaning to meaning: The influence of translation techniques on non-English focus group research.’ *Qualitative health research*, 11(4), pp.568-579.

Evrard, E., Mejía Bonifazi, G. and Destrooper, T. (2021) ‘The Meaning of Participation in Transitional Justice: A Conceptual Proposal for Empirical Analysis.’ *International Journal of Transitional Justice*, 15(2), p428-447

Fairey, T. and Kerr, R. (2020) ‘What works? Creative approaches to transitional justice in Bosnia and Herzegovina.’ *International Journal of Transitional Justice*, 14(1), p142-164.

Fass, P.S. (2011) ‘A historical context for the United Nations Convention on the Rights of the Child.’ *The Annals of the American Academy of Political and Social Science,* 633(1), p17-29

Faulkner, E.A. and Nyamutata, C. (2020) ‘The Decolonisation of Children’s Rights and the Colonial Contours of the Convention on the Rights of the Child.*’ The International Journal of Children's Rights,* 28(1), p66-88

Fertitta, Mary M. (2020) ‘When Priests Forgot About God: An Analysis of the Catholic Church's Role in Genocide.’ *The Kennesaw Journal of Undergraduate Research*, 7(1), p1-19

Firchow, P. and Selim, Y., (2022) ‘Meaningful Engagement from the Bottom-Up? Taking Stock of Participation in Transitional Justice Processes.’ *International Journal of Transitional Justice,* p1-17

Fletcher, L. (2007) ‘Turning interahamwe: individual and community choices in the Rwandan genocide.’ *Journal of Genocide Research*, 9(1), pp.25-48.

Flyvbjerg, B. (2006) ‘Five misunderstandings about case-study research.’ *Qualitative inquiry*, *12*(2), p219-245.

Fokala, E. (2021) ‘Calibrating children’s rights to participate in a family setting 30 years after the adoption of the convention on the rights of the child and the African Children’s Charter.’ *Speculum Juris*, 34(2):116-127.

Føleide, M.H. and Ulvik, O.S. (2019) ‘Dilemmas and Contradictions in Hearing Children in Care Proceedings: Conceptions of Children’s Views in an Indirect Participation Arrangement.’ *International Journal of Children's Rights,* 27(4), p602-630.

Forrester, K. (2019) ‘Reparations, history and the origins of global justice.’ *Empire, race and global justice*, pp.22-51.

Fowler, R. (2021) ‘Great expectations: A critique of the International Criminal Court’s commitment to victims of sexual and gender-based violence.’ *Journal of International Criminal Law,* 2(1), pp.27-52.

Freitas, H., Oliveira, M., Jenkins, M. and Popjoy, O. (1998) ‘The Focus Group, a qualitative research method.’ *Journal of Education*, 1(1), p1-22.

Gasanabo, J.D., Nikuze, D., Nyseth Brehm, H. and Parks, H. (2020) ‘Rwanda’s Inyangamugayo: Perspectives from Practitioners in the Gacaca Transitional Justice Mechanism.’ *Genocide Studies and Prevention: An International Journal*, 14(2), p153-172

Gaston, S. (2021) ‘Historical racist violence and intergenerational harms: Accounts from descendants of lynching victims.’ *The ANNALS of the American Academy of Political and Social Science*, 694(1), pp.78-91.

Gidron, Y. (2015) ‘The Act of Reading–Children’s Rights, Children’s Literature and Transitional Justice.’ *International Journal of Transitional Justice*, 9(3), p507-516

Gilmore, S. and Moffett, L. (2021) ‘Finding a way to live with the past: ‘self-repair’, ‘informal repair’, and reparations in transitional justice.’ *Journal of Law and Society*, 48(3), pp.455-480.

Goldstein-Bolocan, M. (2004) ‘Rwandan gacaca: an experiment in transitional justice.’ *J. Disp. Resol*., Vol.2, p355-400

Gomez, T. C. (2022) ‘Recognition as Transitional Justice ‘From Below’: Analysing Victims’ Grassroots Activism in Postconflict Colombia.’ *International Journal of Transitional Justice* 16(3), pp14-330.

Graf, R. (2012) ‘The International Criminal Court and child soldiers: an appraisal of the Lubanga Judgment.’ *Journal of International Criminal Justice*, 10(4), p945-969.

Graybill, L. S. (2004). ‘Pardon, punishment, and amnesia: three African post-conflict methods.’ *Third World Quarterly*, 25(6), 1117–1130.

Gready, P. and Robins, S. (2017) ‘Rethinking civil society and transitional justice: lessons from social movements and ‘new’ civil society.’ *International Journal of Human Rights*, 21(7), p956-975.

Gready, S. (2022) ‘The case for transformative reparations: In pursuit of structural socio-economic reform in post-conflict societies.’ *Journal of Intervention and Statebuilding*, 16(2), pp.182-201.

Hammarberg, T. (1990) ‘The UN Convention on the Rights of the Child-and how to make it work.’ *Hum. Rts. Q*., 12(1), p97-105

Helmersen, S.T. (2019) ‘Finding ‘the most highly qualified publicists’: Lessons from the International Court of Justice.’ *European Journal of International Law*, *30*(2), p509-535.

Henaghan, M. (2017) ‘Article 12 of the UN Convention on the Rights of Children: Where Have We Come from, Where Are We Now and Where to from Here?’ *International Journal of Children's Rights*, 25(2), p537-552

Henry, N. (2015) ‘From reconciliation to transitional justice: The contours of redress politics in established democracies.’ *International Journal of Transitional Justice,* 9(2), p199-218

Herbots, K. and Put, J. (2015) ‘The participation disc: A concept analysis of (a) child (’s right to) participation.’ *The International Journal of Children's Rights*, 23(1), p154-188

Hinton, R. (2008) ‘Children's participation and good governance: Limitations of the theoretical literature.’ *International Journal of Children's Rights*, 16(3), p285-300.

Hirsch, M. (2008) ‘The generation of post-memory.’ *Poetics today*, 29(1), p103-128.

Hope Sr, K.R. (2020) ‘Peace, justice and inclusive institutions: overcoming challenges to the implementation of Sustainable Development Goal 16.’ *Global Change, Peace & Security*, 32(1), p57-77

I’Anson, J., Quennerstedt, A. and Robinson, C. (2017) ‘The international economy of children’s rights: Issues in translation.’ *The International Journal of Children's Rights*, 25(1), p50-67.

Ibreck, R. (2010) ‘The Politics of Mourning: Survivor Contributions to Memorials in Post-Genocide Rwanda.’ *Memory Studies*, 3(4), p330-343

Imoh, A.T.D. and Okyere, S. (2020) ‘Towards a more holistic understanding of child participation: Foregrounding the experiences of children in Ghana and Nigeria.’ *Children and Youth Services Review*, 112, p1-7.

Jessee, E. (2012) ‘Conducting fieldwork in Rwanda’ *Canadian Journal of Development Studies/Revue canadienne d'études du développement*, 33(2), p266-274

Jones, B. (2021) ‘The performance and persistence of transitional justice and its ways of knowing atrocity.’ *Cooperation and Conflict*, 56(2), p163-180

Kinder, E. (2021) ‘Non-recurrence, reconciliation, and transitional justice: situating accountability in Northern Ireland’s oral history archive.’ *International Journal of Human Rights*, 25(3), p509-528

Kochanski, A. (2020) ‘Mandating truth: Patterns and trends in truth commission design.’ *Human rights review*, 21(2), pp.113-137.

Ladisch, V. (2013) ‘Children and Youth Participation in Transitional Justice Processes.’ *The Journal of the History of Childhood and Youth*, 6(3), 503-513

Lather, P. (1986) ‘Research as praxis.’ *Harvard educational review*, 56(3), p257-278

Leech, N.L. and Onwuegbuzie, A.J. (2011) ‘Beyond constant comparison qualitative data analysis: Using NVivo.’ *School Psychology Quarterly*, 26(1), p.70-84

Leyh, B.M. and Fraser, J. (2019) ‘Transformative reparations: changing the game or more of the same?’ *Cambridge International Law Journal*, 8(1), pp.39-59.

Liebel, M. (2018) ‘Welfare or Agency? Children’s Interests as Foundation of Children’s Rights.’ *International Journal of Children's Rights*, 26(4), p597-625

Lloyd-Evans, S. (2006) ‘Focus groups.’ *Doing development research*, p153-162.

Lücker-Babel, M.F. (1995) ‘The right of the child to express views and to be heard: An attempt to interpret Article 12 of the UN Convention on the Rights of the Child.’ *The International Journal of Children's Rights*, 3(3-4), p391-404

Lundy, L. (2007) ‘‘Voice’ is not enough: conceptualising Article 12 of the United Nations Convention on the Rights of the Child.’ *British educational research journal*, 33(6), p927-942

Lundy, P. and McGovern, M. (2008) ‘Whose justice? Rethinking transitional justice from the bottom up.’ *Journal of Law and Society*, 35(2), p265-292.

Mafeza, F. (2013) ‘Restoring relationship between former genocide perpetrators and survivors of genocide against Tutsi in Rwanda through reconciliation villages.’ *International Journal of Development and Sustainability*, 2(2), p787-798.

Makua, M. (2015) ‘What is the Future of Transitional Justice?’ *International Journal of Transitional Justice*, 9(1), p1–9

Martin, M.L. (2010) ‘Child participation in disaster risk reduction: The case of flood-affected children in Bangladesh.’ *Third World Quarterly*, 31(8), p1357-1375

Mason, R. (2019) *Conserving Rwandan Genocide Memorials*. APT Bulletin: *The Journal of Preservation Technology*, 50(2/3), p17-26.

McAuliffe, P, and Schwöbel-Patel, C. (2020) ‘Disciplinary matchmaking: Critics of international criminal law meet critics of liberal peacebuilding.’ *Journal of International Criminal Justice* 16, no. 5 (2018): pp985-1009.

McEvoy, K. (2007) ‘Beyond legalism: Towards a thicker understanding of transitional justice.’ *Journal of Law and Society*, 34(4), p411-440

McMellon, C. and Tisdall, E.K.M. (2020) ‘Children and young people’s participation rights: Looking backwards and moving forwards.’ *International Journal of Children's Rights*, 28(1), p157-182

Meierhenrich, J. (2020) “How many victims were there in the Rwandan genocide? A statistical debate.” *Journal of genocide research*, 22(1), pp.72-82.

Meyer, C.B. (2001) A case in case study methodology. *Field methods*, *13*(4), p329-352.

Miano, S.M. (2013) ‘Toward a Child-Oriented Approach to Reparations: Reflecting on the Rights and Needs of Child Victims of Armed Conflict.’ *Praxis: The Fletcher Journal of Human Security*, 28, p28-45

Miller Z (2008) ‘Effects of invisibility: In search of the ‘economic’ in transitional justice.’ *International Journal of Transitional Justice,* 2, p266–291

Miller, Z. (2021) ‘Temporal Governance: The Times of Transitional Justice.’ *International Criminal Law Review*, 21(5), p848-877.

Morrow, V. (1999) ‘We are people too': Children's and young people's perspectives on children's rights and decision-making in England.’ *International Journal of Children s Rights*, 7(2), p149-170

Morrow, V. (2008) ‘Ethical dilemmas in research with children and young people about their social environments.’ *Children's Geographies*, 6(1), pp.49-61.

Mugiraneza, F. and Andala, H.O. (2019) ‘Competence Based Learning and Skills Acquisition in Secondary Schools of Rwanda.’ *Journal of Education*, 2(3), pp86-108.

Mueller-Hirth, N. (2021) ‘Reparations and the politics of waiting in Kenya.’ *Journal of Eastern African Studies*, 15(3), pp.464-484.

Müller, M. (2007). ‘What’s in a word? Problematizing translation between languages.’ *Area*, 39(2), pp.206–213.

Mwambari, D. (2021) ‘Agaciro, vernacular memory, and the politics of memory in post-genocide Rwanda.’ *African Affairs*, 120(481), p611-628.

Nzahabwanayo, S. (no date) ‘How is Peace Education Used and Described in the Academic Literature?’ *The Landscape of Peace Education in Rwanda*, p.49 [located at: https://www.genocideresearchhub.org.rw/wp-content/uploads/2021/12/Landscape_PVE_KCL_Aegis-1.pdf#page=22] [last accessed: 13 October 2022]

Nagy, R (2008) ‘Transitional Justice as Global Project: critical reflections.’ *Third World Quarterly*, 29(2), p275–289

Naudé, L. (2017) ‘Identities in transitional societies.’ *Journal of Psychology in Africa*, 27(2), p101-104.

Neugebauer, R., Fisher, P.W., Turner, J.B., Yamabe, S., Sarsfield, J.A. and Stehling-Ariza, T. (2009) ‘Post-traumatic stress reactions among Rwandan children and adolescents in the early aftermath of genocide.’ *International journal of epidemiology*, 38(4), p1033-1045

Nyseth Brehm, H., Uggen, C. and Gasanabo, J.D. (2014) ‘Genocide, justice, and Rwanda’s gacaca courts.’ *Journal of Contemporary Criminal Justice*, 30(3), p333-352.

Nyseth Brehm, Roberts, Uggen, and Gasanabo (2020) ‘‘We Came To Realize We Are Judges’: Moral Careers of Elected Lay Jurists in Rwanda’s Gacaca Courts.’ *International Journal of Transitional Justice*, 14(3), p443-463

O'Connell, J. (2021) ‘Transitional Justice as Communication: Why Truth Commissions and International Criminal Tribunals Need to Persuade and Inform Citizens and Leaders, and How They Can.’ *SCL Rev*., 73, p.101.

O’Reilly, C. and Zhang, Y. (2018) ‘Post-genocide justice: The Gacaca courts.’ *Development Policy Review*, 36(5), p561-576

Ochaita, E. and Espinosa, M.A. (1997) ‘Children's participation in family and school life: A psychological and development approach.’ *The International Journal of Children s Rights*, 5(3), p279-297

Ochoa-Sánchez JC (2019) ‘Economic and social rights and truth commissions.’ *The International Journal of Human Rights,* 23(9):pp1470-93.

Ofodile, U.E. (2010) ‘Universal Declaration of Human Rights and the African Child Today: Progress or Problems.’ *Am. U. Int'l L. Rev*., 25, p.37.

Olowu,'Dejo (2002) ‘Protecting children's rights in Africa: a critique of the African Charter on the Rights and Welfare of the Child.’ *Int'l J. Child. Rts*., 10, p.127.

Orjuela, C. (2020) ‘Passing on the torch of memory: Transitional justice and the transfer of diaspora identity across generations.’ *International Journal of Transitional Justice,* 14(2), p.360-380

Palmer, N., Jones, B. and Viebach, J. (2015) ‘Introduction: Ways of knowing atrocity: A methodological enquiry into the formulation, implementation, and assessment of transitional justice.’ *Canadian Journal of Law and Society/La Revue Canadienne Droit et Société*, 30(2), p173-182

Pettigrew, S.F. (2000) ‘Ethnography and grounded theory: A happy marriage?’ *Advances in Consumer Research* 27, p256-260

Quennerstedt, A. (2013) ‘Children’s rights research moving into the future – Challenges on the way forward.’ *International Journal of Children's Rights*, 21(2), p233-247.

Quennerstedt, A., Robinson, C. and l’Anson, J. (2018) ‘The UNCRC: The voice of global consensus on children’s rights?’ *Nordic Journal of Human Rights*, 36(1), p38-54.

Ramírez-Barat, C. (2011) ‘Making an impact: guidelines on designing and implementing outreach programs for transitional justice.’ [located at: https://idl-bnc-idrc.dspacedirect.org/handle/10625/50122] [last accessed: 30 November 2022]

Ramírez-Barat, C. (2012) ‘Engaging children and youth in transitional justice processes: Guidance for outreach programs.’ New York: ICTJ.

Ramírez-Barat, C. (2020) ‘The Path to Social Reconstruction: Between Culture and Transitional Justice.’ *International Journal of Transitional Justice*, 14(1), p242-250.

Rana, S.S. and Zvobgo, K. (2021) ‘Safeguarding truth: Supporting children’s participation at truth commissions.’ *Journal of Human Rights*, 20(3), p282-303

Raper, J (2005) ‘The Gacaca Experiment: Rwanda's Restorative Dispute Resolution Response to the 1994 Genocide,’ 5 *Pepp. Disp. Resol. L.J.* 1, p1-56

Reynaert, D., Bouverne-de-Bie, M. and Vandevelde, S. (2009) ‘A review of children’s rights literature since the adoption of the United Nations Convention on the Rights of the Child.’ *Childhood*, 16(4), p518-534

Reynaert, D., Bouverne-De Bie, M. and Vandevelde, S. (2012) ‘Between ‘believers’ and ‘opponents’: Critical discussions on children’s rights.’ *International Journal of Children's Rights*, 20(1), p155-168

Robins, S., Gready, P., Aloui, A., Andrieu, K., Hamza, H.B. and Ferchichi, W. (2022) ‘Transitional justice from the margins: Collective reparations and Tunisia's Truth and Dignity Commission.’ *Political Geography*, 94, p.102565.

Rolston, B. (2020) ‘Ambushed by Memory: Post-Conflict Popular Memorialisation in Northern Ireland.’ *International Journal of Transitional Justice,* 14(2), pp.320-339

Rooney, E. and Aoláin, F.N., (2018) 'Transitional justice from the margins: Intersections of identities, power, and human rights*.' International Journal of Transitional Justice,* 12(1), pp.1-8

Ruiz-Casares, M., Collins, T.M., Tisdall, E.K.M., and Grover, S. (2017) 'Children's rights to participation and protection in international development and humanitarian interventions.' *International Journal of Human Rights* 21(1), p1-13

Russell, S.G., (2015) 'Global civil society and education policy in post-genocide Rwanda.' *International Sociology*, 30(6), pp.599-618.

Russell, S.G. (2018) 'Global discourses and local practices: Teaching citizenship and human rights in postgenocide Rwanda.' *Comparative Education Review*, 62(3), pp.385-408.

Rwiyereka, A.K., 2014. Using Rwandan traditions to strengthen programme and policy implementation. Development in Practice, 24(5-6), pp.686-692.

Salmón, E. (2006) 'Reflections on international humanitarian law and transitional justice: lessons to be learnt from the Latin American experience.' *International Review of the Red Cross*, 88(862), p327-353

Sander, B. (2018) 'Unveiling the historical function of international criminal courts: Between adjudicative and sociopolitical justice.' *International Journal of Transitional Justice,* 12(2), pp.334-355.

Schabas, W.A. (2005) 'Genocide trials and gacaca courts.' *Journal of International Criminal Justice*, 3(4), p879-895.

Schulz, P. (2020) 'Towards inclusive gender in transitional justice: Gaps, blind-spots and opportunities.' *Journal of Intervention and Statebuilding*, 14(5), pp.691-710.

Shmid, E. and Nolan, A. (2014) ''Do no harm'? Exploring the scope of economic and social rights in transitional justice.' *International Journal of Transitional Justice*, 8(3), p362-382.

Schotsmans, M. (2011) ''But we also support monitoring': INGO monitoring and donor support to gacaca justice in Rwanda.' *International Journal of Transitional Justice,* 5(3), p390-411

Sharp, D.N. (2013) 'Interrogating the peripheries: The preoccupations of fourth generation transitional justice.' *Harv. Hum. Rts. J*., 26, p149-178

Sharp, D.N. (2019) 'What would satisfy us? Taking stock of critical approaches to transitional justice.' *International Journal of Transitional Justice*, 13(3), pp.570-589.

Shaw, R. (2014) 'The TRC, the NGO, and the child: Young people and post-conflict futures in Sierra Leone.' *Social Anthropology*, 22(3), p306–325.

Shefik, S. (2018) ‘Reimagining transitional justice through participatory art.’ *International Journal of Transitional Justice*, 12(2), p314-333.

Schneider, L. (2020) ‘The International Criminal Court (ICC)–A Postcolonial Tool for Western States to Control Africa?’ *Journal of International Criminal Law* (JICL), 1(1), pp.90-109.

Shepler, S. and J.H. Williams (2017) ‘Understanding Sierra Leonean and Liberian teachers’ views on discussing past wars in their classrooms.’ *Comparative education*, 53(3), p418-441

Sisson, J. (2010) ‘A conceptual framework for dealing with the past.’ *Politorbis*, 50(3), p11-15

Skaar, E. (2018) ‘Transitional justice for human rights: The legacy and future of truth and reconciliation commissions.’ *International Human Rights Institutions, Tribunals, and Courts,* pp.401-420.

Smith, J. and Firth, J. (2011) ‘Qualitative data analysis: the framework approach.’ *Nurse Researcher*, 18 (2). p52-62

Sosnov, M. (2007) ‘The adjudication of genocide: Gacaca and the road to reconciliation in Rwanda.’ *Denv. J. Int'l L. & Pol'y*, 36, p.125-153

Stepakoff, S., Reynolds, G.S., Charters, S. and Henry, N. (2014) ‘Why testify? Witnesses’ motivations for giving evidence in a war crimes tribunal in Sierra Leone.’ *International Journal of Transitional Justice*, 8(3), p426-451

Taka, M. (2020) ‘The role of education in peacebuilding: learner narratives from Rwanda.’ *Journal of Peace Education*, 17(1), pp.107-122.

Takeuchi, S. (2011). ‘Gacaca and DDR: the disputable record of state-building in Rwanda.’ *Japan International Cooperation Agency Research Institute*, vol. 32 [located at: https://issat.dcaf.ch/mkd/layout/set/fullscreen/content/download/5951/50672/file/State%20Building%20Rwanda-JICA.pdf] [last accessed: 10th November 2022]

Teitel, R. (2005) ‘The law and politics of contemporary transitional justice.’ *Cornell Int'l LJ*, 38, p837-862

Teitel, R.G. (2003) ‘Transitional justice genealogy.’ *Harv. Hum. Rts. J.*, 16, p69-

Thomas, G. (2011) ‘A typology for the case study in social science following a review of definition, discourse, and structure.’ *Qualitative inquiry*, *17*(6), p511-521.

Thorne, B. (2021) ‘Liberal international criminal law and legal memory: deconstructing the production of witness memories at the International Criminal Tribunal for Rwanda.’ *Journal of the British Academy*, 9(s2), pp.127-54.

Traverso, A. and Broderick, M. (2020) ‘‘Forgiveness is something that can be seen from behind.’ Visualizing a conversation with a perpetrator and a survivor of the 1994 Rwandan genocide in a reconciliation village.’ *Continuum*, 34(2), p299-310

Tufford, L. and Newman, P. (2012) ‘Bracketing in qualitative research.’ *Qualitative social work*, 11(1), p80-96

Tully, L.D. (2003) ‘Human Rights Compliance and the Gacaca Jurisdictions in Rwanda.’ *BC int'l & comp. L. rev.,* 26, p.385-414

Turner, C. (2013) ‘Deconstructing transitional justice.’ *Law and Critique*, 24(2), p193-209

Turner, S. (2010) ‘The silenced assistant. Reflections of invisible interpreters and research assistants.’ *Asia Pacific Viewpoint*, 51(2), pp.206-219.

Twum-Danso, A. (2008) ‘A Cultural Bridge, not an Imposition: Legitimizing Children's Rights in the Eyes of Local Communities.’ *The Journal of the History of Childhood and Youth*, 1(3), pp.391-413.

Underwood, S. (2015) ‘Investing in Change: Education, Transitional Justice and Impact in the Colombian Peacebuilding Process.’ *Deusto Journal of Human Rights,* 13, p91-123

Urusaro Karekezi, A. (2012). ‘Transitional Justice and Gacaca in Post-Genocide Rwanda: theory and practice.’ *Peace and Conflict Management Review*, 1(1), Article 9, 12–13

van der Merwe, H. and Brinton Lykes, M. (2018) ‘Idealists, Opportunists and Activists: Who Drives Transitional Justice?’ *International Journal of Transitional Justice,* 12(3), p381-385

Van der Merwe, H. and Brinton Lykes, M. (2020) ‘Racism and Transitional Justice’. *International Journal of Transitional Justice*, 14(3), pp.415-422.

Van Der Vyver, J.D. (1997) ‘Constitutionality of the Age of Majority Act.’ *S. African LJ*, 114, p.750.

Varadan, S. (2019) ‘The Principle of Evolving Capacities under the UN Convention on the Rights of the Child.’ *International Journal of Children's Rights*, 27(2), p306-338

Verpoorten, M. (2020) “How many died in Rwanda?” *Journal of genocide research*, 22(1), pp.94-103.

Vielle, S. (2012) ‘Transitional justice: A colonizing field.’ *Amsterdam LF*, 4, p.58-68

Ward, L. (2022) ‘Thomas Paine on Agrarian Justice and Reparations.’ *The Political Science Reviewer*, 46(2), pp.25-56.

White, S.C. (2002) ‘Being, becoming and relationship: Conceptual challenges of a child rights approach in development.’ *Journal of International Development: The Journal of the Development Studies Association*, 14(8), p1095-1104.

Whitlinger, C. (2022) ‘From Truth Commission to Truth Project: The Evolution of Mississippi’s Incomplete Truth Commission, 2005–2010.’ *International Journal of Transitional Justice*, 16(3), pp.422-438.

Winston, C. (2020) ‘Truth commissions as tactical concessions: The curious case of Idi Amin.’ *The International Journal of Human Rights*, 25(2), 251–273.

Woodhouse, B.B. (2019) ‘Reimagining equality through the lens of human rights: Lessons from the United Nations Convention on the rights of the child.’ *Fordham Urb. LJ,* 47, p.353.

2. Books / chapters

Ambunda, L.N. and Mugadza, W.T. (2009) ‘The protection of children’s rights in Namibia: Law and policy.’ In *Children's Rights in Namibia*, pp.5-52.

Anderson, E.E. and Corneli, A. (2017) *100 questions (and answers) about research ethics*. Sage. [available at: https://methods.sagepub.com/book/100-questions-and-answers-about-research-ethics/i912.xml] [last accessed: 01 November 2022]

Anheier, H.K. and Isar, Y.R. (eds.) (2011) *Cultures and globalization: heritage, memory, and identity.* Sage.

Archard, D. *Children: Rights and childhood*. (Routledge, 2014).

Archard, D. and Tobin, J. (2019) ‘The Definition of a Child in The UN Convention.’ In *The UN Convention on the Rights of the Child: A commentary*. (Oxford University Press).

Archard, D., and Macleod, C.M. (eds.) (2002) *The moral and political status of children.* (Oxford University Press).

Barrett, J.C. (2019) *Child perpetrators on trial: Insights from post-genocide Rwanda*. (Cambridge University Press).

Bazeley, P. and Richards, L. (2000) *The NVivo qualitative project book.* (Sage).

Charmaz, K. (2008) ‘Constructionism and the grounded theory method.’ p397-412, In Holstein, J.A. and Gubrium J.F. (eds.) *Handbook of Constructionist Research* (New York : The Guildford Press).

Charmaz, K. (2008) ‘Grounded theory as an emergent method,’ in S.N. Hesse-Bilber and P. Leavy (eds.), *Handbook of Emergent Methods*))The Gilford Press: New York, NY.

Charmaz, K. (2014) *Constructing Grounded Theory*. (2nd ed.) (Los Angeles, CA: Sage).

Clark, P. (2010) *The Gacaca courts, post-genocide justice and reconciliation in Rwanda: Justice without lawyers*. (Cambridge University Press)

Corbin, J. and Strauss, A. (2007) *Basica of qualitative research: Techniques and procedures for developing grounded theory.* (3rd ed.) (Thousand Oaks, CA: Sage)

de Hoon, M. (2020) 'Transitional justice.' In *Research Handbook on Post-Conflict State Building* (pp. 162-182). Edward Elgar Publishing.

Detrick, S. (1999) *A Commentary on the United Nations Convention on the Rights of the Child*. (Martinus Nijhoff Publishers.)

Duthie, R., and Specht, I. (2009) 'DDR, transitional justice, and the reintegration of former child combatants.' In *Disarming the Past: Transitional Justice and Ex-Combatants*. (New York: International Center for Transitional Justice)

Ferstman, C., Goetz, M. and Stephens, A. (eds.) (2009) *Reparations for victims of genocide, war crimes and crimes against humanity: systems in place and systems in the making*. (Brill.) [located at: http://www.oxfordbibliographies.com/view/document/obo-9780199796953/obo-9780199796953-0003.xml]

Freeman, M., 'The Value and Values of Children's Rights.' In Invernizzi, A. and Williams, J. (eds.) *The Human Rights of Children: From Visions to Implementation*. (Farnham; Ashgate, 2011)

Freeman, M.D.A and Veerman, P.E (eds.) *The ideologies of children's rights* (Martinus Nijhoff Publishers, 1992)

Gasanabo, J.D. (2019) 'Peace in Rwanda: Balancing the ICTR and "Gacaca" in Post-genocide Peacebuilding.' In *The Palgrave Handbook of Global Approaches to Peace* (Palgrave Macmillan).

Glaser, B. and Strauss, A. (1967) *The discovery of grounded theory: Strategies for qualitative research*. (Chicago, IL: Aldine

Grayson, H., Hitchcott, N., Blackie, L. and Joseph, S. (eds.) (2019) *After the genocide in Rwanda: Testimonies of violence, change and reconciliation*. (Bloomsbury Publishing).

Hammersley, M. (1983) *Ethnography*. (John Wiley & Sons).

Hamburger, A. (2020) 'New thoughts on genocidal trauma.' In *Trauma, Trust, and Memory* (Routledge)

Heath, S., Brooks, R., Cleaver, E. and Ireland, E. (2009) *Researching young people's lives*. (Sage).

Hendrick, H. *Children, childhood and English society, 1880-1990* (Cambridge University Press, 1997)

Ingelaere, B. (2008) 'The gacaca courts in Rwanda.' In Huyse, L. and Salter, M., *Tradition-based Justice and Reconciliation After Violent Conflict. Learning from African Experiences.* (Stockholm: International IDEA).

Jennings, R. and Watts, A. (1992) *Oppenheim's International Law* (9th edition)

Jones, B. (2021) 'Constructive resistance and the importance of not knowing in transitional justice.' In Elcheroth, G. and de Mel, N., *In the Shadow of Transitional Justice: Cross-national Perspectives on the Transformative Potential of Remembrance* (Taylor & Francis).

King, G., Keohane, R.O. and Verba, S. (1994) *Designing social inquiry: Scientific inference in qualitative research.* (Princeton University Press).

Kiyala, J.C.K. (2019) 'Transitional Justice from an African Perspective.' in Kiyala and Schwarz, *Child Soldiers and Restorative Justice*. (Springer International Publishing).

Kiyala, J.C.K. (2022) 'Indigenous Peacebuilding Approaches and the Accountability of Former Child Soldiers: African Case Studies.' In *Civil Society and Peacebuilding in Sub-Saharan Africa in the Anthropocene* (pp. 423-464). Springer, Cham.

Lee, S. (2017) 'Children born of war: Who are they? Experiences of children, mothers, families and post-conflict communities.' In *Children born of war in the twentieth century* (Manchester University Press).

Lundy, L., Parkes, A. and Tobin, J. (2019) ' Article 12: The right to respect for the views of the child.' In *The United Nations Convention on the Rights of the Child: A Commentary* (Oxford University Press).

Mutisi, M. (2012) 'Local conflict resolution in Rwanda: the case of abunzi mediators.' In *Integrating Traditional and Modern Conflict Resolution Experiences from selected cases in Eastern and the Horn of Africa*. (Durban, South Africa: Accord).

Odhiambo, P. (2020) 'Local Institutional Designs and Reforms in Rwanda and Burundi.' In Lahai, J.I. and Ware, H.(eds.) *Governance and Societal Adaptation in Fragile States.* (Palgrave Macmillan).

Palmer, N. (2022) 'Personalising comparison in international criminal law.' In *Research Handbook of Comparative Criminal Justice* (pp. 261-272). Edward Elgar Publishing.

Perry, J. and Sayndee, T.D. (2015) *African truth commissions and transitional justice*. Lexington Books.

Richards, L. (1999) *Using NVivo in qualitative research*. (Sage).

Ritchie J, Lewis J (Eds) (2003) *Qualitative Research Practice: A Guide for Social Science Students and Researchers*. (Sage Publications: London).

Rodgers, J.F., 2021. 'Transitional Justice.' In *Encyclopaedia of Law and Development*. (Edward Elgar Publishing.)

Ruppel, O.C. (2009) 'The protection of children's rights under international law from a Namibian perspective' [located at: https://www.researchgate.net/profile/Oliver-Ruppel-2/publication/242744409_The_protection_of_children%27s_rights_under_international_law_from_a_Namibian_perspective/links/5b85ad5392851c1e1238d80a/The-protection-of-childrens-rights-under-international-law-from-a-Namibian-perspective.pdf] [last accessed: 31 October 2022]

Saldaña, J. (2021) *The coding manual for qualitative researchers*. (Sage).

Shaw, R., Waldorf, L. and Hazan, P. (eds.) (2010) *Localizing transitional justice: Interventions and priorities after mass violence*. (Stanford University Press).

Stake, R.E. (1995) *The art of case study research*. (Sage).

Sullo, P. (2018) 'Gacaca Courts Under Human Rights Scrutiny.' In *Beyond Genocide: Transitional Justice and Gacaca Courts in Rwanda* (TMC Asser Press, The Hague).

Sullo, P. (2018) 'Gacaca Jurisdictions in Practice.' in *Beyond Genocide: Transitional Justice and Gacaca Courts in Rwanda* (TMC Asser Press, The Hague).

Sullo, P. (2018) 'To Repair the Irreparable: post-genocide Justice, Legal Pluralism and rule of Law.' [located at: https://lirias.kuleuven.be/1909800?limo=0] [last accessed: 4 March 2022]

Thorne, B. and Viebach, J. (2019) 'Human Rights Reporting on Rwanda's Gacaca Courts: A Story of Stagnation and Failure.' In Grayson, H. and Hitchcott, N. (eds.), *Rwanda Since 1994: Stories of Change* (Francophone Postcolonial Studies, Liverpool University Press).

Tisdall, E.K.M., Hinton, R., Gadda, A.M. and Butler, U.M. (2014) "Introduction: Children and Young People's Participation in Collective Decision-Making", in Tisdall E.K.M., Gadda A.M., and Butler U.M. (eds.), *Children and Young People's Participation and Its Transformative Potentia*l (Basingstoke: Palgrave Macmillan).

Tobin, J. (ed.) (2019) *The UN Convention on the Rights of the Child: A commentary*. (OUP: Oxford)

Tobin, J. and Parkes, A. (2019) 'Article 13: The right to freedom of expression.' In *The UN Convention on the Rights of the Child: A commentary* (Oxford University Press).

Twum-Danso, A. (2005) The political child.' In *Invisible stakeholders: Children and war in Africa.*

Van Brakel, R. and Van Kerckhoven, X. (2014) 'The emergence of the identity card in Belgium and its colonies.' In *Histories of State Surveillance in Europe and Beyond* (Routledge).

Vasiliev, S (2019) 'The crises and critiques of international criminal justice.' (Forthcoming) *The Oxford Handbook of International Criminal Law*, eds KJ Heller et al.(OUP 2020), Amsterdam Law School Research Paper, (2020-01)

Veerman P.E. (1992) *The rights of the child and the changing image of childhood* (Martinus Nijhoff Publishers, 1992)

Verhellen, E. (2015) 'The Convention on the Rights of the Child.' In Vandenhole, W., Desmet, E., Reynaert, D. and Lembrechts, S. (eds.), *Routledge international handbook of children's rights studies.* (Routledge).

Zunino, M. (2019) *Justice framed: a genealogy of transitional justice*. (Cambridge University Press).

3. Theses/dissertations

Bayor, I. (2021) *How can Local Transitional Justice Mechanisms Work Towards Measures of Non-Recurrence?* [etheses] [located at: https://ir.lib.uwo.ca/etd/8334/] [last accessed: 03 December 2022]

Beckmann-Hamzei, H. (2015) '*The child in ICC proceedings*.' Ph.D. Thesis, Leiden University [available at: https://scholarlypublications.universiteitleiden.nl/handle/1887/34974] [accessed: 11 June 2022]

Blake, C. (2008) *Normative instruments in international human rights law: Locating the General Comment*. Ph.D. Thesis, NYU School of Law [located at: https://chrgj.org/wp-content/uploads/2020/02/WPS-NYU-CHRGJ-Blake_Final.pdf] [accessed: 01 March 2022]

Davidovic, M. (2022) *The Law, Politics and Practice of 'Never Again': Guarantees of Non-Recurrence in Transitional Justice* (Doctoral dissertation, Durham University) [located at: http://etheses.dur.ac.uk/14447/] [last accessed: 05 December 2022]

Dickson, B. (2017) 'Perpetuating the Single Reality – the Culture of Rwanda's Genocide Memorials.' Article based on Ph.D. Thesis. [located at: https://www.e-ir.info/2017/11/29/perpetuating-the-single-reality-the-culture-of-rwandas-genocide-memorials/] [accessed: 14 June 2022]

Goldberg, S. (2019) *We are strong: An analysis on the role of local forms of reconciliation through education in Rwanda*. Master's Thesis, the Hugo Valentin Centre [located at: https://www.divaportal.org/smash/get/diva2:1321016/FULLTEXT01.pdf] [last accessed: 18 February 2022]

Higgins, M. (2019) 'Like gold scattered in the sand': Human rights as constructed and understood by African families from refugee backgrounds.' (Doctoral dissertation, ACU Research Bank).

Hůlová, E. (2022) *The position of guarantees of non-repetition within transitional justice*. [located at: https://dspace.cuni.cz/handle/20.500.11956/172464] [last accessed: 05 December 2022]

Klutse, O. (2018) *Repatriation and Reparations: Land-Based Indigenous and Black Futurity*. Undergraduate Thesis, University of Seattle [located at: https://scholarworks.seattleu.edu/ura/uraawardwinners/2018awardwinners/2/] [last accessed: 01 December 2022]

Macfarlane, K. (2021) *The Reintegration of Child Soldiers in Nepal and Sri Lanka: Navigating post conflict identities in civilian life*. Ph.D. Thesis, Australian National University [located at: https://openresearch-repository.anu.edu.au/handle/1885/237213] [accessed: 11 June 2022]

Mathisen, J. (2012) *Education reform in Rwanda: impacts of genocide and reconstruction on school systems*. Ph.D. Thesis, George Fox University [located at: https://digitalcommons.georgefox.edu/edd/11/] [last accessed: 27th January 2022]

Msane, A.N.F. (2021) *Truth and reconciliation in South Africa vs Gacaca Courts in Rwanda: transitional justice mechanisms, and the need for reparations* (Doctoral dissertation). [located at: https://researchspace.ukzn.ac.za/bitstream/handle/10413/20525/Msane_Andile_Nomvelo_Fidelia_2021.pdf?sequence=1&isAllowed=y] [last accessed: 09 November 2022]

Oyeyemi, K.K.(2022) *Cultural and traditional practices and the implementation of the right of the child to be heard under Article 12 of the UNCRC* (Doctoral dissertation, North-West University (South Africa).).

Peleg, Noam (2019) *The Child's Right to Development.* Ph.D. Thesis, University College London [located at: http://discovery.ucl.ac.uk/1384778/4/1384778_Peleg-The_Child_Right_to_Development.pdf] [accessed: 15 November 2021]

Riddell, J.G. (2005) *Addressing crimes against international law: Rwanda's Gacaca in practice.* Ph.D. Thesis, Aberdeen University.

Shepard, M. (2019) *The Art of Reconciliation in Rwanda.* Ph.D. Thesis, Columbia University [located at: https://academiccommons.columbia.edu/doi/10.7916/d8-nnk6-rk61] [accessed: 12 June 2022]

Thibodeau, M. (2020) *Analysing the Social Impact of Gacaca Courts in the Reconciliation Process in Rwanda.* School for International Training / Elon University [located at: https://digitalcollections.sit.edu/isp_collection/3376/] [last accessed: 4 March 2022]

4. Sources of international law:-

Charters, Covenants, Conventions, Treaties

African Charter on the Rights and Welfare of the Child (ACRWC) [located at: https://au.int/en/documents-45] [last accessed: 31 October 2022]

Charter of the United Nations [online] 24 October 1945, 1 UNTS XVI, available at: https://www.refworld.org/docid/3ae6b3930.html [accessed 17 June 2022]

Convention on the Prevention and Punishment of the Crime of Genocide [online] 9 December 1948, United Nations, Treaty Series, vol. 78, p. 277 [available at: https://www.refworld.org/docid/3ae6b3ac0.html] [accessed: 16 June 2022]

Convention on the Rights of People with Disabilities [online] [located at: https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/convention-on-the-rights-of-persons-with-disabilities-2.html] [accessed: 12 June 2022]

Convention on the Rights of the Child [online] 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, [available at: https://www.refworld.org/docid/3ae6b38f0.html [accessed: 16 June 2022]

International Covenant on Civil and Political Rights [online] [located at: http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx] [last accessed: 15 November 2021]

International Covenant on Economic, Social and Cultural Rights [online] [located at: http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx] [last accessed: 15 November 2021]

Rome Statute of the International Criminal Court [online] (last amended 2010), 17 July 1998, ISBN No. 92-9227-227-6 [available at: https://www.refworld.org/docid/3ae6b3a84.html] [accessed 26 January 2022]

Statute of the International Court of Justice (1946), [available at: https://www.refworld.org/docid/3deb4b9c0.html] [last accessed: 29 June 2022]

Vienna Convention on the Law of Treaties [online] 23 May 1969, United Nations, Treaty Series, vol. 1155, p. 331, [available at: https://www.refworld.org/docid/3ae6b3a10.html] [accessed 29 June 2022]

Worst Forms of Child Labour Convention [online] *C182, 17 June 1999, C182,* [available at: https://www.refworld.org/docid/3ddb6e0c4.html] [last accessed: 29 June 2022]

Declarations and Recommendations

Geneva Declaration of the Rights of the Child [online] 1924 [located at: http://www.un-documents.net/gdrc1924.htm] [last accessed: 29 June 2022]

Declaration on the Rights of the Child [online] 1959 [located at: http://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/1DeclarationoftheRightsoftheChild(1959).aspx] [last accessed: 15 November 2021]

Committee on the Elimination of Discrimination Against Women, ‘General Recommendation No 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations’ (1 November 2013) UN Doc CEDAW/C/GC/30 [77]

Universal Declaration of Human Rights [online] 10 December 1948, 217 A (III) [available at: https://www.refworld.org/docid/3ae6b3712c.html] [accessed 15 January 2021]

General Comments (Committee on the Rights of the Child)

UN Committee on the Rights of the Child (CRC), General comment No. 1 (2001): *The aims of education*, 17 April 2001, CRC/GC/2001/ [available at: https://www.refworld.org/docid/4538834d2.html] [accessed 18 March 2022].

UN Committee on the Rights of the Child (CRC), General comment No. 4 (2003): *Adolescent Health and Development in the Context of the Convention on the Rights of the Child*, 1 July 2003, CRC/GC/2003/4 [available at: https://www.refworld.org/docid/4538834f0.html] [accessed 27 January 2021]

UN Committee on the Rights of the Child (CRC), General comment no. 5 (2003): *General measures of implementation of the Convention on the Rights of the Child*, 27 November 2003, CRC/GC/2003/5, [available at: https://www.refworld.org/docid/4538834f11.html] [accessed 1 December 2021]

UN Committee on the Rights of the Child (CRC), General comment No. 7 (2005): *Implementing Child Rights in Early Childhood*, 20 September 2006, CRC/C/GC/7/Rev.1, [available at: https://www.refworld.org/docid/460bc5a62.html] [accessed 1 December 2021]

UN Committee on the Rights of the Child (CRC), General comment No. 12 (2009): *The right of the child to be heard*, 20 July 2009, CRC/C/GC/12, available at: https://www.refworld.org/docid/4ae562c52.html [accessed 1 December 2021]

UN Committee on the Rights of the Child (CRC), General comment No. 14 (2013): *The right of the child to have his or her best interests taken as a primary consideration* (art. 3, para. 1), 29 May 2013, CRC /C/GC/14 [available at: https://www.refworld.org/docid/51a84b5e4.html] [accessed 27 January 2022]

UN Committee on the Rights of the Child (CRC), General comment No. 20 (2016): *The implementation of the rights of the child during adolescence*, 6 December 2016, CRC/C/GC/20, available at: https://www.refworld.org/docid/589dad3d4.html [accessed 1 December 2021]

UN Committee on the Rights of the Child (CRC), General Comment No. 24: *Children's rights in the child justice system* [located at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f24&Lang=en] [last accessed: 27 January 2022] paragraph 45

Resolutions

UN Resolution A/RES/63 (I) of 13 Dec. 1946 [located at: https://research.un.org/en/docs/tc/ruanda-urundi] [accessed: 27 June 2022]

UN Resolution A/36/215 of 19 Jun. 1981 [located at: https://digitallibrary.un.org/record/27015?ln=en] [last accessed: 01 November 2022]

Reports

UNGA *Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*. A/HRC/45/45, 'Memorialization processes in the context of serious violations of human rights and international humanitarian law: the fifth pillar of transitional justice.' [located at: https://www.ohchr.org/EN/Issues/TruthJusticeReparation/Pages/CallMemorializationprocesses.aspx] [last accessed: 28 February 2022]

Report of the Working Group to the Commission on Human Rights (1981) (E/CN.4/L.1575) [located at: https://digitallibrary.un.org/record/140725?ln=en] [last accessed: 31st January 2022]

OHCHR(f) (1997*) Question of the Impunity of Perpetrators of Human Rights Violations (Civil and Political): Revised Final Report Prepared by Mr. Joinet Pursuant to Sub-Commission Decision 1996/11*. [Available at: https://www.refworld.org/docid/42d66e7a0.html] [last accessed 23 February 2022]

OHCHR(g) (2005) Report of the independent expert to update the Set of Principles to combat impunity, 18 February 2005, E/CN.4/2005/102, available at: https://www.refworld.org/docid/42d66e7a0.html [accessed 29 June 2022]

OHCHR(h), Question of a convention on the rights of the child, 8 March 1978, E/CN.4/RES/20(XXXIV), available at: https://www.refworld.org/docid/3b00f0c728.html [accessed 17 June 2022]

OHCHR(i), *Question of a Convention on the Rights of the Child*., 10 March 1988, E/CN.4/RES/1988/75, available at: https://www.refworld.org/docid/3b00f0af48.html [accessed 15 January 2021]

UN Commission on Human Rights, *Report of the independent expert to update the Set of Principles to combat impunity*, 18 February 2005, E/CN.4/2005/102 [Available at: https://www.refworld.org/docid/42d66e7a0.html] [last accessed 23 February 2022]

UN General Assembly ‘Transforming our world: the 2030 Agenda for Sustainable Development.’ [located at: https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E] [accessed: 16 June 2022]

UN publication *Children and The Truth and Reconciliation Commission for Sierra Leone* [located at: https://www.un.org/ruleoflaw/files/TruthandReconciliationSierraLeone.pdf] [last accessed: 27th January 2022]

UN Security Council, *The rule of law and transitional justice in conflict and post-conflict societies: report of the Secretary-General*, 23 August 2004, S/2004/616, Page 4, paragraph 8. [Available at: https://www.refworld.org/docid/45069c434.html] [last accessed: 24 January 2022]

World Health Organization (2018) *Guidance on ethical considerations in planning and reviewing research studies on sexual and reproductive health in adolescents* [located at: https://apps.who.int/iris/bitstream/handle/10665/273792/9789241508414-eng.pdf] [last accessed: 31 October 2022]

Principles / Guidelines

Guidelines on justice in matters involving child victims and witnesses of crime [located at: https://www.un.org/ruleoflaw/blog/document/guidelines-on-justice-in-matters-involving-child-victims-and-witnesses-of-crime/] [last accessed: 27 January 2022] Section VI, paragraph 18. See also See also Section VIII, paragraph 21(a)-(c)

Principles, B., *Guidelines on the Right to a Remedy and Reparation for Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, General Assembly resolution 60/147, 16 December 2005 (Vol. 13). A/RES/60/147

UN Children's Fund (UNICEF), *The Paris Principles: Principles and Guidelines on Children Associated With Armed Forces or Armed Groups*, February 2007, available at: https://www.refworld.org/docid/465198442.html [accessed 27 January 2022].

UN Thematic Areas (1), Access to Justice - United Nations and the Rule of Law [cite as UN 2022] [located at: https://www.un.org/ruleoflaw/thematic-areas/access-to-justice-and-rule-of-law-institutions/access-to-justice/] [accessed: 24 June 2022]

UN Thematic Areas (2) ‘What is the Rule of Law?’ [located at: https://www.un.org/ruleoflaw/what-is-the-rule-of-law/] [last accessed: 16 May 2022]

Procedural rules

International Criminal Court, *Rules of Procedure and Evidence*, U.N. Doc. PCNICC/2000/1/Add.1 (2000) Rule 88

UNDDR ‘DDR and Transitional Justice’ [located at: https://www.unddr.org/wp-content/uploads/2021/02/IDDRS-6.20-DDR-and-Transitional-Justice.pdf] [last accessed: 27 January 2022]

Case Law

The Prosecutor v. Thomas Lubanga Dyilo , ICC-01/04-01/06, International Criminal Court (ICC), 14 March 2012 [available at: https://www.refworld.org/cases,ICC,4f69a2db2.html] [accessed 27 January 2022]

Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza, Hassan Ngeze (Appeal Judgment), ICTR-99-52-A, International Criminal Tribunal for Rwanda (ICTR), 28 November 2007 [available at: https://www.refworld.org/cases,ICTR,48b5271d2.html] [accessed 27 June 2022]

Prosecutor v. Haradinaj et al. (Trial Judgment), IT-04-84-T, International Criminal Tribunal for the former Yugoslavia (ICTY), 3 April 2008, [available at: https://www.refworld.org/cases,ICTY,48ac3cc82.html] [accessed 26 January 2022]

Prosecutor v. Stanilav Galic (Trial Judgement and Opinion), IT-98-29-T, International Criminal Tribunal for the former Yugoslavia (ICTY), 5 December 2003 [available at: https://www.refworld.org/cases,ICTY,4147fb1c4.html] [accessed 26 January 2022].

Legislative History

OHCHR(a) (2007) ‘Legislative history of the convention on the rights of the child.’ Volume 1. [located at: https://digitallibrary.un.org/record/602462?ln=en] [accessed: 12 June 2022]

Travaux Preparatoires [located at: http://hr-travaux.law.virginia.edu/document/crc/ecn4l1366/nid-329] [last accessed: 15 January 2018].

Peace Agreements

Peace Agreement between the Government of Sierra Leone and the RUF (Lomé Peace Agreement) [located at: https://peacemaker.un.org/sierraleone-lome-agreement99] [last accessed: 27 January 2022]

5. Sources of national law:-

Rwanda

Labour Law no 66/2018 (Regulating Labour in Rwanda) [online] [Rwanda] [located at: https://rwandalii.africanlii.org/sites/default/files/gazette/OG%2BNo%2BSpecial%2B%2Bof%2B06%2B09%2B2018.pdf] [last accessed: 29 June 2022]

Law Nº 32/2016 of 28/08/2016 (Governing Persons and Family) [Rwanda] [online] 28 August 2016 [available at: https://www.refworld.org/docid/5ebc1d1b4.html] [last accessed: 29 June 2022]

Law No. 59/2008 of 2008 on Prevention and Punishment of Gender-Based Violence [Rwanda] [online] 10 September 2008 [available at: https://www.refworld.org/docid/4a3f88812.html] [accessed 29 June 2022]

Law Nº54/2000 of 14/12/2011 (Relating to the Rights and the Protection of the Child) [Rwanda] [online] [located at: https://bettercarenetwork.org/library/social-welfare-systems/child-care-and-protection-policies/law-no-542011-of-14122011-relating-to-the-rights-and-the-protection-of-the-child#:~:text=This%20Law%20is%20relating%20to,parents%20and%20caregivers%20to%20children.] [last accessed: 29 June 2022]

Law Noº01/2007 The Law on Disabled Persons (2006) [online] [Rwanda] [located at: https://www.un.org/development/desa/disabilities/wp-content/uploads/sites/15/2019/11/Rwanda_Law-Relating-to-Protection-of-Disabled-Persons-in-General.pdf] [last accessed: 29 June 2022]

National Integrated Child Rights Policy of 2011 [Rwanda] [online] [located at: https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/94113/110347/F-1184355681/RWA-94113.pdf] [last accessed: 29 June 2022]

National Policy for the Elimination of Child Labor, the *5-year Action Plan to Combat Child Labor*, and the *Economic Development and Poverty Reduction Strategy* [Rwanda] [online] [located at: https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/94081/110297/F-490066142/RWA-94081.pdf] [last accessed: 29 June 2022]

Organic Law no. 01/2012/OL of 02/05/2012 instituting the Penal Code [Rwanda] [online] [located at: https://ihl-databases.icrc.org/applic/ihl/ihl-nat.nsf/implementingLaws.xsp?documentId=4B44C2AA92A58C14C1257BE1004FA4E1&action=openDocument&xp_countrySelected=RW&xp_topicSelected=GVAL-992BU6&from=state&SessionID=DNIFZZPM4L] [last accessed: 29 June 2022]

Organic Law No. 33/2001 of 2001 Modifying and Completing Organic Law No. 40/2000 of 26 January 2001 Setting Up "Gacaca Jurisdictions" and Organising Prosecutions for Offences Constituting the Crime of Genocide or Crimes Against Humanity, Committed Between October 1, 1990 and December 31, 1994. [Rwanda] [online] 22 June 2001 [available at: https://www.refworld.org/docid/452e37e84.html] [last accessed : 29 June 2022]

Organic Law No. 40/2000 of 26/01/2001 setting up "Gacaca jurisdictions" [online] [French text] [located at: https://ihl-databases.icrc.org/applic/ihl/ihl-nat.nsf/0/9A54271D2CE6945DC1256B26005653CE] [last accessed: 29 June 2022]

Presidential Order N° 083/01 of 28/08/2020 Establishing the National Child Development Agency [Rwanda] [online] [located at: Presidential Order N° 083/01 of 28/08/2020] [last accessed: 29 June 2022]

Rwanda's Constitution of 2003 (*with amendments through 2015*) [online] [located at: https://www.constituteproject.org/constitution/Rwanda_2015.pdf?lang=en] [last accessed: 29 June 2022]

The Republic of Rwanda National Youth Policy (2006) [located at: https://extranet.who.int/mindbank/item/4397] [last accessed: 31 October 2022]

United Kingdom case law

Gillick v West Norfolk and Wisbech AHA [1985] UKHL 7 (17 October 1985) [located at: http://www.bailii.org/uk/cases/UKHL/1985/7.html] [last accessed: 01 February 2022]

6. Reports, factsheets, conference papers, glossaries

Abbott, P. (2015) *Promoting children's rights in Rwanda.* [located at: https://www.researchgate.net/publication/276925571_Promoting_Children's_Rights_under_EDPRS1_and_Priorities_for_EDPRS2] [accessed: 12 June 2022]

Abbott, P. and Sapsford, F. (2012) *Legal and policy framework for children's rights in Rwanda* [located at: https://www.researchgate.net/publication/276925172_Legal_and_Policy_Framework_for_Child_Rights_in_Rwanda] [accessed: 09 February 2022]

African Commission on Human and Peoples' Rights (2019) *Study on Transitional Justice and Human and Peoples' Rights in Africa. African Commission on Human and Peoples' Rights* [located at: . https://www.achpr.org/news/viewdetail?id=185] [last accessed: 30 November 2022]

Aptel, C. and Ladisch, V., (2011) 'Through a new lens: a child sensitive approach to transitional justice.' *International Center for Transitional Justice* [Available at: https://www.ictj.org/sites/default/files/ICTJ-Children-Through-New-Lens-Aptel-Ladisch-2011-English.pdf] [accessed: 24 January 2022]

Babchuk, W.A. and Hitchcock, R.K. (2013) 'Grounded Theory Ethnography: Merging Methodologies for Advancing Naturalistic Inquiry.' *Adult Education Research Conference*. [located at: https://newprairiepress.org/aerc/2013/papers/5] [accessed: 12 June 2022]

Baines, E. and Ojok, B. (2008) 'Complicating victims and perpetrators in Uganda: on Dominic Ongwen.' *Justice and Reconciliation Project* [located at: http://www.justiceandreconciliation.org/publications/field-notes/2008/complicating-victims-and-perpetrators-in-uganda-on-dominic-ongwen-fn-vii/] [accessed: 11 June 2022]

Bajpai, A. (2017) 'A child's right to a family: Deinstitutionalization–In the best interest of the child.' National Human Rights Commission India [located at:

https://bettercarenetwork.org/sites/default/files/nhrc_journal_2017.pdf] [last accessed: 31 January 2022]

Balkan, D. (2015) *The EU's Policy Framework on support to transitional justice*, section 8 [located at: https://eeas.europa.eu/archives/docs/top_stories/pdf/the_eus_policy_framework_on_support_to_transitional_justice.pdf] [last accessed: 26 January 2022]

Barsalou, J. and Baxter, V. (2007) "The Urge to Remember: The Role of Memorials in Social Reconstruction and Transitional Justice, Stabilization and Reconstruction." United States Institute of Peace. [located at: https://www.usip.org/sites/default/files/resources/srs5.pdf] [accessed: 21 June 2022]

Blewitt, M.K. (2009) 'Trauma in Young Survivors of the Rwandan Genocide.'[available at: https://wagner.nyu.edu/files/leadership/SurvivorsRwandanGenocide040109.pdf] [last accessed: 18 March 2022].

Brett, S., Bickford, L., Sevcenko, L. and Rios, M. (2007) *Memorialization and democracy: State policy and civic action*, The Report of The International Conference of Memorialization and Democracy, June 20-27, 2007, Santiago, Chile.
Cedrangolo, U. (2015) 'Child Victims and Witnesses in International Criminal Justice.' [located at: https://hr.un.org/sites/hr.un.org/files/Child%20victims%20and%20witnesses%20in%20international%20criminal%20justice_0.pdf] [accessed: 27th January 2022]

Demographic Dividend study on Rwanda published by the Government of Rwanda [located at: https://www.statistics.gov.rw/publication/demographic-dividend] [last accessed: 24th January 2022]

Duthie, R. (2011) Justice Mosaics: How Context Shapes Transitional Justice in Fractured Societies [located at: https://www.ictj.org/justice-mosaics] [accessed: 17 June 2022]

MINEDUC *Education Strategic Plan 2018-2024* [located at: https://www.globalpartnership.org/content/education-sector-strategic-plan-2018-2024-rwanda] [last accessed: 13 October 2022]

Ferstman, C. (2017) 'Reparations' [located at: http://www.oxfordbibliographies.com/view/document/obo-9780199796953/obo-9780199796953-0003.xml].

Fussell, J. (2001) 'Group classification on national ID cards as a factor in genocide and ethnic cleansing.' In *Seminar Series of the Yale University Genocide Studies Programme*, *New Haven* [located at: http://www.genocide-watch.com/images/AboutGen_Group_Classification_on_National_ID_Cards.pdf] [last accessed: 29 June 2022]

Goetschel L and Pfluger S (2014) 'Assessing quality in peace research.' In: Goetschel L and Pfluger S (eds.) *Challenges of Peace Research* (Swisspeace working paper 7/2014).

[Available at: https://www.jstor.org/stable/pdf/resrep11076.11.pdf] [last accessed: 29 June 2022]

Groen, C., Simmons, D.R. and McNair, L.D. (2017) 'An introduction to grounded theory: Choosing and implementing an emergent method.' In 2017 ASEE *Annual Conference & Exposition* [located at: https://peer.asee.org/an-introduction-to-grounded-theory-choosing-and-implementing-an-emergent-method] [accessed: 12 June 2022]

Hart, R.A. (1992) *Children's participation: From tokenism to citizenship* [located at: https://www.unicef-irc.org/publications/100-childrens-participation-from-tokenism-to-citizenship.html] [accessed: 11 June 2022]

Hirst, M. and Linnarsson, A. (2010) *Children and the commission for reception, truth and reconciliation in Timor Leste* (Innocenti Working Paper No. 2010-7). Florence, Italy: UNICEF [located at: https://www.un-ilibrary.org/content/papers/25206796/54] [accessed: 11 June 2022]

Human Rights Watch (2011) *Justice Compromised: The Legacy of Rwanda's Community-Based Gacaca Courts* [located at: https://www.hrw.org/report/2011/05/31/justice-compromised/legacy-rwandas-community-based-gacaca-courts] [last accessed: 28 February 2022]

Human Rights Watch (2004) *How to Fight, How To Kill: Child Soldiers in Liberia* [located at: https://www.hrw.org/report/2004/02/02/how-fight-how-kill/child-soldiers-liberia] [last accessed: 27th January 2022]

ICTJ(a) 'What is transitional justice?' [https://www.ictj.org/sites/default/files/ICTJ-Global-Transitional-Justice-2009-English.pdf]

ICTJ(b), 'Criminal Justice' [located at: https://www.ictj.org/our-work/transitional-justice-issues/criminal-justice] [last accessed: 26 January 2022]

ICTJ(c), Focus Document: 'What is Transitional Justice?' [available at: https://www.ictj.org/sites/default/files/ICTJ-Global-Transitional-Justice-2009-English.pdf] [last accessed: 25 May 2018]

ICTJ(d), 'What is complementarity?' [located at: https://www.ictj.org/sites/default/files/subsites/complementarity-icc/] [last accessed: 27 January 2022]

ICTJ(e) On Solid Ground: Building Sustainable Peace and Development After Massive Human Rights Violations (2019) [located at: On Solid Ground: Building Sustainable Peace and Development After Massive Human Rights Violations | International Center for Transitional Justice (ictj.org)]

ICTJ(f) (2015) 'Learning from our past: an exploration of truth, justice and reconciliation in Kenya.'[located at: https://www.ictj.org/sites/default/files/ICTJ-Kenya-Learning-From-Our-Past-2015.pdf] [last accessed: 27th January 2022]

ICTJ(g), ‘The Complex Reality Beyond the Trial of Dominic Ongwen.’ [located at: https://www.ictj.org/ar/node/22618] [accessed: 25 June 2022]

Impunity Watch (2019) ‘Memorialisation as Related to Transitional Justice Processes in Nepal: An Exploration’ [available at: https://www.impunitywatch.org/post/memorialisation-as-related-to-transitional-justice-processes-in-nepal-an-exploration] [accessed: 01 February 2022]

International Coalition of Sites of Conscience (2017) ‘From Memory to Action – a toolkit for memorialisation in post-conflict societies.’ [located at: https://www.sitesofconscience.org/wp-content/uploads/2017/07/Memorialization-Toolkit-English.pdf] [accessed: 26 June 2022]

IPPFORB (2021) ‘Leave no one Behind’ – Realising freedom of religion or belief and the sustainable development goals.’ [located at: https://www.ippforb.com/newsroom/2021/25/06leave-no-one-behind-realising-freedom-of-religion-or-belief-and-the-sustainable-development-goals] [accessed: 22 June 2022]

Kenya Transitional Justice Network (2018)TRC Report [located at: https://www.knchr.org/Portals/0/Transitional%20Justice/kenya-tjrc-summary-report-aug-2013.pdf?ver=2018-06-08-100202-027] [accessed: 27th January 2022].

Lansdown, G, UNICEF, Save the Children, *Every child’s right to be heard: a resource guide on the UN Committee on the Rights of the Child General Comment no.12* [located at: https://resourcecentre.savethechildren.net/document/every-childs-right-be-heard-resource-guide-un-committee-rights-child-general-comment-no-12] [last accessed: 12 June 2022]

Mann, N. and Theuermann, B. (2001) *Children and the truth and reconciliation commission for Sierra Leone.* Technical report, UNICEF, National Forum for Human Rights and UNAMSIL/Human Rights [located at: https://gsdrc.org/document-library/children-and-the-truth-and-reconciliation-commission-for-sierra-leone/] [last accessed: 29 June 2022]

Marshall, T.F. (1999) *Restorative justice: An overview*. (London: Home Office). [located at: http://www.antoniocasella.eu/restorative/Marshall_1999-b.pdf] [accessed: 15 June 2022]

Mazurana, D. and Carlson, K. (2010) *Children and reparation: past lessons and new directions.* UNICEF Innocenti Research Centre [located at: https://www.unicef-irc.org/publications/pdf/iwp_2010_08.pdf] [last accessed 26 August 2019]

MINEDUC ‘Education 2020/2021 Statistical Yearbook’ [located at:
National Service of Gacaca Jurisdictions: The Objectives of the Gacaca Courts [located at: http://www.inkiko-gacaca.gov.rw/En/EnObjectives.htm]

Never Again Rwanda(a) (2019) *The Role of Youth in Preserving Memory and Healing* (2019) [located at: https://neveragainrwanda.org/the-role-of-youth-in-preserving-memory-and-healing/] [last accessed: 01 February 2022]

Never Again Rwanda(c), *Capacity Statement* (2017) [located at: https://neveragainrwanda.org/wp-content/uploads/2017/08/Capacity_Statement.pdf] [last accessed: 01 February 2022]

Never Again Rwanda(d), *Societal Healing in Rwanda: Mapping of Actors and Approaches* (2015) [located at: https://neveragainrwanda.org/wp-content/uploads/2021/11/Mapping-Report-2015_Nov-1-Final-for-print-1.compressed.pdf] [last accessed: 07 November 2022]

Obura, A.P. (2003) 'Never again: Educational reconstruction in Rwanda.' *International Institute for Educational Planning* [located at: http://www.iiep.unesco.org/en/publication/never-again-educational-reconstruction-rwanda] [accessed: 12 June 2022]

OHCHR(b), 'Guarantees of Non-Recurrence.'[located at: https://www.ohchr.org/en/transitional-justice/guarantees-non-recurrence] [last accessed: 16 May 2022]

OHCHR(c) 'Child Rights and the 2030 Agenda for Sustainable Development: Accelerated action and transformative pathways: realizing the decade of action and delivery for sustainable development.' [Located at: https://sustainabledevelopment.un.org/content/documents/26130Child_Rights_2030_Agenda_HLPF_2020.pdf] [accessed: 22 June 2022]

Organization for Security and Co-Operation in Europe (OSCE) (2018), *Two Schools under One Roof: The Most Visible Example of Discrimination in Education in Bosnia and Herzegovina* [located at: https://www.osce.org/files/f/documents/3/8/404990.pdf] [accessed: 16 June 2022]

Park, S. and Shema, C. (2019) 'Preparing for Research Abroad: Fieldwork Requirements in Rwanda.' *LSE Field Research Methods Lab* [located at: https://blogs.lse.ac.uk/fieldresearch/2019/11/26/preparing-for-research-abroad-fieldwork-requirements-in-rwanda/] [last accessed: 01 February 2022]

Parmar, S., Roseman, M.J., Siegrist, S. and Sowa, T. (eds.) (2010) 'Children and transitional justice: truth-telling, accountability, and reconciliation.' [located at: https://www.unicef-irc.org/publications/587-children-and-transitional-justice-truth-telling-accountability-and-reconciliation.html] [accessed: 11 June 2022]

Pigou, P. (2010) 'Children and the South African Truth and Reconciliation Commission.' In *Children and Transitional Justice: Truth-Telling, Accountability and Reconciliation*.' [located at: https://www.unicef-irc.org/publications/587-children-and-transitional-justice-truth-telling-accountability-and-reconciliation.html] [accessed: 11 June 2022]

Republic of Rwanda, Office of the President, *Report on the Reflection Meetings Held in the Office of the President of the Republic from May 1998 to March 1999*, Kigali, August 1999

Robinson, C. (2020) 'Lost in translation: The translation of Article 12 of the United Nations Convention on the Rights of the Child into educational legislation.' [located here:

https://www.bera.ac.uk/blog/lost-in-translation-the-translation-of-article-12-of-the-united-nations-convention-on-the-rights-of-the-child-into-educational-legislation]

Rwanda, P.R.I., (2010) *The contribution of the Gacaca jurisdictions to resolving cases arising from the genocide. Contributions, limitations and expectations of the post-Gacaca phase.* [located at: https://cdn.penalreform.org/wp-content/uploads/2013/06/Gacaca_final_2010_en.pdf] [last accessed: 17 February 2022]

Rwandan National Commission for Human Rights (2020) 'Analysis of Child Labor and its Impact on Child Rights in Rwanda' [located at: http://www.cndp.org.rw/fileadmin/user_upload/Child_Labor_Survey_Report.pdf] [last accessed: 1 March 2022]

Shyaka, A. et al. (2016) *National Umushyikirano Council: A Decade of Delivering Democracy and Development to Rwandans 2003–2014.* Kigali: Rwanda Governance Board. [located at: http://umushyikirano.gov.rw/wp-content/uploads/2016/12/National-Umushyikirano-Council_RGB-report-2016.pdf] [last accessed: 15 February 2022].

Situation of Children in Rwanda [located at: https://www.unicef.org/rwanda/situation-children-rwanda] [last accessed: 01 February 2022].

The World Bank in Rwanda [located at: https://www.worldbank.org/en/country/rwanda/overview#1] [last accessed: 01 February 2022]

Thill, M. (2021) 'In Search of a Winning Formula: Lessons on DDR and Community Reintegration in the Democratic Republic of the Congo.' *Social Science Research Council* [located at: http://ssrc-cdn1.s3.amazonaws.com/crmuploads/new_publication_3/in-search-of-a-winning-formula-lessons-on-ddr-and-community-reintegration-in-the-democratic-republic-of-the-congo.pdf] [accessed: 11 June 2022]

Tolbert, D. "Nexus between Transitional Justice and Development" Event and publication launch, hosted by the Swedish International Development Agency (Sida) [located at: ICTJ-Tolbert-Sida-TJDevelopment-2014.pdf]

Torres, P., Yaneth G., and Sergio J. (2009) 'Transitional Justice and DDR: The Case of Colombia.' *International Center for Transitional Justice* [located at: https://www.ictj.org/sites/default/files/ICTJ-DDR-Colombia-CaseStudy-2009-English.pdf] [accessed: 11 June 2022]

TRC of Sierra Leone Final Report [located at: http://www.sierraleonetrc.org/index.php/view-the-final-report/table-of-contents] [last accessed: 24 August 2019]

Tsai, J. and Robins, S. (2021) 'Strengthening participation in local-level and national transitional justice processes.' *Global Initiative for Justice, Truth, and Reconciliation* (GIJTR) [located at: https://www.sitesofconscience.org/wp-content/uploads/2018/06/Strengthening-Participation-Toolkit-online.pdf.] [last accessed, 15 February 2022]

UKGOV ‘Regional Analysis of Youth Demographics: Rwanda’ [located at: https://assets.publishing.service.gov.uk/media/5af954b2e5274a25dbface35/Rwanda_briefing_note__Regional_Analysis_of_Youth_Demographics_.pdf] [last accessed 24th January 2022]

UNESCO *International Bureau of Education* website [Located at: http://www.ibe.unesco.org/en/glossary-curriculum-terminology/i/interdisciplinary-approach] [Last accessed: 23 February 2022]

UNICEF Rwanda(a) ‘Situation of children in Rwanda’ [available at; https://www.unicef.org/rwanda/situation-children-rwanda] [last accessed: 24 January 2022]

UNICEF Rwanda(b) ‘Education.’ [located at: https://www.unicef.org/rwanda/education] [last accessed: 15 June 2022]

UNICEF Innocenti Research Centre, International Center for Transitional Justice, (2010) *Children and truth commissions*. United Nations Publications [located at: https://www.unicef-irc.org/publications/616-children-and-truth-commissions.html] [last accessed: 27 January 2022]

UNICEF/Government of Rwanda Ministry of Health (2018) ‘Violence Against Children and Youth Survey in Rwanda: Findings from a National Survey, 2015-2016.’ [located at: https://reliefweb.int/report/rwanda/violence-against-children-and-youth-survey-rwanda-findings-national-survey-2015-2016] [last accessed: 27 June 2022]

United Nations Institute for Training and Research [located at: https://unitar.org/sustainable-development-goals/peace/our-portfolio/disarmament-demobilization-and-reintegration] [last

Vandenginste, S. (1999) *Justice, reconciliation and reparation after genocide and crimes against humanity: the proposed establishment of popular Gacaca tribunals in Rwanda*. [located at: https://repositories.lib.utexas.edu/bitstream/handle/2152/4570/3666.pdf?sequence=1] [accessed: 28 June 2022]

7. Press Reports

Conversation (The) Ibhawoh, *B Do truth and reconciliation commissions heal divided nations?* [Located at: https://theconversation.com/do-truth-and-reconciliation-commissions-heal-divided-nations-109925] [last accessed: 30 November 2022]

ICTJ(g) (2011) ‘*Why should we suffer?’: Children testify before the Kenyan TJRC*. [located at: https://www.ictj.org/news/why-should-we-suffer-children-testify-kenyas-tjrc] [last accessed: 27th January 2022]

MINEDUC(1) The 2021/22 Forward-Looking Joint Review of the Education Sector: Narrative Report (July 2021) [located at:

https://planipolis.iiep.unesco.org/sites/default/files/ressources/rwanda_2021_22_forwar_looking_jres_narrative_report.pdf] [last accessed: 13 October 2022]

MINEDUC(2) The 2021/22 Backward-Looking Joint Review of the Education Sector: Narrative Report (November 2021) [located at: https://www.mineduc.gov.rw/index.php?eID=dumpFile&t=f&f=33594&token=e0839e75e439a43acb92dc1dcc3ed4b7ffc75bf8] [last accessed: 13 October 2022]

Rwanda Education Board *Competence-Based Curriculum: Summary of Curriculum Framework for Pre-Primary to Upper Secondary* (2015) [located at: https://mudarwan.files.wordpress.com/2015/08/curriculum_framework_final_printed-compressed.pdf] [last accessed: 13 October 2022]

Rwanda New Times 'ENHA-Girubuntu: Empowering students through social and economic initiatives.' [located at: https://www.newtimes.co.rw/lifestyle/enha-girubuntu-empowering-students-through-social-and-economic-initiatives] [accessed: 15 June 2022]

Rwanda New Times 'Founder of 'Walk to Remember' talks on lessons from genocide against the Tutsi.' (2019) [located at: https://www.cnbcafrica.com/2019/founder-of-walk-to-remember-talks-on-lessons-from-genocide-against-the-tutsi/] [last accessed: 26 March 2022]

Rwanda New Times 'G25 play premieres at Kigali Genocide Memorial' (2019) [located at: https://www.newtimes.co.rw/kwibuka/g25-play-premieres-kigali-genocide-memorial] [last accessed: 26th March 2022]

Rwanda New Times 'Restorative justice was Rwanda's only way' (2019) [located at: https://www.newtimes.co.rw/opinions/editorial-restorative-justice-was-rwandas-only-way] [last accessed: 14th February 2022]

Rwanda New Times 'Rwanda scores highly in restorative justice' (2008) [located at: https://www.newtimes.co.rw/section/read/3377] [last accessed: 14 February 2022]

Rwanda New Times 'Truth Commission Dissolved.' [located at: https://www.newtimes.co.rw/news/children-commission-dissolved] [last accessed: 10 February 2022]

Rwanda New Times 'Walk to Remember gains more meaning each year.' (2017) [located at: https://www.newtimes.co.rw/section/read/210387] [last accessed: March 26th 2022]

UN ECOSOC, 27 October 2004 *'Final Report on ten-year Sierra Leone conflict published.'* [located at: https://www.un.org/press/en/2004/ecosoc6140.doc.htm] [last accessed: 08/11/2018]

UNICEF Data, 'Using data to achieve the Sustainable Development Goals (SDGs) for children.' [located at: https://data.unicef.org/sdgs/] [accessed: 21 June 2022]

UNICEF press release, 'Government of Rwanda and UNICEF hold 13th National Children's Summit to celebrate 30 years of child rights.' [located at:

https://www.unicef.org/rwanda/press-releases/government-rwanda-and-unicef-hold-13th-national-childrens-summit-celebrate-30-years] [last accessed: 3 March 2022]

'Vision 2050' (abridged)
[located at:
https://www.minecofin.gov.rw/fileadmin/user_upload/Minecofin/Publications/REPORTS/National_Development_Planning_and_Research/Vision_2050/English-Vision_2050_Abridged_version_WEB_Final.pdf] [last accessed: 27th January 2022]

8. Archives

Transcript for mass media sources at the University of Concordia [located at: https://www.concordia.ca/research/migs/resources/rwanda-radio-transcripts.html] [last accessed: 22 January 2022],

Genocide Archive of Rwanda [located at: https://genocidearchiverwanda.org.rw/index.php/Radio_T%C3%A9l%C3%A9vision_Libre_des_Mille_Collines] [last accessed: 24 January 2022]

9. Other / miscellaneous sources

African Committee of Experts on the Rights and Welfare of the Child [located at: https://www.acerwc.africa/en/acrwc/acrwc] [last accessed: 07 December 2022]

'Facing History and Ourselves' [located at: https://www.facinghistory.org/] [last accessed: 17 March 2022]

'Genocide Education Project' [located at: https://genocideeducation.org/] [last accessed: 17 March 2022]

'Legacy of Hope foundation' [located at: https://legacyofhope.ca/english/education/] [last accessed: 17 March 2022]

'NVivo 12 – Up and Running,' guidance document produced by IT Services, University of Oxford. [Located at: https://skills.it.ox.ac.uk/files/itlcpda034notesnvivowalkingbeforerunningpdfa]

'Peace Can' [located at: https://neveragainrwanda.org/about/our-five-pillars/youth-engagement/] [last accessed: 17 March 2022]

'Spaces for Peace' [located at: https://neveragainrwanda.org/2018/05/07/the-big-question-why-nar-prioritizes-youth-in-its-programs/] [last accessed: 17 March 2022]

‘University of Birmingham Code of Practice for Research’ [located at: https://www.birmingham.ac.uk/Documents/university/legal/research.pdf] [last accessed: 01 February 2022]

‘Youth for Peace Cambodia’ [located at: http://www.yfpcambodia.org/index.php?page=project-3] [last accessed: 17 March 2022]

Bear Research Data Store. See guidance provided at https://blog.bham.ac.uk/bear/2021/03/25/bear-datashare-end-of-service/ [last accessed: 02 February 2022]

Data Protection Act 2018 [located at: https://www.legislation.gov.uk/ukpga/2018/12/contents/enacted] [accessed: 17 June 2022]

Interview with Paul Kagame, President of Rwanda (July 16, 2002) (cited in *Gacaca Jurisdictions: Interim Report of Observations* June 10 - Aug. 8, 2002) [available at http://www.fas.harvard.edursocstud/rwanda/introduction.html# ftn4]

Kangura News Paper No. 6 [located at: https://genocidearchiverwanda.org.rw/index.php/Kangura_No_6] [accessed: 27 June 2022]

National Child Development Agency (NCDA) [located at: https://www.ncda.gov.rw/] [last accessed: 10 February 2022]

National Children’s Summit (ncc.gov.rw) [website now defunct]

‘Kwibuka,’ the official state website for the Commemoration [located at: https://www.kwibuka.rw/remember_unite_renew/remember/ [last accessed: 21 February 2022]

OHCHR(d) | Committee on the Rights of the Child [located at: https://www.ohchr.org/en/hrbodies/crc/pages/crcindex.aspx] [last accessed: 31st January 2022]

OHCHR(e) | Membership criterion for the Committee on the Rights of the Child [located at: https://www.ohchr.org/EN/HRBodies/CRC/Pages/Membership.aspx] [last accessed: 31st January 2022]

Restorative Justice Consortium [located at: http://www.restorativejustice.org.uk] [last accessed: 17 February 2022].

Sage, ‘Designing Ethical Research.’ [located at:

SAHO ‘The history of separate development in South Africa.’ [located at: https://www.sahistory.org.za/article/history-separate-development-south-africa] [accessed: 25 June 2022]

Sites of Conscience website [located at: https://www.sitesofconscience.org/en/who-we-are/about-us/] [last accessed: 4 March 2022]

The United Nations Audiovisual Library of International Law [located at: https://legal.un.org/avl/ha/crc/crc.html] [last accessed: 1 March 2022]

Timeline of COVID-19 lockdowns in the UK, Institute for Government website [located at: https://www.instituteforgovernment.org.uk/sites/default/files/timeline-lockdown-web.pdf] [last accessed: 01 February 2022]

UN 'Sustainable Development Goals' [located at: https://sdgs.un.org/goals] [accessed: 16 June 2022]

UNICEF 'Global Issues - Youth' (April 2022) [located at: https://www.un.org/en/global-issues/youth] [last accessed: 01 November 2022]

US vs. UK age/grade/year equivalents as used at the American School in London [located at:https://resources.finalsite.net/images/v1530095021/asl/tj5yahqlku93mfpiyp9p/age_grade_year_equivalents.pdf] [last accessed: 12 October 2022]

WHO, 'Rwandan response to the COVID-19 pandemic.' [located at: https://www.afro.who.int/news/covid-19-rwanda-countrys-response] [last accessed: 01 February 2022]

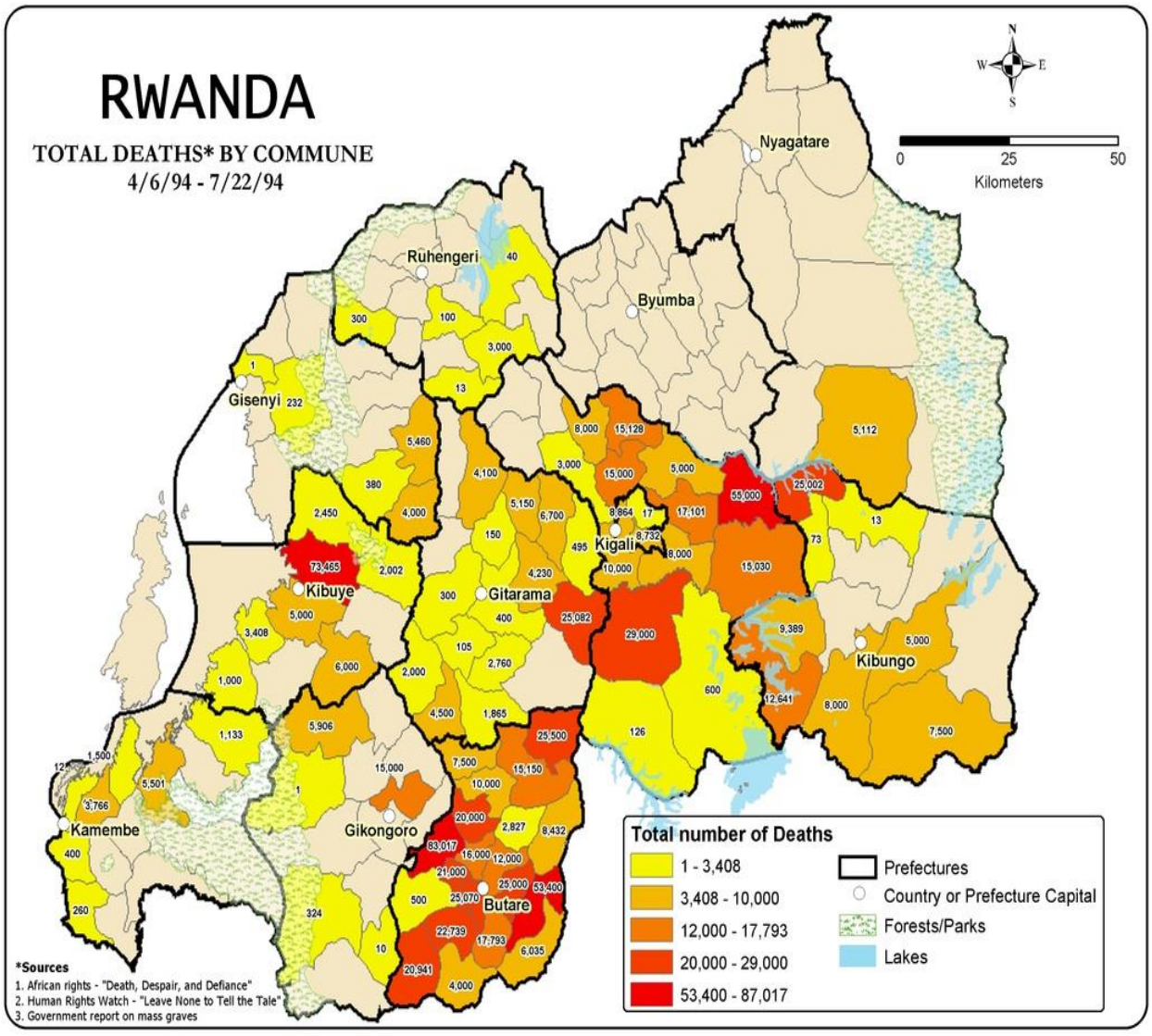
Website for the Umunshykirano [located at: http://umushyikirano.gov.rw/] [last accessed: 09 March 2022]

APPENDICES

APPENDIX A

Tables and Graphics

Graphics



Graphic 1(a): map demonstrating the total number of deaths in the Genocide against the Tutsi by commune.

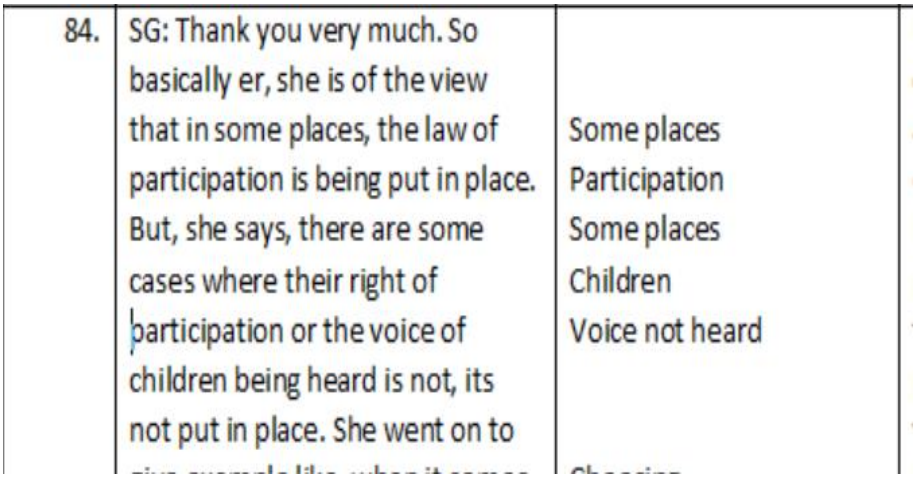
Tables

Table 1(a): A table providing a breakdown of the schools in which I conducted focus groups by school type.

School Type	Number attended
Religious*	6
Government	4
Public	4
Private	2
Technical and Vocational	3
Founded by external organisation	1

Adventist school: 2 – Muslim [girls] school: 1 – Catholic school: 3

Table 1(b): Open coding example (open coding is set out in the second column to represent the text from the transcript in the first column).



84.	SG: Thank you very much. So basically er, she is of the view that in some places, the law of participation is being put in place. But, she says, there are some cases where their right of participation or the voice of children being heard is not, its not put in place. She went on to	Some places Participation Some places Children Voice not heard

Extract from GDSNL focus group

Table 1(c): an example of focused coding (focused coding in the final column to represent the text in the first [transcript] and second [open coding] columns).

14	SG: He said er, in terms of child right and participation, the government are trying to really put more effort to make sure that er, the right to participate and the right to be heard. But again he thinks that the challenge or issue is between the parent and children relationship, this is where the key issue is. And he is associating the parents not giving the children's right to participate and these rights with ignorance. Children being, I mean, parents being er, maybe with er, education, less education, and being ignorant	Child rights Participation Government More effort Right to participate Right to be heard Challenging Parent Children Relationship Issue Ignorance Parents Less education Ignorant	Real challenge is between the children and the parents - ignorant do not understand of or know them, educated parents do. Socioeconomic circumstances are linked- alcoholism etc Children are living the consequences of their parents mistakes - vicious cycle

Extract from SHS focus group

Table 1(d): an example of theoretical coding (bringing focused codes together to form a coherent narrative, relating broad categories to theoretical ideas related to the conceptual and analytical framework of article 12).

3. Umbrella node: Role of adults	**Primary node 1: Support our decisions** Without adults in their lives supporting their decisions, the child grows up and his life is full of problems **Primary node 2: Hear our views and opinions** If adults hear us it makes us think bigger Voices of all children should be heard on the same level irrespective of age or any other factors – otherwise will cause conflict or resentment in children. **Primary node 3: Implement our good ideas** When adults implement what we say we contribute more and participate in society **Primary node 4: Balance our participation and protection together** Adults (parents in particular) must recognise children are the future of the country and give them chances to participate, but must also recognise that children need protecting. To be properly protected, "we must be heard like a child" - you cannot protect us unless you listen to us, and act on our behalf. Balance protection and participation of children and understand that they both go together.

Extract from 'Theoretical Coding Sheet – Participation [general]'.doc.

Table 1(e): A short extract of a framework matrices

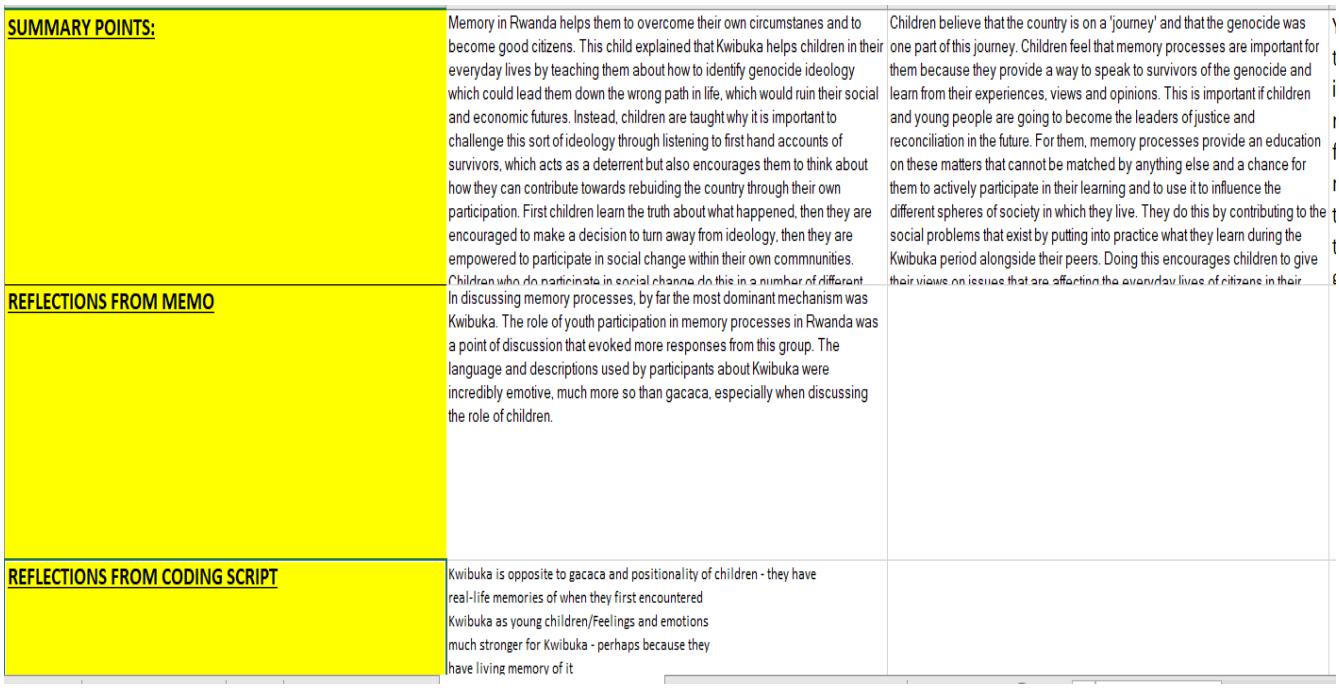
	A : 3. Responses 'What is Memory' [broadly defined]	B : Education ['as' or 'in']	C : History
4 : APAB4 Gender = Boy		the children, the people were children but at that time during genocide, they give testimony that, for example like my Mum was killed in this place where I am standing now, and with that, them are the children, they get to know, they get to get, they get a clear image of what was going on.	he said Kwibuka it happens every year, around April, and he was saying that basically if there was no Kwibuka, by now, no one would be talking about the genocide. So they, they thought that the genocide would be gone. He thinks it is great important for them to keep on Kwibuka, because it really, it reminds them where they came from, their past. AERG the club that helps the survivors of the genocide here within schools. Within that club they have families. During breaktime, during when they are free, they go in their families.

Extract from framework matrices 'Memory.'

Table 1(f): An example of how I used a framework matrices to create an account of the cell content from participant APAB4.

4 : APAB4 Gender = Boy		Kwibuka gives a chance for those adults who were children during the genocide to participate by sharing their testimony about what happened to them, what they saw, what they experienced. They do this within their own communities. Children in those communities sit and	Some children talk about Kwibuka as an important mechanism by which the genocide is kept in the forefront of the minds of the people of Rwanda,no matter who they are or what their status. For children, this is important because they believe that without Kwibuka,
		It is important for children and young people to hear the first-hand experiences of the survivors of the genocide. They relate this to the idea of having roots in their history -	

Table 1(g): An example of how I cross-referenced content from different sources (memos and coding scripts) as well as summaries of the content in framework matrices.



SUMMARY POINTS:	Memory in Rwanda helps them to overcome their own circumstanes and to become good citizens. This child explained that Kwibuka helps children in their everyday lives by teaching them about how to identify genocide ideology which could lead them down the wrong path in life, which would ruin their social and economic futures. Instead, children are taught why it is important to challenge this sort of ideology through listening to first hand accounts of survivors, which acts as a deterrent but also encourages them to think about how they can contribute towards rebuiding the country through their own participation. First children learn the truth about what happened, then they are encouraged to make a decision to turn away from ideology, then they are empowered to participate in social change within their own commnunities. Children who do participate in social change do this in a number of different	Children believe that the country is on a 'journey' and that the genocide was one part of this journey. Children feel that memory processes are important for them because they provide a way to speak to survivors of the genocide and learn from their experiences, views and opinions. This is important if children and young people are going to become the leaders of justice and reconciliation in the future. For them, memory processes provide an education on these matters that cannot be matched by anything else and a chance for them to actively participate in their learning and to use it to influence the different spheres of society in which they live. They do this by contributing to the social problems that exist by putting into practice what they learn during the Kwibuka period alongside their peers. Doing this encourages children to give their views on issues that are affecting the everyday lives of citizens in their
REFLECTIONS FROM MEMO	In discussing memory processes, by far the most dominant mechanism was Kwibuka. The role of youth participation in memory processes in Rwanda was a point of discussion that evoked more responses from this group. The language and descriptions used by participants about Kwibuka were incredibly emotive, much more so than gacaca, especially when discussing the role of children.	
REFLECTIONS FROM CODING SCRIPT	Kwibuka is opposite to gacaca and positionality of children - they have real-life memories of when they first encountered Kwibuka as young children/Feelings and emotions much stronger for Kwibuka - perhaps because they have living memory of it	

Table 1(h): age range of children who participated in focus groups across all schools

13 years	6
14 years	21
15 years	22
16 years	26
17 years	43
18 years	33
18+	*10*
Total Participants:	**161**

Table 1(i): age range plus gender of children who participated in focus groups across all schools

GENDER PLUS AGE ACROSS ALL FOCUS GROUPS

Age	Male	Female
13	2	4
14	9	12
15	12	10
16	8	18
17	13	30
18	9	24
18+	7	3

Table 1(j): Schools visited according to district and province (focus groups with 2 schools in the Western Province had to be cancelled).

District	**Province**	**Schools visited**
Rwamagana	Eastern	4
Nyagatare	Eastern	1
Muhanga	Southern	4
Gasabo	Kigali	4
Gicumbi	Northern	1
Huye	Southern	1
Ruhango	Southern	2
Musanze	Northern	3
Gisigara	Southern	2

APPENDIX B

Data collection documents (samples only).

DCD1: extract from a memo:

PRESENT: Jeannette Rodgers (JR), Steven Gakuru (SG), Freedom Kabarere (FK) and others

Seating plan, gender split, language:

Large hall, participants and adults sat around a large rectangular table at one end



B B G G B B G B B G G (11 participants)

Mixed 13-18 in one group.

Most participants chose to answer questions in English

Recording Time: 01:53

Recording Issues: As this was a large hall, the environment was very echoey. This meant that the school bell/siren was very much amplified, as was any chair moving or other similar disruption. At one point a mobile phone rang which distorted the recording slightly.

Reflections

I recall walking into this building and seeing all the children waiting at the table for me in silence. This was because the group which took place before this one, at the school across the road, overran. They did not seem impatient at all, rather that they were eagerly awaiting a special guest that they would have the chance to talk to.

I recall too that all of them were very focussed and clearly wanted to contribute to the discussion - there was not a single child that did not want to say something, and all of them had something of value to contribute to the discussion.

They were all incredibly keen to talk in English even though I said it was OK to hold our conversation in Kinyarwanda. Their level of English was very impressive.

Transitional Justice

Knowledge of transitional justice was not related to international mechanisms such as criminal trials or truth commissions, but rather immediately related to local, what they saw as distinctly Rwandan approaches. Most children here related their knowledge of transitional justice to the history of the country, with some saying they had grown up learning about transitional justice in their homes and communities as well as at school, from a distinctly Rwandan perspective.

DCD2: extract from a coding script for SHS focus group:

	action to justify the victims. Like, the, after those er, days which were like, treacherous and all, they had to come together with the low level of professionals who were there to erm, to justify those people. It wasn't... and what we saw about this gacaca stuff, is that it wasn't completely based on law. It was completely as, in a way of, uniting and as in forgiving and that kind of unity, er, atmosphere. As in where the victims were given a voice to give what they thought about, er, as in, what they er, witnessed, and giving a voice no matter the age, even though you were a 5 year old kid you had to say what you saw and what really happened, as you're justifying the incident. And about the Kwibuka, it's great to be in the form of literature, as that's the only way the youth can like, really give out what they learned from their parents. Like, it's not all of us that erm, our parents did survive that thing, but they also knew, even out of the borders of the country they knew how the thing was intensified, they knew the level where it was like, our brothers are killing our sisters, and	justice' for the victims Community coming together with professionals, helping them, achieving justice Not just law, also uniting and forgiving Victims and witnesses given a voice, no matter what age Kwibuka using litertaure to help children in	*to the fact that gacaca was not just about law and legal process- an important characteristic* *Very 'matter of fact' descriptions about gacaca* *Language/ descriptions about Kwibuka much more emotive, clear role for the youth, importance for families affected*

DCD3: Extract from transcript, GSOB focus group:

Steven Gakuru:
So er, she is saying there is a progress being taken in Rwanda, even though er, it is more advanced in urban cities compared to villages, I say that in cities er, children are really involved and er, go for meetings where they express their views. But she thinks that in the villages there are still some instances of traditional mindset and culture, because in our culture children are not really allowed to speak out in public or like that. OK?

Jeannette Rodgers:
Thank you.

Steven Gakuru:
OK?

Girl 5:
OK thank you, er, for me, it is not a matter of being inspired by what the government is doing, but on my side, for sure, children in Rwanda are not heard. Er, maybe... as you are saying about rights, for myself the problems are the leaders or the elders or parents, they feel that their right is to pay

APPENDIX C

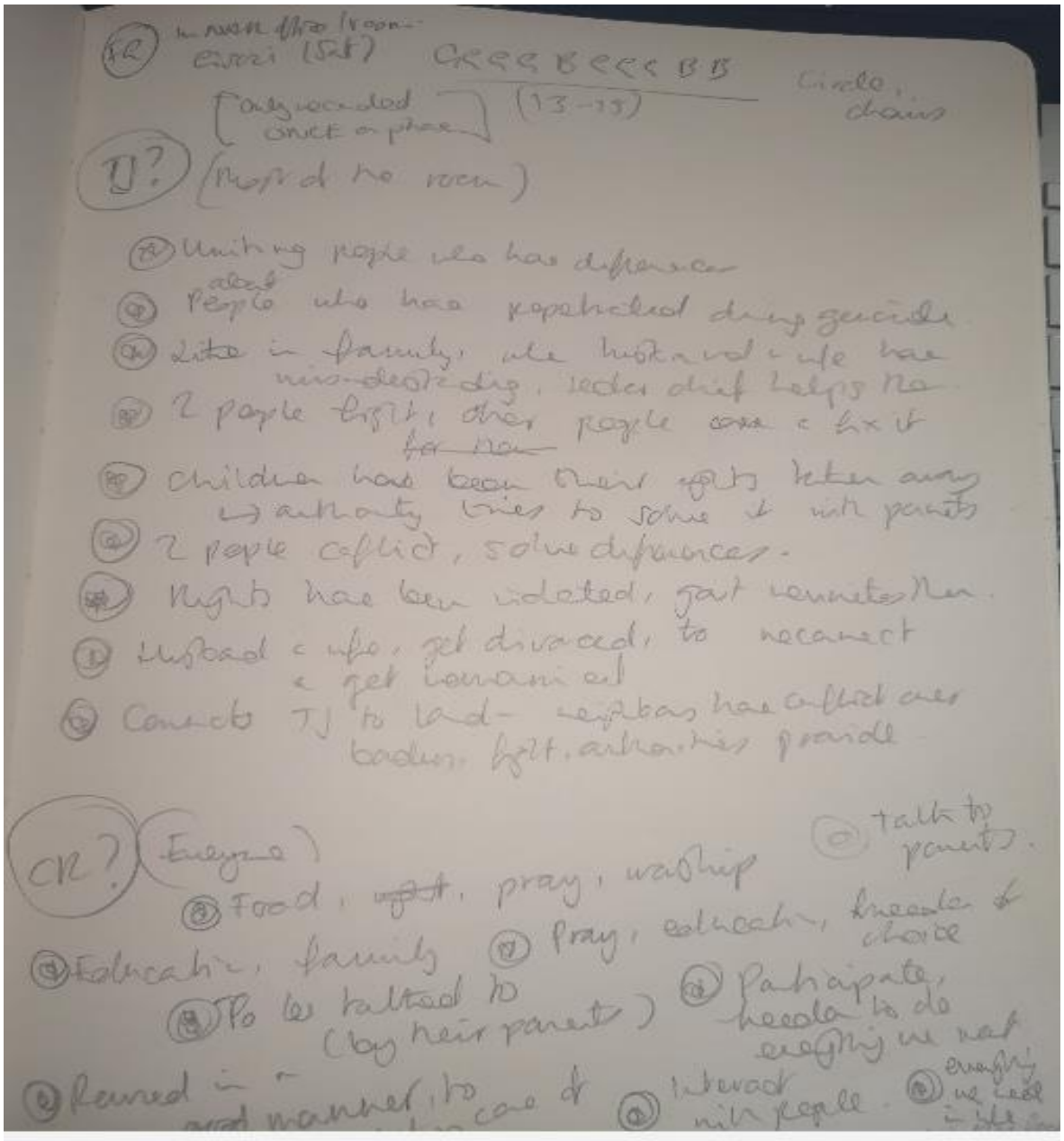
Written memos

Appendix C provides examples of hand-written notes taken by me in the focus groups, which were then written up into memos on the same day the focus group was held. My RA, Steve Gakuru, also took notes at the same time, and we compared the information we had when we debriefed after each group.

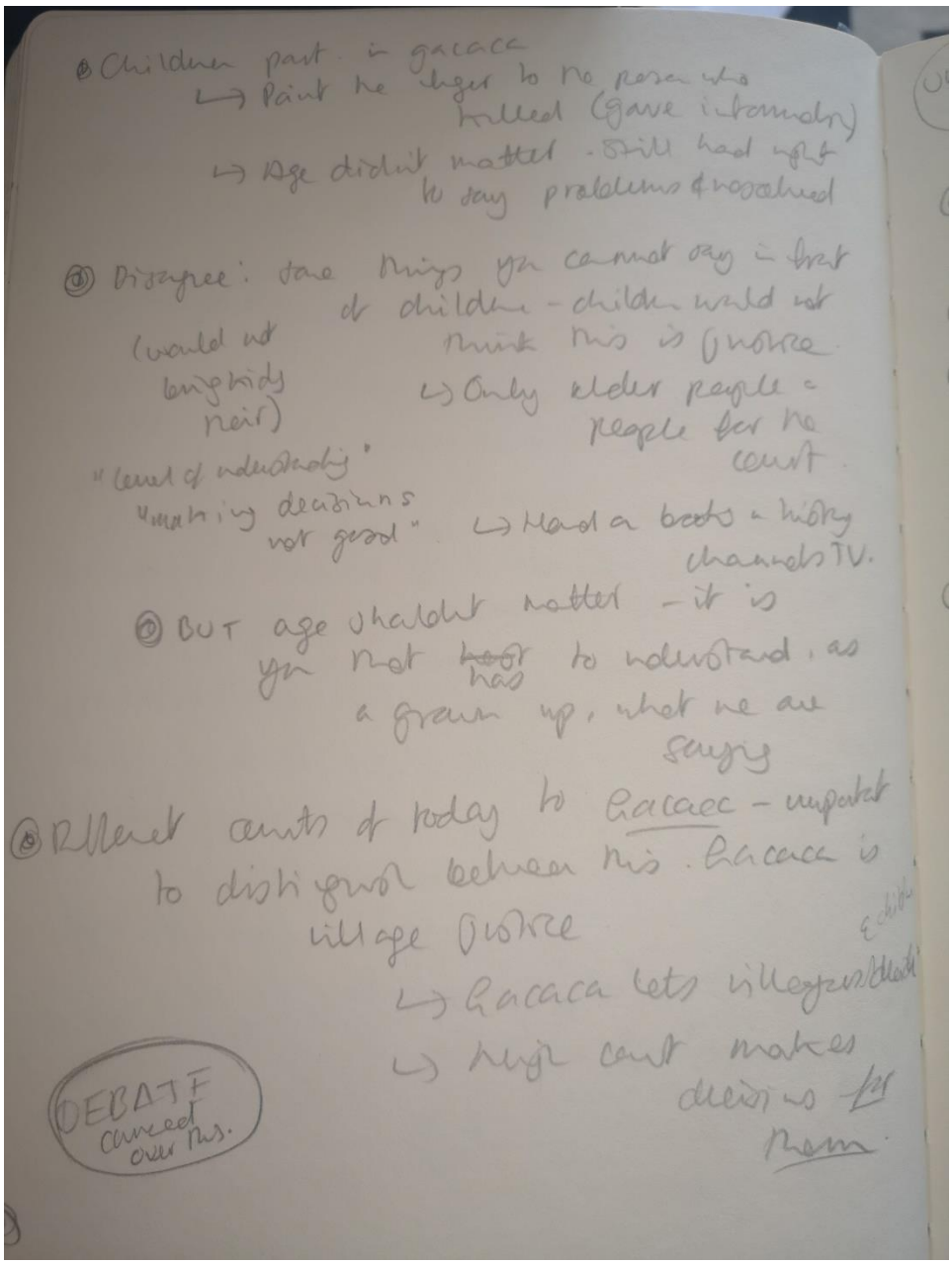
Each memo represents a discussion on a theme or topic that developed organically, with one memo detailing thoughts I had on how to adapt the questions for the next focus group depending on the answers I received (were the answers repetitive/providing new information, did I want to find out more about a particular topic, etc).

Each example contains a short explanation of its key features.

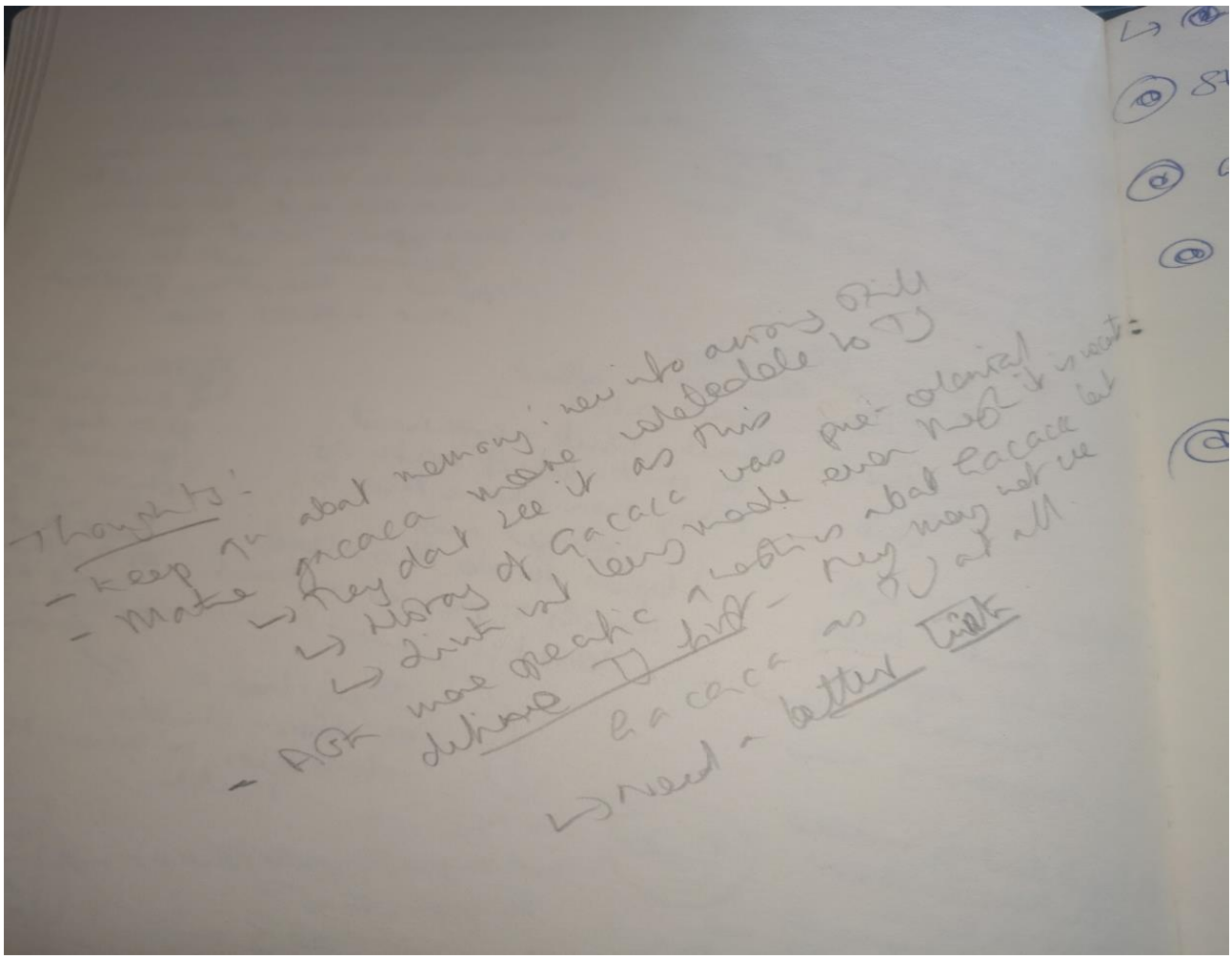
This memo represents the very beginning of a focus group, with a seating plan, age of participants, and gender of participants noted at the top. Here, discussions open with transitional justice before moving on the children's rights.



This memo represents a debate had by two children in a focus group on whether or not children under the age of 18 should have been facilitated to participate in the gacaca courts.



This memo represents thoughts I had about changing the questions asked in focus groups, in response to my perception of whether I was receiving new information from children or whether I needed to push the conversation forward. Several of these were written, in conjunction with my RA Steven Gakuru, when travelling between focus groups.



APPENDIX D

Fieldwork Forms: English and Kinyarwanda

Included in this section are the following documents:

- Consent form for children and parents (in English and Kinyarwanda)
- Participant Information Sheet (in English and Kinyarwanda)
- Data Protection Information Sheet (in English and Kinyarwanda)
- Verbal Consent Script (in English and Kinyarwanda)
- Letter for participating schools (in English and Kinyarwanda)
- Consent form for participating schools (in English and Kinyarwanda)

Consent Form

Statements of understanding/consent

☐ I have read and understand the participant information sheet and other documents for this project. I have had the opportunity to ask the researcher questions (through an interpreter or staff member if necessary) and have had these questions answered **in a way I understand.**

☐ I understand **or** have had it explained to me that my participation is **voluntary** and that I am free to withdraw without having to give any reason. I understand that I can withdraw at **any point up to July 2020**. If I withdraw, I understand that anything I have said will be taken out of the study and will be destroyed.

☐ I understand **how my responses in the focus group will be used** for the purposes detailed in the participant information sheet.

☐ **I agree to take part in this study**.

☐ I agree to have my participation in the focus group **audio recorded** and understand that my consent will be confirmed in all meetings and be recorded. I understand that anything I say will remain **confidential.** I understand that I should not share anything said by others in the group to anyone outside of the group.

☐ I confirm that **those with parental responsibility for me** have been informed about the purpose of the study and my participation within it. I confirm that they fully understand the project and have **given consent for my participation.** I understand that without the signature of my parent or guardian, I cannot take part in the focus group.

Name of participant:_____

Class/Age/Teacher:_____

Name/signature of parent/guardian:

_____

Date: _____

Ifishi yo Kwemera

Inyandiko yo gusonanikrwa/ Kwemera

☐ Nasomye kandi nasobanukiwe amakuru agenewe ugira uruhare murubu bushakashatsi nizindi nyandiko zijyanye nabyo cg umuyobozi waho ntuye yansomeye arananansobanurira. Nagize amahirwe yokubaza umushakashatsi n'umusemuzi ibibazo kandi byasubijwe ndasobanukirwa.

☐ Nsobanukiwe cg nasobanuriwe ko kugira uruhare murubu bushakashatsi ari ubushake kandi nemerewe guhagarika kugira uruhare nta busobanuro cg impamvu ntanze. Nsobanukiwe ko nshobora guhagarika kugira uruhare **kugeza mumpera za Nyakanga 2020.** Mugihe nahagarika kugira uruhare, nsobanukiwe ko ibyo navuze byose bizakurwa mumakuru y'ubushakashatsi kandi ayo makuru agasibwa.

☐ . Nsobanukiwe uburyo ibisubizo byange mu itsinda ry'ibiganiro bizakoreshwa kumpamvu zasobanuwe mu ifishi y'amakuru igenewe ugira uruhare murubu bushakashatsi.

☐ **Nemeye kugira uruhare murubu bushakashatsi.**

☐ Nemeye kugira uruhare mubiganiro by'amatsinda **bizafatwa amajwi** kandi nsobanukiwe ko mugihe cyose hagiye kuba ikiganiro nzajya mbazwa niba nemera ko amajwi afata. Nsobanukiwe ko ibyo nzavuga byose bizagirwa **ibanga.** Nsobanukiwe ko ntemerewe kuganira ibyavugiwe mu itsinda ry'ibiganira n'umuntu utaririmo.

☐ Ndemeza ko abantu bamfiteho inshingano za kibyeyi bamenyeshejwe intego yubu bushakashatsi n'uruhare rwanjye. Ndemeza ko basonanukiwe neza ubushakashatsi bakaba **banyemereye ko ngira uruhare murubu bushakashatsi, bityo bakaba basinye hepfo.** Nsobanukiwe ko nta sinyatire yababyeyi cg abarezi banjye, ntabwo nagira uruhare mubiganiro by'amatsinda.

Amazina/ Umukono w'ubajijwe:

_____

Umwaka w'amashuli/ Imyaka/Umwarimu:

_____

Izina/Umukono w'umubyeyi/umurezi:
_____

Itariki:
_____

Participant information sheet:

Focus Groups with CYP aged 13-18

Title of Research:

'Lost In Transition: Making the case for meaningful child participation in transitional justice.'

What is the project about?

This focus group is contributing to research on how and why children should be given the opportunity to take part ('participate') in transitional justice. I am researching why, even though children under the age of 18 have said that want their voices to be heard (and to participate) in transitional justice, so far this has not happened consistently. I am exploring the reasons behind this, why it is important that children and young people are given the option to participate in transitional justice, and how they can do so in a way that is meaningful to them.

I have chosen to talk to you, as representatives of the children and young people of Rwanda, to find out how you understand participation; what does it mean? Do you think participation it is important? Why/why not? How and where do you see the participation of children and young people reflected in your everyday lives? What do you think about the participation of children and young people in transitional justice, is it important? These are just some of the questions I may be asking you. Your views and opinions are important to me and to my research.

Your views and opinions on participation will be used to develop to a much better understanding of how children and young people can participate in transitional justice in a way that is meaningful to them. As part of my research, I will also be meeting with adults in Rwanda who work in organisations that focus on transitional justice, human and children's rights, development and education. I will be talking to them about what I have learned from you in the focus groups and can even ask them about any questions you have on the participation of children and young people in transitional justice in Rwanda. Your views and opinions will be listened to by some of the highest-ranking state representatives in your country.

What is transitional justice?

Transitional justice takes place as part of a turning point in the history of a country emerging from conflict or, in the case of Rwanda, genocide. Transitional justice has two parts: transition, and justice. Transition refers to the marking of a turning point, a move away from the division and atrocities committed in a country in the past, and towards a vision of peace and unity for the future of a country.

In terms of justice, transitional justice uses specific mechanisms to confront and understand human rights abuses which took place in the past. These mechanisms take many different forms, from criminal courts to truth commissions, reparations programmes, remembrance/commemoration activities and even local justice initiatives. A graphic of what mechanisms exist in transitional justice is listed below:



These mechanisms are based on both the domestic (national) law of the country affected and international law. In placing the needs of affected communities and societies at the heart of the process, transitional justice is concerned with rebuilding trust in communities so that future atrocities are prevented from ever happening again. An important part of transitional justice is giving people and communities in society a platform to participate; to make sure their voices are heard and that their experiences are taken seriously on the local, national and international levels.

Which mechanisms will you be looking at, and why Rwanda?

Rwandan children and young people are taught what caused the Genocide against the Tutsi in Rwanda in 1994. You are taught at school, or through your families and communities. You are taught about the importance of preventing it from happening again. I want to find out what you know about transitional justice, and will be looking at two transitional justice mechanisms in Rwanda: memorialisation (including *Kwibuka* and commemoration) and the *gacaca* court system. As well as finding out what you know about them and how you know about them, I want to ask you what you know about the participation of children and young people in these mechanisms, what you think about this, what you think this participation should look like and why.

Memorialisation takes place in diverse ways (museums, exhibitions or monuments, storytelling, local/traditional justice processes, creating murals, artwork or music). You may have seen many examples of this all around your local communities in Rwanda. Memorialisation recognises the experiences of those who were victims of human rights abuses, but also preserves the memory of what happened in a society in order to prevent such abuses from happening again, educate current and future generations, and bring people together across past divides. I want to explore what you know about how much of a role children and young people have in this process.

Gacaca ('justice among the grass') is a system of local justice with roots in traditional Rwandan culture. Gacaca had around 12,000 community-based courts that tried more than 1 million Rwandan citizens who took part in the Genocide against the Tutsi. Whole communities were invited to take part in this process. Gacaca was designed to promote communal healing and rebuilding. The last gacaca court was held on the 4th May 2012. My research will explore what you know about how much of a role children and young people had in this process.

What will I do in a focus group?

A focus group could last for up to **one hour**, but could be longer if you would like and have the permission of the group. There will be 15mins left over at the end if you want to ask me any questions and to reflect on what has been talked about. However, you can ask me questions on anything that is unclear during the focus group.

I will not be asking you any personal questions or for any of your personal information. I will be asking you questions about your views and opinions on specific topics and themes and what you think about them.

To help me in making sure everything you want to say is listened to and that your opinions and voices are heard, I would like to audio record the focus group. This is not compulsory, and if anyone objects to this I will not do so. I will be taking notes throughout your discussions, but anything you say in the focus group will be confidential and will not be shared with anyone else outside of this room. I will be the only one who has access to recordings of what was said, and your names will not be used either in my writing or in further interviews with adults in later stages of my work.

At the beginning of every focus group I will ask for your verbal consent to participate in the group and that you are happy to proceed. This will be audio recorded even if the focus group discussions are not.

I will also have a friend with me, a research assistant, who is from Rwanda. The research assistant will be taking notes, asking questions and acting as a translator if needed.

You are allowed to withdraw from this focus group and any future focus groups at **any time before the end of July 2020** (now, during the focus group or after the focus group has finished). You can let me, my colleague or a teacher know if you wish to withdraw. However, if you withdraw after July 2020 it will not be possible to remove your participation from the project. If you choose to withdraw from a group, **all** information you have given up to that point is destroyed and will not be used in the study.

SUMMARY

As a researcher, I will be looking at:

- How and why children and young people should participate in transitional justice in a way that is meaningful to them.
- How far the mechanisms of memorialisation and gacaca courts engage/d with the meaningful participation of children, and what you, as children and young people of Rwanda, think about this.
- Finding out what meaningful participation looks like to you, as children and young people of Rwanda, and what this participation should look like in future.

As a member of the focus group, you will be:

- Discussing what participation looks like to you, why you think it is important in your everyday lives and in transitional justice;
- Developing your own ideas on what participation should look like in transitional justice, now and in the future.

Ifishi y'amakuru igenewe ugira uruhare:

Amatsinda Y'ibiganiro yunganira ubushakashatsi (Focus Groups) y'abana n'urubyiruko hagati y'imyaka 13-18

Izina ry'ubushakashatsi:

'Kuburira mu nzibacyuho: Kugaragaza akamaro k'uruhare rw'abana mu ubutabera bwunga,'

Uyu mushinga uribanda kuki?

Iri tsinda ry'ibiganiro ryunganira ubushakashatsi bwerekeye uburyo n'impamvu abana bagomba guhabwa amahirwe yo 'kugira uruhare' mu butabera bwunga. Ndakora ubushakashatsi bugamije kumenya impamvu, nubwo abana bari munsi y'imyaka 18 bavuze ko bashaka ko amajwi yabo yumvwa (kandi ko bashaka kugira uruhare) mu butabera bwunga, kugeza ubu ibyo ntabwo bikorwa kuburyo buhoraho. Ndareba impamvu zibiri inyuma, impamvu ari ingirakamaro ko abana n'urubyiruko bahabwa amahitamo yo kugira uruhare mu butabera bwunga, nuburyo babikora bikagira agaciro kuribo.

Nahisemo kuganira nawe, nkabahagararirye abana n'urubyiruko mu Rwanda, kugirango nsobanukirwe uko muzi kugira uruhare; icyo bisobanuye? Mutekereza ko kugira uruhare bifite akamaro? Kubera iki? Nigute kandi ni hehe mubona abana n'urubyiruko bagira uruhare mu butabera bwunga, bifite akamaro? Ibi nibimwe mubibazo nshobora kuzaba mbabaza. Ibitekerezo byanyu ningirakamaro kurijye no kubushakashatsi bwanjye.

Ibitekerezo byawe mubyerekeye no kugira uruhare bizakoreshwa muguteza imbere imyumvire yimbitse kuburyo abana n'urubyiruko bashobora kugira uruhare mu butabera bwunga muburyo bufite agaciro (igisobanuro) kuribo. Nka kimwe mubice bigize ubushakashatsi bwanjye, nzanahura kandi n'abantu bakuru mu Rwanda bakorera ibigo bifitanye isano n'ubutabera bwunga, uburenganzira bw'abana n'abantu, iterambere n'uburezi. Nzaba nganira nabo kubyerekeye nibyo nzaba namenyeye mu matsinda y'ibiganiro kandi nshobora no kuzababaza bimwe mubibazo mushobora kuba mufite kubyerekeye no kugira uruhare rw'abana n'urubyiruko mu butabera bwunga mu Rwanda. Ibitekerezo byanyu bizategwa amatwi nabamwe mubahagararirye inzego nkuru z'igihugu cyanyu.

Ubutabera bwunga ni iki?

Ubutabera bwunga bubaho mu bihe by'inzibacyuhomumateka y'igihugu, urugero kivuye muri jenoside. Ubutabera bwunga bufite ibice bibiri: inzibacyuho, n'ubutabera. Inzibacyuho bisonanuye igihe igihugu gitera intambwe kiva mubihe byamakuba cyikiyemeza guharanira kugira intego y'amahoro mu gihugu ejo hazaza.

Murwegwo rw'ubutabera, ubutabera bwunga bukoresha ingamba zihariye guhangana no gusobanukirwa ihonyora ry'uburenganzira bwa muntu buba bwarararanze ibihe byahise. Ubwo buryo buba butandukanye, uhereye mu nkiko mpanabyaha kugeza muri komisiyo y'ukuri (ubwiyunge), gahunda zo kwishyura indishyi kubahohotewe, ibikorwa byo Kwibuka hamwe na gahunda z'ubutabera ku nzego zo hasi mubaturage ubwabo. Ishusho mbonera igaragaza ubutabera bwunga ngiyi hasi:



Ubu buryo bushingiye kumategeko y'igihugu nyirizina ndetse n'amategeko mpuzamahanga. Muburyo bwo kugaragaza ibikinerwa nabantu kugiti cyabo ndetse n'amatsinda yihariye yunganira ubushakashatsi (focus groups) muri sosiyete murubwo buryo, ubutabera bwunga burebana nokubaka kwizerana mumiryango rusange kugirango hakumirwe ubwicanyi mubihe bizaza. Kugirango ibyo bikorwe, ubutabera bwunga buha abantu urubuga rwo kugira uruhare mukugeza

Ibyifuzo byabo munzego zibanze, izigihugu ndetse no ku rwego mpuzampahanga, bikumvwa kandi bigahabwa agaciro.

Uzaba wibanda kuzihe gahunda, kubera iki wahisemo U Rwanda?

Abana n'urubyiruko mu Rwanda bigishwa icyateje jenoside yakorewe abatutsi mu Rwanda muri 1994. Ku ishuli cg mu miryango yanyu naho mutuye murigishwa. Mwigishwa akamaro ko gukumira ibyabaye ngo bitazongera ukundi. Ndashaka kumenya ibyo muzi kubyerekeye n'ubutabera bwunga, nzaba nibanda kuri gahunda ebyiri z'ubutabera bwunga mu Rwanda: Kwibuka (hakubiyemo icyunamo) hamwe n'inkiko gacaca. Hamwe no kumenya icyo mubiziho nuburyo mwabimenye, ndashaka kubaza icyo muzi kubyerekeye n'uruhare rw'abana n'urubyiruko murizi gahunda, icyo muzitekerezaho, uko mutekereza ko izi gahunda zakabaye zimeze n'ubusobanuro bwabyo.

Memorialisation takes place in diverse ways (museums, exhibitions or monuments, storytelling, local/traditional justice processes, creating murals, artwork or music). You may have seen many examples of this all around your local communities in Rwanda. Memorialisation recognises the experiences of those who were victims of human rights abuses, but also preserves the memory of what happened in a society in order to prevent such abuses from happening again, educate current and future generations, and bring people together across past divides. I want to explore what you know about how much of a role children and young people have in this process.

Kwibuka bibaho muburyo butandukanye (mu nzu ndangamurage, ahegenewe kumurikira amateka cg ibibumbano, kubara inkuru, ubutabera kunzego zibanze, gukora amashusho, ubugeni cg umuziki). Kwibuka biha umwanya abahohotewe ariko bikanasigasira amateka yibyabaye muri sosiyete kugirango bikumire ihohoterwa nkiryo kongera kuba ukundi, kwigisha abariho ubu n'abazabaho nyuma yabariho, ndetse bituma habaho guhuza abantu batandukanyijwe n'amateka. Ndifuza kumenya icyo uzi kubyerekeye nuko uruhare rw'abana n'urubyiruko rungana murizi gahunda.

Gacaca bikomako ku 'ubutabera bwo murucaca' ni buryo bwahozeho cyera ndetse bufite imizi mu muco w'URwanda. Gacaca yari igizwe n'inkiko zibanze zisaga 12,000 zaciye imanza zirenga miliyoni imwe z'abaturage bagize uruhare muri jenoside yakorewe abatutsi mu Rwanda. Imidugudu yose yari ikanguriwe kugira uruhare muri gacaca. Gacaca yashyizweho kugirango

ifashe komora ibikomere ndetse no gusana imitima. Urukiko gacaca rwagize urubanza rwanyuma itariki 4 Gicurasi 2012.

Nzaba ndeba ubu buryo bwombi butanga urubuga kugirango abana n'urubyiruko bagire uruhare rugaragara ariko byumwihariko kureba icyo abana n'urubyiruko babitekerezaho

Nzakora iki mu matsinda y'ibiganiro?

Itsinda ry'ibiganiro rishobora kumara igihe kingaha **nisaha imwe,** ariko igihe gishobora kwiyongera muramutse mubyifuje kandi bitangiwe uruhushya n'abagize itsinda. Hazabaho iminota 15 izateganywa kugirango haramutse hari ibibazo byo kumbabaza no gutekereza kubyaganiriwe. Uretse ko nubundi, ushobora kumbaza ibibazo ibyo aribyobyose mugihe cy'ibiganiro mu matsinda.

Ntabwo nzaba mbaza abana ibibazo byerekeye n'ubuzima bwabo bwite cg amakuru y'ubuzima bwite. Nzaba mbaza ibibazo bigamije kumenya ibitekerezo byanyu kubintu bitandukanye.

Kugirango mumfashe mbashe kwizera ko nabashije kumva ibyo mwashakaga kuvuga byose no kumenya neza ko ibitekerezo n'amajwi yanyu yose yumvishwe, nzifuza gufata amajwi y'ibiganiro. Ibi ntabwo ari itegeko, kandi hagize utabishaka ntabwo nzabikora. Nzaba nandika ibivugwa byose ariko ibyo muzaganira byose mu itsinda bizagirwa ibanga kandi ntabwo bizasangizwa undi muntu utari mu itsinda. Nijye gusa uzaba wemerewe kugera kuri ayo majwi y'ibyavuzwe, kandi amazina yanyu ntabwo azakoreshwa yaba mu nyandiko zanjye cg mubindi biganiro nzagirana nabantu bakuru nyuma igihe cyose nzaba nkora ubu bushakashatsi.

Mu gutangira buri tsinda nzaza mbaza gusaba uruhushya rwo kuganira n'abana kugira uruhare mu itsinda, kandi ndebe niba bishimiye gukomeza. Nzafata amajwi y'abana bemera kugira uruhare mu ikiganiro, kabone nubwo ikiganiro cyose baba batagitangiye uruhushya rwo gufata amajwi.

Nzaba kandi ndikumwe n'inshuti yange, uzaba umfasha mubushakashatsi, ukomoka mu Rwanda. Uyu mufasha mubushakashatsi azaba yandika ibivugwa, abaza ibibazo, akora nkumusemuzi mugihe bibaye ngombwa.

Wemerewe kurekera kugira uruhare mu biganiro by'amatsinda n'ibindi biganiro bizakurikiraho **igihe icyo aricyo cyose mbere y'impera za Nyakanga 2020** (ubu, muricyi kiganiro cg nyuma yacyo). Wamenyesha, cg ukamenyesha mugenzi wanjye, cg umwarimu ko wifuza kurekera kugira uruhare muricyi kiganiro. Ariko, uramutse ushatse kurekera kugira uruhare mu biganiro nyuma ya Nyakanga 2020 ntabwo byakunda ko urekera kugira uruhare muruyu mushinga w'ubushakashatsi. Uramutse ushatse kurekera kugira uruhare mubiganiro by'amatsinda, amakuru **yose** wampaye kugeza igihe urekereye ahita asibwa kandi ntabwo akoreshwa mubushakashatsi.

INSHAMAKE

Nk'umushakashatsi, nzaba nibanda kuribi bikurikira:

- Uburyo n'impambu abana n'urubyiruko bagomba kugira uruhare m'ubutabera bwunga kuburyo bigira igisobanuro kuribo.
- Kureba ikigero gahunda za gacaca no Kwibuka zitabirwa n'abana, ndetse no kureba uburyo uruhare rwanyu nk'abana n'urubyiruko bibagirira akamaro, nicyo mubitekerezaho.
- Kureba icyo mwebwe nk'abana n'urubyiruko mubona nkuburyo bwiza bwo kugira uruhare murizi gahunda, nuko mwumva uruhare rwamera mubihe bizaza..

Nkumwe mubagize itsinda ry'ibiganiro, uzaba:

- Uganira icyo kugira uruhare byakabaye bimera kuri wowe, impamvu utekereza ko ari ingirakamaro mubuzima bwa buri munsi no m'ubutabera bwunga;
- Guteza imbere ibitekerezo byawe kubyerekeye nuko kugira uruhare byakabaye bimera m'ubutabera bwunga, uyu munsi n'ejo hazaza.

Protecting information you share in focus groups.

What is personal data?

All of us have our own information (data) which we can choose to share (or not) with others. This can be your name, home address, telephone number and where you go to school, for example. However, personal information can also include things such as your views and opinions on something, experiences that have happened in your life, photographs or digital images of yourself, videos, etc. All of this information is known as your personal data, and you have the choice – and the right - to say who you want to share it with, how you choose to share information and who you *don't* want to share information with. You also have the right to tell the person or organisation you share your information with how they should or should not use your information.

What information about me will you need?

I am a researcher from the University of Birmingham in the United Kingdom. I will be asking you, along with other children and young people between 13-18 at different schools in Rwanda, to share your views and opinions on various topics in a group setting with other young people. To carry out my research, I will need to collect this information – data – from you.

Do I have to take part in a focus group?

You do not have to take part in this study or in a focus group. If you do choose to take part, but later feel you do not want to take part anymore, you can withdraw from the group and refuse to share further views and opinions. You can do this **at any time up until the end of July 2020**; you have the right to do this. If you withdraw, all the information you have given me as part of a focus group will be destroyed and will not be used in the study.

You should understand that anything you say will remain **confidential** and understand that you **should not share** anything said by others in the group to anyone outside of the group.

How is what I say in the focus group and the information I share with you protected?

Laws exist to protect you, your data and how I can use any data you share in the group. Under Data Protection Law, you must be provided with very specific information about what I will do with any data you share, and about your rights when you share your personal information. If you do not understand your rights, you have the right to ask me as many questions as you like until you do understand.

You have been given a 'Participant Information Sheet.' This sets out how we will collect and use your data to conduct the research project, and why we need the information you share with me. The legal basis under

Data Protection law for gathering and using your information in the focus groups is that it is necessary for our research, which is in the public interest.

Only I will have access to your data, and it will be kept on an encrypted (protected) USB drive and on the university servers. At no time will your data be kept on any other servers either in the UK or in Rwanda (or elsewhere).

I will **not** share any information, views or opinions you give in the focus groups with anyone else. This includes your teachers, the organisations I work with, or your parents/caregivers.

What will the University of Birmingham do with my information?

My University has its own processes of how personal data is stored and accessed, now and in the future. The University is what is known as the **data controller** and has very specific responsibilities under data protection law**.** The University takes special care to make sure that your information is handled, stored and disposed of safely and securely.

Your data will be retained for **10 years after it is published as part of my research**.

What rights do I have when sharing information with you in a focus group?

You have clear and specific rights when it comes to the information you share in focus groups. These rights do not end once the focus group is over or when the research is completed but are given a limit according to the duration of the project and rules of the data controller (the University).

Your rights are:

- The right to **access** your data;
- The right to **point out and change data** which you feel has been presented incorrectly;
- The right to **delete or destroy** your data (in certain circumstances);
- The right to **limit processing** of your data (in certain circumstances);
- The right to **object or refuse permission** to process your data (in certain circumstances).

What if I have more questions?

If you have any general questions you would like to ask me, please email me at [email supplied], or ask someone with parental responsibility or a teacher to get in touch with me or my colleagues at Never Again Rwanda (NAR), in Kigali.

If you would like more information on your rights or if you have any questions on how we will use or process the information shared in the focus group, please contact:

The Information Compliance Manager, Legal Services, The University of Birmingham, Edgbaston, Birmingham B15 2TT

Email: dataprotection@contacts.bham.ac.uk Telephone: +44 (0)121 414 3916

If you wish to make a complaint about how your data is being or has been processed, please contact our Data Protection Officer.

Mrs Carolyn Pike, OBE, The Data Protection Officer, Legal Services, The University of Birmingham, Edgbaston, Birmingham B15 2TT

Email: dataprotection@contacts.bham.ac.uk Telephone: +44 (0)121 414 3916

You also have a right to complain to the Information Commissioner's Office (ICO) in the United Kingdom about the way in which we process your personal data. You can make a complaint using the ICO's website (https://ico.org.uk/).

Kurinda amakuru mutanga mu biganiro by'amatsinda yunganira ubushakashatsi (Focus Groups)

Amakuru y'umuntu ni iki?

Twese dufite amakuru yacu dushobora guhitamo gusangiza abandi bantu cg ntitugire uwo tuyasangiza. Ayo makuru ashobora kuba izina ryawe, amakuru yaho utuye, numero ya telefoni yawe, aho wiga, izo zose ningero. Ariko nanone amakuru ashobora kuba ibitekerezo byawe kukintu runaka, ibyakubayeho mubuzima bwawe, amafoto, amashusho ya digitali, amashusho agenda (videos), nibindi. Ayo makuru yose yitwa amakuru bwite, kandi ufite amahitamo – nuburenganzira – kuvuga uwo ushaka kuyasangiza, uburyo ushaka kuyasangiza abanda nuwo *udashaka* kuyasangiza. Ufite kandi uburenganzira kubwira umuntu cg ikigo usangije amakuru yawe, uburyo bagomba cg batagomba gukoresha amakuru yawe.

Ni makuru ki kuri jye ushaka kumenya?

Ndi umushakashatsi uturuka muri Kaminuza ya Birmingham m'UBwongera. Nzaba mbasaba wowe nabandi bana bari hagati yimyaka 13-18 mu mashuli atandukanye mu Rwanda kunsangiza ibitekerezo byanyu kubyerekeye ibintu bitandukanye mu matsinda arimo urundi rubyiruko. Kugirango nkore ubushakashatsi bwange, bizansaba gukusanya aya makuru aturutse muri mwebwe.

Ese ngomba kugira uruhare mu biganiro byo mu matsinda?

Ntabwo ugomba kugira uruhare murubu bushakashatsi cg mu biganiro by'amatsinda yaho utuye. Uramutse ushatse kugira uruhare, ariko nyuma ukumva utagishaka kugira uruhare, ushobora kurekera gusangiza ibitekerezo byawe. Ushobora kurekera igihe icyo cyose **kugera mumpera za Nyakanga 2020;** ufite uburenganzira bwo kubikora. Uramutse ubikoze, amakuru yose watanze ahita asibwa kandi ntabwo yakoreshwa mubushakashatsi.

Ni gute ibyo mvuga mu itsinda ry'ibiganiro n'amakuru nkuha arindwa?

Amategeko ariho kukurinda wowe, amakuru yawe n'uburyo nakoresha amakuru usangiza itsinda. Amategeko yo kurinda amakuru, ateganya ko nkuha amakuru yose ajyanye nuko nzakoresha amakuru utanga, ndetse nuburenganzira ugira iyo utanze amakuru yawe, uyampaye cg uyasangije itsinda.

Wahawe 'ifishi y'amakuru y'umuntu ugira uruhare mu kiganiro.' Iyo fishi igaragaza uko tuzakusanya tukanakoresha amakuru yawe kugirango dukore ubushakashatsi, ni intego yogukoresha amakuru umpereza. Icyo amategeko ajyanye no kurinda amakuru, ateganya kubyerekeye no gukusanya no gukoresha amakuru yawe mu itsinda ry'ibiganiro, nuko ari ingenzi kubushakashatsi buri munyungu rusange.

Bijyanye nuyu mushinga, **nijye gusa uzagira uburenganzira bwo kugera ku makuru muzaba mwampaye kandi azabikwa muburyo bisaba ijambo ry'ibanga kugirango uyagereho kubibuko**

<u>bwamudasobwa za Kaminuza. Nta gihe amakuru yawe azabikwa kubundi bubiko bwa mudasobwa yaba m'UBwongereza cg m'URwanda cg ahandi ahariho hose.</u>

Amakuru, ibitekerezo byose uzatanga mu biganiro by'amatsinda azagirwa **ibanga. Ntabwo** nzigera nsangiza amakuru n'ibitekerezo uzatanga mu matsinda n'ibigo nkorana nabyo, ababyeyi/abakwitaho cg nundi muntu uwo ariwe wese. Amakuru, ibitekerezo bizatangwa bizashyirwa muri raporo y'umushinga yanyuma ariko **<u>ntabwo</u>** hari umuntu wabasha kumenya uwatanze ibitekerezo cg amakuru mu matsinda y'ibiganiro.

Abagize amatsinda y'ibiganiro bakangurirwa **<u>kutagira uwo babwira utari mu itsinda</u>** amakuru n'ibitekerezo biba byavugiwe mumatsinda.

Ni iki Kaminuza ya Birmingham izakoresha amakuru yange?

Kaminuza yange ifite uburyo bwayo kubyerekeye nuko amakuru abikwa nuko agerwaho, ubu n'ejo hazaza. Kaminuza niyo izwi **nkumugenzuzi w'amakuru** kandi ifite inshingano zihariye nkuko amategeko yo kurinda amakuru abiteganya. Kaminuza ikoresha ubushishozi mu kwita kumakuru yawe nuburyo abitse mumatekano uhanitse ndetse nuburyo agaragazwamo.

Amakuru yawe azabikwa mu gihe **<u>kingana nimyaka 10 nyuma yuko nshyize ubushakashatsi hanze.</u>**

Mfite uburenganzira buhe nkumwe mutanga amakuru mu itsinda ry'ibiganiro?

Ufite uburenganzira busesuye kubijyanye n'amakuru udusangiza mu biganiro by'amatsinda. Ubwo burenganzira ntabwo burangirira mu biganiro by'amatsinda cg nigihe ubushakashatsi buzaba burangijwe gukorwa ahubwo buzamara igihe cyose umushinga uzamara bijyanye n'amabwiriza agena ubugenzuzi bw'amakuru (Kaminuza).

Uburenganzira bwawe n'ubu bukurikira:

- Uburenganzira bwo **kugera** ku makuru yawe;
- Uburenganzira bwo **kugaragaza no guhindura** amakuru yatanzwe muburyo butaribwo;
- Uburenganzira bwo **gusiba cg kwangiza** amakuru yawe (mubihe bimwe);
- Uburenganzira bwo **kugena ikigero** cy'amakuru asesengurwa (mubihe bimwe);
- Uburenganzira bwo **kwanga cg kubuza** ko amakuru yawe akoreshwa (mubihe bimwe).

Ndamutse mfite ibindi bibazo?

Mugihe waba ufite ibibazo rusange ushaka kumbaza, wanyandikira, kuri emiyiri [email supplied], cg wabaza umuntu ufite inshingano za kibyeyi cg umurezi ushobora kungezaho ubutumwa cg kuri mugenzi wanjye mu Rwanda ukorera ikigo Never Again Rwanda (NAR), Kigali.

Uramutse ushatse amakuru yandi arenze aya kubyerekeye uburenganzira bwawe cg ufite ibibazo byerekeye uburyo tuzakoresha amakuru dukura mu biganiro bibera mumatsinda, wakwandikira:

Umuyobozo w'ishami rishinzwe Kubahiriza Amakuru, Muri Serivisi y'Amategeko, Kaminuza ya Birmingham, Edgbaston, Birmingham B15 2TT

Emiyiri: dataprotection@contacts.bham.ac.uk Telefoni: +44 (0)121 414 3916

Niba wifuza kugaragaza ko utishimiye uburyo amakuru akoreshwa, wakwandikira umukozi wacu ushinzwe Kurinda Amakuru.

Madamu Carolyn Pike, OBE, Umuyobozi ushinzwe Kurinda Amakuru, Serivisi y'Amategeko, Kaminuza ya Birmingham, Edgbaston, Birmingham B15 2TT

Emiyiri: dataprotection@contacts.bham.ac.uk Telefoni: +44 (0)121 414 3916

Ufite kandi uburenganzira bwo kugaragaza ko utishimiye Biro ya Komiseri Ushinzwe Amakuru m'UBwongereza kubyerekeye nuburyo amakuru yawe bwite yakoreshejwe. Ushobora kubikora ukoresheje uru rubuga (https://ico.org.uk/).

VERBAL CONSENT SCRIPT – for benefit of audio recording

TO BE READ OUT AT BEGINNING OF EACH FOCUS GROUP WITH CYP IN SCHOOLS (13-18)

Thank you for volunteering to take part in this focus group.

This focus group will last for up to **one hour** but can go on for longer if there is time, and with the permission of the group. There will be 15mins left over at the end if you want to ask me any questions and to reflect on what has been discussed. However, you can ask me questions on anything that is unclear at any time during the focus group, using the interpreter to help you if needed.

To help me in making sure everything you want to say is listened to and that your opinions and voices are heard, I would like to audio record this focus group. This is not compulsory, and if anyone objects to this I will not do so. I will be taking my own notes throughout your discussions. I will be the only one who has access to recordings of what was said, and your names will not be used either in my writing or in further interviews with adults in later stages of my work.

Anything said in the focus group will be confidential and will not be shared with anyone outside of this room. I will not share any information, views or opinions you give in the focus groups with the organisations I work with, your parents/caregivers, or any other person. You should not share anything said by others in the group to anyone outside of the group.

You can withdraw from this focus group and any future focus groups at any time before the end of July 2020 (now, during the focus group or after the focus group has finished). However, after July 2020 it will not be possible to withdraw you from the project.

Anything you say will be confidential. I will not be asking you any personal questions or for any personal information. I will be asking you to discuss various questions, words and topics amongst the group, and I will be taking notes at the same time on how you interpret these questions, words and topics.

Finally, you are not obligated to take part in this focus group and should not feel pressured into doing so by anyone. Any participation should be voluntary, and the choice to take part should be made by you alone.

Please indicate that you consent to participate in this focus group today and that you are happy to proceed with audio recording your participation in the focus group.

INYANDIKO YO GUSABA UBURENGANZIRA- ubusabe bwo gufata amajwi

IGOMBA GUSOMERWA ABAGIZE ITSINDA RYUNGANIRA UBUSHAKASHATSI (FOCUS GROUP) MBERE YO GUTANGIRA KUGANIRA NO MUMATSINDA Y'IBIGANIRO Y'ABANA N'URUBYIRUKO MU BIGO BY'AMASHULI (13-18)

Murakoze kwemera kugira uruhare muribi biganiro by'amatsinda.

Ibi biganiro by'itsinda biramara igihe kingana nisaha imwe, hanyuma dusige iminota 15 kugirango niba hari ufite ibibazo byo kumbaza abone umwanya ndetse no gutekereza kubyo turibube tumaze kuganira. Mubishatse kandi tubiherewe uruhushya twafata igihe kirenze icyateganyijwe. Ariko mushobora no kumbaza ibibazo hagati mu kiganiro hagize icyo mudasobanukiwe mugihe muribube muri mu matsinda y'ibiganiro, ndetse ndanifashisha umusemuzi kubafasha mugihe bibaye ngombwa.

Kugirango mumfashe mbashe kwizera ko nabashije kumva ibyo mwashakaga kuvuga byose no kumenya neza ko ibitekerezo n'amajwi yanyu yose yumvishwe, nzifuza gufata amajwi y'ibiganiro. Ibi ntabwo ari itegeko, kandi hagize utabishaka ntabwo nzabikora. Nzaba nandika ibivugwa byose ariko ibyo muzaganira byose mu itsinda bizagirwa ibanga kandi ntabwo bizasangizwa undi muntu utari mu itsinda. Nijye gusa uzaba wemerewe kugera kuri ayo majwi y'ibyavuzwe, kandi amazina yanyu ntabwo azakoreshwa yaba mu nyandiko zanjye cg mubindi biganiro nzagirana nabantu bakuru nyuma igihe cyose nzaba nkora ubu bushakashatsi.

Wemerewe kurekera kugira uruhare mu biganiro by'amatsinda n'ibindi biganiro bizakurikiraho igihe icyo aricyo cyose mbere y'impera za Nyakanga 2020 (ubu, muricyi kiganiro cg nyuma yacyo). Wamenyesha, cg ukamenyesha mugenzi wanjye, cg umwarimu ko wifuza kurekera kugira uruhare muricyi kiganiro. Ariko, uramutse ushatse kurekera kugira uruhare mu biganiro nyuma ya Nyakanga 2020 ntabwo byakunda ko urekera kugira uruhare muruyu mushinga w'ubushakashatsi

Ntabwo ndibube mbaza ibibazo Ntabwo nzaba mbaza abana ibibazo byerekeye n'ubuzima bwabo bwite cg amakuru y'ubuzima bwite. Ndabasaba kuganira kubibazo (questions) bitandukanye, amagambo, ndetse nibintu byuzima bwa buri munsi, mu matsinda yanyu, kandi ndaba nandika

ibivugwa byerekeye nuko mwisobanurira ibi bibazo (questions) amagambo nibindi bijyanye nibi biganiro.

Amakuru, ibitekerezo byose uzatanga mu biganiro by'amatsinda azagirwa **ibanga. Ntabwo** nzigera nsangiza amakuru n'ibitekerezo uzatanga mu matsinda n'ibigo nkorana nabyo, ababyeyi/abakwitaho cg nundi muntu uwo ariwe wese. Namwe ntabwo mwemerewe kuganira ibyaganiriwe hano, amakuru, ibitekerezo byanyu hanze yiri tsinda.

Icyanyuma, ntabwo mutegetswe kugira uruhare muri iki kiganiro uyu munsi kandi mutuvumva muhatiwe kubikora nuwo ariwe wese. Kugira uruhare bigomba kuba ubukorerabushake, kandi amahitamo yo kugira uruhare muri iki kiganiro agomba kuba ari ayawe gusa.

Nyamuneka, urasabwa kwemeza ko wemeye ntagahato kugira uruhare muri ibi biganiro by'amatsinda uyu munsi kandi ko wishimiye ko amajwi afatwa mugihe ugira uruhare mu biganiro by'itsinda.

Jeannette Rodgers

International Development Department, University of Birmingham

[contact details supplied]

To Whom It May Concern,

I am a PhD student in International Development at the University of Birmingham in the UK. I will be visiting Rwanda to conduct fieldwork research with children and young people between 13-18 years of age, alongside the Institute of Research and Dialogue for Peace (IRDP) and Never Again Rwanda (NAR). I am writing to request that I be permitted to undertake research with children and young people from your school.

My project looks at how the different experiences of children and young people can make the case for their participation in something known as 'transitional justice'. Numerous studies have shown that children have a strong desire to be heard in the processes of transitional justice; despite this, policy and practice has failed to engage consistently with contributions from children under the age of 18. My project will explore how, and why, this is and whether a case for the meaningful participation of children in transitional justice should be built on 'participation rights' of children set out in the United Nations Convention on the Rights of the Child (UNCRC).

With your permission, I would like to hold focus groups with children from your setting, between the ages of 13-18. I hope to examine how children and young people define participation and what impact this has (or should have) on the relationship between participation and transitional justice. I am interested in finding out what children and young people know about transitional justice (specifically the mechanisms of memorialisation (including Kwibuka) and the *gacaca* courts), where they get this knowledge from, what they know about the participation of children and young people in these mechanisms, what they think about this, and what they think this participation should look like in the future and why.

<u>As a member of the focus group, children from your setting will be:</u>

- Discussing what participation looks like to them, why they think it is important in their everyday lives and in transitional justice;
- Developing their own ideas on what participation should look like in transitional justice, now and in the future.

<u>As a researcher, I will be asking</u>:

- How and why children and young people should participate in transitional justice in a way that is meaningful to them.

- How far the mechanisms of memorialisation and gacaca courts engage/d with the meaningful participation of children, and what children and young people of Rwanda, as represented by your setting, think about this.
- Finding out what meaningful participation looks like to them, as children and young people of Rwanda, and what they feel this participation should look like in future.

Through the active contribution of children and young people in your setting, I hope to present a view of Rwanda as a country which contributes to building a culture of respect for human rights, particularly the rights of the child. I would like to showcase the proactive steps that Rwanda has taken to recover from the genocide, and in particular, how the participation of children has contributed to this. In doing so I hope to present the efforts of Rwanda as truly representative of the 'never again' purpose of transitional justice.

I have enclosed a consent form for your school setting; should you grant me permission to hold focus groups with children and young people from your setting, please sign, date and stamp the form. If you have any questions, please do not hesitate to contact me directly through any of the methods below. Alternatively, please contact Dr. Joseph Ryarasa Nkurunziza at Never Again Rwanda.

Thank you for giving me this opportunity to introduce you to my research. I hope this assists you in your consideration to allow me to work with children and young people in your school.

Murakoze,

Jeannette F. Rodgers

AHRC/Midlands 3 Cities Doctoral Researcher (interdisciplinary)

International Development, University of Birmingham

Jeannette Rodgers

International Development Department, University of Birmingham

[contact details supplied]

Bwana/ Madamu muyobozi,

Ndi umunyeshuri wa dokitora mushami ryekeye iterambere mpuzamahanga kuri Kaminuza ya Birminghan mu Bwongereza. Nzasura u Rwanda gukora ubushakashatsi ku bana bari hagati yimyaka 13-18, mfatanyije n'ibigo, aribyo; Institute of Research and Dialogue for Peace (IRDP) and Never Again Rwanda (NAR). Nanditse nsaba ko nakwemererwa kuganira n'abana ndetse n'urubyiruko mu ishuri mubereye abayobozi mu rwego rwubu bushakashatsi.

Umushinga wanjye w'ubushakashatsi uribanda mukugusobanukirwa uburyo butandukanye abana n'urubyiruko bashobora kugira uruhare mubyitwa "ubutabera mubihe by'inzibacyuho (transitional Justice)" Ubushakashatsi butandukanye bwakozwe bugaragaza ko abana bafite ubushake bukomeye bwo kumvwa mugihe cy'ubutabera bwunga "Transitional Justice" ariko ukuri nuko byagiye bigorana ko abana bari munsi y'imyaka 18 bagira uruhare muribyo bikorwa. Ubushakashatsi bwanjye bukaba bwibanda mukumenya impamvu nuburyo guha abana urubuga rwo kugira uruhare mu butabera bwunga nkuko biteganywa na Amesezerano y'Umuryango W'abibumbye K'uburenganzira bw'abana (UNCRC), by'umwihariko ku ihame ryo "Uburenganzira bwo kugira uruhare".

Mubimereye uruhushya, ndifuza kugira ibiganiro by'amatsinda y'ibiganiro yunganira ubushakashatsi (focus groups) n'abana mubereye abarezi bari hagati y'imyaka 13-18. Ndifuza kumenya uko abana n'urubyiruko basobanura "kugira uruhare" nakamaro bifite (cg byakagize) ndetse n'isano hagati yo kugira uruhare n'ubutabera bwunga (by'umwihariko gahunda yo Kwibuka n'inkiko gacaca), isano y'ubumenyi, icyo bazi bijyanye n'uruhare rw'abana n'urubyiruko murizi gahunda, icyo babitekerezaho, uko batekerezako uru ruhare rwazamera mubihe bizaza n'impamvu yabyo.

<u>Nkumwe mubazagira uruhare mu biganiro by'amatsinda y'ibiganiro yunganira ubushakashatsi (focus groups), abana mubereye abarezi bazaba:</u>

- Baganira uko uruhare rusa kuribo, n'impamvu batekereza ko kugira uruhare mu butabera bwunga "Transitional Justice" bifite akamaro m'ubuzima bwabo bwa buri munsi;

- Gutanga ibitekerezo byabo byerekeye uko bumva ubutabera bwunga bwakabaye bumera, uyumunsi, no mubihe bizaza;

Nkumushakashatsi, nzaba mbaza ibibazo bikurikira:

- Ni ukubera iki kandi ni gute abana n'urubyiruko bagira uruhare mu butabera bwunga muburyo bufite igisobanuro kuribo.

- Abana n'urubyiruko bagize/ bagira uruhare rungana iki muri gahunda yo Kwibuka n'inkiko gacaca mu Rwanda, nk'abahagarariye bagenzi banyu, mubitekerezeho.

- Kumenya uko kugira uruhare bifite igisobanuro kizima bisa imbere y'abana n'urubyiruko mu Rwanda, hamwe no kumenya uko babona uruhare rwabo rwamera mubihe bizaza.

Binyuze mubiganiro abana n'urubyiruko bazagiramo uruhare, bizamfasha kugaragaza ishusho y'URwanda nk'igihugu kigira uruhare mukubaka umuco wo kubaha uburenganzira bwa muntu, byumwihariko, ndifuza kwerekana intambwe zidasanzwe U Rwanda rwateye mu kwiyubaka nyuma ya jenoside, ariko byumwihariko kwerekana uko abana bagize uruhare muribyo bikorwa byo kwiyubaka. Bityo, ndibwira ko bizagaragaza imbaraga z'URwanda mu kwimikaza ihame rya "Ntibizongere ukundi" nki ntego y'ubutabera bwunga.

Kumugereka wuru rwandiko nshyizeho inyandiko isaba uberengazira bwo kuganira n'itsinda ry'ibiganiro (focus group) mubereye abarezi, muramutse mubyemeye ko ngirana ikiganiro n'abana n'urubyiruko mubereye abarezi, murasinya, mwandike itari ndetse mutere kasha kuriyo nyandiko. Mufite ibibazo mwanyandikira mwamagara cg mukanyikira mukoresheje amakuru y'itumanahaho yanditse hasi. Ubundi buryo, mwanavugana Dr. Joseph Ryarasa Nkurunziza uyobora Never Again Rwanda.

Murakoze cyane kumpa amahirwe kugirango nsobanure munshamake ubushakashatsi bwanjye. Nizereko amakuru ntanze agize akamaro ko mugihe ufata icyemezo cyo kunyemerera gukorana n'abana ndetse n'urubyiruko mubereye abarezi mu ishuli ryanyu.

Murakoze,

Jeannette F. Rodgers

AHRC/Midlands 3 Cities Doctoral Researcher (interdisciplinary)

International Development, University of Birmingham

FAO: Jeannette Rodgers
Doctoral Researcher
University of Birmingham
[contact details supplied]

RE: Consent to conduct focus groups with children and young people from your school setting

I understand that children and young people from our school setting have been chosen to work in focus groups for the purposes of the research.

Initial:

I understand that the researcher will be working with Never Again Rwanda, based in Kigali.

Initial:

I have read and understand the participant information sheet and other documents for this project. I have had the opportunity to ask the researcher questions (through NAR if necessary) prior to the researcher's arrival at the school and have had these questions answered to my satisfaction before signing this consent form.

Initial:

I understand that focus groups can take place inside or outside of the school setting. If outside of the school setting, I understand that the focus groups will take place in the school, and that refreshments will be provided to the participants for this purpose.

Initial:

I understand that children and young people from our school setting will choose for themselves whether they would like to participate in focus groups. They have the right to refuse, and they have a right to withdraw from focus groups at any time up until the end of July 2020. Should any child withdraw, all information provided by them will be destroyed by the researcher.

Initial:

I understand that focus groups may be audio recorded, with consent obtained from the children and young people at each session. I further understand that notes will be taken by the researcher at each session.

Initial:

I understand that no personal data of any child or young person will be stored or used in any phase of the project.

Initial:

I understand that findings from the focus groups conducted with children and young people from our school setting will be published in a PhD thesis. One copy will remain at the University of Birmingham in

the UK, and two copies will be stored in Rwanda (one with NAR, and the other with the NCST). If possible, a child-friendly report will also be produced, using data collected from focus groups, and will be sent to you through NAR.

Initial:

Please see this letter as our explicit consent for you to engage with our children and young people between 13-18 years of age in focus groups.

FULL NAME:

JOB TITLE:

SCHOOL NAME:

SCHOOL ADDRESS:

OFFICIAL STAMP OF THE SCHOOL:

DATE:

FAO: Jeannette Rodgers
Umushakashatsi wiga icyiciro cya dokitora
Kaminuza ya Birmingham
[contact details supplied]

<u>Impamvu: Kwemera kugira uruhare mukiganiro nkitsinda ry'abana n'urubyiruko ruri mu ishuri ryacu</u>

Nsobanukiwe ko abana n'urubyiruko biga mu ishuri ryacu bahiswhemo kugira uruhare mubiganiro byo mumatsinda murwego rwubushakashatsi.

Inyuguti zibanza kumazina yombi:

Nsobanukiwe ko umushakashatsi azaba akorana ndetse anashyigikiwe nimiryango ibiri mu Rwanda, <u>Never Again Rwanda</u>, yombi ifite ibyicaro i Kigali.

Inyuguti zibanza kumazina yombi:

Nasomye kandi nasobanukiwe ibivugwa munyandiko zose zijyanye nubu bushakashatsi. Nagize igihe cyo kubaza ibibazo umushakashatsi (NAR mugihe bibaye ngombwa) mbere yuko umushakashatsi agera ku ishuri, kandi ibbazo nabajije byarasubijwe kukigero gishimishije mbere yo gusinya kuri uru rupapuro.

Inyuguti zibanza kumazina yombi:

Nsobanukiwe ko ibiganiro mumatsinda y'ibiganiro(focus groups) bishobora kubera ku ishuri cg hanze y'ishuri. Bibereye hanze y'ishuri, nsobanukiwe ko icyo gihe yaba ari kuri biro kandi icyo gihe amafaranga y'urugendo ndetse n'amafunguro azahabwa abagize uruhare mukiganiro kurizo mpamvu.

Inyuguti zibanza kumazina yombi:

Nsobanukiwe ko abana n'urubyiruko biga ku ishuri ryacu bazihitiramo niba bashaka kugira uruhare muribi biganiro byamatsinda y'ibiganiro yunganira ubushakashatsi **(focus groups). Bafite kandi uburenganzira bwo kwanga kugira uruhare mukiganiro, banafite kandi uburenganzira bwo guhagarika ubushake bwo kugira uruhare mukiganiro cyatangiye <u>igihe icyo aricyo cyose kugeza kumpera za Nyakanga 2020.</u> Mu gihe hagize umwana uhitamo kugira uruhare mu kiganiro, amakuru yose yatanze azahita yangizwa n'umushakashatsi.**

Inyuguti zibanza kumazina yombi:

Nsobanukiwe ko amatsinda y'ibiganiro yunganira ubushakashatsi **(focus groups), ashobora gufatwa amajwi, mugihe abana n'urubyiruko rugize iri tsinda ribitangiye uburenganzira muri buri kiganiro.**

Nsobanukiwe kandi ko umushakashatsi azandikwa ibivugirwa mukiganiro igihe cyose ikiganiro kirimo kuba.

Inyuguti zibanza kumazina yombi:

Nsobanukiwe ko ntamakuru bwite y'umwana cg urubyiruko azabikwa cg azakoreshwa igihe icyo aricyo cyose cy'ubushakashatsi.

Inyuguti zibanza kumazina yombi:

Nsobanukiwe ko ibyo umushakashatsi azavumbura biturutse mubiganiro byaya matsinda y'ibiganiro (focus groups), bizandikwa mu gitabo cyandikwa kugirango umunyeshuri abone icyicyiro cya kane cya kaminuza (PhD). Kopi imwe izaguma kuri Kaminuza ya Birmingham mu Bwongereza, kopi eshatu zizabikwa mu Rwanda (imwe izahabwa IRDP, indi ihabwe NAR, iyagatatu ihabwe NCST). Indi raporo inogeye abana izasohoka, nkumusaruro w'ibiganiro byo mumatsinda y'ibiganiro (focus groups), hanyuma yohererejwe NAR.

Inyuguti zibanza kumazina yombi:

Iyi nyandiko igamije gutanga uburenganzira bwo kuganira nabana bacu bari hagati y'imyaka 13-18 nubiganiro by'amatsinda y'ibiganiro yunganira ubushakashatsi (focus groups).

AMAZINA YOMBI:

AKAZI/TITTLE:

IZINA RY'ISHURI:

AHO ISHULI RIHERERE YE:

KASHI Y'ISHURI:

ITARIKI