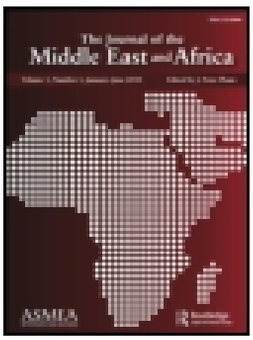

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Do Truth and Reconciliation Committees Improve Human Rights? Evidence From Africa

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ABSTRACT

This article examines the impact of truth and reconciliation committees (TRCs) on human rights in Africa. It examines the effects of fifteen different TRCs from 1984–2014, and fills a gap in the existent literature by developing measures to assess the strength of each TRC. Many African TRCs are quite weak. Nevertheless, the study does not find that stronger TRCs are more successful in terms of human rights outcomes. While not dismissing the value of TRCs, this work discusses limitations of quantitative studies on their impact.

KEYWORDS

Africa; human rights; post-conflict societies; transitional justice; truth and reconciliation committees

Introduction

Since the early 1990s, there has been proliferation in the use of truth and reconciliation committees (TRCs), designed to promote transitional justice by addressing past crimes and abuses and to prevent the reoccurrence of the latter in the future. This phenomenon is particularly notable in Africa, where the South African Truth and Reconciliation Commission, established in 1995, captured global attention and became a paradigmatic case for how a TRC might function to provide an account of a tragic and violent past and offer society a path forward. By the authors' count, since 1995 there have been fifteen TRCs (as well as numerous other transitional justice mechanisms) in Africa, with most, but not all, in states transitioning from authoritarianism to a more open, competitive political system.[1]

Despite their popularity and endorsement by international actors such as the United Nations (UN) and the International Center for Transitional Justice (ICTJ), it is difficult to judge if TRCs live up to all of their promise. Much of

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[1]Our list, which excludes TRCs in Gambia, which began work in 2018, Tunisia, which issued its report in 2019 after over four years of work, and Burundi, whose more recent (and controversial) TRC was established in 2014 and whose mandate has been extended to 2022, can be found in Table 1. Our compilation and definition, which we also spell out more, largely coincides with that found in Geoff Dancy, Hunjoon Kim, and Eric Wiebelhaus-Brahm, "The Turn to Truth: Trends in Truth Commission Experimentation," *Journal of Human Rights* 9, no. 1 (2010): 45–64. For an alternative listing, see the dataset of the Transitional Justice Database Project, available online at www.tjdbproject.com. For a useful comparison of what cases various scholars (through 2008) have defined as TRCs, see Table 1 in Eric Wiebelhaus-Brahm, "What is a Truth Commission and Why Does it Matter?" *Peace & Conflict Review* 3, no. 2 (2009): 1–14.

the work on TRCs is anecdotal, focusing on single case-studies—South Africa is by far the most examined case—thus making it difficult to derive generalizations about their performance. Complicating matters is the fact that TRCs have a variety of objectives, some of which, such as the goal of empowering victims and bringing them some measure of justice while simultaneously promoting reconciliation of all groups in society, may compete against each other. Measuring outcomes on variables such as creating a culture that respects human rights and facilitating trust, healing, and reconciliation, the last of which is a particularly variegated concept that operates on different dimensions, is fraught with difficulties.[2] This is true particularly at the individual and local level, where "there are few mechanisms for measuring and evaluating the impacts of these [TRC] processes."[3]

On the broader, macro-political level, it may commonly be assumed that TRCs are "imperative for the consolidation of democracy."[4] Wiebelhaus-Brahm takes a more skeptical view, however, suggesting that there is more "faith in the power of truth" than actual empirical evidence.[5] His work, along with that of Olsen et al. and Nichols, broke important ground in terms of quantitative, comparative study of the broader impact of TRCs.[6] Nevertheless, such work has produced different conclusions to date, in part because of the varying methodologies and different cases they employed in their studies. Ben-Josef Hirsch et al. conclude that there is "next to no consensus about the actual long-term consequences and impacts" of TRCs.[7] One shortcoming of existing work is that most authors treat TRCs as equivalents (dichotomous "dummy" variables in their analysis), whereas we know that TRCs vary substantially with respect to factors such as the political context in which they operate, inputs (e.g., mandates, structure, and resources) and outputs in terms of transitional justice, policy recommendations, and creation of new institutions.

This article seeks to address some of the gaps in the existing literature. It focuses on the macro-level impact of TRCs in Africa; in particular, on their effect on the observance of human rights. It builds upon insights of several previously conducted large-n studies, and adds new cases through 2014. In addition, it seeks to break new ground by developing and testing measurements of the "success" of TRCs, which the authors believe are important to

[2]These include horizontal, vertical, interpersonal, individual, and institutional reconciliation, all of which may be goals of a TRC. For more, see Paul Seils, "The Place of Reconciliation in Transitional Justice," ICTJ Briefing, 2017, https://www.ictj.org/sites/default/files/ICTJ-Briefing-Paper-Reconciliation-TJ-2017.pdf.

[3]Michal Ben-Josef Hirsch, Megan MacKenzie, and Mhamed Sesay, "Measuring the Impacts of Truth and Reconciliation Commissions: Placing the Global 'Success' of TRCs in Local Perspective," *Cooperation and Conflict* 47, no. 3 (2012): 388.

[4]Tristan A. Borer, *Telling the Truths: Truth Telling and Peace Building in Post-Conflict Societies* (Notre Dame, IN: University of Notre Dame Press, 2006), 17.

[5]Eric Wiebelhaus-Brahm, *Truth Commissions and Transitional Societies: The Impact on Human Rights and Democracy* (London: Routledge, 2010), 129.

[6]The most complete source for the former is Tricia Olsen, Leigh Payne, and Andrew Reiter, *Transitional Justice in the Balance* (Washington, DC: U.S. Institute for Peace Press, 2010). See also Angela Nichols, *Impact, Legitimacy, and Limitations of Truth Commissions* (Cham, Switzerland: Springer Nature, 2019).

[7]Ben-Josef Hirsch et al., "Measuring the Impacts of Truth and Reconciliation Commissions," 387.

weigh when considering their broader "impact." By "success," this work refers to the degree to which a TRC fulfilled its duties, whereas "impact" denotes the broader social and political consequences of a TRC's work.[8]

Literature review

TRCs are institutions designed to promote restorative justice and rehabilitate society in countries that have experienced repression and serious human rights abuses. According to Amnesty International, truth commissions are "official, temporary, non-judicial fact-finding bodies that investigate a pattern of abuses of human rights or humanitarian law, usually committed over a number of years."[9] Similarly, Dancy et al. and Hayner define a TRC as a temporary commission sanctioned by the state with investigative powers to examine human rights violations that occurred over a period of time, some of which were perpetrated by state actors.[10] As noted earlier, definitions do vary, which obviously can affect the subsequent analysis.[11] Using the above definitions, this conceptualization is more limiting than others. The authors do not, for example, include permanent bodies (e.g., the special prosecutor's office in Ethiopia, Rwanda's National Unity and Reconciliation Commission, or Zambia's Human Rights Commission) or commissions of inquiry that focus on discrete events (e.g., Lesotho's Leon Commission, which examined episodes of political violence in 1998). This article also restricts its analysis to bodies that focus on human rights abuses, thus excluding, for example, Kenya's Special Judicial Commission of Inquiry (1983–1984), which examined coup attempts.[12] Furthermore, the authors also exclude from their analysis bodies established by non-state actors (e.g., those set up by the African National Congress in the 1990s, which Hayner has examined),[13] as well as those designed to consider events in the more distant past that have no direct bearing on the current government or any living political figures.[14] Notably, the nomenclature associated with TRCs also varies; however, most of these

[8]This distinction is made by Wiebelhaus-Brahm, *Truth Commissions and Transitional Societies*, 23. The former refers to results of the TRC itself, including creation of new institutions and laws, whereas the latter refers to changes in policy and behavior. Another way of thinking about this is measuring what the TRC "did" and then assessing if this had a broader impact.

[9]Amnesty International, "Truth, Justice and Reparation: Establishing an Effective Truth Commission," June 2007, 1, https://www.amnesty.org/download/Documents/68000/pol300092007en.pdf.

[10]Dancy et al., "The Turn to Truth," 49; and Priscilla B. Hayner, *Unspeakable Truths* (London: Routledge, 2011), 11.

[11]For example, Hendy defines a TRC as "an official investigative body that documents a pattern of past human rights abuses," which superficially is similar to the earlier definitions but is also quite broad, making it difficult to differentiate a TRC from other investigative bodies concerned with human rights. Daniel J. Hendy, "Is a Truth Commission the Solution to Restoring Peace in Post-Conflict Iraq?" *Ohio State Journal of Dispute Resolution* 20, no. 2 (2005): 527.

[12]Notably, the last three of these bodies are considered TRCs by Olsen et al., *Transitional Justice in the Balance* and the Transitional Justice Database Project.

[13]Hayner, *Unspeakable Truths*.

[14]In Africa, this includes the Mauritius Truth and Justice Commission, whose mandate was the examination of slavery and abuse of workers dating back to 1638.

include some combination of "truth," "justice," "reconciliation," or "disappearance" in their titles.

All TRCs have specific goals and objectives, including uncovering past abuses and issuing recommendations to promote reconciliation among perpetrators and victims. They do, however, vary substantially in their operations and powers. Hayner provides the most extensive cataloging of TRCs across the globe, and notes how they vary in terms of investigative powers, staffing, funding, length of mandate, and whether they include public or only private testimonies.[15] Other factors affecting a TRC's performance include public buy-in, sympathetic media coverage, strong domestic and international political support, and lack of government interference in its work. Hayner analyzes these various inputs to define the "strength" of a TRC, a term, as McCargo notes, that obscures whether or not they were truly successful.[16] Among all the TRCs in Africa, she classifies only two —South Africa and Morocco—as "strong."

Without question, the TRC in Africa that has been judged the most successful and influential (as well as the most studied) is South Africa's Truth and Reconciliation Commission, which conducted work from 1995 to 2002. The commission garnered widespread interest as it was the most "complex and sophisticated mandate for any truth commission to date."[17] Its mandate was to investigate human rights violations committed by the state and liberation movements from 1960 to 1994 during the apartheid period of state-mandated racial segregation. It was sensitive to victims and to their needs—as shown by sharing victims' stories in their own words—and understanding that the needs of distinct groups of victims, such as women and children, were different.[18] The commission was most innovative for its ability to grant individual amnesty, viewed as necessary both to solicit more complete testimonies from perpetrators and to promote reconciliation. It collected testimony from over 21,000 people, and produced over 100 recommendations for what to do moving forward. Some of these, such as creation of a reparations program, were eventually implemented; others, such as prosecution for those who did not come forward to testify, have largely been ignored.[19]

Morocco's Equity and Reconciliation Commission (2004–2005) operated in a very different environment than South Africa's TRC. King Mohammed VI launched it, and designed it to examine human rights abuses under the reigns of his grandfather (1957–1961) and father (1961–1999). Its genesis is linked more to a change in leadership (Mohammed VI assumed the crown in 1999) than wholesale regime change or democratization, as was the case in South Africa. Government authorities mandated it to investigate events that occurred from

[15]Hayner, *Unspeakable Truths*.
[16]Duncan McCargo, "Transitional Justice and its Discontents," *Journal of Democracy* 26, no. 2 (2015): 15.
[17]Hayner, *Unspeakable Truths*, 27.
[18]Jennifer J. Llewellyn and Robert Hawse, "Institutions for Restorative Justice: The South African Truth and Reconciliation Commission," *The University of Toronto Law Journal* 49, no. 3 (1999): 386.
[19]Wiebelhaus-Brahm, *Truth Commissions and Transitional Societies*, 40–45.

independence in 1956 to 1999. The commission worked for twenty months, and garnered over 13,000 submissions in its first few months. *Al-Jazeera* broadcast public victim hearings.[20] Its commissioners included former political prisoners, human rights advocates, as well as academics, and it won support both from elites and the general public. The committee submitted its report in December 2005, and the king quickly authorized this for public release. He asked the preexisting Consultative Council on Human Rights, which only had limited power, to carry out the recommendations. Over the next year and a half, Morocco distributed 85 USD million to victims and their family members.[21] Nevertheless, given the powers of the Moroccan monarchy, this commission did not lead to any fundamental political transformation in the country.

In contrast, the Ugandan Commission of Inquiry into Violations of Human Rights (1986–1994) lacked resources and public legitimacy. There were protests from civil society about the commissioners who were selected, as they were thought to have close ties to President Museveni and were considered biased because they came exclusively from ethnic groups that were the most persecuted under the Idi Amin and Milton Obote regimes.[22] Political interference also hampered its work, and the publication of its report was long delayed. Interestingly, this was Uganda's second TRC. The first, which was created by Amin in 1974, was also roundly criticized as weak and ineffective.

Bakiner, discussing these cases and other failures, notes that earlier TRCs often had tepid government backing, as they operated under military/authoritarian governments. Authorities designed later TRCs, such as those in South Africa, Nigeria, and Sierra Leone, to support democratic transitions, and delved deeper into the causes of domestic conflict and rights abuses. These commissions often enjoyed significant international support.[23]

Many TRCs fall between extremes of "success" and failure. One example of this is Togo's TRC, the Commission de Vérité, Justice et Réconciliation (CVJR), which was created by presidential decree in 2009. Its commissioners were notable figures from religious, legal, and medical organizations, and they received immunity to protect them from reprisals. The commission enjoyed powers to procure documents, and could request that witnesses and perpetrators appear before it for questioning and to give testimony.[24] Sarkin and Davi in particular praise its efforts to include civil society groups in its formation and to solicit testimonies, even though the commission was not well-funded.[25] It operated for over three years, and produced a summary

[20]Hayner, *Unspeakable Truths*, 44.
[21]Ibid.
[22]Wiebelhaus-Brahm, *Truth Commissions and Transitional Societies*, 106.
[23]Onur Bakiner, *Truth Commissions: Memory, Power, and Legitimacy* (Philadelphia, PA: University of Pennsylvania Press, 2016), 31–35.
[24]*Republique Togolaise Final Report*, 2012, 62.
[25]Jeremy J. Sarkin and Tetevi Davi, "The Togolese Truth, Justice and Reconciliation Commission: Lessons for Transitional Justice Processes Elsewhere," *Peace and Conflict Studies* 24, no. 1 (2017): Article 2, https://nsuworks.nova.edu/pcs/vol24/iss1/2/.

report with numerous recommendations. While the government did create a follow-up High Commission for Reconciliation and Strengthening of National Unity, which was responsible for implementing the CVJR's recommendations, many of its recommendations have been ignored. All the same, according to Sarkin and Tavi, if the definition of success for a truth commission is the ability for it to achieve its aims, Togo's truth commission was successful, despite the fact that human rights still were not fully respected by the state.[26]

Liberia's Truth and Reconciliation Commission, established in 2005 in the aftermath of a devastating civil war, also had mixed results. Its mandate was to examine violence and human rights abuses stretching back to 1979 and, uniquely, it included outreach to and testimony from the Liberian diaspora. Although its work was delayed and it was wracked by internal divisions, the commission heard from 22,000 witnesses, and produced a substantial report in 2009 with a host of sometimes quite controversial recommendations.[27] These suggestions included the creation of an Extraordinary Criminal Tribunal to prosecute those accused of human rights violations and the banning of certain individuals from holding public office, including Ellen Johnson Sirleaf, who was Liberia's president at that time. The commission also proposed that a "Palava Hut" process, which is based on traditional dispute resolution mechanisms, should be used for justice and reconciliation. Another recommendation was that the Monrovia government compensate individuals and communities that had been victimized by years of instability and war. While on paper this may have looked like a "strong" commission in terms of its recommendations, its impact has been marginal. The Liberian parliament essentially tabled it, declaring that the body needed a year to "consult constituents" before deciding to implement any of its recommendations. Moreover, its proposed ban on political activity was deemed unconstitutional. There have been no prosecutions for those named in its findings. One observer suggests that its recommendations "died a natural death" since no political force sought to follow up on its work.[28]

The preceding examples should help buttress the point that TRCs widely differ, both in their inputs and structure and in terms of their outputs and impact. All who engage in comparative work on TRCs well recognize this point; nonetheless, this remains a problem in any assessment of their impact across time and space, as social scientists often treat TRCs identically in large-n analysis. In some cases, the relative lack of success of a TRC may be a direct reflection of its mandate, as a given TRC may have limited powers, and thus be

[26]Sarkin and Davi, "The Togolese Truth, Justice and Reconciliation Commission," 13.
[27]See Carla De Ycaza, "A Search for Truth: A Critical Analysis of the Liberian Truth and Reconciliation Commission," *Human Rights Review* 14, no. 3 (2013):189–212.
[28]James Harding Giahyue, "Understanding Liberian Truth and Reconciliation Dilemma," *Front Page Africa*, June 18, 2017, https://frontpageafricaonline.com/opinion/understanding-liberian-truth-and-reconciliation-commission-dilemma/.

expected to do little more than produce a report or a public record of past abuses or both of these. To be sure, while these may be accomplishments, alone they may do little to improve the human rights situation in a country. In other cases, the effect of a TRC will be conditioned upon the receptiveness of both lawmakers and society at large to its conclusions.

Whether one in fact can say that TRCs have any impact in terms of human rights performance—this article's central concern—is a matter of dispute in the literature. Hayner and Bakiner, for example, suggest that they *can*, but larger-n quantitative analysis has produced mixed results.[29] For their part, Kim and Sikkink, who have studied countries experiencing a democratic transition, have found that truth commissions do have a positive impact on human rights.[30] Nichols, who offers differentiated measures for some elements of TRCs, does find that those with stronger mandates and created by new regimes tend to improve human rights.[31] Olsen et al., also looking only at countries that are "in transition," find that truth commissions by themselves (as opposed to those that also have trials) have a negative impact on human rights.[32] Wiebelhaus-Brahm, while finding improvements in human rights in his case studies, reveals in a universal quantitative analysis that they have a negative impact on human rights.[33] Why this might be true is worth some consideration. McCargo suggests that TRCs may bring up dark memories and exacerbate tensions in society. He makes this claim primarily on the basis of TRCs in Thailand, but, as he acknowledges, these were "half-baked" TRCs, which were "cloaked in specious moralism."[34] Put differently perhaps, these were weak TRCs, and a more complete analysis of TRCs as a whole would seek to differentiate such bodies from "stronger" or more impactful ones. One could, as the authors propose in the following, measure the impact of TRCs on several items and use such "measures" of TRCs better to assess if and how TRCs have a broader impact on human rights.

Research design

The primary research questions addressed in this article are (1) have TRCs made a difference in improving human rights in Africa and (2) do more "successful" TRCs have more of an impact on human rights? This work borrows significantly from both Wiebelhaus-Brahm and Olsen et al., who have conducted the most extensive comparative work on the effects of TRCs and have compiled databases on several variables in which the study is interested. The authors' dependent

[29]Hayner, *Unspeakable Truths*; and Bakiner, *Truth Commissions*.
[30]Hunjoon Kim and Kathryn Sikkink, "Explaining the Deterrence Effect of Human Rights Prosecutions for Transitional Countries," *International Studies Quarterly* 54, no. 4 (2010): 939–63.
[31]Nichols, *Impact, Legitimacy, and Limitations of Truth Commissions*, Chapter 5, although her data compare different countries with TRCs.
[32]Olsen et al., *Transitional Justice in the Balance*, 144–50.
[33]Wiebelhaus-Brahm, *Truth Commissions and Transitional Societies*, especially 138–40.
[34]McCargo, "Transitional Justice and Its Discontents," 17.

variable, like theirs, is observance of human rights,[35] derived from indices from the Cingranelli and Richards (CIRI) Human Rights Dataset[36] and the Political Terror Scale (PTS).[37] Both of these focus on physical integrity rights (e.g., prevention of torture, disappearance, and political/extra-judicial killing), which are closely associated with the work of TRCs and are clearly the responsibility of governments to uphold.[38] Both datasets are based on annual reports by Amnesty International (AI) and the U.S. Department of State (DOS), and the PTS presents a separate scale based on each source, thereby giving this analysis three scales: CIRI, PTS (DOS), and PTS (AI).[39]

This research examines two different samples. Its first sample is of forty-nine African states from 1981–2017,[40] and its unit of analysis is a country-year, which is most similar in design to the work of Wiebelhaus-Brahm. For each year, the authors record the country's human rights score, as well as a host of other variables used in other studies that are hypothesized to affect human rights. These include a lagged human rights score from the previous year, the country's population and its GDP per capita (both taken from the World Bank),[41] whether it was party to an armed conflict (taken from the Uppsala Conflict Data Program),[42] its level of democracy (as measured by Polity),[43] and its ethnic and linguistic fractionalization (taken from Alberto Alesina's dataset).[44] Because one would expect TRCs both to be more common and more effective in cases of "regime transition," the authors

[35]Olsen et al., *Transitional Justice in the Balance*, and Wielbelhaus-Brahm, *Truth Commissions and Transitional Societies*, also examine the effect on Freedom House's Civil Liberties score as a proxy for effect on democracy. Like the latter, we tend to believe that the impact of TRCs should be more direct on human rights than on democracy *writ large*. Kim and Sikkink, "Explaining the Deterrence Effect of Human Rights Prosecutions for Transitional Countries," also use the same dependent variables.

[36]See David L. Cingranelli, David L. Richards, and K. Chad Clay, "The CIRI Human Rights Dataset," 2014, http://www.humanrightsdata.com. Version 2014.04.14. Data are available from 1981–2011. Scores on four criteria—political/extra-judicial killing, disappearance, torture, and political imprisonment—are coded 0 to 2. The additive CIRI index is therefore 0–8, with 0 as the worst possible score.

[37]The PTS covers 1976 through 2017. The PTS has a scale of 1–5, with 5 being a country with systemic violations of physical integrity rights. The PTS also has a scale based on data from Human Rights Watch, but this is a recent addition and covers far fewer years. Data can be found at Mark Gibney, Linda Cornett, Reed Wood, Peter Haschke, Daniel Arnon, and Attilio Pisanò, "The Political Terror Scale 1976–2017," 2018, http://www.politicalterrorscale.org.

[38]We recognize that it can be argued which human rights are most essential (e.g., political and socio-economic rights), as well as the debate about whether certain "human rights" reflect "Western values," and that some have argued for the existence of particular "African" human rights (see for example Josiah A.M. Cobbah, "African Values and the Human Rights Debate: An African Perspective," *Human Rights Quarterly* 9, no. 3 (1987): 309–31. Nevertheless, we believe that these core physical integrity rights are both fundamental and far less culturally bound than, for example, freedom of religion or gender equality. Furthermore, because these were the focus of most TRCs, it is on these measures that one would most likely expect any improvement or change in human rights to occur.

[39]For our country-years, the two PTS indices highly correlate (.753) with each other. The correlation with CIRI data is also strong (.667 with PTS AI and.761 for PTS DOS).

[40]In large part because of missing data issues, we exclude "micro-states" whose population in 2017 was under one million people. These are Cape Verde, Comoros, Sao Tome, Seychelles, and Djibouti. We begin in 1981, as this is when the CIRI index begins, and the first years of the PTS have more serious data gaps.

[41]World Development Indicators, https://databank.worldbank.org/reports.aspx?source=world-development-indicators. For GDP per capita, we use the measure in constant 2010 USD.

[42]Available online at https://www.ucdp.uu.se/. In our analysis, we code as "1" if a country is in any conflict, including both interstate war, civil war, and terrorism.

[43]Data available online at http://www.systemicpeace.org/polityproject.html.

[44]Available at https://nsd.no/macrodataguide/set.html?id=16&sub=1. These data, unlike the others we have compiled, are constants, meaning they do not change for each country from year to year. Most of these data are based on demographics as of the 1990s.

also code whether or not a country has experienced a "democratic" transition based on a change in its Polity score.[45] This study's second sample, following more in line with Olsen et al., examines only these transition countries, with the reasoning here that one can examine more similar cases where one would expect there to be some attention to improving human rights. Unfortunately, in so doing this study loses several cases (e.g., Chad 1990–1992, Morocco 2004–2005, Togo 2009–2012) from its data set. Finally, in line with Ben-Josef Hirsch et al., the authors believe that early TRCs operated in a different normative environment with different rationales and goals, which makes their inclusion with contemporary cases problematic.[46] This analysis therefore adds a dummy variable as to whether the case was pre- or post-1995 (1995 being the year South Africa's influential TRC began its work), as well as an interaction variable (TRC*Post1995) to isolate the post-1995 TRCs.

One issue that arises in this analysis is how long one expects any TRC "effect" to be. In other words, when one codes a country as having a TRC, when should one cease such coding? Many studies, alas, are rather vague on this notion.[47] Clearly, the authors do not expect the effect to last indefinitely, and over time a host of intervening variables may modify or negate the impact of a TRC. At the same time, any effect of a TRC is not likely to be instantaneous. For that reason, in both samples the authors code a country as having a TRC both ten years after it ceases work or publishes a report and five years afterward.

One innovation that this article proposes is to differentiate TRCs by their level of "success" in fulfilling their mandate. While other scholars have suggested various factors that might explain variation in TRC impact, few have systemically "measured" the effectiveness of TRCs based on what they produce.[48] Nonetheless, one can identify several elements that might be considered as evidence of TRC "success." Wiebelhaus-Brahm, for example, suggests that "deliverables" such as publication of a report and implementation of policy recommendations should be considered indicators of TRC's

[45]Forty cases qualify for this designation, across thirty-four countries, with some countries (e.g., Niger) experiencing multiple transitions. Our definition of "regime transition" is based on change in the Polity score (a well-known −10 to +10 measure of democracy). Specifically, a country must (a) have a gain of at least 3 in the Polity score within a three year period; (b) move from a negative or zero Polity score to a positive score *or* move from "partially democratic " (1 to 6) to "strongly democratic" (7 to 10); and (c) sustain this uptick for at least two years. We then code a country as "in transition" for up to ten years. If there is a pronounced decline in the Polity score, that transition is coded as over, but the country may experience another transition later.

[46]Ben-Josef Hirsch et al., "Measuring the Impacts of Truth and Reconciliation Commissions," 395.

[47]Olsen et al., *Transitional Justice in the Balance*, are the clearest, having transitions last up to ten years and TRC effects for up to ten years. We cannot find discussion of this issue in Wiebelhaus-Brahm or Nichols. Testing for a longer-term impact (e.g., fifteen years) would also eliminate many cases from our dataset.

[48]Botha codes TRC "strength," but there is no follow-up citation or use of this work. Belinda M. Botha, "Truth Commissions and their Consequences for Legitimacy" (PhD Dissertation, Department of Political Science, University of Houston, 1998). Nichols does provide quantitative measures for TRCs based on several factors, including breadth of mandate, transparency, and whether it was established by a new regime. These get to questions of process and legitimacy, not impact per se. Nichols, *Impact, Legitimacy, and Limitations of Truth Commissions*. The one indicator we share with Nichols is public dissemination of a report. For the thirteen common cases between this study and hers, the correlation between our index and an index that adds her measures together (note: she does not do this in her analysis) is .503.

"success."[49] Building upon these discussions, the authors propose that indicators of TRC "success" would be: (1) whether its report was produced and made available to the public; (2) whether the report resulted in an official endorsement or apology by the government; (3) whether its work resulted in the creation of monitoring or follow-up institutions; (4) if the TRC's recommendations for legal or institutional reforms were mostly adopted; (5) if reparations were paid to victims; and (6) if the TRC resulted in vetting or removal or both of officials named responsible for past abuse.

The authors of this study believe all of these indicators are rather easily measurable—as opposed to outcomes such as norm change, civil society mobilization, and reconciliation (all listed by Bakiner),[50] and that they reflect the power, intent, and acceptance of the TRC. Producing a public report, although not mandated by every TRC, constitutes, by most accounts, a most basic accomplishment. Endorsement by the government—or acknowledgment of the validity of the report through an apology—should also give more legitimacy and support to the TRC's work. Following Wiebelhaus-Brahm, our last four indicators distinguish different types of recommendations a TRC could make, hence avoiding a calculation of what percentage of total recommendations were adopted.[51] The authors acknowledge, of course, that because mandates and powers of TRCs vary, not all were expected to produce strong policy recommendations or result in prosecutions or payment of reparations. The point, however, is to develop more fine-grained data to ascertain whether it is possible to say that stronger or more "successful" TRCs do in fact produce a broader impact on human rights practice.

The authors construct an additive interval scale from 0 to 6 of TRC "success" based on these indicators, making each indicator dichotomous (0 or 1). Following Olsen et al., who also scale the "strength" of various transitional justice mechanisms (trials, amnesties, and TRCs), the goal at this stage is less precision in terms of assessing magnitude of effect and more of ascertaining possible direction of any such effect.[52] It is important to note that this argument is not tautological. "Success" is based more on the immediate results of the TRC; impact assesses whether these resulted in change in human rights practices. To determine scores, this study assesses existing secondary literature on each TRC, including reports issued by the ICTJ and the U.S. Institute of Peace, as well as data collected by the Transitional Justice Database Project.[53] The scores for each of the TRCs are

[49]Wiebelhaus-Brahm, "Getting to the Bottom of Truth: Examining Truth Commission Success and Impact" (paper prepared for the 2005 International Studies Association Conference, 2005), 8–11. Some measures of success, such as uncovering human rights abuses, would be hard to measure, because one can never be sure how comprehensive the TRCs' discoveries truly were or what the baseline should be.

[50]Bakiner, *Truth Commissions*.

[51]Wiebelhaus-Brahm, "Getting to the Bottom of Truth: Examining Truth Commission Success and Impact."

[52]Olsen et al., *Transitional Justice in the Balance*.

[53]This largely follows Nichols, *Impact, Legitimacy, and Limitations of Truth Commissions*, who, as noted, has done the most to quantitatively measure TRCs. Another important source is Charles Monga Fombad, "Transitional Justice in Africa: The Experience of Truth Commissions," Hauser Global Law School Program, 2017, https://www.nyulawglobal.org/globalex/Africa_Truth_Commissions1.html.

Table 1. Measures of TRC "success."

Country	Years of TRC	Report	Endorse	Monitoring	Vetting	Inst Reform	Reparations	Total
Zimbabwe	1984–1985	0*	0	0	0	0	0	0
Uganda	1986–1994	1	0	1	0	0	0	2
Chad	1990–1992	1	0	0	0	0	0	1
Burundi	1995–1996	1	0	0	0	0	0	1
South Africa	1995–1998	1	1	1	1	0	1	5
Nigeria	1999–2002	0*	0	0	1	0	0	1
Ghana	2002–2004	1	0	0	0	1	1	3
Sierra Leone	2002–2004	1	1	1	1	1	1	6
Cent Afr Rep	2003	1	0	1	0	0	0	2
Algeria	2003–2005	0*	0	0	0	0	1	1
DRC	2004–2007	1	0	0	0	0	0	1
Morocco	2004–2005	1	1	1	0	0	1	4
Liberia	2008–2009	1	0	1	0	0	0	2
Togo	2009–2012	1	1	1	0	0	0	3
Kenya	2009–2013	1	0	0	0	0	0	1
Ivory Coast	2011–2014	0*	0	1	0	0	1	2

Note. Dates for most of TRCs come from Fombad, "Transitional Justice." They reflect the times the commission conducted its work up to the release of a final report or disbandment, whichever occurred first.
* No official release of the report; it may have been unofficially released or published by civil society actors.

reported in Table 1. Initially, one key takeaway from this table is that one can rate many TRCs as "weak" or "unsuccessful," generating little direct follow-up or change, even if one produced a detailed, well-documented report. Based on this observation, one might therefore not be too surprised by findings that TRCs have not led to an improvement in human rights.

Results

The authors first present some general descriptive statistics about TRCs in Africa and their relationship to a country's human rights record. These appear in Table 2. Here the authors use the 1–5 PTS (DOS) score as the dependent variable on human rights—this is the dataset that is both most up-to-date and has the fewest missing values—and note the change in a country's human rights score during and after the work of a TRC, with a *decrease* in the PTS (DOS) score reflecting an *improving* human rights situation.

These data, are, of course, impressionistic, but several items are worth mentioning. First, one can see that TRCs have arisen in both transition and non-transition cases, although the former is more common after 1995. Second, countries with TRCs in democratic transitions do have some modest improvement in human rights, but this is far from a universal effect. Third, in part perhaps to the outlier effect of Zimbabwe, there is no clear "post-1995" effect. Overall, there is little to suggest a strong relationship between TRCs and improved human rights. The human rights score improves in only two cases (out of sixteen) while the TRC is functioning, in only five cases (out of sixteen) three years after the TRC finishes its work, and in only half the cases (seven of fourteen and six of twelve, respectively) five years and ten years after the TRC finishes its work. Of course, other factors might facilitate or hinder the work and impact of a given

Table 2. Changes in human rights scores.

Country	PTS (DOS) at Start of TRC (1–5)	Transition	Change during TRC	Change Three Years after TRC	Change Five Years after TRC	Change Ten Years after TRC
Zimbabwe	5	No	0	−2	−3	−3
Uganda	4	No	−1	0	−1	0
Chad	4	No	0	0	0	0
Burundi	5	No	0	0	0	−1
South Africa	4	Yes	0	−1	−1	−1
Nigeria	4	Yes	0	0	−1	0
Ghana	3	Yes	0	0	0	0
Sierra Leone	3	Yes	0	0	−1	−1
Cent Afr Rep	4	No	0	+1	0	+1
Algeria	4	Yes	0	−1	−1	−2
DRC	5	Yes	0	0	0	0
Morocco	3	No	0	0	0	−1
Liberia	3	Yes	0	−1	−1	N/A
Togo	2	No	0	−1	+1	N/A
Kenya	4	Yes	0	0	N/A	N/A
Ivory Coast	4	No*	−1	0	N/A	N/A

TRC (as well as account for change in human rights performance), and this table does not allow one to compare countries that had TRCs with those that did not.

In order to ascertain more rigorously if TRCs have an impact on human rights, it is necessary to examine a broader range of cases. First, the authors test for a TRC "effect" (for ten years and five years) against the universe of African cases. In this large-n analysis, the study includes the various control variables listed earlier and employs standard linear regression, recognizing that there are concerns with endogeneity in the analysis.[54]

When looking at all countries in Africa, this analysis finds no effect of TRCs on any of the human rights scores. This pattern holds whether one uses the absolute human rights score or its change from the previous year as the dependent variable. It also holds whether one tests for a TRC "effect" up to five or ten years. The analysis does reveal, as one might expect, that population size matters—larger countries have more problems reported—and that countries in conflict have worse human rights problems. Higher Polity scores, not surprisingly, are associated with better human rights. Interestingly, the "transition" dummy variable is not statistically significant. Neither are, in most cases, ethnic or linguistic fractionalization or GDP/capita. This research does find a relationship between later years (post-1995) and improved human rights, but there is no interactive effect when one includes a variable for post-1995 TRCs. One can interpret this to mean that while human rights have overall

[54]This was brought to the fore by Wiebelhaus-Brahm, who conducted a similar type of analysis. He tried to minimize the problem by conducting a two-stage regression, using region and transition as "instrumental variables" for a TRC in the first regression equation. This is problematic, however, because one would expect "transition" to be related to human rights scores; it is not an exogenous "instrumental" variable. Wiebelhaus-Brahm, "Getting to the Bottom of Truth," 136–38. In our cases, we did find (using the ten-year TRC effect) a somewhat high correlation between TRC and transition (.217, $p < .01$), between TRC and year (.212, $p < .01$), and between TRC and Polity score (.177, $p < .01$). Rather than conduct a two-stage regression using spurious or dubious instrumental variables, we instead include all in our equations (as Wiebelhaus-Brahm and others do with respect to Polity scores in their analysis).

Table 3. Effect of TRCs and other variables on human rights across all cases.

	Dependent Variable		
Independent Variable	Yearly Change in CIRI	Yearly Change in PTS (DOS)	Yearly Change in PTS (AI)
TRC	.029 (.236)	.001 (.067)	.037 (.108)
Lagged HR Score	−.500 (.042)***	−.499 (.026)***	−.508 (.043)***
LogPOP	.203 (.146)***	.155 (.044)***	.156 (.071)***
LogGDP	.008 (.178)	.019 (.053)	.051 (.094)
Polity	−.13 (.015)***	−.092 (.004)**	−.074 (.008)*
Conflict	.149 (.155)***	.226 (.049)***	.253 (.075)***
Ethnic Fract	−.076 (.483)	.018 (.151)	−.014 (.272)
Linguistic Fract	.088 (.410)*	.007 (.128)	−.034 (.245)
Transition	−.027 (.225)	.001 (/065)	−.013 (.117)
Post-1995	.066 (.077)*	.085 (.052)**	.049 (.083)
Constant	5.156 (.69)	2.174 (.351)	2.486 (.563)
R^2	.192	.175	.203

Note. Table reports standardized Beta coefficients and (in parentheses) standard error. * $p < .05$, ** $p < .01$, *** $p < .001$. Signs for CIRI scores have been inverted so that a higher HR score reflects worse HR performance.

improved in Africa since 1995, one cannot isolate any TRC "effect." Table 3 presents results using change in human right scores as the dependent variable and coding a TRC "effect" for up to ten years. Other tests using this same sample (but a different temporal scope of a TRC "effect") or trying to isolate TRCs only after they produce a report produce similar results.

Perhaps, one might argue, a better approach is to focus attention only on countries in "transition," many (but far from all) of which did utilize a TRC after a new government came to power. These "transition" countries, which we defined earlier, are all more strongly committed to human rights than their predecessors, and thus the question becomes whether TRCs enhance human rights performance over time. Table 4 provides data on this issue, using the same variables from Table 3 and a ten-year coding for any TRC "effect." Similar to Table 3, one sees no impact for TRCs. Population size and conflict (as well as the lagged human rights score) are the only variables that consistently appear to be significant.[55] This finding also holds for a five-year TRC "effect" and when using the nominal human rights score (as opposed to the yearly change).

What of the authors' effort to measure TRCs? Can one say that more "successful" ones, such as those in Sierra Leone and South Africa, have been more impactful? When one considers all sixteen cases of TRCs, there is a mixed and statistically insignificant relationship between strength of TRCs and improvements in human rights scores.[56] Nevertheless, there is a positive correlation ($p < .01$) between TRC "strength" and better absolute human rights scores.[57] This latter finding, however, may be a reflection of the fact that countries with a stronger commitment to human rights are more likely to have stronger TRCs and that improvements in human rights may occur *before*

[55]The Polity score loses significance presumably because, in all of these cases, there has been improvement in Polity scores.

[56]For example, for a hypothesized five year "effect," the correlation with change in CIRI is .015, with change in PTS (DOS) −.143, and with PTS (AI) .025.

[57]For example, for a hypothesized five-year "effect," the correlation with CIRI is .519, with PTS (DOS) −.448, and PTS (AI) −.440, with the signs indicating that a higher TRC "score" is correlated with a better human rights score.

Table 4. Effect of TRCs and other variables on human rights in transition cases.

	Dependent Variable		
Independent Variable	Yearly Change in CIRI	Yearly Change in PTS (DOS)	Yearly Change in PTS (AI)
TRC	.013 (.448)	−.02 (.131)	−.024 (.226)
Lagged HR Score	−.582 (.087)***	−.561 (.065)***	−.634 (.108)***
LogPOP	.271 (.376)***	.240 (.124)***	.251 (.223)**
LogGDP	−.101 (.441)	−.046 (.134)	.063 (.260)
Polity	.086 (.080)	−.03 (.027)	.008 (.045)
Conflict	.155 (.440)*	.171 (.145)**	.347 (.238)***
Ethnic Fract	−.001 (1.07)	.06 (.332)	.079 (.726)
Linguistic Fract	.182 (.835)**	.022 (.257)	−.048 (.616)
R^2	.279 (2.31)	.305 (1.30)	.240 (.872)

Note. Table reports standardized Beta coefficients and (in parentheses) standard error. * $p < .05$, ** $p < .01$, *** $p < .001$. Signs for CIRI scores have been inverted so that a higher HR score reflects worse HR performance.

a TRC commences work. Figure 1 suggests this, where one sees Sierra Leone and South Africa (both among our stronger TRCs) both had improvements in their CIRI scores before the TRC began work, with Sierra Leone having the best possible CIRI score the year its TRC formed. Its score, therefore, could not improve. Zimbabwe, also included in Figure 1, is the largest outlier in the dataset. In this case, there was a precipitous decline in its human rights score before the creation of a TRC (those human rights problems were the main impetus for the TRC), and then those scores improved. It also had, by the authors' measures, the weakest TRC. Based on events in Zimbabwe—there was no public action in response to the TRC—the authors believe there is no cause and effect in terms of the impact of the TRC. When one drops this case and analyzes only post-1995 TRCs, one does find that "stronger" TRCs are weakly

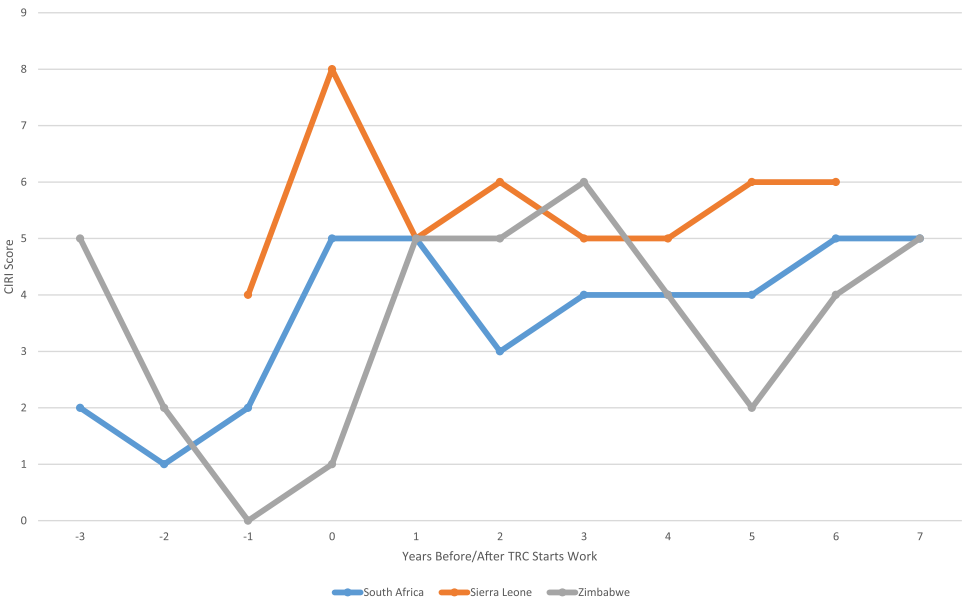

Figure 1. Change in CIRI scores.

correlated with human rights improvement; the direction is what one would expect across all three human rights measures. All the same, the correlation is so weak that the authors do not wish to make too much of the results.[58] Moreover, the data overall confirm no strong pattern or effect with respect to TRCs generally or when one takes this study's measure of strength into account.

Conclusion

Various scholars have examined the effects of TRCs, including their possible impact on human rights, rule of law, and democratization. To date, there is no consensus on what, if any, effect TRCs have on human rights. This article has assessed the impact of TRCs in Africa, where such commissions have become a popular means to provide restorative justice in countries that experienced conflict or regime change or both. The findings of this research suggest, however, that TRCs do not have an impact on improved human rights in the years following the work of a TRC. Furthermore, even when trying to assess the immediate "success" of a TRC—similar to what others might call its "strength"—this study still does not find a strong relationship with improvement in human rights. This is not to say that TRCs are not useful for a variety of other ends and may promote societal or inter-personal reconciliation (variables this article does not examine). Nevertheless, this study does suggest that more grandiose hopes associated with TRCs may be misplaced.

One might posit a number of reasons why TRCs do not have a strong or lasting impact on human rights. Often, they do not have strong powers, and alleged perpetrators of human rights abuses cannot be compelled to testify. At times (e.g., in Liberia), TRCs have been controversial, and political leaders have been unwilling to embrace their calls for reforms. In other cases, the authors frankly would not expect much improvement at all, given that the reports of TRCs are not even publicly released. Additionally, with the exception of Sierra Leone, TRCs' recommendations are not legally binding, meaning many countries do not implement the proposals of the commission. For some, TRCs may be a way for new governments to communicate at least rhetorical interest in human rights and obtain "justice" for abuses committed by their predecessors, while they absolve themselves of any need to make strong reforms and improvements. Lastly, it may simply be the case that one cannot "see" any effect of TRCs on the human rights scores this research utilizes because improvements in this area occurred before the introduction of a TRC. This appears to be the case in Sierra Leone, which by many accounts had a strong and capable TRC that made numerous legally binding recommendations, and has also created mechanisms to follow up on its work and published

[58]Correlations are .065 with change in CIRI, −.129 for change in PTS (DOS), and −.094 for change in PTS (AI). None of which are significant at $p < .05$.

numerous pamphlets and reports to keep issues of reconciliation and reform alive.[59] Sierra Leone's TRC, it is worth adding, began its work in an environment where there already was a strong commitment to reconciliation and recovery, so that all sides of the conflict understood the need for healing through reform and institutions.

One does not find, in this large-n analysis, that truth commissions, by themselves, have a substantial impact on human rights. This is not to say, of course, that individual TRCs have no value whatsoever. The authors would conclude, therefore, by noting the need to identify effective TRCs and the conditions and mechanisms that allow their work to have a lasting, positive impact.

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[59]Rosalind Shaw, *Rethinking Truth and Reconciliation Commissions: Lessons from Sierra Leone* (Washington, DC: United States Institute of Peace, 2005).