

# Performing Truth? Examining Transitional Justice Practice in West Africa\*

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## Abstract

In the last five decades, transitional justice (TJ) processes have spread rapidly around the world. Scholars cite this trend as evidence of an accountability norm. Yet TJ's spread does not necessarily imply norm diffusion and acceptance; it can also be explained by instrumental adaptation. Essentially, TJ adoption may reflect a *desire to perform* rather than a *substantive commitment*. We propose that the difference can be discerned as early as the design stage, with implications for TJ institutions' operation, outputs, and outcomes. We conceptualize a spectrum: At the lower end, *performance*, TJ mechanisms are poorly designed, under-resourced, and under-supported by governments, and, at the higher end, *substance*, they are well designed, adequately resourced, and strongly supported by governments. To begin to disentangle substance and performance, we study truth commissions, generally the first TJ measures implemented after political violence, and we focus on Africa, home to one-third of global commissions. We analyze data on institutional design from the *Varieties of Truth Commissions* Project and produce case studies of three West African commissions. We find strong evidence of performative TJ: Many African governments have created commissions that are ill-equipped to uncover the truth. Consequently, they have served to (re)produce, rather than combat, impunity.

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## Introduction

Transitional justice (TJ) measures have proliferated over the past half-century (Ancelovici and Jenson 2013; Jelin 2003; Zvobgo 2020). Scholars cite this trend as evidence of an accountability norm that has spread around the globe (Ben Josef-Hirsch 2014; Loyle and Binningsbø 2018; Nauenberg 2015; Teitel 2003; VanAntwerpen 2009). These scholars are not alone; policymakers agree. In 2016, former UN Secretary-General Kofi Annan declared, “Truth seeking and reconciliation has now become *an accepted, if not universal, feature* of the architecture of post conflict peacebuilding” and added as evidence of the fact, “The number of truth commissions has grown rapidly” (Annan 2016, emphasis added).

These perspectives, from the theory and policy sides of TJ, are consistent with constructivist and world society accounts of global politics: actors form regimes (conceived broadly as principles, norms, rules, and decision-making procedures) because of their shared beliefs, interests, and identities (Johnston 2001; Krasner 1983; Sandholtz 1999). From such regimes, practices are derived, transmitted, and implemented (Finnemore and Sikkink 1998; Teitel 2003). In the context of TJ, the story is that state and non-state actors have developed, promoted, and delivered various modalities of TJ (e.g., trials, truth commissions, reparations, and personnel reforms). They have done this because, as members of an international community, they have a *shared interest* in TJ and a *shared belief* that it is “an essential partner” to democracy, human rights, and peace (Annan 2016; Nauenberg 2015). Accordingly, states expect TJ from each other in the wake of political violence. To summarize, there is a TJ norm (Ancelovici and Jenson 2013; Annan 2016; Subotić 2012), and this norm explains the growing use of TJ tools over time and across space (Roht-Arriaza 2006; Sikkink 2011).

Yet TJ adoption does not itself imply TJ norm diffusion and acceptance. Further, regional, cultural, temporal, and other norm diffusion explanations (Ben Josef-Hirsch 2014; Kim 2019; Krueger 2016; Sikkink 2011; Sikkink and Kim 2013; Nauenberg 2015) do not explain precisely *what models of TJ* are spreading, either within or across different mechanisms (Kochanski 2020). We

suggest that TJ's spread can be explained by instrumental adaptation in many instances (Loken, Lake, and Cronin-Furman 2018; Winston 2020b; Solomon and Zvobgo 2020). More specifically, TJ adoption may reflect a desire to perform rather than a substantive commitment. These ideational and instrumental rationales may result in different types of TJ, with different institutional designs, outputs, and outcomes. The possibility of multiple TJs bears implications for how we understand the continued, and growing, use of TJ tools worldwide. Indeed, the spread of a practice without a commitment to the norms from which that practice is derived is no victory for human rights and TJ advocates.

We note that we are not the first to propose that governments can exploit TJ norms for their own ends nor are we the first to study trends in truth commission design. Excellent studies by Cronin-Furman (2020), Grodsky (2010), Loyle and Davenport (2016), Subotić (2009), and Wiebelhaus-Brahm (2020) address subversion of TJ norms. And studies by Kochanski (2020), Oduro and Nagy (2014), Yusuf (2007) on truth commission design precede and inform ours. Neither are we the first to theorize that different causes of TJ can yield different institutional designs and consequences. For instance, Solomon and Zvobgo (2020) explore how leaders, specifically autocrats, who face threats to symbolic authority or regime survival create self-investigating or rival-investigating commissions, respectively, with each intended to strengthen the incumbent by presenting them in a more favorable light. But, to our knowledge, we are the first to propose (and evaluate) that the impetus for TJ adoption, normative or instrumental, may produce two different (general) types of TJ, substantive and performative, with particular characteristics, results, and consequences.

For an example of performative TJ, consider Côte d'Ivoire. In the aftermath of the Ivorian Crisis, a period of violence related to the contested 2010-2011 presidential and parliamentary elections, President Alassane Ouattara implemented several TJ measures, including a truth commission, a national reparations program, and prosecutions. However, these measures were not designed to (nor did they) clarify the truth, repair harms, or tackle impunity for serious crimes. The

commission sidelined victims' interests and produced little testimony.<sup>1</sup> Moreover the commission's report, which was heavily edited by the government and belatedly published, did not establish essential facts like the nature and extent of abuses and the individuals and institutions most responsible (République de Côte d'Ivoire 2016; Piccolino 2018). In addition, despite the government's promises, the vast majority of victims did not receive reparations (Human Rights Watch 2016).<sup>2</sup> Analysts also charge that prosecutions disproportionately targeted Ouattara's political opponents relative to his supporters (International Center for Transitional Justice 2020; Jones and Djané 2018). If TJ in Côte d'Ivoire was not intended (and in fact failed) to produce truth, accountability, and restitution, what was its purpose? We suggest that TJ measures in Côte d'Ivoire were intended to *give the appearance* of doing something while actually accomplishing very little – in other words, performance.

For an illustration of substantive TJ, take Ghana. In contrast to its neighbor, Ghana had a reasonably successful experience with several TJ modalities. In 2002, President John Kufuor established the National Reconciliation Commission. This was done with the cooperation and partnership of domestic and international civil society advocates, who research shows are critical to a strong commission design and process (Zvobgo 2020). The Ghanaian commission was modeled after the South African commission (Oduro and Nagy 2014; Valji 2006: 42) and, like its predecessor, engaged thousands of witnesses (Hayner 2011). Victims' and perpetrators' accounts, and other evidence the commission compiled, were promptly published in a comprehensive report. The report addressed Ghana's struggle for self-determination, democracy, and human rights holistically, and outlined a range of steps for the government to take to remedy past harms and protect against future harms (Ghana Center for Democratic Development 2005; United States Institute of Peace 2020). The government took many of these steps. Within a year of the commission's conclusion, the Kufuor

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<sup>1</sup> Research interview with Anna Myriam Roccatello, Deputy Executive Director and Director of Programs at the International Center for Transitional Justice.

<sup>2</sup> Based on interviews conducted by Human Rights Watch in Abidjan, Côte d'Ivoire in 2015.

government began awarding reparations, per the commission's recommendation. What is more, the administration accepted without reservation the commission's finding that the military bore the greatest responsibility for human rights violations during the four-decade period that the commission studied (Hayner 2011: 51). This prompted the government to begin implementing a series of reforms (United States Institute of Peace 2020).

So, we not only observe TJ substance, in the vein of norm diffusion and acceptance, in the case of Ghana; we also observe TJ performance, in the vein of instrumental adaptation, in the case of Côte d'Ivoire. But how prevalent is performative TJ and what is its effect? Is Côte d'Ivoire merely an outlier and TJ performance not a problem worth worrying about? Prior research is unclear.

A fundamental limitation of existing studies is their near-exclusive focus on institutional adoption. Generally, research neglects institutional *design* and its influence on the *operation, outputs, and outcomes* of TJ institutions. As Kochanski underlines, there is a "spectrum of design options that are available to decision-makers in government, bilateral donor agencies, and domestic and transnational advocacy networks" (2020: 115). Not only are there different options available, but these options can influence the extent to which a TJ institution is successful in accomplishing its mission (Oduro and Nagy 2014; Stahn 2005; Zvobgo 2019). A strong or a weak architecture can also be a powerful (albeit early) indicator of a government's underlying (or genuine) commitment to truth and accountability (Zvobgo 2020), as it offers analysts a demonstrated (rather than a stated) commitment to a robust process. To be sure, substance or performance, like success or failure, does not happen overnight or all at once; there are many bellwethers along the way that merit our attention and consideration. As we study institutional design, we can begin to disentangle substance and performance across a range of TJ contexts.<sup>3</sup>

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<sup>3</sup> Certainly, institutional design is not always a determining factor for the success or failure of TJ mechanisms; TJ tools can overcome limited powers and expectations. However, limited powers and expectations often have negative downstream effects for TJ institutions' operation, outputs, and outcomes. Based on research interviews with Eduardo González, former Director of the Truth and Memory Program at the International Center for Transitional Justice, and Anna Myriam Roccatello.

We conceptualize a spectrum: At the lower end, *performance*, TJ mechanisms are poorly designed, under-resourced, and under-supported by governments, and, at the higher end, *substance*, they are well designed, adequately resourced, and strongly supported by governments. We leverage the institution of truth commissions to operationalize and evaluate TJ performance and substance. We focus on commissions, rather than another TJ tool or set of tools, because commissions “generally precede and often provide the foundation for subsequent memorialization projects, trials, reparations, and institutional reforms” (Zvobgo 2020: 611).<sup>4</sup> Concerning commissions, performance is characterized by a lack of (1) key investigative powers, (2) funds, and (3) political will to uncover the truth. Meanwhile, substance is characterized by the availability of these and other forms of institutional support.

To weigh substance and performance, we study truth commissions in Africa, home to one-third of historical truth commissions. The Continent offers an extensive and useful laboratory to parse normative and instrumental rationales for TJ adoption and to trace the relationship between TJ design, operation, outputs, and outcomes. In addition, each of the main variants of norm diffusion and acceptance (geography, time, and cultural proximity) can be considered. If there is anywhere that we can discern the extent to which TJ practices reflect concretely the norms from which they are derived, it should be here.

For the analysis, we produce a medium-*N* descriptive analysis using novel quantitative data on truth commissions and truth commission design. The data code, for a given commission, the presence (absence) of four essential investigative powers: the power to (1) investigate a range of abuses, (2) trace antecedents of abuses, (3) subpoena testimony, and (4) preserve evidence. This descriptive analysis is one of our central contributions.

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<sup>4</sup> For research on museums and other memorialization projects, see Balcells, Palanza, and Voytas (2020). For work on personnel reforms, see Bates, Cinar, and Nalepa (2020). For an investigation of reparations, see Powers and Proctor (2016) and Greenstein (2020).

We also produce comparative case studies of truth commissions in three West African countries – Côte d'Ivoire, Ghana, and Togo – where we examine institutional design more finely, address the economic and political resources invested in each process, and track the consequences for the commissions' results and consequences. Côte d'Ivoire, Ghana, and Togo represent important cases for assessing whether and to what extent there is TJ norm diffusion and acceptance on the Continent; the three countries are geographic and cultural neighbors; their commissions were created sequentially and they were all implemented after the South African commission, whose example still looms large in the African and global TJ landscape (Ancelovici and Jenson 2013; Oduro and Nagy 2014; Yusuf 2007; Selim 2008). If the TJ norm has spread and been accepted regionally, culturally, and/or temporally, as prior studies suggest, these commissions should (1) have similar institutional designs that reflect substance over performance, (2) mirror each other's operations (e.g., solicit and compile volumes of witness testimonies), (3) produce similar outputs like comprehensive and accurate concluding reports, and (4) yield comparable outcomes like victim reparations and measures to address impunity.

Our data reveal noteworthy variation in the design and architecture of African truth commissions, even when we consider commissions in countries that are the most geographically proximate, that have shared histories, and whose TJ processes succeeded each other (i.e., the best possible candidates for observing norm diffusion and acceptance). Where the norm diffusion and acceptance thesis would expect consistency, perhaps even improvements, in design based on prior experiences among neighbors (based on geography, culture, and time), we find significant heterogeneity, even regress, indicating many instances of performative TJ. Case studies elaborate on the quantitative evidence.

We show that the Ghanaian commission, which preceded the Togolese and Ivorian commissions, had a wide material scope of inquiry, possessing the power to examine a range of abuses and the power to trace antecedents, as well as an effective means by which to gather evidence,

namely subpoena powers. It was also fairly well funded, and the government afforded it important institutional support. With this strong architecture, the commission was able to produce a comprehensive account of historical political violence and make a variety of policy proposals for redress and reform, which the government made strides to deliver.

While Togo and, later, Côte d'Ivoire also had a wide scope, the commissions lacked key evidence-gathering powers. This was *despite* having several strong models, including Ghana and South Africa. Instead of building on earlier experiences and successes on the Continent, or at least replicating their institutional set-ups, Togo and Côte d'Ivoire effectively regressed from these models. Thus, from a design perspective, they were ill-equipped to uncover the truth. While lacking key investigative powers need not be ruinous, as commissions can overcome limited powers and expectations in some instances, the Togolese and Ivorian commissions produced inferior investigations. Exacerbating the commissions' weak structure was a lack of adequate material and political resources, and a lack of serious follow-through, that was emblematic of their founding governments' desire to perform TJ, not only through the commissions but also other TJ modalities.

Institutional heterogeneity in both the cross-national and case analyses suggests that, while commissions have spread across Africa, key TJ norms have not been accepted in concrete, identifiable, and measurable ways. Lacking a substantive commitment to truth and accountability but desiring to send some positive signals to domestic and especially international audiences (Lynch 2008; Solomon and Zvobgo 2020), many African governments have established commissions that are ill-equipped to construct a comprehensive and accurate account of past violence. In turn, these commissions have failed to establish important historical facts, like the types and degrees of past violence, and the persons and powers responsible. Consequently, many African commissions have helped to (re)produce, rather than combat, impunity. Therefore, enthusiasm about the continued spread of this and other TJ modalities in Africa and around the world should be tempered and greeted with greater circumspection (Mendeloff 2004).

## Transitional Justice: Substance or Performance?

The theory and global practice of TJ suggests a strong norm, based on the internationally-recognized rights of victims to truth, justice, reparations, and guarantees of non-recurrence – rights established in case law from the Inter-American and European human rights courts in the 1980s and 1990s<sup>5</sup> and underlined in a range of international frameworks, for instance the 1997 UN principles on combating impunity (also known as the “Joinet principles”), and international legal instruments like the Rome Statute of the International Criminal Court.

Analysts suggest that the global spread of TJ indicates the diffusion and acceptance of TJ norms (Sikkink 2011; Kim 2012; 2019). This is consistent with sociological perspectives on global politics, notably constructivism and world society (Johnston 2001; Krasner 1983; Finnemore and Sikkink 1998; Sandholtz 1999; Teitel 2003). Extant diffusion theories propose several mechanisms through which TJ norms have spread – of note geographical, cultural, and historical proximity – and empirical studies present some of these patterns.

Sikkink and Kim (2013), Nauenberg (2015), and Kochanski (2020), among others, show that there is spatial and temporal clustering of TJ measures around the world. To illustrate, from 1974 to 2018, 27 truth commissions were established in Africa. Of these, nearly half were created in the decade, 1995 to 2005, suggesting learning and emulation between and among African nations, notably following the South African truth and reconciliation commission (Krueger 2016; Nauenberg 2015; Yusuf 2007). Meanwhile Kim (2012; 2019) explores diffusion among “cultural neighbors,” or those countries with a shared national language or religion, like Spanish and Catholicism. Kim finds that countries are more likely to implement TJ measures like trials and truth commissions when others like them have previously done so. Take, as an example, countries in Central and South

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<sup>5</sup> Emblematic cases include *Velázquez Rodríguez v. Honduras* (Inter-American Court of Human Rights 1988) and *McCann v. United Kingdom* (European Court of Human Rights 1995).

America and the TJ boon they experienced in the 1980s and 1990s. However, these descriptive and correlational studies are more suggestive than conclusive of TJ norm diffusion and acceptance.<sup>6</sup>

To be clear, we do accept that there are global and regional TJ norms. The very fact that governments implement TJ, often at the urging of domestic and international civil society actors, is evidence of this (Zvobgo 2020). However, the finer point that we seek to make is that government reactions and responses are not equal. That a government acquiesces to internal and external pressures or expectations to adopt a TJ mechanism or cluster of mechanisms does not mean that it actually accepts TJ as governing rule or that it fulfills the object and purpose of TJ in its policies. As Cronin-Furman (2020) writes, governments can deploy “half-measures,” intended to further the regime’s political interests, interests that do not necessarily encompass or serve truth and justice.

We note that those who perform *use the language* of substance *but do not deliver* on substance. Take, for example, “Never again” – the old adage that government officials use to frame their countries’ TJ projects. “Nunca más,” “Plus jamais,” and other variants of the term imply a level of accountability and initiative within a country to usher in truth, repair past harms, renew interpersonal and societal bonds, and reform institutions. “Never again” suggests a substantive commitment. But, while a promise and a sign of hope, in many places around the world, the phrase has been the opening act of government-led TJ performances, not truth and justice.

Prior research has addressed performance *during* TJ processes – from the typecasting of victims, perpetrators, and bystanders, to the delivery of witness testimony in court or at a truth commission, to the rituals and ceremonies of public remembrance (Bozzoli 1998; Cole 2010; Hutchison 2013; Kelsall 2005; Osiel 2000; Payne 2009). But little work considers performance *prior to* TJ processes. Yet the ‘show’ can – and, as we will demonstrate, does – occur earlier; it can be embedded in the initiative for and the design of the process itself. As Lynch reflects, TJ is a

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<sup>6</sup> We note that the works cited do not make direct causal claims on the basis of their findings. We also note that the notion of cultural neighbors is difficult to separate from geographic neighbors, including and perhaps especially in Central and South America, which are predominantly Catholic.

“performance of state-ness,” a “performance of a government’s capacity to investigate issues, take action and respond to the common good” (2018: 109).

Given an expectation that states provide TJ in the aftermath of political violence, governments seek to convey to domestic and especially to international audiences that they can deliver TJ, regardless of their interest in and commitment to TJ norms. In this way, we can observe a high degree of isomorphism across diverse political contexts. Yet governments’ gestures toward legitimate statehood may be more symbolic or ritualistic than they are practical or genuine (Meyer et al. 1997). Certainly, political leaders routinely make overtures toward accountability and reforms, even when they are insincere and their commitments are hollow (Cole 2005; 2009; Hafner-Burton, Tsutsui and Meyer 2008; Hathaway 2003; Sandholtz 2017).

A tale of two TJs thus unfolds when some nations and governments make concrete investments in truth and accountability while others do not. A performative TJ process is marked by limited powers, inadequate financial support, poor leadership, and minimal political support. It is a process that reinforces a “familiar performance,” where the most powerful use the process to advance their own interests and maintain the status quo (Lynch 2018: 59).<sup>7</sup> In this hijacking or co-optation of TJ processes, a government commits to acting out the process but effectively rejects changes that would undo its power (McCargo 2010; Solomon and Zvobgo 2020).

Performative TJ is not without risk. Using TJ tools as a smokescreen or deflection strategy can backfire. In his study of truth commissions in Bahrain, Morocco, and Sri Lanka, Wiebelhaus-Brahm finds that governments that attempt to “exploit transitional justice norms to alleviate pressure for political liberalization and accountability for human rights violations” may be forced to “reframe their depictions of the past” (Wiebelhaus-Brahm 2020: 13). And, where their characterization of past

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<sup>7</sup> The familiar performance is rooted in a country’s history, where the privileging of some groups’ interests over the interests of other groups began. In Africa, the setting of our coming analysis, the colonial past bleeds into the present, making it difficult to reimagine a political order and narrative that is not captured by powerful interests (Merwe 2018: 209).

events is incomplete and acontextual, they may be criticized and sanctioned by domestic and international actors, civil society advocates among them (Wiebelhaus-Brahm 2020).

### *Conceptualizing Substance and Performance*

We contend that TJ substance and performance can be detected as early as institutional design stage. The practical acceptance or rejection of TJ norms at this stage, we argue, has implications for how TJ processes will be carried out and for their outputs and outcomes. We conceptualize substantive and performative TJ by considering the presence (or absence) of norms around TJ mechanism design. Of great concern to us are the powers that governments afford TJ institutions.

We take truth commissions as our point of departure and consider two types of commission powers: jurisdictional and operational. By jurisdictional powers, we refer to the material scope of inquiry or what issues commissions are instructed to investigate. By operational powers, we refer to the methods by which commissions are to conduct their investigation. Commissions that have a wider material scope of inquiry and more effective evidence-gathering powers are better positioned than all others to produce an exhaustive historical inquiry into political violence – an inquiry that establishes such facts as the nature and extent of past abuses, the individuals and communities who were harmed, and the individuals and institutions who are responsible.

The institutionalization (and acceptance) of norms or rules around institutional design indicates their strength and their power, both in general and in a particular context (Ben-Josef Hirsch and Dixon 2020). They make clear what actors operating under a given regime should do. They contribute “strongly to *the possibility* for a norm cascade” (1998: 900, emphasis added).<sup>8,9</sup> Studying

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<sup>8</sup> For a related discussion, see Sandholtz (2008).

<sup>9</sup> Some scholars take a contrasting view. For example, Percy (2007) suggests that institutionalization can weaken some norms. Yet, as Ben Josef-Hirsch and Dixon propose, “institutionalization is likely to reflect a strengthening norm” (2020: 6). See also Bower (2019), Brunnée and Toope (2019), and Kelley (2008).

how commissions are designed can help us better understand the extent to which their *use* matches the *norms* on which they are based and can help us evaluate the norm cascade's true reach.

Though there is excellent work on norm institutionalization in the field of human rights, and more generally, the fields of comparative politics and international relations, the institutionalization of TJ norms has been neglected in many ways,<sup>10</sup> of note if and to what degree TJ institutions are built on existing evidence-based, practice-refined international best standards.

### *Operationalizing Substance and Performance: Investigative Powers and Material and Political Resources*

Studying the norms around truth commission design can give us a sense of what is substantive and what is performative. We begin our operationalization of substantive and performative truth commissions with their investigative powers. As discussed, there are two general sets of commission powers, jurisdictional and operational. First, jurisdictional powers refer to what a commission can investigate. We focus on two of these: a commission's ability to study a range of abuses and to trace antecedents (root causes) of those abuses. Together, these powers establish the commission's scope of inquiry, either wide or narrow. A wide material scope of inquiry is crucial to understanding historical violence. As Zvobgo notes:

[R]arely, if ever, is it the case that only one type of abuse has been perpetrated by state and/or non-state actors during authoritarian governments, civil conflicts, or other periods of political violence [...] Commissions that investigate some, but not all, abuses are, by definition, incomplete and are, by design, at odds with victims' rights to truth [...] In a similar vein, commissions that document violence, but do not reveal root causes can only render a partial account (2020: 619).<sup>11</sup>

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<sup>10</sup> Some notable exceptions include Ancelovici and Jenson (2013), who study the standardization of truth commission goals, Ben-Josef Hirsch and Dixon (2020), who investigate international concordance and institutionalization of the principles of legal accountability and truth-seeking, and Winston (2020a), who proposes a method for building and analyzing quantitative data on the structure of TJ norms.

<sup>11</sup> See also González (2013).

Second, operational powers refer to how a commission can conduct its investigation. We focus on two of these: a commission's power to compel testimony and to preserve the evidence that it collects. Together, they compose a commission's primary evidence-gathering powers, either present and effective or absent and ineffective. On the subject of subpoena and evidence-preservation powers, Zvobgo continues,

A commission that is able to garner testimony from even reluctant sources is better positioned to produce a comprehensive and accurate account about past abuses. Relatedly, preserving evidence enables a commission to conduct a serious, independent inquiry (2020: 620).<sup>12</sup>

To function and to function well, commissions need both the 'what' – a mandate to investigate multiple types of violence and abuse – and the 'how' – tools to effectively collect and guard testimony and other material evidence. These powers are among the best standards that TJ experts promote.<sup>13</sup>

Beyond investigative powers, we also consider the financial and political resources afforded commissions to do their work. Low resource allocation – regardless of the scope, tools, and methods of investigation – suggests that a government is more interested in institutional formalisms than efficacy. By contrast, high resource allocation indicates that a government is serious about a commission's research and operation.<sup>14</sup> With our operationalization of truth commission substance and performance in place, we proceed to our research design, which involves quantitative and qualitative data and methods.

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<sup>12</sup> See also González and Varney (2013).

<sup>13</sup> See, for example, Gonzalez (2013) and González and Varney (2013).

<sup>14</sup> Some scholars suggest that weakness in truth-seeking practice may stem from a weak normative basis for victims' right to truth. Here, theorists draw a distinction between claims based on the morality of truth seeking and claims based on the written law. In essence, the proliferation of the accountability norm, both in general and in Africa specifically, may relate more to moral claims than legal claims, with the former being weaker than the latter. Regardless of the strength of the basis for the right to truth, we can differentiate 'performance' and 'substance' once governments have decided to establish truth-seeking mechanisms. For a discussion on the pursuit of *terra firme* for the right to truth, see Christmas (2020). See also Rapp (2020) on the strength of moral and political claims versus legal claims in international relations.

## Research Design

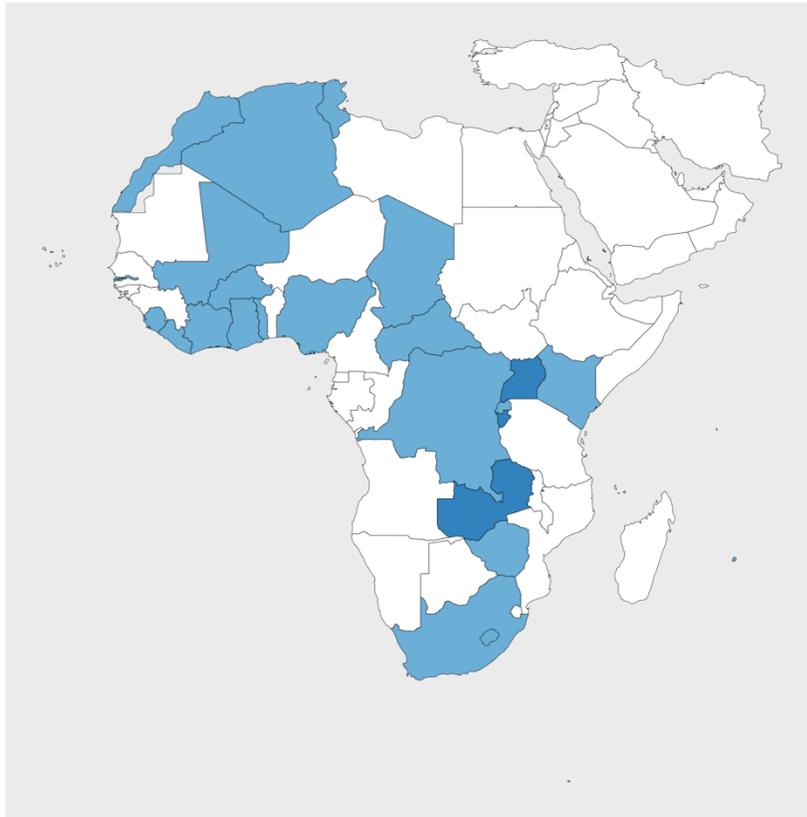
For the first part of the analysis, we produce a medium- $N$  descriptive analysis using quantitative data on truth commission design from the *Varieties of Truth Commissions* Project, which contains data on the universe of commissions from 1970 to 2018 (Zvobgo 2020). 27 of the 84 commissions captured in the data were established in African countries. This list was compiled after consulting previous truth commission data projects<sup>15</sup> and conducting archival and internet-based research to expand the list of cases and stretch the timeline.<sup>16</sup> To be included in our data, each commission had to meet Hayner's five-part definition: (1) a temporary body (2) created by a national government to (3) research events in the past, and (4) determine a pattern of violence, in part by (5) engaging affected communities.

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<sup>15</sup> These include the first and second editions of Hayner's *Unspeakable Truths*, Kathryn Sikkink, Geoff Dancy, and collaborators' Transitional Justice Research Collaborative, and Leigh Payne and collaborators' Transitional Justice Database Project.

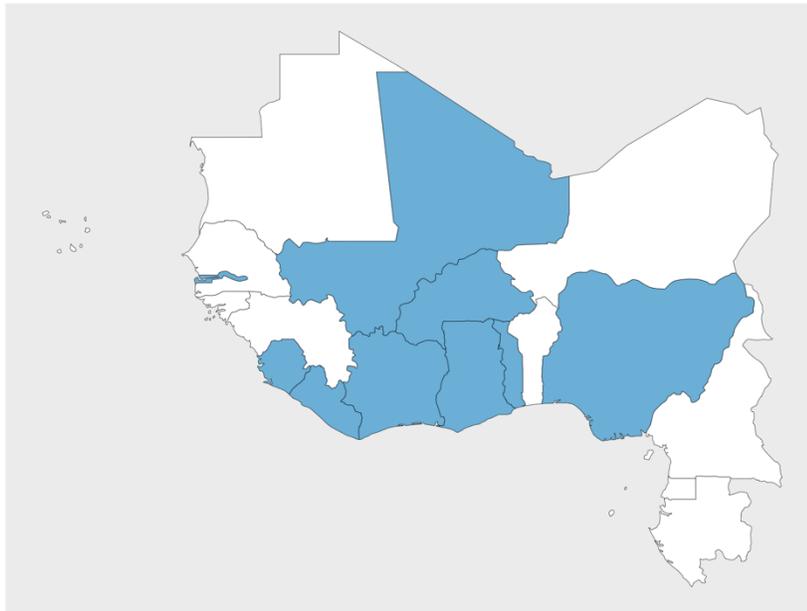
<sup>16</sup> Hayner does not claim to study the universe of commissions. Both the first and second editions of *Unspeakable Truths* begin with Idi Amin's Commission of Inquiry into the Disappearance of People in Uganda since 25th January, 1971. The second edition concludes with Kenya's Truth, Justice, and Reconciliation Commission. The *Varieties of Truth Commissions* begin with Pakistan's 1972 War Inquiry Commission concludes with Nicaragua's 2018 Truth, Justice and Peace Commission.

Figure 1: African Truth Commissions



As Figure 1 shows, virtually every African country that had a truth a commission shares a border with another country that had a truth commission, making this an especially useful environment to parse between substance and performance in truth commission designs and processes. As Figure 2 shows, West Africa is a truth commission-dense region, claiming 9 of the 27 African truth commissions.

Figure 2: West African Truth Commissions



In addition to helping us describe the universe of cases, the *Varieties of Truth Commissions* allow us to describe the presence (absence) of key truth commission investigative powers, namely the power to (1) study a range of abuses, (2) identify root causes, (3) compel testimony, and (4) preserve forensic and other evidence.

First, we use a binary variable, *Range of abuses*, to distinguish commissions that did (variable equals 1) and that did not (variable equals 0) possess the power to study many types of violations, for instance, not only killings but also other physical integrity rights violations and even violations of social and economic rights. Second, we use a dichotomous indicator, *Range of abuses*, to separate commissions that did (variable equals 1) from commissions that did not (variable equals 0) have the power to study both instances of abuses and factors contributing to them, for example, ethno-linguistic fractionalism and economic inequality. Third, we use a binary variable, *Subpoena*, to distinguish commissions that did (variable equals 1) and that did not (variable equals 0) possess the power to compel testimony and other evidence. Fourth, we use a dichotomous indicator, *Preserve*

*evidence*, to separate between commissions that did (variable equals 1) and that did not (variable equals 0) have the power to collect and preserve forensic and other evidence.

In the second part of the analysis, we present comparative case studies of truth commissions in Côte d'Ivoire, Ghana, and Togo. A structured comparison of three West African countries is advantageous for many reasons. Focusing on Côte d'Ivoire, Ghana, and Togo, helps us hold constant some potentially confounding variables, namely history, culture, and geography. The three countries were among the first wave of independent countries in Africa in the twentieth century. Ghana gained its independence from the United Kingdom in 1957, and Cote d'Ivoire and Togo both became independent of the French Republic in 1960. Beyond this, they have shared histories. For instance, part of the territory of modern-day Ghana was previously part of historical Togoland. In addition, the three countries are geographic neighbors: Cote d'Ivoire borders Ghana to the east and Togo to the west. They are also cultural neighbors. Côte d'Ivoire and Togo are both French-speaking countries, with sizeable Christian and Muslim populations (34 and 43 percent, respectively, for Côte d'Ivoire and 44 and 14 percent, respectively, for Togo). English-speaking Ghana has a much larger Christian population, approximately 71 percent, with a Muslim population of approximately 18 percent (Central Intelligence Agency 2020).

For this analysis, we rely on multiple sources, including government documents, reports by domestic and international non-governmental organizations, truth commission publications, and secondary accounts. Using different data types helps us triangulate evidence in favor of either truth commission performance or substance.

## Performing Truth?

In this section, we present the medium-*N* descriptive analysis of the quantitative data and the case studies. We begin with an all-Africa analysis of investigative powers that are important for a robust

truth commission. In terms of jurisdictional powers, 20 of 25<sup>17</sup> (or 80%) of African truth commissions were empowered to examine multiple human rights abuses and 17 (68%) were empowered to determine root causes. In terms of operational powers, 9 (36%) enjoyed subpoena powers and 11 (44%) enjoyed the power to collect and preserve evidence.

Focusing on West Africa, all 9 commissions in the region were empowered to examine multiple abuses and all but one – Burkina Faso (1999) – were empowered to determine root causes. Despite similarities in jurisdictional powers in the region, operational powers differed considerably. Five commissions – Nigeria (1999), Ghana (2002), Sierra Leone (2002), Liberia, (2006), and The Gambia (2018) – enjoyed subpoena powers and four – Nigeria, Sierra Leone, Liberia, and The Gambia – had the power to collect and preserve evidence.

Taken together, the data show significant heterogeneity in truth commission designs across the Continent and throughout West Africa. This is true, even when we take into consideration the chronology of the commissions. Where many countries could have easily replicated prior commission designs, they effectively regressed from crucial models.

To foreground the three-country analysis, we find that, while Ghana could have fully replicated prior models, notably Nigeria (a sub-regional neighbor with a shared history) and South Africa (a regional neighbor), it did not; the Ghanaian commission lacked the power to preserve the evidence that it collected, a potential obstacle for any commission seeking to advance an independent inquiry. Nonetheless, the Ghanaian commission had a strong setup that supported a relatively strong process. Togo and Côte d'Ivoire regressed further, lacking the Nigerian, Ghanaian, Sierra Leonean, and Liberian commissions' ability to compel testimony. Together with other operational deficits, in particular little funding, weak leadership, and low government support, their flimsy structure made

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<sup>17</sup> We were unable to locate mandate documents for the two Zambian commissions. So, we only have data on commission powers for 25 of the 27 cases.

them even less equipped to accomplish the mission of uncovering the truth and delivering accountability.

## *Ghana*

*Historical background.* In 1874, Great Britain established the Gold Coast Colony, expropriating indigenous Wagadou lands, territory in the modern state of Ghana, and extracting resources like gold. Over the next half-century, Britain expanded its dominion to encompass previously unconquered lands to the north, including those of the Asante and the western region of Togoland. As with many of its other foreign possessions, Britain ruled the Gold Coast Colony indirectly, co-opting and delegating power to colonial governors, traditional chiefs, and private companies. Devolution of power, intended to secure long-term British control, however, precipitated the Colony's demise (McKenna 2010: 123-25).

In 1951, revolutionary leader, Kwame Nkrumah and his Convention People's Party (CPP) launched the "Self-government Now" campaign and won a majority of seats in the Colony's legislative assembly. Nkrumah was elevated to Prime Minister of the Gold Coast and, six years later, in 1957, became Prime Minister of a sovereign, though not-yet-independent, Ghana. Finally, in 1960, Ghana became an independent republic, with a single-party system steered by Nkrumah (McKenna 2010: 129-31).

Nkrumah's rule was short-lived, however. While he was on a diplomatic visit to Beijing, China in 1966, the military replaced him with Lieutenant General Joseph A. Ankrah. Successive coups over the next decade and a half produced in 1981 a new "supreme" government under Jerry Rawlings. Over the following two decades, Ghana slowly democratized but failed to address historical and ongoing human rights abuses. This changed in 2000, when John Kofi Agyekum Kufuor was elected president and established a body to reconcile the nation (Singh 2014: 90-93).

*Truth Commission Background and Design.* The Ghanaian National Reconciliation Commission (NRC) was charged with investigating human rights abuses perpetrated by public institutions and public officeholders during periods of unconstitutional rule, from 1957 to 1993. The commission undertook its investigation from 2002 to 2004, under the chairmanship of former Chief Justice Kwaku Etrew “K.E.” Amua-Sekyi, with eight other commissioners appointed by Kufuor in consultation with the Council of State, a non-partisan presidential advisory body (Attafuah 2004:130). While instructed to differentiate abuses under civilian government and military rule, the commission ultimately considered equally written and oral statements on all violence within the mandate period.

The Ghanaian government had just two commissions in the West Africa region after which it could model its commission: Burkina Faso (1999) and Nigeria (1999), the former a French-speaking Muslim-majority state and the latter an English-speaking state with a near-even split between Christians and Muslims (Central Intelligence Agency 2020). Both commissions were assigned to uncover a range of abuses, but only the Nigerian commission was charged with tracing root causes. The Ghanaian commission was tasked *both* with investigating multiple types of violations, specifically “killings, abductions, disappearances, detentions, torture, ill-treatment and seizure of properties” and identifying “the causes and circumstances under which the violations and abuses occurred” (Parliament of the Republic of Ghana 2002: 3). This wide material scope of inquiry offers suggestive evidence for TJ norm diffusion and acceptance in Ghana and truth commission substance.

Moving on from jurisdictional powers to operational powers, the Ghanaian commission enjoyed subpoena powers like the Nigerian commission before it; however, unlike its predecessor, it lacked explicit powers to preserve the evidence that it collected. Nonetheless, the commission’s overall powers, “the standard of proof adopted, the elaborate information management process, and the internal control mechanisms” (Ameh 2006: 345) – all of which built on regional and sub-regional precedents – set it up for a serious investigation, signaling a substantive interest in and commitment

to TJ. This was true not only in terms of the truth commission but, as we will elaborate, in terms of other TJ measures also.

*Truth Commission Operation, Outputs, and Outcomes.* Here, we trace the consequences of the Ghanaian commission's strong architecture, including its founding law, strong leadership, and institutional support from the government. These helped the commission engage affected communities, both victims and perpetrators, and support a reparations scheme and a range of institutional reforms.

The NRC's enabling legislation required it to establish a full historical record of human rights violations inflicted by public institutions and politicians. It was further mandated to recommend to the President certain measures to appease victims of human rights abuses and measures to prevent such abuses in the future. The commission operated for two years and shortly thereafter published its multi-volume report. The commission investigated approximately 4,000 cases and held numerous open hearings, garnering significant attention from the media and the public more generally. It directly engaged more than 2,000 victims and dozens of perpetrators. Even, former President Rawlings testified (Attafuah 2004: 129).

In its comprehensive concluding report, the NRC established the colonial roots of violence and abuse against civilians by the military and police. Ghana inherited from the British both the design of these institutions and the operation and conduct of the individuals who worked in them, including a penchant toward the excessive use of force. Based on these facts and pursuant to its mandate to propose restitution and reforms, the commission recommended a holistic reparations program that encompassed apologies, memorials, and monetary compensation to victims, with the type and size determined by the violations suffered. The commission also recommended reforms within prisons, the police, and the military (Ghana Center for Democratic Development 2005; United States Institute of Peace 2020).

The commission was not perfect. No commission is. But it produced important policies, like the reparations mentioned above, which the Kufuor administration implemented reasonably quickly. The government made thousands of reparations awards, totaling roughly \$1.5 million (Hayner 2011: 51). The government later announced that it would have given more if it had more resources to give, to which analysts retorted that the government was not fully committed to reparations. The Kufuor administration also took important, if modest, steps to reform the judiciary and tackle corruption among the military, police, prosecutors, and judges (United States Institute of Peace 2020).<sup>18</sup>

Overall, the Ghanaian truth commission reflected substance over performance. Because of its strong mandate and powers, it successfully brought together victims and perpetrators to share their experiences of violence and abuse, and created a setting and an opportunity for forgiveness and reconciliation. The commission recorded and quickly disseminated the accounts and provided a normative and policy framework for redress and reform. Qualified and vetted commission leaders and high-level government officials' cooperation and support, during and after the commission, were also instrumental. They made possible a holistic approach to TJ and helped the country secure democracy and peace, and improve human rights (Ameh 2006).

## *Togo*

*Historical Background.* In 1884, Germany established the protectorate of Togoland, building on its four decades of exploitation of native labor on palm oil, rubber, cotton, and cacao plantations. During the First World War, France and the United Kingdom invaded the territory and claimed it when German forces surrendered. The British initially took to the west and the French to the east. Both countries later surrendered the territories to the trusteeship of the League of Nations and, after the Second World War, its successor, the United Nations. British Togoland was later subsumed under the

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<sup>18</sup> We acknowledge that the NRC has been criticized in some academic and practitioner circles for giving so much time and attention to the Rawlings administration (Valji 2006). However, we note that Rawlings ruled over Ghana during roughly two-thirds of the NRC's mandate period.

Gold Coast Colony, which became a sovereign nation in 1957; that is, modern-day Ghana. Three years later, in 1960, French Togoland gained its independence, becoming contemporary Togo, under Sylvanus Olympio (McKenna 2010: 208-10).

In the early years of the Olympio administration, there was debate about whether or not to integrate into the national army Togolese demobilized from France's colonial armies. Olympio rejected the proposal, triggering a rift between the government and the military. Credible death threats prompted Olympio to seek sanctuary at the embassy of the United States. He never entered the embassy compound, however. Army sergeant and future president, Étienne Gnassingbé Eyadéma shot Olympio outside the embassy gates on January 13, 1963. The army then invited Olympio's rival, Nicolas Grunitzky to assume the presidency. Grunitzky crafted a new constitution and opened a parliament comprised mostly of non-commissioned military officers. Instability persisted (McKenna 2010: 209-11).

Four years into the Grunitzky presidency, Eyadéma seized power and dissolved all political parties. Togo entered into a vicious cycle of violence, all to protect the Eyadéma clan and their allies. They operated like a mafia, dominating the country's business, government, and military sectors. Secure in his power, Eyadéma declared himself president in 1972. International criticism forced Eyadéma to hold the first multiparty elections in 1993, which he won under dubious conditions.

In the lead-up to 1998 elections, five years later, Eyadéma unleashed the army and select militias on civilians to intimidate and demobilize opponents. Hundreds were killed and thousands were displaced or exiled. And, when it appeared that former-President Olympio's son, Gilchrist, would win, Eyadéma had the army seize ballot boxes, disband the electoral commission, expel international observers, and again declare him the winner (McKenna 2010: 211).

Mass demonstrations, strikes, and economic stagnation ensued. Nonetheless, Eyadéma reigned for five more years until his death. His son, Faure, succeeded him in 2005, precipitating a year-long crisis resulting in at least 500 dead. The second Eyadéma, refusing to relinquish power but

wanting the crisis to end, tactically conceded to a Comprehensive Political Agreement in 2006 (McKenna 2010: 212).

*Truth Commission Background and Design.* The Comprehensive Political Agreement provided for the Commission Vérité, Justice et Réconciliation (Truth, Justice and Reconciliation Commission, or CVJR) to investigate human rights abuses under both the elder and younger Eyadéma's administrations, as well as the late pre- and early post-Independence period, a total of forty-seven years (1958-2005) (République Togolaise 2009). The commission conducted its work from 2009 to 2012, under the leadership of Catholic bishop, Nicodème Barrigah-Benissan. Other commission leaders hailed from academia, civil society, and business. Traditional leaders were also involved.

The commission was principally charged with investigating extrajudicial killings but was also empowered to study other related violence. The commission was further empowered to trace antecedent causes. Thus, it had a wide material scope of inquiry – evidence for norm acceptance in Togo and truth commission substance. However, the commission lacked both subpoena and evidence preservation powers – evidence for instrumental adaptation and truth commission performance. Indeed, despite having many examples to emulate in this regard – including its immediate neighbor, Ghana, and its sub-regional neighbors, Liberia, Nigeria, and Sierra Leone, as well as other nations on the Continent like South Africa – Togo failed to build on them. By not affording the commission critical operational powers, the government did not spur the most-effective commission possible.

*Truth Commission Operation, Outputs, and Outcomes.* Now, we discuss the Togolese government's decision to create a weaker commission than did its regional and sub-regional predecessors, and the adverse consequences of this decision for the commission's operation, outputs, and outcomes. Among these was the failure to address impunity, even in the limited way that quasi-judicial bodies like truth commissions can (Kpanake and Mullet 2011).

We start with the CVJR's mandate. Similar to the law establishing the Ghanaian NRC, the presidential decree that inaugurated the CVJR required it to examine all politically-related violence within its nearly five-decade mandate period, identify the individuals responsible, propose reparations for victims, recommend accountability measures for perpetrators, and lay out potential preventive measures such as institutional reforms. Dissimilar to the Ghanaian case, commission officials in Togo were appointed under dubious, non-merit-based procedures. They were also granted complete immunity from prosecution in relation to any disclosure in the exercise of their functions (République Togolaise 2012: 61), raising questions about their qualifications, integrity, and commitment to the process, as well as of the president.

We next consider the participation of victims and other witnesses in CVJR proceedings. In its three-year investigation, the commission managed to gather some 22,000 statements from across the country and diaspora. But only a fraction of these, roughly 500, were presented in public hearings (OHCHR 2012). The commission judged that hearing more testimonies would simply take too much time and require too many resources. Relatedly, there was a troubling unwillingness to identify perpetrators and request their participation, and there was no option to compel their testimony. Virtually all of the public testimonies were delivered by survivors, victims' families, and experts. Perpetrators' marginal participation limited the extent of the truth that could be recovered. Barrigah-Benissan, the commission chair, later expressed regret about this. He said that both he and many Togolese would have appreciated hearing perpetrators confess, apologize, and seek forgiveness and, in turn, be granted forgiveness by survivors and victims' families (Sarkin and Davi 2017: 9).

The truth commission report drew the arc of modern Togolese history, connecting colonial-era violence to the present-day and linking "successive coups, terrorist attacks, detentions, disappearances, assassinations, and tensions between ethnic communities, orchestrated by militias backed by political actors" (OHCHR 2012). However, the report was less detailed in its findings and conclusions than previous commissions, a criticism that commission officials preempted in the

report, citing the narrow window of time that they had to work in and the modest resources that the government allocated to their work (République Togolaise 2012: 64). Beyond the findings and conclusions, commissioners included among their recommendations respect for ethnic groups, judicial and electoral reforms, and personnel reforms in law enforcement and the military. Commission leaders also proposed material and symbolic reparations to victims and suggested anti-impunity measures like human rights trials for the individuals responsible for the most serious crimes.

While the commission did fairly well, when we consider its limited powers and resources, it was hamstrung by the broader political environment, including the fact that most of the abuses in question occurred during the current president's father's administration. What kind of truth could emerge from an investigation of a father by a son? In truth, it was a performance. Adding to this, Faure Gnassingbé was re-elected in 2015, which flew in the face of the commission's recommendation to limit successive terms. This aided, rather than confronted, impunity of perpetrators of abuse in the elder and younger Eyadéma's administrations. Simply, whatever effect the commission could have had was curtailed by the context in which it was deployed. The government established a body to assist with implementing the CVJR's recommendations, but it has accomplished little since (Sarkin and Davi 2017) – further evidence of performative TJ.

### *Côte d'Ivoire*

*Historical Background.* In 1893, the French Republic established colonial rule over Côte d'Ivoire, exploiting native labor and natural resources. Over the next half-century, economic exploitation grew. Even as Ivorians fought on behalf of and died alongside the French in the First and Second World Wars, Ivorians did not enjoy civil and political rights at home. The colonial government

routinely detained and, in some cases, deported so-called “dissidents,” and imposed heavy taxes, even on local kings (McKenna 2010: 108-9).

In 1944, Ivorian social leaders, Félix Houphouët-Boigny and Auguste Denise developed a plan to address land and labor exploitation and led Ivorian planters in forming the Syndicat Agricole Africain (African Agricultural Union, or SAA). SAA’s central goal was to secure better treatment for native farmers – a fight that its members won. Building on this success, SAA transformed into a political party, the Parti Démocratique de la Côte d’Ivoire (Democratic Party of Côte d’Ivoire, or DCPI), with Houphouët-Boigny as its leader. The French government attempted to co-opt the rising star and the movement he led, elevating him first to the Paris-based Commission des Territoires d’Outre-Mer (Commission on Overseas Territories) and, later, several ministerial positions, all the while repressing his confreres back home and sowing the seeds of future resentment, instability, and violence (McKenna 2010).

Côte d’Ivoire declared its independence in 1960, with Houphouët-Boigny as its first president. The nation enjoyed significant economic growth under free-enterprise policies. Nevertheless, as in many other post-Independence African states, the single-party system grew unpopular and, for Houphouët-Boigny, increasingly dangerous. He survived two coup attempts in 1963 and 1973, and in the late 1980s he was forced to hold the country’s first multiparty elections. Rather than representing the advent of a new era of peace and democratic governance, however, Ivoirians witnessed more unrest, mutiny, and coups and succumbed to a military government.

In 1999, the military brought out of retirement General Robert Guéï and installed him as President. One year later, in 2000, Guéï agreed to presidential and legislative elections. He also declared that he would not run – a pledge on which he would later renege. Guéï allowed only one opponent, Laurent Gbagbo, leaving off the ballot ex-Prime Minister under Houphouët-Boigny, Alassane Ouattara. The nation erupted into violence and hundreds died in the lead-up to the election, which Gbagbo won.

Civil unrest persisted after the election and, in 2002, a full-fledged civil conflict began, splitting the country between the Muslim-majority North and Christian-majority South. Peace talks proceeded in fits and starts. Finally, in 2007, a power-sharing agreement was negotiated in Ouagadougou, Burkina Faso. In the next electoral cycle in 2010, however, violence erupted as Gbagbo and Ouattara faced off again. This time, Ouattara won the election. Gbagbo refused to vacate his position, prompting yet another civil conflict. Ouattara supporters captured the capital, Abidjan, in 2011 and installed him as president. The violence left 3,000 dead (McKenna 2010).

*Truth Commission Background and Design.* Ouattara installed the Commission Dialogue, Vérité et Réconciliation (Dialogue, Truth and Reconciliation Commission, or CDVR) to investigate political violence, from 1990 to the-said Ivorian Crisis of 2010 and 2011. The commission conducted its work from 2011 to 2014, under the leadership of former Prime Minister Charles Konan Banny, religious leaders, and regional representatives.

Similar to the Ghanaian NRC and Togolese CVJR, the Ivorian CDVR was tasked with uncovering a broad range of violations, including torture, sexual violence, and extrajudicial killings, and to trace antecedents, notably tribalism, nepotism, and social inequality and exclusion. The wide material scope of inquiry, which built on regional and sub-regional precedents, supplies evidence in favor of norm diffusion and truth commission substance. However, like the Togolese commission, the Ivorian commission lacked subpoena powers. It also lacked evidence-preservation powers. Where Côte d'Ivoire could have built on its neighbors' legacies, it failed to do so, suggesting instrumental adaptation and truth commission performance.

*Truth Commission Operation, Outputs, and Outcomes.* Here, we discuss the Ivorian commission's weak architecture and, more generally, the lack of a clear direction for TJ measures established by the

Ouattara administration and the consequences thereof. As we will elaborate, the commission failed to seriously engage affected communities or provide a modicum of truth and accountability.

We begin with the CDVR's mandate. As previously mentioned, the commission had a wide material scope of inquiry, tasked with researching a diversity of civil, political, economic, and social rights violations over a two-decade period. The commission was also charged with identifying and suggesting measures to combat inequality, discrimination, and injustice. Yet, as Amnesty International reported in 2013, the events in question were not clearly defined. Essentially, the commission was assigned to investigate *everything*. Lacking priorities for the investigation, commission leaders undertook a national consultation to discern what Ivorians wanted to be investigated. This consultative process, which should have preceded the commission, consumed much of the precious little time that they had. The commission also lacked sufficient public funds and so had to rely heavily on external funding. Analysts worried about what truth could possibly come out of such a process. Relatedly, there were concerns that, whatever little the commission did find, the results would not be made public. The commission report, the government had ordered, was to be delivered to the president, not shared directly with the people (Amnesty International 2013: 66).

Next, we address victim participation in the CDVR, a significant point of contention in the Ivorian TJ landscape. While commissions are intended to be restorative TJ mechanisms centered on victims' experiences, the Ivorian commission was neither restorative nor victim-centered. In one of our research interviews, the ICTJ's Deputy Executive Director and Director of Programs, Anna Myriam Roccatello reported that the commission was a waste of time and money; it did not seriously engage victims and did little to advance interpersonal and societal reconciliation. For this reason, the United Nations (UN) Independent Expert on the situation of human rights in Côte d'Ivoire, Doudou Diène called for a second extension of the CDVR's mandate, admonishing:

Efforts at political dialogue and the national reconciliation process must not be tainted by tactical or electoral manoeuvring in a political context that neglects the higher interests of the Ivorian people. They must go hand in hand with the struggle

against impunity, the promotion of equitable justice and the central importance that must be given to the situation of victims (UN Human Rights Council 2014).

Regrettably, the Ouattara administration did not heed Diène's admonition or recommendation.

Bediako concludes, "The effect has been continuing tension and a fragile peace" (2016: ii).

Building on this, we consider the CDVR report. The commission concluded its investigation and completed its report in 2014, but it took the government more than two years to make it publicly available, prompting international criticism from a range of international actors, among them the International Center for Transitional Justice, Amnesty International, and Human Rights Watch,<sup>19</sup> as well as domestic civil society groups (Jones and Djané 2018). When the report was finally released in 2016, sections that were critical of Ouattara and his allies had been deleted (République de Côte d'Ivoire 2016; Piccolino 2018). Thus, only a partial and limited truth emerged. And, unsurprisingly, there has been little movement on the commission's recommendations.

The CDVR was not the only problematic or unsuccessful TJ mechanism established in Côte d'Ivoire. Reparations, prosecutions, and institutional reforms were few, far between, and unserious. Most would-be reparations beneficiaries never received them and Ouattara supporters and allies have enjoyed *de facto* immunity from prosecution, while some opponents and rivals have been prosecuted (Jones and Djané 2018). Past violence was not comprehensively addressed, and no robust measures were put in place to prevent abuses in the future. Overall, TJ in Côte d'Ivoire was a grand performance that produced little by way of truth, restitution, and accountability (Lopes 2015).

## Discussion

The scholarly contribution of this chapter is three-fold. First, we made an important conceptual contribution to the study of TJ. Whereas scholars generally conceptualize performance as *events and*

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<sup>19</sup> See International Center for Transitional Justice (2020), Amnesty International (2016), and Human Rights Watch (2015).

*acts within a TJ process*, for example victims and perpetrators giving their testimony in trials and at commissions (Kelsall 2005; McEvoy 2007), we presented performance as *the structure and motivating logic of some TJ institutions*. Accordingly, performance does not start with TJ participants; instead, it begins with TJ policy makers and institutional designers.

Second, we built on constructivist and world society perspectives on global governance in the context of TJ. Meyer et al. (1997) cautioned more than twenty years ago that institutional isomorphism, or the similarity of form, does not necessarily reflect shared beliefs and values. We extended this insight by arguing that the sheer spread of TJ institutions does not in and of itself supply evidence of the diffusion and acceptance of TJ norms, or agreement on the conduct expected of post-violence states.

Third, we made a noteworthy empirical contribution. We produced a comprehensive study of truth commission institutional design in Africa, the region where we have observed the most commissions and where we may yet observe more. Not only did we provide a detailed overview of commissions on the Continent, we also presented a sub-regional analysis of lesser-known commissions, adding to our collective understanding of TJ in different parts of the world.

We found that the commissions in Ghana, Togo, and Côte d'Ivoire differed in terms of the investigative powers enumerated in their mandates and the material and political resources that policy makers vested in them. Consequently, they varied in how they carried out their work, what facts they were able to uncover, and their impact on post-violence politics. Whereas the Ghanaian commission's design, operation, outputs, and outcomes reflected substance (i.e., they can be explained by norm diffusion and acceptance), the Ivorian and Togolese commissions' set-up, activities, results, and consequences reflected performance (i.e., they can be explained by instrumental adaptation).

Though the impetus for and design of TJ institutions played a significant role in our analysis and findings, they are not always determining factors. TJ institutions can (and historically some have)

overcome initial limitations. Future research should investigate how they did so and suggest how future commissions with modest origins can nevertheless produce good work. Future research should also extend our concepts and theory to other TJ institutions and evaluate how far and how well the findings and conclusions travel.

## References

- Ameh, Robert Kwame. 2006. Uncovering Truth: Ghana's National Reconciliation Commission Excavation of Past Human Rights abuses. *Contemporary Justice Review* 9(4): 345-68.
- Amnesty International 2013. *Côte d'Ivoire: The Victors' Law: The Human Rights Situation Two Years After the Post-Electoral Crisis*. Accessed September 14, 2020. [amnesty.org/download/Documents/8000/afr310012013en.pdf](https://www.amnesty.org/download/Documents/8000/afr310012013en.pdf).
- Amnesty International 2016. *Amnesty International Report 2015/16 - Côte d'Ivoire*. Accessed September 14, 2020. [amnesty.org/download/Documents/POL1025522016ENGLISH.PDF](https://www.amnesty.org/download/Documents/POL1025522016ENGLISH.PDF).
- Ancelovici, Marcos, and Jane Jenson. 2013. "Standardization for Transnational Diffusion: The Case of Truth Commissions and Conditional Cash Transfers." *International Political Sociology* 7(3): 294-312.
- Annan, Kofi. 2016. *Truth Commissions and Peace Processes*. Accessed September 15, 2020. [kofiannanfoundation.org/transitions-to-peace/truth-commissions/](https://www.kofiannanfoundation.org/transitions-to-peace/truth-commissions/).
- Attafuaah, Ken Agyemang. 2004. "An Overview of Ghana's National Reconciliation Commissions and its relationship with Courts." *Criminal Law Forum* 15(1-2): 125-34.
- Balcells, Laia, Valeria Palanza and Elsa Voytas. 2020. "Do Transitional Justice Museums Persuade Visitors? Evidence from a Field Experiment." *Forthcoming, Journal of Politics*.
- Bates, Genevieve, Ipek Cinar and Monika Nalepa. 2020. "Accountability by Numbers: A New Global Transitional Justice Dataset (1946-2016)." *Perspectives on Politics* 18(1): 161-84.
- Bediako, Kofi. 2016. *The Politics of Transitional Justice in Côte d'Ivoire* (Master's thesis). Liverpool: Liverpool Hope University.
- Ben-Josef Hirsch, Michal. 2014. "Ideational Change and the Emergence of the International Norm of Truth and Reconciliation Commissions." *European Journal of International Relations* 20(3): 810-33.
- Ben-Josef Hirsch, Michal, and Jennifer M. Dixon. 2020. "Conceptualizing and assessing norm strength in International Relations." *European Journal of International Relations*. Online First.

- Bower, Adam. 2019. "Contesting the International Criminal Court: Bashir, Kenyatta, and the Status of the Nonimpunity Norm in World Politics." *Journal of Global Security Studies* 4(1): 88–104.
- Bozzoli, Belinda. 1998. "Public Ritual and Private Transition: The Truth Commission in Alexandra Township, South Africa 1996." *African Studies* 57 (2): 167–95.
- Brunnée Jutte, and Stephen J. Toope. 2019. "Norm Robustness and Contestation in International Law: Self-Defense Against Nonstate Actors." *Journal of Global Security Studies* 4(1): 73–87.
- Central Intelligence Agency. 2020. *The World Factbook*. Accessed September 25, 2020. [cia.gov/library/publications/the-world-factbook/fields/401.html](https://cia.gov/library/publications/the-world-factbook/fields/401.html)
- Christmas, Tafadzwa. 2020. Rethinking the Iconography of the South African Truth and Reconciliation Commission (TRC): An analysis of the TRC's influence in shaping truth-seeking policy and practice in Africa today. *Unpublished manuscript*.
- Cole, Catherine. 2010. *Performing South Africa's Truth Commission: Stages of Transition*. Bloomington, IN: Indiana University Press.
- Cole, Wade M. 2005. "Sovereignty Relinquished? Explaining Commitment to the International Human Rights Covenants, 1966–1999." *American Sociological Review* 70(3): 472–95.
- Cole, Wade M. 2009. "Hard and Soft Commitments to Human Rights Treaties, 1966–2000." *Sociological Forum* 24(3): 563–88.
- Cronin-Furman, Kate. 2020. Human Rights Half Measures: Avoiding Accountability in Postwar Sri Lanka. *World Politics*. 72(1):121–63.
- Finnemore, Martha, and Kathryn Sikkink. 1998. "International Norm Dynamics and Political Change." *International Organization* 52(4): 887–917.
- Ghana Center for Democratic Development. 2005. *Never Again: Summary and synthesis of the National Reconciliation Commission's Final Report*. Accra: Ghana.
- González, Eduardo. 2013. *Drafting a Truth Commission Mandate: A Practical Tool*. New York: International Center for Transitional Justice.
- González, Eduardo, and Howard Varney. 2013. *Truth Seeking: Elements of creating An Effective Truth Commission*. Brasilia: Amnesty Commission of the Ministry of Justice of Brazil.
- Greenstein, Claire. 2020. "Patterned Payments: Explaining Victim Group Variation in West German Reparations Policy." *International Journal of Transitional Justice*, 14 (2): 381–400.
- Grodsky, Brian K. 2010. *The costs of justice*. South Bend: University of Notre Dame Press.
- Hafner-Burton, Emilie M/, Kiyoteru Tsutsui and John W. Meyer. 2008. "International Human Rights Law and the Politics of Legitimation: Repressive States and Human Rights Treaties." *International Sociology* 23(1): 115–41.
- Hathaway, Oona A. 2003. "The Cost of Commitment." *Stanford Law Review* 55(5): 1821–62.

- Hayner, Priscilla B. 2011. *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*. 2 ed. New York: Routledge.
- Human Rights Watch. 2015. "To Consolidate This Peace of Ours" A Human Rights Agenda for Côte d'Ivoire. Accessed September 14, 2020. [hrw.org/report/2015/12/08/consolidate-peace-ours/human-rights-agenda-cote-divoire#\\_ftn226](https://www.hrw.org/report/2015/12/08/consolidate-peace-ours/human-rights-agenda-cote-divoire#_ftn226).
- Hutchison, Yvette. 2013. *South African Performance and Archives of Memory*. Manchester: Manchester University Press.
- International Center for Transitional Justice. 2020. *Côte d'Ivoire*. Accessed September 14, 2020. [ictj.org/our-work/regions-and-countries/cote-divoire](https://www.ictj.org/our-work/regions-and-countries/cote-divoire).
- Jelin, Elizabeth. 2003. *State Repression and the Labors of Memory, volume 18*. Minneapolis: University of Minnesota Press.
- Johnston, Alistair I. 2001. "Treating International Institutions as Social Environments." *International Studies Quarterly* 45(4): 487-515.
- Jones, Briony, and Dit Fatogoma Adou Djané. 2018. Reading the 'Uncivil' in Civil Society Resistance to Transitional Justice in Côte d'Ivoire. *Political Geography* 67: 135-44.
- Kelley, Judith. 2008 "Assessing the Complex Evolution of Norms: The Rise of International Election Monitoring." *International Organization* 62(2): 221-55.
- Kelsall, Tim. 2005. "Truth, lies, ritual: Preliminary reflections on the truth and reconciliation commission in Sierra Leone." *Human Rights Quarterly* 27(2): 361-91.
- Kim, Hun Joon. 2012. "Structural Determinants of Human Rights Prosecutions after Democratic Transition." *Journal of Peace Research* 49(2): 305-320.
- Kim, Hun Joon. 2019. "Why Do States Adopt Truth Commissions After Transition?" *Social Science Quarterly* 100(5):1485-502.
- Kochanski, Adam. 2020. "Mandating Truth: Patterns and Trends in Truth Commission Design." *Human rights review* 21(2): 113-37.
- Kpanake, Lonozou, and Etienne Mullet. 2011. "What Can Reasonably Be Expected from a Truth Commission?: A Togolese View." *Conflict Resolution Quarterly* 29(2): 201-24.
- Krasner, Stephen D. 1983. *International Regimes*. Ithaca: Cornell University Press.
- Krueger, Anne K. 2016. "The Global Diffusion of Truth Commissions: An Integrative Approach to Diffusion as a Process of Collective Learning". *Theory and Society* 45(2): 143-68.
- Loken, Meredith, Milli Lake, and Kate Cronin-Furman. 2018. "Deploying justice: Strategic accountability for wartime sexual violence." *International Studies Quarterly* 62(4): 751-64.

- Lopes, Daniel, 2015. "La Commission Dialogue Vérité et Réconciliation en Côte d'Ivoire: la réconciliation n'a pas eu lieu". *Note d'Analyse du GRIP*. Brussels: Groupe de Recherche et d'Information sur la Paix et la Sécurité.
- Loyle, Cyanne E. and Christian Davenport. 2016. "Transitional Injustice: Subverting Justice in Transition and Postconflict Societies." *Journal of Human Rights* 15(1):126-49.
- Loyle, Cyanne E., and Helga Malmin Binningsbø. 2018. "Justice During Armed Conflict: A New Dataset on Government and Rebel Strategies." *Journal of Conflict Resolution* 62 (4): 442-66
- Lynch, Gabrielle. 2018. *Performances of Injustice: The Politics of Truth, Justice, and Reconciliation in Kenya*. Cambridge: Cambridge University Press.
- McCargo, Duncan. 2010. Thailand's National Reconciliation Commission: A flawed response to the Southern Conflict. *Global Change, Peace and Security* 22 (1): 75-91.
- McEvoy, Kieran. 2007. "Beyond Legalism: Towards A Thicker Understanding of Transitional Justice." *Journal of Law and Society* 34(4): 411-440
- McKenna, Amy. 2010. *The History of Western Africa*. 1st ed. New York: Britannica Educational Pub. in association with Rosen Educational Services.
- Mendeloff, David, 2004. "Truth-Seeking, Truth-Telling, and Postconflict Peacebuilding: Curb the Enthusiasm?" *International studies review* 6(3): 355-80.
- Meyer, John W., John Boli, George M. Thomas, and Francisco O. Ramirez. 1997. World Society and the Nation-State. *American Journal of Sociology* 103(1): 144-81.
- Nauenberg, Saskia. 2015. "Spreading the Truth: How Truth Commissions Address Human Rights Abuses in the World Society." *International Sociology* 30(6): 654-73.
- Oduro, Franklin, and Rosemary Nagy. 2014. "What's in an Idea?: Truth Commission Policy Transfer in Ghana and Canada." *Journal of Human Rights* 13(1): 85-102.
- Osiel, Mark. 2000. *Mass Atrocity, Collective Memory, and the Law*. New Brunswick: Transaction Publishers.
- Parliament of the Republic of Ghana. 2002. *National Reconciliation Commission Act, Act 611*. Accra: Republic of Ghana.
- Payne, Leigh. 2009. *Confessional Performances: A Methodological Approach to Studying Perpetrators' Testimonies*. In Hugo van der Merwe, Victoria Baxter & Audrey R. Chapman, eds., *Assessing the Impact of Transitional Justice: Challenges for Empirical Research*, pp. 227-48. Washington, D.C.: United State Institute of Peace.
- Piccolino, Giulia. 2018. "Peacebuilding and Statebuilding in Post-2011 Côte d'Ivoire: A Victor's Peace?" *African Affairs* 117(468): 485-50.
- Powers, Kathy L., and Kim Proctor. 2016. "Victim's Justice in the Aftermath of Political Violence: Why Do Countries Award Reparations?" *Foreign Policy Analysis* 13(4): 787-810.

- Rapp, Kyle. 2020. "Law and Contestation in International Negotiations." *Review of International Studies*. Online First. 1-19.
- République de Côte d'Ivoire. 2016. *Rapport final de la Commission Dialogue, Vérité et Réconciliation*. Abidjan: République de Côte d'Ivoire.
- République Togolaise. 2009. *Décret Présidentiel, n° 2009-046/PR du 25 février 2009 portant création de la Commission Justice, Vérité et Réconciliation*. Lomé: République Togolaise.
- République Togolaise. 2012. *Rapport final de la Commission Justice, Vérité et Réconciliation*. Lomé : République Togolaise.
- Roht-Arriaza, Naomi. 2006 *The Pinochet Effect: Transitional Justice in the Age of Human Rights*. Philadelphia: University of Pennsylvania Press.
- Sandholtz, Wayne. 1999. Globalization and the Evolution of Rules. In Aseem Prakash and Jeffrey A. Hart, eds., *Globalization and Governance*, pp. 77-102. London: Routledge
- Sandholtz, Wayne. 2008. "Dynamics of international norm change: rules against wartime plunder." *European Journal of International Relations* 14(1): 101–31.
- Sandholtz, Wayne. 2017. "Domestic law and human rights treaty commitments: The Convention against Torture." *Journal of Human Rights* 16(1): 25–43.
- Sarkin, Jeremy, and Tetevi Davi. 2017. "The Togolese Truth, Justice and Reconciliation Commission: Lessons for Transitional Justice Processes Elsewhere." *Peace and Conflict Studies* 24(1): 1–21.
- Selim, Yvette, 2018. Contestation and Resistance: The Politics of and around Transitional Justice in Nepal. *Conflict, Security & Development* 18(1): 39-60.
- Sikkink, Kathryn. 2011. *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics*. New York: WW Norton & Company.
- Sikkink, Kathryn, and Hun Joon Kim. 2013. "The Justice Cascade: The Origins and Effectiveness of Prosecutions of Human Rights Violations." *Annual Review of Law and Social Science* 9: 269-85.
- Singh, Naunihal. 2014. *Seizing Power: The Strategic Logic of Military Coups*. Baltimore: Johns Hopkins University Press.
- Solomon, Daniel, and Kelebogile Zvobgo. 2019. "Co-Opting Truth: Explaining Quasi-Judicial Institutions in Authoritarian Regimes." *Unpublished manuscript*.
- Stahn, Carsten. 2005. "The Geometry of Transitional Justice: Choices of Institutional Design." *Leiden Journal of International Law* 18(3): 425–66.
- Subotić, Jelena. 2009. *Hijacked justice: Dealing with the past in the Balkans*. Ithaca: Cornell University Press.

- Subotić, Jelena. 2012. "The transformation of international transitional justice advocacy." *International Journal of Transitional Justice* 6(1): 106–25.
- Teitel, Ruti G. 2003. "Transitional Justice Genealogy." *Harvard Human Rights Journal* 16: 69–94.
- United Nations Human Rights Council. 2014. *A/HRC/25/73: Report of the Independent Expert on the situation of human rights in Côte d'Ivoire, Doudou Diène*. New York: United Nations.
- United Nations Office of the High Commissioner for Human Rights (OHCHR). 2012. *Healing the Wounds of the Past for a Better Future in Togo*. Accessed September 23, 2020. [ohchr.org/EN/NewsEvents/Pages/HealingthewoundsofthepastforabetterfutureinTogo.aspx](http://ohchr.org/EN/NewsEvents/Pages/HealingthewoundsofthepastforabetterfutureinTogo.aspx).
- United States Institute of Peace. 2020. *Truth Commission: Ghana*. Accessed September 25, 2020. [usip.org/publications/2003/01/truth-commission-ghana](http://usip.org/publications/2003/01/truth-commission-ghana).
- Valji, Nahla. 2006. "Ghana's National Reconciliation Commission: A Comparative Assessment." *International Center for Transitional Justice Occasional Paper Series*. September 2006: 1-49.
- VanAntwerpen, Jonathan. 2009. Moral Globalization and Discursive Struggle. Reconciliation, Transitional Justice, and Cosmopolitan Discourse. In David C. Hammack and Steven Heydemann, eds., *Globalization, Philanthropy, and Civil Society: Projecting Institutional Logics Abroad*, pp. 95–136. Bloomington: Indiana University Press.
- van der Merwe, Hugo. 2018. "Conclusion: The Role of Local Civil Society in Shaping Transitional Justice in Africa." In *Advocating Transitional Justice in Africa*, edited by Jasmina Brankovic and Hugo van der Merwe, 205-226. New York: Springer International Publishing AG, 2008.
- Wiebelhaus-Brahm, Eric. 2020. "Global Transitional Justice Norms and the Framing of Truth Commissions in the Absence of Transition." *Negotiation and Conflict Management Research*. Online First.
- Winston, Carla. 2020a. "Words Count: Discourse and the Quantitative Analysis of International Norms." *Journal of Human Rights* 19(1): 138–51.
- Winston, Carla. 2020b. "Truth Commissions as Tactical Concessions: The Curious Case of Idi Amin." *The International Journal of Human Rights*. Online First.
- Yusuf, Hakeem O. 2007. "Travails of Truth: Achieving Justice for Victims of Impunity in Nigeria." *International Journal of Transitional Justice* 2(1):268–86.
- Zvobgo, Kelebogile. 2019. "Designing Truth: Facilitating Perpetrator Testimony at Truth Commissions." *Journal of Human Rights* 18(1): 92–110.
- Zvobgo, Kelebogile. 2020. "Demanding Truth: The Global Transitional Justice Network and the Creation of Truth Commissions." *International Studies Quarterly* 64(3): 609–25.