

# Designing Truth: Facilitating Perpetrator Testimony at Truth Commissions\*

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## Abstract

Truth commissions aim to promote transparency, accountability, and reconciliation by compiling detailed narratives of political violence. To achieve this end, both victims and perpetrators of abuses must testify. Yet, little is known about how commissions can be designed to facilitate perpetrator participation. This paper develops a theory of perpetrator participation in truth commissions, with a focus on institutional design. The paper evaluates the effectiveness of four design features—amnesties, subpoena powers, dual-party agreements, and spiritual frameworks—in facilitating perpetrator participation in the truth commissions in Sierra Leone, South Africa, and Timor-Leste. Though advantageous features may be present in a commission, the criteria required for them to function may not be met, resulting in no effect or a negative effect on perpetrator participation. In addition, participation may not be forthcoming absent institutional features operating under the logic of appropriateness, affirming the importance of normative foundations for perpetrator participation.

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## Introduction

Between 1974 and 2009, 40 truth commissions<sup>1</sup> were established to compile accounts of political violence perpetrated in inter- and intra-state conflicts, and under authoritarian governments (Chapman and Ball, 2001; Hayner, 2001; 2011). By inspecting documents, gathering individual testimonials, and producing a final report with policy recommendations, truth commissions aim to address structural responsibility, promote national reconciliation, and bolster new or restored regimes (Ben-Josef Hirsch et al., 2012; Gibson, 2004). To achieve their goals, truth commissions require the participation (or testimony) of victims and perpetrators. Previous scholarship has indicated that victim participation may be facilitated by addressing issues such as privacy, safety, and sensitivity to gender-based crimes (González and Varney, 2013: 49; Minow, 1998: 67-8). However, the institutional determinants of perpetrator participation are less well understood.

Perpetrator testimony can enhance the legitimacy of a commission, supplement victims' accounts to create a more exhaustive historical narrative, and facilitate closure for victims and their families through admission of abuses and even communication of remorse (Hayner, 2001: 135-40; Minow, 1998: 77; Ntsebeza, 2000: 160). This is particularly true of the testimonials of lower-level perpetrators who carried out the abuses: they are numerous, rarely prosecuted, and often in need of societal reintegration (Villa-Vicencio, 1998). Unfortunately, scholarship has not sufficiently evaluated "institutional variation within types of transitional justice mechanisms" and its impact on process and outcomes (Dancy et al., 2010: 59).

This paper develops a theory of perpetrator participation at truth commissions, with a focus on institutional design features under the control of actors inaugurating commissions (Oduro and Nagy, 2014). Building on scholarship on institutional features that may facilitate victim participation, this paper proposes a set of institutional features operating under the logic of consequences and the logic of appropriateness (March and Olsen, 1998) which may facilitate perpetrator participation. Given variation in perpetrators' individual apprehensions about and motivations for participating in

a truth commission, adopting a set of features operating under *both* logics will likely maximize perpetrator participation.

This paper proposes two institutional features that could induce perpetrator participation under the logic of consequences—amnesty-granting powers and subpoena powers—and two features that could facilitate perpetrator participation under the logic of appropriateness—dual- or multi-party agreements, and spiritual or religious frameworks. The influence of the four features is evaluated through case studies of the truth commissions in Sierra Leone, South Africa, and Timor-Leste. These commissions represent one in six transitional truth commissions, and three in seven transitional truth commissions which report perpetrator participation. Crucially, these cases vary substantially both in terms of institutional features and levels of participation.

The analysis suggests that the theoretical constructs developed are present, functional, and influential for perpetrator participation in the three commissions. However, the analysis indicates that *no single institutional feature is critical* to perpetrator participation. As demonstrated below, this initial inquiry motivates continued deliberation on design-based explanations for perpetrator participation at truth commissions and encourages further work to ascertain the independent and joint effects of the features proposed here.

## Truth commissions and perpetrator participation

Perpetrators are not absent from the narratives collected and the reports issued by truth commissions, but their participation in transitional justice processes is either assumed or juxtaposed against victims' participation (Biggar, 2003: 7). Yet, cooperation of perpetrators is essential to an exhaustive historical narrative and for community healing and reconciliation. The paucity of scholarship on perpetrator participation likely stems from the fact that, historically, truth commissions have been viewed as *victim*-centered mechanisms of transitional justice. Truth commissions offer a venue for the participation of a wide cross-section of victims—regardless of the

severity of the abuses committed against them or whether their testimony links abuses to those “most responsible” for the harm they have experienced. The truth-telling process is meant to aid the healing of individual victims and the larger community, and is viewed as a “restorative” mechanism of transitional justice (Minow, 1998: 60-65; Roht-Arriaza, 1995: 19).

The restorative and victim-centered aspects of truth commissions are often juxtaposed against criminal courts, which are seen as *perpetrator*-focused and retributive in nature (Minow, 1998: 19-21; Orentlicher, 1991). Courts are criticized for only providing a partial account of the truth: victim testimony is limited to specific episodes or information that helps connect the on-the-ground abuses with the individuals “most responsible,” who often are not the direct perpetrators of abuses (Hoven and Scheibel, 2015; Minow, 1998: 58-59). In addition, the prosecutor’s actions with regard to the criminal case may not always align with victims’ interests, which can lead to victims feeling excluded or ostracized from the judicial process (Fletcher and Weinstein, 2002), undermining conflict prevention, public confidence in transitional justice, and social peace (Meernik, 2005: 287; Stover and Weinstein, 2004: 333-334). Nonetheless, the divide between truth commissions and courts as victim- or perpetrator-centered is eroding. Scholarship increasingly recognizes the potential complementarity of courts and commissions (Orentlicher, 2007; Villa-Vicencio, 2000).

The dearth of scholarship examining in what manner and to what degree various institutional features facilitate perpetrator participation is puzzling, as there is agreement that such participation is vital for the truth commission process. Perpetrator participation is part of the evaluation criteria on the success and legitimacy of truth commissions (Hayner, 2001: 24-30). Perpetrators’ testimonials can complement victims’ accounts, as well as provide information not previously known. In this way, perpetrator participation is essential to compiling a complete record of events and establishing a ‘whole truth.’ The engagement of perpetrators who were the *enactors* of political violence is especially important, as they tend to escape the reach and capacity of most criminal courts, which seek to prosecute those few individuals deemed “most responsible” (Marchal, 2003: 11).

Information provided by these perpetrators, such as the location of secret graves, can allow exhumation, return of the remains to families, and memorial services, which can be cathartic for families (Ntsebeza, 2000: 160). Perpetrator participation may also negate the feelings of isolation, loneliness, and mistrust of society that victims can feel after profound political violence. An official acknowledgment of previously-denied events can be extremely powerful for victims in reestablishing their place within society (Hayner, 2001: 135). As the cycle of victim marginalization ends and the acknowledgment of perpetrator responsibility begins, groups may be reconciled and share a stake in a national project which may, in turn, contribute to political stability (Brahm, 2007: 25; Subotic, 2011: 161).

Perpetrator participation is not without controversy. First, perpetrators may not identify as such. Indeed, some perpetrators may also consider themselves victims.<sup>2</sup> Determining (1) who is and who is not a perpetrator, (2) if they should participate, and (3) from what positionality or perspective they should participate in a truth commission can generate social unrest and adversely impact transitional justice.<sup>3</sup> In addition, the degree to which perpetrators are conceived of as an “Other” may vary across contexts. In some contexts, political violence is born of race-, religious-, or nation-based conflict, whereas, in other contexts, conflict erupts due to circumstance, such as economic downturn and disenfranchisement (Millar, 2012: 717). Perpetrator participation may thus be most controversial when victims and perpetrators are separated by abiding identities. Second, perpetrator participation may re-traumatize victims who hear detailed accounts of the abuses committed against them or their families, or provide an opportunity for grandstanding, as with Hermann Göring during the Nuremberg trials (González and Varney, 2013: 38). Nevertheless, perpetrator participation is critical to revealing crimes previously unknown or unattributed, and to mapping patterns of atrocity and lines of responsibility and complicity—the essence of the truth commission project.

## Facilitating perpetrator participation

Institutional design matters for the success of the truth commission process (Oduro and Nagy, 2014; Stahn, 2005) and, indeed, post-commission governance outcomes such as democratization (Taylor and Dukalskis, 2012). Yet, little scholarship articulates institutional features that may facilitate perpetrator participation at truth commissions. Furthermore, scholarship does not probe the effects of multiple features across commissions. Each perpetrator has a unique set of circumstances and reasons that compel him/her to participate or not participate—some of which are outside the scope of this article, such as feelings of guilt or remorse (Schabas, 2004: 1092). This article cannot ascertain and evaluate the relative motivations of each perpetrator. The article does, however, predict that *on average* certain features of truth commissions have an effect on participation (González and Varney, 2013; Nesiah, 2006; Stahn, 2005).

To develop a theory of institutional design features most likely to induce perpetrator participation and conduct a first probe of that theory, this article builds off both the nascent literature on perpetrator participation and the more established literature on victim participation. A body of work proposes design features of truth commissions to facilitate victim participation (González and Varney, 2013; Nesiah, 2006; Stahn, 2005). This literature is useful because victim participation rationales likely correspond to perpetrator participation rationales in some instances. Victims *do* have different apprehensions about and motivations for participating at truth commissions, and institutional features critical to their participation, such as support units and witness protection programs, likely have no bearing on perpetrators. Yet, features which generally relate to exposure and public legitimacy may matter for perpetrators as they do for victims.

### *Logic of consequences*

This article develops a design-based theory of perpetrator participation at truth commissions, evaluating institutional features likely to facilitate participation under the logic of consequences and

the logic of appropriateness (March and Olsen, 1998). The logic of consequences holds that individuals “choose among alternatives by evaluating their likely consequences for personal or collective objectives,” whereas the logic of appropriateness moves that individuals “follow rules that associate particular identities to particular situations, approaching individual opportunities for action by assessing similarities between current identities and choice dilemmas” (March and Olsen, 1998: 949-951). Since perpetrators likely have a variety of personal motivations for participating in a truth commission—some may be motivated by cost-benefit calculations, others by identities, and others still by both—a design-based theory, encompassing the two logics, is likely to provide vital insights into participation for a wide cross-section of perpetrators.

In the context of a truth commission, a logic of consequences may operate if threats of prosecution or amnesty create high costs or rewards for perpetrator participation. The extant scholarship on perpetrator participation at truth commissions is consonant with this view. Scholars generally focus on three features which generate high costs or rewards: the presence of courts, public naming, and amnesties. The presence of national, hybrid, or international criminal courts can adversely affect perpetrator participation if the truth commission shares (or is believed to share) information with the court that could be used to support the prosecutor’s work (Wierda, Hayner and Van Zyl, 2002: 9). Moreover, publicly naming perpetrators can discourage participation because of shame, fear of a renewal in violence, or the perception that participation equates to a legal pronouncement of criminal guilt (Jackson, 2005: 369; Ntsebeza, 2000: 164).

In connection with the victim participation literature, public hearings—which can either deter (Quinn, 2009: 276) or empower (Roht-Arriaza, 1995: 19) victims by making their private sufferings public—would likely only deter perpetrators who do not want to publicly retell their responsibility for abuses, suffering, and crimes, and possibly face punishment (Minow, 1998: 67-68; Ntsebeza, 2000: 164-165). Truth-for-amnesty deals, however, can make participation more likely, given a credible threat of prosecution (Hayner, 2001: 5). Building on this literature, this article posits

two institutional features that may facilitate perpetrator participation under the logic of consequences: (1) amnesty-granting powers and (2) subpoena powers.

It is important to note that, though an institutional feature may exist, e.g., in a commission's empowering act or mandate, it may not be successfully implemented. Though starting points for analysis, institutional formalisms are *not* sufficient for the effects predicted by the theory. The theory requires features to be both present and functional. Functionality is determined by fulfillment of the criteria specified for each feature, as elaborated below. These criteria guard against finding effects that could not have been produced by the features, thereby giving us more confidence in this inquiry's preliminary conclusions.

*Amnesty.* Amnesty-granting powers are the authority of the truth commission to grant legal amnesty for offenses committed by perpetrators in exchange for full participation in the truth commission process. States' use of amnesties dwarfs all other transitional justice mechanisms, such as trials, reparations, lustration policies, and, indeed, truth commissions (Binningsbø et al., 2012: 731; Olsen et al., 2010), despite the disputes amnesties provoke in both scholarship and practice (Roht-Arriaza and Mariezcurrena, 2006; Snyder and Vinjamuri, 2003). There exist many types of amnesties, including general (or, unconditional) amnesties and limited amnesties covering certain groups or crimes (Binningsbø et al., 2012: 735; Olsen et al., 2010: 806-808). In this article, amnesties refer to those issued *in exchange* for truth-telling (conditional amnesties). Though unconditional and limited amnesties may aid peace processes, only conditional amnesties aid accountability. An important assumption of the theory is that perpetrators want no punishment, or at least, decreased severity of punishment (Binningsbø et al., 2012: 731). Therefore, if threatened with punishment, perpetrators may participate in exchange for amnesty.

Crucially, amnesty-granting powers serve a dual purpose in truth commissions: inducing perpetrator participation *and* bolstering the new or restored government with the power to accord amnesty for that participation. Perpetrators *may* fear public shaming, victim retaliation, and



ostracism by former leaders or colleagues as a consequence of their testimony in a truth commission (Ntsebeza, 2000: 164). However, concerns about such social sanctions may be attenuated by the promise that the perpetrator will not have to bear legal sanctions imposed by the new or restored government for abuses meriting criminal and/or civil punishment. In order for this feature to function as predicted, the theory expects: (1) amnesty-granting powers in the commission's empowering act, (2) communication of these amnesty powers to the public, (3) the commission granting *de jure* amnesty to perpetrators for a full and truthful testimony, (4) articulation of amnesty provisions in the national legislation, (5) court recognition of amnestied persons, and (6) a credible threat of prosecution by a functioning or soon-to-be operational court.

*Amnesty hypothesis (H1).* If a truth commission possesses amnesty-granting powers, perpetrator participation will be more likely.

*Subpoena powers.* Subpoenas are court orders that require an individual to appear in court under threat of penalty (Sluiter, 2009: 590). While usually employed by courts, truth commissions can also retain the power to subpoena with the cooperation of courts for enforcement. Unlike amnesty, which incentivizes participation, subpoenas coerce participation through the threat of criminal sanctions if the individual summoned does not cooperate. Subpoenas can be used as either a complement or an alternative to amnesties. Subpoena powers can be used if perpetrators do not submit petitions for amnesty (i.e., if they do not cooperate with the commission). These powers can also be used when amnesty is not an option, given the sociopolitical context, and when voluntary participation is not forthcoming. In order for this feature to function as predicted, the theory expects: (1) subpoena powers in the commission's empowering act, (2) communication of subpoena powers by the commission to the public, (3) frequency of use, especially absent amnesty-granting powers, (4) a credible threat of criminal punishment for noncompliance with the subpoena, and (5) actual punishment for non-compliance.

*Subpoena hypothesis (H2).* If a truth commission possesses subpoena powers, perpetrator

participation will be more likely.

For clarity, the effectiveness of amnesty-granting powers relies on a credible threat of prosecution in a parallel court in cases of non-participation just as subpoena powers depend on enforcement in cases of non-compliance with the order to participate. In order for both features to function as predicted, the theory expects: (1) a criminal court with jurisdiction over crimes committed in the same conflict or regime, and during the same general time period, as the mandate given to the truth commission, (2) ongoing investigations and/or trials by the criminal court, and (3) a credible threat of prosecution given non-participation or non-compliance. Thus, a robust (weak) parallel court can aid (undermine) amnesty-granting and subpoena powers.

#### *Logic of appropriateness*

A logic of appropriateness may be present if a group to which a perpetrator belongs articulates an expectation of cooperation with and participation in the truth commission. Commissions that have high legitimacy and resonate with the identities and practices of the larger community may thus facilitate perpetrator participation. This article thus posits two institutional features that may influence perpetrator participation under the logic of appropriateness: (1) dual- or multi-party agreements and (2) spiritual or religious frameworks.

*Dual-party agreement.* If a peace agreement between parties previously at war makes provisions for a truth commission or if former and new regimes' transition plan includes a truth commission, perpetrator participation should be more likely. Scholarship indicates that the greater the sense of security (or, trust) between (or, among) former adversaries, the greater the likelihood of enduring peace and/or the new regime's stability (Hartzell and Hoddie, 2003; Jarstad and Nilsson, 2008; Kaufman, 2006; Wong, 2016). A sense of security between the parties may be accomplished through adherence to the terms of the agreement or transition plan. Thus, if parties credibly commit to an agreement involving a truth commission, perpetrator participation will be more likely. Moreover, if

leaders of parties previously at war, or the former and new regimes, endorse, cooperate with, and/or participate in a truth commission, their subordinates will be more likely to participate, as this confers legitimacy on the commission. In order for this feature to function as predicted, there must be a demonstrated endorsement of the commission by the inaugurating parties. This could be a public pronouncement or the voluntary cooperation of important figures within the former regime, or between/among former adversaries.

*Dual-party agreement hypothesis (H3).* If the truth commission was the fruit of negotiations between the former and new regimes, or between the parties previously at war, perpetrator participation will be more likely.

*Spiritual framework.* While a spiritual or religious framework may confer domestic legitimacy on a commission (Oduro and Nagy, 2014: 93), the theory here focuses on how such frameworks might resonate with perpetrators and encourage truth-telling. Many belief systems have a repentance-and-forgiveness discourse that can provide a safe space in which to confess and seek pardon. Perpetrators may want as few people to know about the crimes and abuses they committed—especially those closest to them (Ntsebeza, 2000: 164). Yet, they may, nonetheless, participate in a commission. They may seek forgiveness to be personally relieved of guilt for abuses committed and/or reintegrated into the community. In order for this feature to function as predicted, the framework must be relevant to the population. This resonance could, for example, be demonstrated by a prominent spiritual or religious figure's endorsement of the commission as consistent with the community's beliefs and practices (Oduro and Nagy, 2014: 93).

*Spiritual framework hypothesis (H4).* If a truth commission has a spiritual or religious framework, participation will be more likely.

To be sure, dual-party agreements and spiritual frameworks may not be functionally independent. For example, robust peace agreements may be overseen by religious or customary legal authorities.

These authorities may, in turn, admonish perpetrators to participate in a truth commission.

### *Summary*

Logic-of-consequences features increase (decrease) the costs of perpetrator participation, making it less (more) likely, whereas logic-of-appropriateness features increase normative pressures for perpetrator participation, also making it more likely. There are other factors that may affect the likelihood of perpetrator participation, including the mandate and scope of a truth commission's inquiry and, relatedly, the option of private hearings. Local attitudes to transitional justice may also influence participation (Samii, 2013). However, these are not design features and so remain outside the scope of this article. This article does not assume that the features studied function in perfectly analogous ways or resonate to the same extent across commissions. Further, the article does not assume that these are discrete features that do not relate to or interact with one another. Nevertheless, the article does assume that the micro-logics undergirding the features—creating incentives, coercion, and normative pressures—generally operate similarly across commissions.

### Case selection, data, and methods

This article explores four institutional design features likely to influence perpetrator participation through case studies of the truth commissions in Sierra Leone, South Africa, and Timor-Leste. While more than 40 commissions have been deployed globally, only 18 have been established during transitions from conflict or authoritarian government (Bakiner, 2014; Hayner, 2011).<sup>4</sup> This article draws its sample of cases from the universe of *transitional*<sup>5</sup> truth commissions because they differ considerably from non-transitional commissions, both in terms of their stated goals and methodologies. Indeed, “democratic stability or forging reconciliation between victims and perpetrators (most of whom are too old or perhaps deceased), for example, are not outstanding goals for nontransitional [*sic*] commissions” (Bakiner, 2014: 15). Examining perpetrator participation within transitional truth commissions attenuates the conceptual and methodological problems

sometimes associated with cross-case comparison.

Seven of 18 transitional truth commissions report participation of perpetrators.<sup>6</sup> However, only the three commissions studied here clearly identify participants as either victims, witnesses, or perpetrators, and report the relevant data.<sup>7</sup> The three cases offer useful variation in terms of geographical regions, parties inaugurating the commissions, and types of political violence necessitating the commissions. The South African commission was the fruit of negotiations ending apartheid. The Sierra Leonean commission was the fruit of negotiations between the government and rebel groups, bringing protracted civil war to a close. And, the East Timorese commission was sponsored by civil society and the United Nations following foreign occupation. In addition, the commissions provide substantial variation in both institutional features and levels of perpetrator participation to warrant the comparative analysis.

*Perpetrator participation.* Perpetrators are defined as both the *orchestrators* and *enactors* of political violence. However, perpetrators who participate at truth commissions are more likely to be the enactors, rather than the orchestrators, for two reasons. First, most truth commissions do not permit the participation of leaders that systematically planned and orchestrated atrocities. Amnesty provisions usually do not apply to these individuals and national, hybrid, or international criminal courts tend to target them because they are the “most responsible” for the political violence under scrutiny (Arzt, 2006: 233; Hoven and Scheibel, 2015; Minow, 1998: 58-59; Schabas, 2003: 1035; Stensrud, 2009). To be clear, enactors can and do perpetrate political violence, including gross violations of human rights, but they are unlikely candidates for prosecution. Second, there are few orchestrators but many enactors. The majority of perpetrators are police, soldiers, or members of rebel groups, who take orders and carry out the wishes of government, military, or rebel leaders.

To measure and evaluate the levels of the dependent variable, perpetrator participation, the article relies on the categorizations of the respective truth commission reports (see Table 2).<sup>8</sup> The overall numbers of statements made to the respective commissions include statements from victims

and witnesses. The Sierra Leonean commission uses the classification “direct perpetrators” (Sierra Leone Truth and Reconciliation Commission (SLTRC), 2004: A2-4). Of 7,706 statements, 51 (or, 0.66%) were from direct perpetrators. In the South African commission, perpetrators are classified as “qualified amnesty applicants”—individuals requesting participation and whose crimes met the criterion of being politically motivated. Of 23,500 statements, 2,500 (or, 10.6%) were from qualified applicants (Truth and Reconciliation Commission of South Africa (SATRC), 2003 (vol. 6, ch. 6): 736). Finally, in the East Timorese commission, perpetrators are classified as deponents requesting participation in the Community Reconciliation Program (CRP). Of 7,669 statements, 1,541 (or, 20.1%) were from deponents requesting participation in the CRP (Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR), 2005: 23). For comparative purposes, the wide variation between the three cases and the relative ordering among them are more important than specific percentages. Relative to each other, the truth commissions in Sierra Leone, South Africa, and Timor-Leste had low, medium, and high levels of perpetrator participation.

To be sure, the ideal measure for comparing levels of perpetrator participation across commissions would be perpetrator testimony divided by the total number of perpetrators of abuses within a truth commission’s mandate. However, truth commissions rarely report the raw number of perpetrators. Thus, the article’s measure of perpetrator participation (perpetrator testimony divided by all testimony) is the best measure available. To ascertain the robustness of this measure, the article develops three proxy measures for approximating the population of perpetrators—*duration*, *actors*, and *victims*—since truth commissions, and domestic and international NGOs, fairly consistently report the duration of violence, the actors involved in abuses, and the number of victims (see Table 1 for definitions and measurement). As seen in Table 2, taken together, the proxy measures support the main measure and the relative ordering—low, medium, and high perpetrator participation for Sierra Leone, South Africa, and Timor-Leste, respectively (see online appendix A for a more detailed discussion).

Table 1. Proxy measures for approximating the population of perpetrators

Concept	Definition	Measurement
<b>Duration</b>	The commission's mandate period	Category 1 = 10 or fewer years Category 2 = 11 to 30 years Category 3 = 31 or more years
<b>Actors</b>	The number of major groups perpetrating abuses	Category 1 = 1 major group Category 2 = 2 major groups Category 3 = 3+ major groups
<b>Victims</b>	The number of individuals against whom abuses were perpetrated	Category 1 = 1,000 or fewer victims Category 2 = 1,001 to 100,000 victims Category 3 = 100,001 to 1 million victims Category 4 = 1 million or more victims

Table 2. Perpetrator participation rates by truth commission

Country	Perpetrator Participation			
	Main measure	Proxy measure 1: Duration	Proxy measure 2: Actors	Proxy measure 3: Victims
<b>Sierra Leone</b>	Low participation 51 perpetrators 7,706 statements 0.66%	Category 2 11 years	Category 2 2 major groups	Category 4 2.6 million victims
<b>South Africa</b>	Medium participation 2,500 perpetrators 23,500 statements 10.6%	Category 3 34 years	Category 3 4 major groups	NA <i>Unquantifiable</i>
<b>Timor-Leste</b>	High participation 1,541 perpetrators 7,669 statements 20.1%	Category 2 25 years	Category 1 1 major group	Category 3 102,800 victims

Source: Data from the respective truth commission charters, mandates, and reports. Data supplemented by the United States Institute for Peace Truth Commission Digital Collection; reports from Amnesty International, Human Rights Watch, and the International Center for Transitional Justice; and Hayner (2011).

*Institutional features.* As seen in Table 3, there is variation in the presence of the institutional features across the truth commissions examined—except the spiritual framework feature—which allows for examination of the influence of various features on perpetrator participation across commissions. Given the small sample size and the many factors which may influence the construct of interest, perpetrator participation, case studies are appropriate. In each of the case studies, institutional features are linked with perpetrator participation through analysis of the criteria necessary for each

feature to function against what actually occurred at each truth commission. If the functionality criteria are met, the analysis assumes that the feature had the predicted effect on participation. If the criteria are not met, the analysis assumes that the feature had a neutral effect on perpetrator participation. The analysis then more directly links perpetrator participation to institutional features, such as with the testimony of perpetrators or with observed changes in perpetrator participation directly following a public pronouncement or institutional change. For this analysis, the paper draws on the respective truth commissions' empowering acts and reports, parliamentary reports, UN documents, government statements, newspapers, and secondary accounts and analyses. Drawing on these diverse documents helps triangulate evidence of institutional features influencing perpetrator participation at truth commissions.

Table 3. Institutional features by truth commission, presence/absence (expected effect on participation)

	Sierra Leone	South Africa	Timor-Leste
<b>Logic of consequences</b>			
<i>Amnesty</i>	Absent (-)	Present (+)	Present (+)
<i>Subpoena</i>	Present (+)	Present (+)	Absent (-)
<b>Logic of appropriateness</b>			
<i>Dual-party agreement</i>	Present (+)	Present (+)	Absent (-)
<i>Spiritual framework</i>	Present (+)	Present (+)	Present (+)

## Case studies

### *Sierra Leone*

The Lomé Peace Agreement (1999) officially ended the Sierra Leonean civil war instigated by the rebel Revolutionary United Front (RUF). Lomé accorded blanket amnesty to combatants and collaborators, and established a truth commission to address the conflict and heal the country (SLTRC, 2004: 23). The function of the commission was to provide an impartial account of wartime abuses and violations, address the problem of impunity, respond to the needs of victims, and support national healing and reconciliation in order to prevent repetition of abuses (Kelsall, 2005: 35). Before



the commission's inauguration, however, the conflict renewed. Consequently, the Government and the United Nations jointly established the Special Court for Sierra Leone (SCSL) to judge the most responsible violators of international criminal law (Schabas, 2003: 1035; Stensrud, 2009), stripping the amnesty provision for these perpetrators (Arzt, 2006: 233).

Though the RUF was the main subject of interest in transitional justice in Sierra Leone, the commission identified four main protagonists in the conflict: the RUF and its affiliate group, the Armed Forces Revolutionary Council (AFRC), and the Government and its affiliate group, the Civil Defence [*sic*] Forces (CDF). The RUF-AFRC coalition is associated with 70.3% of violations committed, the Government-CDF coalition with 12% of violations, and ancillary or splinter groups with 17.7% of violations (SLTRC, 2004: 524-53).

The Sierra Leonean commission had the lowest perpetrator participation rate at less than 1%. It possessed one institutional feature likely to induce perpetrator participation under the logic of consequences—subpoena powers—and two features under the logic of appropriateness—dual-party agreement and a spiritual framework. Despite the institutional features present that theoretically promote participation, perpetrator participation was almost negligible. Subpoena powers, the Lomé Peace Agreement, and the spiritual framework did not meet the criteria to function as planned and, in some cases, impeded perpetrator participation.

*Logic of consequences.* Perpetrators participating in the Sierra Leonean commission were expected to testify to committing serious crimes—such as murder, torture, rape, and the use of child soldiers (SLTRC, 2004: 15)—but could not be incentivized to do so because the commission lacked amnesty-granting powers (Schabas, 2004: 1091). One way for the commission to counteract its inability to incentivize participation was through its subpoena powers. Despite the availability of this tool, the commission under-deployed its subpoena powers, particularly with respect to lower-level perpetrators. Instead of subpoenaing the perpetrators who enacted the abuses, the commission subpoenaed leaders who orchestrated the abuses—many of the same individuals that were also

under investigation at the SCSL (SLTRC, 2004: 97). The commission preferred voluntary participation (SLTRC, 2004: 183); but, when participation was not forthcoming, the commission did not exploit its powers. As the functionality criteria of the subpoena powers feature were not met, the nominally present feature did not function as planned, making participation less likely.

Many perpetrators thought participation in the commission meant self-incrimination and implication into the investigations of the SCSL. While the SCSL and the commission were intended to complement each other, the Court investigating the “most responsible” and the commission focusing on those ‘less responsible’ (Stensrud, 2009), perpetrators and the community at large did not understand them as such (Kelsall, 2005; Schabas, 2004: 1099; SLTRC, 2004: 378).<sup>9</sup> Though the court established programs to educate local populations on its mission and procedures, the distinction between the court and the commission was not adequately communicated, or practiced, leaving many confused and afraid (Arzt, 2006: 230). The distinction between the “most responsible” and the “less responsible” was also likely too abstract for local communities, especially in a context where “everyone is a survivor” (Arzt, 2006: 231; Kelsall, 2005: 365). Moreover, some self-incriminating evidence—i.e., testimony about crimes not covered under the general amnesty—presented to the commission could be used in criminal trials, diminishing the incentive to participate (Evenson, 2004: 745; Schabas, 2003: 1052). The lack of a truth-for-amnesty deal made self-incrimination and information sharing possible, however improbably, making participation less likely.

*Logic of appropriateness.* Though many perpetrators were neither incentivized or compelled to participate via features operating under the logic of consequences, expectations to participate were still theoretically present. The commission employed a framework of public confession and forgiveness (Kelsall, 2005: 383). This framework was not, however, contextually resonant due to a strong belief by perpetrators that what they had done was *not* wrong, and therefore did not necessitate repentance and forgiveness. Many combatants felt that the Government *had* marginalized and impoverished them. So for them, overthrowing the Government—and the actions necessary to

do so—was logical and justified (Jackson, 2005: 366). Given this, the spiritual framework feature could not function as planned. Shaw (2005) reports that the public nature of the framework disrupted local understandings and practices of reconciliation, namely in parts of the country where “social forgetting is the cornerstone of established processes of reintegration and healing” (Shaw, 2005: 1). More generally, Sierra Leoneans were skeptical about and critical of the commission which was perceived, in many places, as a Western imposition which would make people relive painful experiences and potentially revive violence (Jackson, 2005: 369). Samii (2013) reasons that, from the perspective of those who gained the most from the conflict, transitional justice is to be avoided. Then-UN Secretary-General, Kofi Annan, reported RUF apprehensions about “the independence of the Commission and the relationship between it and the Special Court” (UN Security Council (UNSC), 2001: para. 44).

Although Lomé was negotiated between and agreed upon by the Government and the RUF, it was not robust and, therefore, did not engender a climate where perpetrators were inclined to participate in the truth commission process. Immediately following the signing of the Agreement, the RUF instigated a renewal in violence, including taking 500 UN peacekeepers hostage (Farah, 2000). RUF leadership gave little credence to Lomé, and therefore it did not compel its subordinates to participate in the truth commission process dictated by the Agreement, again failing to fulfil the functionality criteria of the dual-party agreement feature (Evenson, 2004: 737). Article III of Lomé also allowed the RUF to become a political party. As there were no caveats or preconditions to establishment as a political party, this article may have negated fears that non-participation in the commission would be detrimental to political or societal (re)integration. Moreover, former RUF combatants maintained power and position, making them unlikely to perceive a need for accountability as a gateway to social reinsertion.

The first section lends support to the logic-of-consequences aspect of the theory, which holds that perpetrator participation will be less likely when the related costs are high, i.e., absent an

amnesty incentive and/or coercion via subpoena. The second section, in turn, lends support to the logic-of-appropriateness element of the theory, which holds that participation will be less likely when the normative pressures for participation are low.

### *South Africa*

The Promotion of National Unity and Reconciliation Act No. 34 of 1995 established the South African truth commission—a compromise between the National Party (NP) government led by F.W. de Klerk and the African National Congress (ANC) led by Nelson Mandela. Previously, the NP desired blanket amnesty for members of the former government and the armed forces, while many members of the ANC sought criminal trials against them. By investigating the former regime, while providing solid guarantees to its elites, the commission safeguarded political stability (Binningsbø et al., 2012: 735; Grodsky, 2009; Marchal, 2003: 9; Ntsebeza, 2000: 165).

Though the apartheid government was the main subject of interest in transitional justice in South Africa, the commission identified additional perpetrator groups, including the ANC and its allies, the Inkatha Freedom Party, and the Pan-Africanist Congress. Approximately 11% of commission participants were perpetrators. The commission possessed two institutional features likely to induce perpetrator participation under the logic of consequences—amnesty-granting powers and subpoena powers—and two features under the logic of appropriateness—a dual-party agreement and a religious framework. Amnesty-granting powers and a religious framework were present and functional, likely fostering the significant levels of perpetrator participation.

*Logic of consequences.* Perpetrators were expected to testify about committing gross violations of human rights, such as killings, abductions, torture, and assault, in public and answer questions from the commission, the victims' legal counsel, and the victims (SATRC, 2003 (vol. 1, ch. 4): 56; 2003 (vol. 6, sect. 1, ch. 1): 11). It might seem that testifying to such violence would strongly discourage participation, as perpetrators could fear societal reproach or ostracism as a result of their testimony.

Yet, unlike the Sierra Leonean commission, the South African commission possessed the power of amnesty to incentivize participation.

Perpetrators viewed legal amnesties as an alternative to prosecution in national courts—which constituted a legitimate threat (Hayner, 2011: 29), fulfilling the functionality criteria of the amnesty feature. Following the successful convictions and lengthy sentences meted out by national courts to apartheid-era perpetrators, amnesty applications markedly increased (SAPA, 1996; 1997). But when subsequent national court proceedings resulted in acquittals, the incentive for perpetrators to testify diminished (Brahm, 2007: 32). For example, the acquittal of former defense minister, Magnus Malan, and nineteen others, demonstrated that the threat of prosecution was not great enough to seek amnesty against the costs of public testimony (Ntsebeza, 2000: 162). The commission responded by setting a public deadline for applying for amnesty for a year before the commission's scheduled end. This was done with the goal of compelling perpetrator participation through fear that they would be exposed of their crimes and subject to prosecution when it was too late to be amnestied (Hayner, 2011: 29). With the mixed success of prosecution in national courts and the time limit on amnesty, some perpetrators saw participation at the commission as an alternative to prosecution, but many others did not, especially senior policy makers and army officers (Hayner, 2011: 29).

Convictions followed by subsequent acquittals in national courts not only affected incentives to seek amnesty, but also the effectiveness of subpoenas. In 1998, criminal charges were brought against former-president P.W. Botha after he refused to cooperate with a subpoena issued by the commission (SAPA, 1998a). The subsequent trial for non-compliance was damaging for Botha. He was convicted, fined, given a one-year suspended prison sentence, and lost public support as the evidence against him was made public (SAPA, 1998b). Botha's conviction likely initially bolstered the threat of non-compliance with the commission, but the verdict's subsequent overturning on appeal due to a technicality highlighted the uneasy reliance of the commission on the national courts for

enforcement. The variable enforcement of subpoenas decreased the likelihood that a perpetrator would be compelled by subpoena to participate in the commission proceedings. The commission only exercised the power to subpoena approximately forty times, as indicated in government press statements between 1996 and 1998, so as to avoid upsetting various parties (see online appendix B for the full list).

*Logic of appropriateness.* Perpetrators likely felt morally or spiritually compelled to testify within the Christian framework adopted by the commission, which was functional due to its resonance with local practices and identities (SATRC, 2003 (vol. 5, ch.1): 3). Commission chairs, Archbishop Desmond Tutu and Pastor Alex Boraine, linked testimony to religious confession and connected forgiveness of perpetrators to the forgiveness God offers to people. The commission also highlighted the notion of fairness and equality before men and God, which likely encouraged the participation of both black and white South Africans perpetrators of politically motivated crimes (SATRC, 1995, 1996; SAPA, 1997). The focus on fairness also sustained the expectation—that all parties participate—rooted in the compromise between the ANC and the NP that established the commission, affirming the functionality of the dual-party agreement institutional feature. Meiring (2005) reports that over forty faith communities participated in the truth commission via written and oral testimony. These included leaders of the South African Council of Churches, Protestant Churches, and the Roman Catholic Church. Each of these was tasked with clarifying its community's complicity with apartheid and introducing the initiatives it would pursue to aid nation building and reconciliation. To the extent that such influential leaders endorsed, cooperated with, and participate in the commission, we may reasonably conclude that many in their fellowships did as well.

The first section lends support to the logic-of-consequences element of the theory, which holds that perpetrator participation will be more likely when the related costs are relatively low, i.e. given an amnesty incentive and/or coercion via subpoena. However, some of the advantageous institutional features' influence seems to have waned over time, given unfavorable decisions in the

national courts. The second section, in turn, lends support to the logic-of-appropriateness aspect of the theory, which holds that participation will be more likely when the normative pressures for participation are high. Skeptics may suggest that the only feature influencing perpetrator participation was amnesty. From a purely instrumentalist point of view, amnesty likely motivated most participation. However, even given amnesty, publicly admitting to crimes was/is undoubtedly difficult, suggesting the utility and consequence of normative pressures for participation (Ntsebeza, 2000: 164).

### *Timor-Leste*

In 1999, after nearly three decades of authoritarian rule, the Indonesian government held an independence referendum in response to growing international pressure to end the occupation of Timor-Leste (Félix Neto and Mullet, 2007: 711). Indonesian-backed militia groups retaliated against the landslide results favoring independence, and looted businesses, burned towns and cities, killed hundreds of East Timorese, and displaced countless others to Indonesian-controlled West Timor (Félix Neto and Mullet, 2007: 711). This prompted a peacekeeping mission and the establishment of the UN Transitional Administration in East Timor (UNTAET) to manage the transition to full independence. In 2001, in response to civil society recommendations, the UNTAET adopted a regulation that established the East Timorese truth commission. The commission was tasked with establishing a truth regarding human rights violations committed within the context of political conflict in Timor-Leste from 1974 to 1999 (UNTAET, 2001).

The structure of CAVR is distinct from the Sierra Leonean and South African commissions. Instead of an integrated truth and reconciliation structure, CAVR split the truth and reconciliation processes. The commission engaged in historical inquiry through statement taking while the reconciliation program occurred through satellite Community Reconciliation Programs (CRP). The CRP was a voluntary process wherein perpetrators applied to the program and were subsequently expected to fully disclose their participation in the conflict and demonstrate contrition during open

community hearings moderated by a panel of local leaders, including *lia nain*, or spiritual and customary legal authorities (CAVR, 2005: 5). Victims and other members of the public were allowed to ask questions. Following the disclosure, the panel determined reparative acts upon whose completion, a perpetrator would be reintegrated into the community (CAVR, 2005: 22). The analysis focuses on perpetrator participation in the CRP process as it most closely parallels the hearing procedures in Sierra Leone and South Africa.

The East Timorese commission CRP had the highest level of perpetrator participation, at approximately 20%. The CRP possessed one institutional feature likely to facilitate participation under the logic of consequences—amnesty-granting powers—and one feature under the logic of appropriateness—a spiritual framework. The logic of appropriateness seems especially important in this context and likely explains high levels of perpetrator participation. Perpetrators were willing to submit to hearings because they sought reconciliation and reintegration through *lisan*—a community-based practice for resolving disputes and administering justice overseen and validated by the ancestors. The customary law component to *lisan*, in addition to providing the basis for the amnesty process, defined the consequences of non-participation, including ostracism (CAVR, 2005: 7). Though the amnesty incentive was ultimately undermined by *de facto* impunity for less-serious crimes, the desire for community reincorporation was so strong that 1,371 testified before the CRP and performed the requisite reparative acts.

*Logic of consequences.* The East Timorese process of amnestying perpetrators was distinct from that of the South African truth commission. In exchange for testimony at the CRP and community acts of reparation, perpetrators were not only immune from civil and criminal prosecution but also reintegrated into their communities (UNTAET, 2001: section 26.3). Before the CRP process could commence, the Office of the General Prosecutor had to look through each case and approve it to go to the CRP, rather than national prosecution. While it is true that perpetrators ran the initial risk of having their applications to CRP rejected and be subsequently criminally tried, it was actually a rare



occurrence. Only 5% of CRP applications were rejected by the, suggesting that most perpetrators knew that their crimes fell within the CRP's scope and were fairly confident of acceptance (CAVR, 2005: 29). Despite being present and active, national courts *did not* serve as a threat for perpetrators who elected not to apply to the CRP because the courts only looked at serious crimes (Hirst and Varney, 2005: 14). Thus, there existed an impunity gap, i.e. there was no real threat of prosecution for perpetrators of minor crimes who did not receive legal immunity via the CRP, effectively reducing the legal incentive of the amnesty. This begs the question of why perpetrators chose to participate at all. The analysis of the single logic-of-appropriateness feature, a spiritual framework, suggests why.

*Logic of appropriateness.* The CRP was rooted in the Timorese practice of *lisan*, a community-based practice for solving disputes and administering justice. Incorporating *lisan* served many positive functions. First, it legitimated the hearing process by using established and valued local practice. Second, it provided a framework for reconciliation because of its communal understanding of justice (CAVR, 2005: 8). *Lisan* may have thus prompted participation both by tapping into a normative obligation to make reparations to the community as well as the incentive to rejoin the community. CRP participants seemed committed to the process, with 1,371 perpetrators (88.97% of CRP approved applicants) completing the program, including performing reparative acts. Only 53 perpetrators failed to appear at hearings and 32 hearings were adjourned due to possible involvement in serious crimes or communities' refusal to accept them (CAVR, 2005: 29). Surveying victims in Timor-Leste, Félix Neto and Muller (2007) confirm the importance of religion and religious figures in intergroup forgiveness processes. *Lisan* and the leadership of the *lia nain* very likely influenced perpetrator participation, as the customs are well-understood and valued, and delineated appropriate consequences: amnesty for truth-telling and reparative acts, or ostracism for failing to do so. This section, too, lends support to the logic-of-appropriateness element of the theory, which holds that perpetrator participation will be more likely when the normative pressures for participation are high.

## Summary of findings

Each of the cases provides initial support for the proposed design-based theory of perpetrator participation at truth commissions. The Sierra Leonean commission possessed a set of features which should have facilitated perpetrator participation. However, subpoena powers, the Lomé Peace Agreement, and the spiritual framework did not meet the criteria to function as planned. In contrast, the South African commission's amnesty-granting powers, dual-party agreement, and a resonant spiritual framework were present, functional, and likely explain the high level of participation. Finally, the *lisan* framework employed by the East Timorese CRP and the desire for societal reintegration seem to have been so strong that they overrode *de facto* impunity.

There are, of course, limitations to these findings. First, suggesting which features explain participation in a given commission is a challenge since the features are not mutually exclusive and operate under the broader logics of consequences and appropriateness. In a similar vein, suggesting which features were most influential for participation is not, at present, possible because of the small sample size. Indeed, the article was limited in its ability to systematically probe the independent and joint influences of certain institutional features. Second, the ideal investigation of this topic would be served by knowing all perpetrators who were engaged in political violence, first identifying who was available to participate, then interviewing those who did participate. However, since this information was not provided by the respective commissions, such an investigation by a single researcher would be infeasible, if not impossible.

Critically, this paper was able to illustrate how and why institutional design features of commissions can influence perpetrator participation—an outcome of great importance for constructing an historical narrative following periods of violence and repression. The case studies advance understanding of perpetrator participation not simply at one truth commission but across three commissions. Notably, the East Timorese truth commission, despite its novel design and the

many perpetrators it attracted, has not been subject to the same scrutiny as the Sierra Leonean and South African commissions. Moreover, the case studies illuminate the relationship between *several* institutional design features premised on the logics of consequences and appropriateness, and perpetrator participation.

## Conclusion

The analysis indicates that *no single institutional feature is critical* to perpetrator participation at truth commissions. In South Africa, the amnesty incentive, the dual-party expectation to participate, and the religious framework appear to have driven participation. In Timor-Leste, the *lisan* framework that offered community reintegration provides a strong explanation for the high level of perpetrator participation, *despite the impunity gap* for lower-level perpetrators. While the analysis does not identify a single feature that is critical to participation, it reveals features that can impede or undermine other features. Across the case studies, there were institutional features whose functionality criteria were not met or whose functionality varied over time. While non-functional features can have a neutral effect on perpetrator participation, the case studies demonstrate a negative effect on perpetrator participation. This is especially so for the legalistic and interrelated features of amnesty-granting powers and subpoena powers, and the parallel courts on which both features depend. In South Africa, acquittals in the national courts of high-level perpetrators who did not cooperate with the commission undermined both the commission's amnesty-granting powers and subpoena powers. And, in Sierra Leone, unclear demarcations between the SCSL and the truth commission generated fears that statements made in the commission could be used in court. As illustrated in the case studies, transitional justice mechanisms have a potential for harmony yet so often display a penchant for discord. This motivates further inquiry into courts and commissions' simultaneous or sequential establishment (Dukalskis, 2011; Fletcher and Weinstein, 2002; Schabas, 2004; Villa-Vicencio and Doxtader, 2003), as well as their combined effects (Dancy et al., 2010).

Another key preliminary finding is that perpetrator participation may not be forthcoming absent features operating under the logic of appropriateness. Though the dual-party agreement and spiritual framework were nominally present in Sierra Leone, the functionality criteria of these features were not met, meaning the features could not function as planned, making perpetrator participation less likely. In contrast, perpetrator participation *may* be forthcoming absent features functioning under the logic of consequences, given features operating under the logic of appropriateness. Despite the impunity gap in Timor-Leste, perpetrator participation was high, very likely due to the resonant spiritual framework.

The analysis suggests that the constructs examined are influential for perpetrator participation—a positive and important finding, given variation in political contexts across the countries studied, as well as variation in design features of the respective truth commissions. The fruitfulness of this inquiry gives us reason to continue deliberating design-based explanations of truth commission outcomes, such as perpetrator participation. The inquiry encourages research in other contexts, examining the institutional features developed and evaluating more generally the influence of features operating under the logics of consequences and appropriateness.

## Notes

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<sup>1</sup> I draw on Hayner (2011) as the authoritative text for both my definition and universe of truth commissions: “A truth commission (1) is focused on past, rather than ongoing, events; (2) investigates a pattern of events that took place over a period of time; (3) engages directly and broadly with the affected population, gathering information on their experiences; (4) is a temporary body, with the aim of concluding with a final report; and (5) is officially authorized or empowered by the state under review” (Hayner, 2011:11-12).

<sup>2</sup> See, for example, Schabas (2004). Many Sierra Leonean rebel and militia leaders were, themselves, child soldiers during British colonial rule.

<sup>3</sup> In post-war Mozambique, many people believed reconciliation would be more likely absent accountability for past crimes (Hayner, 2011).

<sup>4</sup> Transitional truth commissions (Bakiner, 2014): Argentina 1983; Chad 1991; Chile 1990; El Salvador 1992; Guatemala 1997; Haiti 1995; Liberia 2006; Nepal 1990; Nigeria 1999; Peru 2001; Sierra Leone 2002; South Africa 1995; Sri Lanka 1994; Timor-Leste 2002; and Uganda 1986. I identify three truth commissions from Hayner (2011) which fulfill Bakiner’s criteria but which are excluded from his analysis: the truth commissions in the Democratic Republic of Congo (DRC) 2004, Germany 1992, and Uruguay 1985. There are, thus, eighteen transitional truth commissions. I exclude abortive transitional commissions, namely Bolivia 1982, Ecuador 1996, Federal Republic of Yugoslavia (Serbia and Montenegro) 2001, and The Philippines 1986.

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<sup>5</sup> A transitional truth commission is “established within zero to three years after the transition to peace and/or democracy” (Bakiner, 2014: 15-17).

<sup>6</sup> Transitional truth commissions with perpetrator participation: Argentina, El Salvador, Liberia, Nigeria, Sierra Leone, South Africa, and Timor-Leste

<sup>7</sup> Potential selection effects do not pose a concern for this paper. The aim of the paper is not to explain truth commission inaugurators’ decision to solicit or not solicit perpetrator testimony. Rather, the aim of this paper is to explore features which influence perpetrator participation at truth commissions, given the decision to solicit perpetrator participation. In other words, the dependent variable is not the choice to include perpetrator testimony in a truth commission (which would result in selecting on the dependent variable). Instead, the dependent variable is the level of perpetrator participation, given the choice to include it.

<sup>8</sup> Cross-commission comparisons are not perfectly analogous given different conceptualizations of perpetrators. For example, the South African commission admitted Adriaan Vlok, the Minister of Law and Order—a key policymaker and director of the security forces. Conversely, the East Timorese CRP only admitted individuals who committed minor crimes—such as theft, minor assault, and arson. Thus, some perpetrators may be allowed to participate in some commissions, but not in others. However, this is likely a small subset of individuals, and the majority of perpetrators are those that enacted abuses and could participate in the commissions studied.

<sup>9</sup> “[T]o me, it is confusing; maybe it's just a trick between the TRC and the Special Court. Even the idea of not sharing information between the TRC and Special Court - it is today a big doubt...” – SLTRC participant, ‘Base Marine,’ former RUF commander (Kelsall, 2005).

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