

# Women's Meaningful Participation in Transitional Justice

Advancing Gender Equality and Building Sustainable Peace





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**United Nations Development Programme.**

One United Nations Plaza New York, NY 10017, USA

**The United Nations Entity for Gender Equality and the Empowerment of Women (UN Women).**

220 East 42nd St, New York, NY 10017, USA

# Acknowledgements

This research is part of the UNDP and UN Women Gender Justice Platform, as part of the generous contribution from the Government of The Netherlands to UNDP's Rule of law, Security and Human Rights Global Programme.

The report was authored by Lorena Mellado (UNDP), Emily Kenney (UN Women) and Hariwa Negisa Adil (UNDP), based on research conducted by Lach Fergusson (Independent Consultant).

We would like to acknowledge the substantive contributions and review of the study by Clara Sandoval (Essex Transitional Justice Network, University of Essex), Helena Rodríguez-Bronchú Carceller (OHCHR), Georgina Mendoza Solorio (OHCHR), Sarah Douglas (UN Women), Gloria Manzotti (UNDP), Ivan Jovanovic (UNDP), Marion Volkmann (UNDP) and Andrea Ernudd (UNDP/GFP).

We would like to thank the many interviewees from civil society, academy and UN colleagues who informed the findings of this study. This includes colleagues at UNDP and UN Women headquarters, and individuals within and outside of the UN who willingly shared their advice, insights and experiences during interviews so that this subject could be explored.

Most importantly, we are indebted to the women who have expertly and bravely participated in past transitional justice processes, whose resilience inspired and informed this research.

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## **Disclaimer**

The views expressed in this publication are those of the author(s) and do not necessarily represent those of the United Nations, including UNDP, or the UN Member States.

# Foreword

In most conflicts and crises, women and girls are disproportionately affected. They suffer from sexual and gender-based violence, lack of access to justice, remedy, and of vital resources. At the same time, we often see women at the forefront of the battle for human rights and freedoms. UNDP applauds and stands with fearless women leaders of peaceful protests, advocacy campaigns and peacebuilding efforts around the world. To leave no one behind, we support women who exercise their inalienable right and great potential to create real change in their communities and countries.

Although the COVID-19 pandemic has reversed and challenged several gains of previous decades, it has also encouraged and reinforced women's meaningful participation in decision-making. Women's empowerment and gender equality are essential to achieving the 2030 Agenda for Sustainable Development.

This study is a tribute to women whose presence, knowledge, voice and determination had powerful impact on transitional justice processes. With case studies from Colombia, Guatemala, Sri Lanka, The Gambia, and Tunisia the study provides strong evidence that more inclusion of women leads eventually to more inclusion for everyone. In all these contexts and beyond, UNDP promotes women's meaningful participation which means not only having a seat at the table, but a voice and influence. This is a prerequisite for building more sustainable peace.

**Asako Okai**

Assistant Secretary-General, Assistant Administrator,  
and Director, Crisis Bureau, UNDP

UNDP, UN Women and sister-agencies, global partners and civil society, remain committed to work towards gender equality. We support governments in promoting and fulfilling the Women, Peace and Security Agenda which calls on countries to systematically include women in peacebuilding efforts and ensure their meaningful participation as part of an integrated response to crisis. More broadly, we build capacities for gender sensitive programming and policies to promote equality as a basis for sustainable development.

Through UNDP's *Global Programme for Strengthening the Rule of Law, Human Rights, Justice and Security for Sustainable Peace and Development* and by leveraging our partnership with UN Women through the **Gender Justice Platform**, we will invest stronger joint efforts in closing the justice gap for women and girls in complex contexts. The role of women in shaping peaceful and inclusive societies, including through their meaningful participation in transitional justice processes, must be acknowledged and strengthened in order to ensure sustainable peace and a more just future for all.

Over two decades ago, with resolution 1325 (2000), the Security Council recognized the importance of the equal participation and full involvement of women in all efforts for maintaining and promoting peace and security. In resolution 2467 (2019), the Security Council specifically called for women’s meaningful participation in transitional justice processes. Turning the Security Council’s words into actions and real change for women and girls around the world is a central pillar of UN Women’s work.

This study is unequivocal that women have the right to participate in transitional justice processes. At the same time, when women sit at the table and influence outcomes, all of society benefits. Women leaders shatter gender stereotypes, create new narratives about women’s roles in society, and confront the legacies of gender-based violence and gender inequality head-on. At UN Women, we see this in our work around the world, every day. Women’s meaningful participation in all aspects of peace and security – including transitional justice – is foundational to our ability to build and sustain peace.

UN Women is grateful to the women leaders who paved the way for this study: the women peacebuilders demanding justice for past crimes and human rights violations; women victim-survivors participating in criminal justice, reparations and truth-telling processes; and women serving in these bodies as prosecutors and judges, witness support experts, gender advisors, translators. All these women – and many, many more – have contributed a vast body of experience and knowledge that this report seeks to amplify, consolidate and build upon.

**Åsa Regnér**

Assistant Secretary-General,  
and Deputy Executive Director, UN Women

This study provides a roadmap for the United Nations to support diverse women to participate in and influence transitional justice processes. UN Women is committed to acting on the recommendations contained in the report, in collaboration with other UN entities, including through our innovative joint Gender Justice Platform with UNDP. Together, the United Nations must place women’s meaningful participation at the center of our efforts to support States, civil society, and women leaders, survivors and victims of violence to deliver transitional justice processes and outcomes. We have a responsibility to create a safe and enabling environment for all women to exert their power, to shape peace and justice in their communities and countries.

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# Acronyms

<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination against Women
<b>CIPEV</b>	Commission of Inquiry into Post Election Violence (Kenya)
<b>CPA</b>	Comprehensive Peace Agreement
<b>CRSV</b>	Conflict Related Sexual Violence
<b>CSIVI</b>	Commission for the Follow-up, Promotion and Verification of the Final Agreement (Colombia)
<b>CSO</b>	Civil Society Organization
<b>CTF</b>	Consultation Task Force on Reconciliation Mechanisms (Sri Lanka)
<b>CVR</b>	Comisión de la verdad y Reconciliación (Peru)
<b>DPPA</b>	Department of Political and Peacebuilding Affairs (United Nations)
<b>DESA</b>	Department of Economic and Social Affairs (United Nations)
<b>ECAP</b>	Asociación Equipo de Estudios Comunitarios y Acción Psicosocial (Guatemala)
<b>GDP</b>	Gross Domestic Product
<b>IVD</b>	Instance Vérité et Dignité (Truth and Dignity Commission – Tunisia)
<b>LGBTIQ+</b>	Lesbian, Gay, Bisexual, Trans, Intersex and Queer and allies
<b>M&amp;E</b>	Monitoring and Evaluation
<b>MSC</b>	Most Significant Change
<b>NGO</b>	Non-Governmental Organization
<b>OHCHR</b>	Office for the High Commissioner for Human Rights (United Nations)
<b>OM</b>	Outcome Mapping
<b>PDIA</b>	Problem-Driven Iterative Adaptation
<b>SDG</b>	Sustainable Development Goal
<b>SGBV</b>	Sexual and Gender-Based Violence
<b>SMS</b>	Short Message Service ('text' messaging)
<b>TDC</b>	Truth and Dignity Commission (Instance Vérité et Dignité – Tunisia)
<b>TJR</b>	Transitional Justice and Reconciliation
<b>ToC</b>	Theory of Change
<b>TRRC</b>	Truth, Reconciliation and Reparations Commission (The Gambia)
<b>UDHR</b>	Universal Declaration of Human Rights
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Programme
<b>UNGA</b>	United Nations General Assembly
<b>UNPBF</b>	United Nations Peacebuilding Fund
<b>UNSCR</b>	United Nations Security Council Resolution
<b>UNSG</b>	United Nations Secretary-General
<b>UNW</b>	UN Women (United Nations Entity for Gender Equality and the Empowerment of Women)
<b>VAW</b>	Violence Against Women
<b>WPS</b>	Women, Peace and Security
<b>ZTF</b>	Zonal Consultation Task Force on Reconciliation Mechanisms (Sri Lanka)

# Executive Summary

This brief, and the accompanying policy paper, are intended to trigger UN ‘rethinks’ about women’s participation in transitional justice at both the policy and programme levels. As a strategic start to examine a complex, challenging and urgent subject, it is intentionally reflective and propositional rather than definitive or exhaustive.

This brief explores what women’s meaningful participation in transitional justice means and ‘looks like’, in policy and practice. The paper focuses specifically on women and addressing the unique barriers to women’s meaningful participation in transitional justice processes as a result of gender-based discrimination. Importantly, this is not a ‘gender analysis’ and does not focus on other gender aspects of transitional justice.

After reviewing the current policy framework and assertions for women’s meaningful participation in transitional justice, the brief also highlights critical gaps between policy and practice. Notwithstanding the ubiquity of ‘women’s participation’ language, a unified and elaborated definition of women’s meaningful participation in peace, security and transitional justice does not exist for the UN. Therefore, the brief suggests a definition for women’s meaningful participation in transitional justice, as well as typologies of women stakeholders and roles that women play within transitional justice. Fundamentally, ‘meaningful’ women’s participation in transitional justice does not only involve women being present—instead, it involves the convergence of several elements and manifests when women from diverse backgrounds: have the ability to enter; are present; possess self-efficacy; deploy their agency; and exert influence over transitional justice processes.



## The brief then suggests and examines a series of lessons for advancing women’s meaningful participation in transitional justice, including:

- 1 Accommodating intersectionality is essential;**
- 2 Transparent and inclusive selection is key;**
- 3 Women’s meaningful participation must grapple with male power structures;**
- 4 Women’s meaningful participation takes place ‘before’ and ‘after’ implementation;**
- 5 The ‘timing’ of transitional justice processes impacts women’s meaningful participation;**
- 6 Women should have opportunities to participate across all stakeholder typologies;**
- 7 Contextualizing transitional justice is imperative—context is everything;**
- 8 Ground transitional justice in local women and their needs and priorities;**
- 9 Integrate continuous women-inclusive participatory dialogue across all aspects and phases;**
- 10 Cultivate public buy-in and plan for ‘pushback’; and**
- 11 Be mindful not to increase deficits of trust.**

The brief suggests that deeper considerations are needed in the conception and design of transitional justice programmes to promote women’s meaningful participation. The brief argues that transitional justice needs to re-imagine ‘change models’ and acceptable ‘outcome domains’. It also suggests ‘benchmarks’ for what women’s meaningful participation in transitional justice would ideally ‘look like’ if it is to contribute in some way towards gender transformative outcomes.

Lastly, the brief recommends several adjustments for UN policy and programming—both in general and in relation to the updating of the UN Secretary-General’s 2010 Guidance Note on transitional justice—to better promote women’s meaningful participation in transitional justice.



# Introduction

# 1

Historically, considerations of ‘gender’ in transitional justice have largely focused on the inclusion of women as victims—particularly, as victims of sexual and gender-based violence. Nevertheless, women’s meaningful participation is an essential element of a human rights-based approach, and it also contributes to stronger processes which are more likely to respond to the needs of the entire population. Women’s leadership in transitional justice processes sends a strong message regarding the role of women in shaping a peaceful and inclusive society, which can, in turn, encourage and facilitate access for other women in the transitional justice process and in broader political life. Acknowledging that women are rights-holders, standing up and demanding recognition of their rights, sends a powerful message to all corners of society.



This research was developed through the joint UNDP-UN Women Gender Justice Platform, with financial support from the Government of The Netherlands. Under this innovative global partnership, UNDP and UN Women are supporting access to justice for the most vulnerable women and girls in crisis and conflict-affected and fragile countries. The joint programme includes assistance to transitional justice processes, advancing an approach that seeks to transform gender inequality as a root cause of conflict and violence.

This research is also expected to contribute to the current UN project “Renewing the UN Approach to Transitional Justice,” which is led by the Executive Office of the Secretary-General (EOSG) with the support of the Office of the High Commissioner for Human Rights (OHCHR), UNDP, UN Women and other UN entities, and that seeks to ensure that UN support to transitional justice processes and mechanisms remains relevant, fresh and attuned to emerging trends and demands from the field.

## Purposes of the brief

The purposes of this paper are twofold. Firstly, it is intended to trigger UN ‘rethinks’ on the subject of women’s participation in transitional justice at both the policy and programme levels. The paper is intended as a strategic start to examine a complex, challenging and urgent subject; therefore, it is reflective and propositional rather than definitive or exhaustive. It highlights vital issues and brings new elements

to the conversation for the UN, while also embedding these in the wider ‘women, peace and security’ (WPS) agenda and the 2030 Agenda for Sustainable Development. Secondly, it will be used as a substantive contribution towards the larger UN process to review and update the 2010 Guidance Note of the Secretary-General on the United Nations Approach to Transitional Justice.

## Subject of the brief

This paper explores what women’s meaningful participation in transitional justice means and ‘looks like’, in policy and practice. It does this by:

### Section 1

**Reviewing the current policy framework and assertions for women’s meaningful participation in transitional justice, but also gaps between this and practice;**

### Section 2

**Elaborating a definition for women’s meaningful participation in transitional justice, as well as elaborating typologies of key women stakeholders and key roles women take;**

### Section 3

**Suggesting a series of key lessons for advancing women’s meaningful participation in transitional justice;**

### Section 4

**Suggesting deeper considerations for transitional justice programming, including re-imagining ‘change models’, ‘outcome domains’ and ‘benchmarks’; and**

### Section 5

**Recommending adjustments for UN policy and programming to better promote women’s meaningful participation in transitional justice.**

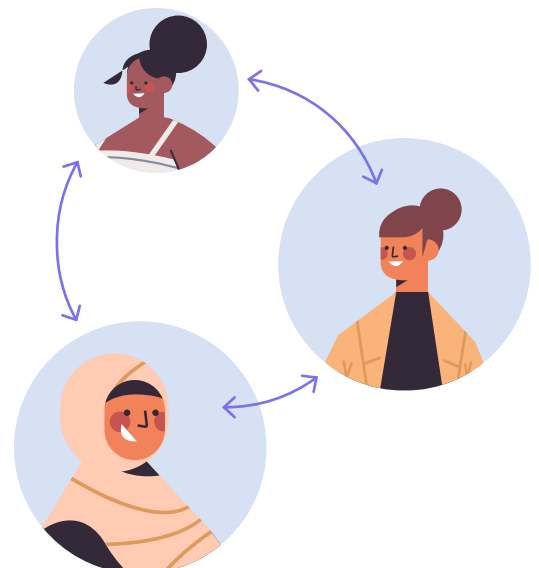
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## Methodology

Research and analysis to produce this paper was led by UNDP, in collaboration with UN Women, and undertaken by an external and independent research consultant from February-May 2021. The research focused on three broad questions: what defines the meaningful participation of women in transitional justice; how does this contribute to gender transformative transitional justice outcomes; and how do these outcomes ultimately contribute to sustained impacts on society? A qualitative and inductive design was employed because the focus of the analysis was to explore, discover and clarify issues and lessons regarding the subject.

Mixed methods were employed, including literature review and interviews. Primary data was collected through semi-structured interviews with a total of 79 ‘subject matter experts’ working in the fields of transitional justice, human rights, governance and peacebuilding. Interviewees involved 56 (71 percent) women and 23 (29 percent) men from the UN (72 percent), civil society (16 percent) and thinktanks/academics (11percent). Participating interviewees

were focused on or situated at the global/headquarters level (28 percent), regional level (22 percent) and country level (51 percent). For interviewees with a regional or country focus, 47 percent were focused on Africa, 19 percent on Asia, 18 percent on Europe and 16 percent on Latin America. Publicly available academic, UN and non-governmental publications were reviewed to source secondary data and examples.



## Caveats and limitations

This brief is not a catalogue of ‘solutions’, ‘best practices’ or boxes to tick. Given constraints, it cannot present elaborated case studies or examples. Instead, it tries to synthesise insight from different research and experiences. There are no proven ‘formulas’ for women’s meaningful participation in transitional justice to guide this brief. There are obvious limitations in the explorative and preliminary nature of this exercise, as well as limitations in its research methodologies including: A limited geographical and sampling frame; challenges of remote interviews and collaboration; bias towards UN supported sources and processes; bias towards English-language sources and contexts; and other implicit researcher bias.

The paper focuses specifically on identifying and overcoming the obstacles women face to their participation in transitional justice processes as a result of gender-based discrimination. Importantly, this is not a ‘gender analysis’ of transitional justice. Therefore, it

does not specifically focus on other important gender issues, such as the inclusion of male survivor-victims of conflict-related sexual violence in transitional justice processes. While the paper recognises the importance of the participation of male survivors of sexual violence in transitional justice, male survivor-victims face different challenges to women and should be the subject of a dedicated discussion.<sup>1</sup> Furthermore, although the report identifies a series of factors and experiences that can affect women in different, intersectional ways (including race, ethnicity, age, sexual orientation and gender identity, among others) and advocates for the inclusion of diverse women in transitional justice processes, deeper, context-specific study is required to understand the complex barriers faced by women who experience multiple forms of discrimination.

### 1.1 International framework for women’s meaningful participation in transitional justice processes

#### United Nations definition of transitional justice<sup>2</sup>

“For the United Nations system, transitional justice is the full range of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. Transitional justice processes and mechanisms are a critical component of the United Nations framework for strengthening the rule of law.”

“Transitional justice consists of both judicial and non-judicial processes and mechanisms, including prosecution initiatives, truth-seeking, reparations programmes, institutional reform or an appropriate combination thereof. Whatever combination is chosen must be in conformity with international legal standards and obligations. Transitional justice should further seek to take account of the root causes of conflicts and the related violations of all rights, including civil, political, economic, social and cultural rights. By striving to address the spectrum of violations in an integrated and interdependent manner, transitional justice can contribute to achieving the broader objectives of prevention of further conflict, peacebuilding and reconciliation.”

The contemporary framework requiring women’s meaningful participation in transitional justice stems from the wider women, peace and security (WPS) agenda, first comprehensively laid out in UN Security Council resolution 1325 (2000).

## UN Security Council resolution 1325 (2000):

### Extracts on women's meaningful participation

“Reaffirming the important role of women in the prevention and resolution of conflicts and in peace-building, and stressing the importance of their **equal participation** and **full involvement** in all efforts for the maintenance and promotion of peace and security, and the **need to increase their role in decision-making** with regard to conflict prevention and resolution [...]

“Recognizing that an understanding of the impact of armed conflict on women and girls, effective institutional arrangements to guarantee their protection and **full participation** in the peace process can significantly contribute to the maintenance and promotion of international peace and security [...]

“1. Urges Member States to ensure **increased representation of women at all decision-making levels** in national, regional and international institutions and mechanisms for the prevention, management, and resolution of conflict;

“2. Encourages the Secretary-General to implement his strategic plan of action (A/49/587) calling for an **increase in the participation of women at decision-making levels** in conflict resolution and peace processes”<sup>3</sup>

All ten resolutions from the Security Council on WPS<sup>4</sup> consistently reinforce and extend the principle of women's meaningful participation for all aspects of peace and security, including transitional justice. Perhaps the most recent and elaborated UN 'definition' of women's meaningful participation in peace and security was articulated in the Secretary-General's 2018 report to the Security Council on WPS:

“29. Women have an equal right to participate in all efforts to prevent and resolve conflict. Beyond this, their meaningful participation has concrete impacts on outcomes. The term “meaningful” in the context of the right of women to participation is intended to challenge superficial efforts to include women without genuinely extending them the opportunity to influence outcomes. [...] To be clear [...] the exclusion of women is not about culture; it is about power. The meaningful participation of women is often prevented on this basis.”<sup>5</sup>



Commitments to women's meaningful participation are also included in the **2010 Secretary-General's Guidance Note on United Nations Approaches to Transitional Justice**.



## Secretary-General's Guidance Note on Transitional Justice: women's meaningful participation

### Principle 4: Strive to ensure women's rights through transitional justice processes and mechanisms

"Transitional justice approaches should pay special attention to abuses committed against groups most affected by conflict, particularly women. Gender inequality is one of the most pervasive forms of societal inequality and is often exacerbated by conflict and situations of gross human rights violations. Entrenched forms of gender-based violence also make women and girls particularly vulnerable to conflict-related human rights abuses, including systematic sexual violence which often continues unabated even after conflict ends. The social stigma and trauma associated with reporting such crimes and women's exclusion from public-decision making processes make it particularly challenging for women to engage with transitional justice mechanisms. Transitional justice mechanisms must thus provide for special measures to ensure that women receive adequate redress for conflict-related violations, that women can fully participate in these processes and that their rights and perspectives are adequately addressed. Transitional justice mechanisms that incorporate a gender and women's human rights perspective, such as prosecution initiatives that punish those responsible for committing sexual violence and other women's rights abuses during conflict, or consultations with women to determine their priorities for transitional justice initiatives, can help ensure accountability for conflict-related women's rights abuses and that oppression or maltreatment of women is not perpetuated into the future."<sup>6</sup>

The most recent and direct UN Security Council elaboration on women's meaningful participation in transitional justice processes *per se* resides in **resolution 2467 (2019)**, which:

"16. d. *Encourages* concerned Member States to ensure the opportunity for the full and meaningful participation of survivors of sexual and gender-based violence at all stages of transitional justice processes, including in decision-making roles, **recognizes that women's leadership and participation will increase the likelihood that transitional justice outcomes will constitute effective redress as defined by victims and will respond to important contextual factors**".<sup>7</sup>



Such intentions have been clearly articulated in UN Secretary-General's reports:

"Transitional justice processes should seek to address the underlying gender inequality in societies. Redressing such inequality entails addressing the needs and priorities of all women and girls, lesbian, gay, bisexual, transgender, queer and intersex individuals, and survivors of sexual and gender-based violence, including men and boys, as well as guaranteeing their safe and meaningful participation in those processes."<sup>8</sup>



"Transitional justice mechanisms and rule of law institutions in transition and conflict contexts should [...] implement specific steps to promote women in leadership positions"<sup>9</sup>;

"It is essential to continue to improve systems promoting women's participation and representation in public decision-making in conflict-affected contexts. Beyond elections, this requires proactive steps to build women's leadership and participation in institutions such as [...] transitional justice authorities"<sup>10</sup>;

"[M]andates of truth commissions and other justice processes must [...] be designed on the basis of consultations with women, ensure women's representation at all levels, engage gender equality experts and ensure women's full participation as witnesses and beneficiaries"<sup>11</sup>;

"[D]evelop guidance and model language on: (a) the composition of transitional justice institutions' governing bodies, especially regarding the proportion and profile of women to be included"<sup>12</sup>

The call for women’s meaningful participation in transitional justice has its roots in or is further reinforced by other key international and regional frameworks, including:

## International framework for women’s meaningful participation in transitional justice

### Universal Declaration of Human Rights (1948)

**Article 2.** Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

**Article 6.** Everyone has the right to recognition everywhere as a person before the law.

**Article 7.** All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

**Article 8.** Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

### International Covenant on Civil and Political Rights (1966)

#### Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

#### Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

**(a)** To take part in the conduct of public affairs, directly or through freely chosen representatives;

**(b)** To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

**(c)** To have access, on general terms of equality, to public service in his country.

### Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979)<sup>13</sup> and general recommendations of the CEDAW Committee

#### Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

**(a)** To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

**(b)** To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

**(c)** To participate in non-governmental organizations and associations concerned with the public and political life of the country.

#### General recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations (2013)<sup>14</sup>

**46.b.** Ensure women’s equal representation at all decision making levels in national institutions and mechanisms, including in the armed forces, police justice institutions and the transitional justice mechanisms (judicial and non-judicial) dealing with crimes committed during the conflict

**81.e.** Ensure that women are involved in the design, operation and monitoring of transitional justice mechanisms at all levels so as to guarantee that their experience of the conflict is included, their particular needs and priorities are met and all violations suffered are addressed; and ensure their participation in the design of all reparations programmes

**Beijing Declaration and Platform for Action (1995)<sup>15</sup>**

**Women and armed conflict strategic objectives**

- E.1.** Increase the participation of women in conflict resolution at decision-making levels and protect women living in situations of armed and other conflicts or under foreign occupation.
- E.2.** Reduce excessive military expenditures and control the availability of armaments.
- E.3.** Promote non-violent forms of conflict resolution and reduce the incidence of human rights abuse in conflict situations.
- E.4.** Promote women's contribution to fostering a culture of peace.
- E.5.** Provide protection, assistance and training to refugee women, other displaced women in need of international protection and internally displaced women.
- E.6.** Provide assistance to the women of the colonies and non-self-governing territories.

**Women in power and decision-making strategic objectives**

- G.1.** Take measures to ensure women's equal access to and full participation in power structures and decision-making.
- G.2.** Increase women's capacity to participate in decision-making and leadership.

**Human rights of women strategic objectives**

- I.1.** Promote and protect the human rights of women, through the full implementation of all human rights instruments, especially the Convention on the Elimination of All Forms of Discrimination against Women.
- I.2.** Ensure equality and non-discrimination under the law and in practice.
- I.3.** Achieve legal literacy.

**2030 Agenda for Sustainable Development**

**Goal 5:** Achieve gender equality and empower all women and girls

**Goal 16:** Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels

**Regional Organization Transitional Justice Policy Frameworks**

European Union Council Conclusions on EU's Support to Transitional Justice (2015)  
African Union's Transitional Justice Policy (2019)

**Reports of the UN Secretary-General and Special Rapporteurs specifically referencing women's inclusion in transitional justice**

- Women and peace and security 2021 ([S/2021/827](#))
- Women and peace and security 2020 ([S/2020/946](#))
- Women and peace and security 2019 ([S/2019/800](#))
- Women and peace and security 2018 ([S/2018/900](#))
- Women and peace and security 2017 ([S/2017/861](#))
- Women and peace and security 2015 ([S/2015/716](#))
- Women and peace and security 2014 ([S/2014/693](#))
- Women and peace and security 2013 ([S/2013/525](#))
- Women and peace and security 2012 ([S/2012/732](#))
- Women and peace and security 2011 ([S/2011/598](#))
- Women's participation in peacebuilding 2010 ([S/2010/466](#))
- Guidance Note of the Secretary-General: United Nations Approach to Transitional Justice (2010)
- Guidance Note of the Secretary-General: Reparations for conflict-related sexual violence (2014)
- The rule of law and transitional justice in conflict and post-conflict societies 2011 ([S/2011/634](#))
- Participation of victims in transitional justice measures 2017 ([A/HRC/34/62](#))
- The gender perspective in transitional justice processes 2020 ([A/75/174](#))

## 1.2 Why women’s meaningful participation in transitional justice matters

Embedded within the international WPS policy framework are key assertions for why women’s meaningful participation in transitional justice matters. These include:

### Assertion 1: Women’s equal participation is a basic normative right

Women have a human right to participate in transitional justice processes, guaranteed under equality provisions of existing international human rights conventions (including the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)). This is premised on the inherent dignity and the equal and inalienable right of all people, regardless of gender, to participate in political and public life. Women’s political participation is a fundamental prerequisite for gender equality and genuine democracy. As a human right, women’s participation should be pursued independent of any ‘utilitarian’ argument. Furthermore, the indivisibility of women’s human rights underpins women’s participation in public and political life. The issue of gender equality in political and public life cannot be considered in isolation, as women aspiring to participate in political and public life continue to face complex barriers related to the attainment of their full range of human rights, such as social, economic, cultural, family, health and safety rights.

As asserted by the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-repetition: “The obligation of States to adopt gender-responsive transitional justice mechanisms [...] derives from primary and secondary sources of international human rights law and, as such, cannot be avoided by Governments using political, structural or budgetary arguments.”<sup>16</sup> As the institution establishing international human rights standards, the UN carries a distinct responsibility to lead on, promote and uphold women’s equal participation in transitional justice—and all areas of decision-making—on this basis alone. Involving further ‘utilitarian’ arguments (i.e. women’s inclusion makes transitional justice ‘more effective’) risks instrumentalizing the discourse of women’s rights. It also risks shifting the responsibility to secure women’s rights from duty-bearers to women, by implying that women’s rights will not be guaranteed without women’s participation.<sup>17</sup>

### Assertion 2: Women’s meaningful participation can challenge discriminatory power structures

Women’s meaningful participation can confront and compel power structures to directly recognise and affirm women’s dignity, equality and rights. Though participation and leadership are only steps, they are tangible and personal means for women—whether survivor-victims, their allies or other female stakeholders—to directly stand against impunity by holding patriarchal power structures and perpetrators of violations and discrimination against women to

account. In this way, duty-bearers, institutions and political actors with power (who are disproportionately male) are required to acknowledge women’s equal dignity and rights and be directly accountable to women in ways that were previously unavailable and unthinkable.<sup>18</sup> This creates or deepens a social meaning of women’s ‘ability to rule’ in contexts where that ability has been seriously questioned or has never been tested.<sup>19</sup>



**“In the minds of men, in many contexts, the laws simply do not apply to women. Violence against women is just normal and bringing men to justice for this is simply perplexing.”**

Interviewee VFYL

**“Culture is where power hides. It is power that manifests itself in cultural systems and values that women shouldn’t do certain things. It’s an easier excuse to say it is against our culture.”**

Interviewee ZKZS



### Assertion 3: Women are agents rather than objects in transitional justice

Only by involving women in decision making and as decision-makers can transitional justice stand a chance at adequately addressing their specific priorities and needs, which would otherwise be overlooked by 'standard' male-dominated systems and approaches. There are different gendered experiences and consequences of large-scale past abuses, women must be meaningfully included for transitional justice processes to identify and redress their unique and frequently disproportionate needs in a transitional justice context. More immediately, this includes redress for past and protection from new elevated sexual and gender-based violence (SGBV) and other safety risks, which themselves are also barriers for women's meaningful participation—in effect, "women's protection and participation are inextricably linked and mutually-reinforcing".<sup>20</sup> If women are not present or otherwise 'objects' of traditionally male-dominated transitional

justice processes, women's subjectivity and autonomy will be denied, their voices will be silenced and their stakeholder status will be rendered inert because their interests will be instrumentalized and/or 'traded-off'. Conversely, if women are present and have agency, transitional justice processes have a greater potential to: respond to the full range of violations of women's human rights; counteract inherent gender biases in the 'construction of harms'; differentiate the impacts of violations on women; acknowledge and redress the priorities of women; and integrate gendered contextual factors that are usually overlooked. The diverging perceptions, needs and priorities of women will remain 'erased' by transitional justice when women cannot equally participate as agents shaping transitional processes and mechanisms.<sup>21</sup>

### Assertion 4: Women's meaningful participation can lead to inclusion writ large

Women's meaningful participation potentially enables the inclusion of a greater diversity of otherwise excluded stakeholders to also shape transitional justice. As described by one interviewee, "More inclusion for women leads eventually to more inclusion for everyone. This is true of political processes and the same is true for transitional justice processes."<sup>22</sup> Though not presuming it is linear and perfect, proponents argue that increasing women's access to power contributes to breaking down entrenched and generally exclusive power structures. Once the principle of inclusion and equality is established in practical terms for women, this creates entry points for other

traditionally excluded people. This observation can be extended from findings on women's meaningful participation in peace processes: "Women's participation also broadens the peace process to larger constituencies beyond the fighting parties and potential spoilers".<sup>23</sup> Inclusion gains for women have potential to progressively open up space for and improve the democratic participation of other groups, especially when attention is given to developing inclusive coalitions, alliances and learning between different groups and movements.<sup>24</sup>

### Assertion 5: Women's meaningful participation improves 'operational effectiveness'

Overall, greater gender equality and the meaningful participation of women does not just contribute to better outcomes for women but contributes to better outcomes for society. Evidence demonstrates that gender equality is correlated with more peace, stability and prosperity for a society.<sup>25</sup> For example:

→ Greater gender equality is linked to greater: economic growth, productivity and per capita gross domestic product (GDP); overall income distribution equality; economic resilience and diversification; and achievement of improved health outcomes for women and children and other human development indicators;<sup>26</sup>

→ There is a direct relationship between gender equality and a society's resilience to and prevention of violent conflict—that is, low gender equality standards are important predictors of violent conflict (both internally and externally) and whether a state will operate peacefully in the international system;<sup>27</sup> and

→ The more *influence* women have on a peace negotiation, the higher the probability that the process will not only reach a final agreement, but that the agreement is implemented, is more durable, is of 'higher quality' and contains more comprehensive gender-sensitive provisions.<sup>28</sup>

The fulfillment of women's right to public and political participation contributes to the advancement of gender equality and increased democratic participation, which in turn, reinforce the rule of law. Women's meaningful participation contributes to improved outcomes for transitional justice processes – not just for women, but for wider society. The legacy of past violations cannot be accounted for, addressed or transformed without diverse women participating and articulating the full, intersectional spectrum of gender differentiated causes, violations and impacts to be included in a transitional justice process. That is, if 'problems' (including root causes) are not comprehensively identified from the perspective of

all stakeholders in a specific context then a process cannot appropriately formulate comprehensive 'solutions' and achieve appropriate outcomes for all stakeholders in that context. Therefore, if women are meaningfully included, the problems (including root causes of discrimination) and possible solutions (including wider social and economic rights) will be more comprehensively identified and the transitional responses to a given context will be more effective overall. The corollary is that no transitional justice process or mechanisms can claim to be wholly survivor-victim centred if it is also not also women-centred.

### **Wider WPS agenda research on women's participation suggests that women bring 'game changing' dynamics and influence on processes, including:**

- **Women push for more concrete and fundamental reforms**, such as for: enhanced women's representation in post-transition political structures; gender-sensitive political and legal reforms such as changes to land ownership and inheritance; steps towards transitional justice; and post-conflict reconstruction and reintegration (such as women participation in demobilization, disarmament and reintegration (DDR));<sup>29</sup>
- **Women broaden the issues at the negotiating table to development issues and human rights that relate to the causes and effects of conflict**, in many ways marrying the three pillars of the United Nations (human rights, security, and development) and promoting concepts of 'human security' and 'positive' peace;<sup>30</sup>
- **Women precipitate a deeper peace dividend**—when women are placed at the center of security, justice, economic recovery and good governance, they will increase their share of a range of peace dividends including job creation and public services. These dividends will be invested and shared across society more rapidly because "women tend to be quicker to invest in child welfare and education, to build food security, and to rebuild rural economies, greatly contributing to longer term stability"<sup>31</sup>; and
- **Women are more likely to be perceived as trustworthy**—Some research suggests "women are more likely to be perceived by fellow citizens as members of society that can be trusted; they are more likely to serve as caregivers and place more emphasis on social and civic responsibilities compared to men. While these kinds of characteristics stem from socially constructed gender roles [...] such attributes and perceptions make women logical contenders for leadership roles".<sup>32</sup>

### 1.3 Gap between policy and practice

Notwithstanding the ubiquity of ‘women’s meaningful participation’ language and assertions in international frameworks, there are significant challenges in putting these into practice. The reality is that things are not working as aspired.

#### Insufficient evidence that transitional justice results in ‘justice’, ‘peace’ and ‘reconciliation’

A much larger issue, which is outside the scope of this brief, is the fact that it is difficult to prove the specific contributions of transitional justice to the wider advancement of justice, peace and reconciliation. Reliable empirical knowledge on the state-level impacts of transitional justice is still limited; most studies find that transitional justice has either positive or no effects at all.<sup>33</sup> The International Center for Transitional Justice has recently studied the impact of truth commissions and has qualified that “truth commissions do produce significant changes, and in favor of human rights accountability more often than not, but the magnitude of the change should not be exaggerated. Their ad hoc and nonbinding character limits their potential for impact.”<sup>34</sup> Moreover, “evidence on the extent to which truth commissions, trials, amnesties and traditional justice approaches actually contribute to reconciliation is, at best, inconclusive.”<sup>35</sup> More strongly, it has been argued that links between

transitional justice and conflict prevention across five country case studies, which is “modest about assigning responsibility for outcomes and in general to avoid attributing them to any single process or cause,” but finds that certain conclusions can be drawn about specific ways transitional justice processes contribute to prevention, “building on the correlations and insights that have been identified by previous quantitative and qualitative work.”<sup>36</sup>

In thinking about the transformative potential of women’s meaningful participation in transitional justice, it is crucial to acknowledge that the subject, purposes and applications of transitional justice, writ large, remain contested; that sound empirical foundations do not yet exist for many transitional justice assumptions and that many categorical claims about means and ends “appear to be based more on faith than on fact.”<sup>37</sup>

#### Insufficient evidence of the advancement of women’s participation commitments in transitional justice and the wider WPS agenda

While much of the general trajectory is incrementally towards implementation of the WPS agenda, achievements fall short of the commitments and obligations enshrined in the Security Council’s resolutions. The *Global Study on the Implementation of UN Security Council resolution 1325*, released in 2015 on the 15th anniversary of the passage of the resolution, found that many transitional justice “mechanisms have paid limited attention to women’s experiences of conflict,

their priorities and needs, and the significance of pervasive gender inequalities and biases that limit women’s meaningful participation at every level and stage of post-conflict transition.”<sup>38</sup> Though far from providing satisfactory metrics, anecdotal highlights from recent UN Secretary-General reports on women, peace and security reveal unfulfilled aspirations for women’s meaningful participation:

Women comprised only 30 percent of commissioners on UN-supported truth commissions as of 2018;<sup>39</sup>

Women constituted on average only 13 percent of negotiators, 6 percent of mediators and 6 percent of signatories in the major peace processes worldwide between 1992 and 2019, while about 7 of every 10 peace processes did not include women mediators or women signatories;<sup>40</sup>

The percentage of peace agreements with gender equality provisions has grown from 14 to 22 percent between 1995 to 2019<sup>41</sup> but data indicates that in more recent years the vast majority of peace agreements do not explicitly address gender equality or the rights of women;<sup>42</sup> and

Even though the representation of women in national parliaments has increased, from 13.1 percent in 2000 to 24.9 percent in 2020, women comprise only 18.9 percent of parliamentary seats in conflict-affected countries<sup>43</sup> and a woman is Head of State or Government in only 23 countries—men continue to vastly outnumber women in political decision-making worldwide.<sup>44</sup>



This is partly because monitoring, analysis and reporting of women’s participation in transitional justice, peace and security is weak and often superficial. For example, the Non-Governmental Organization (NGO)

Working Group on WPS has advocated for stronger efforts by the UN to monitor women’s participation and evaluate the subsequent impacts.<sup>45</sup>

“Where data is provided, it isn’t adequately disaggregated by sex, age, and disability. In descriptions of WPS activities, there isn’t information on the impact or next steps. Most of the information on WPS is provided without context or analysis [...] Overall, less than 10% of WPS references in reports of the Secretary-General could be considered ‘analytical’ [...]



“There are only a few instances of any analysis in reports of the Secretary-General regarding any substantive factor impacting, positively or negatively, women’s participation [...] However, beyond these few examples, information and analysis of women’s participation in reports of the Secretary-General was limited to data or lists, such as the number of women elected or appointed to political office, descriptions of trainings carried out by the mission focused on supporting women’s participation, or listing women along with other groups that should be included in peace and security processes.”<sup>46</sup>

### Insufficient guidance and operational tools

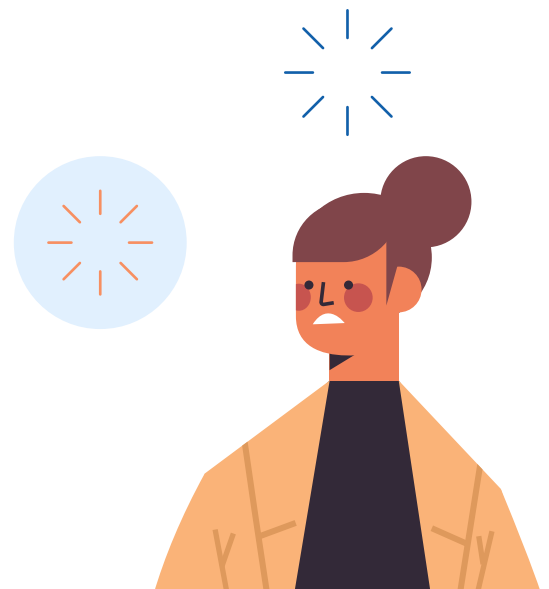
For the most part, a unified and elaborated definition of women’s meaningful participation in peace, security and transitional justice does not exist for the UN. Security Council resolutions on WPS progressively adopt a vocabulary of: “gender equality”; “empowerment of women”; and the “full”, “equal”, “effective”, “influential” and “meaningful” involvement, participation and representation of women, sometimes specifying “including in decision-making roles”. Resolutions frequently acknowledge that women face “significant barriers” to equal participation, are “often under-represented” and face “legal, institutional and regulatory barriers” to their equal participation. Various resolutions identify: partial positive definitions of what constitutes *meaningful* participation; different thematic areas where women’s meaningful participation is essential; or indicate what meaningful participation certainly ‘is not’. Overall, there is also little harmonization on gender equality theory, practice and outcomes between the UN human rights,

development and peace/security pillars. A clearer intersection is also needed between the WPS agenda and the 2030 Sustainable Development Goals (SDGs). Even though SDG 16 targets for peaceful and inclusive societies include disaggregating indicator data by sex, it is lacking more specific targets or indicators specifically on women’s participation. This would help SDG 16 better complement and mainstream the dedicated SDG 5 goal on gender equality. While the 2010 Secretary General’s Guidance Note on UN Approaches to Transitional Justice commits to women’s participation in principle, it provides little technical guidance. For the most part, there is limited UN operational guidance for what women’s meaningful participation in transitional justice should look like in practice.



**“Right now, ‘meaningful’ is a buzzword. There is no idea of how it leads to concrete results.”**

Interviewee ULFA



# Towards a definition of women’s meaningful participation in transitional justice

## 2

### 2.1 Meaningful participation is about more than just ‘numbers’

The ‘quantity’ of women at all levels and in all elements of transitional justice is a necessary part of meaningful participation—clearly, women must be present.

Research, policy and practice indicate that explicit special temporary measures and targeted quotas for women’s equal representation can increase the likelihood for women’s presence in decision-making positions of commissions and other transition mechanisms, as well as improving the chances of an end to violent conflict, the durability of peace processes and the funding of health and other historically ‘feminised’ policy areas.<sup>47</sup> Illustrating this, the *Global Study on UN*

*Security Council resolution 1325* suggests, “While it cannot be presumed that women judges and staff will necessarily bring to their work a gender perspective that contributes to women’s rights, in practice they are more likely to do so. This lends credence to the importance of applying the women, peace and security framework to the equal participation of women in all justice efforts.”<sup>48</sup>



**“The transitional justice process in The Gambia would have been very different without women leaders present. The fact that they had any focus at all on SGBV was really a reflection of women’s leadership in the process.”**

Interviewee ZKZS

However, only increasing the number of women involved in transitional justice is not sufficient for achieving *meaningful* participation—single-track ‘descriptive’ approaches experience shortcomings:

→ Tokenistic forms of women’s participation—especially quotas, ‘counting women’ and symbolic women ‘add-ons’—often dominate.<sup>49</sup> Temporary special measures (like quotas) can be essential to get women ‘in the room’ where decisions take place because their presence is often directly

resisted. However: “A ‘frequency count’ or ‘head count’ of female participants provides merely the number of women that were present—in practice, this is not a primary determinant of their actual influence.”<sup>50</sup> Such a single-track approach also often results in women’s presence being tokenistic

and ‘performative’: “Some women are there just to demonstrate that women are there [...] You need to assess and support the *quality* of women’s participation.”<sup>51</sup>

- Creating specialized women’s seats, posts, advisors or units often risks isolating women’s equality rather than mainstreaming and prioritizing it. In this way, women’s participation can become simply about “making a room for women over there, out of the way.”<sup>52</sup>
- Quantity-centric approaches are often a symptom that women’s participation is an ad hoc, temporary, add-on or afterthought measure that occurs too far down the pipeline and is not connected to a deeper analysis of the context or appropriate responses and tools.<sup>53</sup>
- It assumes that women in decision-making positions will inevitably support gender-responsive outcomes, which is not necessarily the case.<sup>54</sup> The complexity of women’s interests within a society, including those formed by other aspects of their identities, means that gender equality is not an

automatic priority for female participants in political processes.<sup>55</sup> As one interviewee described, “Just because participants and leaders are women does not mean they will automatically push a women’s rights agenda or are automatically ‘for peace and justice’. Women are just as embedded in social, political and economic systems of patriarchy and masculinity. They will often put their other identity interests first and can just as easily be gender spoilers.”

- Even in situations of ‘equal numbers’, there is often not ‘equal influence’—such as situations with all male ‘heads’ and all female ‘deputies’: “Yes, you’ve got a position. But you’re a woman and just a deputy, so in reality your perspective doesn’t matter. Relegating women to ‘deputy’ positions does not signal that women are decision makers, it signals that women can only be subordinate.”<sup>56</sup>
- Quotas and ‘quantity’ targets are also often simply not met due to frequent excuses that resources or political will are not available for women’s participation or gender-specific measures, though they are invariably available for other priorities.

Women’s meaningful participation is not simply about the *quantity* of women, but about the *quality* and effectiveness of their role to *influence* transitional justice processes and outcomes.

This is borne out by research on women’s participation in peace negotiations: that “a strong presence of women, even directly at the negotiation table, does not automatically translate into their ability to assert a strong influence. It is the level of influence that women can assert on the process that makes a difference, not only their presence by numbers.”<sup>57</sup> This crucial finding was reiterated in the *Global Study on UN Security*

*Council resolution 1325*: “the benefits of women’s participation are only fully realized when there is quality participation and the opportunity for influence.”<sup>58</sup>



**“Women can participate, but they might not even know their own rights.”**

Interviewee VFYL



## 2.2 Defining women's meaningful participation in transitional justice

Women's 'meaningful' participation, therefore, needs a definition beyond the number game. 'How' this is achieved in any given context will depend greatly on that context. However, some basic conceptual anchors are needed for the concept to not be mistreated.

Borrowing heavily from the realm of women's participation in peace negotiation processes<sup>59</sup>, this paper suggests that a definition of women's 'meaningful' participation should be multifaceted:

### Definition for women's meaningful participation in transitional justice:

'Meaningful' women's participation in transitional justice does not only involve women being present, it also means that: women have unimpeded opportunities to articulate and contribute their expertise; their concerns are heard; and their inputs are taken on board, in that women's 'gendered' perspectives and experiences have material influence on the shaping of transitional justice processes, mechanisms and outcomes, which are recognised to benefit the whole of society.

Therefore, meaningful women's participation involves the convergence of several elements and manifests when women from diverse backgrounds:

- **Have the ability to enter** settings, mechanisms and positions of power freely, unhindered and without fear for their safety;
- **Are present** in settings, mechanisms and positions of power so that they can directly seize opportunities to inform, influence and make decisions;
- **Possess self-efficacy**, knowledge and confidence to effectively represent their whole and diverse intersectional range of 'gendered' interests, values and experiences;
- **Deploy their agency** by gathering evidence, substantively setting agendas, building coalitions and collaboratively mobilizing strategies to impel change; and
- **Exert influence** that alters decision-making outcomes to better reflect diverse women's interests, values and experiences and, therefore, also those of the wider society.

Increasing the numbers (i.e. numeric or descriptive participation) of a diverse cross-section of women and enabling the conditions by which the quality and impact of their roles (i.e. the substantive representation of their 'gendered' interests in decision-making) can be deepened are vital twin-tracks of meaningful inclusion.

Lastly, women's participation takes different forms in both public and private spaces but, for it to be meaningful, it also needs to find equal expression across all social, economic and political systems. For example, if women participate in a truth commission process but are not present in the legislative body implementing its recommendations, then many of the gains made by the truth commission may be lost.

This elaboration comes with some provisos:

Women’s meaningful participation is not about ‘elevating’ women and building their capacity so that they can participate in transitional justice processes and mechanisms; it is about changing and designing those processes and mechanisms in ways to ensure women are included and their participation has meaningful impact.

Women’s voices often do not have an impact on transitional justice not necessarily because women ‘lack’ skills, expertise or the ability to make vital contributions. Impact is not achieved because various discriminatory social, political and economic structures—within and outside of transitional justice processes—also actively obstruct, deny, displace, co-opt or ignore that voice. Transitional justice processes should not only “focus on [women’s] inability to ‘find their voice’ or their need to be ‘given voice’ (as so many humanitarian programmes claim to), but the fact that no-one is listening; that their social location as ‘mere women’ [...] renders their voices inaudible.”<sup>60</sup> A transitional justice process should not simply target women’s ‘deficiencies’ while ignoring the systemic social, economic and political causes of their disempowerment; otherwise, it places the burden for justice unduly on people with very little power.<sup>61</sup>

Women representing ‘women as a group’ appear to have greater influence on outcomes than women representatives ‘mainstreamed’ within groups. Research from peace negotiations indicates that women-only delegations had greater overall influence on processes than individual women ‘mainstreamed’ within official delegations. When mainstreamed women representatives had most impact was when they were able to build transcending coalitions with women from other delegations for the attainment of common interests.<sup>62</sup> A similar phenomenon may be present in transitional justice settings. Women appear to have greater influence on transitional justice processes when they develop coalitions and alliances across different women’s groups and ally themselves with wider feminist and social movements.<sup>63</sup>

### **Sri Lanka: incubating women’s leadership through the Consultation Task Force (CTF) on Reconciliation Mechanisms**



“[T]he sustainability of this project can be evidenced from the leadership roles women assumed ever since. They continued to volunteer in the communities to voice their issues related to TJ. The CTF itself and the network of [Zonal] ZTFs were a positive by-product of the consultation. While they played the immediate role of conducting the consultation the structure and design of the consultations (the ZTFs, the Advisory Boards, etc.) also planted the seeds for an informal civil society network and expertise pool on TJ issues. This role as incubator of TJ practitioners should not be underestimated. Young people that started as support staff for the CTF are, four years later, expert practitioners working in Government, the UN and CSOs. In particular the expertise of SCRM grew up from the initial core of CTF support staff.”

CEPA (2020), p. 24



## ‘Ladder’ of participation in transitional justice

“White<sup>64</sup> has defined four forms of participation that constitute a ladder of participation,<sup>65</sup> representing ascending degrees of participation:

- **Nominal:** Participation that seeks to legitimise a process through its visibility, but delivers little if anything to participants;
- **Instrumental:** Participation that is necessary for a process to occur in which participants welcome the outcome, but have no influence over the process occurring;
- **Representative:** Participation in which groups of people can play a role in determining the nature of a project or process;
- **Transformative:** Participation as empowerment, in which a process is moulded and driven by participants and can transform people’s realities.

Nominal and instrumental modes of participation engage victims in transitional justice mechanisms as witnesses or givers of testimony (as in trials and truth commissions), but offer them no agency in determining what mechanisms occur or how they are implemented. An alternative and transformative approach is to ensure that change is made by empowering victims themselves, rather than by others acting on their behalf, permitting victims to engage on their own terms in ways that are empowering, and providing a route to political change driven by victims.”

TJB Project (2015), p. 11

## 2.3 Typologies of women’s meaningful participation

### Women’s participation in transitional justice takes many forms<sup>66</sup>

The table below constructs a practical framework for thinking these forms through. In the first level, it proposes a set of ‘stakeholder typologies’ of women as participants and leaders—in effect, the ‘Who’ the women are and what stake they have in the transitional justice process. These are not-exclusive typologies and in some instances may be complex/hybridised, such as a female survivor-victim who also leads a women’s organization or a female perpetrator who was coerced into committing violations but who is also a survivor-victim of violations. Following this is a set of proposed ‘role typologies’ that women take in transitional justice processes and mechanisms—in effect, ‘How’ women take action and have effect as participants and leaders. The intention is to ‘map out’ a fuller

spectrum of the different and overlapping stakeholder types and roles of women in transitional justice, challenging narratives of women as either absent, peripheral bystanders, victims, beneficiaries or “valorised peace-makers”.<sup>67</sup>



## Non-exhaustive typologies for women’s participation in transitional justice

### Stakeholder Typologies

- **Survivor-victims of large-scale past abuses** – who experience legacies of harm, traumas, threats to their safety and marginalization both during and after the abuses suffered
- **Relatives of survivor-victims** – who experience different legacies of loss, trauma, threats to their safety and marginalization both during and after the abuses suffered
- **Witnesses** – who experience their own legacies of trauma and insecurity
- **Women’s survivor-victims organizations, associations and networks, as well as allied women’s organizations (local, national and international)**
- **Women leaders of allied local, national and international organizations/movements (e.g. for survivor-victims, human rights, women’s rights, etc.)**
- **Catalytic and emblematic ‘advocates’**—from political, legal, human rights, peacebuilding cultural, scientific, trades, professional, business, religious, traditional and other realms
- **Women from wider society**—allied stakeholders who did not experience the direct effects of large-scale past abuses, but ultimately live the indirect social, economic and political consequences of the past (including the risks of recurrence)
- **Women bystanders and perpetrators**—potentially including former female combatants and/or members of the security sector (whether state or non-state)

### Role Typologies<sup>68</sup>

- |  |   |
|--|---|
| <p><b>As agents of accountability – women holding duty-bearers to account:</b></p>           | <ul style="list-style-type: none"> <li>→ Demanding and using transitional justice rights and ‘benefits’, such as reparations</li> <li>→ Participating in and influencing public consultations, such as in the design of transitional justice processes and mechanisms</li> <li>→ Seeking truth, filing criminal cases and testifying (including, for example, women journalists reporting on past human rights abuses as a form of truth-telling)</li> <li>→ Monitoring transitional justice processes and mechanisms, as well as working as women’s rights and human rights defenders</li> <li>→ Initiating legal challenges and reforms</li> <li>→ Mobilizing and representing the collective demands of communities and social organizations</li> <li>→ Standing for elected positions and other direct political action</li> <li>→ Facilitating survivor-victim outreach and advocating with government</li> <li>→ Mobilizing public feedback, information, education, advocacy and ‘mass action’ campaigns</li> <li>→ Researching and analysing case studies, thematics and practices, building and sharing expert knowledge bases</li> <li>→ Documenting, evidence gathering and local truth seeking of violations</li> </ul> |
| <p><b>As agents of social change – women actively transforming the social discourse:</b></p> | <ul style="list-style-type: none"> <li>→ Providing networking, relief, legal aid, health, psychosocial, protection and monitoring services and spaces for survivor-victims</li> <li>→ Memorialising, especially through appropriate local, gendered and traditional practices</li> <li>→ Healing, peacebuilding and reconciliation, at the personal, family, community and social levels</li> <li>→ Inspiring other women to participate in public life, including in justice-related professions</li> <li>→ Educating the public and raising public awareness</li> <li>→ Leading and catalysing women’s networking/mobilization and ‘mass action’ public mobilization to demand change</li> <li>→ Taking over as household heads and income earners</li> <li>→ Acting as unacknowledged private/domestic social agents, as mothers, spouses, carers, memory-keepers, faith leaders, etc. in the family and in the community</li> </ul>   |

## Role Typologies

### As duty-bearers - women shaping structures and systems:

- Determining the political, legal, institutional, administrative and financial framework for transition justice processes and mechanisms—such as duty-bearers in the legislative, executive and judicial branches of state, negotiators of peace/political transition agreements, political leaders, etc.
- Managing implementation of specific transitional justice processes and mechanisms—such as women justice professionals, including female prosecutors, judges, investigators, interpreters, members of truth commissions, etc.
- Providing technical expertise to the design, implementation and oversight of transitional justice processes and mechanisms—such as gender, legal, psychosocial, witness protection, reparations, evidence gathering and other experts
- Providing formal transitional justice services and support to survivors-victims, descendants/family and witnesses—such as the delivery of relief, reparations, health and other services

That said, the realities of stakeholders and roles are clearly not as straight-forward as presented above:

- there is a bias towards women's 'public' agency, to the disadvantage of their 'private' agency;
- such a model risks, again, pre-supposing women to shoulder responsibility for women's rights and compartmentalising women and their priorities to the one issue area;
- conceptualising roles and agency would also need to take into account different 'levels': i.e. the local, regional, national and international;
- this does not adequately account for women's access to power being embedded in both the state (e.g. legislative, judicial, executive/administrative) and non-state centres of political power (e.g. civil society, political parties, unions, professional associations, women's organizations, community-based organizations and other organizations concerned with public and political life);
- this does not satisfactorily articulate either the complexity or significance of (as well as tacit forms of communication employed through) women's silence in transitional justice contexts;<sup>69</sup> and
- this does not adequately factor in the complexity of women's interests and roles (including those formed by other aspects of their identities than gender)<sup>70</sup> that result in women actively opposing or 'spoiling' transitional justice and gender equality agendas.



# Key lessons for putting women's meaningful participation in transitional justice into practice

## 3

Having proposed an elaborated definition of women's meaningful participation in transitional justice and typologies for women's participation, this paper now highlights eleven key lessons confronting the meaningful participation of women in transitional justice:

### Key lessons for putting women's meaningful participation in transitional justice into practice:

- 1 Accommodating **intersectionality** is essential;
- 2 **Transparent and inclusive selection** is key;
- 3 Women's meaningful participation must grapple with **male power structures**;
- 4 Women's meaningful participation takes place **'before' and 'after' implementation**;
- 5 The **'timing'** of transitional justice processes impacts women's meaningful participation;
- 6 Women should have **opportunities to participate across all stakeholder typologies**;
- 7 Understanding the **gendered social context** is imperative;
- 8 Ground transitional justice in **local women** and their needs and priorities;
- 9 Integrate **continuous women-inclusive participatory dialogue** across all aspects and phases;
- 10 Cultivate public buy-in and **plan for 'pushback'**; and
- 11 Be mindful not to increase **deficits of trust**.

# Lesson 1

## Accommodating intersectionality is essential

Women are not a monolithic group.<sup>71</sup> Meaningful women's participation must inherently include representation of the full diversity of women in any given context by recognising that gender is only one axis that intersects with many other forms of identity and experience, which can compound experiences of discrimination for women from minority or marginalized groups. Inclusive transitional justice processes and mechanisms recognise that different axes of identity intersect to amplify women's vulnerability and exclusion through multiple and overlapping oppressions.<sup>72</sup>

Moreover, they recognise that the severity and complexity of women's vulnerability and exclusion can be compounded by intersectionality in ways that men's marginalisation are usually not.<sup>73</sup> It is impossible for any transitional justice process or mechanism to understand and address the impact of large-scale past abuses without understanding the ways in which power relations interact with women's different axes of identity and experience in a society.<sup>74</sup>

While complex and context specific, intersectionality can also be tapped as a resource to provide unique and more complete perspectives for the design, implementation and monitoring of transitional justice processes and mechanisms.<sup>75</sup> This can be promoted through 'diagonal representation' measures<sup>76</sup>—i.e. mitigating hierarchical representation by creating

opportunities for representation from all 'levels' of organizations and stakeholder groups, which generally increase diversity of women's representation. For example, measures would consciously create representational opportunities for 'local' poor and illiterate female victim association members from rural minority language or religious groups rather than solely relying on the association 'leader' from a privileged urban background. Lastly, inclusive transitional justice will give due consideration not only to the complexity and intersectionality of the experiences of women, but also of men stakeholders in processes and mechanisms.<sup>77</sup>

### Non-exhaustive axes of women's intersectional identity

- Age
- Ethnicity and skin colour
- Indigeneity
- Caste
- Culture
- Religion
- Language
- Sexual orientation
- Gender identity
- Citizenship status
- Political affiliation
- Access to political and civic participation
- Socioeconomic status and 'class'
- Employment situation
- Household size
- Displaced or refugee status
- Precarious housing / homelessness
- Intellectual and physical abilities
- Literacy
- Level of and access to education
- Rural/urban locality
- Geographic locality

# Lesson 2

## Transparent and inclusive selection is key

The processes and criteria for selecting, promoting or facilitating *certain* women's participation and leadership in transitional justice processes and mechanisms act as a 'gate' on inclusion.

When selection is driven by opaque and exclusive systems (e.g. state-centred political actors, 'belligerent' parties to a peace/political transition agreement, etc.), women's meaningful participation and capacity to influence processes and mechanisms—especially regarding gender concerns—are often reduced. Though involving greater complexity, resources, time and thoughtfulness, inclusive selection processes should be transparent and objective, include specific diversity criteria and be carried out in collaboration with or even by constituent stakeholders. Procedures could include public invitations, nominations, elections and advertisement for leadership / representational positions, but also 'open-access' participation measures and the use of gender equality quotas, 'sampling' or other temporary special measures.<sup>78</sup> Specific requirements could ensure certain leadership/representation positions are reserved for women survivor-victims, allies and other female stakeholders. More expansive and non-hierarchical violation/harm categories defined through consultation with women will also more likely accommodate the diverse, shifting, multiple and gendered forms of harm and survival experienced by women and promote the interest of women to participate.<sup>79</sup>

Selection criteria that are defined predominantly by professional, educational, political and 'experience' competencies reduce the number and diversity of women because women are systematically disadvantaged by structural discriminations from achieving these competencies. Hence the frequent refrain 'there just aren't enough qualified women' and not uncommon situations of 'elite capture' by the small cadre of women who do qualify under these criteria. While formal technical competencies may be required in certain instances, many competencies are erroneous for the purposes of ensuring genuine 'representativeness' within transitional justice bodies. If transitional justice bodies are to represent and serve the whole of society, then—for example—speaking local languages, being a grandmother, having experienced displacement or statelessness, leading village cooperatives or other aspects of women's experiential leadership should be viewed as core competencies. Moreover, such inclusive and accommodative criteria should equally apply in the selection of women and men.



**"Often, only the best resourced, networked and 'empowered' women are able to participate and lead."**

Interviewee FCWQ



## Colombia: victim participation in Congress



In Colombia, the peace agreement between the Government of Colombia and the Revolutionary Armed Forces of Colombia—People’s Army (FARC-EP) includes an innovative approach that prioritizes the direct participation of the victims of the conflict, in the framework of the transitional justice process, through their direct representation in the legislative branch in Congress. The Peace Agreement specifies the promotion of the political representation of populations and areas especially affected by the conflict and abandonment, in order to achieve greater inclusion and political representation of their populations and guarantee their political rights.<sup>80</sup> To this end, lists of candidates for the congressional seats must be drawn up under the principle of gender equality.

Although this initiative initially suffered many obstacles, the Constitutional Court ruled for the creation of 16 seats for conflict victims, called “Special Circumscriptions of Peace.” To promote the citizen representation, the people eligible for these positions can only be registered by victims’ organizations, peasant and ethnic organizations, social organizations, women’s organizations, and significant groups of citizens. Through this approach, it is expected that the Special Circumscriptions for Peace will contribute to improve the participation of women in the legislative branch and strengthen the currently weak institutional presence of women.

The Special Circumscriptions for Peace constitutes a valuable opportunity for the participation of women victims and women’s organizations in the transitional justice process, by allowing them direct influence through the development of projects and initiatives in the legislative branch. Although the seats have constitutional status, there are still significant challenges in relation to a wider participation of women and ethnic communities mostly affected by the conflict.<sup>81</sup> Additionally, the training and support of the organizations and platforms of women victims and leaders from these 16 territories constitutes a more flexible and integral approach of the reparation process for victims of different types of violence.

# Lesson 3

## Women’s meaningful participation must grapple with male power structures

It is impossible to consider women’s meaningful participation without considering men and male power as essential parts of the equation: “Regardless, men are still in-charge. So how to get them to give up power?”<sup>82</sup> Every context is defined by gender-specific, systemic, social, economic and political discriminations, unequal power dynamics, institutional biases and other barriers. These manifest in different ways in different contexts and in the international system to undermine women’s power to secure their equal protection, rights and dignity and to secure their meaningful participation in and realization of justice.<sup>83</sup> More strongly put:

“[N]either the effects nor the causes of gendered violence and injustice can be addressed outside of patriarchal social and political structures that continue to locate women in secondary positions. Technocratic interventions that don’t account for power relations—who is ‘weak’ and who is strong—are unlikely to respond to the justice demands of the least powerful.”<sup>84</sup>

Unmasking, acknowledging and analysing male dominated power structures and the resulting discrimination and barriers against women’s participation is essential from the outset.<sup>85</sup> Transitional justice is already resisted by powerful structures and actors; any attempt for gender inclusive transitional justice should be approached and designed from the start assuming that this will be a political issue that will be met with significant resistance.<sup>86</sup>

It is also insufficient to place the burden of creating conditions conducive to women’s meaningful participation entirely on women. Accountability mechanisms should be designed to ensure that duty-bearers, such as elected officials, members of truth commissioners, human rights commissioners, etc.—who generally are predominantly male—accept and are held accountable for prioritizing women’s participation and rights throughout transitional justice processes. But ‘compelling’ change in men will not be enough to realize that change. More precise language and clearer demonstrations of the implication of women’s participation in different elements of transitional justice (and what is at risk by failing to engage with diverse women) can help assuage fears of a ‘gender ideology’.<sup>87</sup> Organizational, political and social efforts can be made to talk about, reflect and encourage transformation towards more explicit and more inclusive thinking about masculinities. While direct gender-focused education might be helpful, sensitisation is often best achieved through processes deriving from personal experience so individuals can better identify with issues.

Processes should also consider how to appropriately factor in ‘feminist’ male leaders and allied male participants as ‘partners’ in promoting gender inclusivity, but also context appropriate strategies for transforming male leaders and participants into allies.<sup>88</sup> This includes being mindful of the impacts that the

presence of even allied men have; for example, even feminist male truth commissioners who want to hear women’s experience firsthand may unintentionally stifle and undermine the perceived dignity and safety of women’s consultation and listening exercises.<sup>89</sup> Male allies with power will have to equate priorities for gender inclusivity with those of their institutions and positions, necessarily adapting systems of power and priorities to the needs of women stakeholders rather than the other way around. This involves shaping inclusive attitudes and behaviours of *both men and women*, including in many instances by finding ways to collaboratively work with and adapt existing social practices and traditional values:

“If more women elders and chiefs who support women’s rights can be included in these practices, and if more male elders and chiefs come to appreciate that gender equality is an important human rights norm to uphold, not one that will destroy cultural ties, these practices can be a locus of bottom-up claims for rights recognition and coexist with traditional legal courts.”<sup>90</sup>



## Interviewee perspectives: how to generate male allies for women’s meaningful participation

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**“We don’t ask men enough if their selection is representative. We should be demanding that the selection of men should be just as representative.”**

Interview TLQO

**“We need to disaggregate representation of all participants. Everyone—men and women—need to be held to account for ensuring the full representation of society.”**

Interview COZJ

**“Changes of a deeply cultural nature don’t happen quickly. It’s an emancipation process for many men. Have men show other men different ways of working and how these benefit or reward everyone. It feels good to both do the right thing and be rewarded for it.”**

Interview NCDQ

**“Create accommodating and protected spaces for men to explore, understand and accept other perspectives. You don’t transform people with head-on collisions. Start slow and incremental. Involve women in different spheres, not just transitional justice. Normalise women’s participation over the long-term.”**

Interview NCDQ



# Lesson 4

## Women’s meaningful participation must take place ‘before’ and ‘after’ implementation

It is “vital that women not only participate in the ‘conduct’ of transitional justice processes, but also in their design, and especially in subsequent follow-up and evaluation of their impact”.<sup>91</sup> However, sustained support for women’s meaningful participation all the way from preparatory phases right through to implementation and then follow-up afterwards is uncommon: “women are rarely included in the preparation phase, and typically receive insufficient support thereafter to implement the gains achieved.”<sup>92</sup> Lessons suggests that it is crucial for transitional justice processes to explicitly consider women’s meaningful participation in every phase to safeguard success<sup>93</sup>—not just during implementation but also the phases ‘before’ and ‘after’ implementation:

- **Design phase**, such as: pre-design consultations and analysis; peace agreement and other political negotiations that determine the shape and priorities of transitional justice processes; political, policy and technical design of transitional justice implementation; the drafting and passage of related legislation; etc.; and
- **Monitoring, evaluation and accountability phases**, such as: designing and setting indicators and milestones; implementation tracking and accountability mechanisms; post-implementation tracking and evaluation processes; collection and analysis of monitoring data; etc.

### Kenya: impacts of design phase women’s participation gaps



“Within the agreement to establish the Commission of Inquiry on the Post Election Violence (CIPEV), there was no [...] mention of, or provisions for, gendered perspectives in the activities, composition and methodology of CIPEV. This omission had a profound effect on the structure of the CIPEV in three ways: CIPEV lacked women’s representation in its leadership as its composition was three male jurists; mainstreaming of gender issues in the process was ad hoc as a gender advisor was hired after the commission hearings had begun; and ultimately an isolated approach was taken to the way women were represented in the report.”

CHD (2011), p. 21

### Tunisia: positive impacts of design phase women’s participation inclusion



“[T]he prominence of women in the first commissions set the stage for additional points of entry through which women could participate. For example:

- The Bourderbala Commission’s report in May 2012 expressly mentioned the specific harms faced by women, thus emphasizing a focus on the participation of female victims in subsequent transitional justice bodies.
- The Technical Committee mandated that women comprise a portion of moderators in regional consultations; as such, about 35 percent of facilitators were women.
- In drafting the Transitional Justice Law, women on the Technical Committee worked to include a quota that required at least one-third of each gender to be represented in IVD leadership.
- Once the IVD formed, female commissioners pushed for the creation of the Women’s Commission within the IVD, to deal specifically with female victims.”

GIWPS (2017), p. 19

Not including women in preparatory and design processes will structurally determine that gender does not receive the necessary attention and priority throughout implementation.<sup>94</sup> As one interviewee described, “Political processes preceding and determining the framework of transitional justice processes

matter. If women are not involved or leading these political and negotiation processes, then any follow-on transitional justice processes are likely to omit women as well.”<sup>95</sup> Three ‘pre-cursor’ processes that can significantly shape subsequent women’s participation during transitional justice implementation include:

### 1

#### Pre-cursor peace and political transition agreements

Peace or political transition agreements can shape women’s participation in subsequent transitional justice processes.

Peace agreements sometimes outline the mandates (time periods, types of crimes and human rights violations to be investigated, etc.), mandate durations and compositions of transitional justice mechanisms.<sup>96</sup> While not always elaborating all details, “the pathways created by the peace agreement for how transitional justice is conceptualized, and the ways in which it treats issues of accountability and impunity, will often set the terms of the debate and shape the mechanisms which follow.”<sup>97</sup> Therefore, whether or not the language in peace/political agreements is gender-sensitive is essential and “can set the foundation for gender inclusion during the peacebuilding phase” and “accountability for gender-based human rights violations, including sexual violence.”<sup>98</sup>

The reality is that roughly only half of peace agreements contain reference to some element of transitional justice but very few include gender-specific transitional justice provisions.<sup>99</sup> Overall, only a minority of peace agreements include any provisions addressing women, girls or gender.<sup>100</sup> **Colombia** is often presented as a best case ‘gendered’ peace process<sup>101</sup>, where 130 (22.5%) of the stipulations in the 2016 Final Accord are specific measures for gender equality or the participation and representation of women in the implementation process.<sup>102</sup> Moreover, in most cases, the “gendered references to victims in peace agreements continues to reproduce patriarchal perspectives where women are depicted as equally vulnerable as children and in need of protection or assistance [...] the conceptualization of female victims is still mostly presented in terms of traditional roles such as carers or as a vulnerable group.”<sup>103</sup>

Broad lessons regarding the links between peace/political agreements and women’s meaningful participation in transitional justice processes include:

- Women’s earliest meaningful participation in peace processes is essential, including during humanitarian access agreement, ceasefires and pre-negotiation phases. This can set precedents and pave the way for women’s involvement and the meaningful contribution of women’s groups throughout subsequent negotiations and then implementation;<sup>104</sup>
- Excluding women from peace negotiations and peace and security decision-making results in post-conflict justice mechanisms paying limited attention to women’s experiences, priorities and needs and continuance of the pervasive gender inequalities and biases that limit women’s meaningful participation in post-conflict transition;<sup>105</sup>
- The ‘insertion’ of gender stipulations in peace/political agreements does not in itself improve the prospects for gender equality.<sup>106</sup> Agreements containing the most ‘holistic’ references to women are often the most ‘internationalized’ with little actual agreement between parties, frequently resulting in “chronic implementation failure, both of the agreement and of its women provisions”.<sup>107</sup> ‘Model’ gender and women’s participation references in peace/political agreements should be shaped to the reality of the political bargaining processes that will also ultimately affect implementation;<sup>108</sup>

- When peace/political agreements do include gender and women’s participation provisions, implementation of these is often deprioritized in the short-term. However, these provisions are often qualitatively ‘deeper’ and depend on sustained political will over the long-term during implementation to achieve transformational goals;<sup>109</sup>
- Explicit gender equality provisions in peace/political agreements help secure the presence of women during the formation of post-agreement commissions (such as truth commissions), especially when there are multiple selection criteria for members;<sup>110</sup> and
- The inclusivity of transitional justice and post-agreement commissions is one crucial precondition for their success and “the more specifically an inclusive composition of these commissions is written into the [peace/political] agreement, the more effective they have been in practice”.<sup>111</sup>

## 2

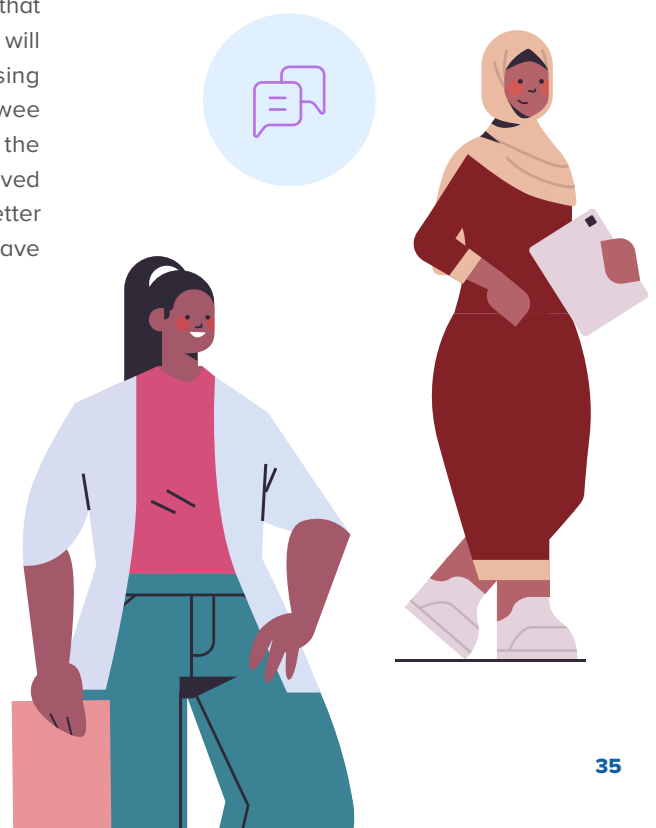
### Pre-cursor public consultations

Preparatory national public consultation processes or truth commissions can shape women’s meaningful participation in subsequent transitional justice measures.

If formulated thoughtfully, adequately resourced and given sufficient time, consultation processes can give women direct visibility, avenues to tell their truth and inform decision makers of: the measures that will enable accessibility and encourage participation for women; the violations and harms prioritized by women; and women’s visions for subsequent transitional justice process and what key redress and other outcomes should look like.

If a broad and diverse representation of women are equally and meaningfully included during the consultation processes used to design transitional justice processes and mechanisms, the expectation is that these subsequent processes and mechanisms will be more appropriate and effective in addressing women’s needs and priorities. As one interviewee described, “More consultation with women in the preparatory phases would have meant we received more and better information, allowing us to better understand the issues and needs. We would have been at a better point from the very outset.”<sup>112</sup>

In practice, two lessons emerge. Firstly, women’s meaningful participation in these consultation processes is just as problematic as during implementation of transitional justice. Secondly, final reports and recommendations from consultations frequently remain un-actioned ‘pieces of paper’. In some cases, transitional justice processes and mechanisms are designed and/or commence even before these pre-cursor consultation processes have concluded.



Strong coalition-based women's mobilization and activism has often been a strong pre-cursor for women's meaningful participation in transitional justice.

Many contexts demonstrate a pattern of women on the 'outside' activating, allying and mobilizing in order to overcome 'inside' institutional, political and social resistance to not just women's meaningful participation in transitional justice, but often resistance to transitional justice in itself. This is backed up by wider global evidence that domestic women's movements, drawing upon international conventions, are an essential force behind political change:

"[T]he most important and consistent factor driving policy change is feminist activism. This plays a more important role than left-wing parties, numbers of women legislators, or even national wealth. In addition, our work shows that strong, vibrant domestic feminist movements use international and regional conventions and agreements as levers to influence policymaking. Strong local movements bring home the value of global norms on women's rights."<sup>113</sup>

This suggests that achieving meaningful women's participation in transitional justice will rely to a degree on women's and/or survivor-victim activism, through both formal and non-formal processes.

Such movements usually comprise a range of civil society entities, including: survivor-victims' organizations, non-governmental organizations, youth and women groups, religious organizations, labour unions and social movements. Many movements and groups are self-taught and self-activating, whether through organizing mutual support for humanitarian relief, socio-economic needs, counselling/psycho-social needs, forensic evidence gathering, statement taking, etc.

"mothers are relentless."<sup>116</sup> Survivor-victims and wives/mothers/grandmothers of the disappeared especially sustain mobilization from the basis of deep loss, trauma and enduring experiences of injustice. Women survivor-victim leaders and associations often form the nucleus of movements demanding transitional justice.

Much of the strength of these movements potentially springs from the deep personal motivations of women survivor-victims—as some interviewees described: "it's not just a project—it's their life, so they never go away."<sup>114</sup> Grassroots women activists and movements are motivated and "in it for the long haul"<sup>115</sup> and

Movements often benefit from advice and comparative exchanges with international women's and/or survivor-victim movements. However, the 'authentic' grassroots nature of national and local women's and/or survivor-victim movements appears to be an essential ingredient for substantive, appropriate and endogenous change for women's inclusive transitional justice.

Women's and/or survivor-victim movements best achieve influence through coalition building and by employing effective political and social transfer strategies.<sup>117</sup>

The most effective movements are diverse movements, sharing mutual grievances and able to overcome internal differences, who then mobilize under a collective umbrella around common normative and strategic arguments and negotiate as a unified group. They also employ multiple context appropriate strategies to input into political and institutional spaces, but also among other influential constituencies or elite groups. This may involve formal policy advocacy, joint position papers, research and evidence gathering,

but also innovative grassroots, public and political campaigning. Mobilizing 'mass action' campaigns is also a frequent strategy for women's and/or survivor-victim movements to push their way into official processes that exclude them. While mass action appears on the surface to be an essential strategy, research indicates it needs to be complemented by other strategies: "mass action may prove to be a critical way for members of society to achieve institutional changes in the context of implementation processes

that are dominated by political elites [however] rather than mass action alone, behind-the-scenes lobbying of lawmakers, commissioners and government officials by civil society, and indeed other interest groups, is likely to be critical to achieving the adoption of institutional reforms”.<sup>118</sup> That said, research on resistance

campaigns also shows that, “Frontline women’s participation is highly correlated with successful resistance campaigns [...] A similar effect holds for campaigns that feature gender-inclusive ideologies, which are more likely to succeed than campaigns without such ideologies.”<sup>119</sup>

Though essential, women’s and/or survivor-victim movements also experience certain problems.

There are widespread concerns over shrinking space for civil society organizations globally, particularly women’s and pro-inclusion voices advocating for diversity. Importantly, women’s and/or survivor-victim movements sometimes fail to emphasize their own story; women heads of household will first tell you the story of their family and raise-up their family’s needs, while diminishing the urgency of their own. In many instances, non-state, civil society and traditionally-based women’s and/or survivor-victim movements can also demonstrate hierarchical and patriarchal characteristics. There are frustrations with the

frequent rotating ‘usual suspect’ women leaders, who generally speak English and come from elite, urban and educational/professional backgrounds. In some cases, movements and leadership become instrumentalized by political factions or ethno-nationalist ideologies, or otherwise become ‘NGO’ized and coopted within the international development sector. Continuous due diligence is required to check grassroots ‘authenticity’ and whether leadership is representative and routinely ‘refreshed’.

## Monitoring, Evaluation and Accountability Phase Participation

Lastly, transitional justice processes rarely consider or establish elements to monitor and track obligations and outcomes during and after implementation, let alone monitor the outcomes of women’s meaningful participation or gender transformative intentions for the long-term: “there is almost no longitudinal work which can track changes as transitional

justice mechanisms unfold and demonstrate sustainable or evolving impacts.”<sup>120</sup> The lesson this paper can draw is that much stronger monitoring and evaluation is needed in transitional justice to keep processes accountable, as well as to ensure an understanding of what has substantively changed, ‘worked’ and needs to be adjusted for women’s meaningful participation.

### Colombia: hybrid formal/non-formal accountability mechanisms for women’s participation



“The peace accord creates a Special Forum for the Implementation of the Gender Based Approach. This Forum is an example of how the participation of women in the implementation process, at a technical and political level, can support civil society oversight to guarantee the sustained effort of the gender approach in a peace accord. The Forum began operating in 2017 and includes women from national and regional platforms, including indigenous communities, a [representative of the lesbian/bisexual/transgender community], and after pressure from the Afro-Colombian communities and their allies, a black woman. In 2020, the CSIVI also approved the incorporation of a representative of the female ex-combatants in the Forum. This consultative mechanism has ensured that the gender perspective and specific measures contemplated to guarantee women’s rights is maintained in the political agenda. It also serves as a dialogue channel between civil rights organizations, women’s groups, and other collectives and the government and other entities in charge of the implementation of the Peace Accord.” Kroc (2020), p. 18

# Lesson 5

## The ‘timing’ of transitional justice processes impacts women’s meaningful participation<sup>121</sup>

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The delayed starts and ‘time lag’ often involved in the implementation of transitional justice processes impacts on women’s meaningful participation. The greater the delay in commencing transitional justice and the longer the time lag in implementation, the easier it is for political actors and societies to ignore the past and the needs of women survivor-victims and other female stakeholders.

Moreover, “the end of conflict does not translate into an end to the violence that women and girls endure [...] Violence against women and girls also spikes in post-conflict societies, owing to the general breakdown of the rule of law, the availability of small arms, the breakdown of social and family structures and the ‘normalization’ of sexual violence as an additional element of pre-existing discrimination.”<sup>122</sup> Long delays enable forms of gender discrimination, systemic inequalities and SGBV that arose from or were accentuated by past violations and conflict to become ‘normalized’ and therefore even more persistent and pernicious ‘post conflict’. Transitional justice delayed for decades also fails aging women survivor-victims and those who have deceased. Many argue that if gendered transitional justice “measures are not adopted promptly, they will not be effective to achieve the goal for which they were granted”.<sup>123</sup> In some contexts, there are deliberate strategies of “delay and dilute”.<sup>124</sup>

Stakeholders should expect and plan for the reality that “discussions about transitional justice and efforts to deal with the past often take place over several decades.”<sup>125</sup> Knowing this, efforts to document, gather evidence, file cases and conduct local truth telling for women’s rights violations and harms may be necessary ‘interim’ or preparatory measures. These preserve a record of the past and mitigate against evidence or witness testimony being lost or eroded. They may also have unanticipated utility and catalytic effect in the future.<sup>126</sup>

In some cases, time may be a factor in slowly but progressively enabling greater women’s participation—“meaningful means taking the time necessary to do women’s inclusion well.”<sup>127</sup> As one interviewee described, “sometimes going as slowest as possible is the right approach”, especially during design consultations and truth gathering exercises: “If they speed through, this definitely will harm the process. If they don’t take the time to ‘hear’ from women what happened, then they will not do anything about it and the whole process becomes pointless.”<sup>128</sup>

Over time, women leaders, survivor-victims and organizations are compelled to develop their capacities, build coalitions and expand their roles as advocates and substantive contributors. Frustration over time with lack of progress or unfit processes catalyses survivor-victims from mere ‘users’ of transitional justice into participants and leaders who recognize their rights and demand change. Time enables stakeholders to develop pockets of vested interest for inclusion among government and other power holders, often because (over time) some individuals move between civil society organizations, victims’ groups, government bodies and other power centres. Given time, key sensitivities can move prosecutors to action,<sup>129</sup> evidence emerges that cannot be ignored and mass action can tip the balance from apathy to breakthrough. Despite the normative imperative, the development of shared inter-/intra-stakeholder narratives and interests in support of women’s meaningful participation takes time.<sup>130</sup>

## Guatemala: holistic community-based support and Tribunal of Conscience lead to prosecutions – Sepur Zarco case



“The journey started in 2001 when ECAP began providing psychosocial support to indigenous women affected by the conflict in the Polochic Valley area. Around 2003, women started to speak out about the sexual violence that they had suffered after their husbands were forcibly disappeared [...] The strategy pursued by these organizations involved a holistic methodology that included psychosocial support, training in women’s rights, recovery of historical memory, social sensitization and political advocacy in support of justice and reparations for the victims. [...] At the time, however, there was little hope that an actual case would be investigated by the judiciary. Instead, the victims and the civil society organizations that supported them explored alternative measures that would allow victims to recount the history of sexual violence perpetrated against them during the conflict and provide some form of redress, even if symbolic. Thus, in 2010, the three civil society organizations involved in the process held a ‘Tribunal of Conscience’ [...] Many advocates agree that the successful experience of the Tribunal of Conscience paved the way for the filing of a criminal complaint before the courts of Guatemala in 2011 by 15 Q’eqchi’ women from the Sepur Zarco community.”

Martin & Sa’Couto (2020) pp. 247-249



# Lesson 6

## Women should have opportunities to participate across all stakeholder typologies

Section 2.3 above outlined the wide range of typologies of women’s meaningful participation in transitional justice. This includes women participating as victims, acting as “agents of accountability” claiming their right to redress. It also includes women who are “agents of social change,” such as women peacebuilders advocating for more inclusive transitional justice processes. It also includes women acting as duty-bearers, including women judges sitting on tribunals, and women staff serving on a truth commission. It is important to recognize that some women will identify with more than one stakeholder typology, as in the example provided below, where victims are acting as agents of social change, leading a mass action campaign in a ‘non-traditional’ transitional justice context (i.e. a country that is not in “transition” but where transitional justice ‘tools’ are nonetheless being utilized).

When women meaningfully participate in transitional justice processes they are able to capitalize on opportunities for engagement across all stakeholder typologies. Too often, however, ‘women’s participation’ is casually equated with ‘victim participation’.

Furthermore, the stakeholder typology of ‘woman victim’ is falsely equated with ‘victim of sexual violence’. The false equivalence between ‘woman victim’ and ‘victim of sexual violence’ also obscures the experiences of male and gender non-binary survivor-victims of SGBV and limits our ability to understand the gendered impact of all human rights violations. This is not to diminish, however, the centrality women victims’ meaningful participation in transitional justice – a stakeholder typology that should be addressed through a survivor-centered approach, with opportunities to reflect on their experiences of violations and highlight all possible harms and survival experiences that require redress. It is important to also involve and consider female witnesses,<sup>131</sup> and women who were forced or coerced into committing violations and crimes.

### Mexico: survivors organize ‘search brigades’ for the forcibly disappeared



“The nongovernmental search brigade, the fifth one organized by the Mexico City-based Network of National Links (Red de Enlaces Nacionales), is the product of a growing citizen movement against forced disappearance in Mexico. Across the country, relatives of disappearance victims have formed collectives to search for their loved ones, conducting activism and frequent searches in their hometowns, and coming together for larger searches with the brigade. Their activities range from searching for human remains, to pursuing legal action on their cases, to visiting medical forensic departments, prisons, and rehab centers where their family members could be, to investigating their cases through their own means [...] In February, the brigade brought together nearly 300 representatives from 74 collectives of relatives of the disappeared throughout Mexico, the largest contingent yet.”

Wattenbarger (2020)

“The idea is to build out from the individual to socialize the pain and indignation and turn it into an active, collective response. Together they’ve created a larger family, one that offers solace and organization as a tool to defeat despair. The brigades present a direct challenge to the system of death that disappears people and refuses to acknowledge the families’ grief. Some 70 percent of those who dedicate their lives to organizing, searching and advocating for disappeared loved ones are women. They’ve become the frontline of resistance against a society that not only kills, but also dehumanizes the living.”

Carlsen (2019)



Although not exhaustive, a range of violations, harms and survival experiences to be explored by a transitional justice process might include:

## Non-exhaustive range of violations, harms and survival experiences affecting women<sup>132</sup>

- Rape
- Sexual slavery
- Enforced prostitution
- Forced pregnancy, including pregnancies resulting from sexual violence
- Forced abortion
- Forced sterilization or contraception
- Forced marriage and polygamy
- Other cruel, inhuman or degrading treatment
- Forced nudity
- Forced motherhood, including as a result of sexual violence
- Torture, including sexual and gender-based forms of torture
- Amputation and mutilation, including genital mutilation and other sexualized forms of mutilation
- Forced labour, including gender-specific forms and domestic slavery
- Sexual exploitation and abuse
- Inappropriate touching
- Undergoing (unsafe) abortion as a result of rape
- Contraction of sexually transmitted disease, including as a result of sexual violence
- Being targeted for abuse as a result of pregnancy or loss of reproductive capacity linked to sexual violence
- Loss of reproductive capacity as a result of torture or sexual violence
- Threats or attacks (including online violence) due to sexual orientation, gender identity, or participation in public life (i.e. women human rights defenders)
- Long-term consequences of sexual and gender-based violence, including trauma, depression, low self-esteem, social stigma and self-destructive forms of 'stigma management', fistulas and vaginal/anal ruptures, incontinence, long-term bleeding, etc.
- Starvation
- Illegal detention and imprisonment, including gendered forms of harms linked to the experience.<sup>133</sup>
- Internal displacement
- Disappearance, including forced disappearance of children, spouses and/or partners, and the legal and social precariousness that may result from the disappearance
- Dispossession of property and unequal laws and social norms around women's property ownership and inheritance rights
- Inability to access health care, including comprehensive sexual and reproductive health care
- Loss of educational opportunities and an inability to access education, including education for children
- Repudiation or divorce by one's spouse/partner as a result of having been the victim of violence, and inability to marry/remarry
- Harassment for being or having been a victim's family member
- Taking in of abandoned children or children who have lost their parents
- Widowhood
- Being orphaned
- Loss of means of livelihood and other socio-economic disadvantages experienced by women, including the burden of unpaid care work
- Loss of opportunity to have or raise one's own children (e.g., because of time in prison, displacement, etc.)
- Loss of possibility of political agency
- Gendered political insecurity<sup>134</sup>
- Loss of other opportunities linked to the amount of time/energies/resources spent taking care of family member in detention



**“[Women’s] voice has come to mean the voice of the ‘victim’ or ‘survivor’ [...] Women’s voices are drawn upon as witnesses to raw suffering only; their voices are listened to in order to mobilise empathy, demonstrate the ‘human suffering’ of an atrocity or to progress some other agenda. Women’s voices are seldom heard as political subjects, as expert opinion on justice, politics or power relations—these remain the preserve of the expert; the lawyer, aid worker, technocrat or researcher who will interpret and mediate the voices to their respective audiences.”**

# Lesson 7

## Understanding the gendered social context is imperative<sup>135</sup>

Context is the single greatest source of enablers, barriers and complexity impacting upon the meaningful participation of women in transitional justice processes and mechanisms—context is everything.

### Transitional justice cannot pursue or achieve gender equality in isolation from the context

Women’s meaningful participation in transitional justice is embedded in the fabric of a particular social, economic and political context—it does not happen in a vacuum unaffected by societal dynamics and forces. Because they are part of a society, transitional justice processes will be inherently embedded in and mirror the gender discriminations and exclusions and patriarchal behaviours prevailing in that society. Moreover, no transitional justice process can achieve fundamental women’s rights and gender equality transformations in isolation. Women’s meaningful participation

within any transitional justice process will, therefore, have better chances if it is also complemented with parallel and wider social, political and development strategies or frameworks for women’s meaningful participation and gender equality. This will support not only the ‘external’ gender transformations that transitional justice processes aim to achieve, but also support the ‘internal’ gender transformations that transitional justice processes and mechanisms will need to achieve in order to undertake their work.

### Potential for transformative gender equality outcomes will be partly determined by context

Transitional contexts can span a wide spectrum: ongoing and protracted conflict; post-conflict; post-genocide; gradual or staged transitions from authoritarian and repressive regimes; post-revolution; fragile, failing and failed state contexts; state formation contexts; etc. Some ‘hybrid’ contexts are characterized by several of these characteristics at the same time. Despite normative imperatives, transitional justice and women’s meaningful participation will experience different challenges depending on the dynamics present in different contexts: “That the context varies is important because it affects transitional justice’s objectives—both immediate and long term—and processes, which affect the specific responses that are most appropriate and feasible in each setting.”<sup>136</sup> Recent research strongly suggests that a conflict’s ‘termination type’ is a core determining factor for women’s participation—“that a conflict terminated through the negotiation and implementation of a comprehensive peace

agreement [CPA] significantly improved women’s political rights in the post-war period when compared to other types of conflict termination.”<sup>137</sup> The findings suggest that negotiated terminations affect “both the opportunity and willingness of warring parties and their openness towards the influence of international actors, thereby making it possible to translate social ruptures and pressures from women’s groups into post-war improvements in women’s political rights [...] Opportunity, willingness, and international influence are only present in a CPA and, to an extent, in a non-CPA.”<sup>138</sup>



**“The language a transitional justice operates in has a major impact on participation.”**

Interviewee WEOB

## Transitional justice and women's participation will be just as 'imperfect' as the context

Transition contexts are inherently 'imperfect'—the array and scale of exceptional challenges necessitates that transitional justice will be contested, contingent and function imperfectly.<sup>139</sup> Transitional contexts present opportunities for change, but also the challenges associated with change and continuities with the past that present obstacles to change. As such, they are contested, complex, non-linear and unpredictable. They frequently present exceptional circumstances that displace and/or undermine the meaningful participation of women in transitional justice, such as:

- Mass numbers of complex types of survivor-victims, including hybridised victim-perpetrators;
- Mass numbers of perpetrators, many of whom remain in positions of power;
- Different and evolving types of persistent violence,

whether conflict, criminal, SGBV, etc.—including the targeting of female survivor-victims, witnesses and transitional justice advocates;

- Contention over changing political, social and economic power dynamics, as well as resistance to change and 'backlashes' that push for maintaining the status quo or a reversal of women's rights;
- Underlying social and economic problems and structural poverty, inequality, marginalization and discrimination, which are both root causes for violations and obstacles for responding to them;
- New, reforming, fragile, corrupt, weak or non-existent institutions, especially in the governance, justice, security and public services sectors;
- Widespread corruption, persistent illicit economies and limited government financial-base; and
- An array of visible and invisible actors contending over multiple political interests and outcomes.



**“The exact moment to undertake an inclusive and appropriate transitional justice process comes at the very same moment of political crisis and greatest fragility—it is the most difficult moment to do women's inclusion.”**

Interviewee BAMO

## Women's meaningful participation in transitional justice is political—so be political<sup>140</sup>

Transitional justice proponents must employ political strategies and capacities because women's meaningful participation is necessarily about political power. Technocratic proponents frequently do not pay sufficient attention to the political context of transitional justice. The pro-gender equality/inclusion goals of many transitional justice processes and mechanisms often go unimplemented because they depend on the support of unsympathetic political actors—uptake and ownership depend upon whether local actors also perceive the achievement of such goals as important to them and their constituencies.<sup>141</sup> Therefore, 'being political' means transitional justice must avoid a disconnect between design and the political context.<sup>142</sup> Transitional justice proponents and processes must *continually* analyse and articulate their place, support, 'transfer strategies' and potential to build transcending coalitions within evolving power balances both between 'reformers' and 'spoilers' and within 'elite' political bargaining.<sup>143</sup> They need to look “at the

interests and incentives of a range of actors, including not just the state but also non-state armed groups, political parties, civil society actors (such as victims' groups, labor unions, and religious actors), and international donors.”<sup>144</sup> Political change and contestation within transitional political contexts clearly constrain the forms and feasibility of women's participation transitional justice responses. This means that 'trade-offs' will be an inevitable element of women's participation in transitional justice. It also means there will inevitably be shifting political spaces and pockets within which advocacy and small actions for inclusive transitional justice can be achieved, these can be starting points for more comprehensive measures in the future.<sup>145</sup> Proponents of women's participation in transitional justice should focus their political strategies on key factors that determine how gender equality concerns are represented and decided upon in political and policy processes.<sup>146</sup>



**“There is no appetite socially or politically to change the status of women in a transition [because] it does not favour those new in power.”**

Interviewee AYBZ

## Locally grounded gender, political and context analysis is necessary for designing and implementing transitional justice processes that have value to that context

The UN already knows that context analysis is a necessary part of informing transitional justice responses.<sup>147</sup> Nevertheless, ‘standard’ transitional justice models and methods are frequently criticized as being applied without deep gender, political and/or contextual analysis of the setting or without appropriately adapting those models and methods to such analysis.

Transitional justice processes should include analytical elements and capacities, taking into consideration:

**Analysis should be locally grounded to ensure that transitional justice processes are designed to have value to that particular context.** Context analysis that is participatory, rooted in local capacities and inclusive of a wide range of stakeholders (including a diversity of women) will lead to a better understanding of how power works and how it changes in that context, from the household up to the national level and in private/public spaces. In the best cases, locally grounded and driven analysis will more likely concentrate on the relevant ‘ends’ of transitional justice, not simply on the ‘means’ or how to best replicate or adapt external models. This is likely to promote more and better use of local measures, practices and resources, as well as lead to less ‘uniformity’ of the tools deployed—“Provided that the responses are more effective and satisfy basic criteria such as inclusivity, non-discrimination, and where appropriate, procedural guarantees, familiar tools should not be thought of as universal or indispensable.”<sup>148</sup> However, ‘context appropriate’ is not code for ‘lowering the bar’ of standards; rather, the emphasis is on how to increase the value of transitional justice in a given context by ensuring that its application is informed by analysis grounded in that context, rather than only grounded in exogenous perspectives.<sup>149</sup> It should also enable clearer thinking and action on the extent to which transitional justice in a given context is affected by and can, at the same time, address root causes of large-scale past abuses and contribute to broad change, such as women’s meaningful participation and gender equality.<sup>150</sup>

**Analysis should not be a ‘one-off’ exercise only to inform design but should be ongoing and continuous.** Analysis should provide continuous inputs for the ‘management’ of implementation, including planning, funding priorities, stakeholder engagement and political strategies. It should be used as part of monitoring, evaluation and accountability tools to track and measure agreed gender equality and gender transformative outcomes and/or commitments in transitional

justice processes. Importantly, continuous analysis enables stakeholders to see when and how the context is changing, allowing appropriate adjustments throughout implementation. Lastly, continuous analysis that tracks changes in the context will also demonstrate how incremental and cumulative deep transformation change actually is.

**Analysis should assess the women’s participation ‘baseline’ in a given context.** This should identify barriers and discrimination but also the means, incentives and enabling factors for women’s meaningful participation as grounded in their lived experience. Analysis should identify the roles and leadership of women before/during the conflict/transition, including their roles in the conflict itself, in peacebuilding and in justice processes. Transitional justice processes need to understand the contextual dynamics that shape how different women behave, build coalitions, organize and express their leadership in different contexts. While commonalities and complementarities will exist between different contexts, there should be no assumption that ways to include women in one context are directly applicable to another. These may also change over time in any given context, according to the ‘phase’ of conflict, peace or transition process, the level of focus (local, national, regional, international) and evolving needs, priorities and goals of women. Relevant factors affecting the baseline for women’s participation in transitional justice may include: ‘elite’ support or resistance; public resistance, awareness and buy-in; the presence and strength of women’s groups, networks and/or traditional organizing practices (at all ages and across all regions of a country), as well as their access to regional and international women’s networks; the technical or organizational ‘preparedness’ of women on issues; heterogeneity of women’s identities; cultural, social and political attitudes and expectations surrounding gender roles; regional and international actor’s influence; and the existence of prior commitments to gender sensitivity and women’s participation.<sup>151</sup> In some contexts, women’s organizations and networks working in public spaces are clearly major social and political forces. In contexts where women are excluded or restricted from public spaces, analysis should carefully identify the ‘invisible’ and ‘private’ means by which women exercise agency, support one another, organize and influence social and political discourses. More analysis may also be necessary to ‘discover’ the potential for influence and organizing, such as nascent or overlooked young women’s organizations and networks.

**Analysis should involve intersectional methods.** It is essential that any gendered analysis also examines the full diversity of women and recognizes that gender is only one axis that intersects with many other forms of women’s identity and experience, including experiences of discrimination. Intersectional analysis can

enable a better understanding of how power relations in a particular context interact with women’s different axes of identity and experience in that context to amplify vulnerability and exclusion.

# Lesson 8

## Ground transitional justice in local women and their needs and priorities

Transitional justice should be grounded in and serve the needs and priorities of local women, rather than local women having to serve the needs and priorities of transitional justice

Frustrations are clearly evident, transitional justice too frequently becomes overly focused on institutions, mechanisms, performative actions and technocratic solutions, many of which derive from external sources that have no consideration of local gender conditions. Transitional justice processes are often criticized for being more about what the institutions, mechanisms and technical processes need rather than about inclusive processes that deliver outcomes for what all members of a society—especially women—need in order to deal with the past and move forward. As one interviewee argued, “The mechanisms, institutions and legal process of transitional processes are simply tools and marginal to the actual outcome you are seeking to achieve.”<sup>152</sup> Or as another put more plainly: “Transitional justice has been too much about the privilege and power of male leaders and the interests

and needs of institutions over the interests and needs of women leaders.”<sup>153</sup> A central lesson from critical perspectives on gender and transitional justice is, “the need for transitional justice mechanisms to genuinely recognise and respect local knowledge, structures, organizations, processes, and people (especially the voices of local women).”<sup>154</sup> This especially suggests that transitional justice processes avoid “marginalisation of the local in dominant, high level ‘on-size-fits-all’ international” transitional justice interventions that “prevent recognition of local agency, and which approach local communities as people and populations to be worked ‘on,’ not ‘with.’”<sup>155</sup> More to the point: “To ignore local knowledge, structures, and processes is to risk the likelihood of developing ineffective reforms and mechanisms.”<sup>156</sup>



**“[I]t’s not about the lack of capacity of women, it’s about the lack of capacity of gatekeepers to design transitional justice inclusively [...] Invest in and develop processes that listen to women”**

Interviewee TLQO

**“It should be about the garden, not about the gardening equipment.”**

Interviewee NCDQ

**“Listen to women and victims. You will then quickly understand what transitional justice should be about [...] Especially the most marginalised, they know from experience ‘how it works’ where they live better than any international experts.”**

Interviewee NCDQ

**“We need to take off external lenses about what ‘participation’ looks like.”**

Interviewee XEDS

Transitional justice is often criticized for:<sup>157</sup>

- Deploying Western-driven international funding and interventions on the assumption that transitional settings are without pre-existing local female expertise, capacities and institutions;
- Imposing exogenous Western perspectives, institutions and experts that displace or exclude endogenous women's voices, capacities and priorities, rather than seeing these as a key to achieving justice and sustaining peace;
- Exploiting and 'producing' survivor-victims and their stories, with expert transitional justice 'entrepreneurs' creating a politics of disempowerment and trusteeship over passive and reliant survivor-victims;
- Treating local women actors as 'subaltern' and entrenching narratives of their passive victimhood;
- Assuming a universality of priorities, concerns, and interests among women of different backgrounds in complex contexts;
- Employing top-down, institution-focused and generalised models that ignore individual women's needs, thereby creating dissonance between individuals' needs and institutional responses;
- Demonstrating 'troubling features' of standardization because it is delivered by a highly mobile and hegemonic 'professional body of international donors, practitioners and researchers';
- 'Managerialism' precepts that believe outcomes for female 'beneficiaries' will be optimal when a separate strategic leadership and specialized experts are responsible for strategic choices; and
- Devising international 'expert' solutions that are so far removed from the reality of 'ordinary' women's lives that they are unlikely to bring substantive change to those lives.

## Tunisia: special procedures and measures for women victims



"As a result of the specificity of women victims in this process, the Truth and Dignity Commission (TDC) has identified procedures and mechanisms that help to gain the confidence of women victims and ensure good communication with them. Among the most important measures:

- Creating a toll-free green number dedicated to receiving calls from women victims and to answer their various queries, giving them the freedom to choose the gender of the call receiver [...]
- The establishment of reception desks for women within the control office.
- Provide special care within the immediate care unit (health, social and psychological) in order to provide psychological framing for women victims, children, vulnerable groups, older persons and people with special needs.
- Provide special attention in the regional offices to ensure accurate statements and testimony at TDC.
- For secret hearings, enable women to choose any regional office away from their place of residence, or mobile offices in order to ensure the confidentiality of the hearing its data and encourage the victim to testify.
- Special protection measures within the witnesses protection program for victims eligible to participate in public hearings.
- Protection procedures adopted particularly to the files of sexual violations victims: digitization, encoding and encryption of the file, identification and reduction of the sphere of interaction among TDC's specialists dealing with the file in order to stem any data leakage possibility. These procedures had been applied to files of victims from both sexes. TDC has also intervened to protect women victims in situations where they had been harassed by security services after testifying at TDC.
- Drafting the "statement" during the secret hearings, allowing to provide elements on the violations in a way that addresses the specificity of women related violations such as 'pregnancy, abortion, forced sterilization, forced weaning, forced divorce, child raiding, removal of babies from their mother in prison, discrimination in prison, violations of the freedom of dress, consideration of special health needs, etc.'"

TDC (2019), p. 372

## **Locally define concepts, agendas and methods for transitional justice and women’s meaningful participation: listen to women—meet them where they live and how they live**

Localization in practice is not straight-forward.<sup>158</sup> ‘Universal’ normative concepts are difficult to translate.<sup>159</sup> But any international intervention that “imposes definitions or whitewashes crucial contextual differences is clearly problematic. It perpetuates a troubling hierarchical paradigm, which understands the local as the static receiver of global norms and knowledge. A more accurate and honest starting point is to understand, through a deep contextual, cultural and linguistic engagement with ordinary people, local notions of justice related concepts.”<sup>160</sup> The goal should be processes in which local survivor-victims and stakeholders empower themselves, reject unequal power systems of ‘trusteeship’ and can both shape and participate in transitional justice processes as equal agents.<sup>161</sup> This does not necessarily undermine international legal and gender equality

standards, but it does better contextualize and internalize them when they “can be brought into everyday forums where people see the value of equality in family and community life, and that women’s participation in public life need not mean the destruction of traditional practices.”<sup>162</sup> Incorporation of the priorities of local women as the ‘controlling factor’, even if those women prioritize other aspects of their identity (e.g. religion, ethnicity, and politics)<sup>163</sup>, enables gender inclusive transitional justice to obtain more meaningful support from local women and enables women to engage on their own terms.<sup>164</sup> Definitions, concepts and priorities for women’s meaningful participation that are grounded in the realities of local women will also likely bend hierarchical conceptions of transitional justice ‘pillars’, tools and outcomes to better fit the given context.

## **Listen to and engage local women as experts, particularly on the basis of their lived experience**

Approaches should avoid perpetuating a hierarchy where ‘Western embedded’ education, expertise and models of human rights, justice, democracy and reconciliation are elevated and local women’s knowledge and practices are discounted.<sup>165</sup> Nevertheless, the existing contributions, capacities, norms and expertise of local women are frequently unused, undervalued and relegated: “This not only applies to their technical skills and training, but also their lived experiences of conflict and often-invisible work [...] Presumptions around lack of ‘capacity’ or relegation of women to ‘women’s issues’ pose a significant barrier to women’s meaningful participation. In addition, women in conflict affected countries, are not seen as possessing expert insight, despite their direct experiences of violence.”<sup>166</sup> While they may not possess legal, human rights or other technical knowledge, women in a society should be valued as experts on that society rather than necessarily needing to be ‘empowered’, ‘have their capacities built’ and their agency ‘given’ to them.

This includes ‘amplifying’ existing capacities, such as promoting the leadership and recruitment of local women to work within transitional justice mechanisms (e.g. as statement-takers, dialogue facilitators, translators, investigators, prosecutors, judges, commissioners, monitoring and evaluation (M&E) and other technical specialists, etc.). As suggested earlier, this may involve recruitment competencies that reflect the contextually grounded expertise and lived experience that only local women possess.<sup>167</sup>

## **Survivor-centred approaches are an important start to developing transitional justice processes that are localised, appropriate and inclusive for women**

Emphasis on survivor-centred or victim-centered approaches has burgeoned. This approach is premised on the central and active role that survivor-victims should have in the design and implementation of transitional justice, in contrast with that of top-down, legalistic and institution-focused approaches that treat survivor-victims as passive and marginal to official processes.<sup>168</sup> Many elements of a survivor-centred approach would support elements of women’s meaningful participation: driven and led by women survivor-victims as agents from the grassroots; processes defined and outcomes realized according to the rights and aspirations of women survivor-victims;

structural barriers for women’s access recognised and addressed; adequate protections and safe, dignified spaces for women survivor-victim participation ensured; and opportunities created for women survivor-victims to contribute to social transformation and gender equality.<sup>169</sup>

### **Peru: listening to truth**

“The public hearings organised by the CVR [Comisión de la verdad y Reconciliación] of Peru differed significantly from other truth commission processes in that the people who testified were not questioned by the commissioners or cross-examined. The testimony was heard on the understanding that it was the truth of that person and should not be questioned. In this way, the process recognised that there are many truths and that all of them must be respected. All of these truths changed the understanding of the conflict both for the commissioners and for public opinion in general.”

Macher (2019), p. 240



### **Guatemala: women survivor-victim defined reparations in the Sepur Zarco case**

“As part of this process, the women determined which reparatory measures would be pursued in the legal strategy, seeing an opportunity to address the intergenerational trauma of the whole community. They identified the long-term health impacts of sustained sexual violence on their lives and on other women who chose not to testify, as well as the impacts on all community survivors of the scorched earth campaign who continue to feel the effects of structural poverty that come from a lack of access to land. After the verdict, the courts ordered a series of 18 reparations to redress the physical, psychological, and material impacts of the violence. Broadly speaking, these measures include increased access to healthcare and education for the women survivors, other members of the community, and future generations, as well as reforms in the legal system to reduce the barriers other survivors face in coming forward.”

NISGUA (2017), p. 2





# Lesson 9

## Integrate continuous women-inclusive participatory dialogue across all aspects and phases

The UN already knows that consultation is an essential element of transitional justice:<sup>170</sup>

“There is a requirement for national consultations under international human rights law. The International Covenant on Civil and Political Rights, in article 25, guarantees the right of every citizen to take part in the conduct of public affairs. The treaty body that monitors the Covenant’s implementation, the Human Rights Committee [...] has made it clear that citizens are entitled to be consulted on the design and implementation of transitional justice programmes.”<sup>171</sup>

“Developing mechanisms of victim participation and of consultations with a broad range of stakeholders should be adopted in all transitional justice processes.”<sup>172</sup>

Nevertheless, there are repeated situations where transitional justice consultation processes have been significantly lacking in women’s meaningful participation, or were simply ignored, truncated or superseded. Consultation is clearly challenging, but it also suffers from some systemic flaws. For the most part ‘participation’ is essentially synonymous with ‘consultation’; because of this, public and women’s participation is usually nominal and instrumental, rather than representative or transformative.<sup>173</sup>

### The Gambia: women’s listening circles



“They were invited by the Truth, Reconciliation and Reparations Commission [TRRC] to participate in its first intergenerational listening circle for women. The women’s-only listening circle came in response to the need for safe, respectable and meaningful engagement of women and girls in the transitional justice process in The Gambia. [...] On its first edition of the Women’s Listening Circle, the TRRC was focusing on outreach and access to stimulate participation of women in a space designed to encourage and support female voices within the structures of violence and oppression perpetuated by the previous regime, for indeed women experience violence in different ways than men.”

Jallow (2018).

Replace one-off or time-limited consultation ‘exercises’ with ongoing women-inclusive participatory dialogue as an ‘ongoing pillar’ underlying all other pillars and phases

Participation should not be an ‘add-on’ but part of the very DNA and foundation of transitional justice processes.<sup>174</sup> It could be considered an underlying and cross-cutting pillar in its own right, upon which the effectiveness of all other transitional justice pillars ultimately rest. Within this framework, women’s participation in transitional justice is conceived of as an

ongoing process—not an event, technical exercise or institution—requiring constant dialogue, reflection, analysis, critique and adaptation and involving a diverse spectrum of women and other stakeholders.<sup>175</sup> Such an approach would privilege transitional justice stakeholders (the ‘end-users’) to shape the design, implementation and monitoring of transitional justice

in their context—to bend the ends and means of transitional justice towards the multiple interests of women and others in society who are traditionally excluded from positions of power and privilege. Most crucially, women and other participants should not be simply included in pre-set nominal or instrumental processes; there must be scope for participants to reconsider and reshape the process, tools and end goals (i.e. they are representative and/or transformative processes). This improves effectiveness and legitimacy but potentially generates wider ownership of transitional justice

processes and mechanisms among diverse women, which otherwise remain the domain of the state and ‘elites’. This would intentionally go beyond ‘vertical’ dialogue and encompass ‘horizontal’ dialogue and coalition across diverging women and other stakeholders. Overall, if “expectations are co-constructed, and managed through reflective processes, the practice of transitional justice would become less fraught with conflict and disappointment, and more energised by new forms of legitimacy and accountability.”<sup>176</sup>



**“People and contexts change over time, so we need to establish continuous and ongoing dialogue between people and institutions.”**

Interviewee BAMO

**“Victims shouldn’t have to thank the state for giving them a role in transitional justice.”**

Interviewee MDSO

## Women-inclusive participatory dialogue is an ongoing process that involves:

- Conducting gender- and bias-conscious contextual, stakeholder, constituency and security analysis to identify the full and intersectional range of stakeholders (particularly women), as well as intended risks;
- Creating ongoing, locally proximate, accessible, dignified and safe spaces for substantive participation of ‘ordinary’ people in local languages, especially women survivor-victims and ‘non-elite women’;
- Investing necessary resources required to overcome the administrative, logistical, security, socio-economic, linguistic and other ‘practical’ barriers preventing women and traditional excluded people from participation;
- Setting-up organizational systems to manage, coordinate and implement dialogue, as well as safeguards for security, confidentiality, anonymity and data protection;
- Employing complementary and continuous psychological support, networks of solidarity and other affirmative supports to participants from trusted providers;
- Avoiding reliance on state-centric measures that inherently limit the number of women and the means of their engagement (e.g. as witnesses, defendants, service-users, etc.); and
- Planning and conducting appropriate transitional justice and human rights awareness/capacity building with organizers and participants, including learning, exchanging and amplifying locally grounded expertise and lived experience;
- Employing a variety of women-inclusive dialogue and outreach methods,<sup>177</sup> as well as women- or gender-specific measures to gather, acknowledge, transfer and coalesce women’s views vertically and horizontally;
- Embedding agile and reflective learning measures so that dialogue processes learn, adapt and improve as they discover ‘what works best’ in a given context.
- Enabling women to input on the design of participatory dialogue methods to ensure the appropriateness, safety and efficacy of methods;
- Ensuring the equitable distribution of access to dialogue activities along geographic, rural/urban, linguistic, age and other demographic and intersectional factors;

## A combination of formal and non-formal participatory processes and mechanisms would improve women’s meaningful participation and their ability to seek redress and change

In the best case scenarios, non-formal participatory mechanisms—that are flexible, decentralized, informal and intimate spaces free from institutional constraints—can contribute to: context appropriate, locally proximate, accessible, dignified and safer spaces within which difficult discussions about abuses can take place; greater autonomy and acknowledgement of women’s agency; more coherent, democratic and inclusive coalitions and communities; and, most importantly, more freedom for women to define and realize demands that meet their specific needs in that context. This would also help elevate the importance of women’s agency—that they are not just consulted through ‘invited spaces’, but that they can contribute on their own terms within ‘claimed spaces’.<sup>178</sup> Non-formal methods need to incorporate

‘new’ civil society actors and processes that value autonomy, independent action and the modelling of alternatives rather solely relying on ‘old’ civil society actors and processes that see advocacy, support and capacity building with state institutions as the principal points of reference.<sup>179</sup> Formal participation mechanisms remain essential—the state and duty bearers cannot be ‘let off the hook’.<sup>180</sup> Formal processes enable the closing of ‘feedback loops’ in both directions for the sharing and collecting of information, but also enable formal acknowledgement by state actors, potentially greater legitimacy for wider transitional justice measures and at least a promise to participants that they will have some representation and concrete responses may result.

### Tunisia: women’s CSOs facilitating formal/non-formal connections for an open and accessible process



“When the IVD [Truth and Dignity Commission] released its first witness testimony report in 2015, women had only submitted 5 percent of the total number of testimonies. Women’s CSOs undertook efforts to make the testimony collection process more open and accessible for women. Using their regional networks, they brought representatives from formal justice mechanisms into direct contact with communities outside Tunis and even collected testimonies themselves. Their interventions addressed not only structural barriers such as testimony collection points that were difficult to access, or the need for female statement-takers, but also the cultural stigma surrounding victimhood and assumptions that submitting testimony was equated with being a survivor of sexual violence [...] As a result, by the May 2016 collection deadline, over 20 percent of the testimonies submitted had come from women. Bringing more women’s voices into the process helped re-write the role of women in Tunisian history and enabled a new definition of victimhood that incorporated women’s diverse experiences, including the socio-economic violations that impacted women differentially.”

GIWPS (2017), p. 21

### Sri Lanka: Consultation Task Force and Zonal Task Forces—localised and inclusive consultation mechanisms



“The Zonal Task Force [ZTF] represents the most crucial element of the island-wide consultations. The consultations-on-consultations process had advised that, rather than having a select group of individuals largely from Colombo, the consultations should be carried out by respected individuals from the regions who were trusted and had knowledge of issues and local perspectives. As outlined below, this ZTF structure proved to be one of the most positive aspects of the entire consultation process but also one of the most challenging to coordinate [...]

“True to the intended design of 50% female representation, 46 of the 92 members were women, marking a significant achievement in a country where female representation in governance, management, the boardroom or even civil society forums continues to be a major challenge. On account of the zonal design and impact of the war, there is a greater ethnic diversity than the national demographic breakdown. Members of the ZTFs were representative of the following ethnic communities of Sri Lanka: Sinhala, Tamil, Muslim, Malaiyaha Tamil, and Burgher. Amongst the ZTF members were civil society activists, members of the fishing and farming communities, gender advocates, managers and directors of non-governmental organizations, community level advocates, human rights activists, medical professionals, academics, business entrepreneurs, psychosocial support workers, social service workers, development officers, lawyers, teachers, educators, and retired public officials. Several had personal direct experience of conflict and long years of working with communities and groups. 6 members were clergy, representing 3 of the 4 religions in Sri Lanka. Through the consultation process, persons whose work areas may have been restricted to single community groups were provided with the opportunity of working across ethnic gender and regional divides. CTF members observed it to be a transformative experience for many of the ZTF members.”

CTF (2016), pp. 15-17

## Cautionary notes regarding locally grounded and participatory dialogue approaches<sup>181</sup>

It is important to note that promoting a fundamentally more substantial and central role for local women, communities and practices does not blindly reify ‘the local’ and ‘participatory’ practices, for example, because:

- Local women, communities and practices will be embedded in their own hierarchies, some of which will work against progressing gender equality and women’s rights;
- Such approaches may be instrumentalized to enforce/reinforce oppressive, exclusive or discriminatory political, social or economic power structures that work against women rights and contribute to violent conflict;
- Such processes will be confronted by, and need to factor in, how to engage with ‘uncivil society’ stakeholders who do not share the liberal assumptions of international human rights advocates but are increasingly driving transition and routes to dealing with the past;
- Some ‘internal’ conflicts were, and continue to be, instrumentalized by international actors and interventions, thereby resisting any attempts towards resolution by ‘local agency’;
- There will always be contention and complexity about who and what is ‘local’;
- Basic community institutions and systems of cohesion may have broken down to such a degree as to make any participatory attempts inherently imperfect and incomplete;
- Some women and communities who do not trust local or national authorities/actors may, in some respects, prefer international safeguards, international assistance or joint ownership over local autonomy;
- Local dialogue processes can be instrumentalized, ‘spoiled’ and contested, take unanticipated directions, or otherwise suffer from insufficient resourcing, planning and execution;
- Disappointed expectations of local agency in low-trust environments (typical of transition settings) can further entrench mistrust, confirm exclusion, increase grievances and contribute to conflict; and
- In ‘imperfect’ settings, no process will be perfect—anticipated and unanticipated sequencing, timing, resource, capacity, political, security and external factors will impose constraints that will challenge the best strategies for locally-grounded approaches.

# Lesson 10

## Cultivate public buy-in and plan for ‘pushback’

Proponents of women’s meaningful participation in transitional justice face significant risks of ‘pushback’, harassment and even threats and acts of violence. Conflict, peace negotiation and transition periods frequently relax gender norms, expand the range of socially accepted women’s rights and agency and enable some realization of transformative women’s rights and gender equality agendas. However, such endeavours are also frequently resisted or rolled-back in ‘peace time’. This sometimes stems from ‘elites’, institutions and other wielders of power who do not have shared interests in the gendered redistribution of justice, rights and power.<sup>182</sup> Though often normatively endorsing gender equality and other ‘positive peace’ agendas, international actors operating from a state-centric ‘international security’ paradigm will frequently de-prioritize and ‘trade off’ these agendas in favour of ‘stabilization’ and other priorities

as a means to maintain a ‘negative peace’. Wider public buy-in and commitments to gender equality cannot also be taken for granted even when wide-scale participatory measures are used. Women’s meaningful participation in contexts of enduring gender discrimination and deeply embedded patriarchy is explicit and implicitly resisted “unless it fits within men’s acceptable political agenda.”<sup>183</sup> This can include direct and indirect violence against and increased security risks for women participants in transitional justice. All transitional justice stakeholders and duty-bearers are responsible for undertaking ongoing communication with the public and mobilization of wider constituencies in support of inclusive transitional justice processes and outcomes. Public buy-in should not be assumed; it will need ongoing investments and efforts to cultivate.<sup>184</sup>



**“Confronting the deep rooted subordinate status of women properly awakens a political patriarchal fightback to maintain the status quo [...] Change is always nice, until it touches on power.”**

Interviewee NCDQ

### Guatemala: a survivor-victim centred approach and the challenge of the fight against impunity



“[I]n Guatemala, victims’ active involvement in the calls for truth, justice, and reparations translated into the early adoption of measures that more adequately responded to their needs and that contributed to uprooting the root causes of the conflict, especially the prevailing structures of impunity in the country. Yet, as soon these measures began effecting positive changes, victims and civil society faced a huge backlash from the elites in power, while observing a retreat of efforts by the international community to support initiatives in the fight against impunity. This ultimately translated into the undermining of the transitional justice process. Worryingly, it also put victims and their local allies at risk.”

REDRESS & Impunity Watch (2020), p. 10.

# Lesson 11

## Be mindful not to increase deficits of trust

Notwithstanding all of the above, “Unmet expectations of victims from previous failed processes to deal with the past are equally powerful, though less obvious, structural obstacles to inclusion.”<sup>185</sup> This becomes further accentuated in contexts where there is fundamental mistrust between certain parts of the population and the State; it becomes highly problematic for ‘impartial’ transitional justice processes and mechanisms to build trust in such a context. In many contexts, national and international transitional justice efforts have especially ignored, excluded and omitted women—as one interviewee explained, “When our input is continually ignored, why bother anymore?”<sup>186</sup> In others, such as when awarded reparations never arrive, women were promised much but little was

fulfilled. In such contexts, “This trust is unlikely to be regained through ‘more of the same’, in which various combinations of transitional justice are ‘brought to’ conflict affected communities”.<sup>187</sup> As other interviewees explained: “Be prepared and thoughtful. Carelessness and working with women as an ‘afterthought’ can result in mistakes that can cripple women’s trust in the process”<sup>188</sup>—and “If you take it on, you have to follow through because now you’re responsible.”<sup>189</sup> Engagement on women’s participation, therefore, needs to be comprehensive and purposeful: “People know when it’s just a box-ticking exercise.”<sup>190</sup>

### Colombia: security risks for women activists



“[T]he peace accords have opened up new spaces for women’s participation and leadership. Yet this has also increased the risks for women. The United Nations High Commissioner for Human Rights office in Colombia documented 36 murders of women leaders from 2016 through September 2019,<sup>28</sup> while the National Ombudsman’s office documented 447 threats from February 2018 through May 2019.<sup>29</sup> From 2019 through the first part of 2020, threats against rural women, including campesina leaders and ethnic leaders, have increased, linked to their struggles for access to land and land restitution, to protect the environment, and to substitute illicit crops.”

LAWG (2020), p. 9

### The Gambia: survivor-victim speaking out on rape sparks a new social discourse, but also a backlash



“Toufah’s story [of being raped by the Gambia’s former dictator] has sparked a big conversation about rape and sexual violence in The Gambia and has started a #MeToo Movement in the country. Toufah’s story has encouraged several victims to take to social media and share their experiences with the hashtags #IAmToufah and #IBelieveHer. What used to be a “taboo” subject has become a topic of discussion not just in the media but in households, salons, cafes and other social places. By gradually embracing and encouraging the participation of women survivors of human rights abuse during the Jammeh era, the TRRC has by default amplified awareness of gender-based violence in Gambian society and, as such, has sparked a profound conversation on sexual violence [...] Whilst Toufah’s courage has forced the nation to discuss rape and its prevalence in The Gambia, several of the abuse survivors, including Toufah, have been attacked and accused of lying [...] Interestingly, Gambians believe and sympathise with victims (who were mainly men) of other forms of human rights violations such as murder, enforced disappearances, and torture, but seem to find it difficult or even impossible to believe that a woman could have been raped. Somehow, it seems easy for Gambians to believe only the human rights violations against men.”

Baldeh (2019).

## Challenges for UN programmes and operational support to transitional justice

Key constraints persistently emerged from subject matter expert interviews regarding UN programming and operational support to women's inclusive transitional justice. While not wholly cross-referenced with literature, these include some important though not exhaustive insights:

- The need for UN and other international bodies to 'internally' exhibit the gender equality transformations that they are trying to promote 'externally';
- Frustration over inherent constraints of trying to develop and implement 'new ways of working' when stuck using the 'same old', 'out-dated' and 'unfit' programming and operational systems;
- Programmes clearly driven by donor and/or government agendas that are 'politicized', 'risk averse' and deterministic rather than being driven by women survivor-victim's agendas;
- 'Output' and 'delivery' driven programmes that prioritize demonstrating 'value for money' to donors over participation and genuine change;
- 'Projectized' short-term strategies that do not adequately account for the complexity of and time required to achieve different levels of transformation, let alone attempt to measure change;
- Continued reliance on copy/paste approaches resulting from 'one-size-fits-all' policies and over reliance on 'best practice' transfer and global experts—i.e. habitual 'isomorphic mimicry';<sup>191</sup>
- Funding for women's meaningful participation, 'gendered' programming, gender expertise and essential services for women in conflict/transition is persistently unpredictable, insufficient and deprioritized;<sup>192</sup>
- Governments and donors not acknowledging that flexible mechanisms and long-term core funding is needed for the types of meaningful change sought in transitional settings;
- Women's meaningful participation has become just another 'fatiguing' cross-cutting issue for which no one is genuinely accountable;
- Isolation, 'silo-ing' and exclusion of gender advisors from substantive decision-making in transitional justice;
- Persistent institutional and managerial reluctance to acknowledge the patriarchal and masculinized power structures embedded in governance, political, social and economic systems;
- Senior management not paying attention to staff diversity and the important non-formal competencies that women from the Global South bring to the organization's ability to support inclusive transitional justice;
- 'Technocratic' UN development agencies that are not equipped with the political capacities required for dealing with such a deeply political issue in complex contexts, sometimes resulting in superficial and counter-productive outcomes;
- The space for work on politics, human rights, and gender equality is often severely limited by some States that prefer the UN to focus only on development and humanitarian assistance; and
- National actors experiencing ad hoc and incoherent action among different parts and mandates of UN entities, with no clear overarching UN strategic direction.

# Programming for women's meaningful participation in transitional justice

## 4

This brief suggests that deeper considerations are needed for transitional justice programming to promote meaningful women's participation, including re-imagining 'change models', 'outcome domains' and 'benchmarks'.

### 4.1 Re-imagine change models for women's meaningful participation in transitional justice

Significant criticisms of existing transitional justice models suggest that women's participation can only be viable by adopting new models

Transitional justice is now one of several routine responses to situations of conflict and transition. Core international normative standards have emerged, including those responding to SGBV. The various modes of transitional justice have progressed, evolved and 'unpacked' over time and there is now a very substantial and 'standardized' set of transitional justice responses ('pillars') alongside international legal frameworks. However, significant critiques suggest that current transitional justice models cannot resolve the obstacles to women's participation and gender equality,<sup>193</sup> and may replicate patriarchal and heteronormative systems:

→ Transitional justice is largely dominated by 'legalism', an 'industry' of legal and governance experts and linear/deterministic and change models that focus largely on the technocratic means rather than on process or the ends.<sup>194</sup> From this critique, transitional justice has become a technical exercise that "concentrates on finding efficient ways of establishing familiar institutions. The question is no longer, what is the best way of satisfying

rights to truth, justice, reparations, and non-recurrence, but what is the best way of establishing a truth commission, an administrative reparations program, and a prosecutorial mechanism of some sort."<sup>195</sup> This includes generic 'ungendered' responses that are not context specific and often reduce women's participation to box-ticking exercises. As interviewees explained, women's participation "is not just a little 'sticker' you tag onto transitional justice"<sup>196</sup> or "about setting up a women's affairs unit."<sup>197</sup>

→ Moreover, transitional justice is criticized for emphasizing mechanisms and practices that are conceptually and functionally exclusive at their core. This perspective critiques a transitional justice that prioritizes state-centric political/public violence, 'stabilization' of political institutions and 'negative peace'. But because transitional justice mostly ignores the continuum of past and ongoing (often escalating) ordinary/private violence against women and the structural gender discriminations that led to large-scale past abuses, it is largely unfit



for women in its current forms. From this critical perspective, transitional justice is directly shaped by patriarchal power systems that define “security and justice in a masculinist and state-centric manner”, thereby nullifying the ability of transitional justice to uphold women’s participation and rights.<sup>198</sup> Having emerged from patriarchal state-based political discourses and systems, ‘standard’ transitional justice cannot simply ‘add on’ a feminist perspective.

→ More fundamentally at the root of promoting women’s meaningful participation in transitional justice is the deeper question: what is transitional justice itself meant to achieve? On the basis of available empirical evidence, transitional justice has a mixed and incomplete history of outcomes and impacts; gaps between premise and reality strongly indicate that the ‘why’, ‘how’ and ‘what’ of transitional justice are contested.<sup>199</sup> There are any number of successful prosecutions and functional truth commissions, as well as delivery of reparations programmes and different expressions of truth telling and memorialization around the world.<sup>200</sup> The question is, what did these result in? Have these led to less impunity, increased equality of rights for women and reinforced ‘positive peace’, human rights, social cohesion and reconciliation? How do women’s participation and gender

equality agendas fit within the field of transitional justice when the basic purposes of that field are contested?

→ One strong counter-argument to these critiques is ‘principled pragmatism’ and acknowledging that transitional justice has practical limits. While transitional justice ultimately falls within the spheres of sustaining peace, extending human rights and other macro-impacts, expectations for its direct outcomes should be much more circumscribed to material justice, truth and reparations for real people. At this level, transitional justice has achieved advances and tangible results. The field of transitional justice was born out of mostly improvised practice. Therefore, it should remain practical and focused on what existing measures are functionally capable of achieving rather than expanding mandates and expectations based on untested theoretical aspirations.<sup>201</sup> That there “is a big analytical leap between saying, ‘this is what transitional justice should do’ and, ‘this is what transitional justice is capable of doing.’”<sup>202</sup>

## Advancing women’s participation requires transformational change models

A ‘transformational’ perspective believes transitional justice can/should contribute to resolving and transforming the structural inequalities and discriminations—including gendered power relations—that are at the root of abuse and conflict. A transformative approach aligns with lessons identified in this paper: process focused; context dependent; locally grounded, bottom-up and participatory; and integrating multidisciplinary expertise and methods.<sup>203</sup> In many ways, women’s meaningful participation directly intersects with a ‘transformational justice’ perspective: women experience gendered violations because of their systemic exclusion, inequality and

discrimination—therefore, it is insufficient for transitional justice to acknowledge, compensate, repair and then ‘return’ women to situations where they do not effectively enjoy their rights, it must contribute to transforming the pre-existing systemic conditions of inequality that endangered women in the first place, endanger them in the present and will continue to endanger them into the future.<sup>204</sup> This perspective seeks to replace ‘formulaic’ approaches to transitional justice with the more radical concept of ‘transformational justice’ that has gender relations at its center.<sup>205</sup>



**“Instead of focusing on ‘repairing’ women, we need to focus on remedying the status of women and the legal, economic and political discrimination of women.”**

Interviewee XEDS

## A transformational perspective has, rhetorically, taken root in UN measures for transitional justice

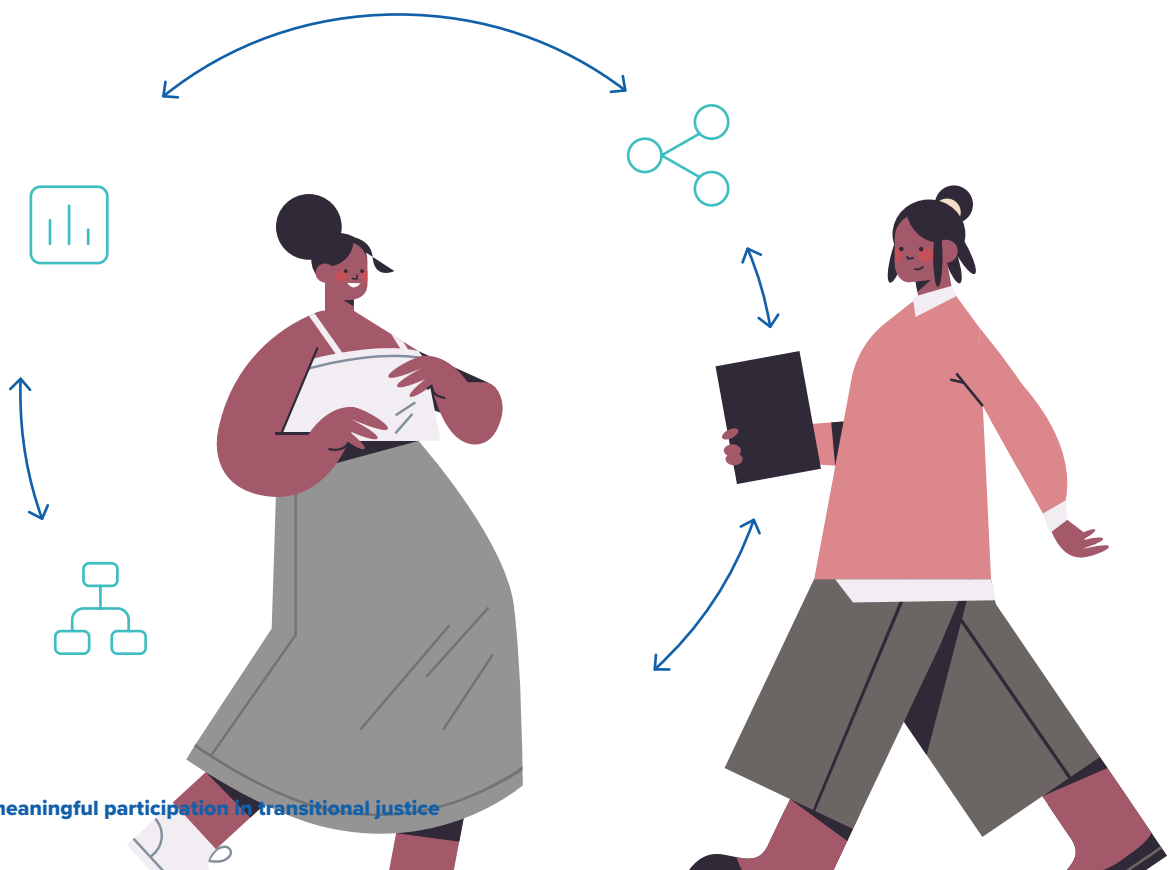


The **Secretary-General's Guidance Note on Transitional Justice** produces a demanding list of outcomes that transitional justice measures are expected to contribute towards: prevent further human rights violations; protect human rights; re-establish and strengthen rule of law; accountability; prevent further conflict; reconciliation; peacebuilding; and consolidating peace. The Note directs transitional justice measures to “take account of the root causes of conflict and repressive rule,” implying that they are also expected to address violations of all rights, including economic, social and cultural rights. The **Guidance Note of the Secretary-General on Reparations for CRSV** instructs that “Reparations should strive to be transformative, including in design, implementation and impact.”<sup>206</sup> Regarding women and transitional justice, the **Secretary-General's 2018 WPS Report** explained: “Transitional justice processes should seek to address the underlying gender inequality in societies.”<sup>207</sup> Other UN documents referencing a “transformational” approach to justice include CEDAW General Recommendation No. 30 (paras. 34, 79); the report of the Special Rapporteur on Transitional Justice, on gender in transitional justice (para. 41); and the report of the Special Rapporteur on Violence against Women, on reparations (para. 31).

### Women's participation and 'transformative' approaches are better served by process-based change models that acknowledge complexity and embrace change

Proponents of women's meaningful participation in transitional justice should accept the complexity of social systems and treat them more like ecosystems: they are complex, dynamic, adaptive, diverse, contested and unpredictable but also with strong forces for continuity—'feedback' on interventions and the 'emergence' of change through unforeseen combinations of dynamics within societies cannot be wholly anticipated.<sup>208</sup> Currently dominant causal-determinist change models for transitional justice will

never be able to fully examine and understand how all different levels of impact (individual, community, national) interact with each other or perfectly manage the prioritization and sequencing of interventions in such complex settings. Therefore, change models should shift towards “a reflective and flexible understanding of how change takes place in a given context and community, and what role organisations and interventions could play in supporting such change.”<sup>209</sup>



## Characteristics of process-based change models<sup>210</sup>



**Survivor-victim and stakeholder centred** – Change models, outcomes and processes would be centred on those most affected by change and on whom change depends. The ends and means of processes would be subjectively rooted in stakeholders' values and the change they seek. Though institutional and systemic changes are needed, a stakeholder-centred approach recognizes that these changes are only relevant, effective and sustainable if they impact on the everyday lives, needs and relationships of stakeholders as they deem important. Developing concepts and definitions of what transitional justice 'looks like' in a context would largely emerge from and be embedded in the everyday lives of stakeholders, particularly women.



**Participatory, elicitive and endogenous** – Participatory and actor-oriented approaches would result in more inclusive, plural and holistic change processes and outcomes, as opposed to solely state/institution-oriented approaches that generally stress exclusive and restrictive processes and outcomes. This also recognizes that change is an endogenous process; while external actors can support and facilitate, change relies on endogenous capacities, practices and understandings for change. Though international human rights awareness may help situate local concepts and processes, 'the local' is an equal expert on their own conditions and transitional justice processes involving elicitive approaches will better ground themselves in the realities with which stakeholders live. Again, caveats around reifying the local remain; however, understandings of change developed from within a society are more likely to result in more meaningful strategies for change in that society, both vertically and horizontally. Inclusive processes for change that involve 'self-organization' (where roles and responsibilities are distributed among a broad group of stakeholders that can organize, maintain and adapt without the direction of a controlling agent) will be more self-renewing, adaptive and resilient while facing the complexities of transitional contexts. Under this premise, a trustworthy inclusive process for change is founded on (re-)building, deepening and meaningful iterative conversations and collective listening that result in emergent, growing and collective understanding.



**Agile and adaptive** – Acknowledging the non-linear, multi-causal and evolving nature of change in complex settings, agile change models start by defining 'purposeful' but contingent (and even open-ended) goals rather than fixed ones. Goals and measures of success are then continuously adapted and updated according to changing stakeholder needs and changing context. Processes prioritize thoughtful and high-quality solutions, but those that have practical implications in the lives of stakeholders are the primary measures of progress—women's participation and transitional justice need to be meaningful, not perfect or theoretical.<sup>211</sup> Methods that could potentially support more agile and adaptive approaches to for the design, implementation and monitoring of women's participation and transitional justice outcomes include, *inter alia*:

- **Outcome mapping (OM) methods<sup>212</sup>** use participatory processes with stakeholders to develop change models that define and measure results in terms of the changes in behaviour, actions or relationships that can be influenced by interventions. The focus would be on how results from women's meaningful participation contribute to development impacts sought: i.e. gender transformative transitional justice outcomes and societal impacts. These results enhance the possibility of larger development impacts, but the relationship is not automatically direct cause and effect;
- **Most significant change (MSC) methods<sup>213</sup>** use participatory methods to collect stories of significant change from stakeholders and constituencies 'in the field', which are then searched and reflected upon to identify the impact of contributions of interventions. Stakeholders are involved in deciding the changes to be recorded, in analysing the data and then informing adaptation. MSC takes place continuously to inform and adapt ongoing implementation, as well as evaluate performance as a whole; and
- **Problem-Driven Iterative Adaptation (PDIA) methods<sup>214</sup>** are based on four principles: i. first focus on solving locally nominated and defined problems in performance (rather than pre-conceived and packaged 'best practice' solutions); ii. seek to create an 'authorizing environment' for decision-making that encourages 'positive deviance' and experimentation; iii. embed this experimentation in tight feedback loops that facilitate rapid experiential learning (rather than learning from ex post 'evaluation'); iv.) actively engage broad sets of agents to ensure that reforms are viable, legitimate, relevant and supportable.

Iterative cycles of reflective learning, adaptation and 'testing' by stakeholders embedded in agile processes will allow transitional justice methods, outcomes and change models to be continuously revisited and adapted for contexts that themselves are also necessarily changing and evolving.

As pointed out elsewhere, “flexible and locally nuanced and driven transitional justice mechanisms and strategies that can accommodate local complexities, priorities, and needs, and adapt to local changes over time” are imperative for women’s participation and gender equality.<sup>215</sup>

More broadly, a renewed vision of transitional justice is encouraged: “transitional justice that is bottom-up, locally owned, victim-centered, contextually tailored, politically and culturally grounded in ways that foreground an array of options, oriented towards root causes and a broad array of structures of power and domination, and better coordinated with development and peacebuilding work.”<sup>216</sup> Part of this is a return to thinking of transitional justice pillars as tools rather than prescriptions or blueprints. This approach does not guarantee women’s participation in transitional justice will be ‘transformational’, but designing, implementing and monitoring processes from the premise of ‘downward accountability’ does provide local women and stakeholders greater scope to inclusively determine goals and methods. These will be moderated by their expertise of their own social ecosystems rather than by exogenous expertise. It also shows an orientation towards principled pragmatism in that it compels iterative meaningful and realistic problem-solving, where practical small steps (even only at

the community level) responding to changing complex dynamics can progressively build change towards strategic goals that themselves adjust as the context changes. It curbs hubris by acknowledging that transitional justice should tackle structural issues (such as systemic gender inequality) but cannot necessarily overcome them on its own. Re-imagining change in this way also promotes *multiple* pathways towards dealing with legacies of abuse in collaboration with a broad spectrum of stakeholders. Lastly, it acknowledges that real change—in power structures, institutions, social practices and culture, behaviour, relationships and the lived experience of people—takes place over the long-term and even in multigenerational timeframes, well beyond a project logframe. Therefore, expectations are more realistically managed and ‘progress’ to be achieved in any 3-year project cycle is inherently understood as incremental and cumulative. In fact, project revisions would then be seen as a virtue rather than a failure.

### Sri Lanka: process-based change models in action



“In terms of understanding how change has been driven by the project, it can be seen that there are two very different types of theory of change (ToC) articulated in the project. The first is a programme-oriented ToC as described in the logframe that creates the platform, brings women together and seeks to change attitudes and drive national advocacy. The second is an actor-oriented ToC: once women have come together they define their priorities and the ToC that will drive change in their area. The project – rooted in longstanding grassroots women’s forums - creates a space for women on the ground to decide what issues to address and how to make an impact, representing an innovative approach to ensuring agency and ownership and localising the content of the project. This represents an innovative effective effort to drive a bottom-up transitional justice [...]

The novelty and value of the project is that it permits a natural contextualization of understandings of justice on the basis of gendered and local needs, since agendas and theories of change emerge on the terms of women working within the platform. This has explicitly gendered how ‘justice’ in the TJR process is understood, with issues that were previously marginal in national discourse - such as livelihood and land – placed at the centre of advocacy [...]

A second feature of this project was that ‘transitional justice and reconciliation’ was defined not a priori in a project proposal, but during implementation by women coming together in their communities on the basis of their priorities. This very powerfully demonstrates how empowering those traditionally excluded from policy making allows radically different – but radically relevant – approaches to TJR to emerge.”

Humanity & Inclusion (2019), pp. 4-5

## 4.2 Re-imagine gender transformation outcomes for women’s meaningful participation in transitional justice

While certain gender parity and equality targets are likely necessary, counting numbers of women representatives, SGBV prosecutions and packages delivered or loans disbursed to women does not tell us much about outcomes and impacts. A new legal framework does not necessitate much has changed

in a society or that women in excluded communities see any positive change in their everyday lives. While new policies may have positive effects at the national-level, off the radar at the local level they might be having negative effects.<sup>217</sup>

Instead, this paper suggests richer conceptualisations of what should be considered as valid ‘gender transformation’ outcomes for women’s meaningful participation in transitional justice.

By taking a step back and thinking of transitional justice more simply as a practice “that aims to address the legacy of a violent past in order to ensure a better

future”<sup>218</sup>, this paper suggests a number of additional outcome domains for women’s participation in transitional justice:

### Additional outcome domains to consider for women’s meaningful participation in transitional justice<sup>219</sup>

#### Process outcomes

focused on establishing, promoting, monitoring and adapting key characteristics of transitional justice interventions themselves—such as:

- Ensuring processes are sufficiently inclusive, participatory and gender sensitive;
- Ensuring processes achieve required ownership, legitimacy and accountability for women;
- Achieving and/or increasing gender parity of participation (both quantitative and qualitative);
- Prompting progressively increasing women’s participation (as a process ‘proves’ its inclusive credibility, safety and promise of results, are more women choosing to participate);
- Discovering unanticipated, ‘invisible’ or ‘erased’ women’s issues and priorities;

#### Participation itself as an outcome

because a transitional justice process realizes the right of women to participate:

- Women’s public participation “is, in itself, an act of recognition”<sup>220</sup>— it sends society a powerful message of inclusion and political agency when women and survivor-victims are interlocutors in equal standing with others;<sup>221</sup>
- Women’s participation creates or deepens a social meaning of women’s ‘ability to rule’;<sup>222</sup>
- Women survivor-victims who claims their rights restore their position relative to the state;
- Cascading uptake in participation of women survivor-victims fuels and motivates participation of more women survivor-victims (success and confidence creates more success);

### Individual outcomes

focused on the internal and external changes in the lived experience of individual women—such as:

- Developing sufficient self-efficacy to participate meaningfully in transitional justice processes, perhaps through psycho-social and other preparatory/ongoing support;
- Improving mental health through the catharsis of truth telling, liberation from no longer having to maintain the secrecy of experiences and the ‘therapeutic’ benefits of “having editorial control over the retelling of that violence”<sup>223</sup>;
- Recognizing personal trauma and undertaking self-care and healing;
- Unburdening women survivor-victims from the weight of trauma and guilt, particularly enabling women survivor-victims to mentally shift the burden of guilt to perpetrators;
- Promoting and/or restoring women’s self-esteem, personal sense of ‘validity’ and worth in society and their agency to ‘take control of their lives’—may help confirm women’s identity as agents of social change, but also confirms women’s right to decide when and how to deal with the past;
- Women identifying their own victimization, not just that of their loved ones and the disappeared;
- Acknowledging women’s equal rights as citizens, such as restitution of their right to a denied identity—this is not just symbolic, especially when this enables women to formalize new relationships, claim citizenship, inherit property and access previously denied benefits;
- Realizing women’s individual socio-economic rights and needs (citizenship, nutrition, clean water, adequate housing, sanitation, basic education, medical care) through material assistance, compensation and redress;
- Realizing women’s personal social, political and economic independence/autonomy—i.e. moving from ‘dependency’ to ‘agency’;

### Household and community outcomes

focused not just on ‘objective’ material changes but also changes in the relationships, behaviour, attitudes, understandings and lived experience at the social level—such as:

- Better understanding by women *and* men of the entirety of women’s rights and that women are equal rights-holders, with women better able to functionally enjoy those rights (often in unanticipated ways);
- Women’s increasing awareness and action against impunity and demands for accountability—that “it’s ok and even expected to question systems of power and hold superiors accountable”;<sup>224</sup>
- Emerging capacities and activities of women’s support groups/networks based on shared experiences, converging agendas and friendships (both within and between communities);
- Advancing/preserving gains for women’s position as individuals in households, communities and society, such as increasing women’s equal incorporation into public and private spaces and recognition of their social, political and economic autonomy in those spaces;
- Women’s increasing safety and security from SGBV and violence against women (VAW), but also from retribution, ostracism, stigmatization, discrimination and ‘social blighting’ against women survivor-victims;
- Increasing social recognition, credibility and value of women victim/survivors in the community—including society shifting the burden of guilt to perpetrators;
- Re-constructing and re-creating facts, meanings and collective memory of the past *within the community* that reflects diverse women’s experiences and perspectives from that community—not just about ‘what happened’ in the past but ‘why it happened’;
- Cumulatively improving women’s material conditions and realization of socio-economic rights (citizenship, nutrition, clean water, housing, sanitation, basic education, medical care, livelihoods, etc.) resulting in redistributive effects that begin to address systemic inequalities;

**Social discourse and history outcomes—“you can smell the awakening in society”<sup>225</sup>—** focusing on changes in social attitudes, values, expectations, behaviours and imagination about gender equality, but also ways in which society remembers—such as:

- Making women survivor-victims visible by “giving them a space and a voice in the public sphere that they often lacked before”;<sup>226</sup>
- Normalizing acknowledgment of and prioritization of action by both women and men against SGBV and VAW in social discourses and behaviours;
- Emerging and increasing social/political power of women’s and women survivor-victims’ advocacy networks and coalitions;
- Tipping points/‘mass action’ sparking new social dialogues and movements demanding change—even transitional justice measures that do not ‘succeed’ can spark or reinvigorate significant social movements asking questions and demanding change;
- Incorporating and highlighting of women’s narratives and experiences in public memorialization that go beyond women as ‘survivor-victims’—ensuring women are not erased, omitted or instrumentalized in the social history;
- Challenging and dismantling ‘official stories’ of the conflict and abuse, particularly unmasking illegitimate stigmatization of women or omission of the harms and lived experienced of women;<sup>227</sup>
- Opening and changing wider social discourses, where new questions, discussions and movements emerge about women’s rights over their education, bodies, property, livelihoods, etc.;
- Building records of conflict that are culturally shared and shareable by providing gendered stories that ‘act out’ the facts of past abuse—adding an important experiential dimension to the record of a conflict that guides the social significance of the facts;<sup>228</sup>
- Women visibly occupying professional, leadership and political roles during transitional justice processes, shifting the narrative about the role of women in public life in a society;

### 4.3 Proposed benchmarks for women’s meaningful participation in transitional justice

This paper suggests ‘benchmarks’ for what women’s meaningful participation in transitional justice would ideally ‘look like’ if it is to contribute in some way towards gender transformative outcomes as well as towards wider societal impact. Proposed benchmarks

were constructed based on the assertions, key problematics, lessons and the suggested elaborated definition of ‘meaningful women’s participation’ previously discussed in this brief:

#### Benchmarks: Meaningful women’s participation is more likely to be achieved when transitional justice processes...

**1 Acknowledge and obligate efforts towards transforming the structural causes and impacts resulting from legacies of past abuse, including:**

- Systemic gender biases, discrimination and inequality at all levels that results from embedded patriarchal systems, values and behaviours (“confront assumed male dominance in all aspects of society”);
- Sexist masculinities resulting in ongoing and pervasive violence against women;
- Political, social and economic rights violations and structural disadvantages experienced by women;

## 2 Obligate women's equal participation and a gender perspective in precursor processes

- Negotiation, design, implementation and monitoring of precursor frameworks involve the meaningful participation of women as early as possible;
- Precursor peace/political agreements contain explicit provisions for women's participation in the design, implementation and monitoring of subsequent transitional justice processes and mechanisms;
- Participatory consultations/assessments defining transitional justice mandates and mechanisms involve women's meaningful participation and recognise the different gender dimensions of harm, vulnerability and redress for women;
- Non-formal documentation, evidence gathering, case filing and truth telling initiatives for women are supported in situations experiencing a 'delayed' onset of transitional justice;

## 3 Ensure women's equal participation and a gender perspective at all levels and throughout design, implementation and monitoring<sup>229</sup>

- Mandates obligate accountability for SGBV and other women's rights violations;
- Mandates include, *and realize*, gender parity 'leadership' requirements and/or quotas at senior, expert and bureaucratic levels—these include 'numerical' as well as 'power distribution' targets;
- Participation targets may include gender 'representation', 'expert' and/or 'advocate' posts/structures, but also explicitly require women's equal representation at all decision-making levels and forums;
- Decision-making procedures obligate the presence of women's representation (gender 'quorum' and/or 'veto') so that female stakeholders can substantively make use of their presence;
- Mandates include, *and realize*, gender parity 'participant' requirements and/or quotas at the operational level—i.e. prosecutions, witnesses, service delivery, reparations, etc.;
- All processes consider women's autonomy to determine for themselves what forms of engagement and participation in transitional justice are best suited to them;
- Intersectional aspects of women's representation and participation are acknowledged and integral parts of design, implementation and monitoring;
- Selection procedures for senior leadership positions include reviews to appropriately factor in feminist 'allies' and 'champions' who support internal gender inclusive transformation strategies and measures;
- Selection procedures and criteria for women's selection in leadership and participation are locally grounded, transparent, inclusive and accommodative of diverse competencies and backgrounds;
- 'Internal' management, organizational and administration culture, procedures and practices reflect the 'external' gender equality priorities and commitments of processes and mechanisms;
- Obligatory competencies in and continuous training/awareness on gender, women's rights, SGBV, inclusion and collaborative leadership at all levels and in all technical areas of work;
- Realtime monitoring and accountability systems track progress on specific women's participation commitments, as well as wider gender transformative outcomes/impacts over the long-term;
- Final reports/decisions integrate gender equality elements, establish timelines and benchmarks for implementation and offer 'blueprints' for legal, institutional and administrative gender equality reform;



#### 4 Prioritize contextualization as a means to deliver value to women in that context

- Continuous, locally grounded and women-inclusive context, political, gender and stakeholder analyses are integral parts of design, implementation and monitoring—particularly to identify barriers and enabling factors for women’s participation;
- Political capacities and strategies are employed continuously to assess, position and build transcending coalitions among political actors and evolving power balances locally, nationally and internationally;
- Definitions, concepts and priorities for transitional justice processes and mechanisms are grounded in local women’s experiences, knowledge, capacities and practices throughout design, implementation and monitoring;
- Substantive and process contributions from ‘local’ women are treated equally expert as that from ‘technical’ experts, political actors and international interventions;
- Objectives and efforts for women’s participation in transitional justice are explicitly linked to other complementary national gender equality strategies, reforms and development programmes;
- Robust and continuous public communication and mobilization measures create and maintain public support for women’s inclusive transitional justice commitments and outcomes;

#### 5 Integrate continuous women-inclusive participatory dialogue throughout design, implementation and monitoring

- Definitions, concepts, priorities and methods for participatory dialogue are grounded in local women’s experiences, knowledge, capacities and practices;
- Locally grounded gender-inclusive participatory dialogue processes (not events) ‘meet women where they live and how they live’ continuously throughout design, implementation and monitoring;
- Processes include a combination of formal and non-formal / alternative participatory measures, where women participants feel free of coercion, threats, reprisals or other endangerments;

#### 6 Integrate substantive representational roles for women’s survivor-victim groups and their allies throughout design, implementation and monitoring

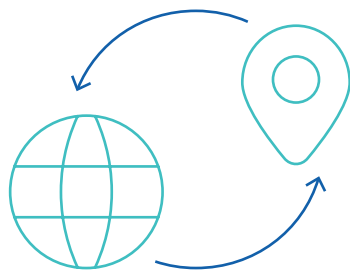
- Mandates include, *and realize*, specific representational roles for women’s survivor-victim groups and their allies at decision-making, expert, operational and monitoring levels;
- Information sharing, dialogue and technical/operational coordination meetings routinely take place between formal bodies and diverse representatives from women’s survivor-victim groups and allies;
- Pre-vetted rosters assembled by women’s survivor-victim groups and allies are used by formal/non-formal bodies to increase, diversify and locally ground the selection of female officials and staff;
- Women’s survivor-victim groups and allies demonstrate a rejuvenating and diverse pool of leaders from the grassroots who comprising backgrounds from all parts of society and lived experiences;
- Effective strategies and measures are in place to support, create spaces for and protect activist women and women’s groups, reflecting their essential role in transitional justice and social transformation;

#### 7 Adopt process-based change models emphasizing agile approaches

- Change models, outcomes and processes are not predetermined but developed with women survivor-victims, their allies and a range of constituencies through continuous women-inclusive participatory dialogue measures;
- Change models and outcomes are ‘purposeful’ and contingent, with agile measures of success that are adapted to changing stakeholder needs and changing contexts;
- Processes are embedded with iterative reflective learning, problem-solving, adaptation and testing by stakeholders—approaches, outcomes and change models are continuously revisited and adapted;
- Acknowledging the long timespans for change, processes and mechanisms build-in long-term political, institutional and financial commitments;

## 8 Benefit from consistent, informed, and long-term international attention and support

- International support is long-term, context informed, agile and focused on high quality locally grounded processes oriented towards achieving progressive results, rather than on specific tools or models;
- International assistance promotes spaces for endogenous transformation and facilitates change through material, technical and political support without imposing external agendas;
- International actors support space for and raise the political credibility of women survivor-victims and allies, and for local women justice professionals, signaling that women's participation is an essential foundation for transitional justice;
- International support complies with targets of at least 30 percent of assistance funding for advancing gender equality in transitional justice and remaining funding applied only to gender-integrated interventions;
- International funding goes to both formal and non-formal recipients, including diverse women-led and youth-led civil society organizations—it is agile and flexible, including emphasis on women's preparedness, autonomous support structures and eliminating practical barriers to participation;
- International technical expertise is mobilized in complementarity with pre-existing local expertise, experience and capacities; it always adapts and contextualizes suggested exogenous models / practice;
- International actors actively support local monitoring and accountability measures for gender equality commitments;
- International actors pursue a multi-track approach, complementing support to gender equality in transitional justice with support to gender equality in other national strategies, reforms and development programmes.



# Recommendations

## 5

### 5.1 Recommendations to UN management, policy and programming

While the UN should take note of lessons and recommendations already highlighted, it is also recommended that UN policy and programming for transitional justice should also more specifically:

1

#### **Model and fulfil internal commitments for women's participation and gender equality as equally important as promoting them externally.**

Most importantly, gender equality and intersectional concepts of diversity should be basic organizing principles in the design, staffing and leadership of all transitional justice related UN mission teams, in-country offices, programmes, monitoring, learning, etc. More generally, there should be no delay in reaching gender parity and diversity goals throughout and at all levels of the UN, particularly all bodies and capacities related to the wider WPS agenda. As explained by one interviewee, “It is critical for the UN to demonstrate its own gender equality fundamentals as it supports any transitional justice processes. Women’s equal participation and leadership is the game for the future of the UN. You simply cannot have effective inclusive multilateralism without women. The UN can’t do this if it’s all men in the top positions.”<sup>230</sup> Again, different types of competencies should be prioritized that put the specific lived experience of women and other non-formal gender expertise on an even playing field with technical/professional qualifications in the recruitment

for transitional justice related posts. ‘HeForShe’ campaign commitments and management principles could be employed in transitional justice related UN offices/missions/programmes.<sup>231</sup> More generally, all leadership in the UN—male and female—must be held accountable for commitments to gender equality in their workplaces. Having more senior female UN officials and managers from diverse backgrounds will enable the UN to expand the scope of what it can ‘see’ and imagine in terms of context, issues, stakeholders, processes and solutions for transitional justice.

**2****Develop a clear UN strategy and coordinated monitoring, evaluation and accountability framework for women’s meaningful participation in transitional justice.**

Working from a new definition in the Guidance Note for “women’s meaningful participation in transitional justice”, the UN could design a high-level strategy and ongoing monitoring framework for UN efforts towards women’s meaningful participation in transitional justice. This would include outcome focused indicators and analysis rather than simply listing various initiatives and activities. It could also incorporate elements of ‘scorecard diplomacy’ that track the status of women’s participation and gender equality in

ongoing transitional justice processes, as well as the international support provided to those processes. In building better monitoring, evaluation and accountability for women’s participation in transitional justice, investments should be made in advanced quantitative and qualitative techniques that can begin to better test theories of change but also in participatory approaches, action research methods and the foregrounding of women’s voices in methods.

**3****Embrace a more encompassing role beyond guardian of international standards and norms.**

This role will remain essential; however, the various parts of the UN need to be brought together to play other equally important roles, such as: a facilitator of common understandings and partnerships, networks and safe spaces; a signaller and transmitter; an advocate for women survivor-victims and their allies; a

champion for the expertise of diverse local women, as well as local female professionals in the fields of justice, human rights and peacebuilding; a broker for resources and access; etc. As the most privileged outsider, the UN should especially focus on being a valuable partner of the disempowered.

**4****Start with women.**

A fundamental starting point for any UN transitional justice support should be women and their participation. Any transitional justice process premised on diverse local women as agents, experts and co-participants and which focuses on their meaningful participation (ability to enter, presence, self-efficacy, agency and influence) at all levels and phases will not just produce better ‘gender results’ – research on the impact of women’s meaningful participation in other aspects of peacemaking and peacebuilding show that it will likely result in more meaningful

transitional justice for all. Focus on promoting diverse women’s leadership, coalition building and collective action and support, especially under-represented women and young women, at all levels (community, local, regional and national). But it is also important to invest in safeguards against the stigma, risks and threats participating women will face, as well as in addressing the material barriers and needs they will have in order to participate—women survivor-victims especially have spent a large part of their life simply surviving.

**5****Embrace a wider and more agile spectrum of outcomes and measures of ‘success’ for women’s meaningful participation in transitional justice.**

Starting from locally grounded, participatory and process-change based approaches, these could be at any number of levels (from the personal to the societal) and may require a significant number of non-linear and/or cumulative ‘preparatory successes’ (like

psycho-social support, ‘listening’ and dialogue spaces, research and analysis, networking and mobilization, etc.) long before the arrival of formal transitional justice mechanisms.

**6****Build strategy, programme, funding and partnership systems that allow for long-term commitments to formal and non-formal processes that are necessary when supporting women’s meaningful participation in transitional justice.**

In general, UN responses are perceived to be constrained by systems that promote short-termism, output-based projects and inflexible modes of partnership and delivery. These especially constrain the ability of the UN from engaging and supporting non-formal processes and women’s organizations as equal partners. Overall, when the UN engages in

women’s inclusive transitional justice in any given context, it should by default assume at least a 10-year commitment. UN operating systems need to adapt to enable such long-term commitments in unpredictable, complex settings. This includes basic continuity in strategies and funding, which cannot change whenever there is a change in senior management.

**7****Establish mandatory funding allocations for M&E of women’s meaningful participation and gender transformative outcomes in transitional justice programming.**

A major shortcoming is the relative absence of monitoring and evaluation of women’s meaningful participation and gender transformative outcomes in UN

support to transitional justice. Mandatory minimum percentages should be allocated to this in UN transitional justice programme budgets.

**8****Establish mandatory funding allocations for dedicated gender expertise capacities in UN mission/programme contexts where the UN is engaged in supporting transitional justice.**

In contexts with major UN commitments to support transitional justice, related offices/programmes

should include mandatory funding allocations for dedicated gender expertise.

**9****Deploy more diverse competencies, not just lawyers, human rights and governance specialists.**

The approaches and tools for supporting women’s meaningful participation and gender transformative outcomes in transitional justice are clearly multidisciplinary. UN engagements should routinely ensure a range of wide competencies, whether as stand-alone

specialists or integrated into existing staff terms of reference, including: political, social change, participatory dialogue, peacebuilding, women’s health, analytical, agile project management, M&E and other competencies.

**10****Maintain routine mechanisms for meaningfully consulting, supporting and partnering with diverse women’s movements, survivor-victim and human rights actors in fragile, conflict and crisis-affected settings.**

Such persistent contact will better inform UN analysis, planning, programming and communications. Support should focus on women who are already leaders in fields other than transitional justice, helping them to connect the dots between and how they might apply their expertise to gender equality in transitional justice

and other gender equality challenges in a society. Focus should also be on established women leaders who actively facilitate the mentoring and emergence of new and young women leaders and those who demonstrably have deep community trust, connections and networks.

**11****Do and support more research, especially locally grounded and women-directed research.**

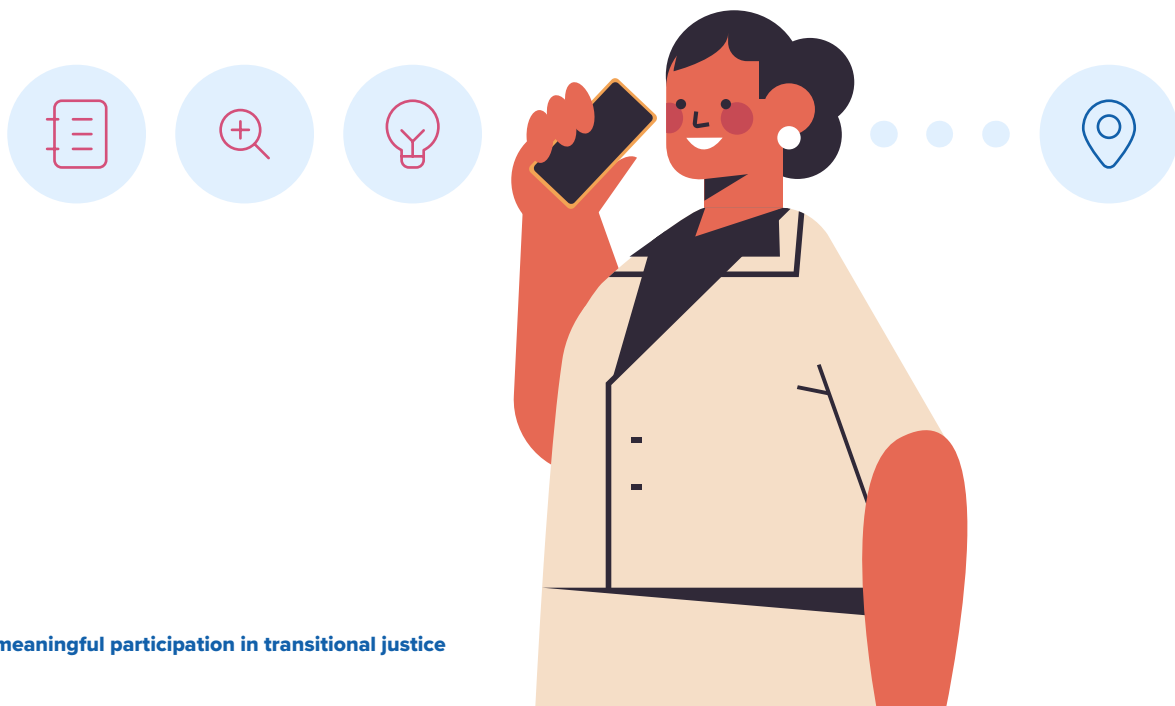
There are clearly significant gaps between theory, practice and results—an agenda for more sustained, systematic and comparative research is needed, possibly within a UN partnership between OHCHR, UNDP and UN Women, and other entities, as relevant. Advancing the evidence-base of women’s meaningful participation and gender transformative outcomes in transitional justice will help persuade Member States of the practical, if not normative, importance of these priorities. Initial key subjects might include comparative analysis of: gender and inclusion aspects of participatory consultation/dialogue processes<sup>232</sup>; how women’s movements organize and compel change;

and measuring gender transformative transitional justice outcomes in the everyday lives of women. An essential element of any research agenda would be to ensure that women affected by large-scale abuses of the past inform and lead on research into their own context and efforts. While efforts should focus on identifying good practice, equal efforts should also learn from contexts where women were excluded and silenced. Lastly, a research agenda should link to and contribute the Secretary-General’s wider plan for a “gender data revolution on women and peace and security”.<sup>233</sup>

**12****Develop more training, practical guidance and global capacities for exchange.**<sup>234</sup>

While this paper has argued hard against ‘standardization’, it is always valid to learn from other experiences and basic standards of guidance are necessary (even if they are about ‘what not to do’). Done the right way, such measures prevent ‘copy/paste’ tendencies by widening understanding of complexity and the universe of options and lessons. Innovative training and its application would also improve the communication and adoption of evidence-based approaches in a compelling way to staff outside of headquarters.<sup>235</sup> Such measures could include developing a UN high-level seminar and specialized technical guide on gender and inclusive transitional justice (like DPPA has done with gender and inclusive mediation processes). This could also include developing coherent regional and global networks of gender justice specialists, women experts, practitioners and

advocates working in transitional justice in which there is a strong emphasis on South-South exchange. Long-term and consistent support for the exchange and networking of good practice (rather than necessarily determining ‘best practice’) would play into the UN’s value-added role as a facilitator—this may result in the emergence of radically different but radically more relevant approaches, practices and alliances for women’s inclusion in transitional justice. A relatively low hanging fruit would be to invest in translating existing UN research and reports—many crucial insights and lessons have been lost in translation. Overall, the emphasis would be on improving mutual exchange and support in what is a very challenging issue area.



## 5.2 Recommendations for updating the 2010 Secretary-General's Guidance Note on United Nations Approach to Transitional Justice

It is recommended that the updated Guidance Note:

1

### **Elaborates a definition for 'meaningful women's participation and leadership' in transitional justice.**

Without an elaborated definition that includes the requirements for participation to be considered meaningful, women's meaningful participation effectively has no meaning. This paper only highlights the tip of the iceberg; definitions and change models should be further 'workshopped' with wider international and national stakeholders. This does not mean forfeiting

normative and other assertions for women's meaningful participation, but it will provide much clearer directives to policy makers and practitioners on the 'how to' and 'what to do' in order to make women's participation in transitional justice tangibly meaningful and outcome focused.

2

### **Advocates for process-based, participatory and agile change models for how transitional justice and women's meaningful participation contribute to gender transformative change, as well to wider social impacts.**

This would include advocating a philosophy across the international community to long-term visions and commitments of support for women's meaningful participation in transitional justice processes, understanding that progress will be inherently incremental and cumulative and that methods will necessarily be

locally grounded, open-ended, responsive to changing dynamics and involve downward rather than upward forms of accountability. While international standards and norms must be upheld, international partners should be prepared to take risks and accept that all eventual outcomes cannot be pre-determined.

3

### **Explicitly acknowledges patriarchal structures and sexist masculinities as both root causes of large-scale past abuses and the principal barriers to meaningful participation of women and the achievement of gender transformative outcomes in transitional justice.**

The Guidance Note cannot outline principles and approaches for transitional justice or women's meaningful participation without addressing the 'elephant

in the room': patriarchy and sexist masculinities. These are necessary starting points for all UN interventions in support of transitional justice.

4

### **Embeds women's meaningful participation and gender equality within all pillars/components of transitional justice, not only as a stand-alone principle.**

This would include mandatory transitional justice funding allocations of minimum 30 percent for advancing women's meaningful participation and gender equality (Gender Marker 3<sup>236</sup>) and 50 percent for interventions that demonstrably integrate gender considerations (Gender Markers 2 and 3), in line with long-standing UN commitments on funding for gender equality in peacebuilding.<sup>237</sup> The Guidance Note

should outline accountability measures for upholding women's participation and gender equality requirements (including funding) for UN support to transitional justice. The Guidance Note should also call for the inclusion of a robust gender analysis alongside any other form of analysis prepared by the UN in its support to a transitional justice process or precursor process.

**5****Further elaborates and elevates ‘Component 5. National Consultation’ into a ‘sixth’ and foundational pillar for ‘Continuous and Gender-Inclusive Participatory Dialogue’.**

Current conceptions of ‘consultation’ and ‘outreach’ are limited. Continuous participatory dialogue that meaningfully includes women would be a wellspring upon which the appropriateness, ownership and effectiveness of all other components rest. Gender-inclusive participatory dialogue should ultimately be the locus for process-based change models throughout design, implementation and accountability and presents an essential entry point for ensuring women’s meaningful participation in

transitional justice: “Only by allowing those concerned with gender, women’s rights, development and social issues into the driver’s seat will these then become seen as both parts of the problem and parts of the solution.”<sup>238</sup> This could form an essential part of the UN Secretary-General’s “radical shift” for women to be fully involved as equal partners from the earliest stages in each and every peace and political process that the UN supports.<sup>239</sup>

**6****Elaborates principles into practical and operational guidance.**

The principles stated in the Guidance Note are crucial foundations for action and are largely uncontested. However, they frequently remain talking points and are not being put into practice—more operational and technical guidance is needed to put principles into concrete practice. The Guidance Note should either be expanded with more elaborate technical

and practical instructions or an accompanying technical guide should be produced separately (which could then be more regularly revisited, updated and re-issued).





# Endnotes

- 1 Specific attention is also required to fully explore the unique gendered obstacles faced by lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ+) people, including women and girls identifying as LGBTIQ+, on the basis of their sexual orientation and/or gender identity.
- 2 UNSG (2010), p. 3.
- 3 UNSCR 1325 (2000). Author's own emphasis added.
- 4 At time of publication, there were ten WPS resolutions from the Security Council: 1325 (2000), 1820 (2008), 1888 (2009), 1889 (2009), 1960 (2010), 2106 (2013), 2122 (2013), 2242 (2015), 2467 (2019), 2493 (2019). UN Women maintains a repository of international WPS norms and standards at—Web: [Global norms and standards: Peace and security](#).
- 5 UNSG (2018), p. 8 (para. 29).
- 6 UNSG (2010), p. 5.
- 7 UNSCR 2467 (2019), p. 7 (para. 16).
- 8 UNSG (2019), p. 20 (para. 65).
- 9 UNSG (2017), p. 17 (para. 61)
- 10 UNSG (2013), p. 13 (para. 26).
- 11 UNSG (2011), p. 19 (para. 52).
- 12 UNSG (2010b), p. 16 (para. 48).
- 13 UNGA (1979).
- 14 UN CEDAW/C/GC/30 (2013).
- 15 UN A/CONF.177/20/Rev.1 (1995).
- 16 UN A/75/174 (2020), p. 21.
- 17 For more discussion, see: NGOWG (2019), p. 10.
- 18 For more discussion, see: UNSG (2019) p. 19; UNW (2012), p. 22.
- 19 Goetz & Musembi (2008), p. 22.
- 20 UNSCR 2467 (2019), p. 2.
- 21 See more at: UNW (2018a), p. 2; UNSCR 2467 (2019), p. 7; UNSCR 2122 (2013), p. 2; UNSG (2010b), p. 12; UNSCR 1889 (2009), pp. 1-2.
- 22 Subject interview TLQO.
- 23 UNW (2015a), p. 44.
- 24 See: Close et al. (2019), p. 31; Porter (2000).
- 25 For succinct synthesis of many benefits of women's equal participation, see: Markham (2013), pp. 7-8; NGOWG (2020).
- 26 For a summary, see: IMF (International Monetary Fund, "Pursuing Women's Economic Empowerment," Washington, DC: 31 May 2018).
- 27 See: Dahlum & Wig (2020); GIWPS (2019); Wood & Ramirez (2018); Bjarnegård et al. (2017); Schaffenaar (2017); GSDRC (2014); Demerit et al. (2014); ODI (2013); Hudson et al. (2012); Caprioli (2005).
- 28 See: Krause et al. (2018), p. 990; UNW (2016a); IPI (2015); Stone (2014); CHD (2008).
- 29 UNW (2016a), p. 10.
- 30 IPI (2015), p. 6.
- 31 UNW (2015a), p. 43 – also see "Chapter 7: Building Inclusive and Peaceful Societies in the Aftermath of Conflict" in UNW (2015a).
- 32 IPI (2015), pp. 9-10.
- 33 A few studies have also indicated negative impacts. See, e.g., Thoms et al. (2010), pp. 331-332.
- 34 Bakiner (2013), p. 30.
- 35 Skaar (2013), p. 102.
- 36 ICTJ (2021), pp. 1-2.
- 37 Thoms et al. (2010), pp. 331-332.
- 38 UNW (2015a), p. 110.
- 39 UNSG (2018), p. 24 (para. 84).
- 40 Council on Foreign Relations—Web: [Women's participation in peace processes](#) (accessed 11 Jun 2020).
- 41 UNSG (2020), p.8 (para. 22), with data from the [Peace Agreements Database \(PA-X\)](#) maintained the University of Edinburgh.
- 42 "In 2018, of 52 agreements across a range of issues included in that database, only 4 (7.7 per cent) contained provisions relating to gender, down from 39 per cent in 2015." UNSG (2019), p. 6 (para. 15).
- 43 UN Women—Web: ["Facts and figures: Women, peace, and security"](#), with data from the Inter-Parliamentary Union—Web: [Women in national parliaments as of January 2020](#) (accessed 11 Jun 2021).
- 44 UNSG (2020), p. 19 (para. 53).
- 45 At the time of publication, the UN Standing Committee on WPS, chaired by UN Women, was revising the system-wide monitoring framework on WPS, to more closely track progress, gaps and challenges across all aspects of the WPS agenda, including the rule of law and transitional justice.
- 46 NGOWG (2019), p.8 and 13.
- 47 Such as: UNW (2016a), p.56; Stone (2014); UNW (2012); Clayton & Zetterberg (2018).
- 48 UNW (2015a), p.104
- 49 A common practice that is also related to the under-representation of women is the reference to women as a "minority" group in many reports and projects. The idea of disaggregating in reports the "number of indigenous people, people with disabilities, among others" is with the objective of incorporating populations that are not effectively the majority in a given context; however, as women correspond to half of the world's population, their inclusion should be carried out under the objective of having projects with a comprehensive vision, and not to consider them as a minority group.
- 50 UNW (2016a), p.22.
- 51 Subject interview TLQO.
- 52 Subject interview IGLG.
- 53 See: UNSG (2015), p.4.; UNW (2015a), p.15.
- 54 For a summary, see Nazneen & Mahmud (2015), pp.211-215. For example, research has shown that more than half of women worldwide are biased against women's equality in the political arena and 86 percent of women show at least one clear bias against gender equality in the areas of politics, economics, education, intimate partner violence and women's reproductive rights. See UNDP (2020a), pp.8-9. Other studies have found that a 'critical mass' of women and affirmative action measures do not automatically lead to the promotion of gender equality concerns. For a summary, see Nazneen & Mahmud (2015), pp.211-215.
- 55 For specific examples in Iraq, see Lewis (2019).
- 56 Subject interview SMNA.
- 57 UNW (2016a), p.55.
- 58 UNW (2015a), p.46.
- 59 Largely adapted from: UNW (2018b), pp.11-12. Also see related discussion of women's 'political effectiveness'—access (ability to enter), presence (visibility and quality of participation), and influence (ability to present one's case and influence outcomes)—in: Nazneen & Mahmud (2015); Nazneen & Mahmud (2012); Goetz (2003).
- 60 Fiske & Shackel (2019), p. 2.
- 61 Fiske & Shackel (2019), pp. 2-3.
- 62 UNW (2016a), p. 56.
- 63 For practical examples, see ICTJ (2019), p. 5-7. See Gready & Robins (2017) for a discussion of how alliances/coalitions with other constituencies around social and economic issues potentially creates a basis for mobilising stronger and more influential social movements.
- 64 White (2000), pp. 144-147.
- 65 Arnstein (1969).
- 66 For a practice-based discussion of some of the multiple and diverse roles of women, see GIJTR (2021), pp. 44-57.
- 67 Fiske & Shackel (2019), p. 4. Looking at Iraq as an example of the complexities and heterogeneity of women's experience, interests, identities, and roles in a transitional society, see Lewis (2019), pp. 129-133.
- 68 Gready & Robins (2017) suggest five non-mutually exclusive modes of civil society interaction with transitional justice that may also have some application for thinking about the 'role' typologies of women: 1. Persuasion/advocacy: working to influence formal transitional justice process, either directly or indirectly; 2. Support: offering technical, logistical, financial or other support to formal processes; 3. Mobilisation/capacity

- building/education: supporting concerned constituencies so that they can engage with and/or independently represent themselves at formal processes; 4. Substitution/independent action: undertake transitional justice style processes independently; 5. Space for modelling alternatives: test new forms of organisation and create spaces where alternatives can be modelled (p. 960).
- 69** See: Selimovic (2020); Simic (2016); Porter (2016); Eastmond & Selimovic (2012).
- 70** See Lewis (2019), pp. 129-133.
- 71** The UNSC comes under critique for not adequately acknowledging this: "Women are primarily referred to as a monolithic group throughout the work of the Security Council. With few exceptions, there is not any acknowledgment of unique challenges particular groups of women and girls face in conflict-affected situations [...] The experiences of particular groups of women and girls comprised less than 2% of all references to women and girls in reports of the Secretary-General." NGOWG (2019), p. 11.
- 72** For a brief overview of and examples in transitional justice contexts, see ICTJ (2019). For an examination of a specific example peace and transitional justice context, see Sifris & Tanyag (2019).
- 73** Subject interview OZKO.
- 74** NGOWG (2019), p. 11.
- 75** UNW (2015a), p. 34.
- 76** For example, see: UN DESA (2007), p. 79.
- 77** UN A/75/174 (2020), p. 4 (para. 4).
- 78** Adapted from: UNW (2015a), p. 45; IPI (2015), p. 28.
- 79** For example, see Principle 4 in TJI (2015).
- 80** Legislative Power, Colombia: Final Agreement for the Termination of the Conflict and the Construction of a Stable and Lasting Peace. June 2016, June 26, 2016, available at this address: [https://www.jep.gov.co/Marco%20Normativo/Normativa\\_v2/01%20ACUERDOS/Texto-Nuevo-Acuerdo-Final.pdf?csf=1&e=0fpYA0](https://www.jep.gov.co/Marco%20Normativo/Normativa_v2/01%20ACUERDOS/Texto-Nuevo-Acuerdo-Final.pdf?csf=1&e=0fpYA0) [Accessed February 3, 2022]
- 81** There is a series of requirements to allow the official participation, for example, the voters must be citizens in exercise and be registered in the National Register for Victims - Single Registry of Victims of the Unit for the Attention and Comprehensive Reparation of Victims (RUV).
- 82** Subject interview TLQO.
- 83** As recognised by the UN Special Rapporteur on the promotion of truth, justice reparations and guarantees of non-recurrence: "Systemic and structural discrimination against women, fostered by patriarchy and the allocation of roles based on gender stereotypes, has impacts on all areas of life and affects all women", UN A/75/174 (2020), p. 4.
- 84** Fiske & Shackel (2019), p. 3.
- 85** UNSG (2018), pp. 5-6 (paras. 18-19), p. 7 (para. 24).
- 86** For example, see: UNW (2015a), p. 48.
- 87** Salvesen & Nylander (2017), p. 5.
- 88** As suggested by UNSCR 2242 (2015), p. 2 (Preamble).
- 89** Subject interview SMNA.
- 90** Porter (2013), p. 20.
- 91** Shackel & Fiske (2019a), p. 344.
- 92** UNW (2015a), p. 48.
- 93** Joshi & Olsson (2021), p. 11
- 94** Ahmed et al. (2016), p. 534. The UN consistently urges meaningful women's participation in decision-making during all stages of peace to mainstream a gender perspective—see UNSCR 1889 (2009), Preamble and Paras. 1, 8, 9 and 15; UNSCR 2493 (2019), para. 2.
- 95** Subject interview PECK.
- 96** UNW (2018a), p. 13.
- 97** UNW (2018a), p. 20.
- 98** UNSG (2018), p. 11 (para. 42).
- 99** Only 46 agreements (3%) out of 1520 peace agreements. Many of these provisions "refer to women as victims of conflict and widows, or provide for special protection for women within the mandate of established mechanisms. Several peace agreements move beyond treatment of women as victims and call for women's participation in the policy design or in the implementation of core transitional justice mechanisms." UNW (2018a), p. 3 and p. 12.
- 100** Only 19.7% of agreements between 1990 and the end of 2018, according to: UNSG (2019), p. 6 (para. 15).
- 101** For different overviews of the 'gendered' peace negotiation, peace agreement and transitional justice processes of Colombia, see: Kroc (2020); LAWG (2019); GIWPS (2017); and UNW (2016b).
- 102** However, implementation of these provisions has not been as comprehensive as hoped. According to Kroc (2020), of the 130 gender stipulations: 42 (32%) were not initiated; 58 (45%) had minimum implementation; 18 (14%) had intermediate implementation; 12 (9%) were completed.
- 103** Jamar (2018), p. 19.
- 104** UNW (2016a), p. 9.
- 105** UNW (2015a), p. 110.
- 106** UNW (2020b), p. 6. For further discussion, see: Joshi & Olsson (2021); Krause et al. (2018).
- 107** UNW (2015b), p. 3.
- 108** UNW (2015b), p. 4.
- 109** UNW (2020b).
- 110** UNW (2016a), p. 33.
- 111** IPI (2015), p. 17.
- 112** Subject interview SMNA.
- 113** Weldon & Htun (2013), p. 231.
- 114** Subject interview NRJS.
- 115** Subject interview UCNN.
- 116** Subject interview ERLV.
- 117** Chenoweth et al. (2019); ICTJ (2019).
- 118** UNDP (2020b), p. 40.
- 119** Chenoweth et al. (2019), p. 2.
- 120** Gready & Robins (2020), p. 292.
- 121** Also see further discussion in Fletcher et al. (2009).
- 122** OHCHR (2014), p. 93.
- 123** Martin & Sa' Couto (2020), p. 265.
- 124** Yadav (2019), p. 223.
- 125** UNW (2018a), p. 1.
- 126** The preservation of evidence, including witness testimony, is particularly important in relation to criminal accountability for sexual crimes. Forensic evidence of sexual violence is often not available, due to the passage of time, the unavailability of sexual and reproductive health services in many conflict-affected contexts, and the stigma associated with the crime. Under principles of international criminal procedure, corroboration is not required in cases of sexual violence – the credible and reliable testimony of a victim can be sufficient evidence for a conviction. However, it is unfortunately the case that penal codes in many countries deviates from this international standard, requiring corroboration. International Protocol on the Documentation and Investigation of Sexual Violence in Conflict (2017), p. 61.
- 127** Subject interview BAMO.
- 128** Subject interview OZKO.
- 129** Martin & Sa' Couto (2020), p. 248.
- 130** Drawn from the example of Colombia in UNDP (2020c), p. 30.
- 131** For example, in the Gambia's Truth, Reconciliation and Reparations Commission, only 72 of 321 witnesses heard were female. Volkmann-Brandau and Jallow (2021).
- 132** Largely adapted from: "Questionnaire: Gender Perspective in Transitional Justice Processes" circulated by the Mandate of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence in 2020; UN A/75/174 (2020).
- 133** Fiske & Shackel (2019), p. 2.
- 134** For deeper discussion and a case study of this, see Lemaître & Sandvik (2014).
- 135** For further examination of the relationship between context and transitional justice, see: ICTJ (2017); Fletcher et al. (2009).
- 136** Duthie (2017), p. 29.
- 137** Joshi & Olsson (2021).
- 138** Joshi & Olsson (2021).
- 139** For further discussion, see: Duthie (2017), pp. 29-30; Kerr (2017).
- 140** For a concise introduction to thinking politically for inclusive development, see: Sam Hickey and Tim Kelsall, Effective States and Inclusive Development Research Centre—Web: [How to work politically for inclusive development: Four principles for action](#)" (accessed 11 Jun 2020).
- 141** See: UNW (2016a), p. 56; Shackel & Fiske (2019a), p. 344.
- 142** Or, put more strongly: "Rather than denying the politics of addressing violations, one must make them explicit and seek to ensure that the power relations that led to them, locally, nationally and internationally, are challenged." Robins (2015), 189.

- 143** Waldorf (2017), p. 61.
- 144** Duthie (2017), p. 11.
- 145** Duthie (2017), pp. 29-30.
- 146** See: Nazneen & Mahmud (2015); and Nazneen & Mahmud (2012).
- 147** “The careful consideration of the transitional justice needs of a country may include assessing factors such as the root causes of the underlying conflict, the identification of vulnerable groups, such as minorities, women, and children, and the condition of the country’s justice and security sectors. To enhance the sustainability and relevance of transitional justice processes, these should be carried out, where feasible, by local and national actors.” UNSG (2010), p. 5.
- 148** A/HRC/36/50/Add.1 (2017), p. 13 (para. 70).
- 149** Duthie (2017), p. 12.
- 150** Duthie (2017), p. 12.
- 151** See: UNW (2016a), p. 9.
- 152** Subject interview PECK.
- 153** Subject interview SMNA.
- 154** Shackel & Fiske (2019a), p. 345.
- 155** Shackel & Fiske (2019a), p. 345.
- 156** Shackel & Fiske (2019a), p. 345. For discussion of the complexities involved in the relationship between the ‘global’ and the ‘local’ in transitional justice, see Sharp (2014).
- 157** See: Fiske (2019); Grewal (2019); Scully (2019); Shackel & Fiske (2019a); Grover (2019); Robins (2017); Gready & Robins (2014); Sharp (2014); Madlingozi (2010).
- 158** The UN also expects efforts for localisation: UNW (2015a), p. 16; and UNSG (2010), p. 5.
- 159** For the need of the ‘local’ and the ‘international’ to come together, see Principle 10 in TJI (2015).
- 160** Macdonald (2015), p. 113.
- 161** Madlingozi (2010).
- 162** Porter (2013), p. 20.
- 163** Lewis (2019), p. 131.
- 164** Shackel & Fiske (2019a), pp. 345-346.
- 165** Shackel & Fiske (2019a), p. 343.
- 166** UNW (2018b), p. 6.
- 167** Also see Principle 9 in TJI (2015).
- 168** See Impunity Watch—Web: Victim Participation (accessed 11 Jun 2021). Also see: Cordaid (2021); Lawther (2020); REDRESS & Impunity Watch (2020); de Waardt & Weber (2019); Impunity Watch (2017); Impunity Watch (2016); UN A/HRC/34/62 (2016). For critical perspectives on the dilemmas and limitations of centering transitional justice on survivor-victims, see: Lawther (2020); Robins (2017); Madlingozi (2010).
- 169** For example, see Principle 3 in TJI (2015).
- 170** Other UN sources of guidance on consultation, dialogue and participation, see: UN A/71/567 (2016); UN DESA (2017) and the [Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence on Participation of victims in transitional justice measures](#), A/HRC/34/62).
- 171** OHCHR (2009), p. 4.
- 172** A/HRC/36/50/Add.1 (2017), p. 13 (para. 72).
- 173** See Dejusticia (2019) and Triponek & Pearson (2010) for historical reviews / case studies of public consultation in transitional justice processes including country examples, though which demonstrate the prevalence of nominal/ instrumental public consultation, outreach and information approaches over representative/ transformative public participation processes and the Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence on the gender perspective in transitional justice processes, [A/75/174](#)
- 174** While this brief promotes greater and ongoing meaningful participation, for discussion of critiques and challenging thinking around ‘participation’ in transitional justice, see: Lawther (2020); Robins (2017); Gready & Robins (2014); Madlingozi (2010).
- 175** For example, in TJI (2015), Principle 2 of a gendered approach to dealing with the past: “Process-oriented: Understand gender and dealing with the past as a process, not an event”.
- 176** Gready & Robins (2020), p. 299.
- 177** Such as: surveys, polling, questionnaires, group and individual submissions, face-to-face interviews and statement-taking, town halls, public gatherings/hearings, community mobilisation events, women’s hearings, focus groups, local ‘task forces’, listening circles, peer groups, radio broadcasts, SMS messaging, anonymous help-lines and/or contact centres, newspaper notices, visual medium representations, storytelling etc.
- 178** Adapted from concepts around inclusive civil society participation in peace processes, in Aulin (2019), p. 40. Also see Cornwall & Nyamu-Musembi (2004). For discussions and examples of innovative participatory approaches to transitional justice, see: GIJTR (2021); ICTJ (2019); Dejusticia (2019); and GIJTR (2018).
- 179** Gready & Robins (2017), p. 957.
- 180** See Kochanski (2021a) for an exploration of experiences when other global and local actors step in to fill the state ‘implementation gaps’ for transitional justice, assuming, and oftentimes absolving, the state of its obligations.
- 181** For discussion of the risks and dilemmas of ‘reifying’ the local but also the frictions between ‘global’ and ‘local’ approaches in transitional justice, see: Sharp (2014); Kochanski (2021b); Kochanski (2020); Scully (2019); UN A/71/567 (2016), p. 5 (para. 8); Robins (2015); Gready & Robins (2014).
- 182** IPI (2015), p. 8.
- 183** Subject Interview LMFV.
- 184** IPI (2015), p. 31.
- 185** Ahmed et al. (2016), p. 536.
- 186** Subject interview IGLG.
- 187** Fiske & Shackel (2019), p. 4.
- 188** Subject interview SMNA.
- 189** Subject interview EZYR.
- 190** Subject interview OZKO.
- 191** “[T]he tendency to think that the very same institutions work equally well regardless of context”, de Greiff (2020), p. 255.
- 192** “Essential services for women and girls in conflict-affected countries are chronically underfunded, as are initiatives that promote gender equality and the participation and leadership of women in peace and security areas [...] However, total bilateral aid allocated to programmes with the primary objective of targeting gender equality and the empowerment of women in conflict-affected countries remains low, at 5 per cent of total bilateral aid to such countries.” UNSG (2018), p. 26 (para. 91).
- 193** For more depth, see Shackel & Fiske (2019a).
- 194** For example, see critiques in: Shackel & Fiske (2019b); de Greiff (2020).
- 195** De Greiff (2020), p. 255.
- 196** Subject interview PECK.
- 197** Subject interview IGLG.
- 198** Fiske (2019), pp. 30-31. For more on these critiques, see: Fiske (2019); ODI (2013); Ní Aoláin (2009).
- 199** For deeper examination, see: Gready & Robins (2020); Quinn (2017); GSDRC 2016; ODI (2013); USIP (2009).
- 200** For a brief overview of examples of successes and their lessons, see UN A/HRC/36/50/Add.1 (2017).
- 201** UN A/HRC/36/50/Add.1 (2017).
- 202** Macdonald (2015), p. 115.
- 203** See Sandoval (2017), p. 177.
- 204** This transformative perspective is laid out very clearly, for example on reparations: UN A/75/174 (2020), p. 11 (para. 37); UN CEDAW/C/GC/30 (2013), para. 79.
- 205** Rees & Chinkin (2016), p. 1213.
- 206** UNSG (2014), p. 1.
- 207** UNSG (2019), p. 20.
- 208** For example, see: de Coning (2018); Brusset et al. (2016); de Coning (2016); Ramalingam (2013).
- 209** Gready & Robins (2020), p. 283
- 210** The following is adapted from: Gready & Robins (2020), p. 283; de Coning (2019); Lederach (2019); de Coning (2016); Robins (2015); Gready & Robins (2014).
- 211** For deeper examination of challenges in defining/measuring outcomes for transitional justice, see: ICTJ (2021); Gready & Robins (2020); Ainley (2017); Dancy (2010); Duggan (2010). Also see a special edition on evaluation and transitional justice (including country examples)—Web: [Transitional Justice Review Vol 1 Issue 4 \(2016\)](#) (accessed 11 Jun 2021).
- 212** For greater details, see: Outcome Mapping Learning Community—Web: <https://www.outcomemapping.ca/> (accessed 11 Jun 2021); Better Evaluation—Web: [https://www.betterevaluation.org/en/plan/approach/outcome\\_mapping](https://www.betterevaluation.org/en/plan/approach/outcome_mapping) (accessed 11 Jun 2021); ODI (2020); Gready & Robins (2020).

- 213** For greater discussion, see: Greedy & Robins (2020), p. 298; INTRAC (2017); Davies & Dart (2005).
- 214** For greater discussion, see: Andrews et al. (2012); Andrews et al. (2015a); Andrews et al. (2015b).
- 215** Shackel & Fiske (2019a), p. 348.
- 216** Sharp (2019).
- 217** Macdonald (2013), p. 59.
- 218** REDRESS & Impunity Watch (2020), p. 9.
- 219** For examples of potentially valid outcome domains that represent ‘meaningful and transformative change’, see UNW (2019a) and UNW (2019b).
- 220** UN A/71/567 (2016), p. 19 (para. 74).
- 221** UN A/71/567 (2016), p. 19.
- 222** Goetz & Musembi (2008), p. 22.
- 223** Fiske (2019), p. 29.
- 224** Subject interview SMNA.
- 225** Subject interview IGLG.
- 226** de Greiff (2020), p. 252.
- 227** Macher (2019), pp. 246-248.
- 228** Macher (2019), p. 251.
- 229** Or alternatively: “Fully integrate gender into the processes for dealing with the past [...] Gender parity should be a priority in all institutions and processes dealing with the past. Decisions about the design and implementation of processes to deal with the past must be actively considered for their gendered implications”, from TJI (2015), 22.
- 230** Subject interview TLQO.
- 231** See: HeForShe (2018a); HeForShe (2018b).
- 232** As recommended in paras. 78, 84(a) and 84(b) in UN A/71/567 (2016).
- 233** UNSG (2020).
- 234** For more discussion on the importance and benefits of exchange between contexts, see ICTJ (2019).
- 235** As an example, see ICTJ—Web: [Gender and Transitional Justice: A Training Module Series \(2018\)](#) (accessed 11 June 2021).
- 236** See UNPBF (2019).
- 237** As stated as a target from 2020 onwards under Output 4.2.2 in UN IANWGE (2011).
- 238** Subject interview PECK.
- 239** See UNSG (2020), p. 36 (para. 113).

# Annex 1

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