

The Role of Women in Transitional Justice: Upholding Rights and Ensuring Equity

Dr. Ismael Mahmoud Bitar¹, Dr. Bilal Imad Aldgem², Dr. Dana Bitar³

¹ Ph.D. in International Law, Academic Researcher and Attorney at Law, Syria

² Ph.D. in Law, Lecturer, Faculty of Law, Damascus University, Syria

³ Ph.D. in Law, Academic Researcher and Lecturer at Saint Petersburg University and
Lecturer at the Higher School of Economics, Russia

ORCID IDs:

¹ <https://orcid.org/0000-0002-7372-462X>

² <https://orcid.org/0009-0003-5576-0162>

³ <https://orcid.org/0009-0006-5815-6878>

Corresponding Author:

Dr. Ismael Mahmoud Bitar

Email: ismael.bitar@damascusuniversity.edu.sy.

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INTRODUCTION

Any discussion of women's role in transitional justice mechanisms must go beyond the concept of equality between men and women to the idea that each has a role in society that must be fulfilled according to the specific circumstances of each individual country. Throughout history, women have suffered from marginalization, particularly in the public sphere. This has been particularly evident in countries emerging from conflict or those transitioning from authoritarian regimes to democracy—even though these are precisely the country's most in need of empowering women, given that women are the group most adversely affected. Furthermore, societies emerging from conflict require the contributions of all members of society. Since women's rights are equal to men's rights according to human rights instruments, a woman's right to play a role in building society is a protected right. Women's role in transitional justice commissions is fundamental, and experiences in some countries have shown that women's participation in truth and reconciliation commissions has become an effective factor in achieving transitional justice. However, there have been instances where efforts failed to harness the potential of women, who bring a different perspective than men to the management of the peace process, reconstruction, and truth-telling

Equality Between Men and Women in International Legal Texts

The International Covenant on Civil and Political Rights affirms that all individuals are equal before the law and have the right to enjoy all rights without any discrimination, and the law guarantees all persons equal protection against any discrimination, whether based on race, color, sex, language, religion, political opinion, or other grounds¹.

The Universal Declaration of Human Rights states that everyone, everywhere, has the right to be recognized as a person before the law without discrimination of any kind, particularly discrimination based on race, color, sex, language, or religion.

¹ International Covenant on Civil and Political Rights, (1966) Adopted by the General Assembly of the United Nations on 16 December 1966, Art.26.

All persons enjoy legal personality without discrimination between men and women, which grants women the right to enjoy legal personality equal to that of men. Every individual has the right to be recognized as a person before the law and to enjoy the rights and obligations attached to that status². All people are equal before the law and are equally entitled to protection against any discrimination. The law protects both men and women equally, and women's rights cannot be compromised, in accordance with the Universal Declaration of Human Rights³, which serves as the international charter of human rights. Every human being has the right to enjoy all the rights and freedoms set forth therein without discrimination of any kind, particularly discrimination based on sex, language, or religion⁴. States parties to the International Covenant on Civil and Political Rights undertake to ensure that men and women enjoy all civil and political rights set forth in the Covenant on an equal footing⁵, which comprise a set of civil and political rights without discrimination of any kind, whether based on race, color, sex, language, religion, political opinion, or other grounds, or on national or social origin, property, birth, or other status⁶. Furthermore, the States Parties to the International Covenant on Economic, Social, and Cultural Rights undertake to ensure the equal enjoyment by men and women of all economic, social, and cultural rights⁷, and the States Parties to the Convention on the Elimination of All Forms of Discrimination against Women recognize the equality of men and women before the law, and the States Parties grant women legal capacity equivalent to that of men⁸. The States Parties to the Convention on the Elimination of All Forms of Discrimination against Women shall take all appropriate measures to eliminate discrimination against women in order to ensure that they have rights equal to those of men in the field of education on the basis of equality between men and women, and provide the same conditions for vocational and professional guidance, access to studies, and the attainment of degrees in educational institutions of all types in both rural and urban areas; this equality shall be ensured in general, technical, vocational, and higher education⁹.

The United Nations has expressed its belief in fundamental human rights and in the equality of men and women in rights¹⁰. This statement appears in the preamble to the United Nations Charter, which is considered the most important international treaty in the world, as it has been ratified by the governments of member states; consequently, all states are bound by its provisions. Furthermore, the United Nations Charter includes a provision that respects the human rights and fundamental freedoms of all people without discrimination between men and women¹¹. In our view, this serves as evidence of the importance of respecting women's rights just as we respect men's rights. The Universal Declaration of Human Rights states that all human beings are born free and equal in dignity and rights¹². Based on the foregoing, human rights instruments have granted women and men the same rights. From our perspective, women and men are equal in terms of rights and duties, except with regard to women's maternal rights, in which case women have an advantage over men and are granted certain rights commensurate with their role as mothers and caregivers. Here, it must be emphasized that the nature of women in general necessitates granting them additional rights related to their physiological nature, given that they are the social element that provides societies with new life, and they are responsible for raising and caring for their families. This requires special attention, and there is no harm in granting them special rights stemming from their social role in order to preserve their role in society; A civilized society recognizes these rights, unlike some societies that view such rights as undermining women's status in society.

² See:

1- Universal Declaration of Human Rights, (1948) Universal Declaration of Human Rights Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948, Art.6.

2- International Covenant on Civil and Political Rights, op.cit, Art.16.

³ Universal Declaration of Human Rights, op.cit, Art.7.

⁴ Universal Declaration of Human Rights, op.cit, Art.2.

⁵ International Covenant on Civil and Political Rights, op.cit, Art.3.

⁶ International Covenant on Civil and Political Rights, op.cit, Art.2.

⁷ International Covenant on Economic, Social and Cultural Right, (1966) Adopted by the General Assembly of the United Nations on 16 December 1966, Art.3.

⁸ Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, New York, Art.15.

⁹ Convention on the Elimination of All Forms of Discrimination against Women, op.cit, Art.10.

¹⁰ Universal Declaration of Human Rights, op.cit, Preamble.

¹¹ Charter of the United Nations, (1945) June 26, 1945, entered into force Oct. 24, 1945, Art.55.

¹² Universal Declaration of Human Rights, op.cit, Art.1.

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Women's Rights to Engage in Political Life

Every citizen, whether man or woman, has the right to participate in public life, either directly or through freely elected representatives. This includes the right to vote in periodic, genuine, and universal elections held on the basis of equality and by secret ballot, which ensures the free expression of the will of the voters, as well as the right to stand for public office¹³. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) affirmed the need to take effective measures to eliminate discrimination against women in the political and public life of the state. The Convention stipulates that women—on an equal footing with men—shall enjoy equal rights, including: the right to vote in all elections and public referendums; the right to stand for election and be elected to all bodies elected by universal suffrage; the right to participate in the formulation and implementation of government policies; holding public office and performing all related duties at all levels of government, as well as joining nongovernmental organizations and associations concerned with the country's public and political life¹⁴. Since women enjoy full freedom to choose their field of work on an equal basis with men, they have the full right to engage in political work. This includes their right to access all forms of training, to be subject to the same employment standards applied to men in the political sphere, as well as their right to promotion, job security, and the enjoyment of all benefits and conditions associated with public service¹⁵.

Whereas discrimination against women constitutes a violation of the principles of equal rights and respect for human dignity, and is an obstacle that prevents women from participating on an equal footing with men in the political, social, economic, and cultural life of their society, such discrimination also hinders the progress of the family and the prosperity of society, and limits women's ability to realize their full potential in the service of their country and humanity; therefore, achieving comprehensive development, global well-being, and establishing peace requires women's active and equal participation alongside men in all fields¹⁶. Women should also be given the opportunity to represent their governments at the international level and to participate in the activities of international organizations¹⁷. Since every individual has the right to participate in the management of their country's public affairs, whether directly or through freely chosen representatives, and since everyone, on an equal footing, has the right to hold public office in their homeland, this includes women's full right to hold public office without any disparagement or discrimination¹⁸. We believe that, from our perspective, there is no legal or other obstacle preventing women from assuming political, social, and economic positions, provided they possess the necessary qualifications for such positions. Women who have studied and engaged in political activity are no different from men when it comes to managing public affairs. A prime example of this is that there are women who have successfully led their countries toward economic prosperity and political stability, such as Merkel in Germany and Meloni in Italy, among many others too numerous to mention; Accordingly, the United Nations Secretary-General called¹⁹ on Member States to strengthen women's representation at all levels of decision-making within national, regional, and international institutions and mechanisms concerned with conflict prevention, management, and resolution. He also urged the implementation of his strategic plan, which aims to increase women's participation in decision-making processes related to conflict resolution and peacebuilding efforts²⁰. The Fourth World Conference on Women—known as the Beijing Platform for Action—reaffirmed the provisions of international instruments and supported this with a plan of action committed to achieving

¹³ International Covenant on Civil and Political Rights, op.cit, Art.25.

¹⁴ Convention on the Elimination of All Forms of Discrimination against Women, op.cit, Art.7.

¹⁵ Convention on the Elimination of All Forms of Discrimination against Women, op.cit, Art.11.

¹⁶ Convention on the Elimination of All Forms of Discrimination against Women, op.cit, Preamble.

¹⁷ Convention on the Elimination of All Forms of Discrimination against Women, op.cit, Art.8.

¹⁸ Universal Declaration of Human Rights, op.cit, Art.21.

¹⁹ The Secretary-General of the United Nations calls for strengthening the role and contribution of women in United Nations field operations, particularly among military observers, civilian police, and human rights and humanitarian personnel. He also emphasizes the importance of mainstreaming a gender perspective in peacekeeping operations and urges the inclusion of a gender component in field operations where appropriate. He requests the Secretary-General to provide guidance and training materials to Member States on the protection of women, their rights and specific needs, and the importance of their participation in all peacekeeping and peace building measures, and calls upon Member States to incorporate these principles into their policies and procedures. See: UN Security Council resolution 1325 (2000). S/RES/1325 (2000) Adopted by the Security Council at its 4213th meeting, on 31 October 2000. , p.2. [wps_sres1325.pdf](#)

²⁰ UN Security Council resolution 1325 (2000). Op.cit, p.2.

gender balance in government bodies and committees, public administrative entities, and the judiciary. The plan included setting clear goals and implementing measures aimed at a tangible increase in the number of women, with the goal of achieving equal representation of women and men in all government and public administrative positions²¹. Over the past few years, the United Nations has made remarkable progress in promoting women's participation in public life and political affairs, while emphasizing the importance of their role in conflict resolution and assuming leadership positions, particularly in societies plagued by religious, racial, or ethnic conflicts. The United Nations has issued several resolutions affirming women's leadership role in achieving international peace and security. It has been committed to applying these principles in practice within its own institutions. The Nairobi Declaration on the Empowerment of Women stands out as one of the most important declarations affirming women's leadership and their pivotal role in society and conflict resolution, in line with the urgent need for their participation in public and political affairs and the implementation of strategies to advance their status²². In our view, the United Nations has spared no effort to advance the status of women in post-conflict societies and has consistently emphasized women's leadership role in peacebuilding, working tirelessly to create an enabling environment that highlights women's contributions across all fields; Therefore, if any shortcomings occur, they are often due to the failure of states to implement United Nations strategies regarding the role of women in public life.

Highlighting the Role of Women in Transitional Justice Processes

Women's right to participate in transitional justice processes, as established by international standards, is guaranteed by the principles of equality enshrined in international human rights conventions, such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, and even the Charter of the United Nations. Participation in political and public life constitutes a fundamental right linked to human dignity and the equal rights of all individuals without discrimination, Women's political participation is a fundamental element in achieving gender equality and consolidating democracy. Equality in the political and public spheres cannot be separated from the broader human rights framework, as the interdependence of these rights underscores the importance of empowering women to participate actively in public and political life²³. There is a close link between peace, gender equality, and development, as each directly influences the others. Nevertheless, armed conflicts and wars hinder women's progress and affect them in particular, especially women who bear the responsibility of supporting their families and take on additional roles to secure their livelihoods. Despite this, women's representation in decision-making positions remains limited in some countries. For this reason, the United Nations General Assembly has repeatedly called for strengthening women's participation in peacekeeping and post-conflict peacebuilding, raising awareness of gender issues, protecting women's rights in accordance with international law, and highlighting women's role in achieving social and economic development²⁴. The United Nations plays a leading role in supporting and promoting women's equal participation in transitional justice and in all areas of decision-making, as the body responsible for setting international human rights standards, The UN Special Rapporteur on the right to justice, reparation, and guarantees of non-repetition has affirmed that states' obligation to adopt gender-sensitive transitional justice mechanisms is grounded in primary and secondary sources of international human rights law, and that governments may not evade this obligation on the pretext of political considerations²⁵. The UN Special Rapporteur on Transitional Justice has put forward a number of important

²¹ United Nations Report of the Fourth World Conference on Women (1995), A/CONF.177/20/Rev.1, Beijing, 4-15 September 1995, para.190. <https://docs.un.org/en/A/CONF.177/20/Rev.1>

²² UN. General Assembly 1994, (A/49/587) Advancement of Women, 1 November 1994, pp. 3-4. [WPS A 49 587.pdf](#)

²³ Lorena Mellado, Emily Kenney, Hariwa Negisa Adil, (2022) Women's Meaningful Participation in Transitional Justice, Advancing Gender Equality and Building Sustainable Peace, (UNDP) and (UN Women), New York, p.16. <https://www.unwomen.org/sites/default/files/2022-03/Research-paper-Womens-meaningful-participation-in-transitional-justice-en.pdf>

²⁴ General Assembly A/S-23/10/Rev.1 (2000) , Twenty-third special session Supplement No. 3 (A/S-23/10/Rev.1), Report of the Ad Hoc Committee of the Whole of the twenty-third special session of the General Assembly, New York, p.13. [Document Viewer](#)

²⁵ Lorena Mellado, Emily Kenney, Hariwa Negisa Adil, op.cit, p.16

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ideas regarding the role of women, most notably²⁶:

States' Commitment to Gender-Sensitive Transitional Justice: States are legally obligated to adopt gender-sensitive transitional justice mechanisms, in accordance with international human rights law, and may not evade this obligation for any political, structural, or financial reason.

The Role of the United Nations: The United Nations bears a leadership responsibility to promote and support women's equal participation in transitional justice and in all areas of decision-making, based solely on legal principles, without the need for additional justification.

The Risks of Linking Women's Participation Solely to Competence: Emphasizing that women's participation enhances the effectiveness of transitional justice may reduce women's rights to a means of achieving other goals and shift the burden of realizing these rights onto women themselves, rather than holding governments and institutions accountable.

The importance of women's active participation: Women's genuine participation helps challenge discriminatory structures, compels authorities to recognize women's rights and dignity, and gives women the opportunity to hold accountable the regimes responsible for violations.

Changing societal perceptions: Women's leadership and participation change societal perceptions regarding their capacity for leadership and decision-making, particularly in communities that previously excluded them from such roles.

Cultural barriers: Discrimination and violence against women are often justified by customs and traditions, and the behavior of some men is considered normal or exempt from accountability; it is also sometimes claimed that women's participation conflicts with the culture of society.

In our view, we can add to these ideas the extent of states' actual legal commitment to promoting women's roles in transitional justice processes and highlight the relationship between this legal commitment and the dangers of prevailing anti-women discourse, and the importance of women's active participation in transforming social and human rights realities—which leads to the establishment of a new reality that recognizes and enshrines women's rights and changes the stereotype regarding women's leadership in post-conflict societies. Consequently, it falls upon governments and international and regional institutions²⁷:

Take measures to promote the equitable participation of women and ensure equal opportunities for them in all peace forums and activities, particularly in decision-making positions.

Strengthen the role of women and ensure their equal representation at all levels of decision-making in national and international institutions that influence policies related to peacekeeping, preventive diplomacy, mediation, and negotiations at all stages.

Integrate a gender perspective into the resolution of armed conflicts or foreign occupation, and strive to achieve gender balance when appointing or promoting candidates to judicial and other positions in relevant international bodies, such as the International Tribunals for the Former Yugoslavia and Rwanda, the International Court of Justice, and other bodies for the peaceful settlement of disputes.

Ensuring that these bodies are capable of effectively addressing gender issues by providing appropriate training to prosecutors, judges, and other officials on handling issues such as rape and other forms of violence against women during armed conflicts, including terrorism, and by integrating a gender perspective into all their work.

In our view, unless national and international efforts are combined and integrated to highlight the role of women in transitional justice processes and demonstrate the benefits of their participation and the positive impact this has on societies emerging from conflict, women will not be able to play the desired role in bringing peace to those societies.

Elements of Transitional Justice

In 2004, the United Nations Secretary-General defined transitional justice as a comprehensive set of processes and mechanisms used by society to address the legacy of past large-scale human rights violations, with the aim of ensuring accountability, achieving justice, and reaching reconciliation. Transitional justice is

²⁶ Lorena Mellado, Emily Kenney, Hariwa Negisa Adil, *op.cit.*, p.16.

²⁷ United Nations Report of the Fourth World Conference on Women (1995), *op.cit.*, para.142.

based on four main mechanisms: criminal justice, truth-telling, reparations, and institutional reform with guarantees of non-repetition. These mechanisms are implemented in an integrated and comprehensive manner, and transitional justice is considered a multidisciplinary field that combines theory and practice. and aims to combat impunity and restore the dignity of victims through institutional mechanisms designed to address the past in a constructive and forward-looking manner. Furthermore, transitional justice seeks to strengthen social cohesion, restore trust between citizens and the state, and consolidate the rule of law and democratic order, ultimately leading to national reconciliation. These principles and mechanisms are supposed to be implemented through a partnership between the public sector and civil society, with the necessity of a genuine societal will to confront the shared past and a readiness to build a shared future²⁸. Transitional justice is framed as an approach to addressing gross human rights violations in accordance with international guidelines, most notably the Note by the United Nations Secretary-General (2010).

These principles recommend that transitional justice mechanisms be designed and implemented in accordance with international law and the national context, with a focus on the victims of violations and taking into account gender differences and children's issues, and that they be integrated with rule-of-law initiatives, in addition to including economic, social, and cultural violations within their scope²⁹. Transitional justice encompasses both judicial and non-judicial mechanisms as an integrated and interdependent transformative process, including truth-telling, judicial initiatives, reparations, and measures to prevent the recurrence of violations, including legal and institutional reform, the strengthening of civil society, documentation and memory efforts, cultural initiatives, archival preservation, and the reform of history curricula³⁰. In general, transitional justice mechanisms include several key elements, most notably:

Judicial initiatives aim to ensure that perpetrators of crimes and grave violations of international humanitarian law and human rights are brought to trial, while emphasizing the need to adhere to international standards for fair trial and to apply penalties in an objective and non-discriminatory manner. States bear the primary responsibility for exercising jurisdiction over these crimes, particularly during conflicts or under repressive regimes. Transitional justice programs seek to strengthen national capacities in the areas of investigation and prosecution, ensure the independence of the judiciary, provide adequate legal defense, protect witnesses and victims, and ensure that penalties are carried out in a humane and fair manner. These initiatives also emphasize the importance of aligning national legislation with international standards and drawing on the support of the international community, when necessary, to strengthen criminal investigations and preserve evidence related to mass crimes³¹, Criminal prosecutions—for example—focus on establishing the truth regarding the accused's criminal responsibility, within the limits and nature of the evidence and circumstantial elements presented as arguments in the context of judicial proceedings; criminal trials do not necessarily aim to gather or present the maximum amount of information or a comprehensive historical account of the event in question³². In our view, it is sufficient for national courts to examine the established crimes against the accused without politicizing the prosecution of human rights violators.

Providing Reparations: Transitional justice programs aim to address gross human rights violations by providing victims with reparations that combine material and moral support. These reparations include direct financial compensation, the provision of health care and psychological support, educational assistance, the restitution of property or compensation for its loss, as well as official apologies, the establishment of museums and memorials, and the organization of commemorative events. The principles of the United Nations General Assembly affirm the right of victims to receive reparations for gross violations of human rights or international humanitarian law³³. Forms of reparations vary and include financial compensation,

²⁸ Thomas Osorio, (2022) Towards A National Transitional Justice Strategy For Kosovo, Humanitari An Law Center Kosovo, Pristine, p. 3. <https://www.hlc-kosovo.org/storage/app/media/Strategjia%202022/TOWARDS%20A%20NATIONAL%20TRANSITIONAL%20JUSTICE%20STRATEGY%20FOR%20KOSOVO.pdf>

²⁹ Dedej, A., Stasa, I., & Medici, L. (2024). Transitional Justice Status in Albania Through Local Perceptions. *Academic Journal of Interdisciplinary Studies*, p.84. <https://doi.org/10.36941/ajis-2024-0007>.

³⁰ Thomas Osorio, op.cit, p.4.

³¹ UN. Secretary-General, (2010) Guidance note of the Secretary-General : United Nations approach to transitional justice, [New York] : UN, Mar. 2010, p.7. [TJ Guidance Note March 2010FINAL](https://www.un.org/en/secretary-general/guidance-note-march-2010-final)

³² Thomas Osorio, op.cit, p.9.

³³ UN. Secretary-General, (2010) Guidance note of the Secretary-General, op.cit, p.8.

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rehabilitation, measures to ensure the satisfaction of victims, and guarantees that such violations will not be repeated in the future³⁴, although it should be noted that some countries implementing transitional justice mechanisms have been unable to pay reparations.

Institutional Reform as an Element of Transitional Justice: Institutional reform is considered one of the core elements of transitional justice programs, as it aims to transform public institutions that contributed to the continuation of conflicts or supported repressive regimes into institutions that promote peace, protect human rights, and strengthen the rule of law through the restructuring or establishment of institutions characterized by integrity and effectiveness. Institutional reform helps enable transitional and subsequent governments to prevent the recurrence of human rights violations in the future. The importance of vetting public servants—particularly in the security and justice sectors—is underscored by their critical role in this transformation, as it requires the removal or non-appointment of officials proven to be responsible for committing gross human rights violations. Reform may also include the dissolution of military or security units systematically involved in such violations, provided that this is carried out in accordance with due process and the principle of non-discrimination. In addition, institutional reform requires the implementation of comprehensive training programs for officials and public employees, focusing on international human rights standards and international humanitarian law, to ensure their commitment to these principles in the performance of their future duties³⁵. In our view, the restructuring of public institutions must serve transitional justice programs through the extremely careful selection of public officials.

National Consultations as a Component of Transitional Justice: National consultations are a fundamental pillar of transitional justice grounded in respect for human rights, as they are based on the principle of active community participation to ensure the success of transitional justice programs and their ability to meet the needs of all groups, men and women alike. These consultations make it possible to identify the real needs of communities affected by conflict or repressive rule, thereby helping states design programs tailored to the specific local context. National consultations also reinforce the sense among victims and members of civil society of the importance of these programs and encourage their active engagement in the transition process³⁶; Therefore, engagement efforts must focus on both the groups directly affected by the relevant mechanisms and the broader community, which requires careful planning during the design phase and the allocation of necessary resources to ensure that the desired objectives are achieved³⁷.

Strengthening initiatives related to the right to know the truth: Truth-seeking processes help uncover human rights violations in post-conflict societies through truth commissions, commissions of inquiry, and fact-finding missions, which are based on the individual right to know the truth and supported by international, regional, and local judicial bodies. Truth commissions—which are non-judicial or quasi-judicial bodies—collect testimonies, analyze violations and their causes and consequences, organize public hearings and awareness-raising programs, and conclude their work by issuing reports and recommendations. Furthermore, transitional justice programs produce important documents that must be securely preserved and archived, while effective protection must be provided to victims and witnesses to ensure they are able to exercise their right to know the truth³⁸. In the context of transitional justice, truth-seeking mechanisms are non-judicial processes that place victims at the center of their work, seek to build collective memory, and provide a safe environment that enables victims to express themselves and contribute to the process of individual and collective healing. Truth commissions undertake the task of documenting violations, collecting testimonies, and conducting independent investigations, while making recommendations to address crimes and provide redress. These processes contribute to enhancing communities' understanding of the fate of victims and revealing the identities of those responsible for the violations, and are closely linked to the state's obligation to investigate and prosecute. The International Center for Transitional Justice emphasizes that the right to know the truth is an inalienable right of every victim, their family, and their community³⁹.

³⁴ UN. Secretary-General, (2010) Guidance note of the Secretary-General, op.cit, p.9.

³⁵ UN. Secretary-General, (2010) Guidance note of the Secretary-General, op.cit, p.9.

³⁶ UN. Secretary-General, (2010) Guidance note of the Secretary-General, op.cit, p.9.

³⁷ UN. Secretary-General, (2010) Guidance note of the Secretary-General, op.cit, p.10.

³⁸ UN. Secretary-General, (2010) Guidance note of the Secretary-General, op.cit, p.8.

³⁹ Thomas Osorio, op.cit, p.8.

The Importance of Women's Role in Transitional Justice Mechanisms

Transitional justice is a fundamental tool for promoting human rights, development, and good governance. There is a pressing need to expand the scope of transitional justice to address the legacy of violations that continue to affect political and social institutions and structures and hinder development. Transitional justice faces particular challenges, as it is often implemented through local mechanisms outside international legal frameworks and focuses on political and social issues to uncover the truth through truth commissions, reparations, and institutional reforms; In fact, ensuring the effectiveness of transitional justice mechanisms requires a deep historical understanding of the impact of conflicts, taking into account the gender dynamics that have led to the marginalization of women. This highlights the importance of adopting a feminist approach that takes into account the specific experiences of countries in achieving gender justice and transitional justice⁴⁰. In general, the transitional justice approaches adopted by states vary. These include the maximalist approach, which focuses on prosecuting crimes and achieving justice; the moderate approach, which relies on truth commissions and emphasizes restorative justice and the accountability of perpetrators through non-judicial mechanisms⁴¹; The third approach is the minimalist approach, which is characterized by caution and tends to grant perpetrators amnesty without holding them accountable, while the fourth approach is the comprehensive approach, which integrates the three previous approaches and adapts transitional justice mechanisms according to the social and political needs of each case, moving away from individual or isolated solutions⁴². In other words, transitional justice requires striking a delicate balance between providing redress to victims, holding perpetrators accountable, and maintaining peace in fragile post-conflict environments. Truth commissions stand out as a key tool in this context, as they provide practical platforms for promoting sustainable peace by bringing victims and perpetrators together in societies emerging from conflict⁴³. Experiences in many countries have shown that comprehensive justice is not achieved merely by prosecuting perpetrators; it also requires promoting women's rights and involving them in all stages of transitional justice. Integrating a gender perspective strengthens women's role in peacebuilding and political transitions, which necessitates raising awareness, supporting their participation in decision-making, and achieving gender balance in national and international institutions. These experiences also underscore the importance of continuing to support these goals and not backsliding on them even in times of crisis, while continuing to support transitional justice mechanisms⁴⁴. Security Council Resolution 1325 emphasizes the importance of integrating a gender perspective into peace and security issues, and recommends women's participation in peacebuilding and policy-making processes, based on the pivotal role women have played in rebuilding social and political structures after conflict. Women's civil society organizations have contributed effectively to reconciliation processes, as the post-conflict phase represents an opportunity to advance women's empowerment; however, state fragility may prevent women from accessing adequate security and resources. Therefore, empowering women through transitional justice is a means of promoting equality by enacting just laws and providing better resources. Furthermore, the inclusion of women in this process is essential for achieving gender justice and building more just and inclusive social structures⁴⁵. The critical feminist approach adopted by civil society organizations has proven effective in ensuring that crimes of sexual and gender-based violence are included among those prosecuted at the national and international levels, and charges such as sexual slavery have been included; sexual and gender-based violence is now recognized as an issue affecting women. However, recognition alone is not enough; it requires meticulous documentation and practices that take into account the cultural, social, and

⁴⁰ Mbalenhle Matandela, (2020) Policy Brief: Addressing Gender Justice And Colonialism Through Transitional Justice In Africa, Centre for the Study of Violence and Reconciliation, Published January 2020, p.3.

https://africaportal.org/wp-content/uploads/2023/05/Gender_Justice_Policy_Brief_2020_002-1.pdf

⁴¹ Elias O. Opongo, (2021) Gendering transitional justice processes in Africa: a feminist advocacy approach to truth commissions, *Journal of the British Academy*, 9(s2), Posted 25 May 2021, p.38.

<https://doi.org/10.5871/jba/009s2.035>

⁴² Olsen, T.D., Payne, L.A., & Reiter, A.G. (2010). The Justice Balance: When Transitional Justice Improves Human Rights and Democracy. *Human Rights Quarterly*, 32, 1007 – 980, pp.982-983.

<http://scuolastudisuperiori.unimc.it/it/news/Olsenetal2010TJHumanRightsandDemocracy.pdf>

⁴³ Elias O. Opongo, op.cit, p.38.

⁴⁴ Nakoulma Mariame V, (2020) Gender: African women in Transitional Justice: Implications and Challenges, *International Journal of Arts, Humanities & Social Science* Vol. 01- Issue: 02/ July_2020.

P.12, <https://ijahss.net/assets/files/1594373049.pdf>

⁴⁵ Nakoulma Mariame V, op.cit, p.10.

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psychological contexts of the victims⁴⁶, Women must participate directly in setting reconstruction priorities and be considered key stakeholders in peace agreements, with their involvement required from the outset of negotiations. Incorporating a gender perspective into transitional justice mechanisms reveals the differences in the experiences of women and men during and after conflicts and promotes women's political and social empowerment, and this empowerment is not limited to telling women's stories but includes bringing about a sustainable transformation in societal and institutional structures, Security Council Resolution 1325 has enabled nongovernmental organizations to offer a gender-based perspective on transitional justice, emphasizing the importance of women's representation in all decision-making bodies, as their marginalization leads to the neglect of their experiences in reconciliation and reconstruction processes⁴⁷. As for the challenges women face in the context of transitional justice, examining women's roles in these mechanisms requires an assessment of the impact of transitional justice on post-conflict society. The empowerment of women is considered a central objective to ensure that inequality and violence against them do not persist after the end of the conflict, Women's status is highlighted through their participation in negotiations and peacebuilding, their role in establishing and strengthening social and political structures, and their contribution to achieving comprehensive justice and redress⁴⁸. In our view, the importance of women's role in transitional justice mechanisms stems from the need for societies emerging from conflict to harness the full potential of their communities—each according to their ability—including women, who can undertake many tasks that benefit society.

Integrating a Gender Perspective into Transitional Justice Commissions

The Security Council emphasized the importance of integrating a gender perspective into peace processes in post-conflict countries, while prioritizing the protection of women and girls and addressing their needs. The Council also called for the effective participation of women in conflict resolution processes, the drafting of constitutions, and the reform of the judiciary and police, and demanded that special measures be taken to protect them from violence and combat impunity for crimes committed against them. The Council also emphasized the need to strengthen women's participation at all levels of decision-making and to provide financial and technical support as well as gender-sensitive training, affirming that women's participation is an essential element for achieving lasting peace, security, and post-conflict reconciliation⁴⁹. In the context of gender, it highlights the importance of protecting women during conflicts. Furthermore, women's participation in peace and justice processes is no longer limited to their role as victims but also encompasses their active contributions to decision-making and the achievement of justice and security, in accordance with Resolution 1325 (2000) issued by the United Nations Security Council on women, peace, and security, which constitutes an official international recognition of the need to ensure women's effective and meaningful participation in transitions from conflict to peace⁵⁰. The integration of a gender perspective into the work of transitional justice commissions remains a relatively recent development, as full recognition of women's rights and gender-based violence remains limited in some investigations and reports. However, incorporating this perspective helps highlight women's experiences with violence and oppression and contributes to reforming laws and behaviors that have perpetuated inequality. Examples from Rwanda, Sierra Leone, and South Africa have highlighted the targeting of women during conflicts, as well as their role as members and negotiators in truth commissions to integrate a gender perspective into their work⁵¹. It is well known that designing effective transitional justice policies requires achieving community participation that is tailored to the local context of each country, taking into account varying political and social conditions during transitional periods, especially in the aftermath of major crises. Political transitions may be limited to superficial measures without a fundamental addressing of the legacy of violations, particularly as transitional justice evolves as a concept and practice, and its mechanisms and objectives diversify. Studies emphasize the importance of the timing of implementing these mechanisms and its impact on their success, noting that transitional justice may take decades to achieve its objectives⁵². Transitional justice approaches to gender issues are often characterized by patriarchy and male dominance, with women's roles reduced to

⁴⁶ Elias O. Opongo, *op.cit*, p.48.

⁴⁷ Nakoulma Mariame V, *op.cit*, p.9.

⁴⁸ Nakoulma Mariame V, *op.cit*, p.8.

⁴⁹ UN Security Council resolution 1325 (2000). *Op.cit*, pp.1-3.

⁵⁰ Nakoulma Mariame V, *op.cit*, p.2.

⁵¹ Nakoulma Mariame V, *op.cit*, p.5.

⁵² Dedej, A., Stasa, I., & Medici, L. *op.cit*, p.86.

that of victims, particularly in cases of sexual violence, Nevertheless, truth commissions are capable of highlighting gender differences in experiences of violence through procedures that are more flexible than those of criminal trials, though they must remain vigilant against biases in evidence and procedures. Integrating a gender perspective into the work of these commissions helps uncover overlooked violations and propose appropriate reparations. It also provides a platform for victims and promotes the advancement of women's rights. Women's groups seek to integrate women's issues into all stages of the commissions' work—from the mandate to the final report—through staff training and the drafting of reports that ensure comprehensive and sustainable justice⁵³. Women play a pivotal role in advancing a gender-sensitive approach to transitional justice at various levels—from participating as victims and activists to holding decision-making positions—and it is essential to involve women in all stages of transitional justice, which contributes to the promotion of human rights both domestically and internationally. It is crucial to recognize women's roles in post-conflict programs such as disarmament and reintegration, and to incorporate their perspectives in truth and reconciliation commissions. Experiences in countries such as Rwanda and Sierra Leone have shown that women's civil society organizations⁵⁴ have played an active role in advocating for the accountability of perpetrators of sexual crimes and for legal reform, leading to significant developments in international criminal law. These efforts underscore the need to protect and support women during and after conflicts, and the necessity of reforming policies and legislation to guarantee their rights⁵⁵. These experiences⁵⁶ have demonstrated the importance of women's participation in the design and implementation of post-conflict reparations programs; however, this participation has faced challenges, most notably a lack of gender sensitivity in some mechanisms, as in Rwanda, or the limited participation of women during the implementation phase of recommendations, as in Sierra Leone. These experiences underscore the need to adopt mechanisms that ensure women's participation in all official structures. Herein lies the importance of collaborating with local organizations to ensure women's continued access to resources and support, along with the need to advocate for the enactment of comprehensive laws that take women's rights into account. Furthermore, reparations programs must be gender-sensitive and effectively linked to women's needs, and recommendations must be translated into practical implementation that ensures the effects of conflict are addressed in a fair and comprehensive manner⁵⁷. Nevertheless, women seeking to participate in political and public life continue to face complex challenges that prevent them from fully enjoying their human rights, including social, economic, cultural, family, and health rights, as well as the right to peace⁵⁸. It is recognized that women are the group most affected by conflicts, as violence against women is part of a

⁵³ Elias O. Opongo, *op.cit*, p.42.

⁵⁴ Organizations and individuals committed to defending women's rights play a prominent role in advocating for women's roles in transitional justice committees. However, there is still much work to be done to rebuild local justice systems to give greater attention to prosecuting cases of violence against women. Generally, the term "gender" carries diverse connotations as a social construct, as it can be employed to refer to various social, political, economic, or religious implications, indicating the social differences between women and men. This aims to highlight the status of women in the processes of transitional justice committees. This is complemented by a critical feminist approach that considers the social dynamics of interactions between males and females, power relations, and the effectiveness of women in the structures of truth commissions in Africa. See: Elias O. Opongo, *op.cit*, p.37.

⁵⁵ Nakoulma Mariame V, *op.cit*, p.4.

⁵⁶ Sierra Leone witnessed widespread human rights violations and the collapse of the legal system during the civil war, highlighting the importance of the Truth and Reconciliation Commission in addressing the aftermath of the conflict. The commission focused on integrating a gender perspective and encouraged civil society organizations to enhance the protection of women's rights and reform the legal system from a gendered viewpoint. In South Africa, women played an active role in the truth and reconciliation commissions, which added a humanitarian aspect and contributed to supporting the victims despite institutional challenges. These two experiences highlight the importance of women's representation in truth commissions and collaboration with specialized organizations to enhance the protection and legal and social support for women after conflicts. Similarly, the Truth and Reconciliation Commission in Sierra Leone was established to address the impacts of conflict and serious violations during the civil war, providing important lessons to prevent the recurrence of crimes and to promote the stability of emerging democracies. See: Nakoulma Mariame V, *op.cit*, p.7. & Kerry Anne Searle, (2018) *Transitional Justice In South Africa And Sierra Leone: A Case Study Analysis*, Master Of Philosophy, International Studies, Monash University, 2018, p.12.

⁵⁷ Nakoulma Mariame V, *op.cit*, p.11.

⁵⁸ Lorena Mellado, Emily Kenney, Hariwa Negisa Adil, *op.cit*, p.16.

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continuous cycle of interrelated and recurring patterns of violence⁵⁹. In our view, the experiences of countries that have included women in transitional justice commissions—even if they have not yielded the desired results—have significantly contributed to highlighting the importance of women’s role. We do not deny that some local communities face greater challenges than others due to a dominant patriarchal culture, and that these communities need sufficient time to accept women’s role in public life.

The Role of Women in Truth Commissions on the African Continent

In recent decades, African societies have faced significant challenges as a result of post-colonial conflicts and wars, prompting them to adopt transitional justice mechanisms to address the effects of slavery, colonialism, apartheid, oppression, and civil wars. In this context, the importance of incorporating gender issues—particularly violations against women—has become evident within the work of truth and reconciliation commissions. Cases of gender-based sexual violence against women during conflicts have escalated, including indiscriminate killings and enslavement by armed groups. As a result, sexual violence during wars has become a central focus in studies of human security, history, peacebuilding, and post-conflict reconstruction⁶⁰. In 2019, the African Union adopted a transitional justice policy as an African model for addressing the legacy of conflicts, violations, governance shortcomings, and development challenges, this commitment reflects a shift toward strengthening social and political accountability, a recognition of the impact of conflicts on development, and the understanding that addressing historical injustices is essential for promoting social cohesion and state-building⁶¹. Truth commissions have been established as independent, victim-centered investigative bodies, created at the initiative and with the endorsement of the state, with two main objectives: First, to investigate and report on the main causes and effects of widespread and recent patterns of violence or repression during periods of authoritarian rule or conflict; and second, to make recommendations to address these violations and prevent their recurrence in the future⁶². Truth commissions are characterized by four main features:

They focus on human rights violations in the recent past and investigate crimes committed during specific political periods, such as civil wars or dictatorial rule. They are also temporary bodies that typically last from six months to two years, and despite their independence, they remain official entities that often operate within established legal frameworks⁶³. International experience has shown that truth and reconciliation commissions have become a central tool in transitional justice, investigating human rights violations during conflicts or under repressive regimes with the aim of uncovering the truth, achieving justice, providing redress, and promoting social reconciliation. Although their objectives vary depending on the context, the common goal is to help societies and states confront the past violations and prevent their recurrence through temporary measures that include both judicial and non-judicial measures⁶⁴.

Truth commissions in African countries such as South Africa, Ghana, and Sierra Leone sought to incorporate issues of gender-based violence into their work; however, achieving this required sustained efforts by civil society campaigns and women’s groups. In South Africa, despite the commission’s pioneering role, the address of women’s issues was limited, particularly regarding the intersections of race, gender, and class; however, societal pressure later contributed to increasing attention to these issues.

In Ghana, the inclusion of a gender perspective came late as a result of women’s efforts, while in Sierra Leone, the focus on women’s issues was present from the outset thanks to women’s leadership. In Burundi, the International Commission of Inquiry limited itself to specific types of violations and did not follow the model of traditional truth commissions⁶⁵. There is no doubt that the integration of a gender perspective into legal and judicial systems has become an increasingly important issue, as many societies seek to strengthen the role of women in legal positions such as judges, lawyers, and justice officials. This trend represents a genuine expansion of the concept of restorative justice and paves the way for gradual societal

⁵⁹ UN Security Council Resolution 2467 (2019). S/RES/2467 (2019) Adopted by the Security Council at its 8514th meeting, on 23 April 2019. P.2. [s_res_2467.pdf](#)

⁶⁰ Elias O. Opongo, op.cit, p.36.

⁶¹ Elias O. Opongo, op.cit, p.38.

⁶² Elias O. Opongo, op.cit, p.39.

⁶³ Elias O. Opongo, op.cit, p.39.

⁶⁴ Nakoulma Mariame V, op.cit, p.5.

⁶⁵ Elias O. Opongo, op.cit, p.43.

transformations that benefit women, particularly in societies that have recently emerged from conflict⁶⁶.

The impact of feminist analysis on understanding gender issues and women's experiences in conflicts—drawing on Western feminism—cannot be denied, but it has faced difficulties in changing the authoritarian structures that perpetuate discrimination against women. Development and transitional justice strategies have focused on integrating a gender perspective to address inequality and ensure women's participation in peace processes; however, this integration has often been limited to the representation of women in existing institutions without bringing about actual change in their structure. Institutional feminism is one of the approaches adopted by African countries such as Tunisia, Kenya, Liberia, and Rwanda to promote women's rights through supportive policies. Nevertheless, these changes have had a limited impact on women's daily lives and have not brought about a fundamental transformation, as they have been influenced by the policies of those in power and the interests of the elite; Therefore, achieving transformative transitional justice remains contingent upon bringing about profound changes in structures and institutions to ensure genuine and sustainable women's participation in the post-conflict period⁶⁷.

In Sierra Leone, all commission staff received specialized training on women's issues, which reinforced the importance of gender considerations—particularly in handling women's testimonies and providing them with psychological and social support—and helped build trust with women's groups. The commission recommended amending discriminatory legislation that leaves women vulnerable to violence. In Liberia, capacity-building training for the commission's staff focused on issues of sexual violence and gender, particularly as they relate to women and children during conflicts, and the commission made a point of integrating this perspective into all its work. In addition, the establishment of a specialized gender unit within truth commissions is a pivotal step for investigating and documenting violations of women's rights, as was the case with the Peruvian Commission, where this unit played an oversight role to ensure that gender issues were effectively addressed throughout the Commission's work⁶⁸.

Critical feminism⁶⁹ applies a theoretical framework for understanding the integration of women's experiences with violence into the work of truth commissions by focusing on power relations, individual agency, and individual and collective experiences, while seeking to challenge social systems that perpetuate the marginalization of women. Critical feminism calls for highlighting power imbalances and patriarchy, working to achieve social justice, and giving space to marginalized narratives, while emphasizing women's role in social change.

The contributions of critical feminism to truth commissions can be summarized at three levels: Politically: advocating for gender equality in the design and implementation of truth xx commissions.

-Substantively: making gender a central focus in legal analysis and developing frameworks that recognize violations of women's rights.

- Methodologically: Refining the working methodologies of truth commissions, particularly in documenting crimes against women and collecting testimonies, to ensure fair representation of issues related to sexual and gender-based violence.

The critical feminist approach emphasizes that gender issues are not limited to women and girls alone, but require a deeper understanding of the social and cultural dimensions that affect all members of society⁷⁰. Gender sensitivity in transitional justice is essential to strengthening the credibility and substance of the concept of just peace, as it provides a more realistic understanding of the justice needs emerging from the grassroots; Therefore, it is important to adopt a gender-sensitive approach in transitional justice processes, particularly in the work of truth commissions, given that women often bear the heaviest burden during wars

⁶⁶ Nakoulma Mariame V, op.cit, p.2.

⁶⁷ Mbalenhle Matandela, op.cit, p.4.

⁶⁸ Elias O. Opongo, op.cit, p.46.

⁶⁹ Truth commission analyzes have shown that the integration of women's issues required critical feminist efforts and effective advocacy, given that women face more severe violations during conflicts. Highlighting women's experiences has contributed to addressing human rights violations more comprehensively and has helped enhance societal healing and cohesion. The effective representation of women in truth commissions, especially in gender units and testimony collection, is essential; however, the mere presence of women in leadership positions is not sufficient without genuine structural changes. Truth commissions ultimately seek to build a more just and inclusive society, and holding society accountable and respecting women's rights are among the most important goals of transitional justice. See: Elias O. Opongo, op.cit, pp.49-50.

⁷⁰ Elias O. Opongo, op.cit, p.41.

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and conflicts⁷¹. To avoid marginalizing women's issues, the Truth and Reconciliation Commission in Liberia established an independent gender unit that included women's groups and government officials, and organized special hearings for women that were widely broadcast, giving the Commission's activities a clear focus on women's issues⁷². It can be said that: despite the efforts made, the gender approach has not been sufficiently implemented in all units of the truth commissions, revealing the limitations of integrating gender issues in practice; nevertheless, the gender dimension remains an essential and indispensable element in the work of these commissions.

A Shining Example of Women's Role in Truth and Reconciliation Commissions in South Africa

The study of transitional justice is of great importance, as its mechanisms serve as a fundamental pillar for protecting human rights and achieving stability in post-conflict societies, thereby contributing to the promotion of democratic transition and empowering citizens to defend their rights⁷³. The end of numerous conflicts and authoritarian regimes since the 1990s has led to growing international interest in reconstruction and peacebuilding processes, with a focus on addressing the root causes of conflict and promoting democracy, good governance, and the rule of law. South Africa's experience following the end of apartheid stands out as an example of women's struggle to participate in post-apartheid negotiations and to integrate gender issues into the new system, underscoring the importance of women's empowerment in peacebuilding processes and political transitions⁷⁴.

In 1994, South Africa underwent a historic transition from apartheid to democracy, which required addressing the widespread human rights violations that had occurred during the preceding decades. The Truth and Reconciliation Commission was formed, consisting of three subcommittees: the Amnesty Commission, the Human Rights Violations Commission, and the Reparations Commission, with the aim of uncovering the truth, holding those responsible to account, and providing redress. This was a fundamental step toward achieving national reconciliation⁷⁵. Staff for South Africa's Truth Commissions were selected through consultative and transparent mechanisms, resulting in women comprising nearly half of the members. This included activists, representatives of women's organizations, and academics. This representation had a positive impact on the integration of a gender perspective into the commissions' work⁷⁶. The reports of South Africa's Truth and Reconciliation Commissions highlighted the importance of women's participation and their accounts of their experiences, which added significant value to these reports and contributed to documenting serious violations such as rape, torture, and enforced disappearances. These efforts also strengthened cooperation between women's organizations and international bodies, and the focus on gender⁷⁷ opened new horizons in transitional justice and shed light on the struggle for justice. As a result, women's participation and empowerment became a central pillar for advancing the search for truth, combating impunity, and achieving comprehensive justice⁷⁸. Women accounted for a large proportion of the testimonies before South Africa's Truth and Reconciliation Commission⁷⁹, yet most of their statements

⁷¹ Elias O. Opongo, *op.cit*, p.39.

⁷² Elias O. Opongo, *op.cit*, p.47.

⁷³ Kerry Anne Searle, *op.cit*, p.13.

⁷⁴ Nakoulma Mariame V, *op.cit*, p.8

⁷⁵ Kerry Anne Searle, *op.cit*, p.12.

⁷⁶ Elias O. Opongo, *op.cit*, p.46.

⁷⁷ Integrating a gender perspective into transitional justice mechanisms is essential for their success, as it highlights women's visions and needs and enhances the effectiveness of peace processes. Studies emphasize the importance of feminist and intersectional theories in understanding the reasons behind women's absence from peace processes. Thru the actual participation of women, fundamental issues emerge during negotiations about the future of post-conflict societies, and their intellectual, social, and political roles in peacebuilding must be supported. The participation of women remained invisible throughout the twentieth century despite their pivotal role in conflict prevention and reconciliation. They were often marginalized under the pretext that peace is a male domain, while women are a fundamental force in building peace and reducing tensions due to their societal roles. See: Nakoulma Mariame V, *op.cit*, p.9.

⁷⁸ Nakoulma Mariame V, *op.cit*, p.8.

⁷⁹ The Truth and Reconciliation Commission in South Africa recommended the importance of considering the needs of women and marginalized groups, and enhancing their participation in various social, economic, legislative, and institutional fields. The Truth and Reconciliation Commission witnessed female leadership that contributed to steering policies toward achieving gender justice. However, women-led victim support organizations faced challenges in pressuring the government to implement the recommendations, highlighting

focused on the suffering of others rather than their own personal experiences. They were often not given the opportunity to highlight their roles in the liberation struggle. The efforts of feminist groups helped encourage women to share their experiences of violence; 85% of those who reported direct exposure to violence were victims of severe abuse. However, integrating gender issues has remained a challenge for the commission due to the multiplicity of issues and stakeholders, which requires contextual research and multidimensional analysis, in addition to the need to continue training commission staff on gender sensitivity and raising their awareness of the history and nature of violations against women⁸⁰. In fact, women's groups possess extensive expertise on gender issues, which qualifies them to highlight these aspects in transitional justice processes; therefore, it was essential for the Truth and Reconciliation Commissions to include a unit specializing in gender issues to ensure the integration of this dimension into daily work, as well as into negotiation and peacebuilding processes⁸¹. The gender approach has made clear that the relationship between transitional justice and women goes beyond merely highlighting women's roles to also encompass the challenges women faced during and after conflicts. Recent literature emphasizes the need to make transitional justice more inclusive of women by strengthening their participation in various stages of the transitional process and recognizing the value of their contributions⁸². Initially, the Truth and Reconciliation Commission in South Africa lacked a specialized gender unit, and women's issues were not integrated separately until later, in response to pressure from women's organizations and academic institutions. This led to the Commission placing greater emphasis on women's issues by organizing special hearings and establishing gender-sensitive testimony protocols, and the inclusion of a chapter dedicated to women in the final report. Psychological support was also provided to women at certain stages⁸³. In our view, women's participation in South Africa's Truth and Reconciliation Commissions represents a pioneering experience from which lessons can be learned—whether by avoiding its mistakes or by building on its best practices.

The Role of Women in Transitional Justice in Rwanda

A report by Rwanda's Commission for National Unity and Reconciliation highlighted the vital and unique role of Rwandan women in supporting national reconciliation and peacebuilding. Some studies have shown that women-led initiatives have contributed in an unprecedented way to rebuilding trust and fostering reconciliation among the parties to the conflict, as women led social and economic projects through nongovernmental organizations and cooperatives, which helped bring about tangible societal changes and shift societal perceptions of women's roles. The report highlighted the importance of empowering women to achieve a strong and sustainable impact in their communities, particularly in the areas of peace and reconciliation⁸⁴. It focused on their essential contributions and their role in addressing challenges; as a result, women⁸⁵ have taken on non-traditional roles such as decision-making, resource management, and infrastructure development. They have also emerged as a political force, with Rwanda now ranking first globally in the percentage of women represented in parliament (64%). This progress is attributed to the official narrative supporting women's empowerment, as the government has adopted policies and initiatives to promote gender equality, enshrined equality as a constitutional principle, and appointed women to leadership positions to ensure their active participation in political decision-making at all levels⁸⁶. This system has contributed to engaging the community—especially women—in achieving justice at the grassroots level. This approach underscores that incorporating a gender perspective into truth and

the need to empower women not only within the committees but also in monitoring and implementing policies effectively on the ground. See: Nakoulma Mariame V, *op.cit.*, p.10.

⁸⁰ Elias O. Opongo, *op.cit.*, p.44.

⁸¹ Nakoulma Mariame V, *op.cit.*, p.8.

⁸² Nakoulma Mariame V, *op.cit.*, p.2.

⁸³ Elias O. Opongo, *op.cit.*, p.47.

⁸⁴ Alexandra Zetes, (2016). Note, Beyond Passive Victimhood: The Narrative And Reality of Women in Transitional Justice, 48 N.Y.U. J. Int'l L. & Pol. 1293. P.1316. https://nyujilp.org/wp-content/uploads/2010/06/NYU_JILP_48_4_Zetes.pdf

⁸⁵ Women play an exceptional role in building transitional societies, not only for their personal benefit but for the benefit of society as a whole, as they possess visions and abilities that differ from men. These differences are reflected in the experiences of both women and men with conflict and its aftermath, due to the prevailing culture surrounding gender roles. Conflict often reinforces military and violent masculine models, while women's experiences and the roles assigned to them are influenced by social and cultural factors related to gender. See: Alexandra Zetes, *op.cit.*, p.1317.

⁸⁶ Alexandra Zetes, *op.cit.*, p.1315.

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reconciliation commissions helps address the legacy of violations in a more comprehensive manner and achieves justice and reconciliation for all segments of society, while providing tangible support for women's demands and recognizing their specific experiences within transitional justice processes⁸⁷. This means that women have a different perspective on transitional justice and peacebuilding, stemming from their unique experiences during conflicts, as women often offer distinct insights into the concept of peace and the means to achieve it, and they are able to leverage different societal expectations associated with gender to take on roles in peacebuilding that men find difficult to fulfill. Women have been able to transcend ethnic and religious societal divisions and act as neutral peacemakers, which has allowed formal and informal gaps to be bridged more easily⁸⁸. Nor should we overlook the role of women's organizations in peacebuilding efforts in societies experiencing conflict or in post-conflict phases. However, it is important to advance research to understand why women excel at bridging social divides and to identify ways to support them in these initiatives. Women are often viewed as symbols of peace, which gives them a unique capacity for peacebuilding, as was the case in Rwanda, where women—as nurturers of life—helped communities move beyond the destructive patterns of conflict. Reports by Rwanda's Commission for National Unity and Reconciliation noted that women's approach to reconciliation mirrors their role within the family, relying on care and containment, which makes this approach transferable to a broader process of communal healing. Thus, involving women in all stages of the peace process is essential for achieving genuine and sustainable reconciliation at the national level⁸⁹. Consequently, women played a pivotal role as a bridge between formal transitional justice mechanisms and local communities—a unique role that distinguishes their presence, as much of their contribution is concentrated in the informal sphere rather than the formal one⁹⁰. In our view, the experience of Rwandan women can be regarded as a successful model that emerged from mass killings and led society toward national reconciliation; this requires an examination of the formal and informal steps that contributed to the success of this experience.

Reasons for the Failure to Empower Women in the Former Yugoslavia

For decades, the countries of the former Yugoslavia suffered from gross human rights violations under communist rule, including mass killings, arbitrary detention, and restrictions on fundamental freedoms. Although more than thirty years have passed since the collapse of those regimes, societies there still face difficulties in uncovering painful truths and suffer from ongoing severe political polarization⁹¹. The wars in the former Yugoslavia in the 1990s resulted in deep political and social divisions whose effects persist to this day. Amid ongoing ethnic segregation and conflicting historical narratives—and despite the adoption of transitional justice mechanisms—political and social reconciliation continues to face significant challenges. The reconciliation process goes beyond the mere absence of violence to include the repair of relationships, acknowledgment of the past, and the restoration of victims' dignity. Furthermore, concepts of reconciliation vary locally, and its achievement remains contingent on improvements in social and economic conditions⁹².

We do not deny that the concept of transitional justice has evolved as a theoretical and practical framework for addressing the legacy of violations and achieving accountability, justice, and reconciliation, while emphasizing adherence to legal standards, taking into account the national context and gender differences, and focusing efforts on the victims. Nevertheless, the implementation of transitional justice remains a challenge, particularly in addressing the root causes of conflicts, as the concealment of facts and political polarization persist even after regime change, requiring the adoption of local and culturally sensitive

⁸⁷ Nakoulma Mariame V, *op.cit*, p.5.

⁸⁸ Women play a pivotal role in initiating reconciliation processes, as evidenced by the experiences of Bosnia and Herzegovina, where women's organizations were at the forefront of building bridges between ethnicities and caring for the most affected groups. In Northern Ireland, studies have shown that women quickly recognized the importance of working across communities and borders to understand the commonalities and remaining divisions. This is partly attributed to women's ability to focus on their shared experiences, which enhances community gender identity and reduces the impact of other identity factors. See: Alexandra Zetes, *op.cit*, p.1318.

⁸⁹ Alexandra Zetes, *op.cit*, p.1319.

⁹⁰ *Ibid*, p.1320.

⁹¹ Dedej, A., Stasa, I., & Medici, L. *op.cit*, p.84.

⁹² Haider, H. (2021). *Transitional Justice and Reconciliation in the Western Balkans: Approaches, Impacts and Challenges*, pp.8-9. <https://doi.org/10.19088/k4d.2021.033>.

approaches that go beyond traditional Western models⁹³.

In the former Yugoslavia, a patriarchal culture was extremely prominent, with collective identity based on ethnicity and religion becoming the primary determinant of political life, belonging, and the organization of society. Political regimes left little room for diversity, inclusivity, and equality in the sharing of power or the provision of services, contrary to what gender-transformative perspectives advocate. Furthermore, financial influence—often achieved through corrupt and illegal practices in an unregulated economy—reinforced the power of these systems in favor of those who benefited from them—most of whom were men. Numerous analyses indicate that the persistence of these systems poses a threat to security, and contributes to the likelihood of recurring conflicts, the effects of which are borne most heavily by women⁹⁴. In the aftermath of the conflicts in the former Yugoslavia, nationalist elites gained extensive influence that reinforced policies hostile to gender equality, amid international deals that focused on appeasing nationalists and neglected to support justice and the rights of victims, particularly victims of sexual violence⁹⁵.

The absence of a decisive international and European stance contributed to entrenching impunity and perpetuating institutional discrimination, while transitional justice remained limited to individual criminal accountability without addressing the structures responsible for the violations, thereby keeping power and influence in the hands of nationalist elites and squandering opportunities for comprehensive reform⁹⁶. Nevertheless, the former Yugoslavia witnessed initiatives such as RECOM and the “Women’s Tribunal” which sought to uncover the truth and amplify the voices of victims, focusing on the justice of recognition and providing women with the opportunity to recount their diverse experiences—going beyond sexual violence to include the lasting effects of war and resilience in the face of harm. These initiatives faced several challenges, including weak government support, societal divisions, the absence of comprehensive compensation programs, and a failure to include all categories of affected women, attempts to establish official truth commissions have also stalled due to political and societal opposition, while informal civil society initiatives have proven more effective at the local level, despite their limited impact at the national level⁹⁷. A report released by Impunity Watch notes that, although twenty years have passed since the end of the conflict, impunity for crimes committed during the war remains widespread and deeply entrenched throughout the region. This impunity benefits political regimes built on nationalist ideologies, which include former war criminals among their ranks and continue to hold political and economic power in the region’s countries to this day⁹⁸. The failure to address the gradual entrenchment of ethno-nationalist policies in the region is considered one of the greatest political mistakes, as nationalist ideologies were not challenged nor were the politicians promoting them marginalized. Although some war crimes and cases of rape were prosecuted for legal and moral reasons, this did not contribute to dismantling ethno-nationalist structures. Furthermore, new laws and institutions addressing gender issues—established in response to international requirements—faced significant implementation challenges due to an institutional culture that perpetuates gender bias and patriarchy, thereby diminishing their effectiveness. Western actors continued to support political reforms that incorporated nationalists, which may have contributed to ending the war but were not accompanied by strategies to limit the influence of nationalists for reasons related to Western national interests—such as economic interests and immigration issues—thereby strengthening the power of

⁹³ Dedej, A., Stasa, I., & Medici, L. *op.cit.*, p.85.

⁹⁴ Impunity Watch, (2019) *Balkan Chronicle: Gender Equality, Transitional Justice and the International Community*, The report examines the topic of gender justice in post-Yugoslav societies and emphasises the role of the international community, 6-12-2019, p.7. https://www.impunitywatch.org/wp-content/uploads/docs/PolicyBrief_Balkans_Chronicle_Gender_Equality_TJ_Intl_Community_eng.pdf

⁹⁵ Nationalist elites, backed by the international community, dominated reconstruction efforts in the Balkans, perpetuating discriminatory structures and undermining substantive reforms, particularly on gender issues. Participation was confined to military and political elites, while civil society and feminist voices were marginalized, squandering crucial opportunities for genuine change. The international community’s, and especially the European Union’s, leniency toward nationalist demands and its disregard for institutional discrimination and corruption have sustained the influence of nationalists and perpetuated impunity. Recent developments related to corruption underscore the importance of moving beyond mere expressions of concern to concrete steps to support the development of a more just and inclusive political system. See: Impunity Watch, *op.cit.*, pp.8-9.

⁹⁶ Impunity Watch, *op.cit.*, p.10.

⁹⁷ Haider, H, *op.cit.*, pp.14-15.

⁹⁸ Impunity Watch, *op.cit.*, p.7.

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nationalists in the region⁹⁹. Internal and external factors have hindered progress on gender issues in the former Yugoslav states, where these regimes dominated the political landscape amid the international community's—particularly the European Union's—neglect of their role. Despite political commitments, weak policy integration, transitional justice, and gender inequality have exacerbated existing problems.

The Impunity Watch report recommends adopting political approaches that take into account the local context and support the reform of internal structures, while emphasizing the importance of assuming primary responsibility in this area¹⁰⁰. Economic reforms in the post-conflict states of the former Yugoslavia focused on market liberalization and reducing the role of the state to attract investment and stimulate growth, without taking social and political aspects into account—particularly their impact on women and minorities¹⁰¹. Nationalist elites benefited from these policies, while women suffered from job losses and increased economic dependence. Gender policies were limited to symbolic legislation without addressing actual economic challenges, which deepened gender gaps and undermined opportunities for achieving genuine equality¹⁰². Political and economic factors in the former Yugoslav states limited the ability of transitional justice to bring about fundamental change on gender issues. International and domestic policies often focused solely on criminal justice, neglecting comprehensive approaches that include reparations, truth-telling, and institutional reform. This shortcoming has led to limited responses to women's demands without addressing the root causes of impunity or violence against women, and has allowed the structures responsible for the violations to remain in place. Furthermore, the absence of sustained political support and comprehensive measures has contributed to limited results, despite growing international awareness of the need for a more inclusive and comprehensive transitional justice process¹⁰³. Transitional justice must focus on addressing the violations suffered by the groups most affected by conflicts, foremost among them women, who are subjected to violations—particularly sexual violence. Women often face difficulties in accessing justice as a result of social stigma and their exclusion from decision-making processes; Therefore, transitional justice mechanisms must ensure that women are compensated and empowered to participate effectively, and must incorporate a gender perspective to ensure that those responsible for violations are held accountable and that such violations are prevented from recurring in the future¹⁰⁴. In our view, the countries of the former Yugoslavia served as a failed model for the implementation of transitional justice—not only because of the neglect of women's role, but also because of the broader context in which transitional justice mechanisms were implemented, which were tied to nationalist and ethnic factors. Transitional justice was supposed to address these issues based on the application of human rights, the promotion of democracy, and the rule of law, including granting women their right to participate in those mechanisms.

Results

Human rights instruments do not distinguish between men and women in the granting of rights and the assumption of responsibilities, which leads to equal opportunities for men and women to hold public office.

Transitional justice is the recognition of fundamental social and political change, which includes legal and constitutional reforms requiring participatory and flexible policies as a general approach to addressing gross human rights violations, including giving women an active role in the mechanisms of change.

The United Nations and women's organizations have played a major role in establishing women's participation in transitional justice commissions.

Perspectives on the role of women in transitional justice mechanisms vary from one country to another, depending on the social, cultural, intellectual, and religious conditions prevailing in a society

⁹⁹ Impunity Watch, op.cit, p.8

¹⁰⁰ Impunity Watch, op.cit, p.7.

¹⁰¹ The legitimization and strengthening of the economic influence of nationalist structures in the Balkans has been an obstacle to achieving sustainable peace, as the international community has contributed to consolidating the power of regimes that oppose equality and gender equality. Continued support for these regimes exacerbates the risk of new conflicts and reinforces instability, particularly in the absence of self-reflection and accountability by international actors, thus perpetuating a historical pattern of negative intervention without accountability. See: Impunity Watch, op.cit, p.9.

¹⁰² Impunity Watch, op.cit, pp.13-12.

¹⁰³ Impunity Watch, op.cit, pp.13-15.

¹⁰⁴ UN. Secretary-General, (2010) Guidance note of the Secretary-General, op.cit, p.5.

emerging from conflict or undergoing a democratic transition.

The role of women in transitional justice mechanisms has been particularly evident in African countries, especially in South Africa and Rwanda, and this role has yielded practical benefits for the countries that have actively engaged women in these processes.

Women were absent from transitional justice mechanisms in the former Yugoslav states. This absence can be attributed to the nature of the conflict, which was based on ethnicity and race and led to sharp political polarization, despite those countries' proximity to Western Europe. The focus was on ending the conflict and achieving reconciliation without bringing about structural change in the social fabric of those societies.

Since transitional justice is a tool for social change that moves society from a state of chaos to the rule of law, this implies that men and women are equal before the law; consequently, both men and women have the right to participate in the realization of transitional justice.

The transitional justice process typically begins after the end of conflicts and following the transition from an authoritarian to a democratic system; consequently, empowering women's role in society clashes with the patriarchal culture that prevailed in those societies during the conflicts—especially in certain countries that are inherently patriarchal due to the nature of their society and culture, which is based on customs and traditions predating the spread of concepts of human rights in the era of international organizations.

Women's right to participate in transitional justice mechanisms is fundamentally linked to the ideology of the conflict that led to the initiation of the transitional justice process. Therefore, this right is tied to both the national and international legal systems, as well as to the social, intellectual, religious, and economic structures of states emerging from conflict. Consequently, granting women the right to participate in transitional justice processes requires a shift in the concepts and ideas that prevailed during and before the conflict, because women's role in establishing peace represents a qualitative leap that requires a collective effort extending beyond individual cases.

Women possess energies and capabilities that cannot be ignored, whether in transitional justice processes or elsewhere. The squandering of women's energies and the failure to harness them in rebuilding societies emerging from conflict often leads to structural imbalances in the social order due to the loss of energies that should have been utilized in the development of those societies..

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