Gender Inclusivity in Transitional Justice Mechanisms in Myanmar

Submission of the Global Justice Center and the Leitner Center for International Law and Justice to the Special Rapporteur on the situation for human rights in Myanmar

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The Global Justice Center is a feminist international human rights organization with consultative status to the United Nations dedicated to advancing gender equality through the rule of law. We combine advocacy with legal analysis, working to ensure equal protection of the law for women and girls.

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The Leitner Center trains law students in international law and human rights; facilitates capacity building and advocacy with social justice organizations and activists around the world; and undertakes critical research. Views expressed herein are not the official position of Fordham Law School or Fordham University.

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Overview

1. The Global Justice Center and the Leitner Center welcome the opportunity to submit comments to the Special Rapporteur on the situation of human rights in Myanmar relating to the forthcoming conference room paper on pathways to accountability for grave human rights violations in Myanmar.[1] In particular, we are responding to paragraph 17 of the call for submission requesting information regarding: "[c]omparative lessons and examples, including approaches to accountability that have been effective in other countries and contexts and could be applied in Myanmar."

2. February 1, 2026, will mark five years since Myanmar's military overthrew a democratically elected government and ousted or imprisoned political rivals. Since that time, and in the decades preceding the coup, numerous grave human rights violations against the civilian population throughout the country have been committed. There are a range of international bodies addressing these crimes,[2] including gathering evidence and identifying witnesses,[3] monitoring the overall situation in relation to human rights abuses, and adjudicating potential genocide against the Rohingya.[4] While sexual and gender-based crimes are being documented as part of these efforts, just as similar crimes had been documented in earlier periods of Myanmar history, key considerations in relation to women and gender do not yet form a central component in conversations around transitional justice efforts.

3. Transitional justice is "an enabler for the prevention of conflict and serious violations, for sustaining peace, for accountability and the rule of law, for social cohesion, societal healing and reconciliation, and for sustainable development . . . ." [5] When developing transitional justice processes, the central inquiries are ones of design and implementation within the

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[1] *See Call for Submissions: Accountability for grave human rights violations in Myanmar,* UNHRC Calls for Input, https://www.ohchr.org/en/calls-for-input/2025/call-submissions-accountability-grave-human-rights-violations-myanmar (last visited Jan. 16, 2026) (This submission is based on our international law expertise as well as the decades of partnership of the Global Justice Center and the Leitner Center with social justice organizations fighting for gender equality and gender justice in Myanmar.).

[2] *See Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar: 11 States intervening)*, International Court of Justice, (2026), https://www.icj-cij.org/case/178 (The International Court of Justice is investigating alleged violations of the Genocide Convention in a case brought by The Gambia.). *See also Information for Victims: Bangladesh/Myanmar*, International Criminal Court, https://www.icc-cpi.int/victims/bangladesh-myanmar (last visited Jan. 16, 2026) (The ICC is investigating crimes in Myanmar where at least one element occurred on the territory of Bangladesh, a state party to the Rome Statute.).

[3] *See Independent Mechanism for Myanmar*, United Nations, https://iimm.un.org/ (last visited Jan. 16, 2026) (Established by the UN Human Rights Council in 2018, the Independent Investigative Mechanism for Myanmar investigates serious international crimes committed in Myanmar since 2011.).

[4] *See Julie Bishop: Special Envoy of the Secretary-General on Myanmar*, Secretary-General, United Nations, https://www.un.org/sg/en/appointments/sesg-myr/julie-bishop (last visited Jan. 16, 2026) (In addition to the Special Rapporteur on the situation of human rights in Myanmar, the UN Secretary General has appointed a Special Envoy on Myanmar, a position currently held by Julie Bishop.).

[5] *See Guidance Note of the Secretary General on Transitional Justice: A Strategic Tool for People*, Prevention and Peace, (Oct. 11, 2023), https://www.ohchr.org/sites/default/files/documents/issues/transitionaljustice/sg-guidance-note/2023_07_guidance_note_transitional_justice_en.pdf.

specific contextual dynamics on the ground and, more specifically, what tools from the transitional justice toolbox should be deployed and in what sequence. Selecting and sequencing those tools for Myanmar requires consideration of Myanmar's specific context and history, Myanmar's diverse ethnic populations, and, critically, how gender must be incorporated in all facets of transitional justice efforts. To do so, it is worthwhile to identify best practices and avoid pitfalls experienced by other countries emerging from conflict and periods of violence.

4. This submission summarizes our ongoing research into comparative transitional justice experiences that can be applied to Myanmar, with emphasis on gender equality and inclusivity. Specifically, we highlight four overlapping principles necessary for a successful, gender-sensitive transitional justice process: (A) early commitment to gender-competent architecture; (B) establishment of mechanisms and remedies that are broad and address structural inequality; (C) community-driven inclusivity and incorporation of diverse perspectives; and (D) long-term financial and other support from the international community.

A. <u>Early Commitment to Gender-Competent Architecture</u>

5. While there has been considerable progress in incorporating gender into international law and policy discussions on human rights, development, and accountability, including transitional justice mechanisms, the inclusion and participation of women on paper is often unrealized in practice. One way for transitional justice processes to avoid this pitfall, successfully address past crimes of sexual and gender-based violence, and make strides towards building a gender equal society based on human rights principles is to commit to gender-inclusivity from the start, by *inter alia*, incorporating women's voices and adopting a holistic conception of abuses and victims. Architects of transitional justice mechanisms must center gender at all stages, including as transitional justice plans are developed and put into effect. Specifically, a gender-competent transitional justice process will:

    a. Establish dedicated, inclusive gender-focused bodies and convenings early in the transitional justice process;
    b. Ensure that gendered aspects of human rights abuses and harms are understood broadly, to include not only physical violence but also mental health impacts, displacement, destruction of livelihoods, collapse of social structures, increased family burdens, forced labor, children born of rape, destruction of education and other opportunities, and other gendered impacts of conflict;
    c. Consider the gender dimensions of all crimes, incorporate a gender perspective in investigations, and confirm that suitable remedies are made available including by adopting a gendered understanding of the impact of missing persons and disappeared persons;
    d. Understand "victim" broadly, to include not just individuals but also families, kinship relationships, and communities;

e. Acknowledge that sexual, reproductive, and other gender-based violence in conflict can take many forms and be used systematically as a tactic of war; and

f. Engage in an iterative review to ensure that justice mechanisms remain gender-inclusive and gender-focused over time.

6. The following are some examples that illustrate these principles:

a. Colombia: Grassroot organizations played a key role in opening the peace process to Colombian women via the National Summit of Women for Peace, held in October of 2013.[6] One primary objective of the Summit was to create a space to discuss the voice and role of women as political actors in the framework of the peace dialogues and post-conflict. Scholars found that inclusion was made possible due to early public advocacy by women's groups and also external parties' efforts to push for inclusion. The government committed to an inclusive agenda, including the participation of rural, indigenous, and Afro-descendent populations, that stressed structural transformation.[7] That participation was especially guaranteed by the creation of the 'Gender Sub-Commission' in 2014, which ensured gender-sensitive transitional justice language and provisions and convened civil society dialogues.[8]

b. Guatemala: Although initially Guatemala's two truth commissions overlooked gendered crimes, over time, with the influence of various stakeholders, sexual violence became a central focus.[9] Recuperation of Historical Memory (REMHI) set up a dedicated investigative team focused on sexual violence, which conducted interviews, documented cases of sexual violence, and women's forms of resistance.[10] The Commission for Historical Clarification's (CEH) final report recognized gender-based violence as a weapon of war, rather than merely a natural consequence of a war.[11] The report detailed the "El Quiche" case which illustrated the grave consequences of sexual violence not only to women, but also to society and demonstrated that sexual violence was employed as a deliberate and systematic war tactic, rather than a series of isolated incidents.[12]

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[6] *See* Alexandra Phelan & Jacqui True, *Navigating Gender in Elite Bargains: Women's Movements and the Quest for Inclusive Peace in Colombia*, Review of International Studies, 171, (June 29, 2021), https://www.cambridge.org/core/journals/review-of-international-studies/article/navigating-gender-in-elite-bargains-womens-movements-and-the-quest-for-inclusive-peace-in-colombia/BFC95E83AD649D23CDBF81AC0CB8FEFB, at 174.

[7] *See id* at 178.

[8] *See* Conciliation Resources, *Innovations in the Gender Subcomission*, (June 2016) https://www.c-r.org/news-and-insight/innovations-colombian-peace-process-gender-subcomission.

[9] *See* Rebecca Patterson-Markowitz, Elizabeth Oglesby & Sallie Marston, *"Subjects of Change": Feminist Geopolitics and Gendered Truth-Telling in Guatemala*, Journal of International Women's Studies, Vol. 13: Iss. 4, Article 6, (Sep. 2012) https://vc.bridgew.edu/cgi/viewcontent.cgi?article=1024&context=jiws.

[10] *See id.*

[11] *See id.*

[12] *See id.*

c. Peru: The Gender Unit of Peru's Truth and Reconciliation Commission (TRC) was tasked specifically with documenting crimes of a sexual nature. Training documents were developed that addressed reaching out to sexual violence victims during investigations, communication strategies, conducting interviews in the country's rural areas, and guidelines for interviewers.[13] The Gender Unit incorporated a gender perspective in investigations and synthesis of information; developed a set of operational definitions, including human rights violations against women; and conducted special training for high-level TRC personnel.[14] The mechanism's methodology involved documentation of the causes and consequences of the conflict by analyzing existing work, collecting testimonies, reconstructing local contexts including consequences of the conflict, and conducting in-depth studies. However, the gender analysis ended up with a focus on only a few issues related to women, such as sexual violence, rather than the gendered aspects of human rights violations and consequences of the conflict. The final report released in 2003 included chapters on Gender and Sexual Violence against Women, concluding that the sexual violence was widespread.[15] The report emphasized that rape was not the only form of sexual violence as cases of sexual mutilation, sexual molestation, sexual humiliation, forced prostitution, forced pregnancy and forced nudity were also rampant.[16] Peru's targeted focus on gender, however narrow, has been praised by some advocates, but even so the lasting effect of that focus has recently come into question. On June 11, 2025, Peru's Congress passed an amnesty bill that would allow individuals responsible for grave human rights violations to go free. The bill, signed into law by President Dina Boluarte on August 13, prevents the criminal prosecution and conviction of former soldiers, police officers, and self-defense committee fighters accused of serious human rights violations including extrajudicial executions, enforced disappearances, torture, sexual violence, and massacres.[17] This new law highlights the importance of long-term transitional

[13] *See* Nahla Valji, *Gender and Transitional Justice Programming: A Review of Peru, Sierra Leone and Rwanda*, United Nations Development Fund for Women (UNIFEM), (Aug. 2010), https://www.unwomen.org/sites/default/files/Headquarters/Media/Publications/UNIFEM/0702_GenderAndTransitionalJusticeProgramming_en.pdf.

[14] *See id.*

[15] *See* Julissa Mantilla Falcón, *The Peruvian Case: Gender and Transitional Justice*, Georgetown Institute for Women, Peace and Security, (Oct. 17, 2017), https://giwps.georgetown.edu/resource/the-peruvian-case-gender-and-transitional-justice/.

[16] *See id.*

[17] *See* Dan Collyns, *Peru Enacts Amnesty for Military and Police Accused of Human Rights Abuses*, The Guardian, (Aug. 13, 2025), https://www.theguardian.com/world/2025/aug/13/peru-amnesty-military-police-human-rights-abuses.

justice commitments and the need for continual monitoring to guard against backsliding.[18]

d. Sierra Leone: The gendered harms of conflict extended well beyond sexual violence to include displacement, destruction of livelihoods, collapse of social structures, and the burden of caring for injured or orphaned family members. Structural inequalities that predated the conflict, such as women's limited property rights and exclusion from formal decision-making, compounded the long-term effects of wartime abuses.[19] Transitional justice processes attempted to address these harms through a combination of truth-seeking, limited prosecutions, and reparative mechanisms. The most significant gender-related work occurred within the country's TRC, which adopted an explicit gender lens from the outset and contextualized gender-based violence within broader systems of discrimination. Sierra Leone's TRC linked wartime abuses to pre-war inequality, including women's limited access to education and economic insecurity, and argued that these factors not only made women vulnerable during the war but also hindered their recovery afterward. Its final report dedicated a full chapter to analyzing women's experiences during the war and found that sexual violence had been "a hallmark of the conflict" and that rape, sexual slavery, and forced marriage were used systematically by armed groups.[20] While acknowledging the continuum of violence, Sierra Leone's TRC also advanced a holistic understanding of harm that extended beyond criminal law definitions and toward social, cultural, and economic dimensions.[21]

e. Sri Lanka: With the high rate of Tamil men deceased due to the conflict or in continued detention, women were required to provide for, protect, and rebuild the community, while also existing as survivors of conflict-related harms.[22] These women, including war widows, and the family of the disappeared, face multiple day-to-day obstacles. Observers, including the CEDAW Committee, have acknowledged the disproportionate effect that State failure to properly investigate the "disappeared" has had on women.[23]

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[18] *See Peru Abandons Democratic and Human Rights Principles Days Before the OAS General Assembly*, Washington Office on Latin America, (June 16, 2025), https://www.wola.org/2025/06/peru-abandons-democratic-and-human-rights-principles-days-before-the-oas-general-assembly/.

[19] *See Sierra Leone: Sexual Violence Widespread in War,* Human Rights Watch, (Jan. 16, 2003), https://www.hrw.org/legacy/press/2003/01/sl0116.htm.

[20] *See Witness to Truth: Volume 3B Chapter 3, Women and the Armed Conflict in Sierra Leone*, Sierra Leone Truth and Reconciliation Commission, https://www.sierraleonetrc.org/index.php/view-report-text-vol-3b/item/volume-three-b-chapter-three?category_id=9 (last visited Jan. 16, 2026).

[21] *Id*.

[22] *See Celebrating Women of Sri Lanka: Strength, Resilience, and the Fight for Justice*, Sri Lanka Campaign, (Mar. 6, 2025), https://srilankacampaign.org/celebrating-women-of-sri-lanka-strength-resilience-and-the-fight-for-justice/.

[23] *See* U.N. CEDAW, conc. obs. 9th per. rep. Sri Lanka, U.N Doc CEDAW/C/LKA/CO/9, (Feb. 28, 2025) at 4.

f. Timor-Leste: The Commission for Reception, Truth and Reconciliation (CAVR), established in 2001, integrated gender across its work by creating a dedicated gender unit, training and employing female statement-takers, holding women-only workshops and hearings, and prioritizing community methods to document the stories of women.[24] In addition to sexual violence, CAVR's final report documented forced displacement, the destruction of livelihoods, food insecurity, and forced labor, harms often overlooked when focusing on criminal acts alone. CAVR framed gendered violence as a spectrum that included both direct sexual violations and longer-term socioeconomic factors and harms that disproportionately affected women.[25]

g. Tunisia: The Organic Law on Establishing and Organizing Transitional Justice "established a Truth and Dignity Commission (TDC) tasked with addressing reparations, accountability, institutional reform, vetting, and national reconciliation."[26] The Law laid out expansive definitions of who would be recognized as a victim and what harms would be considered human rights violations by the TDC within the time period covered.[27] More specifically, it stated that individuals *and* marginalized regions would fall within the category of "victim" and that political and economic crimes would be addressed as violations.[28]

B. Broad and Time-Bound Remedies that Address Structural Inequality

7. Significant underlying gender inequalities are usually prevalent in societies emerging from periods of conflict and severe human rights violations. Inequalities, such as high illiteracy rates, high maternal mortality, and lack of social and financial independence, heighten women's and girls' vulnerability during crises and hinder their ability to recover post-conflict. Thus, it is important for transitional justice frameworks not only to address the acute trauma women faced during conflict, including sexual and gender-based violence, but also to address the structural inequalities that made them more vulnerable to violence and other gendered harms in the first place. It is therefore necessary to ensure that remedies are holistic, broad, and time-bound to ensure institutional and societal reforms and that

[24] *See Chega!: The Final Report of the Timor-Leste Commission for Reception, Truth, and Reconciliation*, Timor-Leste Commission for Reception, Truth, and Reconciliation, (2005), https://chegareport.org/Chega%20All%20Volumes.pdf.
[25] *See Id*; *see also Timor-Leste: Submission to the United Nations Committee on the Elimination of Discrimination Against Women,* Amnesty International (March, 2015), https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA5700012015ENGLISH.pdf.
[26] *See* Catherine O'Rourke, "Chapter 6: Transitional Justice and Gender," in *The Research Handbook on Transitional Justice: Chapter 6 Transitional Justice and Gender*, ed. Cheryl Lawther and Luke Moffett (Cheltenham: Edward Elgar Publishing, 2023), at 83.
[27] *See* Mariam Salehi, *Transitional Justice in Process: Plans and Politics in Tunisia*, (Manchester: Manchester University Press, 2022), at 98.
[28] *See id*.

relief and reparations are easily available. Specifically, a transitional justice process that adequately confronts structural inequality will:

a. Ensure holistic gender-sensitive remedies and justice that includes criminal justice prosecutions but also seeks to identify and remedy larger patterns of conduct and internal policies that promoted or facilitated human rights violations;
b. Provide reparations beyond monetary compensation to address structural patriarchal inequalities, such as unequal property and inheritance rights, as well as ethnic inequalities to ensure women can succeed post-conflict;
c. Ensure that gender-sensitive reparations are time-bound commitments with limited bureaucratic hurdles to ensure timely results and avoid alienating victims and communities;
d. Encompass community-level, collective, and restorative reparations that seek to make communities whole;
e. Address societal stigma so survivors come forward and can be reintegrated into society, including by adopting policies to reduce shame, offering psychosocial support, and supporting women-led initiatives to counter stigma; and
f. Include specific legal and administrative gender-focused initiatives, avoid regulations that will hinder participation of civil society organizations, and ensure that mechanisms have adequate mandate, power, and funding so that they do not become performative, empty bureaucratic bodies.

8. The following are some examples that illustrate these principles:

a. Colombia: Colombia's women human rights defenders (WHRD) related the gendered harms suffered in the conflict to pre-existing societal gender stereotypes, discrimination, and structural inequalities. They made clear connections between gendered harms perpetrated by armed actors and the discriminatory reactions to those harms from families, local communities, state, and even transitional justice institutions. In addition to making visible the gendered conflict-related harms, they emphasized the need to transform the patriarchal structures that revictimized them. Transitional justice bodies took on the broader task of assessing the overall causes of the conflict.[29] The Special Jurisdiction for Peace (*Jurisdicción Especial para la Paz*, JEP) tribunal aimed to establish individual criminal responsibility, but also shed light on the patterns of behavior and internal policies that promoted or facilitated human rights violations.[30] As such, the tribunal opened seven "macro cases" which, instead of focusing on one individual perpetrator, dealt with patterns of conduct.[31] Even with such a broad focus, the JEP aimed to center the rights of victims. Some

[29] *See* Alexandra Phelan & Jacqui True, *supra* note 6, at 188.
[30] *See id.*
[31] *See id.*

victims and advocates, however, have noted that the special sanctions imposed on perpetrators are inadequate.[32] The tribunal primarily implemented restorative sanctions as opposed to retributive sentences.[33] These sanctions combined a restriction of rights and liberty and concrete restorative work performed by the perpetrator, which was aimed at rebuilding the rights of the victims and impacted communities.[34] Perpetrators were required to provide the full and detailed truth about the violence they committed and acknowledge their individual responsibility for those crimes.[35] Colombia's reparations, through the Havana peace process and the Final Agreement, are an example of extensive and holistic gender-based collective reparations, especially for conflict-affected and indigenous communities.[36] This approach emphasized integrating victims' participation, gender justice, land rights, restitution of property, and the non-repetition guarantee, which were accomplished through reparations beyond monetary compensation such as land restitution and ensuring gender-sensitive mechanisms.[37] The significant time-lag from agreement to delivery, bureaucratic complexity, and budget shortfalls, however, also exemplify the challenges of implementing strong formal frameworks. Often, these challenges have resulted in unequal distribution of reparations, particularly for women and those in rural areas.[38] Thus, it is important to include realistic and time-bound implementation planning, monitoring, and victims' access when creating a transitional justice framework.

b. Guatemala: As stigmatization remained a primary barrier for collecting testimonies and uncovering the truth about sexual violence during the war, alternative forms of testimonial practices emerged.[39] With formal processes more difficult to access, in 2010, women's organizations established a Court of Conscience (*Tribunal de Consciencia*), a symbolic unofficial tribunal that provided

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[32] *See, e.g.*, Human Rights Watch, Colombia: Amicus Curiae Regarding the Special Jurisdiction for Peace (July 18, 2025), https://www.hrw.org/news/2025/07/18/colombia-amicus-curiae-regarding-the-special-jurisdiction-for-peace.

[33] *See* Alexandra Phelan & Jacqui True, *supra* note 6, at 188.

[34] International Commission of Jurists, *Colombia: The Special Jurisdiction for Peace, Analysis One Year and a Half After its Entry into Operation* (2019), https://www.icj.org/wp-content/uploads/2020/05/Colombia-Jurisd-para-la-paz-PUBLICATIONS-Reports-Fact-finding-mission-report-2019-ENG.pdf.

[35] *See id.*

[36] *See Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace*, PeaceRep, University of Edinburgh, (Nov. 24, 2016), https://www.peaceagreements.org/agreements/wgg/1845; *Women's Participation in Peace Processes: Colombia Case Study*, Council on Foreign Relations, https://www.cfr.org/womens-participation-in-peace-processes/colombia (last visited Jan. 28, 2026).

[37] *See Eight Years of Building Peace in Colombia*, Political and Peacebuilding Affairs, United Nations, (Nov. 19, 2024), https://dppa.un.org/en/eight-years-of-building-peace-colombia.

[38] *See* U.N. HRC, rep. Work. grp. Uni. per. Rev. Colombia, U.N. Doc A/HRC/39/6 (Jul. 9, 2018).

[39] *See* Rebecca Patterson-Markowitz, Elizabeth Oglesby & Sallie Marston, "Subjects of Change": Feminist Geopolitics and Gendered Truth-Telling in Guatemala, Journal of International Women's Studies, Vol. 13: Iss. 4, Article 6, (Sep. 2012).

safe space for sexual violence survivors to publicly share their experiences.[40] The process played a crucial role in challenging the tradition of silence and impunity in relation to sexual violence and became a stepping stone in encouraging legal proceedings against perpetrators.[41] Group testimonies in these informal spaces also provided safer and more comprehensive environments for sexual violence survivors, thereby encouraging many victims to come forward.[42] These informal processes gathered evidence around cases, including in Sepur Zarco, which later resulted in a formal case and conviction of former military officers, and a lengthy list of reparations orders. Those orders included transformative gendered community-based measures that link sexual violence against indigenous women, land rights, community infrastructure, education, health, and symbolic measures. This link demonstrates that a restorative and holistic process must include provisions recognizing and addressing gendered harms against the backdrop of women's rights, indigenous rights, community development, and structural inequalities.[43]

c. Nepal: While they continue to undergo reform, Nepal's transitional justice mechanisms have struggled to adequately address the post-conflict needs of the country, gain public trust, and deal with significant gender disparities during conflict and in everyday life. In the Comprehensive Peace Agreement (CPA) of 2006 that marked the formal end of the conflict that had engulfed Nepal since 1996 both sides to the agreement committed to establishing a High Level Truth and Reconciliation Commission (TRC) and to investigate the forced disappearance of persons during the conflict.[44] Since that commitment, there have been three rounds of investigation by Nepal's TRC, established almost a decade later in 2015 alongside a Commission of Investigation on Enforced Disappeared Persons. The first was mandated for two years and extended for an additional year three times, and the second was mandated from 2020 through 2022. A new round of investigations was launched in 2024. In addition to the long delay in its

[40] *See Tribunal de Conciencia contra la Violencia Sexual hacia las Mujeres*, Comisión Internacional contra la Impunidad en Guatemala, (Mar. 5, 2010), https://www.cicig.org/history/index.php?page=tribunal-de-conciencia-contra-la-violencia-sexual-hacia-las-mujeres .

[41] *See id.*

[42] *See* Rebecca Patterson-Markowitz, Elizabeth Oglesby & Sallie Marston, *"Subjects of Change": Feminist Geopolitics and Gendered Truth-Telling in Guatemala*, Journal of International Women's Studies, Vol. 13: Iss. 4, Article 6, (Sept. 2012), at 91–93.

[43] *See Landmark Ruling in Guatemala a victory against sexual violence in armed conflict,* UN Women: UN ENtity for Gender Equality and the Empowerment of Women, (Mar. 3, 2016), https://www.ecoi.net/de/dokument/1305086.html; *see also Guatemala Sets a Historical Precedent with National Conviction for Sexual Slavery as a Crime Against Humanity,* International Federation for Human Rights, (Mar. 8, 2016) https://www.fidh.org/en/region/americas/guatemala/guatemala-sets-a-historic-precedent-with-national-conviction-for.

[44] *See* Comprehensive Peace Accord, Nepal Gov-Comm Nepal, art 5. Sec. 2, (Nov. 22, 2006) https://peaceaccords.nd.edu/wp-content/accords/2006-11-29-peace_accord-MOFA.pdf.

establishment, the transitional justice process has been criticized for its "near blanket amnesty, non-compliance with international law, and its lack of consultative processes with victims."[45] Moreover, Nepal's TRC's lack of investigative efforts exemplifies Nepal's overall "delay and dilute" approach to distract its people and stall the transitional justice process.[46] No case investigations have been completed, no perpetrators have been held accountable, and no victim reparations have been distributed. This suggests that while Nepal's TRC was used to demonstrate to the international community that Nepal is committed to transitional justice, actual progress in addressing the human rights violations has been extremely limited and very difficult for victims to access.[47] The slow progress in effectively implementing the CPA agenda has undermined the people's confidence in the government's ability to provide them with justice.[48] Nepali women's experiences of conflict were compounded by discriminatory socio-economic structures, rigid gender roles, and unequal power relations among castes.[49] Transitional justice mechanisms did not address the unique harms to women - who were both the victims and perpetrators of violence - including as victims of sexual violence at the hands of the army and Maoist forces, women forced into prostitution and other dangerous labor, or single mothers who were unable to pass on citizenship to their children without proof of the father's identity.[50] Nor did mechanisms account for the experiences of displaced women or women forced to become breadwinners for their family.[51] As such, Nepal is an example of how failure to provide holistic, timely, and accessible gender-sensitive remedies can limit the success of transitional justice processes.

d. Peru: Peru's transitional justice process prioritized collective reparations—where the state was asked to provide for, and make whole, entire communities.[52] When ethnic groups are targeted, support needs to address infrastructure, land, and the right of a people to practice their religion and culture. Peru's model of granting monetary reparations to communities and allowing them to allocate resources is a way for the state to support injured groups while allowing them to practice agency. In Peru, loss of documentation and logistical and bureaucratic barriers to register as victims or to receive reparations created a divide between

[45] *See* Punam Yadav, *Speaking from the Ground: Transitional Gender Justice in Nepal, Gender, Development and Social Change*, in: Rethinking Transitional Gender Justice, (Rita Shackel & Lucy Fiske (ed.), 2019), at 232.
[46] *See id.*
[47] *See id.*
[48] *See id.*
[49] *See* Nepal, NGO, Working Group on Women, Peace, and Security, https://www.womenpeacesecurity.org/region/asia/southern-asia/nepal/ (last visited Apr. 28, 2025).
[50] *See id.*
[51] *See id.*
[52] *See* Fiorella P. Vera-Adrianzen, *Reclaiming Justice from Below: Victim Participation and Reparations in Post-Conflict Peru*, University of New Mexico Digital Repository, (Nov. 15, 2022), https://digitalrepository.unm.edu/pols_etds/96/.

the most vulnerable populations and justice mechanisms, illustrating the need for processes that anticipate this issue and incorporate legally invisible communities.[53] In concluding its report on sexual violence in conflict, Peru's TRC determined that victims of rape would receive economic and symbolic reparations as well as health, housing, and education.[54] Likewise, children born due to rape would be considered indirect victims and would also have access to education, health, housing, and symbolic reparations.[55] Finally, some injuries cannot be repaired, like Peru's sterilization of indigenous communities. For those survivors, mental health and psychosocial support needs to be provided, as well as cultural countering to stigmas that may affect the women subject to this permanent brand of violence.

e. Sierra Leone: Sierra Leone's TRC issued comprehensive recommendations, calling for legal reforms to strengthen protections against sexual violence, end forced and early marriage, and change discriminatory customary laws governing marriage, inheritance, and land rights. It also recommended expanding educational opportunities for girls, improving access to health care and psychosocial support, and ensuring that reparations programs specifically addressed the needs of female survivors. Girls who had been abducted or forced into "bush marriages" frequently returned home with children born of rape, only to encounter stigma and rejection in their communities. Sierra Leone's TRC emphasized that reparations should include community-level reconciliation initiatives designed to reduce stigma and facilitate the reintegration of women and girls associated with armed groups.[56]

f. Sri Lanka: A key criticism of Sri Lanka's transitional justice efforts is the alarmingly slow progress in addressing past abuses.[57] The lack of tangible results for victims, coupled with delays in implementing promised measures, has led to a loss of public trust in the government's commitment to deliver on its promises.[58] In fact, the Sri Lankan government's truth commissions have been deemed insufficient and ineffective at best, and actively corrupt at worst.[59] Nothing has been done

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[53] *See id.*

[54] *See* Julissa Mantilla Falcón, *The Peruvian Case: Gender and Transitional Justice*, Georgetown Institute for Women, Peace and Security, (Oct. 17, 2017), https://giwps.georgetown.edu/resource/the-peruvian-case-gender-and-transitional-justice/.

[55] *See id.*

[56] *See Reparations, Development, and Gender*, U.N. Women, (Oct. 2012), https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2012/10/WPSsourcebook-06A-ReparationsDevelopmentGender-en.pdf.

[57] *See Sri Lanka*, International Center for Transitional Justice, https://www.ictj.org/location/sri-lanka (last visited Jan. 16, 2026).

[58] *See id*.

[59] *See* Siampakou, Transitional Justice and Terrorism: The Case of Sri Lanka, International Centre for Counter-Terrorism, (2024), at 6, https://docs.google.com/document/d/1E1ySQJqbsL14BAWYgvQCqnfJBEueTxe0/edit.

with the findings of the truth commission established in 2010.[60] The Office of Missing Persons, established in 2016, did not actually operate and no persons have been found.[61] The Office of Reparations, established in 2018, has only started slowly distributing reparations in 2024 and 2025.[62] A December 2024 directive from the National Secretariat for Non-Governmental Organizations demanding registration of all NGOs, as well as the mandatory registration with the Ministry of Defence limits civil society. A proposed amendment to the Voluntary Social Services Organization Act which addresses registration and supervision of NGOs would compromise autonomy.[63] Because these regulations are anticipated to largely affect smaller and community-based organizations, they will disproportionately limit the voices of women's rights activists.[64]

C. Community-Driven Inclusivity and Incorporation of Diverse Perspectives

9. Successful transitional justice processes will support community-level engagement and adopt an intersectional approach to include a broad and diverse array of stakeholders in developing and realizing the transitional justice architecture. This includes devoting the necessary time and resources to engage and build trust with community members and stakeholders, especially WHRD, to ensure that there is a free exchange of ideas between those developing transitional justice processes and those most impacted. Particularly where State efforts at addressing past wrongs are limited, nonexistent, or lack transparency, community-driven efforts can close the accountability gap. Groups consulted should be drawn from diverse racial, ethnic, religious, geographic, and socio-economic backgrounds, and an adequate gender perspective should include individuals with different sexual orientations and gender identities. Stakeholders should be interpreted broadly to include those who have fled the conflict to ensure that a wide spectrum of experiences is captured in transitional justice mechanisms, and as such cross-border cooperation may be necessary. Specifically, an inclusive transitional justice that ensures an intersectional approach will:

    a. Prioritize and devote resources to ensuring transparency, trust-building with communities and local stakeholders including WHRD, and community-based strategies so that local contexts and dynamics are understood;
    b. Ensure safe, confidential, and culturally appropriate mechanisms for conflict-affected persons, especially women and girls, to share their experiences, with due consideration to cultural and religious differences between communities and the potential need for approaches that differ in order to reach all affected peoples;

[60] *See id.*
[61] *See* U.N. HRC, per. rev. Sri Lanka, U.N. Doc A/HRC/60/21 (Aug. 8, 2025), at 8.
[62] *See id.* at 9.
[63] *See* U.N. CEDAW, conc. obs. 9th per. rep. Sri Lanka, U.N Doc CEDAW/C/LKA/CO/9, (Feb. 28, 2025) at 19.
[64] *See id.*

c. Support community-led truth-telling exercises, including through innovative methods, such as art, music, storytelling, and other mechanisms that lack formality but encourage broad participation;
d. Provide opportunities for WHRD to present a unified front, mobilize politically, and agree on a common platform;
e. Ensure meaningful representation of community members, especially women, in negotiating teams, promote youth participation, and ensure that women representatives are drawn from diverse cultural and other representations; and
f. Engage diaspora communities in transitional justice efforts to comprehensively capture the conflict experiences of women and girls.

10. The following are some examples that illustrate these principles:

a. Colombia: Colombia's 2016 peace agreement has been internationally applauded for its gender-based approach and the inclusion of gender provisions that directly benefited women. The process involved the presence of diverse groups of women who politically mobilized across ethnic, indigenous, and socioeconomic groups with a platform of common gender-related issues relating to their experiences. Women civil society groups were able to compel both conflict parties to enhance women's representation in their negotiating teams and incorporate a gender-based approach.

b. Guatemala: Guatemala was the first country to officially include women's civil society organizations in the peace process negotiations.[65] Those organizations played a crucial role in documentation and investigation of the conflict and collecting victims' testimonies.[66] Between 2004 and 2008, Consorcio Actores de Cambio (Actors for Change Consortium), a collaborative network of several organizations, conducted numerous interviews with women from indigenous regions of Guatemala, and in 2009 a groundbreaking report on sexual violence during the war from a feminist and indigenous perspective was issued.[67]

c. Liberia: Liberia's Truth and Reconciliation Commission (TRC) is also a strong example of innovative engagement with civil society. While the TRC itself collected testimony within Liberia, it partnered with Liberian advocacy groups and a U.S.-based non-governmental organization, The Advocates for Human Rights, to establish The Liberia TRC Diaspora Project Advisory Committee (the Project).[68] The Project worked between 2006 and 2009 and was the first truth commission effort that engaged victims of the armed conflict living outside of their home country. The Project engaged Liberian communities across

[65] See Women in Peace and Transition Processes, Inclusive Peace & Transition Initiative (May 2017) at 4.
[66] *See id.*
[67] *See* Chelsea L. Carrick, *Nuances in Bottom-Up Interpretations: Colombia's and Nuances in Bottom-Up Interpretations: Colombia's and Guatemala's Radically Different Approaches to Transitional Guatemala's Radically Different Approaches to Transitional Justice*, CUNY Academic Works (Sept 2021). 47.
[68] The Advocates for Human Rights, Liberia TRC Diaspora Project, https://www.theadvocatesforhumanrights.org/Liberia_TRC_Diaspora_Project (last visited Jan. 28, 2026).

the United States, United Kingdom, and Ghana and over 1,600 members of the Liberian diaspora testified at public hearings.[69] Notably, a panel from the Liberian Women's Initiatives spoke about the experiences of Liberian women living abroad and the severe impact of the civil war on women and girls. The Project issued a final report, which was appended to the final formal TRC report.[70]

d. Northern Ireland: Without a trusted state-sanctioned space for remembering and truth-telling, NGO and community-level actors have attempted to fill the gap in Northern Ireland. One early example was the Ardoyne Commemoration Project, "a grassroots 'single identity truth recovery' project"[71] to document the experiences of the district during 'The Troubles.' Community members were involved at all stages of the project: It was an initiative by the community, of the community, and for the community.[72] While truth-telling may have been occurring on a smaller-scale, it nevertheless crucially made a significant contribution as it was able to focus on "the nitty-gritty of intra-community conflict, understand local dynamics, create dialogue, and be context-specific."[73] In 1996, the Northern Ireland Women's Coalition (NIWC)[74] formed to represent women's voices in peace talks, demand visibility for gendered harms, and call for a more expansive view of "victims" in track 1 negotiations.[75] NIWC was supported by women from all community backgrounds and succeeded in building strong coalitions. Efforts to deal with the past in Northern Ireland remain fraught and continue to represent a significant divide between Northern Ireland-based victims' groups, politicians, and devolved government entities and the London-based government. The controversial 2024 Legacy Act established an Independent Commission for Reconciliation and Information Recovery to take over all "Troubles-era" cases beginning in 2025, shutting down all historical inquests, preventing new cases being lodged outside the mechanism, and (an element now overturned by victims' legal efforts) offering conditional immunity to suspects. These decades-long tensions expose how critical community-based support is for transitional justice efforts to succeed.

e. Pakistan: While incorporating religious organizations and traditions in transitional justice processes can be challenging in sectarian communities, religion should not be ignored where institutions and leaders can help to build trust. In Pakistan, the PAIMAN Alumni Trust (PAIMAN), a national organization working with women at the grassroots level, aims to address radicalization and extremist violence, and also to build peace by drawing

[69] The Advocates for Human Rights, *A House with Two Rooms: Final Report of the Truth & Reconciliation Commission of Liberia Diaspora* Project (2009).
[70] *Id*.
[71] Lundy and McGovern, *Whose Justice? Rethinking Transitional Justice from the Bottom Up*, at 284.
[72] *See Id.* at 285–286; 290.
[73] *Id*. at 291–292.
[74] *See* Kate Fearon, *Women's Work: The Story of the Northern Ireland Women's Coalition* (Blackkstaff Press 1999), https://cain.ulster.ac.uk/issues/women/fearon99.htm.
[75] *See Inclusive Peace & Transition Initiative, Case Study Series: Northern Ireland (1996-1998)*, (Dec. 2018), https://www.inclusivepeace.org/wp-content/uploads/2021/05/case-study-women-northern-ireland-1996-1998-en.pdf

on Islamic traditions and values. In the case of PAIMAN, women have expressed that engaging their Muslim identity provides them with credibility and legitimacy to resolve conflicts and build peace.[76]

f. Sierra Leone: Sierra Leone's TRC's approach was shaped by consultations with women's organizations that urged the Commission to ensure safe, confidential, and culturally appropriate mechanisms for women to share their experiences.[77] To build trust, the Commission employed female statement takers, held women-only hearings, and conducted outreach to rural communities where survivors were least likely to approach formal institutions.

g. South Africa: South Africa's TRC is an early example of a transitional justice mechanism that carved out space specifically for women to give testimony about their experiences of violence. While there are many elements of the TRC framework that failed to adequately incorporate a gender lens when investigating apartheid, the TRC held hearings that specifically called for women to give testimony "as actors, as active participants and direct survivors of the violation of human rights. Not as relatives, not as spouses, not as wives, but as themselves, those that directly suffered."[78] The process embraced a broad and open-ended series of testimony that invited specific experiences as well as oral histories of life under apartheid,[79] demonstrating the power of oral traditions that are familiar to some communities and traditions. Unfortunately, the TRC held women's hearings only in cities, which constrained rural women's ability to participate.[80] This limitation highlights the importance of drawing community members from across geographic locations in recognition of their diverse experiences with conflict.

h. Sri Lanka: The government failed to build trust with the community, making proposals for truth and reconciliation mechanisms seem futile.[81] Much of this mistrust stems from the 1970s Prevention of Terrorism Act, which remains in effect, essentially retaining an ongoing state of emergency.[82] The government has also lost trust by attempting to appropriate "unclaimed" land should no one come forward to legally claim it, ignoring the volume of lost documents among ethnic minorities who owned most of the land

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[76] *See* S. Ayse Kadayifci-Orellana, *Islamic Perspective: Religion in Women's Peacebuilding Initiatives in Pakistan*, in *On the Significance of Religion in Conflict and Conflict Resolution* (Christine Schliesser, S. Ayse Kadayifci-Orellana & Pauline Kollontai eds., Routledge 2021).

[77] *See* Truth and Reconciliation Commission Act (2000), §6 (Sierra Leone).

[78] Thenjiwe Mtintso, the then-chairperson of the Commission on Gender Equality who opened the women's hearings in 1997. Analisa Oboe, The TRC Women's Hearings as Performance and Protest in the New South Africa, 38 *Res. Afr. Literatures* 60, 62–65 (2007).

[79] *Id*.

[80] *See* Accord, *Truth Commissions and Gender: A South Africa Case Study* (Oct. 30, 2009) https://www.accord.org.za/ajcr-issues/truth-commissions-and-gender/

[81] *See* Human Rights Comm'n, Periodic Review, U.N. Doc. A/HRC/60/21 (Aug. 8, 2025) at 8.

[82] *See* Siampakou, *Transitional Justice and Terrorism: The Case of Sri Lanka, International Centre for Counter-Terrorism*, 2024, at 2–3.

before the conflict.[83] The government's failure to provide reparations combined with attempts to deprive victims of the conflict of their remaining resources has led to mistrust between the government and communities, inhibiting a successful move forward from conflict-era abuses.

D. Long-Term Financial and Other Support from the International Community

11. Working towards its goals of peace and global stability, the international community must recognize not only the significance but also the implications of committing to transitional justice mechanisms and ensuring that they are gender-responsive. This commitment will require financial and other resources, expertise and technical support, and leadership promoting an unwavering commitment to gender justice as a foundational component in any mechanism. Whereas leadership from local communities is critical, only international support can ensure that mechanisms are adequately funded to support infrastructure, efforts to collect evidence, diverse approaches to gathering testimony, and, critically, reparations and other remedies that adequately address individual and community needs. Specifically, the international community, including States, private and public donors, international organizations, and global civil society, can ensure successful transitional justice efforts by:

    a. Making public commitments, through resolutions, press statements, and other means, supporting transitional justice as a critical component of moving past conflict in every context and establishing foundational justice principles for transitional justice mechanisms;
    b. Working with local leaders and groups, especially WHRD, to establish a fund that provides adequate financial resources for mechanisms adapted to each transitional justice context;
    c. Making available leaders, academics, and other experts that can exchange and share expertise on establishing transitional justice mechanisms from a gender perspective; and
    d. Providing specific funding to allow for cross-context experience sharing between community leaders from different transitional justice contexts.

12. The following are some examples that illustrate these principles:

    a. Peru: When Peru's TRC initiated its investigation in 2001, a gender analysis was not included.[84] However, international pressure, funding sources that required a gender

[83] *See* Human Rights Comm'n, Periodic Review, U.N. Doc. A/HRC/60/21 (Aug. 8, 2025) at 7–8.
[84] *See* Pascha Bueno-Hansen, *Gender Implementation in the Peruvian Truth and Reconciliation Commission*, *in* Feminist and Human Rights Struggles in Peru: Decolonizing Transitional Justice (Jul. 2015).

component, and women's and feminist movements' advocacy compelled the commissioners to integrate the issue of gender into their investigation.[85]

b. Sierra Leone: Sierra Leone's transitional justice process set a global precedent for centering women's experiences, acknowledging alternative forms of harm, and integrating gender analysis into the work of a TRC. However, it also revealed how deeply preexisting structural inequality shapes the trajectory of recovery. While progress has been made, many of the gendered harms of the conflict continue, underscoring the need for long-term, community-based strategies that extend beyond the formal transitional justice system.

c. Sri Lanka: The Women Empowerment Act of 2024 established a National Commission on Women to review policy, appointed an Ombudsperson for Women's Rights to monitor the protection and enforcement of women's rights, and created a fund for the sake of gender equality initiatives (National Fund for Women).[86] Yet, without actively directing resources to the fund and to the Ministry of Women and Child Affairs, these government initiatives have been performative rather than meaningful.[87] The lack of funding is compounded by the insufficient collection of data regarding women's rights abuses. Even with a funded department, the lack of data prevents the Ministry from knowing what to target in order to improve the rights of women.[88] In 2015, the UN Human Rights Council outlined methods for Sri Lanka to commit to transitional justice, including truth-seeking, unification and reparations; emphasized the heightened risk for marginalized communities, including women; and asserted that particular care should be taken to ensure human rights mechanisms protect marginalized groups from corruption.[89] This commitment was renewed in 2022, demonstrating the importance of continued focus and pressure from the international community.[90]

Conclusion

13. The scope and contours of transitional justice mechanisms for countries emerging from conflict can have a lasting impact on society, foster reconciliation, promote human rights, and strengthen the rule of law. The shape and methodology of such frameworks also have

[85] *See* Pascha Bueno-Hansen, *Parallel Tracks and Fraught Encounters: The Human Rights and Feminist Movements (and Campesina Protagonism) in Peru*, *in* Feminist and Human Rights Struggles in Peru: Decolonizing Transitional Justice (Jul. 2015).
[86] *See* Comm. on the Elimination of Discrimination Against Women, Concluding observations on the ninth periodic report of Sri Lanka, U.N. Doc. CEDAW/C/LKA/CO/9 (Feb. 28, 2025), at 6.
[87] *See id. See also,* Ceylon Today, *Following resignation of inaugural chairperson, Harsha slams lack of funding for NWC* (Jan. 30, 2026) https://ceylontoday.lk/2026/01/30/following-resignation-of-inaugural-chairperson-harsha-slams-lack-of-funding-for-nwc/.
[88] *See* Comm. on the Elimination of Discrimination Against Women, Concluding observations on the ninth periodic report of Sri Lanka, U.N. Doc. CEDAW/C/LKA/CO/9 (Feb. 28, 2025), at 6.
[89] *See generally* Human Rights Council Res. 30/1, U.N. Doc. A/HRC/RES/30/1 (Oct. 14, 2015).
[90] *See generally* Human Rights Council Res. 51/1, U.N. Doc. A/HRC/RES/51/1 (Oct. 12, 2022).

gendered impacts, so it is critical to incorporate gender considerations from the start and at all stages of development. Learning from other country contexts is crucial to avoid pitfalls and ensure success of transitional justice efforts.

14. Research has shown that advance planning can ensure a more effective and just transitional justice process for societies recovering from conflict. And incorporating gender considerations as a critical element of this advance planning—and throughout the development of transitional justice mechanisms—means that gender is an integral part of transitional justice, rather than merely an afterthought.