



PEACE NEGOTIATIONS
POST-CONFLICT CONSTITUTIONS
WAR CRIMES PROSECUTION

CORE ELEMENTS OF FACILITATING WOMEN'S PARTICIPATION IN TRUTH AND RECONCILIATION COMMISSIONS

Legal Memorandum

Prepared by the

Public International Law & Policy Group

January 2013

CORE ELEMENTS OF FACILITATING WOMEN'S PARTICIPATION IN TRUTH AND RECONCILIATION COMMISSIONS

Executive Summary

The purpose of this memorandum is to identify the core elements of facilitating women's participation in the transitional justice process, with a particular focus on truth and reconciliation commissions. Truth and reconciliation commissions are independent, temporary commissions of inquiry established to investigate past patterns of human rights violations that occurred over a specified period of time. The incorporation of women in this transitional justice mechanism is an important step toward the attainment of inclusive and lasting reconciliation.

When contemplating options for including women in the transitional justice process, states may wish to consider how gender perspectives can be incorporated during each stage of a truth and reconciliation commission's work. States may undertake preliminary research, public consultations, and commissioner training and education programs to ensure a gender perspective and balance in the commission's work. This includes partnering with civil society and women's organizations, and designing information public interaction tools, such as questionnaires and public awareness campaigns, with a gender perspective.

States may structure a truth and reconciliation commission so that its mandate, composition, and sub-units represent women and gender-related issues. This includes ensuring that women are both involved in selecting commissioners and are appointed as commissioners. Additionally, a commission's mandate may facilitate the participation of women by expressly requiring the commission to account for gender and women's issues throughout the process, or through purposefully general language that allows for gender-inclusive interpretation. States may also design the mandate and structure of the commission such that it is able to establish independently funded sub-units or sub-committees that are dedicated to gender and women's issues.

Commissions may tailor the conduct of hearings and depositions so that women feel more comfortable testifying and giving statements. This can be done through the use of public thematic hearings and by altering the format of individual hearings by changing the gender composition of the hearing panels, allowing for confidential or private hearings, and using female statement takers.

Commissions may conduct investigations that extend beyond individual cases, and are focused on the systematic violations and consequential violations committed against women, such as forced pregnancy and prostitution. Additionally, investigations may be used to gather evidence of sexual crimes, which may otherwise be difficult to prove.

Commissions may also draft final reports and recommendations so that they highlight and are sensitive to gender-related issues and women's experiences. This includes dedicating a section of the final report to women's plight and role during the conflict, and setting forth recommendations specific to women. Further, commissions and states may tailor reparations to the unique needs of women.

TABLE OF CONTENTS

Statement of Purpose	1
Introduction	1
Preparatory Work	2
<i>Research</i>	2
<i>Public Consultations and Information Campaigns</i>	4
<i>Training and Education of Commissioners and Staff</i>	5
<i>Partnerships with Civil Society Groups and Women's Organizations</i>	6
Structure of the Commission	7
<i>Mandate</i>	7
Specific Reference to Women and Gender Issues	7
General Language with Broad Interpretation	8
<i>Composition</i>	9
Including Women on the Selection Panel	9
Appointing Female Commissioners	9
Appointing Female Staff Members	10
<i>Funded Gender Units or Sub-Committees</i>	11
Hearings and Statement Taking	11
<i>Public Thematic Hearings on Women's Issues</i>	12
<i>Procedure for Individual Hearings and Statement Taking</i>	13
Changing the Composition of Individual Hearing Panels	13
Female or Non-National Statement Takers	14
Options for Confidential or Private Hearings	14
<i>Ongoing Monitoring of Women's Participation</i>	15
Investigations	15
<i>Examining Systematic and Consequential Violations Against Women</i>	16
<i>Evidence of Gender-Related Crimes</i>	17
Final Report and Recommendations	17
<i>Presentation of Findings Relevant to Women</i>	18
<i>Recommendations Related to Women's Experiences</i>	19
Reparations	19
Conclusion	20

CORE ELEMENTS OF FACILITATING WOMEN'S PARTICIPATION IN TRUTH AND RECONCILIATION COMMISSIONS

Statement of Purpose

The purpose of this memorandum is to identify the core elements of facilitating women's participation in the transitional justice process, with a particular focus on truth and reconciliation commissions.

Introduction

A transitional justice mechanism that is inclusive of women and their concerns can reveal neglected abuses, uncover the root causes of gender violations, grant victims a voice, recommend reparations to compensate for injustices, and leave a legacy sensitive to women's history and that embraces reform.¹ The United Nations (UN) calls on states to incorporate women and gender issues into transitional justice mechanisms, which includes increasing the number of female officials and incorporating gender-based violence considerations.² A truth and reconciliation commission is one such mechanism through which states may incorporate women and gender-related issues in their transitional justice efforts.³

States may facilitate the participation of women in truth and reconciliation commissions through several measures and at different stages of the process. This memorandum examines the preparatory work states may undertake to facilitate the participation of women; the ways a truth and reconciliation commission's structure and composition can facilitate the participation of women; the measures that can be employed during the investigation and hearing stages of the commission's work to incorporate women and gender issues; the ways the final report and

¹ Vasuki Nesiah, *Truth Commissions and Gender: Principles, Policies and Procedures*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 2 (Jul. 2006), available at http://ictj.org/sites/default/files/ICTJ-Global-Commissions-Gender-2006-English_0.pdf.

² Security Council, *Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, U.N. Doc. S/2011/634, para. 22 (Oct. 12, 2011), available at http://www.unrol.org/files/S_2011_634EN.pdf; Security Council Resolution 1325, U.N. Doc. S/RES/1325, paras. 1-2, 4, 8 (Oct. 31, 2000); see also Security Council Resolution 1820, U.N. Doc. S/RES/1820, para. 4 (Jun. 19, 2008); Security Council Resolution 1888, U.N. Doc. S/RES/1888, paras. 1, 6, 16 (Sept. 30, 2009); Security Council Resolution 1889, U.N. Doc. S/RES/1889, paras. 6, 7 (Oct. 5, 2009).

³ Mark Freeman, TRUTH COMMISSIONS AND PROCEDURAL FAIRNESS 18 (2006); see also Secretary-General, *Report of the Secretary-General on The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, U.N. Doc. S/2004/616, para. 50 (Aug. 23, 2004).

recommendations can include women; and how the reparations scheme can address the specific needs and concerns of women.

Preparatory Work

Prior to the official commencement of a truth and reconciliation commission's work, states may take several preliminary measures to facilitate women's participation and engagement. States may commission research on the experience of women during the period covered by the commission's mandate as well as on gender-related issues. States may also establish steering committees or invite civil society organizations to conduct public consultations and information campaigns with an emphasis on gathering input on women's issues for the commission. Using the information gathered from the research and consultation phase, states may establish training and education programs for the commissioners and staff on gender-related issues and considerations specific to sexually-based violence. States may also establish partnerships or channels for ongoing communication with civil society organizations engaged with women's issues and may similarly request assistance from international organizations with expertise on gender issues.

Research

One way states may incorporate women and gender-related issues at an early stage is to commission research on women's issues to inform the conduct and substance of hearings, as well as to assist with forming the final report and the reparations scheme.⁴ If funding is problematic, states may rely on civil society or international organizations to carry out such research.⁵ Research can focus on gathering data on gender-based violence and a broader analysis of patterns of gender abuses and human rights violations that may feed into the investigations of the commission.⁶

In South Africa, the Gender Research Project of the Centre for Applied Legal Studies and the Centre for the Study of Violence and Reconciliation submitted a research document to the Truth and Reconciliation Commission to help the commissioners understand how gender forms part of the truth and

⁴ See Vasuki Nesiha, *Truth Commissions and Gender: Principles, Policies and Procedures*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 23 (Jul. 2006).

⁵ Vasuki Nesiha, *Truth Commissions and Gender: Principles, Policies and Procedures*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 14 (Jul. 2006).

⁶ Ayumi Kusafaka, *Truth Commissions and Gender: A South African Case Study*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 60 (2010).

reconciliation process.⁷ The report analyzed gender from the commission's three areas of focus: human rights violations, amnesty and reparations, and rehabilitation. After discussing the historical role and experience of women in South Africa, it discussed how women were impacted by sexual violence and how women and men experienced different kinds of torture in prison.⁸ The report also recommended a more gendered approach to the commission's proceedings, and specifically concluded that a gender-neutral approach was undesirable.⁹ Additionally, the 'Gender and the Truth and Reconciliation Commission' working group, composed of trauma counselors and psychologists, conducted research on gender-related issues and formulated suggestions for South Africa's reparations policy.¹⁰ Ultimately, input from the feminist community facilitated the incorporation of the definitions of rape and other sexual violence into the definition of torture.¹¹

In Sierra Leone, civil society organizations were invited to submit recommendations and research to the commission to facilitate its ability to reach all victims. The Coalition on Women's Human Rights in Conflict Situations submitted a report to the commission analyzing the cases of sexual violence in Sierra Leone and providing recommendations for the commission on its approach to gender.¹² The Truth and Reconciliation Commission accepted the coalition's recommendations by acknowledging the range of sexual crimes committed, promoting public awareness of women's rights and gender issues, and addressing women's human rights in reforms of the Sierra Leonean legal system.

⁷ World Bank, *Gender, Justice, and Truth Commissions*, 12 (Jun. 2006), available at <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

⁸ Beth Goldblatt and Sheila Meintjes, "Gender and the Truth and Reconciliation Commission," Submission to the South African Truth and Reconciliation Commission (May 1996), available at <http://www.justice.gov.za/trc/hrvtrans/submit/gender.htm>.

⁹ Beth Goldblatt and Sheila Meintjes, "Gender and the Truth and Reconciliation Commission," Submission to the South African Truth and Reconciliation Commission (May 1996), available at <http://www.justice.gov.za/trc/hrvtrans/submit/gender.htm>.

¹⁰ See Beth Goldblatt and Sheila Meintjes, "Gender and the Truth and Reconciliation Commission," Submission to the South African Truth and Reconciliation Commission (May 1996), available at <http://www.justice.gov.za/trc/hrvtrans/submit/gender.htm>.

¹¹ Ayumi Kusafaka, *Truth Commissions and Gender: A South African Case Study*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 62 (2010).

¹² COALITION FOR WOMEN'S HUMAN RIGHTS IN CONFLICT SITUATIONS, Submission to the Truth and Reconciliation Commission of Sierra Leone (May 2003), available at <http://www.sierraleonetrc.org/index.php/appendices/item/appendix-2-part-1-submissions>.

Public Consultations and Information Campaigns

In addition to commissioning research, states may establish committees or request civil society organizations to conduct public consultations and information campaigns prior to the establishment of the truth and reconciliation commission to ensure that women are informed of, and engaged with, the commission at an early stage.¹³ In particular, public consultations may focus on interpreting and communicating the mandate of the commission with women's communities and activist groups, as well as on gathering input from women on how a truth commission could address their needs. States may likewise launch information campaigns, which are used to raise awareness of the commission's work, and can be designed such that they encourage women to participate.

In Liberia, a coalition of civil society organizations and non-governmental organizations conducted consultations in several regions of Liberia to inform the public about the process and to gather important public views on issues of truth, amnesty, reconciliation, prosecutions, memories, and memorials.¹⁴ The consultations took place with approximately thirty participants, drawn from various sectors of the community, including women groups, and victims and ex-combatants.¹⁵ Liberia's Truth and Reconciliation Commission was ultimately considered a success in terms of its ability to include women and incorporate a gender perspective, in part due to the work of the civil society organizations and the nation-wide consultation process.¹⁶

Likewise, in Peru, the Gender Unit reached out to women's groups, civil society organizations, and the media to disseminate information on women's issues and advertize and publicize the work of the commission.¹⁷ The inclusion of civil society was especially important in Peru's context due to the lack of funding given

¹³ Vasuki Nesiah, *Truth Commissions and Gender: Principles, Policies and Procedures*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 13 (Jul. 2006).

¹⁴ TRANSITIONAL JUSTICE WORKING GROUP, CATHOLIC JUSTICE AND PEACE COMMISSION, *Report: Generating Recommendations for the Liberian Truth and Reconciliation Commission: Civil Society Regional Consultations*, 2-3 (Dec. 2008), available at <http://ictj.org/sites/default/files/ICTJ-CJPC-Liberia-NGO-Consultations-2008-English.pdf>.

¹⁵ TRANSITIONAL JUSTICE WORKING GROUP, CATHOLIC JUSTICE AND PEACE COMMISSION, *Report: Generating Recommendations for the Liberian Truth and Reconciliation Commission: Civil Society Regional Consultations*, 3 (Dec. 2008), available at <http://ictj.org/sites/default/files/ICTJ-CJPC-Liberia-NGO-Consultations-2008-English.pdf>.

¹⁶ See, e.g., Paul James-Allen, Aaron Weah, and Lizzie Goodfriend, *Beyond the Truth and Reconciliation Commission: Transitional Justice Options in Liberia*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 6 (May 2010), available at

http://www.humansecuritygateway.com/documents/ICTJ_Liberia_BeyondTheTruthAndReconciliationCommission_TransitionalJusticeOptionsInLiberia.pdf.

¹⁷ World Bank, *Gender, Justice, and Truth Commissions*, 14 (Jun. 2006), available at <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

to the Gender Unit. For its outreach activities, the Unit included specific questions about sexual violence in the questionnaires that were handed out to victims, and similarly focused the content of the internal bulletins, web site, flyers, and posters on sexual violence.¹⁸

Training and Education of Commissioners and Staff

Truth and reconciliation commissions may educate commissioners on the issues specific to women and gender prior to conducting hearings or commencing the primary work of the commission. This may be performed by the commission itself, by local civil society leaders or NGOs, or through the assistance of the international community. States may focus training programs on issues, strategies, approaches, and specific differences stemming from women's status in society or inherent characteristics.¹⁹ Training may also be geared toward sensitization of issues unique to sexual violence, and the strategies that interviewers, commissioners, and statement takers can employ to build trust with female victims and encourage their testimony.

Truth and reconciliation commissions may conduct their own trainings. In South Africa, the Truth and Reconciliation Commission held preparatory workshops, particularly with rural women, and government provided commissioners with training on gender-related issues.²⁰ Likewise, in Peru, the Truth and Reconciliation Commission conducted workshops for the staff that would be interviewing female victims to train them on how to create truth with the female victims and encourage them to testify.²¹

Many commissions, however, utilize and benefit greatly from training programs designed and facilitated by international organizations. For instance, in Sierra Leone, the United Nations Development Fund for Women (UNIFEM) and the Urgent Action Fund for Women's Human Rights provided training to

¹⁸ World Bank, *Gender, Justice, and Truth Commissions*, 14 (Jun. 2006), available at <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

¹⁹ Vasuki Nesiah, *Truth Commissions and Gender: Principles, Policies and Procedures*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 12 (Jul. 2006).

²⁰ United Nations, *Women and Armed Conflict*, 11 (Sep. 2009), available at [http://www.un.org/womenwatch/daw/beijing/beijingat10/E.%20Women%20and%20armed%20conflict%20\(Sep%2009\).pdf](http://www.un.org/womenwatch/daw/beijing/beijingat10/E.%20Women%20and%20armed%20conflict%20(Sep%2009).pdf); World Bank, *Gender, Justice, and Truth Commissions*, 18 (Jun. 2006), available at <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

²¹ Julissa Mantilla Falcón, *The Peruvian Truth and Reconciliation Commission's Treatment of Sexual Violence Against Women*, 12 No. 2 Human Rights Brief 1, 2 (2005), available at <http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1306&context=hrbrief>; World Bank, *Gender, Justice, and Truth Commissions*, 14 (Jun. 2006), available at <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

commissioners, staff, and non-governmental organizational partners.²² In Nepal, the United Nations Development Programme (UNDP) sponsored gender training with the state's National Judicial Academy on the skills necessary to analyze gender equality in the law and on human and women's rights instruments.²³ Similarly, the Peruvian Truth and Reconciliation Commission signed an agreement with the Office of the High Commissioner for Human Rights (OHCHR) whereby the OHCHR helped the commission to incorporate a gender perspective into its work.²⁴

Establishing Partnerships with Civil Society Groups and Women's Organizations

Truth and reconciliation commissions may establish partnerships or ongoing communication with women's groups or other similarly focused civil society organizations that have experience in gender issues or ties to women's communities. Communication or partnership allows for these groups to assist the commission in many different ways, including directly taking part in the truth and reconciliation commission's investigations. Such participation includes assisting commissioners with interpretation of its mandate, acting as statement takers, reaching out to victims, providing counseling, or conducting hearings.²⁵

Sierra Leone's Truth and Reconciliation Commission received assistance from local counseling organizations on how to counsel victims. These organizations provided follow-up sessions to counsel victims regarding their involvement in the process.²⁶ Likewise, the Haitian truth commission owes much of its efforts to incorporate women and gender issues to the help of civil society

²² Vasuki Nesiah, *Truth Commissions and Gender: Principles, Policies and Procedures*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 12 (Jul. 2006); see also Sierra Leone Truth and Reconciliation Commission, *Witness to Truth: Report of the Sierra Leone Truth and Reconciliation Commission Volume 3*, 89-92 (Oct. 5, 2004).

²³ United Nations, *Women and Armed Conflict*, 11 (Sep. 2009), available at [http://www.un.org/womenwatch/daw/beijing/beijingat10/E.%20Women%20and%20armed%20conflict%20\(Sep%2009\).pdf](http://www.un.org/womenwatch/daw/beijing/beijingat10/E.%20Women%20and%20armed%20conflict%20(Sep%2009).pdf).

²⁴ Julissa Mantilla Falcon, *UNIFEM and Transitional Justice: The Peruvian and Colombian Cases*, UNITED NATIONS DEVELOPMENT FUND FOR WOMEN, 8, available at http://unifem.org/attachments/gender_issues/women_war_peace/UNIFEMAndTransitionalJustice_ThePeruvianAndColombianCases.pdf.

²⁵ Vasuki Nesiah, *Truth Commissions and Gender: Principles, Policies and Procedures*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 13 (Jul. 2006).

²⁶ Sierra Leone Truth and Reconciliation Commission, *Witness to Truth: Report of the Sierra Leone Truth and Reconciliation Commission Volume 3*, 90 (Oct. 5, 2004).

groups, who had the trust of many female victims and were able to facilitate their participation in the commission's work.²⁷

Structure of the Commission

In addition to the preparatory work that can assist with women's participation, there are several ways in which the structure of the truth and reconciliation commission may likewise facilitate women's participation. The commission's mandate may require specific focus on women and gender issues or may be broadly written to allow for gender-inclusive interpretation. Including women on either the selection panel or in the commission itself can enhance women's participation. Finally, commissions may establish special gender-focused or women's units or sub-committees with specifically-allocated funding that are responsible for ensuring that a gender perspective and women's concerns are heard and incorporated by the commission.

Mandate

The inclusion of specific language pertaining to women's issues and gender-related human rights violations can ensure that gender abuses are not marginalized during the transitional justice process.²⁸ This may also be achieved through a neutral mandate that is interpreted as gender-inclusive.²⁹ As a result, there are two primary ways in which the mandate of a truth and reconciliation commission can integrate women's concerns and a gender perspective: (1) through specific reference to the grievances suffered by women, or (2) by the use of broad language that may be interpreted to include women's issues by the commissioners.

Specific Reference to Women and Gender Issues

States may include specific reference to gender issues or sexually based violence in the mandate of a truth and reconciliation commission. In some cases, government authorities and some sectors of civil society had not previously considered sexual violence to be a human rights violation.³⁰ It is therefore

²⁷ Vasuki Nesiah, *Truth Commissions and Gender: Principles, Policies and Procedures*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 19 (Jul. 2006).

²⁸ Vasuki Nesiah, *Truth Commissions and Gender: Principles, Policies and Procedures*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 7 (Jul. 2006).

²⁹ Vasuki Nesiah, *Truth Commissions and Gender: Principles, Policies and Procedures*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 8 (Jul. 2006).

³⁰ Julissa Mantilla Falcón, *The Peruvian Truth and Reconciliation Commission's Treatment of Sexual Violence Against Women*, 12 No. 2 Human Rights Brief 1 (2005), available at <http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1306&context=hrbrief>.

important to expressly include sexual violence and gender-based violence in the definition of human rights violations. For instance, Section 6(2)(b) of the mandate for the Sierra Leone Truth and Reconciliation Commission required the Truth and Reconciliation Commission to pay special attention to the, “subject of sexual abuses and to the experience of children within the armed conflict.”³¹ Similarly, the Liberian Truth and Reconciliation Commission’s mandate required it to adopt, “specific mechanisms and procedures to address the experiences of women . . . paying particular attention to gender-based violations.”³² Furthermore, the mandate provided that the commission must consider gender violence and ensure that “gender mainstreaming characterizes its work.”³³ The mandate of East Timor’s Commission for Reception, Truth, and Reconciliation (CAVR) required the Commission to pay particular attention to the commission of sexual offenses.³⁴ Accordingly, the CAVR recognized the vulnerability of women in times of conflict, assessed violations of international laws relating to women, and included its findings in its final report.³⁵

General Language with Broad Interpretation

As an alternative to specific reference to women and gender issues, states may draft the mandate with somewhat broad language to allow for broader, gender-inclusive interpretation by the commissioners. For instance, in Peru, while crimes of a sexual nature were not expressly included in the mandate, the Commission interpreted the mandate to include sexual crimes in its examination of other crimes and gross human rights violations.³⁶ Similarly, the Promotion of National Unity and Reconciliation Act establishing the South African Truth and Reconciliation Commission required investigations of gross human rights violations, but did not specifically refer to gender-based violations or women.³⁷ The commissioners, however, interpreted the mandate’s inclusion of severe ill

³¹ *The Truth and Reconciliation Commission Act 2000*, art. 6(2)(b) (Sierra Leone, 2000), available at <http://www.usip.org/files/file/resources/collections/commissions/SeirraLeone-Charter.pdf>; World Bank, *Gender, Justice, and Truth Commissions*, 20 (Jun. 2006), available at <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

³² *Truth and Reconciliation Act* art. IV (Liberia, 2005), available at <http://trcofliberia.org/resources/documents/trc-act.pdf>.

³³ *Truth and Reconciliation Act* art. VI (Liberia, 2005).

³⁴ *Regulation No. 2001/10* art. 13.2(a) (Timor-Leste, 2001), available at <http://www.unmit.org/legal/UNTAET-Law/Regulations%20English/Reg2001-10.pdf>.

³⁵ Commission for Reception, Truth, and Reconciliation in Timor-Leste, *Chega! The Report of the Commission for Reception, Truth, and Reconciliation in Timor-Leste (CAVR)*, paras. 66, 68, 69 (2005), available at <http://www.cavr-timorleste.org/chegaFiles/finalReportEng/02-The-Mandate-of-the-Commission.pdf>.

³⁶ World Bank, *Gender, Justice, and Truth Commissions*, 10 (Jun. 2006), available at <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

³⁷ See *Promotion of National Unity and Reconciliation Act* (South Africa, 1995), available at http://www.fas.org/irp/world/rsa/act95_034.htm.

treatment, which fell under the definition of gross human rights violations, to incorporate acts of sexual violence in the commission's mandated investigations.³⁸

Composition

There are several approaches to facilitate the participation of women in the composition of truth and reconciliation commissions: (1) include women on the selection panel or, similarly, make women and gender issues central to the hiring process, and (2) appoint women as commissioners or staff of the commission.

Including Women on the Selection Panel

States may include women on a selection panel that is charged with selecting commissioners. If the hiring process does not involve a selection panel, states may nonetheless achieve similar results by making gender and women's issues central to the hiring process by creating requirements for female inclusion.³⁹ In East Timor, Regulation No. 2001/10 establishing the commission required thirty percent of both the main truth and reconciliation commission commissioners and the regional commissioners to be women.⁴⁰ Subsequently, the appointment process for the Commission for Reception, Truth, and Reconciliation included representatives from local women's groups on the selection panels charged with selecting commissioners.⁴¹ This ensured that the women selected to fill those spots were chosen through a meaningful process.

Appointing Female Commissioners

States can also appoint women representatives as commissioners or staff. Including women commissioners promotes a more complete understanding of the truth and can illuminate the different impacts of human rights violations on different types of people.⁴² Including women also improves investigations into sexual violence, as the participation of female commissioners and staff members often offers a more supportive and accommodating environment for female victims.⁴³

³⁸ Truth and Reconciliation Commission of South Africa, *Truth and Reconciliation Commission of South Africa Report*, 591 (Mar. 2003), available at <http://www.info.gov.za/otherdocs/2003/trc/rep.pdf>.

³⁹ Vasuki Nesiiah, *et al.*, *Truth Commissions and Gender: Principles, Policies, and Procedures*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 11 (Jul. 2006).

⁴⁰ *Regulation No. 2001/10* arts. 4.1, 11.1 (Timor-Leste, 2001).

⁴¹ Vasuki Nesiiah, *et al.*, *Truth Commissions and Gender: Principles, Policies, and Procedures*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 11 (Jul. 2006).

⁴² World Bank, *Gender, Justice, and Truth Commissions*, 10 (Jun. 2006), available at <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

⁴³ Vasuki Nesiiah, *et al.*, *Truth Commissions and Gender: Principles, Policies and Procedures*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 10 (Jul. 2006), available at <http://ictj.org/sites/default/files/ICTJ-Global->

The Sierra Leone Truth and Reconciliation Commission consisted of three women and four men.⁴⁴ The previous gender-specific experience of the female commissioners was considered particularly helpful in facilitating the participation of women. One female commissioner insisted that a gender perspective should be part of the investigation process. This same commissioner advocated for staff training on gender, the participation of international actors such as the United Nations, and promoting an understanding of the need for a gender perspective in transitional justice efforts.⁴⁵

Likewise, in South Africa, eight of the seventeen commissioners of the Truth and Reconciliation Commission were women.⁴⁶ These eight female commissioners were largely responsible for the Commission's decision to hold several women-only hearings, which encouraged female participation.⁴⁷ In the South African context, having female commissioners was an important measure for both ensuring an outward appearance of gender sensitivity and for incorporating more gender sensitive measures in the internal structures of the commission. Indeed, the female commissioners often had to spend considerable time convincing their male counterparts about the importance of certain issues for women victims and advocating for certain measures to address those issues.⁴⁸

Appointing Female Staff Members

In addition to appointing female commissioners, states may likewise hire female staff members for the commission. Staff members are personnel that support the work of the commissioners. Appointing female staff in addition to female commissioners ensures that all aspects of a female victim's experience with the commission are encouraging, rather than just the interactions with the commissioners. For instance, in East Timor, the Commission's internal recruitment policies required that women fill a minimum of thirty percent of the

Commissions-Gender-2006-English_0.pdf.

⁴⁴ UNITED STATES INSTITUTE OF PEACE, *Truth Commission: Sierra Leone*, available at <http://www.usip.org/publications/truth-commission-sierra-leone/>.

⁴⁵ Yasmin Sooka, *Dealing with the past and transitional justice: building peace through accountability*, 88 INTERNATIONAL REVIEW OF THE RED CROSS 311, 322 (Jun. 2006), available at http://www.icrc.org/eng/assets/files/other/irrc_862_sooka.pdf; World Bank, *Gender, Justice, and Truth Commissions*, 17 (Jun. 2006), available at

<http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

⁴⁶ UNITED STATES INSTITUTE OF PEACE, *Truth Commission: South Africa*, available at <http://www.usip.org/publications/truth-commission-south-africa>.

⁴⁷ Vasuki Nesiah, *Truth Commissions and Gender: Principles, Policies, and Procedures*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 10 (Jul. 2006).

⁴⁸ World Bank, *Gender, Justice, and Truth Commissions*, 12 (Jun. 2006), available at <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

positions.⁴⁹ Similarly, to ensure the presence of women in Liberia's Truth and Reconciliation Commission, the legislating act required it to include women in all levels of its staff.⁵⁰

Funded Gender Units or Sub-Committees

States may establish special gender units or sub-committees within the commission that are tasked exclusively with gender-related activities.⁵¹ These sub-units have a specific purpose of ensuring that gender issues are addressed. The Peruvian Truth and Reconciliation Commission created special gender units to conduct research to support the commission's final report.⁵² Similarly, in Liberia, the Commission established a Gender Committee composed of representatives from local and international non-governmental organizations, the United Nations, and the Liberian Ministry of Gender, which was responsible for reaching out to Liberian women.⁵³

To enhance the effectiveness of measures to include minorities and women, states may secure funding for gender related activities. In Peru, the Truth and Reconciliation Commission's Gender Unit was not allocated sufficient funding along with its creation, so it was limited to "inexpensive" activities such as interviews with victims who first approached the Truth and Reconciliation Commission.⁵⁴ The Peruvian commission therefore had to rely on civil society organizations to assist it with its functions.⁵⁵ Thus, independent funding sufficient to allow the sub-unit to carry out its mandate is a parallel requirement to the establishment of the sub-unit or sub-committee itself.

Hearings and Statement Taking

⁴⁹ Timor-Leste Commission for Reception, Truth, and Reconciliation, *Chega! Final Report of the Timor-Leste Commission for Reception, Truth and Reconciliation*, para. 166 (2005).

⁵⁰ *An Act to Establish the Truth and Reconciliation Commission (TRC) of Liberia*, secs. 11, 24 (Liberia, 2005); see also, AMNESTY INTERNATIONAL, *Liberia: Truth, Justice, and Reparation*, 25, 29 (Jun. 22, 2006).

⁵¹ Abigail Gyimah, *Gender and Transitional Justice in West Africa: The Cases of Ghana and Sierra Leone*, AFRICAN LEADERSHIP CENTRE: KING'S COLLEGE LONDON, 18 (Aug. 2009).

⁵² Abigail Gyimah, *Gender and Transitional Justice in West Africa: The Cases of Ghana and Sierra Leone*, AFRICAN LEADERSHIP CENTRE: KING'S COLLEGE LONDON, 18 (Aug. 2009).

⁵³ Awa Dabo, *In the Presence of Absence: Truth-Telling and Displacement in Liberia*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE and the BROOKINGS INSTITUTE, 10 (Jul. 2012), available at <http://www.brookings.edu/~media/Projects/idp/tj%20case%20studies/Dabo%20TruthTelling%20Liberia.pdf>.

⁵⁴ World Bank, *Gender, Justice, and Truth Commissions*, 14 (Jun. 2006), available at <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

⁵⁵ World Bank, *Gender, Justice, and Truth Commissions*, 14 (Jun. 2006), available at <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

Truth and reconciliation commissions may promote women's participation by employing special measures for the conduct of hearings and statement taking. These special measures include conducting public thematic hearings that are focused on women's issues and gender-related violations, and tailoring the conduct and format of individual hearings and statement taking to the needs of individual female witnesses and victims.

Public Thematic Hearings on Women's Issues

One way to incorporate and encourage the participation of women in the truth commission's work is to hold public hearings around certain themes dedicated to women. South Africa's Truth and Reconciliation Commission held a number of special women's hearings that produced a visible space for the open discussion of women's issues.⁵⁶ The hearings revealed a wide range of abuses that women suffered during apartheid and allowed women to publicly give testimony as both victims and witnesses.⁵⁷ Similarly, Kenya's Truth and Reconciliation Commission held public hearings to study the adverse effects of the conflict on women, to identify the systematic character of these effects, and to craft policy measures that could potentially prevent a recurrence of conflict. As a result, outside experts and commissioners were able to generate recommendations to reduce gender-based violence.⁵⁸

Thematic hearings may also be a mechanism for local and international women's organizations to voice their concerns. Liberia's Truth and Reconciliation Commission, for instance, sought input from United Nations agencies, domestic and international NGOs, youth and women's groups, and students.⁵⁹ These groups, in collaboration with the Ministry of Gender and Development, offered recommendations for the restoration of women's rights in Liberia.⁶⁰

Peru's Truth and Reconciliation Commission also held several thematic hearings dedicated to women's issues. However, in Peru, at the start of the Truth

⁵⁶ World Bank, *Gender, Justice, and Truth Commissions*, 12 (Jun. 2006), available at <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

⁵⁷ Ayumi Kusafaka, *Truth Commissions and Gender: A South African Case Study*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 48 (2010).

⁵⁸ The Truth, Justice, and Reconciliation Commission of Kenya, *TJRC Holds Thematic Hearings for Women*, 1 (Feb. 10, 2012), available at http://www.tjrkenya.org/index.php?option=com_content&view=article&id=537:tjrc-holds-thematic-hearings-for-women&catid=1:tjrc-news&Itemid=187.

⁵⁹ Truth and Reconciliation Commission of Liberia, *Tubmanburg City: Day 5: Institutional/Thematic Hearings*, 1 (May 2, 2008), available at <http://trcofliberia.org/transcripts/71>.

⁶⁰ Truth and Reconciliation Commission of Liberia, *Tubmanburg City: Day 5: Institutional/Thematic Hearings*, 1 (May 2, 2008).

and Reconciliation Commission's work, society was largely unaware of the issues facing women or the extent of the sexual violence committed against women during the armed conflict.⁶¹ This made the thematic hearings even more vital to the success of the commission with respect to women, as it not only contributed to women's participation with the commission, but also to the overall objective of learning the whole truth of the armed conflict and educating the public on its impacts on all sectors of society.

Procedure for Individual Hearings and Statement Taking

States may enable women's participation and gender sensitization by tailoring the format of individual hearings and depositions to the needs of each female deponent or witness. Individual hearings and statements can be an important tool for understanding a woman's specific experience, in particular with respect to documenting a wide and complex array of abuses.⁶²

There are three ways to encourage women to participate in these individual hearings and give testimony: (1) by assigning women panelists to individual hearings to make the testifying woman feel comfortable; (2) by recruiting females or non-nationals as statement takers; and (3) by providing women the option to testify confidentially or through a closed or private session.

Changing the Composition of Individual Hearing Panels

In order to make women feel more comfortable giving testimony at individual hearings, a truth and reconciliation commission may alter the gender composition of the hearing panel to reflect the gender balance preferred by the female victim.⁶³ The South African Truth and Reconciliation Commission recognized that the presence of men on the panels might make some women afraid or hesitant to testify, so they negotiated the composition of each panel with the respective witnesses.⁶⁴ In a similar fashion, the Sierra Leone Truth and Reconciliation Commission held special hearings for women that were intended to

⁶¹ World Bank, *Gender, Justice, and Truth Commissions*, 14 (Jun. 2006), available at <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

⁶² Ayumi Kusafaka, *Truth Commissions and Gender: A South African Case Study*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 55 (2010).

⁶³ Niamh Reily and Linda Posluszny, *Women Testify: A Planning Guide for Popular Tribunals & Hearings*, CENTER FOR WOMEN'S GLOBAL LEADERSHIP, 17 (2005), available at <http://reliefweb.int/sites/reliefweb.int/files/resources/9AC00ABA49AC7FF68525712C005621AD-women%20testify.pdf>.

⁶⁴ See Vasuki Nesiiah, *et al.*, *Truth Commissions and Gender: Principles, Policies and Procedures*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 31-32 (July 2006); World Bank, *Gender, Justice, and Truth Commissions*, 18 (Jun. 2006), available at <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

facilitate their testimony. During these hearings, the commission ensured that only female commissioners questioned rape victims.⁶⁵

Female or Non-National Statement Takers

Similarly, states may facilitate the participation of women by strategically recruiting women or non-nationals to act as the statement takers. Because of the shame and embarrassment that women may feel in relating their experiences of sexual violence, female statement takers may be in the best position to receive such testimony.⁶⁶ Other sources have noted that non-national statement takers may also make women feel more comfortable giving testimony, as the women are less likely to perceive non-nationals as people they could run into in their everyday lives.⁶⁷

Options for Confidential or Private Hearings

Additionally, because testifying to the public or in open session about crimes of a sexual nature can be very difficult for women, the truth and reconciliation commission may offer women the option of testifying behind a screen or in closed session.⁶⁸ In Sierra Leone, women had several options for how they would give their testimony. They could testify in private before the commission panel only, in a public hearing where their identify would be obscured by a screen but their testimony would be heard publicly, or completely in public with no identity shielding.⁶⁹

Ultimately, many of the women chose to testify completely in public because they wanted people to know what they had been through.⁷⁰ Additionally, while some women opted for confidential or private sessions and others testified in public, there were still challenges in finding the ideal setting for several female victims. In particular, some statement takers complained that female victims' husbands would not let them speak to the statement takers alone, so for the ones

⁶⁵ World Bank, *Gender, Justice, and Truth Commissions*, 20-21 (Jun. 2006), available at <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

⁶⁶ Vasuki Nesiiah, *et al.*, *Truth Commissions and Gender: Principles, Policies, and Procedures*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 10 (Jul. 2006), available at http://ictj.org/sites/default/files/ICTJ-Global-Commissions-Gender-2006-English_0.pdf; World Bank, *Gender, Justice, and Truth Commissions*, 20 (Jun. 2006), available at <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

⁶⁷ World Bank, *Gender, Justice, and Truth Commissions*, 20 (Jun. 2006), available at <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

⁶⁸ Vasuki Nesiiah, *et al.*, *Truth Commissions and Gender: Principles, Policies, and Procedures*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 31 (Jul. 2006), available at http://ictj.org/sites/default/files/ICTJ-Global-Commissions-Gender-2006-English_0.pdf.

⁶⁹ World Bank, *Gender, Justice, and Truth Commissions*, 20-21 (Jun. 2006), available at <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

⁷⁰ World Bank, *Gender, Justice, and Truth Commissions*, 20-21 (Jun. 2006), available at <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

who could not be convinced, the statements had to be taken in the presence of the husbands.⁷¹

Ongoing Monitoring of Women's Participation

States may facilitate greater participation from women by implementing a system for continuous monitoring on whether and to what extent women are participating in the work of the commission.⁷² Based on these ongoing evaluations, a truth and reconciliation commission can ensure that any lack of participation is effectively remedied. For instance, in East Timor, a tracking system that recorded the gender and grievances of victims revealed that women were not coming forward in significant numbers despite having suffered widespread violations.⁷³ Due to this revelation, the Truth and Reconciliation Commission encouraged women to submit statements and conducted in-depth interviews to provide redress for women and to better understand the plight of women affected by conflict.⁷⁴

Similarly, South Africa's Truth and Reconciliation Commission encouraged women's participation after finding that only 43.9 percent of women who gave statements reported their own experiences of human rights violations.⁷⁵ As women have a tendency to not share details of crimes committed against themselves, the commission altered its statement-taking procedure to be gender-sensitive and encouraged women victims to disclose their stories.⁷⁶ Accordingly, the Truth and Reconciliation Commission held three special hearings on women to provide a comfortable forum for women to talk about specific, gender-related crimes.⁷⁷

Investigations

⁷¹ World Bank, *Gender, Justice, and Truth Commissions*, 20 (Jun. 2006), available at <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

⁷² Vasuki Nesiah, *et al.*, *Truth Commissions and Gender: Principles, Policies, and Procedures*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 14 (Jul. 2006), available at http://ictj.org/sites/default/files/ICTJ-Global-Commissions-Gender-2006-English_0.pdf.

⁷³ Vasuki Nesiah, *et al.*, *Truth Commissions and Gender: Principles, Policies, and Procedures*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 18 (Jul. 2006), available at http://ictj.org/sites/default/files/ICTJ-Global-Commissions-Gender-2006-English_0.pdf.

⁷⁴ Sofia Borges, *Permanent Mission of the Democratic Republic of Timor-Leste to the United Nations*, para. 8 (Oct. 13, 2010).

⁷⁵ Ayumi Kusafaka, *Truth Commissions and Gender: A South African Case Study*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 47 (2010).

⁷⁶ Ayumi Kusafaka, *Truth Commissions and Gender: A South African Case Study*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 47 (2010).

⁷⁷ Ayumi Kusafaka, *Truth Commissions and Gender: A South African Case Study*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 47 (2010).

Outside of the hearings and statement taking, investigations often play an important role in the ability of a truth and reconciliation commission to identify and provide redress for human rights abuses suffered by women. A truth and reconciliation commission may incorporate a gender perspective during the investigation phase by focusing its investigations on systematic and consequential violations against women and the enabling conditions for such violations. They can also use the investigations to gather evidence for later prosecutions of gender-related crimes.

Examining Systematic and Consequential Violations Against Women

A truth and reconciliation commission may incorporate gender issues and the unique issues facing women by focusing not only on individual cases, but also on patterns and evidence of more widespread violations. Commissions can also investigate the consequences of sexual violence, such as forced pregnancy, prostitution, and other violations that may occur as a result of the underlying crime.⁷⁸ In Peru, for example, the Truth and Reconciliation Commission used records of victims' gender and crimes reported to inform its investigations and to take a more systematic approach to problems including rape and forced pregnancy.⁷⁹

Additionally, commissions may expand the scope of the crimes under investigation to include related or consequential violations against women. This process may, however, prove more difficult with regard to gender-related crimes if gendered abuse is too embedded in society to uncover distinct violations.⁸⁰ Peru's truth commission focused its investigation on systematic violations against women, and broadened the scope of its investigation beyond cases of rape to include cases of sexual blackmail, sexual slavery, sexual mutilation, sexual handlings, sexual humiliation, forced prostitution, forced pregnancy, and forced nudity, among other forms of sexual violence.⁸¹ However, further investigations into gender related crimes proved difficult because the state criminalized abortion and victims of rape

⁷⁸ Vasuki Nesiah, *Truth Commissions and Gender: Principles, Policies and Procedures*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 22 (Jul. 2006).

⁷⁹ THE World Bank, *Gender, Justice, and Truth Commissions*, 13 (Jun. 2006).

⁸⁰ Allan Thompson, *The Media and the Rwanda Genocide*, PLUTO PRESS, 2 (2005).

⁸¹ Julissa Mantilla Falcón, *The Peruvian Truth and Reconciliation Commission's Treatment of Sexual Violence Against Women*, 12 No. 2 Human Rights Brief 1, 3 (2005), available at <http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1306&context=hrbrief>.

struggled with social attitudes toward their injuries and a lack of options for recourse.⁸²

Evidence of Gender-Related Crimes

In addition to broadening the scope of crimes investigated, the commission may also focus on gathering the appropriate evidence to later prosecute or report on gender-related crimes. Since evidence of gender specific crimes, such as rape, becomes more difficult to gather as time passes, testimonial evidence may be particularly important for documenting past human rights violations.⁸³ For instance, in South Africa, the Truth and Reconciliation Commission collected testimonial evidence on rape to prove that security forces may have sanctioned or used rape to terrorize, intimidate, and punish women and their communities.⁸⁴

Final Report and Recommendations

A truth and reconciliation commission's final report may suggest legal, institutional, or legislative reforms, or a special reparations program for female victims of the conflict and for women in general.⁸⁵ The inclusion of gender-specific topics and recommendations can help ensure that the entire range of relevant gender issues are represented, recorded, and redressed.⁸⁶

⁸² Vasuki Nesiah, *Truth Commissions and Gender: Principles, Policies and Procedures*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 22 (Jul. 2006).

⁸³ See AMNESTY INTERNATIONAL, *Truth Commissions*, 1 (2012), available at <http://www.amnesty.org/en/international-justice/issues/truth-commissions>.

⁸⁴ Ayumi Kusafaka, *Truth Commissions and Gender: A South African Case Study*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 58 (2010).

⁸⁵ Office of the High Commissioner for Human Rights, *Rule-of-Law Tools for Post-Conflict States: Truth Commissions*, U.N. Doc. HR/PUB/06/1, 20 (2006).

⁸⁶ Vasuki Nesiah, *Truth Commissions and Gender: Principles, Policies and Procedures*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 33 (Jul. 2006).

Presentation of Findings Relevant to Women

Presenting the commission's findings related to women in a final report is one way to address gender issues and create incentives for further research, analysis, and discussion of pertinent subjects. Gender sections of commission reports, such as those in Peru and East Timor, have included the gendered patterns of human rights violations and issues that emerged in both individual and thematic public hearings.⁸⁷

Peru's Truth and Reconciliation Commission's final report dedicated an entire section of the report to women's issues.⁸⁸ In this section, the Commission analyzed the experience of Peruvian women who had been subjected to sexual violence during the armed conflict, the relationship between sexual violence and other human rights violations, the aftermath of sexual violence, and the issues associated with impunity.⁸⁹ The report also countered the prevailing attitude in Peru that sexual violence was just collateral damage of armed conflict.⁹⁰

In addition to reporting on the number of cases of sexual violence against women, the commission may also explain and set forth the statistical under-representation, if any, of those cases.⁹¹ In Guatemala, South Africa, and Peru, the commissions found that, due to female victims' feelings of guilt and shame, they were less likely to report their experiences with sexual violence, resulting in the final number of cases being much lower than other human rights violations.⁹² The

⁸⁷ Vasuki Nesiah, *Truth Commissions and Gender: Principles, Policies and Procedures*, INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, 33 (Jul. 2006).

⁸⁸ World Bank, *Gender, Justice, and Truth Commissions*, 14 (Jun. 2006), available at <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

⁸⁹ Julissa Mantilla Falcón, *The Peruvian Truth and Reconciliation Commission's Treatment of Sexual Violence Against Women*, 12 No. 2 Human Rights Brief 1, 3-4 (2005), available at <http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1306&context=hrbrief>.

⁹⁰ See AMNESTY INTERNATIONAL, *Document – Peru: The Truth and Reconciliation Commission – A First Step Towards A Country Without Injustice*, 3.2 (Aug. 25, 2004), available at <http://www.amnesty.org/en/library/asset/AMR46/003/2004/en/4d8e52b4-d5e6-11dd-bb24-1fb85fe8fa05/amr460032004en.html>; Julissa Mantilla Falcón, *The Peruvian Truth and Reconciliation Commission's Treatment of Sexual Violence Against Women*, 12 No. 2 Human Rights Brief 1 (2005), available at <http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1306&context=hrbrief>.

⁹¹ See generally Richard Strickland and Nata Duvvury, *Gender Equity and Peacebuilding - From Rhetoric to Reality: Finding the Way*, INTERNATIONAL CENTER FOR RESEARCH ON WOMEN, 7 (2003), available at <http://reliefweb.int/sites/reliefweb.int/files/resources/ECBC8D7878F49F7BC1256D560048F2A9-icrw-genderequity-jan03.pdf>.

⁹² See Fiona Ross, BEARING WITNESS: WOMEN AND THE TRUTH AND RECONCILIATION COMMISSION IN SOUTH AFRICA (2003). See also Julissa Mantilla Falcón, *The Peruvian Truth and Reconciliation Commission's Treatment of Sexual Violence Against Women*, 12 No. 2 Human Rights Brief 1, 3 (2005), available at <http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1306&context=hrbrief>; World Bank, *Gender*,

commissions in Guatemala and Peru therefore explained this effect in their final reports, and acknowledged the culture of shame that had surrounded sexual crimes.⁹³

Recommendations Related to Women's Experiences

Commissions may similarly direct specific recommendations to the needs and experiences of women. The Sierra Leone Truth and Reconciliation Commission's recommendations, for example, advised the Sierra Leonean government to change discriminatory laws that increased the vulnerability of women in times of conflict.⁹⁴ Peru's Truth and Reconciliation Commission recommended that the government institute a system of reparations for women victims of sexual violence.⁹⁵

Reparations

States may also tailor reparations to the specific needs of women. Gender nuanced reparations can take a number of forms and may be both tangible and intangible, including the provision of healthcare for pregnant women or women with physical or psychological injuries, special preferences for micro financing, and other forms of reparation.

In Peru, the Truth and Reconciliation Commission made health reparations and suggested that the state should identify the specific needs of women, especially in mental health, as well as identify the impact of violence in families and relationships. The Truth and Reconciliation Commission also proposed economic reparations for victims of rape and children born as a result of rape.⁹⁶ In Sierra Leone, the Truth and Reconciliation Commission made extensive recommendations related to women. It recommended that women have more

Justice, and Truth Commissions, 10 (Jun. 2006), available at

<http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

⁹³ AMNESTY INTERNATIONAL, *Document – Peru: The Truth and Reconciliation Commission – A First Step Towards A Country Without Injustice*, 3.2 (Aug. 25, 2004), available at

[http://www.amnesty.org/en/library/asset/AMR46/003/2004/en/4d8e52b4-d5e6-11dd-bb24-](http://www.amnesty.org/en/library/asset/AMR46/003/2004/en/4d8e52b4-d5e6-11dd-bb24-1fb85fe8fa05/amr460032004en.html)

[1fb85fe8fa05/amr460032004en.html](http://www.amnesty.org/en/library/asset/AMR46/003/2004/en/4d8e52b4-d5e6-11dd-bb24-1fb85fe8fa05/amr460032004en.html); Guatemala Memory of Silence, Report of the Commission for Historical Clarification – Conclusions and Recommendations, para. 91 (Feb. 25, 1999), available at

<http://shr.aaas.org/guatemala/ceh/report/english/conc2.html>.

⁹⁴ INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, *ICTJ, Gender, and Transitional Justice* (Oct. 2010), available at <http://ictj.org/sites/default/files/ICTJ-Global-Gender-Justice-2010-English.pdf>.

⁹⁵ World Bank, *Gender, Justice, and Truth Commissions*, 20 (Jun. 2006), available at

<http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

⁹⁶ World Bank, *Gender, Justice, and Truth Commissions*, 20 (Jun. 2006), available at

<http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

representation in public offices, that communities make special efforts to encourage acceptance of the survivors of rape and sexual violence. Additionally, it called on legal reforms with respect to discrimination and marriage, widows and property rights, HIV/AIDS education, and microcredit programs focused on women.⁹⁷

Conclusion

Women are often the victims of gender-specific human rights violations during conflicts. Post-conflict states can ensure that these violations are acknowledged and addressed through incorporation of gender issues and women's experiences in transitional justice mechanisms, such as truth and reconciliation commissions.

There are several core elements involved in facilitating the participation of women in a truth and reconciliation commission: (1) performing preparatory work that ensures that women's voices and issues are addressed and heard by the commission and that the commission is prepared to handle gender-related issues; (2) structuring the commission such that it is welcoming to women and conducive to their participation by including women in its composition, providing for women's issues in its mandate, and allowing for the establishment of sub-committees or sub-units dedicated to gender issues; (3) altering the conduct of hearings and statement taking to ensure that women feel comfortable testifying; (4) broadening the scope of investigations to include systematic violations and consequential crimes against women in addition to underlying sexual violence; (5) including women's issues and gender related findings in the final report and recommendations; and (6) structuring reparations to address the unique injuries of women following armed conflict.

⁹⁷ World Bank, *Gender, Justice, and Truth Commissions*, 21 (Jun. 2006), available at <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/GJTClayoutrevised.pdf>.

About the Public International Law & Policy Group

The Public International Law & Policy Group is a non-profit organization that operates as a global *pro bono* law firm to provide free legal assistance to states and governments involved in peace negotiations, advise states on drafting post-conflict constitutions, and assist in prosecuting war criminals. To facilitate the utilization of this legal assistance, PILPG also provides policy formulation advice and training on matters related to conflict resolution.

PILPG's primary practice areas are:

- **Peace Negotiations**
- **Post-Conflict Constitution Drafting**
- **War Crimes Prosecution**
- **Policy Planning**
- **Democracy and Governance**
- **Water Diplomacy**

To provide *pro bono* legal advice and policy formulation expertise, PILPG draws on the volunteer services of more than sixty former legal advisors and former Foreign Service officers from the US Department of State and other foreign ministries. PILPG also draws on *pro bono* assistance from major international law firms including Baker & McKenzie; Cleary, Gottlieb, Steen & Hamilton; Covington & Burling; Davis, Polk & Wardwell; Debevoise & Plimpton; DLA Piper/New Perimeter; Jones Day Milbank, Tweed, Hadley & McCloy; Orrick, Herrington & Sutcliffe; Shearman & Sterling; Skadden, Arps, Slate, Meagher & Flom; Sullivan & Cromwell; White & Case; and WilmerHale. Annually, PILPG is able to provide over \$15 million worth of *pro bono* international legal services.

Frequently, PILPG sends members in-country to facilitate the provision of legal assistance; its members often serve on the delegations of its clients during peace negotiations. PILPG is based in Washington, D.C., with additional offices in New York and Amsterdam. PILPG has also operated field offices in Georgia, Iraq, Kenya, Kosovo, Nepal, Somaliland, South Sudan, Sri Lanka, Tanzania, and Uganda, and maintains contacts in nearly two dozen key cities around the globe.

PILPG was founded in London in 1995 and moved to Washington, D.C. in 1996, where it operated under the auspices of the Carnegie Endowment for International Peace for two years. In July 1999, the United Nations granted official Non-Governmental Organization status to PILPG.

In January 2005, a half-dozen of PILPG's *pro bono* clients nominated PILPG for the Nobel Peace Prize for "significantly contributing to the promotion of peace throughout the globe by providing crucial *pro bono* legal assistance to states and non-state entities involved in peace negotiations and in bringing war criminals to justice."