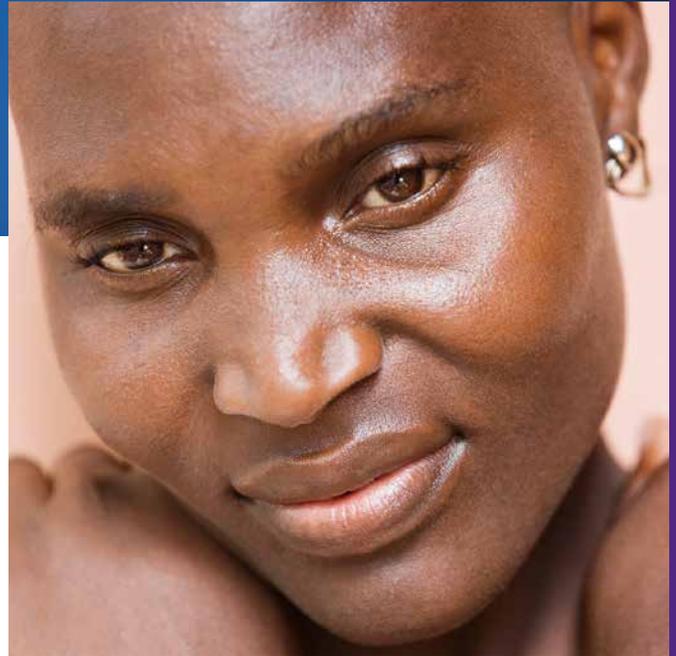


Silent No More: Inclusion of Post-Conflict Women in Truth Commissions

Abbey Boggs



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Abstract

This paper explores the gendered dimension of conflict in transitional societies. Particularly, it argues that truth commissions must be inclusive of women to address their marginalization, which precedes, flourishes in, and often survives mass atrocity. Truth commissions have historically been gender neutral; in other words, they have made no distinction between men and women and, thus, not taken into account the differences in men's and women's experiences. To understand, redress, and transform the inequality experienced by women, the context surrounding women's lives must be considered throughout the transitional justice process. This paper explains that women experience sexual, reproductive, and other abuse, but also recognizes that many indirect causes and effects of this abuse are entrenched in historical, cultural, and social constructs. Three case studies are included to illustrate attempts to account for gender in truth commissions. Scholars have conducted extensive research on truth commissions in Peru, South Africa, and Timor-Leste and provide a blueprint of expertise on the multifaceted components truth commissions must take into account when considering gender. The case studies provide examples of successes and failures in the commissions' approaches and demonstrate the importance of contextualizing women's positions when confronting post-conflict scenarios. As gender issues become more commonly acknowledged throughout the world, it is important to recognize the far-reaching grasp of gender inequality and to draw from past examples of truth commissions to better the future for post-conflict women through respect, acknowledgment, and sensitivity.

Introduction

Natalia is a woman from Los Palos, a city in Timor-Leste. She described her experience during Indonesia's occupation of Timor-Leste as a young and scared woman:

[M]y uncle said to me “it's better you *hola* (have sex with/marry) that *Bapak* [Indonesian man]” because at that time the Indonesians were killing people randomly and at that time my other uncle also worked as *Hansip* at the *Koramil* (military command). He was afraid the soldiers would kill him. And so my uncle thought it was better I *hola* that Indonesian soldier. (Kent, 2014, p. 299) (Brackets in original.)

Natalia's experience is similar to what many women encounter during mass atrocity and repression. Gender inequality does not manifest in situations of conflict alone. Deep, complex structural causes and discriminatory practices intensify women's vulnerable positions during and after conflict (International Center for Transitional Justice [ICTJ], n.d.a). A study on women's repression in 57 countries stated, “[v]iolence against women has eluded the global human rights agenda for almost fifty years” (Henderson, 2004, p. 1029). Therefore, serious consideration of women's perspectives, priorities, and experiences in transitional, post-conflict settings is imperative. This paper explores the gendered dimensions of conflict and the multifaceted components truth commissions should consider throughout their work in order to represent women.

The first section focuses on the types of abuse women suffer generally. Gender-based violence occurs before, during, and after conflict. To understand the gendered dimension of conflict, it is necessary to identify the root causes and manifestations of abuse. The second section discusses gender as it relates to transitional justice and why gender is best addressed through truth commissions. The third section comprises three case studies. The case studies delve into the violence experienced by women and the work done by truth commissions in Peru, South Africa, and Timor-Leste. The fourth section analyzes different aspects of truth commissions, including strategies commissions can implement to achieve gender sensitivity in the future. The analysis draws

on positive and negative strategies used in Peru, South Africa, and Timor-Leste. A recurring and fundamental theme is that the context of women's situations must be considered throughout the entire transitional justice process to best understand, redress, and transform the inequality they experience.

Forms of Abuse Suffered by Women

Sexual Violence

Under authoritarian regimes and during violent conflict, women experience many forms of abuse, especially systemic sexual and reproductive violence. Types of sexual violence include rape, forced prostitution, sexual slavery, sexual mutilation, forced abortion, forced pregnancy, and other indecent assault (Walker, 2011). Trafficking is also prevalent. There have even been reports where pregnant women's bellies were sliced open and the fetus cut out (Walker, 2011). Manifestations of sexual violence are not limited to those listed above. Some truth commission final reports reference the prevalence of sexual violence during conflict (United Nations Human Rights Council, 2014).¹

During conflict, sexual violence may be used as a tactic of war to humiliate, dominate, instill fear in, disperse, and/or forcibly relocate civilian members of a community or ethnic group (Walker, 2011). Men are often perceived as protectors, which allows sexual abuse of women to be used as an attack on masculinity (Kent, 2014). Additionally, political, economic, and social breakdown exacerbate women's vulnerability. Systems that provide protection to women before conflict often collapse and are unable to offer women the hope of safety. Thus, for many reasons, whether women are targeted directly or indirectly, the violence they face during conflict is inescapable. It is also important to note that women do not face sexual violence merely in times of conflict. Sexual violence against women during and immediately after conflict is an exacerbation of the discrimination and inequalities they experience during peacetime (Walker, 2011). For example, in

¹ Several truth commission final reports can be accessed at <http://www.usip.org/publications/truth-commission-digital-collection>.

many societies, men have control over a women's fertility. Control is expressed in many ways, such as marriage practices, including marital rape, and the prohibition or forcing of contraception or abortion (Hancox, 2012).

Sexual violence has numerous persistent effects. Infertility, nakedness, HIV transmission, and unwanted pregnancies are just a few of the effects of sexual violence. Along with physical effects, women face psychological ones, including the stigma that comes with sexual abuse, especially rape. Women who were victims of sexual abuse and rape in every country studied in Ruth Rubio-Marín's *What Happened to the Women?* reported feelings of rejection, fear, and shame (Walker, 2011). In many countries, a woman's dignity and sexual purity are closely linked, leaving victims of sexual abuse stigmatized (Awwad, 2011; Human Rights Watch, 2010).

Sexual violence has a ripple effect on many aspects of women's lives. Women frequently have no choice in how they manage the effects of their own abuse. For example, where abortion is illegal or unavailable, women are unable to choose how to confront the consequences of rape. Policymakers in Sierra Leone assumed that victims of war rape who became pregnant would be willing to care for and raise the children they were impregnated with (Duggan, 2006). When women do not have resources or lack the ability to choose what to do with their own bodies, they face further difficulties. They may be forced to raise children they cannot afford to care for or may be unable to access medical care to treat their own ailments. Many women are also shunned from their families if they are victims of sexual abuse. Thus, women are plagued with the effects of sexual violence long after the conflict ends.

Other Types of Violence

Sexual violence is not the only violence women face during authoritarian regimes, armed conflict, and political repression (Walker, 2011; Gardam & Charlesworth, 2000; Gallagher, 1997). Other forms of violence may be independent of sexual violence or occur as a result of violence against family members (Walker, 2011). Women lose homes, land, sources of

income, and family members and are killed, injured, tortured, incapacitated, forced to relocate, and stranded in refugee camps (Walker, 2011). Although men experience many of these forms of violence as well, women's difficulties during and after conflict are often magnified as a result of their preexisting socioeconomic conditions and legal status (Aoláin, 2008). As such, many women are dominated by men socially, economically, and civilly, and their lack of power is customary and in accordance with societal norms (Aoláin, 2008).

Women lack formal and substantive equality in comparison to men on a global scale. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (United Nations Entity for Gender Equality and the Empowerment of Women, n.d.a) is a treaty referring specifically to equal rights of men and women. CEDAW has yet to be ratified by the United States. Although many other countries have ratified CEDAW, States Parties have made reservations to many of its provisions, evidencing the failure to fully recognize equal rights of women (United Nations Educational, Scientific and Cultural Organization, n.d.; United Nations Entity for Gender Equality and the Empowerment of Women, n.d.b; International Criminal Court, n.d.).

Global inequality can be further illustrated by the disproportionate representation of women in civil society during peacetime. As of June 1, 2016, women made up only 22.7 percent of national parliaments worldwide (Inter-Parliamentary Union, 2016a). On average, parliaments in the Arab States, Asia, and the Pacific are less than 20 percent female (Inter-Parliamentary Union, 2016a). Women make up only 26.2 percent of the single house in Peru (Inter-Parliamentary Union, 2016b).² Barriers to political participation may be based on religion, culture, educational requirements, and historical gender roles that confine women to domestic duties rather than political activities (United Nations General Assembly, 1997). Similarly, in post-conflict and transitional periods, women's voices are

² Although countries such as the United States and European countries also have low participation rates, the barriers women face, such as barriers in access to education, information, and resources, are often greater in the countries named above (Lenhardt et al., 2016).

often silenced. Displacement arising from armed conflict, persecution, and other serious human rights violations can intensify the inequality women experience. Lack of female participation, however, maintains women's lack of power and guarantees that women are not consulted in the rebuilding process.

Under authoritarian regimes and when conflict erupts, women are decisively affected by preexisting social, political, and cultural norms, regardless of where the violence occurs. Sometimes women are the target of violence; however, even when they are not directly targeted, women are exposed to a plethora of abuse and harm in the midst of political repression. The violence suffered by women specifically, as well as underlying gender disparities, cannot be overlooked when addressing past abuse in periods of transition.

Transitional Justice and Gender

Transitional justice is a set of judicial and non-judicial measures implemented to respond to systematic and widespread human rights abuses (ICTJ, n.d.f). Many post-conflict countries have used transitional justice mechanisms to achieve various objectives, such as establishing the truth, punishing perpetrators, repairing damages, paying respect to victims, engaging in reconciliation, and preventing future abuses (ICTJ, n.d.f). Countries can attempt to fulfill these objectives through a variety of transitional justice mechanisms, including holding trials in domestic or international courts; awarding reparations to victims; building memorials; reforming military, police, and judicial systems; and creating truth commissions (Hayner, 2011).

Transitional justice mechanisms can fuel progress and reform in gender justice. They can not only help reveal gendered patterns of abuse through promoting women's testimony, but also enhance access to justice for women. Many early transitional justice measures were gender blind (United Nations Human Rights Council, 2014). This blindness resulted in failure to recognize the disproportionate impacts of violence on women and failure to consider unique ways women were affected by systematic and widespread abuse (ICTJ, n.d.a).

Truth commissions are non-judicial inquiries into recent periods of mass atrocity. A truth commission typically operates between 6 months and 2 years (Brahm, 2004). The state officially authorizes a commission's operation (Brahm, 2004). Truth commissions aim to determine the facts, causes, and consequences of past human rights violations. Commissions interview victims and key political actors, protect evidence, compile archives, conduct research, create a record of state information, and produce a final report with recommendations for reparations, among other activities (ICTJ, n.d.e). Often, people living in countries where mass atrocity occurs want knowledge of what happened, which truth commissions attempt to provide. Although few truth commissions have fully addressed gender, progress has been made (United Nations Human Rights Council, 2014). Truth commissions can provide opportunities for women to have their voices heard, which the case studies in the next section illustrate. Although other transitional justice mechanisms provide an opportunity to mainstream conversations about gender inequality, truth commissions can have the most meaningful impact for women. For example, truth commissions can reflect on the systematic nature of sexual violence and change societal attitudes about sexual violence (United Nations Human Rights Council, 2014). Many scholars believe that truth commissions are the best transitional justice mechanism to provide closure, promote healing, and help a society progress from its violent past (Lundy & McGovern, 2008).

Attention to the gendered dimension of conflict has increased in the international community in the last two decades, and transitional justice jurisprudence has changed international law's treatment of gendered violence (Franke, 2006). Acts of sexual violence can now be charged as crimes against humanity, war crimes, genocide, and grave breaches of humanitarian law standards (Walker, 2011). In contrast to truth commissions, however, prosecutions tend to highlight perpetrators, rather than victims. Additionally, the prosecutorial nature of trials may be perceived as insensitive to women's vulnerability post-conflict. Reparations can enhance the lives of post-conflict women. However, there have been many shortcomings as reparations relate to gender,

such as shortcomings in the definitions of victims and beneficiaries and exclusion of women from the reparations planning process (Bell & O'Rourke, 2007). Reparations are one component of truth commissions. Articulating reparations through a truth-telling lens provides a greater opportunity for reparations to have a meaningful impact on women, which will be addressed subsequently.

In the past decade, there has been growing acknowledgment that truth commissions can have an impact on gender equality. For example, The Office of the United Nations High Commissioner for Human Rights has issued tools and statements on transitional justice that include reference to gender (Lundy & McGovern, 2008). In particular, their report from 2014 discusses the role truth commissions can play with respect to gender and calls on future commissions to build on precedents set by past commissions (United Nations Human Rights Council, 2014). Although precedents provide useful tools, a universal formula would not be beneficial. Certain strategies are more successful for some commissions than others. The case studies highlight the importance of placing each geographical, political, and social environment into context and, furthermore, collaborating with nongovernmental organizations (NGOs) to enhance the effectiveness of a commission's reach. Failure to acknowledge locals' lived experiences and opinions is a pitfall to transformation (Lundy & McGovern, 2008).

Gender and Truth Commissions: In Perspective

Although incorporation of gender into truth commissions is not a new concept, it has not been frequently implemented. Truth commissions such as those in Peru, South Africa, Guatemala, Liberia, Sierra Leone, and Timor-Leste have incorporated gender into their transitional approaches; however, precedent remains limited. Given that transitional justice takes place only after mass atrocity, it is good that the cases requiring use of transitional justice mechanisms have not been more frequent. Future commissions do not have a perfect precedent to follow. Instead, they must learn from and build on past commissions' incorporation of gender or lack thereof. Scholars

have conducted studies with the goal of pinpointing how and when gender can be implemented in truth commissions.

Peru, South Africa, and Timor-Leste are examined in this paper because they provide a variety of examples of how future commissions can address gender. For example, the Peruvian Commission set an important precedent in creating a separate gender unit. The South African commission is the best known and researched truth commission and was the first to incorporate women's hearings, where women were encouraged to share their stories. Timor-Leste used a cross-cutting method to mainstream gender throughout various truth commission components. Although the commissions in Peru, South Africa, and Timor-Leste did not operate past 2005, the lessons learned from their operation are still relevant today. Each truth commission's procedures and practices are unique, and each illustrates strategies future commissions can take into account and build upon.

Peru

For two decades, internal conflict plagued Peru, leaving about 69,280 Peruvians dead or missing (Correa, 2013). In 1980, *Sendero Luminoso* (Shining Path), Peru's communist party, announced a guerrilla war against the state in an attempt to replace the Peruvian government with a centralized revolutionary regime. *Sendero Luminoso* combatants launched attacks against both the military and civilians. Although *Sendero Luminoso* was responsible for a large portion of the violence in Peru, it was not the only group seeking control. The civil war encompassed multiple parties who attempted to gain control over overlapping territories. Internal conflict continued with the emergence of the Tupac Amaru Revolutionary Movement in 1983 through 1996. From 1990 to 2000, Peruvians continued to suffer abuses under the rule of President Alberto Fujimori. Under his administration, the state fought against *Sendero Luminoso*, and violence continued. Eventually, Fujimori fled Peru and was later sentenced to 25 years of imprisonment based on corruption and human rights violation charges. The entire country was affected by years of conflict; however, some of the worst violence was concentrated in the Andean highlands, which severely affected

indigenous populations (The Center for Justice and Accountability, n.d.).

Comisión de la Verdad y Reconciliación

Peru's Truth and Reconciliation Commission (Comisión de la Verdad y Reconciliación, or CVR) convened in 2001 and submitted its final report (*Informe Final de la Comisión de la Verdad y Reconciliación*) in August 2003. The CVR had 12 commissioners, 2 of whom were female (United States Institute of Peace, 2001). The CVR's mandate was "to clarify the process, facts and responsibilities related to the terrorist violence and human rights violations that occurred between May 1980 and November 2000, which were perpetrated both by terrorist organizations and by State agents, as well as to propose initiatives aimed at consolidating peace and harmony among Peruvians" (Guillerot, 2006, p. 139). "[N]ational reconciliation, the rule of law and the strengthening of the constitutional democratic system" were also part of the CVR's mandate (Guillerot, 2006, p. 139). As far as reparations were concerned, "its mandate was to prepare proposals for repairing and dignifying victims and their relatives" (Guillerot, 2006, p. 139). Although there are many critiques of the CVR, it should be noted that the *Informe Final de la Comisión de la Verdad y Reconciliación* was the first official attempt to record human rights violations suffered specifically by women (Guillerot, 2006). The CVR also acknowledged the different effects of violence on men and women (Guillerot, 2006).

Peru and Violence Against Women

Some of the abuses women suffered in Peru included the death and disappearance of family members, kidnappings, forced recruitment, arbitrary detentions, physical and psychological torture, and extrajudicial executions (Guillerot, 2006). Fifty percent of the crimes against women were murders and extrajudicial executions, and rapes were the sixth most common crime against women (Guillerot, 2006). As indicated in the *Informe Final de la Comisión de la Verdad y Reconciliación*, women were subject to multiple forms of sexual violence, not only by official forces, but also by insurgent groups (Guillerot, 2006). A woman's chances of being subject to violence increased if she

was active in the armed conflict or was suspected of having any type of relationship with any of the conflict players (Guillerot, 2006).

Men were the main targets of violence in Peru; however, this also significantly affected women's lives. The conflict forced many women to generate income when they had not previously done so (Guillerot, 2006). Becoming a sole provider was an unfamiliar role for women, which was especially difficult because resources were scarce (Reisinger, 2005). The violence had tremendous effects on indigenous populations, and indigenous women's situations were especially exacerbated (Van Zyl, 2015). Because indigenous women were poor, uneducated, and of a marginalized social status and ethnic group, the effects of violence, including sexual abuse, were particularly severe for them (Guillerot, 2006).

Following the CVR, little changed in regard to gender inequality. Evidence of the deeply entrenched gender stereotypes was illustrated in the reluctance of Peruvian armed forces to admit that the numerous rapes committed around military bases were crimes (Guillerot, 2006). The idea that women should devote themselves to taking care of their families persists in Peruvian society today (Project Peru, 2011; *L.C. v. Peru*, 2011). This cultural norm disadvantages women because if they are taking care of the family home, political participation levels remain low (Guillerot, 2006). Additionally, violence against women persists in Peru.³ The 2012 and 2013 US Department of State's Country Reports on Human Rights Practices reported that rape, spousal abuse, and sexual, physical, and mental abuse continued to be serious national problems (Immigration and Refugee Board of Canada, 2014).

Gender and Reparations

The CVR used a gender-based approach in its work by looking at how political violence affected men and women differently (Guillerot, 2006). Implementation of a gender-based approach to reparations, however, fell by the wayside, partly because of flaws in the CVR's database system. The database and interview forms used to collect testimonies were designed

³ An example of such a case is *L.C. v. Peru* (2011).

before the gender team was created and before gender-specific violations were identified (Guillerot, 2006). Ultimately, the database contained cases where women were rape victims, but it failed to include other forms of violence suffered by women or the effects of rape (Guillerot, 2006). Although progressive work was conducted within the CVR regarding the investigation of facts, the *Comprehensive Reparations Plan (Plan Integral de Reparaciones)* recommendations did not follow suit.

As part of their reparation scheme, the CVR adopted the following definition of victim: “All such persons or groups of persons who, due to or by a reason of the domestic armed conflict affecting Peru from May 1980 through November 2000, have suffered acts or omissions that violate International Law on Human Rights” (Guillerot, 2006, p. 150). Recoverable crimes included murders and massacres; forced disappearances; arbitrary executions; torture and cruel, inhuman, or degrading treatment; sexual violence against women; due process violations; kidnapping and hostage taking; violence against boys and girls; and violations of collective rights, understood as forced displacement (Guillerot, 2006). Although “sexual violence against women” allowed qualification as a “victim” for CVR purposes, the *Plan Integral de Reparaciones* acknowledged only rape as a form of abuse (Guillerot, 2006). As described previously, women suffered many other forms of abuse. Failure to address other abuses disadvantaged women, because they could not qualify as direct victims for abuses other than rape. Additionally, no reparation measures were exclusively designed for women, including reparations for rape (Guillerot, 2006).

Peru’s CVR is heavily critiqued, but its successes are worth mentioning. Although the mandate did not include gender violence specifically, the commissioners addressed the importance of gendered violence by including a gendered dimension in their work. For example, the commission gave women the opportunity to have their voices heard, and 54 percent of the testimonies were given by women (Guillerot, 2006). Additionally, recognizing rape as a crime to be repaired was a major step forward. Where the gendered work of the commission seemed to crumble was in the lack of influence gender had on recommendations

and reparations. Failure to consider the effects of rape, sexual violence, and underlying cultural and societal structures was a major downfall in the truth commission’s work.

South Africa

Apartheid was in use in South Africa from 1948 to 1994. In the 1940s, the Afrikaner National Party invented apartheid to gain control over the economic and social system in South Africa. Apartheid was a system of racial segregation. Under apartheid, South Africans were divided according to their race and forced to live separately. For example, a law under apartheid prohibited people of different races from marrying each other (Gandhi-Luthuli Documentation Centre, n.d.). Legislation classified individuals into four racial groups: black, white, colored, and Indian (Gandhi-Luthuli Documentation Centre, n.d.). Apartheid caused intense internal resistance and violence in South Africa. The state met uprisings and protests with violence and repression. In 1990, unable to halt the opposition to apartheid, President Frederik Willem de Klerk began negotiations to end it. Although apartheid ended in 1994, the continued violence experienced by women can be traced back to apartheid and the way it shaped gender relations in South Africa (Goldblatt, 2006). Codification of customary law that was repressive to women dates back to South Africa’s colonial governments (Goldblatt, 2006). For example, under patriarchal family and property laws, married women, both black and white, were legally considered minors (Goldblatt, 2006).

The Effects of Apartheid on Women

Apartheid had numerous effects on women. Many men were transported to work on mines and in industrial areas, leaving women alone in rural areas (Goldblatt, 2006). Some women faced a great burden in caring for their families and maintaining the home without support from their spouses (Goldblatt, 2006). Other women who were forced to urban areas usually had to leave behind their families to seek employment as domestic workers (Goldblatt, 2006). Conditions during apartheid affected women in many ways, including making them anxious and uncertain about the status of their loved ones and intensifying poverty (Goldblatt, 2006).

Many people, including women, protested apartheid in South Africa. Some women were active in the underground movement within the country, and some engaged in various forms of organized opposition (Goldblatt, 2006). Protests resulted in the torture, murder, imprisonment, and harassment of male and female activists alike (Goldblatt, 2006). The state was responsible for many forms of mistreatment of women. In addition to mistreatment within the country, when South African soldiers invaded different countries, they often raped local women (Goldblatt, 2006). Furthermore, abortion was illegal and unavailable in South Africa, so sexual abuse victims were also affected by their inability to manage the effects of the sexual abuse they experienced (Goldblatt, 2006).

South African Truth and Reconciliation Commission

The South African Truth and Reconciliation Commission (TRC) operated from 1995 to 2002. The TRC's mandate was to investigate gross abuses of human rights, including abductions, killings, and torture (United States Institute of Peace, 1995). The mandate covered violations by the state and the liberation movements (United States Institute of Peace, 1995). Eight out of the 17 commissioners were women (United States Institute of Peace, 1995). Some of the female commissioners exhibited gender sensitivity, while others were less committed to gender issues (Goldblatt, 2006). Women's organizations and activists were not central to the creation of the TRC or its legislation (Goldblatt, 2006). Rather, women focused their attention on rebuilding society through efforts such as involvement in enacting a constitution with rights to equality, electing women to parliament, and drafting new laws and policies to address gender inequalities (Goldblatt, 2006). It was not until 1996 that women began to ask the TRC to address gender issues (Goldblatt, 2006).

Although the TRC did not follow many of the suggestions presented by women's groups, it did hold women's hearings (Kusafuka, 2009). The hearings allowed women to give testimony from behind a screen, if they felt more comfortable doing so (Snyder & Stobbe, 2011). The TRC also included panels composed of only female commissioners.

As a result, many women participated in the TRC process. Roughly 55 percent of statements given to the commission on human rights violations were from women (Kusafuka, 2009). In the end, the TRC addressed gender issues in a short chapter on women's special hearings (TRC, 1998). Although a large number of women gave statements, the TRC noted the following in its official finding:

Many of the statements made to the Commission by women detail the violations inflicted on others—children, husbands, siblings and parents—rather than what they themselves suffered. Undoubtedly the violation of family members had significant consequences for women. However, women too suffered direct gross violations of human rights, many of which were gender specific in their exploitative and humiliating nature.... The TRC, in its final report, notes that many women who had suffered terribly underplayed their own experiences when talking about what happened to men. (Goldblatt, 2006, p. 54)

Women may have avoided discussing their own experiences for many reasons, such as difficulty talking about sexual abuse, fear of shame, a wish to move on, and the timing of the taking of the statement.

Beth Goldblatt (2006) argues that although the final report is not an accurate expression of women's experiences under apartheid, the TRC process led to increased participation of women. Increased participation, especially through NGO activist groups, led to many suggestions for gender-sensitive reparation schemes (Goldblatt, 2006). For example, the Center for the Study of Violence and Reconciliation suggested using existing programs and resources in communities, such as housing, medical care, education, pensions, and counseling, to assist women (Ad Hoc Committee on Reparations Subcommittee, 2003). Women who were interviewed also vocalized what they deemed to be important reparations. Some asked for psychological support and information about their missing loved ones, and others asked for financial support (Goldblatt, 2006). For example, one interviewee said that both of her daughters died of AIDS, leaving her to care for all of her grandchildren (Goldblatt, 2006). The interviewee's situation was not uncommon for women in South

Africa, many of whom lost a breadwinner in the conflict or were responsible for many dependents. Allowing women to offer input for reparations was significant. The impact of the suggestions, however, was limited, because the reparations scheme remained largely “un-gendered” (Goldblatt, 2006).

Gender and Reparations

The TRC’s recommendations for reparations programs included financial, symbolic, and community reparations (United States Institute of Peace, 1995). The TRC’s definition of “victimhood” required the occurrence of a “gross violation of human rights” or an “associated act” emanating from conflicts of the past and committed by a person acting with a political motive (Goldblatt, 2006). “Gross violations of human rights” were defined as “the killing, abduction, torture or severe ill-treatment of any person” (Promotion of National Unity and Reconciliation Act 34 of 1995, s.1.1.1, p. 3). Rape and sexual abuse were usually interpreted as “other forms of severe ill-treatment” (Goldblatt, 2006, p. 60). The definitions’ focus on crimes of political violence means that systemic crimes of apartheid were not covered. Therefore, many rape victims did not qualify as “victims” (Goldblatt, 2006). Additionally, the definition of gross violations did not cover abuses women faced outside of rape and sexual abuse, including widowhood, loss of livelihood, and the effects of sexual abuse itself (Goldblatt, 2006). In the end, the commission acknowledged in its report that “the definition of a gross violation of human rights adopted by the Commission resulted in a blindness to the types of abuse predominantly experienced by women” (Truth and Reconciliation Commission, 1998, p. 318).

Another issue was the distinction between primary and secondary victims, defined as “relatives or dependents of primary victims” (Hayner, 2011, p. 78). Although the distinction between victims and their relatives and dependents was not based on the notion that the latter suffered less, secondary victims were entitled to grants only when and if the “primary” victim had died (Hayner, 2011). Therefore, women whose sons and husbands were imprisoned or tortured had no recourse for the harm they had

suffered (Hayner, 2011). Classification as a secondary victim was problematic, because “[t]he mothers of children who were tortured or killed experienced psychological pain and harm that need to be repaired and compensated” (Goldblatt, 2006, p. 62). Furthermore, “[b]readwinners were lost, families had to care for disabled members and there was the ‘cultural’ loss of children who might have supported the family and women having to assume the inferior status of widowhood” (Goldblatt, 2006, p. 62). Therefore, women who suffered independently in the form of loss of income, status, and psychological effects often received no reparations.

Even when an individual met the definition of “victim,” the distribution of reparations posed its own challenges. For example, where women have been able to access money, monetary reparations have been helpful (Goldblatt, 2006). Many women, however, have been unable to access these types of reparations for various reasons. For example, individuals reported conflicts over money within families (Goldblatt, 2006). Men tended to use money more individually, whereas women used money for the benefit of others (Goldblatt, 2006). Additionally, because of patriarchal and cultural underpinnings, when men received money, women had little to no say in how the money was spent (Goldblatt, 2006). Furthermore, applicants were required to have a bank account to receive reparations (Renzetti, Edleson, & Bergen, 2012). Many poor people in South Africa did not have bank accounts, and until 1998, women who married under customary law were regarded as minors for the purpose of certain commercial transactions (Renzetti, Edleson, & Bergen, 2012). Rural women especially relied on men to help with financial and business issues, because these women were often illiterate and uneducated (Goldblatt, 2006). Although the fund urged people to open accounts, many women used someone else’s account—usually a husband’s. As a result, women were not ensured control over the money (Goldblatt, 2006).

Additionally, all of those who met the definition of “victim” received the same amount of interim and final reparations, regardless of the form of harm they suffered (Goldblatt, 2006). Reparations were distributed equally on a gender-neutral basis

(Goldblatt, 2006). Thus, the needs of women, including whether they suffered short-term or long-term effects, such as loss of livelihood, were not taken into account. Financial reparations were not distributed according to location; therefore, rural residents, who are often much poorer, received the same amount as those in urban areas (Goldblatt, 2006).

One positive step for women in the reparations scheme was that if victims had died, their spouses were given first preference when distributing final reparations (Goldblatt, 2006). “Spouse” was defined in a way that allowed the fund to take into account many marital forms, including religious and customary marriages that were not legally recognized (Goldblatt, 2006).

Ultimately, reparations were minimally helpful for victims, not only because many people could not meet the definition of “victim,” but also because of how reparations were distributed and accessed (Kusafuka, 2009). Additionally, some women did not come forward to speak because they were uncomfortable doing so, lived in rural areas and were unable to travel to the urban centers, or lacked information (or a combination of these factors); these women could not share their experiences or benefit from reparations (Goldblatt, 2006).

Although many important developments came out of the reconstruction of South Africa, the transitional process, including reparations, failed to recognize the importance and needs of women post-apartheid. Years later, domestic violence and rape remain rampant, and HIV/AIDS continues to disproportionately affect women (Kalichman et al., 2009). The TRC’s short duration, accessibility difficulties, and lack of meaningful consultation with women and women’s organizations were among some of its pitfalls. Additionally, the difficulty of meeting women’s needs in South Africa’s reparations schemes was largely influenced by the initial pitfalls of the commission. Beth Goldblatt (2006) points out that a problem in South Africa was that reparations were largely linked to truth telling. Therefore, if a woman did not come forward to the commission, she did not qualify for reparations. Despite the TRC’s critiques, however, the progress made by the TRC, especially

the increased participation of women compared with other truth commissions, is noteworthy.

Timor-Leste

Timor-Leste saw the fall of two authoritarian regimes: the Salazar/Caetano regime in Portugal and the Soeharto regime in Indonesia, which led to 25 years of violent conflict. Under the Salazar/Caetano regime, civil war erupted in 1975. Roughly 1,500 to 3,000 people died, and thousands of others were detained and displaced (Wandita, Campbell-Nelson, & Pereira, 2006a). Thereafter, Indonesia launched an invasion and occupied East Timor for 24 years. For two decades, the civilian population suffered large-scale extrajudicial killings, disappearances, illegal detentions, torture, rape, sexual slavery, and forced displacement. Over 100,000 people died as a result of the conflict (ICTJ, n.d.d). After the collapse of the Soeharto regime, a majority of East Timorese people voted for independence in a United Nations–organized referendum (ICTJ, n.d.d). The Indonesian security forces and their Timorese militia met the vote for independence with systematic violence. In October 1999, Indonesia handed over the territory to the United Nations. Timor-Leste became an independent state on May 20, 2002.

Abuses Suffered by Women in Timor-Leste

Indonesian armed forces used rape and sexual torture as tactics to destroy the confidence and strength of those who supported independence and other victims (Kent, 2014). Women and girls were targeted if they were directly involved in the resistance movement or if they were part of a civilian population targeted by the military (Wandita, Campbell-Nelson, & Pereira, 2006b). Militia groups and Indonesian security forces systematically committed sexual crimes (Hirst, 2008). For example, in exchange for the collective security of their families or communities, women were sacrificed as “army mistresses” (Kent, 2014). Men detained women in military installations, where women were the sexual property of that man or of multiple men (Kent, 2014). Other men regularly summoned women to military installations for sexual purposes (Kent, 2014).

Consequences of the sexual abuse itself were equally difficult. Many of the single women interviewed

did not receive support from their former military “husband” (Kent, 2014). Additionally, the stigma associated with women’s experiences outlasted the conflict. A majority of the population in Timor-Leste is Catholic and, therefore, places emphasis on women’s purity and chastity. Thus, many women were left feeling ashamed and labeled (Kent, 2014). Celeste, an East Timorese woman, said:

Yes, I was ashamed, because people accused me of doing many things. Many people have big mouths, they made fun, called me an *isteri TNI* (military wife). They said that I destroyed my life, but I just have patience, it is not my mistake. I married *Bapak* to save my mother and father... My family and neighbours also talk about me. My family also laughs at my life, my family and neighbours talk about my child and say his father is not Timorese but Indonesian. My child asked me about this, and I responded, “Yes, this is true, your father is an Indonesian but this was because of the war not because I wanted to.” (Kent, 2014, p. 304)

Some East Timorese women were able to reconstruct their lives after the conflict (Kent, 2014). Many received support from church leaders, families, husbands, and children. Since its independence, Timor-Leste has ratified CEDAW; however, it has not created functional systems to protect the rights of women and children. For example, the NGOs Working Group on CEDAW Alternative Report (2009) identified key areas where women continue to face extreme discrimination. Key areas included politics and public life; women’s equal right to education, marriage, family life, and culture; and violence against women. Domestic violence remains prevalent (Boulet, 2013). Thirty-eight percent of women between the ages of 15 and 49 have experienced violence during their lifetime (Robertson, 2015). Additionally, because Timor-Leste remains one of the poorest nations in the world, inequality continues to disadvantage women (Kent, 2014). Poverty and inequality ensure that women remain in traditionally defined roles, such as completing domestic tasks and working alongside men in the fields, and remain in rural villages, where they are unable to access education or participate in public life (Wandita et al., 2006a). Although there remains a lot to be done regarding gender equality, it is important to note Timor-Leste’s accomplishments since Indonesian occupation, such as recognizing the

prevalence of violence against women (Robertson, 2015).

Comissão de Acolhimento, Verdade e Reconciliação de Timor-Leste

The Comissão de Acolhimento, Verdade e Reconciliação de Timor-Leste (CAVR) was established in January 2002 under the interim United Nations government, through the United Nations Transitional Administration for East Timor. The commission ran until 2005. The CAVR’s mandate was to uncover the truth about human rights violations that occurred from 1974 to 1999, assist in the reintegration of those who committed “minor criminal offences” through a community-based reconciliation process, and assist in rehabilitation of dignity for victims of human rights violations (United States Institute of Peace, 2002). The CAVR included seven commissioners: five men and two women (United States Institute of Peace, 2002).

The CAVR did better than most truth commissions in recognizing the importance of gender; it encouraged women’s participation and discussed gendered dimensions of the conflict (Kent, 2014). Such efforts included recruiting equal numbers of men and women as statement takers and victim support staff; organizing a special public hearing on women and the conflict, where 13 women from across the country spoke about their experiences of violence; and collaborating with a women’s NGO to document women’s rights violations in a 6-month research project (Kent, 2014). The CAVR’s efforts focused specifically on sexual violence (CAVR, 2013). The commission documented 853 reported cases of rape and other forms of sexual violence, 229 of which were termed “sexual slavery” (Kent, 2014). Although the CAVR tried to encourage participation of women, gendered barriers to participation were difficult to overcome. For example, because of preconceived gender roles that kept women at home, many women were not able to partake in public activities, and many could not access information about the CAVR (Kent, 2014). Therefore, the actual number of rape cases was much higher than what was reported. The CAVR received 7,669 statements on human rights violations, 21.4 percent of which came from women who were

either victims or witnesses of human rights violations (Wandita et al., 2006a).

Urgent Reparations Program and Reparation Recommendations

The CAVR paid particular attention to the needs of victims. A Working Group on Victim Support was established to help victims during the truth-seeking process (Wandita et al., 2006a). As part of the Working Group's efforts, an Urgent Reparations Program was developed (Kent, 2014). Women's efforts seemed to focus more on making changes for the future than on repairing the past. Consequently, women's role in articulating reparations was limited (Wandita et al., 2006a). The CAVR encouraged victims to make recommendations for the types of reparations they deemed valuable (Wandita et al., 2006a). Some recommendations the CAVR received were government assistance for children's education; assistance for widows, people with disabilities, and orphaned children; demands for justice; and adequate housing and health care (Wandita et al., 2006a).

Statement takers were asked to identify victims who met the beneficiary criteria for the Urgent Reparations Program (Wandita et al., 2006a). District teams conducted follow-up visits with victims to determine who the most vulnerable were (Wandita et al., 2006a). From each subdistrict, 10 to 15 people who best met the beneficiary criteria were then identified to receive urgent reparations (Wandita et al., 2006a). Examples of the criteria considered by the staff included the severity of need, the vulnerability of the person, whether other referral services existed or were easily accessible, whether the need related to a human rights violation, whether the urgency of the need was obvious, and whether the assistance sought would help the person in a sustainable way (Judicial System Monitoring Programme, 2004).

After identifying beneficiaries, the Urgent Reparations Program provided monetary compensation to victims, referred victims to existing services, conducted healing workshops, provided funds to local organizations that could provide services to victims, and implemented a collective reparations program delivered in conjunction with three NGOs (CAVR, 2013). Healing workshops were

important because they enabled men and women to discuss what happened in a safe environment (Wandita et al., 2006a). More than 50 percent of workshop participants were women, and one workshop was developed for women only (Wandita et al., 2006a). Monetary compensation was the same for all victims, regardless of the number of dependents or severity of harm suffered (Wandita et al., 2006a). Two women's NGOs helped develop a collective reparations program in communities where women victims continued to suffer (Wandita et al., 2006a). Funds were used to build a community education center, plant vegetables, organize a commemoration for the violations that took place, and provide group counseling (Wandita et al., 2006a). The number of women who benefitted from the urgent reparations scheme was consistent with the rate of women's participation in statement taking (Rimmer, 2010). More women may have been identified as beneficiaries if reparations did not hinge on the statement-taking process (Wandita et al., 2006b). Eventually, the CAVR's Victim Support Division was restructured into the Reparations Unit, which was responsible for formulating recommendations on reparations (Wandita et al., 2006b).

The CAVR proposed a reparations program as part of its final report (ICTJ, n.d.c). "Victim" was defined as a "person who, individually or as part of a collective ... suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of his or her rights as a result of acts or omissions ... and includes the relatives or dependents of persons who have individually suffered them" (Wandita et al., 2006a, p. 308). Victims could come forward before the commission, but the CAVR also provided a 2-year period to identify beneficiaries outside of the CAVR's processes (Wandita et al., 2006a, p. 308). Survivors of gross human rights violations and those who suffered indirectly from the disappearance or murder of family members were considered primary beneficiaries (Wandita et al., 2006a). The fact that immediate family members could qualify for reparations when their family members were killed or disappeared was a progressive step for women, especially those who lost men, sources of income, and means of survival.

The reparations scheme addressed killing, disappearance, detention, torture, rape, and other forms of sexual violence (Wandita et al., 2006a). The CAVR found these crimes to be the most severe and their impacts on victims longer lasting (Wandita et al., 2006a). The broad definition of sexual violence encompassed women, girls, men, and boys who were subject to rape, sexual slavery, forced marriage, and other forms of sexual violence (Wandita et al., 2006b). Victims who were thought to have endured the most harm were given priority in the CAVR's reparation recommendations. These included victims of torture, people with mental and physical disabilities, victims of sexual violence, widows and single mothers, and children (Wandita et al., 2006b). The CAVR did not recommend monetary compensation because many people lacked access to bank services (Wandita et al., 2006b). Instead, it recommended many rehabilitation services (ICTJ, n.d.b). The CAVR proposed allocating 50 percent of reparations resources to women (Wandita et al., 2006b). Other proposals included scholarships for school-aged children, access to counseling and peer support, livelihood skills training, social services, and restorative programs, among many others (Wandita et al., 2006b).

Little progress has been made regarding implementation of reparations. Victims and their families do not feel that justice has been done for the crimes committed during the conflict (ICTJ, 2010). Although the CAVR made much more progress than any other truth commission regarding gender, limitations to their approach include their mandate, linkage between reparations and statement giving, and failure to implement the commission's recommendations.

Analysis

For women to be adequately represented in truth commissions, continuous consideration of the context in which women lived before, during, and after conflict is essential. This section examines a few important aspects of truth commissions that were addressed in each of the case studies: mandates, appointment and recruitment, participation, and reparations. Attention to these components helps set

guideposts and strategies for future commissions on how to reach a degree of sensitivity and inclusiveness that will positively affect the lives of women in transitional settings.

Mandate

Truth commissions define a mandate, or rather, the truth that the commission aims to achieve. Mandates regulate commissions in matters of time, scope, and objectives (Reisinger, 2005).

The terms of reference ... can define a commission's investigatory powers, limit or strengthen its investigative reach, define the exact abuses and the perpetrators of abuses that a commission is allowed to investigate, and set the timeline and geographic scope of the commission's investigation. The terms of reference ... sometimes state whether certain kinds of recommendations should be included in the report, or whether names should be named. (Hayner, 1994, p. 636)

Mandates help a commission carry out its task effectively by setting the stage for the truth it is seeking (Gonzalez, 2013). Objectives may be to promote and restore the rights of victims or to establish the truth about what happened, including the causes of abuse (Gonzalez, 2013).

Mandates have largely been gender neutral to date. Some commissions (such as those in Guatemala, South Africa, and Peru) considered sexual violence as part of a broader category of "torture and ill treatment" (Hayner, 1994). In Haiti, Sierra Leone, and Timor-Leste, gender was explicitly incorporated into commission mandates (Hayner, 1994). Peru's failure to consider gender from the commission's inception is another pitfall illustrated in the case studies. Failure to consider gender at the outset resulted in a data-gathering process that included rape but excluded other forms of sexual violence and the effects of rape.

Mandates also set out the time period for a commission's operation. For example, the South African TRC is critiqued for its short duration, because many women were not yet ready to talk about their pain.

Future commissions should take into consideration the issues above when determining how to articulate

their mandate in terms of both scope and time. First, gender should be incorporated at the time the mandate is adopted. This can help guide the entire process from a perspective that accounts for gender. A gender-inclusive commission sends the signal that women are important and that the abuses they experienced will be taken seriously. Failure to mainstream gender from the beginning often results in a commission that neglects gender throughout its operation, such as Peru's failure to consider many types of violence against women in their data collection process. Second, consideration of women's vulnerability and sensitivity after periods of conflict is critical when determining the length of time a commission will operate. Many women need more time to cope with their experiences than they receive between a commission's creation and reparations measures. In addition to their own victimization, many women are grieving the loss of loved ones or worrying about their means of survival. As illustrated in South Africa, where many women came forward to talk but spoke of the abuses suffered by others, women's own suffering may not be their first priority. Therefore, future commissions should follow Timor-Leste's example by allowing a window of time after a commission's operation for individuals to come forward about the abuses they suffered.

Appointment and Recruitment

Appointment and recruitment involve securing professional expertise in various disciplines to act as commissioners. Sometimes commissioners are appointed in accordance with specific criteria set out in the commission's mandate (Freeman, 2006). The make-up of a commission can vary greatly, having anywhere from a few commissioners to more than 15 (Freeman, 2006). Commissioners can be all nationals, all foreigners, or a mix of both (Freeman, 2006). Commissioners also come from a wide range of professions. Past commissioners have worked in law, human rights, psychology, and academia, among other fields (Freeman, 2006).

Many truth commissions have not actively sought out and encouraged women's testimony. Appointing and recruiting female commissioners can help address women's issues. However, as illustrated in South Africa, merely meeting a quota is insufficient.

Not all female commissioners' primary concern in transitional settings is the gendered dimension of conflict. Therefore, future commissions should be especially proactive in collaborating with outside groups and individuals. Such collaboration can provide planning tools on how to include women in all steps of the truth commission process (Hayner, 2011). Commissioners should work with NGOs, women's advocates, and scholars. For example, institutions like UNIFEM (United Nations Development Fund for Women), USAID (United States Agency for International Development), the United Nations, and special courts are integral parts of mainstreaming gender in truth commissions. NGOs and outside groups that focus on gendered issues can help commissions recognize manifestations of abuse and train them on how to interact with post-conflict women. Women's groups are often experienced in studying gender issues and can highlight underlying gender issues when they may otherwise be sidelined.

Women's Participation

Perhaps the most commonly underreported abuses are those suffered by women (Hayner, 2011). As discussed throughout this paper, for many reasons, underreporting continues to be a major roadblock to identifying and addressing abuses suffered by women. Commissions should bear in mind that because of underreporting, the number of women who come forward is not conclusive. Women have demonstrated that they will speak out, given the right conditions. Data gathering, therefore, should be carried out strategically and thoughtfully. Who the statement takers are, where interviews are done, and how they are conducted are all important aspects future commissions must consider.

In each case study, women had a hard time coming forward to talk about the abuse they experienced because of embarrassment, stigma, and shame. Additionally, there are a variety of perpetrators of violence against women, such as state actors, husbands, and family members. As a result, women may be hesitant to trust statement takers. Trusting that the commission generally has and statement takers specifically have a woman's rights and interests

at heart is imperative if commissions want women to talk about their experiences.

Certain strategies, especially those employed in Timor-Leste, should be used by future commissions to help women feel more comfortable sharing their experiences. Accounting for gender when selecting experts, commissioners, and statement takers helps make commissions less alienating for female victims and helps them feel comfortable and supported. If women feel more comfortable, they are more likely to share their stories. In turn, the truth commission will be able to capture a more accurate picture of the types of harm that occurred. Additionally, staff members, including statement takers, should be adequately trained. Training is essential in understanding underlying and historical patterns of gendered abuses and effectively communicating with women during statement taking. For example, women often make vague references to abuses they may have suffered but focus more explicitly on abuses suffered by loved ones. Collaboration with psychologists is one way statement takers can perform more effectively. Adequately trained officials may be able to recognize subtle language women use regarding their own suffering, so their experiences are not overlooked.

Furthermore, a process that is perceptive specifically to the sensitive nature of sexual abuse is critical. Truth commissions should allow female statement takers to depose women. Allowing women to speak to other women may give them a sense of camaraderie, because they may find it impossible for men to understand the abuse they suffered (because even though men experience sexual violence, it affects women differently). Another suggestion is to allow women to give statements to non-nationals. Women may feel more comfortable giving statements if they do not fear that their statements will affect their everyday lives (Hayner, 2011).

Although many women do not want to come forward when they are victims of abuse, others do want to testify. The contrast highlights an important task of truth commissions and transitional justice mechanisms generally: to realize that women react to gender-based violence differently. One woman may resist speaking about her experience, fearing potential

societal consequences (Kent, 2014). Another may remain silent to protect her family and children. Both women's voices and silences should be respected and accounted for. Some women want to talk but do not want their statements to be made public; therefore, commissions should guarantee confidentiality. Providing different options for women's testimony will help increase participation levels. For example, the South African commission gave women the option to testify behind a curtain if they did not want to show their faces.

Prompts are another important strategy future commissions should implement. Taking statements during transitional periods is challenging because people have experienced some of the worst atrocities imaginable. Therefore, sensitivity and understanding are critical. A prompt can help give women assurances of trust, confidentiality, and informed consent.

Additionally, question framing cannot be neglected. The prosecutorial nature of trials is one reason truth commissions are more effective than trials in addressing gender issues. Prosecutors are tasked with retrieving specific information from witnesses to build their case or meet elements of a crime. Thus, women's feelings, emotions, and hardships may be deemed irrelevant in a setting where facts and particularized information are the key focus. Allowing women to tell their whole story rather than picking and choosing what information to extract from them is part of the healing process and can help lead to a better understanding of the abuses that took place.

Another key issue future commissions should address is that many women, especially rural women, are unable to access truth commissions. Commissions can help break down this barrier by having statement takers go to rural communities, set up subfacilities that are more accessible, attempt some sort of shuttle service, or seek out volunteers from NGOs or other groups. Before this can be done, however, commissions must also make sure that information about their operation is accessible. Many women have difficulty accessing information; therefore, strategies to make sure information is readily available should be achieved early on.

Reparations

Reparations are generally understood as a remedy given to those who meet a commission's definition of "victim." Fionnuala Ní Aoláin (2008) writes that monetary compensation has been a common form of reparations, but reparations also include restitution, rehabilitation, and guarantees of non-repetition. Given women's circumstances and the nature of their victimization, Aoláin argues that monetary compensation alone is inadequate to redress women for the harm they have suffered. Therefore, gender considerations play a key role in reparation schemes.

Reparation Definitions

Reparations are complex because the process involves determining not only what types of reparations are necessary, but also eligibility requirements. Therefore, victimhood and beneficiaries should be defined carefully. To receive reparations, individuals must meet the commission's definition of "victim." Commissions should not adopt a gender-neutral definition of "victim," such as the definition adopted in Peru. Doing so makes it impossible to recognize specific victimization of men and women. Additionally, commissions often base victimhood on a list of recoverable crimes. Traditionally, rape was treated as a crime against dignity and honor, rather than as a grave breach of international law (Franke, 2006). Increasingly, truth commissions have included rape and sexual violence as crimes to be repaired in transitional settings. As illustrated in these case studies, however, some commissions have named only rape as a crime to be repaired, omitting other grave types of sexual violence. Even when the commissions include the broader notion of sexual violence, they ignore other abuses women suffer. For example, they exclude many forms of reproductive violence or effects of sexual violence on women. Therefore, it is imperative that commissions do not adopt an under-inclusive definition of sexual violence. Victimhood definitions should include rape and sexual violence, and they should broadly define sexual violence so that the effects and consequences of sexual violence are captured.

When monetary reparations are distributed, the distribution should be arranged carefully. In the

South African reparation scheme, all of those who met the definition of "victim" received the same amount of interim and final reparations, regardless of the form of harm they suffered. Reparations were distributed on a gender-neutral basis. The commission in Timor-Leste did a much better job recognizing that some people remain in more-vulnerable positions post-conflict. Commissions should attempt to contextualize the situations of those who qualify as victims to determine what reparations are best suited for them. For example, commissions can recognize that widows, children, and others may need more help than many others. The amount paid should also take into consideration the location of the victim, because rural residents are generally poorer and lack basic resources.

Beneficiaries of reparations can be either direct or secondary victims. As a result, spouses, children, and relatives of dead or missing people have been entitled to some type of reparations. South Africa's definition of victim, which included dependents for the purpose of reparations, is noteworthy (Goldblatt, 2006). Many dependents, however, were only recognized as secondary victims (Goldblatt, 2006). Female dependents directly suffer the consequences of losing the support of a husband or other male relative, and therefore, should be treated as direct victims.

Finally, the criteria employed to classify beneficiaries and victims should avoid stereotypes and exclusion. It should be noted that the definition of "family" was not based on the Western notion of family, but rather on different forms of family recognized in separate societies. For example, in Andean culture, some extended family members are treated as children (Guillerot, 2006).

Participation of Women in Articulating Reparations

Women's input in reparation schemes is critical. When the state discounts women's needs, women receive the impression that the state has failed to recognize women's rights, their past, and the fact that they disproportionately suffered in the face of mass atrocity. Failure to include women in reparation schemes ensures persistent disproportionate treatment, because reparations are likely to reflect men's concerns and priorities. Future commissions

should consult with women's organizations to pinpoint what reparations women deem the most useful. The commission in Timor-Leste should be commended for consulting with women to determine what types of reparations they wished to receive. Although there were limitations to their approach (namely, the link between reparations and truth telling), their increased attention to gender should be implemented in future commissions.

Types of Reparations

When determining which reparations are best suited to address gender-based violence, truth commissions must consider the context in which women live. Access to reparations is one aspect that should be taken into account. For example, in South Africa, women who received monetary reparations were required to have a bank account or to use someone else's. Because of the preexisting notion that men take care of business matters, women ended up with little say as to what the money was used for. Additionally, in Timor-Leste, the ability to receive reparations hinged on truth telling. One way of making sure reparations reach women is to use a quota, such as was done in Timor-Leste, where 50 percent of resources had to be given to female beneficiaries. Women's socioeconomic status should also be considered when determining which reparations are most beneficial. Because many women are responsible for taking care of many dependents, may have lost a breadwinner, or are uneducated or poor, services and other programs may be better suited than monetary reparations. Strategies such as intertwining individual reparations with collective reparations may be useful. This was done in Timor-Leste, where the commission recommended scholarship grants for school-aged children (Wandita, 2006a). To receive the grant, mothers had to pick them up from a regional services center. At the service center, women were able to receive a number of collective services, such as peer support, health care, and counseling. Therefore, women were able to care for their children and, at the same time, access services to address their own needs.

The reparation scheme in place should be restorative and not divisive. Division can happen if gender inequality remains rampant, and vice versa. Where women's rights are already curtailed, truth

commissions should recommend that women are given certain rights in certain circumstances (for example, in countries where abortion is unavailable, truth commissions can recommend that it be made available post-conflict). Gender-based violence outlasts conflict (Hirst, 2008). Therefore, the immediate aftermath of conflict can provide a strategic opportunity for commissions to recommend that state parties adopt legislative and policy measures to eliminate discrimination against women in political and public life. Other suggestions that future commissions should consider include community-based efforts to challenge stigmatization, efforts to curtail or punish violence against women, and campaigns to redefine masculinity in society (Goldblatt, 2006).

Furthermore, reparations should be forward-looking. Although it is crucial to have reparations in place to restore individuals to their pre-conflict status, pre-conflict women were often already entrenched in unequal treatment. Collaboration with NGOs and other local groups to ensure continued access to resources should be considered. Most importantly, if women participate in truth commissions generally, and reparations specifically, it can pave the road for increased women's participation after the transition period ends. This participation, however, cannot be achieved without advocacy and forward-looking planning to generate new laws that are inclusive of women. Although it is difficult to change an entire population's mindset when it comes to gender justice, setting the stage from the time a truth commission is created, by creating a commission that is sensitive to and inclusive of women's rights, is necessary if progress is going to be made.

Finally, recommendations for a reparations scheme mean nothing if they are not implemented. "International instruments and the machinery for reconstruction and conflict prevention must be made responsive and relevant to women across those continents where mass violence tears their lives apart. As with all institutions, international law and standards are only as good as their implementation and application" (Nesiah et al., 2006, p. 7). When commissions recommend a reparations scheme, strategies should be employed so that those who are

to receive reparations actually receive them. A truth commission's failure to implement reparations allows corruption and abuses suffered by members of society at the hands of their government to prevail.

Conclusion

The truth commissions in Peru, South Africa, and Timor-Leste provide examples of how insufficient attention has been given to women in conflict. At the same time, by identifying progressive steps commissions can implement to be more inclusive of women, these case studies provide hope for the future. Recognizing the complexities truth commissions face in terms of time, resources, and funding, it is difficult to conceive how to add gender, an additional dynamic, to their work. However, it is necessary. If commissions make progressive steps in advance and collaborate effectively, accounting for gender discrepancies will aid the transitional justice process. NGOs, academics, and other international organizations study gendered issues both during and outside times of conflict and are useful resources. Therefore, collaboration among transitional justice actors, NGOs, and academics is necessary. Additionally, many international groups involved in post-conflict work should unite so their efforts match up to the gender-inclusive results the truth commission seeks.

Context is crucial from the outset. Contextualization cannot be achieved if commissioners do not receive training, do not collaborate with others with different areas of expertise, and do not recognize women's rights as an integral component of a commission's purpose. Although it is impossible to predict the mass atrocity that will give rise to the next truth commission, understanding how to mainstream gender from the beginning will help assist future commissioners, statement takers, and others in being inclusive of women throughout the commission's operation. The tools discussed throughout this paper can be used in determining the varying mental states women may be in after conflict, the root causes of conflict, and how to be sympathetic to and

respectful of women's wishes during statement taking, among other important considerations. Through looking at women's specific experiences, situations, and livelihoods, truth commissions can open up opportunities and possibilities for women.

The purpose of this paper is to inform interested readers of strategies that can be implemented, by drawing on past examples, to account for gender-specific experiences in truth commissions. Although the case studies are not extremely recent, their guideposts are still relevant in 2017. For example, with the continued war in Syria, local NGOs, such as the Syria Justice and Accountability Centre (2014), urge for some type of peace building. If a truth commission is created to address the mass atrocities plaguing Syria, gender reform is critical, because women have faced increased sexual violence and discrimination during this conflict (Zawati, 2014). Additionally, pre-conflict, they were marginalized and faced barriers to participation in public life (Human Rights and Gender Justice Clinic, City University of New York School of Law; MADRE; & The Women's International League for Peace and Freedom, 2016). Furthermore, no legislation in place specifically prohibits gender discrimination (Social Institutions & Gender Index, n.d.). Worldwide current events illustrate that the question is not if there will be another truth commission requiring attention to gender, but rather *when* the next one will convene.

Truth commissions have the opportunity to promote gender equality in the form of new laws, better resources, and more confidence in a system. Failing to take advantage of this opportunity is yet another tragedy. "Too often when we do not undertake specific actions to draw attention to the issues that affect women, what happens is that men and the experiences of men become the yardstick by which judgments are made" (Nesiah et al., 2006, p. 6). In the wake of conflict, truth commissions can overturn the assumption that men's experiences are universal. When truth commissions seek out women's voices, they can take action toward establishing gender equality.

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