GENDER-BASED VIOLENCE IN TRANSITION

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INTRODUCTION

Where cultures of gender-based violence and gender discrimination exist prior to conflict and transition, they will be exacerbated during conflict and will not disappear during and after transition. The Beijing Platform for Action states that 'while entire communities suffer the consequences of armed conflict, [political instability] and terrorism, women and girls are particularly affected because of their status in society and their sex'.[1]

In conflict situations, women and girls become prime targets for violence due to numerous and complex reasons including, *inter alia*: as a punishment; to reward soldiers; to facilitate soldier-bonding; for the destructive impact of sexual violence on the wider community; to demonstrate the weakness of male relatives/community members; to convey a message of threat; and because women are often seen as bearers of cultural identity. Gender-based and sexual violence - including rape, forced impregnation, forced abortion, forced marriage, trafficking, sexual slavery and the intentional spread of sexually transmitted infections (STIs), including HIV/AIDS - have increasingly become weapons of warfare and are one of the defining characteristics of contemporary armed conflict.

However, women and girls are not only victims of armed conflict: they are also active agents and participants in conflict. They may actively choose to participate in the conflict and carry out acts of violence because they are committed to the political, religious or economic goals of the parties to the conflict. They may also be manipulated or forced into taking up military or violent roles (such as girl soldiers) through propaganda, abduction for the purposes of sexual slavery, intimidation and forced recruitment. In addition, women and girls may also provide non-military support for war: through cooking and cleaning for combatants, acting as porters and messengers, and through performing the various other tasks required by armed forces.

The agency of women is also expressed through their activities in peace processes before, during and after conflicts. Many are involved in grassroots efforts aimed at rebuilding the post-conflict economic, political, social and cultural fabric of their societies. However, women are often excluded from all formalised peace processes, including negotiations, the formulation of peace accords and reconstruction plans. Even where women are actively involved in sustaining and rebuilding local economies and communities throughout times of conflict, they are frequently pushed to the background when formal peace negotiations begin. Largely due to the fact that women are so seldom involved in national peace negotiations, when women *have* been engaged in these processes it is often high-level professional women and there have been questions and tensions around their commitment and ability to represent women's issues. However, there is the potential that women can enhance the peace process by bringing the perspectives of women and girls (not as a homogenous grouping, but in relation to other intersections such as race, class and rural/urban habitation) to the peace table by, for example, ensuring that peace accords address demands for gender and other equalities in new constitutional, judicial and electoral structures.[2]

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[1] Beijing Declaration and Platform for Action, Fourth World Conference on Women, 15 September 1995.

[2] See: United Nations, (2002). *Women, Peace and Security*. Study submitted by the Secretary-General pursuant to Security Council resolution 1325 (2000), pp. 53 – 122.

While armed conflict and instability more often than not entail profound loss, stress and burden, women can gain, sometimes only temporarily, from the changed gender relations that may result from armed conflict. In some conflicts, the loss of men through exile, fighting or death has allowed women and girls to assume functions that were normally the prerogative of men. In addition, women can acquire new status, skills and power through taking on new responsibilities. At such points, norms about roles and participation of women and girls in decision-making in the household, civil society and the formal economy, as well as their rights to own land or goods, may be altered to their benefit. Thus, conflict can in fact create space for a redefinition of social relations – however, these changes are often not fundamental or permanent.

GENDER-BASED VIOLENCE AS A CONTINUUM THROUGH WOMEN'S LIVES

It is misleading to assume that gender-based violence erupts as a result of conflict and that levels of gender-based violence will recede during a transition to democracy or out of conflict. In fact, although the levels and forms of gender-based violence may alter during times of conflict, much of the gender-based violence committed in the context of conflict is a continuation (albeit escalated) of the violence perpetrated prior to conflict and is a form of violence that will continue to persist after the conflict. Although it is true that war is accompanied by an increase in violence generally, and in particular an increase in domestic and sexual violence, at the most basic level the root cause of violence against women is the inequality between men and women and the power differentials that persist as a result. Delaet quotes a Rwandan woman who, when describing the levels of gender-based violence in post-genocide Rwanda, states, 'We knew that [the genocide] would end one day, but now this is normal life'.[3] Many women experience gender-based violence as a continuum that occurs pre-conflict ('normal' life), during conflict (wartime violence against women), during transition and into their post-conflict reality (again, 'normal' life).

DEFINING GENDER-BASED VIOLENCE

In 1993, the UN Declaration on the Elimination of Violence against Women offered the first official definition of gender-based violence:

> Article 1: Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or in private life.
>
> Article 2 of the Declaration states that the definition should encompass, but not be limited to, acts of physical, sexual, and psychological violence in the family, community, or perpetrated or condoned by the State, wherever it occurs. These acts include: spousal

[3] Delaet, D. L. (2005), 'Gender Justice: A Gendered Assessment of Truth-Telling Mechanisms' in Tristan A. Borer (ed.), *Telling the Truths: Truth Telling and Peace Building in Post-Conflict Societies* (Notre Dame, Indiana: University of Notre Dame Press).

battery; sexual abuse, including of female children; dowry-related violence; rape, including marital rape; female genital mutilation/cutting and other traditional practices harmful to women; non-spousal violence; sexual violence related to exploitation; sexual harassment and intimidation at work, in school and elsewhere; trafficking in women; and forced prostitution.

The 1995 Beijing Platform for Action expanded on this definition, specifying that gender-based violence includes violations of the rights of women in situations of armed conflict, such as: systematic rape, sexual slavery and forced pregnancy, forced sterilisation, forced abortion, coerced or forced use of contraceptives, prenatal sex selection and female infanticide. It further recognised the particular vulnerabilities of women belonging to minorities: the elderly and the displaced; indigenous, refugee and migrant communities; women living in impoverished rural or remote areas; and women in detention.[4]

The consequences of gender-based violence are devastating. Survivors often experience life-long emotional distress, mental health problems and poor reproductive health. Abused women are also at higher risk of acquiring HIV. Women who have been physically or sexually assaulted tend to be intensive long-term users of health services. The impact of violence may also extend to future generations: children who have witnessed abuse, were victims themselves or were born of the abuse suffered by their mothers (such as children born of war time rape, especially within patriarchal cultures that prohibit access to abortion), can suffer lasting psychological damage. Indeed, there is evidence in research to indicate that the intergenerational transfer of trauma (whereby children who were born after the fact are negatively affected by trauma inherited from their families and communities) is profound within families and communities that have suffered loss or experienced conflict. This again demonstrates the long lasting impacts and consequences of violence.

Gender-based violence is perhaps the most widespread and socially tolerated of human rights violations. The cost to women, their children, families and communities is a significant obstacle to reducing poverty, achieving gender equality and ensuring a peaceful transition for post-conflict societies. This, in conjunction with the mental and physical health implications of gender-based violence, impacts on a state or region's ability to construct or reconstruct a stable and productive society in the wake of conflict. As a result, gender-based violence, its root causes and myriad consequences, become vitally important to tackle in any period of transition.

PUTTING MEN BACK INTO GENDER

Delaet draws on the basic distinction between biological sex and gender when she explains the concept of *gender*-based violence thus: 'sex-specific violence can be defined as the particular types of violence experienced by women and men because of their biological sex. In contrast, gender-based violence refers to violence resulting from social constructions of masculinity and femininity. In short, sex-specific violence deals in essence with questions of *who* has been victimized by violence whereas the concept of gender-based violence is more

[4] United Nations. 1993. *48/104: Declaration on the Elimination of Violence Against Women* (A/RES/48/104); and United Nations. 1996. *The Beijing Declaration and the Platform for Action: Fourth World Conference on Women: Beijing, China: 4-15 September 1995* (DPI/1766/Wom), paras. 114-116.

useful for understanding *how* and *why* violence is manifested in particular ways.'[5] The point is not to divide men and women into the dichotomous categories of 'perpetrator' and 'victim', but to recognise that both men and women can be victims and perpetrators of gender-based violence.

Women are targeted especially because of their biological sex and status in society during times of conflict. Forms of sexual violence perpetrated against women include: mass rape, forced pregnancy, forced prostitution, forced marriage, and sexual slavery. In addition, women face domestic violence, extreme economic vulnerability, and secondary victimisation through institutions such as the criminal justice system, both during conflict and in the aftermath of conflict.

However, men can also be victims of gender-based violence during conflict, albeit in different and complex ways. The legitimacy of the killing of male soldiers can be called into question in contexts in which men face forced conscription, particularly when child soldiers constitute a large number of the fighters. In addition, many civilian men are killed because they are of fighting age and are therefore viewed as potential combatants and a threat. Men are also the victims of sexual violence, including rape and sexual torture, during war. In addition, men are victimised when they are forced to rape or to watch their loved ones being raped. Delaet notes that 'efforts to mobilize men to commit mass rape "reflect the common methods of training torturers – exposure to and engagement in increasingly unthinkable violence and humiliations." Men subjected to this type of gender-based violence who become rapists are arguably both victims and perpetrators of violence.'[6]

The concepts of militarised and otherwise violent masculinities also play a role in the perpetration of gender-based violence within conflict and transitional settings. At its most basic, 'masculinities' conveys 'that there are many socially constructed definitions for being a man and that these can change over time and from place to place. The term relates to perceived notions and ideals about how men should or are expected to behave in a given setting.'[7] Chris Dolan and Brandon Hamber explore the impact of masculinities on violence in the transitional settings of, respectively, Uganda and South Africa.

Dolan explains that a strongly normative model of masculinity – where men have significant power over women, take priority in education and other benefits, provide materially for their wife/wives and children, and earn their protection by the state – has contributed to the high levels of violence in Northern Uganda. He argues that in a context of conflict and impoverishment, men's inability to live up to this normative model has led to frustration, humiliation and resentment, which in some cases has provoked men into acts of violence. He further argues that the normative model creates incentives for armed forces to exercise violence on the civilian population in ways which actively undermine civilian men's sense of self, thereby facilitating control over them. Dolan writes:

> the militarisation of the area, and … warring parties' use of tactics … are intricately involved in simultaneously reinforcing the perpetrators' and undermining the

[5] Delaet, *op. cit.* note 1.
[6] Ibid.
[7] Women's Commission for Refugee Women and Children (September 2005). *Masculinities: Male Roles and Male Involvement in the Promotion of Gender Equality*. New York.

> victims' sense of masculinity: rape of women (their wives, daughters and sisters), rape of men (themselves, brothers, fathers, sons), and abduction of their children.[8]

Both the construction of this normative model of masculinity and the subsequent manipulation of socialised individuals and groups are seen to be highly political processes in which the state plays a major role, through their militarization of the area and their inability to provide adequate protection for the civilian population. In addition, the state itself has been a culprit, committing acts of rape and abduction 'as instruments of war at particular times'.[9]

Brandon Hamber makes a similar point within the South African context by noting that the masculinities of the past, characterised largely by violence among both black men (in the anti-apartheid struggle) and white men (as soldiers, police, or the normalised violence used against black workers), is no longer acceptable in the new order 'with the result that such men (and those that aspire to this type of masculinity), many of whom are unemployed, find themselves vilified and often on the wrong side of the law for the same reasons that they were considered heroes in the past.'[10] Hamber highlights the 'complex interplay among security, insecurity and masculinity, and its highly gendered nature' by pointing out that some of the advances made by women in terms of social, political and egalitarian security may actually have led to an increase in physical insecurity for some women. This is echoed by Helen Moffett, who relates the following story from South Africa:

> A taxi-driver openly described how he and his friends would cruise around at weekends, looking for a likely victim to abduct and 'gang-bang'. His story was unselfconscious and undefended: he showed no awareness that he was describing rape, much less criminal behaviour. When the interviewer pointed out that his actions constituted rape, he was visibly astonished. What was most striking was his spontaneous and indignant response: 'But these women, they force us to rape them!' He followed this astonishing disavowal of male agency by explaining that he and his friends picked only those women who 'asked for it'. When asked to define what he meant, he said, 'It's the cheeky ones – the ones that walk around like they own the place, and look you in the eye.'[11]

In critiquing a narrow feminist approach to the issue of gender, Moses Okello points to two issues that have been ignored by gender (i.e. 'women') activists in the context of Northern Uganda. The first is that far from the gender-insensitive framework that it has been asserted to be, tradition and culture in Northern Uganda can help to protect women and facilitate their access to justice. Traditional justice measures in Northern Uganda are a viable alternative to the vacuum created by a lack of formal mechanisms, which are not only cheaper and more understandable, they are faster and closer to the people and ensure access to justice for not only women but for whole societies. In addition, 'the laws of war prohibit the deliberate targeting of women and of children and the penalties for doing so are also grave', and although there are certain rituals from which women are excluded, 'There are a series of other mechanisms for processing matters involving women and indeed, most of

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[8] Dolan, C. (2001). *Collapsing Masculinities and Weak States - a case study of northern Uganda.* Research Paper, p. 1.
[9] Ibid, p. 15.
[10] Hamber, B. (2007). 'Masculinity and Transitional Justice: An Exploratory Essay', *The International Journal of Transitional Justice*, Vol. 1, No. 3, p. 385.
[11] Moffett, H. (2006). '"These Women, They Force us to Rape them": Rape as Narrative of Social Control in Post-Apartheid South Africa. In *Journal of Southern African Studies*, vol. 32, no. 1, pp. 129-144.

those rituals and ceremonies are presided over by women and are meant for women.'[12] Secondly, Okello notes that in Northern Uganda, women often 'play an important role in sanctioning conflict'. He gives two examples: 1) the current conflict in Northern Uganda was started by a woman, Alice Lakwena; and 2) in January of 2007, while evaluating a GBV program run by an international organisation working in northern Uganda, Okello was told by a doctor that a lot of the patients they receive at the hospital were of a gendered nature: 'Women attempting to commit suicide because their men were not men enough. And men attempting to commit suicide because their women were running off with other men or simply because they could not provide for their families.'[13] Okello comments that a serious underlying challenge for those working in gender and transitional justice is to develop an understanding that doing good gender work is not quite the same thing as promoting *only* the rights of women and children.

FORMS OF GENDER-BASED VIOLENCE IN TRANSITION

Feminists have made reference to two analytical frameworks when examining the background conditions that may sanction this gendered denial of human rights violations. The first is the public/private distinction; and the second is the continuities between ordinary and extraordinary violence. Although it is widely accepted that during periods of war or repressive rule there is an increase in the incidence of domestic violence, rape and sexual abuse within the family, these abuses, despite carrying complex continuities with public violence, are coded as private not political. Nesiah et al exemplify this through the South African case study, whereby 'aspects of political violence in the context of apartheid have been seen as key to understanding the high incidence of violence against women in the aftermath of apartheid. The ambivalence about whether rape was political and about how it was linked to the liberation struggle (particularly the contrast between the condemnation of political abuse and the tolerance of private abuse) and the "demasculinization" of black men as a strategy of apartheid and other footmarks from years of extraordinary violence all contributed to (albeit in complex and sometimes contradictory ways) the enabling conditions of sexual violence today.'[14] Privatising the violations that women endure during times of war or repressive rule requires the victim to bear the full burden of the crime and seek justice as an individual through diminished criminal justice systems that are often overburdened and insensitive to gendered crimes. A result of this 'domesticisation' of gender-based violence is that it is often not considered a crime of extraordinary violence (such as torture would be) in the context of conflict, despite the fact that gender-based violence is used deliberately and strategically by armed groups within conflict settings.

Sexual Violence

Sexual violence is not determined by any single factor but is a result of several complex and interacting determinants, which can include cultural practices, gender inequality, societal breakdown, conflict, militarised or otherwise violent masculinities, competition over

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[12] Okello, M. (2008). *Gender and Traditional Justice in Northern Uganda: Progressive or Conservative?* Presentation at the 'Gender and Transitional Justice in Africa: Progress and Prospects' Conference organised by the International Centre for Transitional Justice (ICTJ), 4 – 5 September 2008.
[13] Ibid.
[14] Ibid, p. 25.

resources, an acceptance of violence in interpersonal relationships and, in some cases, poverty. Sexual violence affects women at all stages of the life-cycle, including young girls and elderly women. Although women and girls are the majority of survivors of sexual and gender-based violence, boys and men are also victims.

Sexual violence is especially pervasive in times of conflict and transition and can manifest in different ways, including: rape, as a tactic in ethnic cleansing or as part of a strategy to destroy community bonds; sexual slavery, whereby women are abducted and kept to provide domestic and sexual services to armed troops; the taking of child brides; deliberate HIV infection; forced marriage or cohabitation; and forcibly impregnated girls being forced to bear 'the enemy's' child. In addition, girls and women are also subject to forced prostitution and trafficking during times of war, sometimes with the complicity of governments and military authorities. Men and women can also resort to using their sexuality as a survival strategy: this includes commercial sex work, frequent re-marriage, sexual partnerships entered into through force or as a protection mechanism, 'marrying up' into higher income brackets, and other arrangements where sexual favours are provided in return for physical and economic survival. In conflict situations, when deprived of their homes, separated from their families and without community structures to protect them, women are often forced into trading sex for material goods or protection, or simply in order to survive.

Sexual violence is used in these contexts as a weapon of war by rebel groups, militia and even government forces to inflict pain, punishment and humiliation on vulnerable populations. Wartime rape and/or sexual mutilation serves as a means of attacking and humiliating the enemy (whether male or female). As such, sexual violence against both men and women during war is commonly perpetrated with 'strategic intent'.[15] Systematic rape is often used as a weapon of war in 'ethnic cleansing'. In Rwanda, mass rape was a deliberate strategy used by the Interahamwe – in some raids virtually every adolescent girl who survived an attack by the militia was subsequently raped. Amnesty International report that in Burundi, 'While many cases of rape and sexual violence appear to be indiscriminate and due to a lack of discipline and accountability among troops, in some instances it appears that rape is used more systematically to ill-treat, humiliate and degrade the population as well as to promote the dominance of the perpetrating group, be it government or opposition … Many rapes are reported to have taken place during looting by government soldiers, armed political groups or criminal gangs, often pretending to be members of armed political groups.'[16] Similarly, the conflict in Uganda has been 'characterised by sexual and gender-based violence against women and girls perpetrated by the LRA and government soldiers. UNICEF estimates that more than 32,000 children were abducted by the LRA between 1986 and 2002 and used as child combatants and sex slaves. Women and girls were also at risk of sexual and gender-based violence by the government's Uganda Peoples' Defence Forces (UPDF) including mass rapes. In addition, during the conflict women and girls would face different forms of sexual and gender-based violence in their day to day lives from family members and other members of the community.'[17] During Mozambique's conflict young boys, who themselves had been traumatized by violence, were reported to threaten to kill or

[15] Delaet, *op. cit.* note 1.
[16] Amnesty International, *Burundi: Rape – the Hidden Human Rights Abuse*, February 2004, pgs 5 – 6.
[17] Amnesty International, *Uganda: Doubly Traumatised. Lack of Access to Justice for Female Victims of Sexual and Gender-Based Violence in Northern Uganda*, November 2007, p. 4.

starve girls if they resisted the boys' sexual advances. Sexual assault presents a major problem in refugee and internally displaced internment camps, as the camps are often located in isolated areas and women are raped in night raids or while foraging for firewood.

Sexual violence against women can erode the fabric of a community in a way that few weapons can. The damage caused by sexual violence can be devastating because of the strong communal reaction to the violation and the pain stamped on entire families. Valji notes that beyond the trauma of the incidents of sexual violence in Rwanda, 'the ongoing consequences for women have included high levels of HIV infection in a context of limited or no access to medical facilities and the responsibility for children born as a result.'[18] Many women and girls who become pregnant as a result of rape during conflict are ostracised by their families and communities. UNICEF's report on the *State of the World's Children* (1996) notes that the disintegration of families in times of war leaves women and girls especially vulnerable to violence, and that the 'harm inflicted … on a woman by a rapist is an attack on her family and culture, as in many societies women are viewed as repositories of a community's cultural and spiritual values.' [19] In many cases women are held responsible for the acts of sexual and gender-based violence perpetrated against them, and have little or no prospects of accessing justice.

It has often been commented on that women's experience of violence in conflict situations is often reduced to sexual violence, exhibited through bodily injury, which provides a very narrow lens into women's experience: 'feminists have pointed out that sexual abuse alone may not adequately capture the complexity of women's experience of political violence … and women's priorities for justice.'[20] This leads to the deprioritisation of several other important dimensions of women's lives and struggles from the human rights radar screen, such as the experience of internally displaced women, women who have become sole breadwinners as a result of human rights abuse against spouses, women refugees who fled to other countries, women prisoners, or women combatants. While sexual violence is critical, it does not capture the complex and multidimensional ways in which women experience abuse. Moreover, representing women's violations only as sexual abuse perpetuates more widespread prejudices that reduce women to sexual beings alone. The media often contributes to this reduction of women's experiences to sexual violence by reporting solely on sexual violence incidents: sexual violence is, after all, a blatant and visible form of violence that can be used to sensationalise a story and sell newspapers.

Domestic Violence

Domestic violence is strongly related to the status of women in a society and to the normative use of violence in conflict situations or as part of an exercise of power. An ACORD report states that in the displacement camps in Uganda, 'men have largely lost their authority over women and children, and their control over material resources … this has resulted in frustration which has been "channelled into aggressivity in various highly

[18] Valji, N. (June 2007). *Gender Justice and Reconciliation*, International Conference: Building a Future on Peace and Justice, Nuremberg, p. 4.
[19] UNICEF, 'Sexual Violence as a Weapon of War, *The State of the World's Children*, 1996.
[20] Ibid, p. 9.

destructive forms".'[21] Self-destructive behaviours, including alcoholism and the boredom/frustration that accompanies an unwillingness to engage in what men consider 'women's' work, has become increasingly common in the internally displaced camps in Uganda. These destructive behaviours are fuelled by a context of continuing violence and frustration over the conditions in which they involuntarily live. These factors support an increase in domestic violence – men take out their aggression and frustration on the only population more vulnerable than themselves in these conditions, the women and children within their own family groups.

Perhaps an unanticipated consequence of conflict is that women are often given the space to assume greater status and take on roles that in peacetime would have been left to the men. Because of women's willingness to take on petty trade to ensure their families' survival, 'many have become bread winners and household heads. This economic empowerment has led to women taking on stronger decision-making roles within the household, and they are no longer inclined to accept their previous subordinate status'.[22] In their study on a gendered approach to security, Hamber et al explain that 'economic security is crucial to women's re-imaginings of the concept [of security], because it is regarded as a key factor in ensuring their independence. For example, some women respondents found that women who have economic security are more likely to enjoy physical security as well.'[23] In some situations, however, women's economic empowerment can further disempower men who are used to providing materially for their families, resulting in increased tension between genders that can ignite domestic violence. Some South African women respondents in Hamber et al's study expressed concern that 'male resentment towards the equality agenda often manifests itself in violence against women'.[24] It must be noted, however, that this is not always the case: the relationship between female economic empowerment and domestic violence is unpredictable, complex and often individually context-specific.

Economic Burden

Conflict often leads to women taking on heavier responsibilities, while men's responsibilities tend to reduce. This phenomenon is partly due to the fact that armed conflicts create large numbers of female-headed households, when men have been conscripted, detained, displaced, have disappeared or are dead. In these circumstances, women invariably have to bear greater responsibility for their children, elderly relatives and often even the wider community. Indeed, 'the very fact that many of the menfolk are absent often heightens the insecurity and danger for the women and children left behind, and accelerates the breakdown of the traditional protection and support mechanisms upon which the community – especially women – have previously relied.'[25] But it is also partly due to the fact that the resources which men used to control are no longer available, or because the economic opportunities available in their altered context (for example, caring for farms and

[21] El-Bushra, Judy & Sahl, Ibrahim M. G. (2005). *Cycles of Violence: Gender Relations and Armed Conflict*, ACORD, Kenya, p. 97.
[22] Ibid. p. 22.
[23] Hamber, B., Hillyard, P., Maguire, A., McWilliams, M., Robinson, G., Russell, D. & Ward, M. (2006). 'Discourses in Transition: Re-Imagining Women's Security', *International Relations*, Vol. 20, p. 498.
[24] Ibid, p. 496.
[25] ICRC, (1999). *Women Facing War: ICRC Study on the Impact of Armed Conflict on Women: Executive Summery.* International Committee of the Red Cross.

animals, trading, and being active outside the home) are more often acceptable to women than to men. While this necessitates the development of new coping skills and confidence among women, requiring courage and resilience to help sustain and rebuild families and communities torn apart by war, it also means that the burden of care for families and communities falls to the women, often overburdening them with work and exposing them to greater risk of violence. For example, collecting firewood and water in remote areas renders women vulnerable to sexual violence by roving militia/rebel groups or by government troops, their so-called protectors; while the poverty-stricken conditions in which they live and the lack of access to health services increases their health risks. In Uganda, displacement into 'protected villages' has had destructive consequences: 'Firstly, it has thrown people together in unfamiliar overcrowding, resulting in increased risks of disease and accidental fire, lack of privacy, idleness due to lack of economic opportunities, and high levels of alcoholism and suicide. Secondly, it has also reduced access to agricultural production, thereby increasing levels of hunger and malnutrition and increasing people's dependence on relief supplies provided by non-governmental agencies.'[26]

Sally Baden's study on gender issues in post-conflict Mozambique found that 'in Renamo held areas, land was appropriated and women were used as unpaid labour to produce for Renamo soldiers. In some cases, women worked clandestinely at night to produce food for themselves and their families. Or they stole or withheld food in order to survive, ate banana tree rolls or went hungry. Women had to find ways of hiding food stocks from soldiers, for example, by hiding chickens in cubbyholes'.[27] In addition, Baden describes how prostitution and sexual survival strategies of various kinds proliferated, expanding the already well established means for women to gain support or income for themselves and children from men, in the absence of contributions from husbands or stable partners. The lack of formal employment opportunities, the absence of capital to start businesses and the need to secure housing and income for themselves and their children (and even extended family) in overcrowded conditions, led to many women adopting sex work as a strategy.

In times of conflict, women being forced to take on the roles of missing male family members is further complicated by 'ongoing and systematic discrimination such as laws which prohibit women from inheriting land and property, force them to be married to a husband's relative, prevent them from accessing services from the state without a male intermediary etc.'[28] For example, in Kenya, the issue of land rights has always been fraught and was one of the factors contributing to the eruption and persistence of violence following the elections in December 2007. Women's rights to land in Kenya are especially tenuous and contribute to keeping women subordinate to men and vulnerable to abuse. Human Rights Watch report that 'Many women are excluded from inheriting, evicted from their lands and homes by in-laws, stripped of their possessions, and forced to engage in risky sexual practices in order to keep their property. When they divorce or separate from their husbands, they are often expelled from their homes with only their clothing. Married women can seldom stop their husbands from selling family property. A woman's access to property usually hinges on her relationship to a man. When the relationship ends, the woman stands a

[26] Ibid, p. 19.
[27] Baden, S. (1997). *Post-conflict Mozambique: Women.s Special Situation, Population Issues and Gender Perspectives*. Bridge (development – gender), Report no. 44, UK, p. 37.
[28] Valji, *op. cit.* note 9, p. 13.

good chance of losing her home, land, livestock, household goods, money, vehicles, and other property. These violations have the intent and effect of perpetuating women's dependence on men and undercutting their social and economic status.'[29]

Criminal Justice System Responses to Women

Crimes of gender-based violence are compounded by a lack of justice for the victims. Weak criminal justice systems are one of the inevitable consequences of long periods of political instability and conflict. In periods of transition, there are often 'more important' crimes to prosecute for the sake of national peace, reconciliation and security, rendering gender-based violence less of a priority for the courts. The culture of impunity that undoubtedly arises as a result of the mechanisms of justice not taking action against perpetrators of gender-based violence perpetuates the cycle of that violence. Violence against women becomes normalised, and the cycles of gender-based violence continue long after the cessation of hostilities.

A weak criminal justice system is compounded by attitudes in the community and society at large that create barriers to women and men reporting incidents of gender-based violence in the first place. These barriers include: feelings of shame and self-blame; societal attitudes and discrimination against those who have been victims of sexual violence; community taboos around sexual violence; reluctance towards or threats against reporting a family member or intimate partner; discriminatory police attitudes; and the secondary victimisation experienced by sexual assault victims in the criminal justice system.

Amnesty International reports that in Burundi, a 'substantial obstacle to successful investigation and prosecution of cases of rape committed by members of the armed forces is the inherent weakness of the military justice system and its fundamental unwillingness to try members of the security forces accused of human rights violations … There is no doubt that the impunity which the security forces have enjoyed for rape and other human rights violations, and the lack of accountability of armed political groups, has been a key factor in allowing rape and other forms of sexual violence to reach the current alarming proportions.'[30] In many transitional societies, the response of the criminal justice system to sexual offences has been severely curtailed by antiquated legislation and conservative attitudes, both elements of which are borne out by the paucity of convictions for sexual offence crimes.

GENDER-BASED VIOLENCE AND TRANSITIONAL JUSTICE

Transitional justice refers to a range of approaches that societies undertake to reckon with legacies of widespread or systematic human rights abuse as they move from a period of violent conflict or oppression towards peace, democracy, the rule of law, and respect for individual and collective rights. In making such a transition, societies must confront the painful legacy or burden of the past in order to achieve a holistic sense of justice for all citizens, to establish or renew civic trust, to reconcile people and communities, and to

[29] Human Rights Watch (March 2003) *Double Standards: Women's Property Rights Violation in Kenya*, New York, p. 1.
[30] Amnesty International, *op. cit.* note 7, p. 5

prevent future abuses. A variety of approaches, both judicial and non-judicial, can be used to heal wounds and contribute to social reconstruction.

Justice

Violence against women is used to break and humiliate women, men, families and communities, no matter which side they are on. In post-conflict situations, the stark reality is that women are often denied justice. With few exceptions, those who commit heinous crimes against women during wartime are not punished, nor are women granted redress.

In post-conflict trials, there is often a focus on the high-level officials who planned and instigated the violence rather than on the perpetrators who directly committed acts of violence. This means that many of the acts of sexual violence committed against both women and men during war will go unpunished through the criminal justice system. Delaet notes that 'the adversarial nature of trials limits the truth to the extent that victims do not bring charges or are reluctant to testify about sexual violence against them.'[31] In addition, the necessary protection of due process rights during trials means that the truth produced by judicial mechanisms will probably reflect a certain amount of compromise between justice for victims of gender-based violence and the rights of the accused.

Accountability for crimes against women, however, means more than punishing perpetrators: it should involve establishing the rule of law as the cornerstone of peace-building and restoring public trust, as well as ensuring that women have full access to the rule of law and that they play a key role in constitutional, legislative and judicial processes. During a country's transition to peace, particularly in the context of peace negotiations and reconstruction processes, unique opportunities exist for women to participate in developing constitutional, legislative and judicial structures to promote gender equality and justice.

Pam Spees, cited in Valji, defines gender justice as 'the protection and promotion of civil, political, economic and social rights on the basis of gender equality. It necessitates taking a gender perspective on the rights themselves, as well as the assessment of access and obstacles to the enjoyment of these rights for both women, men, girls and boys and adopting a gender-sensitive strategies for protecting and promoting them'. Valji goes on to note that the 'Incorporation of gender justice into accountability mechanisms has thus far emphasised two key objectives: acknowledging and seeking justice for women's experiences of sexual violence during conflict; and securing increased representation of women in arenas of policy-making and decision-making on post-conflict issues as well as in the transitional justice mechanisms themselves.'[32] 'Gender justice' is therefore the ending of, and the provision of redress for, inequalities between women and men that result in women's subordination to men. Gender justice as an outcome implies access to and control over resources, combined with agency (the ability to make choices). Gender justice as a process brings an additional essential element: accountability, which implies the responsibility and answerability of precisely those social institutions set up to dispense justice. The constitution of gender injustices can be read from basic contracts (formal or implicit) that shape membership in a range of social institutions – the family, the community, the market, the

[31] Delaet, *op. cit.* note 1.
[32] Pam Spees in Valji, *op. cit.* note 9, p. 7.

state, and even the institutions of establishment religion. In one way or another, these institutions are supposed to settle disputes, establish and enforce legal rules, and prevent the abuse of power. Understanding the ideological and cultural justifications for women's subordination within each arena can help identify how to challenge patterns of inequality. Accountability on the part of states and societies for crimes against women means more than punishing perpetrators. It means establishing the rule of law and a just social and political order. Without this, there can be no lasting peace. Impunity weakens the foundation of societies emerging from conflict by legitimising violence and inequality. It prolongs instability and injustice and exposes women to the threat of renewed conflict.

Valji notes that 'Ensuring access to justice for women post-conflict also entails the rebuilding of national justice systems, legal reform and the implementation of effective policing bodies … Violence against women in particular flourishes in a context of general insecurity, impunity and an absence of judicial mechanisms.' She argues that women's participation in all spheres of decision-making and policy formulation is 'both a form of justice and redress and a necessary element of real democratization … Democratization and social justice necessitate that women be involved at every step of post-conflict reconstruction.'[33] However, involving women in post-conflict reconstruction per se does not guarantee that their voices will be heard – women need to be capacitated to ensure that they can achieve the maximum effect and impact in transitional processes. Heidi Hudson states that notions of 'gender justice' should 'permeate every dimension of justice: legal justice should address the normative framework underpinning discriminatory laws and practices against women (e.g. inheritance laws that prevent women from owning property); restorative justice must deal with the violation of women's rights and war crimes; and distributive justice should address structural and systematic inequalities of a political, economic and social nature.'[34]

Truth-Telling

In transitional justice, truth-telling initiatives help in determining the full extent and nature of past abuses through mechanisms such as national and international commissions. Truth commissions are based on a conciliatory rather than adversarial approach, and therefore are more likely to encourage individual victims to come forward and relate their stories: especially, theoretically, women victims or victims of gender-based violence. Delaet notes that, 'precisely because it is not subjected to rigorous cross-examination as in trials, the truth-telling that takes place before commissions of inquiry reflects subjective understandings of the violence that has taken place … subjective narratives will come together to create a "truth" that is sometimes contradictory and incomplete.' However, Delaet goes on to explain that, in terms of promoting healing, 'truth telling needs to be conceived as a *process* emphasizing the need of survivors to tell their stories, to be listened to, and to have their experiences validated, rather than as a means to an end in which the truth is primarily a *product* intended to serve as an authoritative record of atrocity or as a basis for punishing the guilty.' [35]

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[33] Ibid, p. 8, 9.
[34] Hudson, H. (2006). *Human Security and Peacebuilding through a Gender lens: Challenges of Implementation in Africa*, DIIS Working Paper no. 2006/37, p. 15.
[35] Delaet, *op. cit.* note 1.

Many transitional justice observers have noted that truth commissions have generally failed to pay attention to the gendered nature of violence in conflict situations. In part, this omission results from 'mandates that prioritize "politically motivated crimes" and an interpretation of these mandates that treats much sex-specific and gender-based violence, in particular rape and other forms of sexual torture, as nonpolitical crimes.'[36] Truth commissions are focussed on building a more inclusive history for the population that they work for, but the continuum of gender-based violence that women suffer through periods of stability and instability means that women's specific experiences are often overlooked: for example, 'in South Africa women were denied active citizenship under apartheid, and the human rights violations they suffered were often located in the private sphere or domesticated into the "ordinary" violence that forced removals and group-area legislation deployed to segregate living and working conditions, rather than the "extraordinary" violence of torture and disappearances. Thus, the truth commission's focus of the latter has been said to fundamentally misrepresent women's experience of apartheid and skew the truth.'[37] In many instances, women's experiences and priorities fade into the background by being assimilated into the domestic or private arena. It has often been reported that in situations where women have been given the space to tell their stories, they prioritise the experiences and human rights abuses experienced by their husbands, brothers and sons rather than relating the violence perpetrated against themselves. Nesiah et al attribute this trend to any one of a number of explanations, including that: 'these women didn't feel comfortable reporting on their own injuries; they negated the political significance of their own sacrifices, given entrenched social norms denying female agency and recognition; perhaps, rightly or wrongly, they felt it was the sacrifices of the male political actor who would be privileged by the commission, the broader society, or the movements they were involved in.'[38] This self-negation of their human rights violations means that there has been significant under-reporting of the crimes against women, which in turn has resulted in a distorted record of the human rights abuses that happened within a specific conflict context.

Any form of transitional justice that ends up treating gender-based violence (and its overarching phenomena, sexual inequality) as inevitable consequences of or of lesser importance than violence and inequality in general will be deficient in promoting and securing long-term peace and stability in a country or region.

The International Centre for Transitional Justice gives an important overview of the complexities of a gendered perspective in transitional justice mechanisms when they recommend that, in order to mainstream and make visible gender concerns in truth commissions, the gender chapters of commission reports should include the following elements:

- Gendered patterns of human rights violations;
- Gender-differentiated impact if human rights violation and the broader conflict;
- National and international law addressing crimes against women;
- Enabling conditions for women's vulnerability to human rights violations;

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[36] Ibid.

[37] Nesiah, Vasuki et. al. (July 2006). *Truth Commissions and Gender: Principles, Policies, and Procedures*, International Centre for Transitional Justice, New York, p. 17.

[38] Ibid, p 17.

- Ideologies of femininity and masculinity that permeated the conflict in relation to nationalism and violence;
- Gender dynamics of racial oppression and other kinds of social exclusion/marginalisation that characterised the conflict;
- Role of women activists, both individuals and women's organisations;
- Gender dimensions of psychosocial trauma in the affected community;
- Issues that emerged in individual and thematic public hearings;
- Recommendations for reparations and reform that address women's specific needs and goals;
- Gender-differentiated statistical analyses of commission findings;
- Challenges commissions faced in investigating crimes suffered by women; and
- Gender-specific limitations of the commission's work and findings.[39]

Any deliberation on whether or not to hold a public truth telling forum needs to be extremely sensitive to women's local needs in each context. In many contexts, it may be timeous to reassess public truth telling forums as the appropriate space to promote healing among some victims of gender-based violence (specifically sexual violence), especially taking into consideration the persistent taboos and negative attitudes around rape and sexual defilement (including victim-blaming, perceiving women as 'spoiled goods', lack of recognition of children born from rape and so on). However, in some specific contexts women may need to have their voices heard and consider public truth telling to be cathartic for their experiences of violence: for example, in the Sierra Leone TRC there were a number of women who demanded to give testimony about their sexual violations in public despite the consequences because to them public truth-telling was what was needed to take back their power. Transitional justice mechanisms are transmuting constantly, especially in relation to women's needs in post-conflict contexts and through the experiences of past and current truth commissions – part of this transmutation needs to be a constant re-evaluation of the impact of different mechanisms on women's ability to heal and to access justice in a post-conflict context.

Reparations

Reparations measures are aimed at recognising or publicly acknowledging the harm done to individuals and communities during periods of conflict or repression. Reparations can be compensatory, restitutionary, rehabilitative and/or symbolic in nature, and can be individual (the benefits accrue to or are felt by the victim directly through, for example, access to mental or physical healthcare services) or collective (the benefits are targeted at the whole communities that has suffered harm through, for example, reconstruction of infrastructure).

Reparations for women victims of human rights abuses can be both a blessing and a curse, depending on the way in which they are distributed and whether they take the form of monetary or non-monetary reparations (such as full and public disclosure of the truth, identification of a deceased or disappeared person's remains and the recovery of historic memory, such as monuments, offering official apologies or days of recognition for victims). On the positive side, Duggan et al note that 'reparation allows victims to play an essential

[39] Ibid. p. 33.

role in the process of political transition … this approach is important because it recognises the victims as equals, with their own human and civic dignity; it has the potential to renew or strengthen citizenship in that it recognizes victims as individual rights holders and its immaterial dimension and its "material, financial dimension" are important for restoring psychological health and dignity and for enhancing self-confidence.'[40] A gender-sensitive reparations programme can go far in both acknowledging, in a pragmatic way, the female victims of human rights abuses and acknowledging, in a morally and politically condemnatory way, the seriousness of the offences against them. In addition, 'financial compensation (potentially in the form of an ongoing pension) for both material and moral damages [to victims of sexual violations] might dramatically change the lives of some women, especially if the size and duration of the programs are substantial.'[41]

However, there are a number of pitfalls and complexities to be aware of in relation to reparations and female victims. Firstly, the everyday obstacles that women face in accessing any form of justice, especially in developing countries, will apply in restricting their claims to reparations: these include remote locations and lack of transport, language barriers, illiteracy and a lack of knowledge about their rights and what is due to them. Monetary compensation for victims of sexual violence can be especially problematic. In South Africa, it was discovered that 'many victims, particularly women, did not have bank accounts, and alternative methods of payment had to be developed.' Valji adds that, 'Local victims' groups reported that the money was often deposited into male family member's accounts and women were given limited or no control over the resources. In some cases, tension over how the money should be spent in households lent itself to family violence.'[42] Other background issues, such as inheritance or land legislation that discriminates against women, may also impact on the ease with which women claimants can access benefits. Because reparations aim to publicly acknowledge harm done, individual victims can be singled out in public for the handing over of monies as recompense for their suffering. Duggan et al note that in Guatemala, 'victims of rape have been singled out in state-sponsored community ceremonies and given compensation checks that say "victim of rape", which has created problems for them.'[43] In traditional or conservative communities, such public admittance of sexual 'defilement' could lead to a number of damaging consequences for the victim, including: alienation from support structures, fear of reprisal from family or community members at the shame brought upon them by the rape, and future discrimination. In addition, 'putting a monetary value on tangible, not to mention intangible, assets is a complicated business. Is it appropriate for women to receive monetary compensation for the loss of gender-specific assets valued in some patriarchal societies, such as virginity and purity?'[44] Individual monetary grants could be perceived as 'blood money' (or worse) by others and might even generate conflict at the community level, while female victims may be offered money by perpetrators in exchange for dropping legal proceedings or may stand accused by members in their community of willingly giving sex to the enemy for money (which has connotations of prostitution).[45]

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[40] Duggan, C., Paz y Paz Bailey, C. & Guillerot, J. (2008). 'Reparations for Sexual and Reproductive Violence: Prospects for Achieving Gender Justice in Guatemala and Peru', *International Journal of Transitional Justice*, p. 206.
[41] Ibid, p. 19.
[42] Valji, *op. cit.* note 9, p. 19
[43] Duggan, *op. cit.* note 29, p. 17.
[44] Ibid.
[45] Ibid, p. 19.

Furthermore, women are often not compensated for what they have suffered, not only because they tend to under-report the violations committed against them due to the abuse being 'privatised', but also because the burden of care which often falls to women during conflict is overlooked. Women could therefore face a double exclusion: as primary victims of violence they are disregarded due to an ideological milieu that discounts their specific violations; as secondary victims, whereby they have lost breadwinners due to conflict or have had to care for critically injured family members, their claims to reparations are deprioritised. As such, reparations programmes should seek to provide some measure of redress for the familial and economic burdens that women have to shoulder during periods of political instability and conflict. Similarly, room should be made for the specific provision of gender-sensitive symbolic reparations, in recognition of the fact that 'violations against women are often hidden and women's voices often silenced; thus, there is particular significance in public recognition of private abuse.'[46]

'Reparations measures can appear as empty gestures if they are not accompanied by genuine contrition':[47] the actual implementation of reparations programmes must be accompanied by a concerted commitment and effort on the part of the state to addressing the structural causes of human rights violations. Communities and individuals need to see that, rather than just paying lip service to their suffering, concrete measures are being undertaken by the state to redress the harms done to them in the past – 'only then will the state have fulfilled its legal and moral obligations to victims.'[48]

Memorialisation

Memorialisation refers to the construction of memorials and museums to preserve the memory of the past. Rather than a 'mirror' of what happened in the past, memory is an active process of creating meaning out of past events. How people choose to remember the past or construct their personal and societal narratives sustains or challenges the past, and helps to shape and/or justify their engagement with the present. Memory plays an important role in maintaining or overcoming power structures, from state endeavours to create memorials to selected pasts to the multiple and contentious struggles over memory in the wake of violent conflicts, and therefore is crucial to dismantling historical gendered power differentials and building and maintaining gender equality going forward – Vesna Kesic notes that, 'from the differences in what and how men and women remember, to the ways in which memory serves to reinforce or critique gendered constructions, gender and memory are intimately connected.'[49]

Kesic explains that 'the nature of the preoccupation with the past and its remembrance ("the politics of remembering and forgetting") is determinative for gender equality and democratic development of transitional, particularly post-war societies. If a large part of the past is repressed and detached from the collective/public memory, this can result in restoring the

[46] Ibid, p.37.
[47] Ibid, p. 17.
[48] Ibid.
[49] Available at: http://www.cies.org/NCS/2004_2005/ncs_vkesic.htm (accessed 7 July 2008).

"old balance of power", in which the gender dimension of that power plays a major role.'[50] Women, their human rights violations during periods of conflict and their contributions to peace and reconciliation processes, are often excluded from public memory and memorialisation projects. This could be in part due to the privatised nature of women's violations and contributions to the fight for freedom (such as keeping the family fed and housed while men are fighting, or aiding freedom fighters with food and shelter), and in part due to the fact that there often isn't space given for women's stories to be told, recorded and memorialised. Women themselves may not see the importance of this, preferring instead to remember the main political players in any conflict.

It is necessary to create a platform for women whose stories would otherwise remain untold and have been excluded from mainstream memory stories. However, it must be taken into account that what is acceptable or even desirable in terms of memorialisation for men, may not be so for women – and again, this may be context specific. Women in affected communities and movements need to be consulted about the most appropriate ways to have their stories, narratives and contributions included in public memory. Memorialising women's specific violations during conflict as well as their contributions to a new, presumably better, nation state in a gender-sensitive manner will go some way to recognising and acknowledging their equality in the post-conflict society.

Reintegration of Communities

Specific groups are particularly vulnerable to gender-based violence in transition as a result of their contexts or roles during the conflict. This section examines two such groups: women who have been forcibly displaced and their vulnerabilities during displacement and (possible) reintegration; and female ex-combatants.

Forced Migration
Women who have been forced to flee their homes are particularly vulnerable to gender-based violence.

Rape can occur at every stage of the refugee cycle, not only during flight, but also in refugee camps and during reintegration. Leaving homes, property and community behind renders women vulnerable to violence, disease and food scarcity, whether they flee willingly or unwillingly. Internally displaced women face additional dangers as they are often invisible to the international community within the context of violent conflict. Camps for refugees and the internally displaced have been criticised for not addressing women's needs and concerns in their design and procedure. Failure to account for women's security and health needs can make a camp intended to provide refuge a dangerous and deadly place for women and girls. Violence against women by an intimate partner or husband is reportedly common in refugee and internally displaced camps. In these settings, many women also face the threat of violence when they engage in basic survival daily tasks such as fetching water or gathering firewood. Specific challenges faced by female displaced persons include but are not limited to: increased vulnerability to human rights abuses including sexual harassment, gender-based violence and severe sex discrimination, which are also reasons many women and girls flee their homes in the first place; increased risk of HIV infection as wars and conflicts often

[50] Ibid.

force them to flee to areas where the virus is prevalent (women are also exposed to factors that facilitate transmission when they flee, including poverty, the disruption of health services and social structures, and increases in sexual violence); the 'protection gap' that results from the international aid community's focus on providing food and shelter to the displaced while largely overlooking their security and protection concerns; and obstacles to reintegration and repatriation in the aftermath of a conflict. Abducted women and girls are often forced to serve as sex slaves, porters or soldiers in enemy militias and are therefore seen as accomplices and rejected by the community once the conflict is resolved.[51]

Key findings from a study on gender-based violence in the displacement camps of Northern Uganda found that: sexual violations perpetrated by armed combatants (whether rebels or government troops) were seen as fundamentally different, in that they were less normalised than the sexual violence committed by perpetrators living within the camps; community mechanisms for managing GBV are minimal, given diminishing respect for elders and conditions that provide a context for increased exposure to potential sources of abuse; the defilement of girls in the camps occurs when unrelated girls and boys share huts, often in parts of the camps where parental supervision is limited; the inability of men to support their families leads to feelings of impotence, resulting in vicious cycles of anger and abuse.[52] Okello and Hovil point out that in 'situations of displacement, an underlying assumption is often that groups of displaced persons are somehow a "community." This does not mean however that there is a functioning community structure that can prevent and respond to issues of GBV via medical, legal or quasi-legal interventions such as traditional reconciliation and compensation, reparations and structural changes in both formal and customary laws.'[53] Okello and Hovil also see the lack of security for women in the displacement camps of Northern Uganda primarily as 'a failed government military strategy': the pre-displacement marginalisation of women and sexual minorities, direct armed attacks on IDP camps and the emergence of 'danger zones' within the camps (such as areas close to military facilities that typically have more bars and are characterized by behaviour and activity likely to contribute to violence) have rendered the IDP camps dangerous places, and the 'government has failed in its responsibility to protect its citizens in this context'.[54]

Violence committed in conflict situations often includes torture, abduction, disappearances, extra judicial executions, sexual violence and other forms of physical and psychological abuse: these forms of violence can result in women and men fleeing from their home country in order to find security somewhere else. In addition to the violence experienced within one's country, the journey undertaken when fleeing conflict is often fraught with the threat of further violence and fear. The needs of traumatised individuals are complex and individual-specific, but many traumatised individuals need the most basic of assistance, such as immediate food relief and shelter in their host country. Host communities and countries often do not understand the movement of trauma with violated displaced populations, and therefore fail to adequately deal with the implications. In her research report entitled *Engendering Wartime Conflict: Women and War Trauma*, Ingrid Palmary explores the notion of

[51] http://www.womenwarpeace.org/node/3
[52] Okello, M.C. & Hovil, L. (2007). 'Confronting the Reality of Gender-based Violence in Northern Uganda', *The International Journal of Transitional Justice*, Vol. 1, No. 3, p. 440, 442.
[53] Ibid.
[54] Ibid, p. 439.

the transference of trauma with displaced persons (specifically women) across state borders. In her report, Palmary highlights how the refugee women she interviewed experienced their violations in situations of conflict and displacement as domestic rather than political: this perception, in conjunction with the women refugees' mistrust of the transitional justice mechanisms in place in their home countries, frames the recourses that women seek following violation at home and while displaced. Palmary notes the following key findings and core learnings for interventions with refugee women:

- The socio-political context shapes what women experience as traumatic. As such it is necessary to understand their experiences within their social position as women as well as their national and ethnic positionings;
- The meaning that different women in the research attached to the same events was not the same and shaped the extent to which a violation was experienced as traumatic;
- Rather than educate people on the meaning and source of their trauma, it is important to understand and acknowledge their own explanations for a symptom, event or solution. To this end, traditional systems for coping can be important ones;
- It is important to focus on people's resilience and coping as much as their distress. This goes hand in glove with not using the expression of PTSD as evidence of authentic or more extreme suffering but rather to recognise that distress and its expression is culturally shaped;
- Healing takes place at a number of levels and it is as important to focus on healing at community and national levels as well as on an individual level. This will mean that the solutions offered for dealing with trauma are more diverse than counselling approaches alone.[55]

Both women and men face violence when being reintegrated into their communities, especially if the reintegration is state-enforced. This can be related to land rights, competition over scarce resources, ethnic divisions and political instability. If the reintegrated group is a minority in any community, the gender-based violence may be used to 'punish' the migrants for coming back or to re-assert old power structures. Violence against returning migrants can also be institutional, in the form of denying men and women their rights, such as refusing to grant citizenship and provide basic services to returning migrants or their children.

Female Ex-combatants

It has been reported that between 1990 and 2003, 'girls were part of fighting forces in 55 countries and participated in conflict in 38 countries around the globe'.[56] The involvement and experience of women and girls in armed conflict is complex and multilayered: despite often being portrayed only as victims in armed forces (e.g. sexual slaves or enforced 'wives'), women and girls play multiple active roles in armed groups that are not always recognised, from cooks and porters to guards and fighters. In fact, such is the importance of their services to supporting and servicing fighting forces, that girls are often the last to be

[55] Palmary, I. (2005) *Engendering Wartime Conflict: Women and War Trauma*. Centre for the Study of Violence and Reconciliation.

[56] Denov, M. (2007). *Girls in Fighting Forces: moving Beyond Victimhood.* A summary of the Research Findings on Girls and Armed Conflict from CIDA's Child Protection Research Fund, p. 1.

released, if at all. For example, in May 2001, as a sign of their willingness to 'talk peace', the Revolutionary United Front (RUF) released over 1000 boys, but only 15 girls. However, of the total number of child soldiers (which constituted nearly half of the RUF fighting forces), one third were girls.[57] Women and girls join armed forces for a multitude of reasons, including: to join their husbands; in search of protection; to access a form of empowerment and emancipation; for ideological or political reasons; or because they have been abducted or otherwise forced into joining an armed unit.

In a summary of research conducted on female combatants in Angola, Sierra Leone and Mozambique, Denov describes how female combatants often received training within the armed forces, both of a military and ideological nature. She notes that the training 'was designed to harden the girls so that they could fight fearlessly and be immune to killing … [they were given alcohol and injected with drugs] to enable them to train and fight more effectively' and that the effectiveness of the girl fighters was increased through indoctrination.[58] Training was facilitated through a constant exposure to violence, which eventually rendered it normal. In the Lord's Resistance Army operating in Northern Uganda, 72% of girls reported receiving weapons and military training.[59]

Girls are often directly involved in combat, where they might gain powerful positions as leaders and commanders of other combatants. The Centre for Rights and Democracy found that in Sierra Leone, the 'wives' of rebel RUF commanders were themselves given responsibility as commanders of small boys units.[60] However, direct combat can also result in female combatants perpetrating acts of extreme violence and committing atrocities Highlighting the complexity of girls' experience in the armed forces, Denov explains that 'girls were *simultaneously* victims and perpetrators and continually drifted between committing acts of violence and being victims of violence perpetrated by others'.[61] The violations committed against women and girls within the armed forces include, amongst others: forced recruitment, brutal training, verbal abuse, acts of cruelty, sexual violence, forced marriage, and bearing witness to extreme acts of violence, intended as public displays of horror, against other combatants and civilians. However, Denov also points out that girls adopted several coping mechanisms and strategies not only to ensure their own safety (such as owning and using small arms, 'marriages' to powerful commanders, and the perpetration of severe acts of violence), but also to enact both subtle and bold forms of resistance to their situation (such as resistance to sexual violence, forming forbidden bonds with other female combatants, refusal to kill during battle, and escape).

Maintaining sustainable peace is often contingent on the successful Disarmament, Demobilisation and Reintegration (DDR) of former combatants. The 'invisibility' of many female ex-combatants and females associated with armed forces and groups and the presumption that women performing roles that support male combatants are not entitled to benefits renders many women unable to access services and benefit packages that they should receive as part of a successful DDR process. The special needs of women ex-

[57] http://www.womenwarpeace.org/node/4
[58] Denov, *op. cit.* note 55, p. 6.
[59] http://www.womenwarpeace.org/node/4
[60] Ibid.
[61] Denov, *op. cit.* note 55, p.12.

combatants are often not taken into consideration during DDR processes, leaving them inadequately prepared for re-entry into civilian life. Integration into formal defence forces is often not presented as an option to female combatants, and reintegration into communities and family life carries multiple gender implications. Despite possessing particular insights and skills that are relevant to DDR, as holders of knowledge in their communities, as members of the communities that receive demobilised combatants and as former combatants themselves, women are often wholly ignored in the design and implementation of DDR processes.[62]

Communities often stigmatise and openly reject female ex-combatants both for being part of the destruction inflicted upon them and for stepping out of traditional gender roles by taking up arms. In many way, the roles assigned to women ex-combatants within their family on their return is a continuation of some of their roles in the military (cooking, cleaning and even sexually servicing their 'superiors'), however, the vastly differing contexts and the unresolved trauma associated with the experiences of women ex-combatants (as both victims and perpetrators of violence) can leave them in an isolated position in the communities to which they return. Women combatants who have been raped, forcibly impregnated or infected with HIV/AIDS, face severe health implications as well as heightened discrimination upon their reintegration to home or receiving communities. Some of the other problems facing women and girls returning from active combat include: severe physical and psychological health problems; being deemed unmarriageable upon disclosure of sexual violence; a lack of education and skills beyond those they had acquired in fighting or in surviving the conflict; poverty; and 'the reality of having to establish new 'civilian' identities that depended not on skills of military prowess and courage under fire, but on extraneous factors such as access to health care, family and community support, education, and remunerative work'.[63] A study by Denov & Maclure's found that in response to mounting post-conflict frustration and disillusionment, some female ex-combatants reported engaging in violent behaviour, thus presenting the same potential threat as disaffected male ex-combatants.[64] Recently, a study conducted by the Institute of Peace found that 'female ex-combatants are twice as likely as men to take up weapons again to escape poverty'. One female ex-combatant, Mary Tarweh (known as 'Mary Die Die' for her fearlessness in combat during both phases of Liberia's civil war), a 38-year-old mother of three, stated that she would consider fighting again to support her three children if things did not improve economically: 'If the suffering persists and there is no sign of hope and people laugh at [mock] me, then it is likely that I can accept.'[65]

Some female ex-combatants may choose to reintegrate informally, or 'spontaneously', into their communities rather than acknowledge publicly that they were part of an armed force or undergo a formal DDR process that excludes their specific needs. Denov comments that in Sierra Leone, Angola and Mozambique, anonymous reintegration 'provided girls with protection from discrimination, yet simultaneously concealed their need for physical or psychosocial support'. In addition, 'studies have also revealed that the behaviours girls

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[62] United Nations, *op. cit.* note 2, pp. 129 – 134.
[63] Denov, *op. cit.* note 53, pp 20 – 23.
[64] See: Denov, M. & Maclure, R. (2005) *Child Soldiers in Sierra Leone: Experiences, Implications and Strategies for Community Reintegration.* Report for the Canadian International Development Agency.
[65] Report available at: http://www.irinnews.org/Report.aspx?ReportId=80899

learned within the armed groups, which ultimately helped them survive the armed conflict, may hinder their reintegration into their communities. For example, behaviours that severely violate accepted gender norms – such as being aggressive, quarrelsome, using abusive language, abusing drugs and smoking – appear to have an impact on a girls' ability to readapt to her community and the community's response to her'.[66]

In their report on women in the Zimbabwean war of liberation, Chiwome and Mguni note that in the absence of normal social structures 'men in positions of responsibility exploited the military discipline that required subordinates to obey their seniors, and imposed their will on women of their choice: "[W]hen there is a rape or somebody has been raped, there was no mother to tell that somebody had abused you. There was no law, there was no justice where you could report to, there was no court of law... If you fell pregnant no one assisted you." The licentious behaviour of the male superiors undermined the personal freedom of women, and threatened to render the struggle against social injustice meaningless.'[67] For those women who fell pregnant by guerrillas, paternity became a problem since it was difficult, if not impossible, to establish the true identity of the fighters. Guerrilla names could not help any woman get a newly-born child affiliated to its father's lineage as required by Shona or Ndebele customs, of which most women were part. In addition, the constant threats issued to women did not allow them to identify the biological fathers. Female combatants are also vulnerable to sexual assault by enemy forces, as punishment or as a method of humiliation.

The focus of DDR programmes is often extremely limited: although the programmes might purport to deal with economic and social reintegration, often they do not do much more than buying back guns from ex-combatants. Inevitably, DDR programmes are wholly inadequate to deal with the psychosocial needs of ex-combatants. Trauma, post-traumatic stress disorder combined with a crisis in expressing masculinity except through violent behaviour may become pervasive in conflict settings. The endorsement of militarised masculinities during conflict and inadequate DDR processes post-conflict can contribute to violence against women in the communities into which male ex-combatants are reintegrated. Unresolved trauma, hyper-vigilance, a lack of psychosocial rehabilitation, financial expectations and pressure from family members in the face of unemployment, alienation from others in the community (including family members and intimate partners), and the tendency to respond aggressively to certain situations can all contribute to an outburst of violence from male ex-combatants, often directed at those closest to them (such as wives and girlfriends). Quoting a respondent in her study on ex-combatants in post-apartheid South Africa, Sasha Gear illustrates how one ex-combatant's attempts to adapt and re-adapt to civilian life in between periods of combat contributed to his violent nature:

> "These types of experiences bring about a type of rage - a temper that is so hard to resist. I am sometimes faced with situations and have to physically walk away with hands and arms rigid in case I let go and hurt someone. It took me three years or so (with help from other mates that have been in the same situation) to cool down the aggression and nightmares … My wife tells me that I get a 'look' and she knows that

[66] Denov, *op. cit.* note 53, p. 21.
[67] Chiwome, Emmanuel & Mguni, Zifikile. *The Discourse on Zimbabwean Women in the War of Liberation and the Land Reform Programme: Myth and Reality*, University of Zimbabwe. Available at: http://www.gwsafrica.org/knowledge/zifikile.html.

> she is now dicing with death - that if she pushes a few more buttons, the consequences may be serious. On a few occasions she ended up against the wall with a pistol in her mouth, once on the floor, bleeding. There are no excuses for this type of behaviour. My wife being an ex-PF has seen this before and understood that it wasn't the loving man that she married but another person. That is why I do not drink in excess … because of the possible explosion that lack of control caused by alcohol brings. I cannot risk that I lose control. The blow-out that could occur may be terrible. Hence I always must watch my temper, a temper that I never had before the army."[68]

In the focus groups that Gear held with the female partners/relatives of former conscripts, two of the five women who are, or were, married to former conscripts, reported having regularly been beaten by their husbands, abuse they directly attribute to their husbands' experiences 'on the border' (i.e. in Angola during the apartheid era). Similarly, Gear reveals that several girlfriends or ex-girlfriends of Thokoza Self Defence Units continue to live with the brutal effects of their boyfriends' distress: one of them only spends limited periods of time with her boyfriend as she believes that if she did not control their interaction in this way, he would kill her. Gear points out that these incidents of gender-based violence raise a number of important issues:

> For many of these young women, domestic violence does not represent anything out of the ordinary but has, to a significant degree, become 'normal'. Related to this, as various respondents point out, ex-combatants are by no means necessarily perpetrators of domestic violence, nor are they the sole perpetrators. These respondents know many other women who are also beaten by partners who are not ex-combatants. Domestic violence, which is so prevalent in South Africa, has a variety of complex causes, and a militarised background should be considered but one, potentially important, contributing factor.[69]

Respondents in Gear's study also attributed domestic violence post-conflict to some of the following factors: a response to the stresses and frustrations of adapting and succeeding in civilian life; the military culture of discipline and aggression, which finds its way into the private sphere; and an inability to control a habituation to the use of force. Gear's study points, then, to some of the ways that inadequate DDR processes can facilitate the use of violence against women in the domestic sphere in a post-conflict setting.

DDR does, however, have the potential to contribute to positive gender transformation. For example, in Guatemala some female ex-combatants opted for collective reintegration following disarmament and demobilisation – collective reintegration entailed setting up specific communities for groups of ex-combatants (especially those ex-combatants who had no family or home to go back to), so that individuals could reintegrate into civilian life within a group of people undergoing similar experiences and difficulties. Hauge illustrates how this collective reintegration was beneficial and positive for the women involved:

> One of the consequences of the collective reintegration was that several women became proprietaries of land. This is not common in Guatemala as most women only have the choice to become co-propretaries of land together with their husband. The women who reintegrated at one of the three fincas also participated in different

[68] Gear, S. (2002). *Wishing Us Away: Challenges Facing Ex-Combatants in the 'New' South Africa*. Centre for the Study of Violence and Reconciliation, Violence and Transition Series, Vol. 8.
[69] Ibid.

> and less gender traditional types of work than the women that reintegrated individually in urban areas. Their occupations today include forestry, cattle, honey production and agriculture. In addition, arrangements for child care were established implying that the women had more possibilities to participate.[70]

Part of what the Guatemalan rebels were fighting for was gender equality: as a result, progress around issues of gender equality was made during the conflict within and amongst these fighting forces. Female ex-combatants saw collective reintegration as means of preserving these gender gains, as individual demobilisation into a patriarchal context would have signified a loss of the gender equality gains acquired whilst fighting. In general, then, the gains made by female combatants and the gender equality established in the Guatemalan war continued to function and create positive dynamics post-conflict for those women who had collectively reintegrated. The experience of Guatemalan female ex-combatants illustrates how thinking creatively about how to retain gender equality gains can go a long way towards consolidating such gains.

Institutional Reform

Institutional reform is vital to prevent the recurrence of serious human rights abuses in order to promote social reconstruction and the rule of law. State and non-state security actors are often the most responsible for massive and serious human rights abuses. Reforming abusive security systems to prevent recurrence and provide effective and accountable security to communities is, therefore, of central concern to transitional justice. Gender rights and gender mainstreaming is crucial to the reconstruction and rehabilitation of post-conflict societies, and it is equally important for women to retain any gender gains made during the conflict.

Conflict does open up social spaces and may create opportunities for redefining social relations between men and women. Women's changing roles in the context of conflict may allow them greater autonomy and a chance to participate in decision-making institutions or structures, even if this is at a familial or home level. The opening of this social space does not necessarily last, however. ACORD states that:

> important though these changes are, they remain at the level of everyday practice and do not imply radical shifts of values. Men are still expected to use their power and resources to protect and provide for their families, and women are still expected to ensure care and provisioning – through long hours of hard and unfamiliar work if necessary. In some cases, notably in Sudan and Uganda, this shift in roles has contributed to increased alcoholism and domestic violence. The Uganda case in particular underlines the existence of a 'backlash' against new freedoms for women – expressed mostly by older men but also by some women.[71]

Thus, while roles may temporarily change, attitudes generally stay the same and patriarchal ideologies are rearranged, adapted or even reinforced rather than fundamentally altered. During or post-transition, women's equality and rights are often as poorly understood as they were during the conflict, which is why there has been such a focus on including a

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[70] Hauge, W. (2007). *The Demobilization and Political Participation of Female Fighters in Guatemala.* A Report to the Norwegian Ministry of Foreign Affairs. International Peace Research Institute: Oslo, pp. 20 – 21.
[71] El-Bushra & Sahl, *op. cit.* note 13, p. 88.

gender perspective in transitional justice mechanisms and promoting gender equality in transitional institutional reform.

Peacebuilding and Peacekeeping

In post-conflict situations, peacebuilding and peacekeeping become crucial in reconstructing, rehabilitating and maintaining peace in a decimated society. For our purposes, 'peacekeeping lowers the level of destructive behaviour, peacemaking aims to change attitudes of the main protagonists (through mediation, conciliation, arbitration, and negotiation), and peacebuilding tries to overcome the contradictions which lie at the root of the conflict through processes of demilitarisation, democratisation, development and justice.'[72] Peacebuilding and peacekeeping work hand-in-hand with post-conflict reconstruction mechanisms: as such, each needs to be seen as an on-going process of change without necessarily having an end point.

The first problem with mainstreaming gender in peacebuilding and peacekeeping is that women in Africa have mostly been marginalised in these processes. Heidi Hudson explains that the African form of feminism, 'womanism', 'better accommodates African women's realities and identity and the dynamics of empowerment and the peacebuilding process in Africa' because the concept 'emphasises cultural contextualisation, the centrality of the family and the importance of cooperation with men … help[ing] to clarify the link between strategic gender needs that are feminist in nature and practical or tactical women's needs grounded in women's everyday experiences.'[73] The difficulty, thus far in the history of peacebuilding in Africa, is that the groundedness of womanism has meant that efforts of African women have been focussed at the grassroots level, where they have made remarkable strides in healing communities, dealing with gender-based violence and tackling deficiencies in basic service provision. This, together with gender norms and a patriarchal approach to conflict resolution that views women as incidental to official decision-making, has effectively meant that women have been largely left out of formal peacemaking processes in post-conflict situations in Africa.

The second problem is that there is insufficient awareness of the roles women played *during* the conflict. If women are perceived as having been merely mothers and victims during the conflict, their role in post-conflict peacebuilding and reconstruction would, arguably, be limited. However, women do play important and varied roles during conflict, including as combatants, human resources for the military or rebel groups, preservers of the homestead and, yes, as victims of gender-based violence and as mothers of those killed or injured in the conflict. It is thus dangerous to make assumptions about the needs and priorities of women within a post-conflict society, as well as to leave them out of the peacebuilding process, as it is they who know what it is that women in their context need in terms of security, justice and reconciliation, social and economic well-being, and governance. Gender needs to be taken into consideration at all levels of the peacebuilding and peacekeeping process: not least in respect of DDR, where resource allocation is always grossly skewed towards male

[72] Hudson, *op. cit.* note 23, p. 8.
[73] Ibid, p. 7.

combatants; the facilitation of micro-economic level access to credit; and in gender-sensitive programmes in agriculture, health and employment.[74]

The third problem is one of preventing the reversal of any gender gains made during the period of conflict (referred to earlier in this paper). Gendered power relationships tend to revert to type (or worse, suffer a backlash) in post-conflict settings, as illustrated above by the marginalisation of women during formal peace settlements and subsequent peacebuilding processes. Hudson cites Puechguirbal as stating that 'women need to take advantage of the transformative experiences of war and a weakened patriarchal order to build up a strong women's movement … before traditions that oppress women have returned to take over the space that had opened momentarily'.[75] A related problem is that of women's autonomy in the new-style governments of post-conflict countries. The experience of South Africa has shown that 'institutionalising gender mechanisms within structures of government could demobilise the women's movement through cooption, i.e. when goals can be achieved without structural reform'.[76] Any complacency on the part of the women's movement regarding the comprehensive nature of transformation, or any concession to deprioritising gender concerns in the light of more 'serious' reconstructive needs, could mask as well as entrench gender inequalities that remain embedded in a country's institutions.

CONCLUSION

Gender-based violence does not begin with conflict or political stability and end with a transition to peace or democracy. In the context of violent conflict, however, women find themselves particularly vulnerable to many different forms of violence – rape is used as a weapon of war to humiliate women and fragment communities; domestic violence levels increase with the disempowerment of men and the break-up of families; the lack of safety measures in displacement camps mean that women are at risk of sexual and domestic violence; and the economic burden of caring for families while the men are fighting or have been killed entraps women in a cycle of poverty and hardship. These multiple gendered human rights violations are not always recognised and adequately dealt with in formal transitional justice processes and in the rebuilding of societies in post-conflict contexts. The continuum of gender-based violence experienced during peace and conflict, the (dis)continuities of the violence experienced by women through conflict and transition, and the particular knowledge and expertise that women bring to bear on the issue of violence in times of conflict and transition, all need to be further interrogated in specific country and regional contexts in order to deepen our understanding of women's experiences of violence and transition, as well as to generate more nuanced insights into how women may be effectively drawn into peace and transitional processes.

[74] Ibid, p. 10.
[75] Ibid, p. 16
[76] Ibid, p. 17.

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