

# THE ROLE OF TRANSITIONAL JUSTICE IN FINDING JUSTICE FOR FEMALES' VICTIMS OF SEXUAL VIOLENCE: THE CASE OF IRAQ

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**Abstract** - There is weakness in the current model of TJ in terms of justice for women as victims of conflicts in Iraq. The questions arise of whether the recent mechanisms of TJ are adequate to redress the problem of sexual violence against women, and whether the Iraqi government is able to remedy female victims of sexual violence.

This research critically analyses the position of international law and the current TJ system's role in to redress of victims of sexual violence.

**Keywords:** Transitional Justice; Iraq; Sexual Violence; Women in Conflict; Justice

## 1. INTRODUCTION

Internal armed conflict is often accompanied by human rights violations, including sexual violence against women. Women are targeted in armed conflicts for different reasons, including their ethnic identity. In Iraq during the ISIL/ISIS insurgency in 2014, women were targeted because of their religious affiliation. Women and children were detained and subject to different kinds of sexual violence, including rape, forced marriages, and sale in slave markets.

In several states, transitional justice (TJ) played a significant role in the redress of the victims of sexual violence, for example in South Africa and Chile. However, Iraq adopted TJ for political expediency, to deal with politically pertinent crimes; sexual violence was basically ignored.

Violence against women remains a global problem despite universal condemnation. (Adams, 2007)The human rights situation in Iraq, especially for women, has deteriorated since 2014. Many Iraqi women have suffered due to the on-going armed conflict and civil strife, which has made many of them women or orphans, contributing to displacement and vulnerability to trafficking for sexual exploitation and prostitution. The role of the government to protect the women was almost non-existent prior to the Iraqi Parliament passing an anti-trafficking law in April 2012, but the authorities have done little to enforce this. (Human Rights Watch, 2023).

During the most recent wave of conflict in Iraq since the seizure of Mosul and large parts of northern Iraq by the insurgent group Islamic State in Iraq and Syria/the Levant (ISIS/ISIL), women have suffered from systematic rape, sexual slavery and forced marriage. (Amnesty International, 2014)ISIS deploys numerous unlawful tactics, including car bombings, suicide bombings targeting civilians, extra-judicial executions, torture, discrimination against women, forced marriage, sexual assault and slavery a number of women and girls of the Yazidi community, as well as the destruction religious places, and the killings and abductions of members of religious and ethnic minorities, especially Christians and Aleziden in Mosul. ISIS kidnapped hundreds of women and children from the Yazidi community and forced several women and young girls to marry. They systematically separated unmarried women and girls aged over 12 from their adult relatives. Some women and girls have been subjected to sexual abuse and slavery. In October 2014 ISIS declared that it considered the practice of enslaving women to be religiously justified. (Human Rights Watch , 2023)

In times of political or civil strife and instability, women (authentic victims) are particularly susceptible to violations of their human rights and higher levels of violence, including sexual violence. Trafficking in women can be aggravated due to the breakdown of supportive political, economic and social structures, increased aggression and related demands for women's sexual, economic and military exploitation. (United Nations High Commissioner for Refugees, 2018). Sexual violence against women during and after the conflict needs to have special attention in TJ

approaches due to the serious long-term impacts of such crimes on women, including systematic sexual violence continuing unabated even after conflicts end, becoming intractable and institutionalised problems. The social stigma and trauma associated with reporting such crimes and women's exclusion from public decision-making processes makes it particularly challenging for women to engage with TJ mechanisms. TJ plays a significant role in redress the victim of the sexual violence. Several States adopted TJ systems in dealing with the problem of the sexual violence during and after armed conflicts, however many did not, such as Iraq. The Iraqi government used TJ to solve political problems and it did not record the crimes of sexual violence as serious ones. Also, there are no skilled or experienced professionals in peace building in time of post-conflict to exercise the role of TJ in security and stability.

The Iraqi government needs to include TJ mechanisms with special measures to ensure those women receive adequate redress for conflict-related violations and guarantee that the women can fully participate in the processes of TJ, and that their rights and perspectives are sufficiently addressed. Moreover, the Iraqi government must employ all mechanisms of TJ to ensure the crimes against the women including sexual violence have satisfied addressed. This includes participation of the women (victims) themselves in such procedures of transitional justice, and prosecution initiatives that punish those responsible for committing sexual violence and other women's rights abuses during conflict, to help ensure accountability for conflict-related women's rights abuses and that that oppression or maltreatment of women is not perpetuated into the future.

## II. REVIEW OF LITERATURE VIOLENCE

Conflict has generally accompanied by a number of breaches of international law and atrocities against civilian groups, particularly women. Sexual violence is one of the most serious and prevalent forms of human rights abuse faced by women during conflict. (Al-Jazeera News, 2014) Addressing sexual violence in societies in transition from conflict or repressive rule to ensure accountability and the restoration of peace is highly complex, but it can help transitional justice processes in the realization of the rights of the victims of such violence, and can be useful in identifying and dismantling the basic structural discrimination that makes it possible.

One important aspect of addressing sexual violence against women is adopting the TJ system in a time of post conflict to ensure accountability and the restoration of peace. Such systems can help to emphasize the rights of victims. It is then important to ensure effective consultation with the victims of sexual violence, and that they receive adequate compensation for violations. The full participation of women in TJ processes and the embodiment of their rights is seen in those operations, as encouraged by the UN Security Council, which approved Resolution 1325 (2000) and additional resolutions on women, peace and security, including Resolution 2122 (2013), which stated the need to involve women in all aspects of peace-making and the reconstruction of post-conflict peace-building. This includes the design of TJ processes, implementation and evaluation.

It is important in dealing with women to choose the best reparation for rape crimes, to protect them, and to reduce the number of such attacks. These objectives could be achieved by helping the women to talk freely and frankly. The women should also be provided with protection do they are not subject to retaliation and other kinds of violence for reporting crimes, whether from perpetrators, their families and communities or society in general; this is particularly relevant in collectivist cultures such as tribal societies in Iraq, where women may be killed even if they are the victims of violence in order to preserve group honour. Such attitudes and behaviours are essentially socially constructed, rooted in historical socio-economic issues, but religious perspectives (among Muslims, Christians and Jews in the Middle East) viewing extra-marital sexuality as obscene contribute to the stigma and taboo surrounding issues of sexual crimes. (Dahham, 2022)

The use of women as a weapon in conflict is an ancient phenomenon. In Rwanda, between 100,000 and 250,000 women were raped during the three months of genocide in 1994. Furthermore, UN agencies estimate that more than 60,000 women were raped during the civil war in Sierra Leone (1991-2002), more than 40,000 in Liberia (1989-2003), up to 60,000 in the former Yugoslavia (1992-

1995), and at least 200,000 in the Democratic Republic of the Congo since 1998. Even after conflicts end, the impacts of sexual violence persist, including unwanted pregnancies, sexually transmitted infections and stigmatization. Widespread sexual violence itself may continue or even increase in the aftermath of conflict, as a consequence of insecurity and impunity. Meeting the needs of survivors – including medical care, HIV treatment, psychological support, economic assistance and legal redress – requires resources that most post conflict countries do not have (UN, 2005)

Despite increasing attention from the international community about the problem of sexual violence against women during armed conflicts, impunity remains the main issue from a legal perspective, as evinced in the case of *Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* (2009). (UNCHF, 2014) The brief of this case was that in February 2003 the village of Bogoroin the eastern Democratic Republic of Congo's Ituri region faced an attack by an armed group. Mathieu Ngudjolo Chui, the armed group leader, was accused of being a co-perpetrator of war crimes and crimes against humanity, such as rape, killings, sexual slavery and the use of child soldiers. However, the Trial Chamber failed to prove his responsibility. The victim was disappointed by the decision of the ICC to exonerate the criminal. Efforts made by the international community need to be redoubled. TJ needs to be globalized by the UN for issues relating to sexual violence against women; furthermore, the international community needs to observe all procedures of TJ, including teaching victims about the reasons behind such attacks, receiving reparations, and ensuring that such crimes are not repeated in future.

Transitional justice mechanisms must thus provide for special measures to ensure that women receive adequate redress for conflict-related violations. Transitional justice approaches should pay special attention to abuses committed against groups most affected by conflict, particularly women. Gender inequality is one of the most pervasive forms of societal inequality and is often exacerbated by conflict and situations of gross human rights violations. Entrenched forms of gender-based violence also make women and girls particularly vulnerable to conflict-related human rights abuses, including systematic sexual violence, which often continues unabated even after conflict ends. The social stigma and trauma associated with reporting such crimes and women's exclusion from public-decision making processes make it particularly challenging for women to engage with transitional justice mechanisms.

TJ mechanisms must thus provide for special measures to ensure that women receive adequate redress for conflict-related violations and that women can fully participate in these processes and that their rights and perspectives are adequately addressed. TJ mechanisms that incorporate a gender and women's human rights perspective, such as prosecution initiatives that punish those responsible for committing sexual violence and other women's rights abuses during conflict, or consultations with women to determine their priorities for transitional justice initiatives, can help ensure accountability for conflict-related women's rights abuses and that oppression or maltreatment of women is not perpetuated into the future. (Rashid, 2010)

Scholars have different views on the importance of transitional justice in dealing with crimes of sexual violence against women. Kapur found that transitional justice played a significant role in encouraging hidden victims of sexual violence to talk frankly about their experience and claim for their issue when they see that the other victims do so. Also, increased public knowledge about such crimes, and the enactment of laws and norms, highlights such problems. Reparation - whether in material or symbolic forms (e.g. apology) may help victims in healing their suffering. (Kapur, 2016) In 1993, the Japanese government apologized for the so-called comfort women at the time of World War II. But, in the second of March 2007, Japanese Prime Minister Shinzo Abe that refused to be Japanese military forces have forced women into prostitution to them in World War II, said that in fact, does not have any evidence of coercion into prostitution. (Adelstein, 2008)

Japan never apologized for the 'comfort women' during WWII, and new Japanese revisionist historians totally whitewash the phenomenon, despite British nurses in Hong Kong being among those who testified that they were raped by the Japanese Imperial Army. If a modern, advanced

and democratic country like Japan cannot even apologize for historical crimes now passing out of living memory, what can be expected from post-conflict countries?

Several scholars find that TJ used to redress the problem of sexual violence against women does not have any significant role because it does not address the underlying factor of 'masculinity society'; in this perspective, TJ only contributes to perpetuate the hegemony of masculinity. (Bonacker & Safferling, 2015) Thorsten Bonacker similarly found that the procedure of transitional justice focuses on the weakness of women and pictures them as victims rather than highlighting the role of the women in conflict; for example, 30% of combatants were women in Liberia. (Kalifani, 2018) Furthermore, interlocution about the suffering of the victims of sexual violence by human rights groups or NGOs has been argued to perpetuate the disempowerment and marginality of victims themselves. (Madlingozi, 2010). The researcher believes that if applied in the correct matter by professionals, TJ could play a significant role not only in realization of the right and justice to women victims of sexual violence, but also in altering the point of view of society to crimes of sexual violence and consolidate it in the mind of the citizens as a serious crimes, thus criminals would avoid committing these crimes in the future. This point is one of the main reasons for imposing sanctions on such criminals worldwide.

### III. THE MEANING OF TRANSITIONAL JUSTICE

Transitional justice (TJ) is a set of practices, mechanisms and concerns that arise following a period of conflict, civil strife or repression that are aimed directly at confronting and dealing with past violations of human rights and humanitarian law. (Nagy, 2008) The main concerns of TJ are the accountability of criminals who committed serious violations of human rights (which occasionally involves only leaders, who are often convenient scapegoats), and the truth commission which investigates the crimes of the past in order to understand the reasons behind such crimes and record them, with a view to guaranteeing that they are not repeated. (Bassiouni, 2014) It is clear from these considerations that the idea of TJ is not an academic legislative issue; rather it is directly related with pragmatic concerns about the possibility of changes in social, economic and political structures through important negotiations of authority taking place in a state. (UN, 2014)

According to the United Nations, TJ processes comprise a system trying to understand the community's legacy of past excesses of the large-scale, in order to ensure accountability, justice and reconciliation. It consists of TJ processes and mechanisms of judicial and non-judicial redress, including prosecution initiatives, the search for truth, reparations programs, institutional reform, or an appropriate combination of these actions. (UN, 2004) Moreover, it is recognized that the overall national consultations, particularly with victims of the human rights violations, is an important element in TJ. In Timor-Leste when women were eventually consulted prosecutors began to pay attention to the perpetration of sexual crimes during the occupation. (UN, 2009)

TJ legal mechanisms may involve several persons and institutional justice might be involved in transitional justice. This includes internal and international actors as well as tribunals, courts and commissions. (Naraghi, 2004) The researcher believes that justice is a complete assessment and cannot be obscured or disguised, or even suspended under any reason or excuse, thus TJ involves the realization of rights and restoring them to victims. It also entails recognition of truth and reparation and compensation for the victims, and the reform of society through reform laws judicial and security organs, particularly law enforcement agencies. However, TJ is particularly concerned with periods of transition, such as the transition from the case of an internal armed conflict to a state of peace, from a state of civil war accompanied by violence and vandalism to calm and tranquility, or the transition from an authoritarian political system to a state of political detente and democratic transition.

TJ also aims to restore dignity to victims, and to build confidence among the warring groups and the promotion of changes at the level of institutions required to achieve a new relationship between the populations in order to keep up with the rule of law. However, governments in post-



conflict situations face other pressing needs such as the disarmament of warring factions, improving the basic security of civilians and reviving economically devastated society.

#### IV. THE APPLICABLE LAW FOR THE SEXUAL VIOLENCE IN TIME OF INTERNAL ARMED CONFLICT

In situations of armed conflict, International Humanitarian Law (IHL) is the applicable law. In recent years, Iraq has been characterised by an internal armed conflict between the Iraqi Government and affiliated Shia militias operating with the cooperation of armed forces and security forces against Sunni insurgent groups such as ISIS, with the separate phenomenon of the increasingly autonomous Kurdistan Federal Region. In this conflict the rules of IHL need to be applied, and all parties in the conflict must be subject to them (including the state-backed militias) to protect civilians. (Amnesty International, 2010)

It is generally accepted that rape and other forms of sexual violence are a breach of IHL and as war crimes. (Henckaerts, 2019) According to Article 8 of the ICC Statute, war crimes are “serious violations of the laws and customs applicable in an armed conflict not of an international character”, a definition originally adopted by the Report of the Commission on Responsibility set up after the First World War. (Evans et al, 2018)

The international community pays attention to sexual violence during conflicts and a number of courts have been established. Significant progress has been achieved on the level of international law and on the jurisdiction level with regard to securing justice for victims of sexual and gender-based violence linked to the conflict over the past fifteen years. The creation of a statute of sexual violence as a crime against humanity by the International Criminal Court for Yugoslavia in 1993 was a landmark, followed by the inclusion of a similar clause in the system Statute of the International Criminal Tribunal for Rwanda (ICTR) in 1994. The establishment of the International Criminal Court (ICC) in The Hague in July 2002 made a permanent court with jurisdiction over most serious international crimes, such as crimes war crimes and crimes against humanity, genocide and crimes of assault, subject to the Rome Statute, with specific provision for gender-based violence as a possible war crime and a crime against humanity. This definition includes rape, sexual slavery, coercion into prostitution, forced pregnancy, enforced sterilization and any other form of violence (UN, 2015)

#### V. RIGHTS FOR THE VICTIMS OF HUMAN RIGHTS VIOLATIONS UNDER THE TRANSITIONAL JUSTICE SYSTEM

Under International Law, the victims of human rights violations have the right of remedy, as provided by several articles of international law. (Art(91) of the Protocol I Additional to GC, 1949) There are three primary rights for victims of human rights violations: the right of access to justice, reparation (and its mechanisms) and knowing the truth of the reason behind such violations. (OHCHR, 2010)

##### 5.1. Searching for the Rights

One of the important elements of TJ is searching for the truth. It is considered to be the right of the victim to know the truth and why the criminal perpetrated the crime. In some countries, truth committees did not deal with sexual violence, but it was covered in the cases of Timor-Leste and the Solomon Islands, Sierra Leone, Kenya, Liberia and Morocco; it was also covered for Guinea (Rashid, 2010) Syria (OHCHR, 2010) and Libya. (IHRL, 2015) Other important examples in successfully addressing sexual violence include Peru, Guatemala and South Africa. (UNHRC, 2014). Truth commissions are often well-placed to reflect the systematic nature of sexual violence, particularly when used as a method of conflict, and they may play a role in breaking down stigma and changing societal attitudes regarding sexual violence.

Truth commissions have focused attention on sexual violence against women in their work when they involve women, such as the establishment of specialized gender units within commissions' secretariats; the incorporation of gender-based and sexual violence departments into operational structures and rules of procedures; and the formulation of relevant findings and recommendations in final reports. (OHCHR, 2014)

Although there are differences in whether sexual violence should be regarded as a war crime, a crime against humanity or an act of genocide, all jurisdictions agree that it is a serious issue, although it is probably the least successfully prosecuted crime in conflict and post-conflict societies. (Art 6, 7 and 8 of UNGA, 2010) Although litigation before international courts plays an important role in regard to sexual violence, there are many obstacles to the effective participation of victims in transitional justice in Iraq because of the nature of society, so the victim will prefer to suffer rather than to tell the court about what happened to them. In such situations the secret of procedures of such justice, along with the role of civil society organizations, might play important role in help the victims and their families to say the truth. Furthermore, the Iraqi government during the conflict totally lost control over several cities (most notably Mosul), which fundamentally challenges its liability to prosecute sexual violence under international norms, and raises questions about jurisdiction for non-state armed groups perpetrating (or indeed prosecuting) such crimes. In practical terms, this pertains to the problem of impunity for sexual violence and the lack of accountability, particularly when states lose effective control over territories.

That non-international nature of some conflicts does not prevent the possibility of prosecuting the perpetrators of certain crimes on an international level and to punish them, whether it be through a special criminal courts, such as those convened for Yugoslavia and Rwanda, or in the future by the ICC, due to the internationalization of these acts. The internationalization of sexual violence crimes is based on the concept that even if committed at the domestic level, without any intervention of foreign elements, they threaten security and international peace.

The researcher believes the important of international level of prosecuting the criminals of non-international conflict, especially for crimes of sexual violence to guarantee there is no impunity. Gujarat In 2002, over the last two decades experienced internal armed conflict. For example, fights against Communist groups and Maoist, which called Naxalite conflict. in Gujarat, and the Kashmir conflict where the rape, torture and killings was committed. (Bastick, et al., 2007) Several Muslim women were victims of sexual violence, where 250- 330 women were died. Several of them raped. (Amnesty International, 2021). In 2012, Modi was cleared of complicity in the violence by a Special Investigation Team appointed by the Supreme Court of India. Furthermore, The Special Investigation Team rejected claims that the government did not make sufficient efforts to avoid the insurrections. (The New York Times, 2014) The Muslim community was described to have responded with anger and disbelief, with the chief cleric of Delhi's Jama Masjid saying "Modi is a terrorist, and he unleashed state-sponsored terrorism in Gujarat", although, Teesta Setalvad of the Citizen for Peace and Justice confirm that the legal procedure was not completed right now as there exists a right to appeal. (Krishnan, 2012) In July 2013 allegations were made that the Special Investigation Team had suppressed evidence. (The Times of India, 2013) That December, an Indian court upheld the earlier Special Investigation Team report and refused a request looking for Modi's trial. (Mandhana, 2013) In April 2014, the Supreme Court expressed satisfaction over the Special Investigation Team's investigations in nine cases linked to the violence, and rejected as baseless a plea contesting the Special Investigation Team report. (The Times of India, 2013)

## 5.2. Prosecution Initiatives

States have primary responsibility to exercise jurisdiction over serious crimes under international law. National legislation should conform to international standards, including when criminalizing sexual and gender-based violence and by using gender-neutral definitions. TJ strategies increasingly focus on strengthening domestic investigative and prosecution capacities. Specialized chambers or courts for instance were established in Bosnia and Herzegovina, Croatia, the Democratic Republic of the Congo (DRC), Liberia, Serbia and Uganda. Focus is also placed on the training of public officials, particularly from the medical services, the police and the judicial systems. There is increasing awareness of the need to address victims' obstacles in accessing criminal accountability processes, due to absence of medico-social and legal support; for instance, geographic remoteness of police stations and courts, financial and security issues. Measures to address these barriers may include free legal assistance, mobile courts, or specific courtroom

protection protocols. The goal is to ensure victims' participation, protecting dignity, safety, confidentiality and privacy. (OHCHR, 2014)

The victims of sexual violence during internal armed conflict need to see those who committed such crimes subject to the fair trial and, where appropriate, punished in accordance with international standards. Hence, prosecution initiatives must process in a non-discriminatory and objective manner, irrespective of who the perpetrators are. For example, in case of Katsev, former President of Israel from 2000 to 2007, who was convicted of raping a secretary and other two women, was prosecuted as an ordinary person and applying the rule of law equally. Israel's Supreme Court stated that the former President of Israel Moshe Katsav raped a former assistant and harassed two women. In Israel, maximum sentence of Rape convictions is 16 years in prison, (BBC NEWS, 2007) where the president of Israel sentenced to seven years in prison. (Vick, 2011)

The TJ approach is mostly conducted within internal jurisdiction; therefore the State plays a significant role in exercising jurisdiction over these crimes. TJ programmers seek to reinforce or develop national investigative and prosecutorial capacities, an independent and effective judiciary, adequate legal defense, protection and support for witnesses and victims, and humane correctional facilities. National legislation that is in conformity with international human rights law and international criminal law is essential. The assistance of the international community might also be required for exhumations, forensic analysis, investigations of mass crimes and preservation of evidence. The justice proceedings need to be undertaken impartially, objectively and in timely manner, according to international standards. Systematic monitoring of the justice system can be a useful tool for assessing and improving its effectiveness and compliance with international standards. (OHCHR, , 2010) National legislation should be in accordance with international standards, in aspects include the criminalization of sexual and gender-based violence as international and domestic crime. (OHCHR, 2010) The Iraqi government is a party of the major international instruments related to humanitarian law, with responsibility to redress victims of the violation of human rights. (OHCHR, , 2009) This obligation includes the right in the presence of an effective remedy for those who have been subjected to violations of the rights (including the provision of compensation) and to investigate and prosecute the perpetrators of certain violations. The Human Rights Committee, General Comment No. 31 on the Nature of the General Legal Obligation Imposed on States Parties to the present Covenant (2004), (paras 15-19), states that the duty to bring the perpetrators to justice for particular violations pertains to criminal legislation under internal or international law, as well as torture and cruel, inhuman, and degrading treatment, and indiscriminate killings and enforced disappearances. This issue is dealt with in depth in the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted by the General Assembly in December 2005; the Group completed the principles relating to the protection and promotion of human rights through action to combat impunity (as recognized in a consensus decision in the United Nations Commission on Human Rights in 2005).

The post-conflict Iraqi case faces problems in achieving justice due to the lack of professionals in conflict and peace building. Victims and their families have been displaced have been deprived of the most basic sources of life and they need psychological treatment before compensation. However, the cases of the sexual violence against women and children are considered to be of less importance than other cases. For example, since June 2014 the Iraqi government has been absolutely preoccupied with the prosecution and investigation of the crimes of ISIS, yet the government has not paid attention to crimes of sexual violence, despite this being a major feature of international concern. However, the international community has also done little to stop such crimes against Iraqi women or support them with a good level of the treatment; attention has stopped at recording such crimes and some preliminary interviews with victims. For example, Human Rights Watch recorded the crimes of ISIS against women under its Iraqi events of 2014. (Human Rights Watch, 2015)



### 5.3. Reparations

Another important element of transitional justice is reparation. It is the right of victim to receive reparation. In this regard international law provides different kinds of redress for grave human rights law violations and serious humanitarian law violations, including restitution, compensation, satisfaction, rehabilitation and guarantees of non-repetition, along with the punishment for such crimes. In the case of Iraq, the importance of punishment is particularly relevant, given the lack of seriousness accorded to sexual violence alluded to previously. More stringent punishments would signal the society the seriousness of such crimes, parallel to the scandal caused by the offender; it should be considered that female victims of sexual violence are profoundly affected, as the stigma of being a victim has long-term impacts such as undermining social acceptance and matrimonial prospects.

This right of reparation has developed. That Nairobi Declaration on the right of women and girls in equity and compensation was established in 2007, claiming that reparations should take into account gender considerations. The right of reparation needs to be simplified to ensure that victims can easily achieve their rights. The most serious barrier to reparation (and indeed charging alleged offenders and securing convictions) is the burden of legal and medical evidence to prove harm. That is why some countries tried to simplify the procedure of receiving the reparation. In Morocco, the Equity and Reconciliation Commission assumed that women subjected to detention suffered from gender violations and gave additional compensation to women complainants on that basis, without forcing the victims to make a specific request. (Guillerot, et,al, 2011) Under international law it is the duty of governments to ensure and promote the right of victims for reparation. (Art 2(2and 3) of the International CCPR, 1966) According to the Para 16 of the Human Rights Committee, States have responsibility to remedy and give reparation to victims of human rights abuses, including Civil and Political Rights under the International Covenant. Adequate reparation for victims of sexual and gender-based violence entails different forms, which combine individual, collective, material and symbolic benefits can maximize the possibilities of redress for large number of victims. Victims' participation is crucial for ensuring that benefits are accessible, equitable and effective. The criteria and procedures for accessing reparations must be gender-sensitive. Reparations proceedings should adopt adequate procedural and evidentiary rules for sexual violence. Reparations should take into account the gender-specific nature of the harm suffered by victims, including consequences of stigma. They should strive to be transformative and where possible, assist in overcoming structures of inequality and discrimination. Creating linkages with development actors and programmers could be beneficial for delivering sustainable and transformative reparations. (OHCHR, 2014)

## VI. CONCLUSION

Sexual violence against women during and after the conflict needs to have special attention in TJ approaches due to the serious long-term impacts of such crimes on women, including systematic sexual violence continuing unabated even after conflicts end, becoming intractable and institutionalised problems. The social stigma and trauma associated with reporting such crimes and women's exclusion from public decision-making processes make it particularly challenging for women to engage with TJ mechanisms.

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