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GENDER AND TRANSITIONAL JUSTICE

A TRAINING MODULE SERIES

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Module 2 Truth Seeking

Acknowledgments

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About ICTJ

The International Center for Transitional Justice works across society and borders to challenge the causes and address the consequences of massive human rights violations. We affirm victims’ dignity, fight impunity, and promote responsive institutions in societies emerging from repressive rule or armed conflict as well as in established democracies where historical injustices or systemic abuse remain unresolved. ICTJ envisions a world where societies break the cycle of massive human rights violations and lay the foundations for peace, justice, and inclusion. For more information, visit www.ictj.org.

Cover image: In West Papua, Indonesia, indigenous women documented violence and human rights violations occurring between 1963 and 2009, during the period of integration of their region in Indonesia. (ICTJ/Anne Cecile Esteve).

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CONTENT WARNING: This training seminar contains descriptions of crimes against humanity and other grave violations, including sexual violence, that some readers and trainees will find difficult.

How to Use the Modules

a. Objectives and Goals

With the support of UN Women, ICTJ developed a set of multimedia training materials with in-depth information on different phases and dimensions of a gender-sensitive transitional justice process. The intended audience for this project is broad, and thus the materials are designed to be accessible for diverse state and civil society actors. This includes those seeking to increase their knowledge so that they can better train or work with others, such as staff of intergovernmental institutions or national human rights groups. It also includes those who plan to apply the materials more directly, such as people working with or within transitional justice measures.

There are six modules in total, covering the following topics: (1) a conceptual overview of gender and transitional justice, (2) truth seeking, (3) reparative justice, (4) criminal justice, (5) memorialization, and (6) women’s voices and participation in justice processes. While ICTJ recognizes that all transitional justice processes are intertwined and best served by a holistic approach, we also understand that in practice, often only one or two processes have strong momentum at any given time. ICTJ also notes that the universe of what can be considered a transitional justice process extends well beyond the topics included here. Thus, rather than serving as a comprehensive and exhaustive tool kit—which could not possibly be created—these modules and the proposed categorizations are intended to allow users to personalize their own training programs in a way that is as relevant as possible to their context.

The first five modules each consist of an interactive PowerPoint presentation and accompanying speaker notes to assist users in preparing their own training or presentation.

The final module, “Women’s Voices and Participation in Transitional Justice,” takes the form of a short video that tells the story of how women have participated in the transitional justice process and explores how they can participate now. This module is intended to broaden the reach of the training materials, as it is accessible to any audience. It can be used directly with women victims in sensitization workshops or other, similar contexts.

b. Using the Modules

The modules are designed to allow users to personalize and adjust their own trajectory through the materials based on their needs, experiences, and expertise. The concepts mentioned in each slide correspond to a section in the accompanying speaker notes. At the beginning of each section, the main points are summarized in bullet form and then explained in detail. The speaker notes also contain user-friendly additions such as links to key supplementary information and primary resources, as well as country-specific examples. Throughout each module, discussion questions and suggested exercises are contained in blue bordered boxes, to be explored at the user’s discretion.

Users can design the training to fit the needs of the intended audience by skipping certain information, focusing more on supplementary materials, or engaging in dialogue via questions and activities.

It is recommended that the presenter familiarize him- or herself with the slides and the speaker notes in advance to anticipate where the slide breaks occur. Within a section of the speaker notes, there may be multiple corresponding slides.

Accompanying these modules is a document entitled “Additional Resources.” This document can be consulted should the user wish to learn more about a particular topic.



Photo credit: ICTJ/Marta Martinez

Module 2: Truth Seeking

Gender and Transitional Justice: A Training Module Series

1. Introduction

- Ideally, truth commissions address not just the human rights abuses that people suffered, but also the history and context that gave rise to the abuses.
- A neutral approach to gender in truth-seeking endeavors renders invisible the gendered patterns and structures of human rights abuses suffered by both women and men.

Dominant narratives of human rights violations often marginalize the priorities, interests, and participation of women when addressing war, authoritarianism, and other contexts that truth-seeking endeavors are called on to address. Many have argued that infusing truth with a gender perspective would bias and compromise it. According to this view, truth, by definition, must be gender blind; objectivity is precisely its value.

In fact, this viewpoint and the “truth” that inevitably emerges as a result render invisible the gendered patterns and structures of human rights abuses suffered by both women and men.

In many cases, this invisibility is shaped and enabled by background social structures and ideologies, such as discrimination embedded in the legal system, the underrepresentation of women in the political sphere, barriers to women’s access to the media, and even the institutional practices of truth commissions and other human rights institutions.

For many truth-seeking initiatives, the process of demystifying established truths is accompanied by an effort to build more inclusive histories. One would expect that truth commissions would also take proactive steps to address women’s experiences and priorities.

The truth about legacies of human rights abuse is shaped by how the process is led, who leads it, and who has a chance to come forward and participate.

A truth commission or similar endeavor, therefore, is like a machine that must generate a certain outcome, and that outcome depends on the input. Where no information regarding women or gender-based violations is fed into the machine, the full truth regarding how conflict or authoritarianism was experienced will not emerge.

Truth-seeking initiatives are thus an opportunity for women and other victims of gender-based violations to have a platform to narrate their experiences of human rights abuse publicly and, in this way, reclaim the public sphere.

The opportunity to speak in the public sphere is an enormously significant opportunity for a group that has traditionally been consigned to the private, domestic sphere to emerge from the process of truth telling as an important and respected part of the community.

2. Why Truth?

- Why does truth matter? Healing is impossible without acknowledgment, and truth telling can act as an important safeguard against impunity and public denial.
- The right to truth is becoming increasingly acknowledged in the sphere of international law.

a. Why Does Truth Matter?

Establishing the truth about human rights violations and identifying the individuals and institutions responsible helps safeguard against impunity and prevent public denial about what happened.

Without accurate knowledge of past violations, it is difficult for a society to prevent them from happening again. Truth seeking can help with this by shedding light on the root causes of conflict and increasing understanding about the consequences of violations and how to address them.

The truth can assist in the healing process after traumatic events, acknowledge victims' experiences, and affirm victims' dignity, often after years of stigmatization.

Establishing truth can initiate a process of reconciliation, as denial and silence can increase mistrust and social polarization. A political order based on transparency and accountability is more likely to enjoy the trust and confidence of residents and citizens.¹

b. Right to Truth

The pursuit of truth is not just something that victims and family members want; it is now emerging as a recognized principle of international law. This principle obliges states to provide information to victims, families, and society about human rights violations, as well as preserve information for public memory.

The right to truth as the object of a specific international convention is still being developed, but there are core elements of the right that are unquestioned. Some of these elements include the right to know and to be informed, as well as the right to freedom of information and expression. These elements are inalienable and autonomous.

Though the right to truth may not be enshrined in its own treaty, there are clear references to the right to know certain facts within certain [international instruments](#), particularly pertaining to the right of relatives of the missing or disappeared to learn about the fate and whereabouts of their loved ones.²

¹ Vasuki Nesiah et al., "Truth Commissions and Gender: Principles, Policies, and Procedures," International Center for Transitional Justice (2006). Also see Eduardo Gonzalez and Howard Varney, eds., "Truth Seeking: Elements of Creating an Effective Truth Commission," International Center for Transitional Justice (2013).

² For example, the Additional Protocol I to the Geneva Conventions and the International Convention for the Protection of All Persons from Enforced Disappearances. Gonzalez and Varney, eds., "Truth Seeking," 4.

In addition, the United Nations General Assembly recommended that all member organizations should “endeavor to recognize the right of victims of gross violations of human rights, and their families, and society as a whole to know the truth to the fullest extent practicable.”³ This includes the right to know the:

- identity of the perpetrators;
- circumstances and facts of the violations;
- progress and results of investigations;
- fate and whereabouts of the victims;
- causes that led to the abuses.

The right to truth is non-derogable, and amnesties or other limitations on information may never impede victims’ right to the truth.

Discussion Questions

- Has there been a time when disagreements about the past have gotten in the way of your current work?
- What bearing does the past have on working through a present conflict?
- What roles have the truth and reckoning with the past played in your work?

³ United Nations Human Rights Commission, Human Rights Resolution 9/11, “Right to the Truth” (A/HRC/RES/9/11, September 24, 2008).

3. Forms of Truth Seeking

- There is no one way to execute a truth-seeking process. Even among past and current truth commissions, the exact format and methods have varied, though the goals have been generally similar.
- “Official” truth seeking is sanctioned by the government, which inherently lends a different kind of legitimacy than civil society–led initiatives have.
- “Unofficial” truth seeking allows for civil society to embark upon a process of uncovering the truth even when there is no existing political will to support efforts.

a. Different Forms

There are many ways that the right to truth can be pursued and fulfilled. One way is through criminal trials; however, they are not always a possibility. Moreover, even when trials are possible, the stringent standards of proof and limited scope of investigation do not always satisfy victims’ full right and need to know the truth.

Nonjudicial means of pursuing the truth are generally what we know and refer to as “truth-seeking” measures. Truth seeking can be both official (or state led) and unofficial (led by victims, activists, and other non-state actors).

Past truth-seeking initiatives have enunciated their goals in different ways, but there is some convergence around three objectives in particular: (1) to establish the facts about human rights violations that remain disputed or denied, with different degrees of interpretation and analysis; (2) to protect, acknowledge, and empower victims and survivors; and (3) to inform policy and reform efforts in order to contribute to social and political transformation.⁴

Example: The Greensboro Truth and Reconciliation Commission (TRC) was an independent civil society–led truth-seeking body that focused on an episode of violence that took place in Greensboro, North Carolina, in the United States. On November 3, 1979, several activists protesting the Ku Klux Klan members were attacked by members of the group, and five were killed. According to the TRC’s website, its main goals included “to examine the context, causes, sequence, and consequences of the events of November 3, 1979 for the purpose of healing transformation for the community.”⁵

“Official” forms of truth seeking can include:

- commissions of inquiry and fact-finding missions
- state-led national or community-level truth commissions
- exhumations and official investigations into the fate and whereabouts of the missing and disappeared

⁴ Gonzalez and Varney, eds., “Truth Seeking.”

⁵ Greensboro Truth and Reconciliation Commission, “[About the Commission](#).”

Example: In Nepal, the government created both a Truth and Reconciliation Commission (TRC) and the Commission of Investigation on Enforced Disappeared Persons (CIEDP) to operate simultaneously. Created under the same act, the two institutions are addressing violations during the 10-year civil war.

“Unofficial” forms of truth seeking can take the form of:

- truth commission–like bodies led by civil society
- documentation centers
- mock trials or tribunals
- art, theater, and other creative pursuits

Example: From the late 1960s to the late 1990s, armed clashes between Catholics and Protestants in Northern Ireland took place. Findings of official inquiries into “the Troubles,” as they were called, did not always satisfy local communities. The Ardoyne Commemoration Project was established with the goal of gathering testimonies on the 99 people who had been killed during the Troubles in the mainly working class, Catholic community of Ardoyne in North Belfast. This project culminated in the publishing of a book, *Ardoyne: The Untold Truth*, which commemorates the victims through compassionate and intimate accounts drawn from the over 300 interviews.

b. Rationale for Unofficial Truth Seeking

Unofficial truth seeking typically takes form in the absence of political will and government action to implement state-led measures. Local communities or civil society groups can undertake these measures to recognize past harms and investigate the legacies left behind.

Example: The Women’s International War Crimes Tribunal on Japan’s Military Sexual Slavery was established in 2001 to address the historical failure of the Allied powers to seek accountability for a system of sexual slavery established by the Japanese during World War II. Between 1932 and 1945, an estimated 200,000 Korean, Indonesian, Chinese, Filipino, Dutch, Malaysian, and Taiwanese women were raped by Japanese soldiers in “comfort stations” established throughout occupied parts of Asia. The Allied forces created an International Military Tribunal for the Far East after World War II that found Japanese military and political leaders guilty of crimes against humanity and other war crimes; however, rape and sexual slavery were not among the violations addressed. Frustrated by the Japanese government’s ambiguous response to victims, a network of women’s nongovernmental organizations based in Asia and known as the Violence Against Women in War-Network established a mock court. The “court” consisted of 10 prosecution teams representing the countries of the victims and a panel of judges who had significant experience in international law. After hearing the testimonies of victims, legal experts, academics, and two former Japanese soldiers, the judges rendered a verdict that found the “comfort women” system to have been part of a systematic

military policy that constituted crimes against humanity. In addition, the verdict found Emperor Hirohito guilty of war crimes based on command responsibility.⁶

The setting up of an unofficial truth-seeking body can lay the groundwork for official truth seeking at some later date, even serving as source of information.

Example: Two years before the signing of Guatemala’s Peace Accord in 1996, which ended the country’s 36-year civil war, the Catholic Archdiocese created the Recovery of Historical Memory (REMHI) project. Eight hundred parish workers risked their lives traveling to communities throughout Guatemala to document the human rights violations committed during the conflict. REMHI’s final report included both victim narratives and rigorous analysis of the political and social context in which the war took place. As an unofficial precursor to the UN-sponsored Historical Clarification Commission (CEH), REMHI contributed to the CEH’s understanding of the strategies and techniques used by the military, paramilitary, and police who were responsible for most of the violations during the war.⁷

Other unofficial truth-seeking initiatives have been undertaken simultaneous to or after official, state-led processes in an attempt to remedy gaps in the narrative of the state initiative or make visible experiences that were excluded from the official process.

Example: Oasis de la Memoria is a civil society project that investigated the conflict in the Western Sahara. Moroccan armed forces and Sahrawi nationalists waged an armed conflict from 1976 until an internationally brokered ceasefire took hold in 1991. In 2004, Morocco’s King Mohammed VI established the Equality and Reconciliation Commission (IER) to examine human rights violations committed in Morocco from 1956 to 1999. The IER focused mostly on the repression suffered by political opponents, trade unionists, and other Moroccan victims, while only cursorily dealing with violations suffered by the Sahrawi. To fill this gap, Sahrawi activists, with the support of Spanish researcher Carlos Martin Beristain and the Universidad del Pais Vasco, founded the Oasis project, which documented human rights violations committed by the Moroccan government against the Sahrawi people from 1975 to 2010. Drawing on semi-structured interviews with victims and secondary sources, the project’s two-volume report details human rights violations, such as torture and illegal executions, while also examining other crimes such as forced overcrowding of refugee camps. The report also analyzes the consequences of these abuses on families, women, and children. In addition to documenting the past, the report takes a forward-looking approach by identifying other measures that would help the Saharawi work toward a democratic society, including the recognition of the Saharawi people’s right of self-determination.⁸

⁶ Asian Centre for Women’s Human Rights (ASCENT), “A Primer on the Women’s International War Crimes Tribunal and Public Hearings on Crimes Against Humanity in Recent Wars and Conflicts” (2000).

⁷ Kathy Ogle, “Guatemala’s REMHI Project: Memory Form [sic] Below,” NACLA (September 25, 2007).

⁸ Jill Williams, “Expanding Opportunities: Civil Society Truth Commission Initiatives” [unpublished manuscript], International Center for Transitional Justice (August 2014).

Unofficial truth-seeking projects can be focused on educating communities about human rights violations through drama, photography, literature, or art exhibits. This can be a powerful tool in societies where there is no official space to discuss what happened during a conflict or authoritarianism.

Example: Afghanistan Human Rights and Democracy Organization is a civil society organization based in Kabul that “works to promote human rights, accountability, and democracy through participatory theater and arts-based initiatives focusing on personal and collective narratives.” They have produced pieces at the request of victims’ groups in Afghanistan based on those victims’ personal and collective stories.⁹

c. Official Truth Seeking

While many of the characteristics and overall objectives of unofficial and official truth-seeking processes are the same, there are benefits to official processes. First and foremost, inherent to the status as an “official measure” is the fact that these initiatives are formally sanctioned by at least one branch of a local, state, or national government. These bodies operate with the authority granted to them by a legislative action, executive order, or, though rare, a judicial process.

With this official sanctioning comes at least some provision of resources to operate. Additionally, official commissions work on the assumption that their recommendations will carry a certain amount of weight with government bodies and will therefore potentially foster a sense of obligation to respond to the findings and make policy decisions accordingly.¹⁰

Perhaps most important is the symbolism inherent in a state’s backing of a truth-seeking measure. This indicates at least a certain level of acknowledgment of past harms and can be a first step in honoring victims’ experiences and addressing and redressing legacies of violence.

Truth commissions and other official truth-seeking bodies must have legitimacy to be successful, and this should be derived from victims and victims’ groups themselves. The establishment of a truth commission should not be taken lightly or happen without a great deal of transparency and consultation with victims. Demand by international actors should not be the sole motivating factor for establishing a truth commission; rather, victims themselves must be demanding that truth seeking take place.

Truth commissions continue to be one of the most popular forms of truth seeking, and many unofficial processes model themselves around this form. Because of this, the remaining sections will relate directly to truth commissions. Still, many of the points may be valuable and applicable to any truth-seeking process, whatever the form.

⁹ Some of the victims’ narratives and stories are included in the theater production *Infinite Incompleteness*.

¹⁰ Williams, “Expanding Opportunities.”

4. Why Gender-sensitive Truth Seeking Matters

- Challenges to gender-sensitive truth-seeking efforts are often deeply rooted in societal norms and practices.
- Gender-neutral approaches lead to gender-blind outcomes.

a. Challenges

One of the most significant challenges a truth-seeking body faces in gathering testimonies and establishing patterns of gender-based violence is the shame and stigma that often accompanies such abuse. Both female and male victims may not feel comfortable speaking about their experiences, particularly with regard to sexual violence. Further, in some contexts, sexual violence may have become a “normal” state of affairs for women, and thus they do not see anything extraordinary about their experiences. In most cases, this is not just a perception borne by women alone; often, society at large reifies the notion that such violence is a private matter, even when it is committed systematically.

Even if victims are willing to provide statements, they can often face pressure from their family or communities to stay silent. To overcome these obstacles, truth-seeking bodies must create safe and confidential spaces where victims can provide statements. They must also work to counter the narrative that victims of gender-based violations should feel ashamed of their experiences.

Another challenge to taking a gendered approach is the existence of deeply entrenched stereotypes, held even by those tasked with truth seeking, that tend to cast men as combatants in heroic roles and women as passive, secondary victims. Preconceived views about differences between men and women may cause a commission to wrongly characterize episodes of violence against women during a conflict as apolitical, notwithstanding the deeply political nature of the violence in question.

When a commission does make an effort to focus on women’s experiences, it is often assumed that they consist exclusively of episodes of sexual violence, rendering any other experiences of human rights violations invisible. Such a narrow focus robs women and their experiences of conflict or authoritarianism of any nuance. Additionally, relying on stereotypes of women as passive or weak diminishes the ability of truth-seeking processes to capture other roles women may have occupied, such as combatants, activists, and perpetrators.

Example: In Tunisia, it was common for mothers and wives of imprisoned men to deliver weekly food baskets to the prison. Preparing these baskets often meant great economic hardship for the women, who were then also regularly subjected to overt harassment by security forces when delivering them. The government would frequently move prisoners from place to place and would separate prisoners within the same family in order to make the delivery of food baskets as difficult as possible. Daughters would sometimes be forced to drop out of school to work so that their mothers could supply the food to their fathers and brothers. While Tunisian society would traditionally view these women as merely performing their duties as wives and mothers, the Transitional Justice Act allowed for the Truth and Dignity Commission (IVD) to view these experiences as political and therefore an essential part of the truth that needed to be uncovered.

b. Gender-neutral Approaches Lead to Gender-blind Outcomes

Some past truth commissions have argued that taking a gender-neutral approach is sufficient for capturing everyone's experiences. The assumption underlying these arguments has been that if men and women are treated equally, then the findings of a commission will be proportional to people's lived experiences. It has also often been assumed that women commissioners or female staff will naturally incorporate a gender perspective. However, this approach should be pursued with caution. Due to the challenges already discussed, neutrality is not an ideal conduit for eliciting information about all people's experiences. By not taking proactive measures to mitigate the stigma of gender-based violence and challenge assumptions about women's and men's experiences of human rights violations, the findings of a truth commission may be biased.

Example: South Africa was the first transitional justice context to understand the notion that truth is gendered. The South African Truth and Reconciliation Commission (SATRC) initially took a gender-“neutral” approach, but women's rights organizations soon began to question the legitimacy and impact such an approach would have on the outcome and recommendations of the commission. The Center for Applied Legal Studies (CALs) in Johannesburg organized a workshop called “Does Truth Have a Gender?” The discussions at this workshop argued that an approach to addressing the legacies of apartheid that ignored gender as a factor would marginalize women's experiences and realities of that time. The findings of the workshop were developed into a paper that was submitted to the TRC. These arguments helped give weight to the viewpoint held by a small group of commissioners that the development of a policy on women victims was necessary. Such a policy was eventually adopted and implemented.¹¹

While there are perils to a gender-neutral approach, it is also true that the mere inclusion of gender in legal mandates or organizational structures does not automatically result in a truly gender-sensitive approach in practice and implementation. Having a gender focus, and even an organizational unit that drives this work, has become accepted as best practice. Still, experience shows that implementation of this best practice can often be superficial and risk becoming a mere formality.

Example: After lobbying by a female commissioner and the international community, the Commission for Dialogue, Truth and Reconciliation (CDVR) in Ivory Coast established a gender subcommission. However, the unit was placed within the Special Heuristics Commission, which was one of four specialized commissions within the CDVR and was responsible for investigating the historical or root causes of the recurring political crises in the country. This placement meant that the gender subcommission ultimately had limited power to mainstream gender throughout the CDVR's operations. For example, the subcommission developed tools for gender-sensitive statement taking, but these were never implemented because the statement-taking process was led by another specialized commission.

¹¹ Sheila Meintjes, “Gendered Truth? Legacies of the South African Truth and Reconciliation Commission,” *African Journal of Conflict Resolution* 2 (2009).

Discussion Question

At this point, ask if participants have any questions about the content so far.

5. Relationships between Truth-seeking Bodies and Women's Groups

- Forging relationships with civil society can initially be labor-intensive but can greatly strengthen a truth-seeking effort.
- Relationships with women's groups can be a means of support for truth-seeking bodies.
- Managing the relationships between civil society groups requires transparency and ongoing communication.

a. Forging Initial Relationships: Proactive Outreach

In those contexts where the traditional human rights community and the community of activists who work on gender issues have little overlap, it may not be immediately apparent to women's groups or to truth commission staff that the truth-seeking process, or transitional justice in general, is relevant to gender issues.

Such contexts may require proactive outreach on the part of a truth commission to initiate a dialogue with women's groups regarding mandate interpretation and related issues. In turn, women's groups could also open that discussion. It may often be the case that some commissioners and staff are particularly receptive to these issues; they may welcome, and perhaps even rely on, the work of women's groups or others working on gender issues to bring these topics to the foreground.

Example: In Peru, armed groups conducted systematic social cleansing campaigns against the lesbian, gay, bisexual, transgender, intersex, and queer (LGBTIQ) community, but those groups were not initially part of mainstream conversations about truth, justice, and redress. Some of their experiences were eventually incorporated into the findings of the Peruvian Truth and Reconciliation Commission, but this only happened because a few staff members stumbled upon a makeshift memorial for victims of targeted homophobic violence and asked those who constructed it to make a submission.

Experience indicates that forging and maintaining relationships with civil society can be an uphill battle for a truth commission. Commissions are generally limited in resources, are under tight deadlines, and have expansive mandates. In that context, adding outreach to civil society may be perceived as yet another burden. However, truth commissions around the world have found that civil society groups—particularly human rights organizations, victim support groups, and research institutions—have actually eased their burden.

b. Means of Support for Truth-seeking Bodies

Civil society can provide support to a truth commission throughout its life span, as well as advocate for government action on a commission's recommendations after a truth-seeking process has finished.

Consultation and dialogue with the broader community of women's groups, feminist academics, and activists when defining and implementing a commission's mandate can be a key factor in developing

a commission's operational philosophy and practice. In many contexts, such groups have monitored periods of conflict and authoritarianism for their impact on women, and this insight can be critical in determining priorities for a truth commission process.

Commissions can create more institutional openness by having ongoing consultations with the feminist community, relying on women's groups for a range of support activities, such as assistance with soliciting statements, training statement takers, preparing gender hearings, and developing proactive outreach to women victims and survivors of sexual violence.

Example: With the support of UNIFEM (now UN Women), women's groups in Sierra Leone assisted their Truth and Reconciliation Commission in various ways. Among other actions, they made submissions to the commission on gendered patterns of violence, assisted in the implementation of public hearings, supported witnesses who came forward, and attended public hearings in large numbers.¹²

Gender justice advocates can also play a critical role in developing an analysis of the gendered pattern of human rights abuse, which can assist the commission in its planning and inform its final report.

Example: The Timor-Leste Commission on Reception, Truth and Reconciliation (CAVR) was particularly open and proactive in establishing civil society partnerships. Women's groups conducted joint research projects with CAVR that fed into a range of commission activities, including the final report. Women's groups also worked with the commission on gender hearings and broader victim-support needs. These links with women's organizations were critical in helping an overstretched commission produce an impressive body of work on the gendered pattern of human rights abuse.

In several cases, women's groups have made formal submissions to a truth commission on behalf of particular groups of victims.

Example: In Tunisia, the Transitional Justice is Also for Women Network, a network made up of 11 women victims' and women's human rights organizations, issued a collective submission on behalf of women whose rights had been violated as a result of Circular 108. The law banned those wearing "sectarian" dress—or, the hijab—from government services, including employment and education. The collective file, the first of its kind to be submitted by women's organizations in Tunisia, includes 140 women's testimonies and illustrates the widespread, systematic nature of this unique form of violating women's rights.

The support civil society organizations can provide is often particularly helpful in contexts where commission staff may not have sufficient gender expertise or where staff with such expertise are overstretched and need all the external assistance they can get.

¹² Sierra Leone Truth and Reconciliation Commission, "Women and the Armed Conflict in Sierra Leone," in *Witness to Truth: Final Report of the Sierra Leone Truth and Reconciliation Commission*, Vol. 3B (2004).

Finally, while support for design and implementation is important, it is also vital for civil society, particularly women’s rights organizations, to act as a monitor and watchdog throughout the implementation of truth-seeking measures.

c. Managing the Relationship

Instituting cooperative agreements or guidelines and having regular meetings with civil society representatives (including women’s groups) may help to keep the process transparent and ease tension or disagreements between nongovernmental groups and a truth commission.

Also, because competition among civil society actors for access to and influence with a truth commission will be particularly keen in countries where repression has muffled voices and stifled access to justice, commissions must ensure fair representation and equitable roles. Some may want to develop information-sharing protocols. These actions, conducted as soon as possible after the mandate of a truth commission is adopted and before any public hearings, will provide a truth commission access to groups of victims affected by human rights abuses or to those who can provide advocacy and support on a commission’s behalf.

This relationship should and does go both ways, but governmental actors will typically have more power and leverage to make the first step. Thus, they must be proactive in showing willingness to meaningfully engage with civil society. This is valuable in terms of building trust and creating legitimacy for the operations.

Though civil society can act as both ally and critic, its involvement should still be seen as an opportunity, not a threat. Every commission that has been receptive to interventions by women’s groups has addressed gender issues in more complex, compelling, and relevant ways.

Discussion Questions

- In your work, how do you manage relationships with civil society groups?
- What do you consider when you are thinking of who to collaborate with? What criteria do you use?
- What role has collaboration played in your prior work?

6. Design Phase

- General functions are overarching methods that are common among different truth-seeking initiatives.
- The mandates should be relevant to the context and use gender-specific language.
- Ensuring representation of women from various backgrounds and training for members of the commission and their staff should be considered in the design of a truth-seeking effort.
- Using a “dual approach” to truth-seeking efforts by having a specific gender unit and larger integration of a gendered framework into a commission’s practices is often the most effective way to thoroughly incorporate gender considerations into truth-seeking practices.

a. General Functions

Though each truth commission and other truth-seeking endeavor may vary in approach, there tend to be several common functions inherent to both unofficial and official truth commissions. These include statement taking, public hearings, outreach, research and analysis, final report writing, and issuing recommendations based on their findings. The mandate or legislation setting up a truth commission lays out its objectives and often the functions it can employ to meet these. More information will be presented later regarding the gender considerations inherent to each of these functions.

b. The Mandate

Often, a post-conflict or transitional government will determine the mandate of a commission, which includes the time period under question, the types of violations to be investigated, and the powers and structure of the commission. No two conflicts are the same, and therefore every commission—and mandate—must be different. Unfortunately, decisions about the mandate are often made in spaces where women and other marginalized groups are underrepresented, and their rights and interests fundamentally neglected.

Historically, policymakers have not fully utilized the potential of these initial stages to enhance the work of a truth commission vis-à-vis gender. Many mandates have had gender-neutral language and have not explicitly called for an examination of the gendered history of human rights.

However, as the field has evolved, commissions have begun to take the view that regardless of whether the mandate explicitly calls for it, it is incumbent upon the commission to examine sexual and gender-based violence and grapple with the structural gender biases that may impact the participation of women.

Example: After it was appointed and before it launched its operations, the Peruvian Truth and Reconciliation Commission took several months just to understand how it would interpret its mandate. It acknowledged that the mandate was not a self-evident piece of black-letter law, but one where contested interpretations were possible. After both internal dialogue and outside pressure from the feminist community, the commission interpreted its mandate to mean it must include women’s experiences of the conflict. Thus, a gender unit was established,

and one of the authors of an influential position paper arguing against gender neutrality was recruited to lead it.

While the inclusion of gender in a commission's mandate is not a prerequisite for a gender-sensitive commission, it does raise the standard of expectation and provides a benchmark against which the commission's final work can be measured.

Example: The act establishing the Liberian Truth and Reconciliation Commission included explicit language related to gender. For example, section 4.E states that among the commission's duties are "adopting specific mechanisms and procedures to address the experiences of women, children and vulnerable groups, paying particular attention to gender based violations, as well as to the issue of child soldiers, providing opportunities for them to relate their experiences, addressing concerns and recommending measures to be taken for the rehabilitation of victims of human rights violations in the spirit of national reconciliation and healing."¹³

Another important element that the mandate often sets out is the scope of violations to be addressed. This can have critical gender implications. Early truth commissions often did not include any reference to sexual or gender-based violence at all. A second wave of commission mandates did begin to explicitly include investigations and analysis of sexual violence; however, this poses its own issues when this is the only way gender is considered. An explicit focus on sexual violence misses the way other human rights violations can have a gendered impact. Moreover, looking at sexual violence as singular violations without understanding the gendered motivations behind the acts also misses the broader patterns and norms fueling the violence.

Example: Sierra Leone illustrates the vital role commissioners must play in interpreting mandates to address broader gender dynamics. The TRC Act stated that special attention should be given to "the subject of sexual abuse."¹⁴ Given that women and girls made up the overwhelming majority of the victims of such abuse, the commission interpreted this language to mean that they should pay special attention to the experiences of women and girls more extensively. In doing so, they sought to answer why such extraordinary violence was perpetrated against women, which led them to look at "their complete gendered experiences at a political, legal, health, and social welfare level."¹⁵

Mandates can also prove innovative by including language that calls on commissions to take special provisions when engaging with populations that are considered particularly vulnerable or marginalized. Still, mandates should not simply lump together groups such as women, children, and the elderly; instead, they should take care to parse out the nuances affecting different groups' experiences. This also means understanding that all women (or other groups) are not the same, and other factors such as race, class, geography, or religion may also play a significant role in victims' experiences of conflict and oppression. These factors may also affect victims' ability to access or approach the commission if proactive steps are not taken to include them.

¹³ An Act to Establish the Truth and Reconciliation Commission (TRC) of Liberia, June 10, 2005.

¹⁴ Sierra Leone Truth and Reconciliation Commission, "Women and the Armed Conflict in Sierra Leone," para. 10.

¹⁵ *Ibid.* at para. 11.

Mandates must also consider the nuances of the context in question and what forms of harm may have been widespread. This is particularly important for women, who often experience conflict and authoritarianism in very different ways than men. In many cases, the violations and harms they experience are considered more “indirect,” such as harms experienced when family members are disappeared or detained. This type of harm is more invisible and often takes the form of psychological trauma, socioeconomic harm, physical and economic vulnerability, and other, more insidious manifestations of violence and marginalization.

Example: The Tunisian Organic Law on Establishing and Organizing Transitional Justice states, “Under the Public Law, shall also be considered as victims family members who were harmed as a result of their kinship to the victim as well as any person who was harmed while intervening to help the victim or to prevent the violation.” This language has been extremely helpful in paving the way for many such women to be included in truth-seeking and other transitional justice–related processes who would otherwise have been excluded.¹⁶

c. Commissioners and Staff

Representation and Expertise

Commissioners are integral to the success or failure of a truth commission at a broad level, and this is no different when it comes to gender considerations.

The mandate has an essential role to play as it is often where the criteria and selection procedures are defined. It is crucial that consideration is given to gender parity and expertise, noting that these are not always the same thing, though both are important. To ensure representative composition of commissioners, some truth commissions have chosen to have quotas for female commissioners.

Example: The United Nations Transitional Administration in East Timor (UNTAET) act that established the truth commission there called for at least 30 percent of commissioners to be women.¹⁷

Example: In Tunisia, it was required that at least one third of the commissioners should be from each gender. Also notable, at least two of the commissioners were well known for their activism on gender issues prior to their selection.

Again, it is not only numbers of female commissioners that matter. At least some of the commissioners must have gender expertise and will be willing to advocate for a gender-sensitive approach throughout the life of the institution. “Gender champions” within a commission can play a key role in working with women’s groups, liaising with outside experts, and generally keeping the commission on track.

Example: Having strong female commissioners with legitimacy among the women’s community was critical in South Africa. There, the TRC responded to calls from women’s

¹⁶ Tunisian Organic Law on Establishing and Organizing Transitional Justice, Pt. 4, Art. 10.

¹⁷ Regulation 2001/10, The Establishment of a Commission for Reception, Truth and Reconciliation in East Timor.

groups by instituting women-only hearings chaired by only female commissioners to hear from witnesses who wanted an all-female forum. In fact, female commissioners had to struggle to persuade their male colleagues of the critical importance of modifying their established approach to public hearings and creating special provisions for women's hearings.

Often, commissioners and staff hail from legal, religious, medical, and academic backgrounds. A commission should be as representative as possible, having the trust of a wide spectrum of society.

Grappling with gendered human rights abuse requires that not only commissioners but also commission staff in different departments be fully engaged with this process. This can happen only when the commissioners make an institutional commitment to prioritize the concerns and interests of marginalized groups, including women, in the operationalization of their mandate.

Training of All Staff

Commissions and their staff tend to have limited expertise in gender and incomplete understanding of the ways in which women are affected by conflict. This is exacerbated if staff lack sensitivity to gender-related harm.

Encouraging underrepresented voices requires special training so that staff are sensitized to these concerns. This is especially important for any staff member who will be working directly with victims, such as statement takers. Ensuring that those who take statements or testimonies are properly trained in a range of interview techniques and the breadth of women's human rights experiences will enable them to look for cues that signal patterns of abuse and know what questions to ask to elicit women's experiences.

Example: In Timor-Leste, all CAVR staff received systematic training in phases on a range of topics, which included gender issues. Topics included defining and understanding rape and sexual slavery, how to appropriately interact with victims of sexual assault, and trauma identification for both victims and staff. The training was ongoing and adapted to the different phases of the CAVR's work.¹⁸

When gender training is provided, it usually occurs at the commencement of a transitional justice process. But, unless training is sustained, the effects of and enthusiasm for gender consciousness may wane over the life span of the truth-seeking process. It is therefore important to provide ongoing trainings and educational sessions to maintain momentum.

d. Gender Unit versus Mainstreaming versus Dual Approach

As the importance of a gender-sensitive approach to truth seeking began to gain traction in the field, many truth-seeking institutions chose to have a dedicated gender or women's subcommittee or unit. These units have been tasked with things such as increasing women's participation in statement taking,

¹⁸ Nesiya et al., "Truth Commissions and Gender," 12.

researching gendered patterns of violence, analyzing statements from a gender perspective, and other gender-sensitive measures.

While this is a critical step in the right direction, lessons from certain truth commissions have shown that it is not a perfect solution. For one, gender and anything related to women’s experiences can often then become solely the jurisdiction of this particular unit, leading it to become overstretched and under-resourced. It can detract from the responsibility other units also have to integrate gender considerations and diminishes a commission’s ability to truly incorporate gender throughout its process.

Example: The gender unit of the Peruvian CVR handled most of the operational responsibilities of gender-related work. This included convening trainings, conducting capacity-development programs, and doing background research on gendered patterns of human rights abuses that would eventually feed into the gender-related chapters of the CVR’s final report. However, this became the only arm of the CVR that paid any attention to gender at all, which meant that a gender-sensitive approach was neglected by all other units of the commission.

Due to limited staff and financial resources, the gender unit could only influence so much of the commission’s work and could not effectively monitor the work of the other units to ensure that gender was being actively incorporated. For example, in the draft of the final report, the only components that initially took on gender at all were the two “dedicated” chapters—one on sexual violence and one on the differentiated impact of the conflict. The rest of the initial draft was silent on gender issues. This led to a post-facto process of reviewing the material with a “gender lens” to help correct the omission. Still, the lack of gender consciousness throughout the entire process—including, for example, the statement-taking process, investigations, and research—could not be remedied completely, and the gender approach as a whole ultimately fell short.¹⁹

Another approach that has been taken has been one of “gender mainstreaming”—that is, making attempts to incorporate a gender lens in all work, rather than having specific units or projects. Relying solely on this type of strategy, however, will likely result in gender being ignored in practice because nobody holds the responsibility for making sure gender issues are operationalized.

Example: Ghana’s National Reconciliation Commission (NRC) argued that it mainstreamed gender throughout its work. In reality, however, gender held no bearing on the analysis, operations, or organization of the commission’s work. Women’s groups argued that the NRC did very little to create and implement measures that encouraged women to feel safe coming before the commission, and the final report had no gender analysis whatsoever.²⁰

A better approach is to combine both approaches: having a dedicated unit or subcommittee and a robust mainstreaming policy. In this way, the whole commission bears responsibility to ensure a

¹⁹ Ibid. at 6.

²⁰ Ibid. at 5.

gender-sensitive approach, and there is a clear locus of responsibility, oversight, and expertise in the gender unit. If the responsibility to ensure gender-sensitive operations is shared, the actual gender unit has scope and space to monitor those operations but also to implement specific programming and research in order to help uncover relevant gendered dynamics.

Example: The Kenyan Truth, Justice, and Reconciliation Commission (TJRC) took a unique approach. It had a dedicated gender unit and had gender-focal persons in all of the other areas of the commission’s operations. Focal persons would regularly come together with each other and the gender unit to discuss progress and challenges.²¹ While the TJRC and its gender approach were not without flaws, this model is innovative and could provide an interesting template for other contexts if implemented rigorously and well.²²

Activity

Present the following scenario to the participants: They have just been selected as commissioners for a truth commission to examine the legacy of human rights violations that occurred during a 10-year conflict that has just ended in their country, “Country X.” Local and international human rights groups have documented widespread sexual and gender-based violence during the conflict, but the mandate has no specific language referring to gender or women. Split the participants into two groups—those who do not feel there should be a specific focus on gender and those who believe such an approach is essential to fulfill their mandate to “investigate and report on the causes, nature, and extent of the violations of human rights and international humanitarian law.” Have the two sets of participants debate whether or not the commission should design its work to have a special focus on gender.

²¹ Mayesha Alam, *Women and Transitional Justice: Progress and Persistent Challenges in Retributive and Restorative Processes*, (London: Palgrave Macmillan, 2014).

²² Alam, *Women and Transitional Justice*.

7. Statement Taking

- Victim and witness statements are often essential to truth-seeking efforts because they likely form the foundation of information from which a commission draws its findings and recommendations. Because of this, it is crucial that gender is considered in this process.
 - Potential obstacles specific to statement taking include that:
 - women may not come forward at all
 - women may not talk about their own experiences
 - Create conducive conditions for women to provide statements through:
 - interaction with statement takers
 - confidentiality and comfort
 - tracking statements by gender

A truth commission usually begins its operations by taking statements from victims, witnesses, perpetrators, and others impacted by the period being investigated. The statement-taking phase often represents the largest component of a truth commission's work.

The information extracted from these statements very often forms the basis of the analysis, findings, and recommendations issued by the commission via its final report or other final product. It is particularly important that truth commissions are sensitive to patterns that might emerge from statements, especially gendered hierarchies or patterns of gender-based violence.²³

a. Potential Obstacles Specific to Statement Taking

Past truth commissions have demonstrated that there are clear obstacles to obtaining statements from women and ensuring the information included in statements aligns with what is known to be true about gender-based violations and women's experiences. This can often be because of two phenomena, described next.

Women May Not Come Forward at All

Many women may feel averse to coming forward to provide a statement because of societal norms that prohibit women from participating in public or political spaces. There may also be a heightened sense of mistrust among all victims in the aftermath of conflict and repression, and this may be exacerbated for women who are vulnerable to physical and other forms of harassment because they are women.

Another potential factor may be feelings of shame and fear of stigma related to the content of the violation they have experienced, such as sexual violence. Victims often have concerns about the confidentiality of their statements and would rather not speak to a truth commission at all than have their families and communities find out what happened to them. This could be a particularly salient factor for men and boys in contexts where sexual violence has been committed against them.

²³ Nesiya et al., "Truth Commissions and Gender," 5.

Women May Not Talk about Their Own Experiences

Common to many truth commissions is the fact that most people who come forward and provide testimonies are women. However, the majority of those women do not speak about the violations they suffered, instead talking about the harm that befell their husbands, sons, brothers, and fathers—the men in their lives. This was true, for example, in Timor-Leste, South Africa, Peru, and Guatemala, among a range of other countries.

There are several possible explanations for this. One reason might be that the women’s own political activism may have led to (or be perceived to have led to) the violation they experienced. Some may believe the violations they experienced are not worth recognizing or are not something that deserves to be recorded. Another reason could be that in fulfilling what they perceive to be their societal “duty” as mothers and wives, women prioritize the suffering of their loved ones, most often their husbands and sons.

Example: In Tunisia, there was a lack of understanding about who was considered a victim by the truth commission. Many women assumed that most of the experiences they were subjected to as the wives or mothers of male political prisoners did not qualify them to come forward or were not of interest or relevance to the truth commission. Outreach needed to be done with these women to counter this notion and explain that according to the law creating the IVD, they were considered victims and could come forward to give statements about their experiences.

Context-specific Considerations

These reasons are not an exhaustive list of why women may not come forward. Each context may bring about its own nuances in the ways women choose to represent and deal with their experiences.

Example: In South Africa, many former female African National Congress (ANC) activists chose not to come forward to give statements to the TRC because the idea of being labeled as a “victim” minimized their self-perception as active members of a liberation struggle.

b. Creating Conducive Conditions for Women to Provide Statements

Truth commissions need to design proactive strategies for overcoming obstacles that victims of gender-based violence may face in providing statements. As mentioned, establishing strong ties with women’s rights groups and gender justice activists may help in identifying what the challenges may be and how to counter them. In addition, lessons have been learned from previous truth commissions about measures that should be considered fundamental to a commission’s operations.

Interaction with Statement Takers

The statement-taking process is fundamentally shaped by the forms and questions that structure the interaction. A truth commission needs to find a balance between creating a manageable statement-taking form that is not too onerous and allowing for an openness in the exchange with the statement

taker that will make victims feel respected and enable the statement taker to ask follow-up questions that feel conversational and not like an interrogation.

Many survivors are emotionally devastated by the violations they suffered and could be at risk of being retraumatized when providing statements. Witnesses and survivors can be particularly sensitive to the gender identity of statement takers, and some women may feel more comfortable speaking to female statement takers. Others may be less invested in the identity of the statement taker and more sensitive to the attitudes and priorities that the commission projects to the community. This may include attitudes and priorities in relation to gender issues, but also the attitudes toward witnesses who have already come forward.

Example: In Kenya, the TJRC set a target to hire an equal number of male and female statement takers. While they fell just short of reaching this goal, they did ensure that there would be female statement takers available in every community where statements were being taken.²⁴

It is crucial to provide statement takers with training about how they should sensitively elicit critical information from victims and how to interact with them empathetically. Ways to express empathy include acknowledging the gravity of the crimes committed and making sure to not imply, intentionally or unintentionally, that the victim is to blame. Statement takers should also be trained on what support services are available so that they can make referrals.

Victims of sexual violence may use euphemisms to talk about the violation they experienced, and these will vary from context to context. Statement takers should be trained to recognize these cues and know how to follow up sensitively in order to get more information about the possible violation.

Confidentiality and Comfort

Confidentiality is extremely important for many women victims and is particularly critical for victims of sexual and gender-based violence. Past commissions have taken different approaches to protecting the confidentiality of those giving statements and making them feel at ease.

One of the first considerations is location: where the statement is to be given. Experience has shown that victims tend to want to provide testimony in a space where others cannot hear the information they are providing. It is also important to ensure that victims cannot be identified for the violation they are speaking about by the treatment they receive. For example, in Sierra Leone a closed room was provided for victims of sexual violence to register for reparations. However, because these were the only victims taken to a separate room to provide a statement, it soon became easy for the community to identify who was a victim of such violations.²⁵

Truth commissions must be aware of victims' concerns with the process and be flexible in addressing these concerns. For example, in Tunisia, the women's committee of the IVD received feedback that

²⁴ *Report of the Kenyan Truth, Justice, and Reconciliation Commission*, Vol. 2, Ch. C, iv.

²⁵ Mohamad Suma and Cristian Correa, "Report and Proposals for the Implementation of Reparations in Sierra Leone," International Center for Transitional Justice (2011).

women were worried staff would have access to their statement files, which had their names on them. In response, the IVD adopted a protocol by which statements from women were coded with numbers, and only a few members of the women's committee had access to the list of names corresponding to the codes.

Another innovation of the IVD was to send mobile units to obtain statements from victims who were too ill or elderly to travel. Victims could call a hotline to register that they wanted to provide a statement. The mobile teams always included at least one woman.

Tracking Statements by Gender

Given the obstacles listed above, it might be helpful for a truth commission to track the statements they are receiving by the gender of respondents and the nature of the crimes being reported. This would allow a commission to determine if they are receiving a proportionate amount of statements by all genders and alter their operations if need be.

Example: The Tunisian IVD assessed that after the first year of receiving dossiers,²⁶ only 5 percent of the total came from women. One of the major challenges was that many women did not understand the process or if what they had suffered counted as a violation under the Transitional Justice Act. Partnering with ICTJ and the Transitional Justice is Also for Women Network, the women's committee of the IVD conducted outreach with women victims around the country to help fill this information gap. At the end of the period for dossiers to be collected, the number of women's submissions had risen to 23 percent.²⁷

Commissions may also need to rely on other types of activities to obtain information on gender-based violence and the experiences of women victims. For example, Timor-Leste's CAVR tracked the statements it received and realized women were highly underrepresented compared to the extent of the violations they had suffered. The commission undertook other activities to fill in this underreporting, such as oral history research.²⁸

²⁶ The first step in Tunisia's IVD process was for victims to fill out a dossier, which included basic biographical information and the violation they suffered. In the second phase, the IVD would call a victim to give a private hearing, which was essentially an interview based upon a long statement-taking form.

²⁷ Salwa El Gantri, "Our Voices Will Not Be Silenced: Charting Women's Struggle for Justice in Tunisia," International Center for Transitional Justice (2016).

²⁸ Nesiah et al., "Truth Commissions and Gender," 18.

Activity

Make groups of three for a role-playing interpretation of how statement taking can go when you use gender-inclusive techniques.

Trainees gather in groups of three. One participant acts as the interviewer, another as the interviewee, and the third as a facilitator. The interviewer initiates and attempts to gather a statement from the interviewee. The interviewer should practice using gender-sensitive language and behaviors. This will help participants understand how important integrating gender-sensitive approaches is at the statement-taking level (and beyond). The facilitator makes notes throughout the role-play about where gender-sensitive techniques were used; where they could have been used and were not; and other issues such as the setup of the room, the introduction by the interviewer, and so on.

(Adapted from “[Role-Play 1: A Case Involving a Husband and Wife—Gender Sensitive Interpreting and Interviewing](#),” p. 94.)

8. Public Hearings

- Public hearings can play a role in increasing the public's awareness of a truth commission's findings.
- They can be organized based on theme or can be focused on individual victim testimonies.
- Public hearings are an important way to support a gender-sensitive agenda.

a. What Are Public Hearings?

Public hearings are formal sessions of a truth commission or other truth-seeking measure conducted with the purpose of inviting testimony of public value in order to increase the public's knowledge about human rights violations and provide widespread public acknowledgment of victims. These hearings are typically the most visible part of a truth commission's work. When conducted professionally, they contribute to the visibility and credibility of a commission and increase public support for and awareness of victims' experiences and the broader transitional justice process in a country. In contrast, hearings conducted in an improvised or poorly planned manner present serious risks to a commission, its members, and especially victims.

Truth commissions have implemented public hearings to achieve different goals. For example, some commissions have used hearings to conduct research by inviting expert witnesses to testify about a specific subject. This could be on topics such as a certain type of violation, an analysis of historical or political contexts, or a specific event. Other commissions have used hearings to symbolically recognize victims. The facts presented at these hearings are not usually new; typically, they have already been shared as part of a victim's individual statement, but a hearing provides a symbolic and meaningful opportunity to educate the citizenry and restore the dignity of victims.

The two most common types of hearings are:

- (a) **Thematic hearings**, which focus on a given topic and feature experts and key witnesses or victims. For example, the TRC of South Africa organized a hearing about the role of the medical profession under apartheid to shed light on how doctors cooperated with the system of torture and mistreatment of opponents.
- (b) **Victim, or individual, hearings**, which provide a platform for individuals to tell their stories. Some truth commissions have held these in different geographic locations. For example, the CVR of Peru organized seven hearings in the cities most affected by the violence. Approximately 20 people testified at each hearing, their testimonies representative of the types of violations that took place in that region.

b. How Public Hearings Can Further a Gender Agenda

Public hearings can be hugely helpful in breaking public silence about specific types of abuse and publicly communicating a more complete picture of women's experiences of a particular period of violence or repression than may be known or accepted.

Thematic Gender Hearings

One of the benefits of thematic hearings is that they can be structured broadly to include the multiple ways in which women engaged with political conflict and the varied ways they were affected. In some contexts, holding entire hearings on gender or women can be a way to highlight wider gendered patterns of abuse, as well as the enabling conditions and social impacts of gender-based violations.

Women’s or gender-thematic hearings can “respect each individual’s experience of loss and survival while also recognizing the larger collective significance. Thus, they provide an opportunity for the commission, and the nation as a whole, to recognize the gendered patterns of conflict and address the links between abuse suffered in times of conflict and in times of peace.”²⁹

Another benefit to thematic hearings is the possibility of including expert testimony that can extend the scope of the commission’s work.

Example: In Peru, the thematic structure provided an opportunity to address the huge socioeconomic impact that the war had on internally displaced women, even though this issue did not feature prominently in the final report.

Gender-thematic hearings can expand public engagement on gender issues. Broadcasting public hearings via radio, TV, or other relevant media is also extremely valuable and can broaden the reach of the hearing.

Example: Before the national women’s thematic hearing was held in Sierra Leone, women’s groups led a parade through the capital in order to foster a sense of solidarity and excitement about the hearing. The hearing was the most well attended of all the hearings conducted by the Sierra Leonean TRC.

Finally, it is essential to remember that not all women are the same; individual women may have experienced periods of violence and repression very differently, just as their lives before and after such periods may be marked by inequalities and differences. Women may have been targeted for other reasons in addition to their gender, such as their ethnicity, social class, political affiliations, religion, and so on. As such, even within a women’s or gender-thematic hearing, the voices that are heard must be representative of a wide array of women.

Example: The Tunisian IVD held a specific hearing on women. The women who participated were selected very carefully and reflected women from both sides of the political divide, which is an extremely significant and polarized one in Tunisia. In addition, the women who testified represented diverse forms of victimization, and included women who had directly experienced a wide range of human rights violations as well as women whose rights were violated as a result of the political activities of their relatives, in most cases, their sons or husbands. This is a sector of victims that is often overlooked, and their inclusion was both deliberate and innovative.

²⁹ Ibid. at 26.

Mainstreaming Gender in Other Hearings

Thematic hearings, however, should not displace women’s participation in hearings more generally.

Where women’s voices have been systemically excluded and gender-based violence has not been recognized, incorporating women’s voices throughout a range of hearings can be particularly significant for broadening perceptions about how women can be affected by human rights violations. To achieve this, some commissions have set quotas for the number of women who testify at any public hearing, no matter the subject.

Example: In Peru, the CVR had a specific unit called the Public Hearings and Victim and Witness Protection Unit. This unit had its own set of guiding principles that established detailed criteria for selecting cases. Clause 2.2.6 of these principles referred to gender inclusiveness by establishing that “the hearings will reflect an adequate balance of male and female testimonies, as well as an examination of sexual violence cases and the other forms of victimization that have disproportionately affected women.”³⁰ This provided a formal acknowledgment of the role that gender should play in the preparation of these hearings, and the inclusion of women was therefore systematically included in the various hearings.

The point above about diversity still applies. Decisions about which cases should go to public hearings should reflect gender as well as generational, regional, ethnic, economic, and political diversity. Ensuring this diversity invariably requires that the commission be proactive in mobilizing outreach efforts and creating an institutional environment that encourages public testimony by women.

The public discussion of women’s experience of political conflict will not only give those women an important platform to address the nation but will also help society learn about and grapple with the human rights abuses that have affected women.

Example: In addition to the dedicated women’s public hearing in Tunisia, the IVD worked to ensure that women’s voices were represented across the range of other public hearings held by the commission. In fact, women made up the majority of those giving testimonies in the first few hearings that covered topics such as torture, disappearance, and marginalization. In addition, men also ended up testifying about their experiences of sexual and gender-based violence, a particularly taboo topic. These initial hearings were viewed by nearly a third of the country’s population and millions more outside the country, sparking open dialogue about sexual and gender-based violence.

Privacy and Support

When testifying in public, there can be a host of concerns around all victims’ privacy and safety; these are often exacerbated for victims of gender-based violence. Truth commissions have several options to create an environment that gives victims an opportunity to testify but also safeguards their identity.

³⁰ CVR, “Las Audiencias Públicas: principios normativos y operativos,” documento interno de la Unidad de Audiencias Públicas y Protección de Víctimas y Testigos de la CVR.

One of the most common ways to do this is through the holding of in-camera, or private, hearings. In South Africa, many women who gave statements to the commission prioritized speaking about violations against family members. In an effort to create a space where women would feel comfortable speaking about the violations they themselves had suffered, the TRC held in-camera hearings with female commissioners. These women-only hearings provided a forum where the women could speak openly without fear of being publicly shamed. Some who had previously decided to not speak about sexual violence before the commission later changed their minds when the special women's hearing was arranged.

In some cases, commissions may feel it is necessary for the hearing to maintain its public nature. In striking a balance between using the hearing process to communicate to society about the types of violations suffered and protecting vulnerable victims, commissions can employ different means of shielding victims' identities, such as testifying behind a screen.

Example: In Peru, the televised broadcast of hearings used distorted facial imagery. This innovative approach allowed those around the country to learn about the commission's findings while not putting victims at risk.³¹

To determine victims' safety concerns and the types of procedures that would address them, commissions should consult closely with women's rights and gender justice advocacy groups. Still, while efforts should be made to ensure that victims of gender-based violence can testify without revealing their identities, a commission should not assume that every victim will want this.

Example: The Sierra Leone TRC had taken steps to arrange in-camera testimony for those who wanted it, but many victims of sexual violence chose to testify publicly rather than in-camera.

Similarly, many in Timor-Leste assumed that culture and religion would deter women from reporting sexual violence. However, these assumptions were shattered when women spoke openly about their experiences and asked for redress.³²

A final consideration for commissions in providing a safe and comfortable environment for victims to testify is the provision of emotional support. In some cases, this support may come in the form of preparation for testimony. For example, in Tunisia, the commission had a staff psychologist meet with victims before they testified. Other commissions have relied on women's groups to help prepare victims who have been chosen to speak at a public hearing.

Follow-up with victims who have testified is also important, although commissions have limited resources and capacity to provide this. Again, partnering with women's groups is another way to help provide support without overburdening the commission.

³¹ Nesiya et al., "Truth Commissions and Gender," 30.

³² Ibid. at 31.

Example: The Sierra Leonean TRC’s Legal and Reconciliation Unit worked closely with counseling agencies and provided referrals to those agencies when needed for female witnesses who testified at public hearings. It also ensured follow-up sessions were provided by trained counselors.³³

Alternative Hearing Spaces

Some commissions have created different forums to encourage the discussion of controversial topics impacting women or to create spaces that are less formal and more comfortable for vulnerable victims to speak out.

Example: In Peru, the CVR chose to hold a “Citizens’ Dialogue” after its thematic hearing on women so that there was space for women to discuss gender issues that fell outside of the limited scope of the formal hearing. Topics that were discussed included the decriminalization of abortion, limited laws related to family violence, enforced sterilization, and nontraditional roles inhabited by women during conflict. Discussions were focused around institutional reforms and possible recommendations the CVR could adopt.³⁴

In Timor-Leste, the CAVR held alternative sets of hearings. Particularly successful in terms of incorporating women were a set of workshops known as “Healing Workshops.” These workshops provided an opportunity for victims to express their emotions through creative means such as song, theater, painting, games, prayer, and other activities. Overall, they were attended by slightly more women than men, and one of the six held was for women only. One of the workshops prompted a discussion about cultural norms and the idea of women talking publicly about sexual violence. The group concluded that nothing in East Timorese culture strictly prohibits women from doing so.³⁵

In Kenya, in every community where a public hearing was held, women were invited to participate in what were called “conversations with women,” which were presided over by female commissioners. These women-only spaces provided a safe environment for women to speak about any violations that had impacted them. In total, over a thousand women participated in these women’s hearing spaces.³⁶

³³ Sierra Leone Truth and Reconciliation Commission, “Women and the Armed Conflict in Sierra Leone.”

³⁴ Francisca Varda, “Many Achievements, Some Lost Opportunities: The Peruvian Commission’s Approach to Gender” [unpublished manuscript], International Center for Transitional Justice (2006), 44–45.

³⁵ Ayumi Kusafuka, “Locating Lost Voices: The Emerging Truth of Gender Violence in Timor-Leste” [unpublished manuscript], International Center for Transitional Justice (2009), 20–21.

³⁶ *Report of the Kenyan Truth, Justice, and Reconciliation Commission*, Vol. 2, Ch. C, 10.

9. Final Report

- A commission will produce a final report with findings and recommendations based upon its analysis of the information gathered.
- Truth commissions have incorporated gender into their final reports through stand-alone chapters, by mainstreaming gender throughout, or both.
- Recommendations from a final report contribute to nonrecurrence and challenge gender inequalities.

a. What Is a Final Report?

In its final stage, a truth commission is tasked with consolidating its analysis, conclusions, and recommendations into an “official written record,”³⁷ most often in the form of a final report. The final report tends to draw largely from the commission’s primary sources, such as testimonies given by victims, witnesses, and perpetrators at hearings and during its statement-taking phase; the findings of research and other types of investigations carried out by the commission; and any statistical or other analysis of a commission’s database of human rights violations.

Every truth commission must take its own approach to organizing the final report based on the period under investigation and the themes and patterns that emerged during its operations. However, a few general consistencies are present in many different final reports. Most include the following, very basic components in some way, though not necessarily in this order:

- mandate and origins of commission
- methodology and operations
- history, causes, and antecedents to periods of violence
- findings about what happened during periods of violence
- nature, characteristics, and consequences of violence (e.g., patterns, evolution, who was targeted, what were consequences of different violations)
- additional features or central themes (e.g., roles of different actors; impact on specific groups or regions; broader factors contributing to violence, such as socioeconomic exploitation, failures in governance, corruption)
- findings/conclusions
- recommendations

Most reports provide some sort of historical analysis and explanation of the causes, consequences, and antecedents of violence, though perhaps taking different approaches to organizing this information. Past commissions have organized this information by time period, actor responsible for violations, region, or type of violation. These are not necessarily mutually exclusive categories, and commissions have sometimes employed more than one way of categorizing their findings.

³⁷ Gonzalez and Varney, eds., “Truth Seeking,” 65.

b. Incorporating Gender into a Final Report

The quality of a final report's analysis is dependent upon how well the other aspects of the commission's operations were designed. Provided that a commission was planned and operated in such a way that it elicited gendered elements of human rights violations and meaningfully included all types of victims, the information it gathers should naturally reflect a gendered reality of the period in question.

How a commission chooses to represent its analysis on gender in a final report is key. If done well, the final report represents a meaningful opportunity to acknowledge the gravity of gender-based violence and other violations affecting women and to influence future policies in ways that could be transformative for women by challenging gender inequalities.

Some truth commissions, particularly earlier ones, did not choose to have a special focus on women or gender-based violence in their final reports. In these cases, such as in Ghana and the Solomon Islands, this resulted in little to no reference to gender issues in their findings and recommendations. It is interesting to note that women's groups in the Solomon Islands produced their own report while the truth commission was wrapping up because they knew there had been no concentrated effort to obtain statements from women and that the report would be gender blind. Their report, "[Herem Kam: Stori Blong Mifala Olketa Mere](#)," was submitted by women's groups to the Truth and Reconciliation Commission. It examined gender from a variety of perspectives, including gender roles during the conflict, what women felt contributed to the conflict, and violations women faced.³⁸

Commissions have chosen to incorporate gender issues into their final reports in two predominant ways. Stand-alone thematic chapters have been used by commissions in Guatemala, South Africa, and Kenya. Other commissions, such as in Peru and Timor-Leste, have chosen to have a thematic chapter in addition to treating gender as a cross-cutting issue throughout the rest of the report. Earlier truth commissions often focused only on sexual violence in their thematic chapters and were often criticized for their limited representations of women's experiences. Other commissions, such as the Sierra Leone TRC, expanded beyond gender-based violations and used the chapter on women to analyze the multiple roles women played during conflict and the enabling conditions for the specific violations women faced.

Some common topics covered in gender chapters of truth commission reports are listed in the box below.

³⁸ Judith Fangalasuu et al., "Herem Kam: Stori Blong Mifala Olketa Mere: Women's Submission to the Solomon Islands Truth and Reconciliation Commission" (2011).

Topics Covered in Gender Chapters of Commission Reports

- Gender patterns of human rights violations
- Gender-differentiated impact of human rights violations and the broader conflict
- National and international law addressing crimes against women
- Enabling conditions for women's vulnerability to human rights violations
- 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/marginalization that characterized the conflict
- Roles of women activists, both individuals and women's organizations
- 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
- Gender-specific limitations of the commission's work and findings

From Nesiah et al., "Truth Commissions and Gender," 33.

However the report is ultimately structured, it must ensure that victims' stories, voices, and experiences are reflected in some way. First-person narratives complement and give a human voice to a commission's findings on gendered patterns of abuse. Some reports have included quotes from victims throughout, while others have had chapters or annexes dedicated to specific narratives.

The final report provides an opportunity for a truth commission to reflect on its own methodology with regard to gender issues. This honest undertaking allows it to identify gaps in the information and analysis it produced. "This is extremely valuable in opening the space for further research, analysis, and discussion and ensuring that the commission process is understood" as a starting point for, "rather than ending the conversation on gendered human rights abuse."³⁹

In addition to a report's content, a truth commission should also take into consideration issues around the report's dissemination. Final reports are usually lengthy and comprise numerous volumes. In many contexts where truth commissions have taken place, issues of access to the report are a challenge. This is particularly true in contexts where literacy rates are low, which often disproportionately affects women. Other modes of reporting on findings that have been used by commissions and civil society are comic books, child-friendly reports, and documentary films.

c. Recommendations Contribute to Nonrecurrence and Challenge Gender Inequalities

A crucial part of a truth commission's report is the recommendations it issues based on its findings. These can be about reparations, memory, institutional reform, prosecutions, and other guarantees of nonrepetition. Some truth commissions have made a strategic decision to limit the number of

³⁹ Nesiah et al., "Truth Commissions and Gender," 33.

recommendations so that governments cannot use the argument that it is not feasible to implement what has been suggested. Others have chosen to be as comprehensive as possible to provide ample avenues for the government to follow through. The Sierra Leone TRC combined the two strategies and organized its recommendations into a tiered system of “imperative,” “work towards,” “seriously consider,” and “calls on.”⁴⁰

Political will is one of the most crucial factors for ensuring that recommendations are given due consideration and implemented by the government. Unfortunately, the majority of truth commission recommendations have not been implemented for this reason. Lack of capacity or resources is another common impediment. Civil society has a central role to play in sustaining public attention to the recommendations and pressuring the government to implement them.

When it comes to the potential of truth commissions to have a transformative impact on gender equality, recommendations offer the greatest possibility. Truth commissions have issued several innovative recommendations to this end. However, taking into account that the truth commission will end, and that implementation is left up to the government, it is crucial that the recommendations are targeted, specific, and feasible. It is also vital for the commission and civil society to communicate to victims that recommendations may take time to implement and are not a foregone conclusion.

Example: In Morocco, the Instance Équité et Réconciliation (IER) had an awareness of gender issues, albeit not from its outset. The IER hired a consultant to research and draft a report on political violence against women during what are known as the “Years of Lead.” While this study was not a part of the final report, which did not focus on women as a category of victims for analysis, the IER “made recommendations reflecting its awareness that guaranteeing the non-repetition of serious violations and consolidating the process of reform in which the country is engaged implies fighting discrimination against women and building a future based on equality and equity.”⁴¹ Among other items, they recommended strengthening “the latest revision of the criminal code by introducing a clear and precise definition of the concept of violence against women” and “the constitutional guarantees of equality, providing for the equality of men and women in political, economic, and social rights.”⁴² Interestingly, the IER granted women victims of political detention 10 to 20 percent more than what male victims received in compensation because it was assumed they had suffered other violations, even if they had not spoken of them.⁴³

During the conflict in Sierra Leone, sexual violence was widespread. The TRC was mandated to give special attention to victims of sexual violence. The TRC interpreted this mandate in a way that allowed them to also capture women’s “complete gendered experiences at a political, legal, health and social welfare level.”⁴⁴ The commission documented how under customary law, women were considered property to be inherited. They argued that the status of women

⁴⁰ Sierra Leone Truth and Reconciliation Commission, “Recommendations,” in *Witness to Truth: Final Report of the Sierra Leone Truth and Reconciliation Commission*, Vol. 2 (2004).

⁴¹ Julie Guillerot, Naima Banwakrim, Maria Ezzaouini, and Widad Bouab, “Morocco: Gender and the Transitional Justice Process,” International Center for Transitional Justice (2011), 29.

⁴² Instance Équité et Réconciliation, Final Report, Vol. 4, Ch. 3.

⁴³ Guillerot, Banwakrim, Ezzaouini, and Bouab, “Morocco,” 27.

⁴⁴ Sierra Leone Truth and Reconciliation Commission, “Women and the Armed Conflict in Sierra Leone,” para. 11.

before the conflict contributed to the targeting of women by armed groups for sexual slavery, forced marriage, and forced labor. After the war was over, sexual violence victims were often ostracized by their communities, and this stigmatization reduced their economic security. Women also continued to be physically vulnerable in the post-conflict period, as demonstrated by the documented high rates of domestic and sexual violence.⁴⁵ The TRC recommended law reforms to ensure that customary law was no longer used to discriminate against women in a range of areas. This recommendation added to the ongoing efforts of women's rights activists and helped pave the way for the passing of gender by-laws.

⁴⁵ Kelli Muddell, "Capturing Women's Experiences of Conflict: Transitional Justice in Sierra Leone," *Michigan State Journal of International Law* 85 (2007): 85–100.

10. Outreach

- Outreach to victims and society on the purpose of a truth commission and how it will operate is central to its success.
- A truth commission should communicate to victims what it is hoping to achieve and in what time frame so that victims' expectations do not exceed what is possible.

One final consideration to note is the issue of outreach. A truth commission's work means little if members of the public, especially victims, do not know about it. The value of communicating to society the commission's purpose, how it will operate, and how the public can engage cannot be emphasized enough. Outreach is something that needs to take place at all stages of a commission's work.

Effective outreach means diversifying the means and modes of communication so as to reach the widest audience possible, including in rural areas, areas far outside the capital, and other, more marginalized regions of a country. Partnerships with civil society organizations, including victims' organizations, as well as media outlets such as popular radio programs are helpful. Language barriers, access to technology, and victims' trust in government institutions are key factors to think through and address.

One of the most critical parts of communicating about a truth commission's efforts is to make sure that victims' expectations do not end up far exceeding the scope and mandate of what the commission can realistically achieve. Victims have often been waiting for support and assistance for many years and will expect to see concrete results very quickly. It is important to be extremely transparent about the process and the timeline of a commission; commissions may even want to consider providing regular updates to victims about where they are in their work.

Likewise, open channels for dialogue must also be established so that victims may provide their own feedback to the commission to, for example, complain about problematic interactions with staff, advocate for particular recommendations, or inquire about the status of their particular file or situation.

Discussion Questions

Ask participants if they have any questions about the material or if they would like to share some highlights or thoughts.

Participants could pair up or form small groups to discuss four or five main takeaways from the session.

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