



# UNFINISHED BUSINESS

## TRANSITIONAL JUSTICE AND WOMEN'S RIGHTS IN AFRICA





# **Unfinished Business:**

*Transitional Justice and Women's Rights in Africa*

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# Acronyms

ACHPR	African Charter on Human and Peoples' Rights
AHSI	Africa Human Security Initiative
BPfA	Beijing Platform for Action
CAR	Central African Republic
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
DDR	Disarmament, Demobilisation, Reintegration
DRC	Democratic Republic of Congo
FIDH	International Federation for Human Rights
GNOU	Greater North of Uganda
ICC	International Criminal Court
ISS	Institute for Security Studies
IWPR	Institute for War and Peace Reporting
LRA	Lord's Resistance Army
MLC	Mouvement de Libération du Congo
MSF	Doctors Without Borders
PMCs	Private Military Companies
PRDP	National Peace, Recovery and Development Plan for Northern Uganda
OTJR	Oxford Transitional Justice Research
OTP	Office of the Prosecutor of the ICC
RI	Refugee International
SGBV	Sexual and Gender-Based Violence
TJ	Transitional Justice
UNICEF	United Nations Children's Fund
UNSCR	United Nations' Security Council's Resolution
UPDF	Uganda Peoples' Defence Force
VWU	Victims and Witnesses Unit of the ICC

# Glossary of Terms

<i>Mato - O - put</i>	Traditional/alternative reconciliation ritual in Northern Uganda
<i>ubuntu</i>	Sisterhood, or brotherhood, communalism
<i>jus cogens</i>	A fundamental principle of international law which is accepted by the international community of states as a norm from which no derogation is ever permitted. There is no clear agreement regarding precisely which norms are <i>jus cogens</i> — or indeed how a norm reaches the status of <i>jus cogens</i> — but it is generally accepted that <i>jus cogens</i> includes the prohibition of genocide, piracy, slaving in general (to include slavery as well as the slave trade), torture, wars of aggression and territorial aggrandizement and the prohibition on the use of force by states.

# Foreword

It gives me great pleasure on behalf of ACORD to write a few words by way of an introduction to this occasional paper.

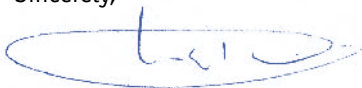
The Pan African Conference on Sexual and Gender Based violence that was held in Nairobi from July 21 – 23 2008 from which the collection of papers presented herein emerged was a hallmark event in our calendar on work around sexual and gender based violence.

The conference was a gathering of minds and expertise from the continent that must be harnessed. One of the clarion calls from the conference was that this was not going to be just another conference. We are therefore pleased to produce this occasional paper as one of the immediate outcomes of the conference in addition to the six point communiqué that outlined action points in the areas of accountability, advocacy, leadership and collective action.

This document is an indicator of the commitment of all the actors at the conference to actively contribute towards working to end impunity for sexual and gender based violence, by placing in the public domain analysis and discussions on areas relevant to challenging impunity for sexual and gender based violence.

I trust that you will find this publication illuminating in terms of the insights into a section of our deliberations at the conference as well as proposals on ways forward. The work continues.

Sincerely,

A handwritten signature in blue ink, appearing to read 'B. Wakana', enclosed within a blue oval scribble.

**Bonaventure Wakana**

*Programing Director ACORD*



# Introduction

This is the first issue of this Occasional Paper Series produced by ACORD as part of a Pan African platform that will be dedicated to cutting edge theoretical and activist debates on the impunity for sexual and gender based violence. This new communication tool is aimed at presenting policy-relevant topics to a wide audience, including other policy-makers, academics, the media and women.

The papers that comprise this first publication were presented at the Pan African Conference on Sexual and Gender Based Violence held in Nairobi, Kenya from July 21 – 23, 2008. The title for this first series is drawn from the session within which these papers were discussed at the conference. Some of these pieces first appeared on Pambazuka the authoritative online newsletter as part of a special issue that was dedicated to Sexual and Gender Based Violence. They provide us with a glimpse of the rich discussion and insights that were presented during this conference by focusing on transitional justice.

These papers seek to problematise transitional justice mechanisms as viable tools for seeking redress for survivors of sexual and gender based violence, with an emphasis on women. They draw our attention to the complexities of models of this nature but also to the opportunities they avail for seeking meaningful justice. One of the papers deals specifically with the security sector a key site for intervention but one which has been increasingly difficult to penetrate.

The Occasional Papers will be longer than articles and will therefore be designed to allow for a more elaborate analysis. We hope that they will be able to serve as a future source of reference and make public material used by policy makers, women's rights activists and concerned citizens grappling with mechanisms to end impunity for sexual and gender based violence. It is our goal that the series will always contain work carried out by African researchers, activists and academics and will be published in the names of the authors.

These Occasional Papers are not necessarily intended to present original contributions to feminist, human rights or legal theory. The authors may, and often will, use old and new theories and empirical methodologies to present their results or to underpin their conclusions. The analysis aims to be both sound and comprehensive.

The Occasional Papers will be published on our websites and will also be available in hard copy. This new series fills a gap in the general Pan African publications framework with its focus on ending impunity for SGBV.

## About The Reference Group

This reference group was constituted for the purpose of conceptualising, resourcing, planning and actualizing the first Pan African Conference on Sexual and Gender Based Violence from which the papers published herein were presented. This conference drew together African policy makers, parliamentarians, representatives of regional blocs, researchers and women's rights activists.

This reference group is not in any way representative of the multitude of actors working on SGBV on the continent, it is however indicative of a few like minded organizations who sought to respond at a particular moment and in a particular way.

We foresee a continued partnership on this particular agenda with goal of creating a formidable Pan African Platform that draws on organizational strengths, taps into regional and sub regional networks and designed to influence, hold accountable and push governments, parliaments and regional institutions to enforce, introduce and apply mechanisms to end impunity for sexual and gender based violence.

The reference group comprises ACORD International, The Kenya Human Rights Commission, Action Aid International-Africa, The Great Lakes Parliamentary Forum on Peace - Amani Forum, African Women's Development Fund, International Planned Parenthood Federation, Urgent Action Fund – Africa and Fahamu.

**ACORD** - Agency for Cooperation and Research in Development is an Africa-led international alliance working to promote social justice. ACORD is running field operations in 17 countries in Africa, as well as Pan African and international advocacy work. ACORD's response to the challenges of Africa is firmly based on a belief that people themselves are the agents of change and actors of their own development.

**The Kenya Human Rights Commission (KHRC)** was established in 1992 in response to serious human rights abuses by the government of Kenya against its people. It also focused on challenging a largely unaccountable executive by attempting to strengthen parliament, the judiciary and other institutions of government. The KHRC played an important role in strengthening the role of civil society in advocating for democratic reforms by leading the way in initiating and carrying forward the constitution-making process.

**ActionAid International Africa** is one of the largest development agencies, working in partnership with communities in over 40 countries in Africa, Asia, Latin America and the

Caribbean to fight poverty and its causes. ActionAid country programmes around the world work together to change the social and economic factors that drive the epidemic at community, national and international levels.

***The Great Lakes Parliamentary Forum on Peace - AMANI*** Forum is an initiative of African Parliamentarians in the Great Lakes region. It is a network of parliamentarians who are committed to peace and to the peaceful resolution of conflicts, both within their own countries and in the region as a whole. The aim of AMANI is to eliminate armed conflict and promote peace and democratic governance.

***African Women's Development Fund (AWDF)*** is a grant-making foundation which supports local, national and regional organisations in Africa working towards women's empowerment. AWDF through institutional capacity building and programme development seeks to build a culture of learning and partnerships within the African women's movement. The vision of AWDF is for African women to live in a world in which there is social justice, equality and respect for women's human rights. To this end, our mission is to mobilise financial resources to support local, national and regional initiatives led by women, which will lead to the achievement of this vision.

***International Planned Parenthood Federation (IPPF)*** is a global service provider and a leading advocate of sexual and reproductive health and rights for all. IPPF is a global network of Member Associations, and work in around 180 countries - providing and campaigning for sexual and reproductive health care and rights. IPPF works in partnership with like-minded organizations, galvanizing support to confront those who want to take away these rights.

***Urgent Action Fund-Africa (UAF-Africa)*** works to promote the human rights of women and girls by encouraging or creating collaborative projects to support women in situations of conflict or crisis, and through urgent response grant making (incorporated in 2004). UAF-Africa's work is organized around three thematic areas: peace building, transitional justice, and rapid response grant making. Transitional justice incorporates UAF-Africa's efforts to engender post conflict processes such as Truth, Justice and Reconciliation Commissions, constitution making, national as well as international tribunals.

***Fahamu*** has made a significant contribution to media and freedom of expression in Africa, using information and communications technologies. Its flagship publication, Pambazuka News, an open-access, pan-African email and online newsletter with English, French and Portuguese editions, some 15,000 subscribers and an estimated weekly readership of around 500,000, is generated predominantly in Africa.

## About The Contributors

### ***Harriet Nabukeera Musoke***

Harriet Nabukeera Musoke is the Exchange Programme Coordinator at Isis-Women's International Cross-Cultural Exchange (Isis-WICCE) based in Kampala, Uganda.

### ***Prof. Makau Mutua***

Makau Mutua is SUNY Distinguished Professor and the Floyd H. & Hilda L. Hurst Faculty Scholar at Buffalo Law School, The State University of New York. He is the Director of the Human Rights Centre and teaches international human rights, international business transactions, and international law. Professor Mutua has been a Visiting Professor at Harvard Law School, the University of Iowa College of Law, the University of Puerto Rico School of Law, and the United Nations University for Peace in Costa Rica. He was educated at the University of Nairobi, the University of Dar-es-Salaam, and at Harvard Law School, where he obtained a Doctorate of Juridical Science in 1987. In 2002-03, Professor Mutua was appointed by the Government of Kenya as Chairman of the Task Force on the Establishment of a Truth, Justice, and Reconciliation Commission. The Task Force recommended a truth commission for Kenya. Professor Mutua has written numerous scholarly articles exploring topical subjects in international law, human rights, and religion. He serves as the Chairman of the Kenya Human Rights Commission and sits on the boards of several international organizations.

### ***Lydia Kemunto Bosire***

Lydia Kemunto Bosire is a postgraduate student at the University of Oxford, where she is also the co-Convenor of Oxford Transitional Justice Research (OTJR), a working group of scholars and faculty working on post-conflict accountability. Ms Bosire has carried out research on the impact of the international criminal court on domestic politics, and has authored a number of articles on transitional justice in Africa, including *"African Experiences in Post-Cold War Transitional Justice:*

*Lessons for Liberia,” in Complex Emergencies in the 21st Century: Challenges of New Africa’s Strategic Peace and Security Policy Issues, Festus B Aboagye, ed., Institute For Security Studies, Monogram Series no. 34, May 2007 and “Over Promised, Under Delivered: Transitional Justice in Africa,” SUR International Journal on Human Rights, No. 5 (October 2006). Previously, Ms Bosire worked at the International Centre for Transitional Justice (ICTJ), as well as for a number of UN agencies, including as the focal point for traumatic fistula for the UN Population Fund. Ms Bosire is from Kenya.*

**Dr. Annie Barbara Chikwanha**

Dr. Annie Barbara Chikwanha, a Senior Research Fellow at the Institute for Security Studies, is currently heading the Africa Human Security Initiative (AHSI) project at the Institute’s Nairobi offices. AHSI, a network of African organizations, is currently reviewing the criminal justice systems in five African countries that are scheduled to undergo the African Peer Review process. The reviews, which include measuring public attitudes to crime, are aimed at making an input into the APRM exercise. Annie previously worked as a key researcher with the Afro barometer Network from 1999 until 2006. In this period, she was involved in administering opinion surveys that measured attitudes to democracy and governance in 18 African countries. Her professional background is university teaching, research in democracy, governance, poverty, public opinion surveying and outreach training on democracy and governance. She holds a PhD in Political Science from the University of Bergen in Norway.

# The Human Face of Armed Conflict: Transitional Justice Questions Related to Female Survivors of The Armed Conflict in The Greater North of Uganda (GNOU)

By Harriet Musoke

*The LRA rebels crossed to Atiak in April. They found me asleep at 11.00 am under a mango tree in our compound. One of them came to me and ordered me to stand up which I did. Another asked why I was sleeping at that time and I told him that I had been harvesting vegetables and felt tired, that is why I had slept. He then asked whether I was of any value to them. I told him I did not know. He hit my head with the butt of his gun and a machete and I collapsed in front of the hut. Their commander ordered all other captives to be brought where I was. They hit many captives with the machete and butts of their guns; they left many of them dead and others unconscious.*

*One of them asked why they should leave me. Another replied that they were already tired of having sex with women and said they should do something else to me. He ordered that I should be dragged to an open space and was taken under the mango tree. One of them ordered for a knife and told me to lie upside down, which I refused. He then said that since I was stubborn, they would teach me a lesson I would never forget. Two rebels spread my legs in opposite directions and tied them with ropes. They started piercing my vagina with a knife and cut it up to the anus. One of them said I should be killed and my head smashed, but another said that what they had done to me was enough. After a while, heavy rain fell, it rained on me for almost two hours as I could not move anywhere. I regained consciousness in the morning and found bodies of other captives they had killed next to me. (Isis-WICCE 2001: pg 20)*

## Analysis of the Case Study

In the above case study, the survivor was exposed to various human rights violations including rape, genital mutilation, and torture. She also witnessed death of others, and rape of which the soldiers said '*were tired of having sex with women*' that they met before this survivor. The consequences of this experience are trauma, self blame, withdrawal, STDs, HIV/AIDS, underdevelopment and dependency on systems that are largely constrained or non-existent. Finally the glaring levels of impunity with which the perpetrators carried out the atrocities, continues to inflict pain on women caught in such situations globally.

From the studies conducted by Isis-WICCE in Uganda (Luwero: 1997, Gulu: 2001, Teso areas: 2002), many other female survivors have been exposed to sexual violence that has resulted in unwanted pregnancies, HIV/AIDS, the burden of raising unwanted children (commonly referred to as infidels, calling them by the tribe of the would be perpetrator), vaginal tears, urinary fistula, infertility, genital sores, swellings in the abdomen.

## Fast Facts on SGBV in GNoU

- a. In 1995, infant mortality rate in Gulu was 172 per 1000 live births compared to 80/ 1000 births in Kampala district, and estimates suggest that HIV/AIDS infection in the region hovered at 25% of the population (Human Rights Watch 1997: pg. 55)
- b. Maternal mortality rate in Gulu is estimated to be 700/100,000 (national average 506/100,000), with a high burden of diseases such as diarrhoea, respiratory tract infections, HIV/AIDS and STDs. (Health Sector Strategic Plan 2000/1-2004/5)
- c. In a study conducted by Isis-WICCE, forced marriage was reported to have occurred, with 14% of respondents having been through the experience. As a result many girls became pregnant, those who became 'wives' to soldiers contracted HIV/AIDS. (Isis-WICCE 2000).
- d. At the time of the same survey, 83% of interviewees reported that their husbands/ relatives rejected them as a result of being raped by



rebels/ government soldiers. Their husbands expressed fears that the raped wives could have been infected with HIV/AIDS. (ibid, pg 22)

- e. The LRA is notorious for abducting children for use as soldiers, porters or sex slaves. A recent report by the UN Children's Fund (UNICEF) said out of an estimated 25,000 children abducted by the LRA since the conflict began 19 years ago, approximately 7,500 were girls, 1,000 of whom had conceived during captivity. (UNOCHA 2005: pg. 3).

So how can redress be undertaken given the complex, interdependent issues that women get exposed to in conflict situations such as the one mentioned above? There are a range of social and legal justice mechanisms that could be put in place to ensure that there is transitional justice, curtail cycles of revenge and promote development in the community. Let us analyse the relevance and applicability of various mechanisms.

### **Complexities:**

Before we go into transitional justice mechanisms and questions for women survivors such as the case study on pg. 2 of this paper, let us acknowledge the complexities of the armed conflict in the Greater North of Uganda

- Many young people were forcibly abducted and became rebels against their will as reflected in the UNICEF survey where over 25,000 children were abducted by the Lord's Resistance Army (LRA). People were forced to do things that are abnormal in their own communities, like killing and cooking a family member in a pot, hacking to death their parents or being forced to rape their female relatives, before being taken into captivity. So, who bears criminal responsibility when such ex-combatants are pardoned under Amnesty law and wounded communities see such people walking scot-free in the community?
- We need to remember that the 'enemy' is a child of a mother who has been forced into armed rebellion. Lomo and Hovil (2004: pg. 49) allude to this by saying:

*...not fully trusting the UPDF yet knowing that the LRA is full of their own children, people cannot wholeheartedly support a counter-insurgency campaign...these are people who have had their children abducted. Who wants to support a person who abducts their child?*

Response and intervention mechanisms should recognize the social connections and attachments to the children who were in combat, and the reproductive impact and dilemma for the people in the area when it came to collaborating with government in reporting the presence of rebels and in ending the war.

- The area has had 21 years of a lost generation. For long, people were confined to camp life, and this eroded their social norms. Parents had sex in the open, rape was on the rise in the camps, men were forced to drink local brew and subsequent violence and defilement and rape went on the rise.
- Because the war has been on for a protracted timeframe, community needs are not homogenous. There are therefore differing needs and interests of survivors that a single transitional justice mechanism may not be able to address. Among females, for example, there are child mothers, young mothers, single mothers, widowed mothers and elderly, among others. Their experiences, pains, priorities as well as needs, capacity to heal over what they went through, and the need for justice are not the same.
- Sustainable solutions to a conflict must respond to the root cause of a conflict. However, the protracted nature of the conflict in the GNOU has made it hard to point to single cause of the conflict. Lomo & Hovil (2004: pg. 49) assess this dilemma asserting that ‘...now the consequences have become the causes. These ‘causes’ then further sustain the cycles of violence..’

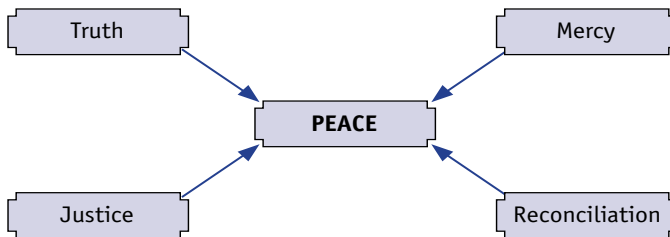
### **Transitional Justice Issues:**

Transitional Justice refers to a range of approaches (judicial and non judicial) that societies undertake to reckon with legacies of widespread or systematic human rights abuse as they move from a period of violent conflict or oppression towards peace, democracy, the rule of law, and respect for individual and collective rights. The purpose of these approaches is to provide wounded societies with: a holistic sense of justice; establish civic trust; reconcile

people and communities and prevent impunity and future abuses. The values of transitional justice are justice and reconciliation, with a goal to end cycles that perpetrate war, violence and human rights abuses.

### **Have Transitional Justice Mechanisms in Uganda catered for needs of women?**

I will respond to this question by assessing the architecture of peace, and analyzing how the pillars of peace (mercy, truth, justice and reconciliation), have been interpreted in promoting transitional justice for women in Uganda. I will also keep in mind my quote on the cover page: whichever the mechanism for bringing about peace, will justice have been realized for women at the end of the day?



#### **Truth and Mercy:**

Against a serious background of offences, the government of Uganda established the **Amnesty Act** in 2000. Many ex-combatants were able to secure amnesty as surrendering rebels for crimes they committed. Many of these ex-combatants had committed atrocities against their communities and sexually abused women who were abducted. Whereas female survivors (case study) and abductees who are victims of the war returned home, their communities are not willing to stay with the women on learning that they have HIV/AIDS or children born out of rapes in the bush. Ironically amnesty stood out as a mechanism that helped to bring many ex-combatants, and showered them with resettlement packages while other perpetrators were graced with leadership positions, the receiving communities do not have absorptive capacity to contain the returnees. The communities have their own trauma, grievances, bitterness and losses that were not addressed through this peace mechanism. It seems as though the government forgave the ex-combatants

under amnesty, but who should be forgiving who- is it the government or the survivors to forgive their perpetrators? As a transitional justice mechanism, the question for the **Amnesty Act** is, how have female survivors' needs such as compensation, protection and resettlement were taken care of?

### **Justice:**

Under the legal justice framework, the International Criminal Court (ICC) issued 5 indictments for LRA commanders to answer for the crimes committed in the armed conflict in N. Uganda, following a submission of a case by the government of Uganda in 2004. In the same year, Isis-WICCE worked with the Women's Initiative for Gender Justice (WIGJ) an international women's advocacy group based in The Hague, to influence the ICC towards investigating and bringing to justice, issues related to sexual violence in the armed conflict. Although female survivors we visited as part of the mission were willing to bear witness, they were apprehensive of the ICC process. For instance, they asked about issues of victim-witness protection, compensation and reparation. Although the ICC is a longer term mechanism to protect against impunity for crime globally, it does not serve the practical/ immediate needs of a wounded community. Women are wondering why the perpetrators they live with on a daily basis should not be tried instead of just the five indictees (two of whom are already reported dead), and how giving their own testimonies will bring them personal justice. Given the minimal resources available for reparations at the ICC to cater for all cases they receive, women are wary that the ICC will not attend to their individual needs.

African people have what we call *ubuntuism*, 'I am because we are, and because we are, therefore I am'. Others say, 'no man is an island'. The moral of this is that we cannot exist on our own, and therefore need tribes, clans, neighbours, culture, religions, a government and environment in which to survive. Our social structure shows a web of interdependency and interconnectedness of the peoples of Africa, and this demands for mutuality and co-existence. Bringing a community member to legal justice is seen as prosecuting a whole clan or tribe. During Isis-WICCE's research in N. Uganda in (2001, 2002), we went out to help a woman prosecute her husband for violence. Immediately the family of the man warned her that she was responsible for their son's problems. She asked us to withdraw the

case. How would Isis-WICCE proceed without a plaintiff? The testimony we have above on page one, is even more complicated given its sexual nature, as women may not want to discuss sexual/ taboo issues in public. Such scenarios are emphasized by Peter Onega the Uganda Amnesty Commission Chair who was quoted by IRIN (UNOCHA 2005: pg.2) saying...

*The ICC should have known all the consequences before they issued the warrants. They should have also considered another issue in all this - reconciliation. Does the taking of only five people for prosecution at The Hague bring about reconciliation among the divided Acholi [northern ethnic group] people? The arrest warrants are not any good for national unity if you have people who will go to testify against others...*

This is not in any way to undermine legal justice, as we know that it is a crucial pillar of peace. However, the challenge here is that legal justice does not provide immediate remedies; the court process is complicated and expensive for women. Further still, you get reports where for instance, Pabbo Camp in Gulu district had 6 police and law enforcement personnel with a population of over 63,000 individuals (Akumu, Amony 2005: pg. 13). How can we make legal justice institutions and frameworks user-friendly for women in the post conflict Northern Uganda?

The issue of legal justice is complicated by the unfolding of events in the area. Some of the female survivors whose experiences Isis-WICCE documented gave testimony of their own children committing atrocities against them. Even if anybody badly wanted to realize justice, how can you prosecute your own child who committed a crime against their own will?

It is even further complicated. When we interacted with survivors during our Consultative Meetings with communities to ensure that their needs are part of the peace processes in Juba in 2007, the women at grassroots level whom we interacted with referred to their violators and captors as 'husbands' and not rapists. The challenge here is our different perspectives to the issues, but also questions how development processes define situations for communities. This naming of violators as 'husbands' is created by the need to belong where female survivors know that they are not easily accepted back into the community, and the fact that they related with their 'captors' for

such a long time. They do not only have one but several children with their 'husbands'. In such cases, other non-judicial mechanisms may be deemed more appropriate than expecting these women to line up for a court case.

**Reconciliation:**

Following the failed 18-year old war, the government of Uganda and the LRA embarked on a formal negotiation peace process (we hope the process of reconciliation can progress further and talks will resume soon). The process has been going on in Juba, S. Sudan.

We all know that many formal peace processes often fall short of including real community issues of grievance, largely because of the absence of women and the unique value that they would bring to the table. Many of our male folk are interested in discussing personal needs like which ministry they will be allocated and therefore community issues get sidelined, causing conflicts to roll over again. As a result of the negotiation by the Uganda Women's Coalition for Peace, we were lucky to have an increased representation of women on both sides, and hope that the unique value of women on the table will be realised. We are hopeful that once concluded, the peace agreement and subsequent frameworks such as the National Peace, Recovery and Development Plan for Northern Uganda (PRDP) can be inclusive of addressing women's needs in post-conflict Uganda. Women organizations and groups have been lobbying government machinery to make the PRDP gender-sensitive in participation, protection and compensation processes. We have articulate analysts such Dr. Dolan Chris (2008) who has referred to the strategy document as a three-legged table, implying that there are some missing links to address. We hope the voices and concerns of civil society will be embraced before rolling out the process to ensure that women's needs, who form half of the population, are addressed.

Already, one of the unfolding issues is that of land ownership, for shelter, sustainable livelihoods and security of persons. The land law in Uganda has not been favourable to women who constitute the large non-formally working majority. Some women can therefore only access land from their husbands. How will widowed, separated women and child mothers claim spaces that they are supposed to occupy given the unfavourable land law?

Women have no control but mere access to land. How can they improve the lives and incomes of their homes when they cannot plant perennial crops for commercial farming?

**Mercy:**

Another crucial pillar of peace is mercy, but how does it unfold for women caught in violent situations in Northern Uganda? Part of the agenda items for discussion at the peace talks is Accountability and Reconciliation, where use of African traditional mechanisms such as *Mato Oput* was tabled. The communities we (Women's Coalition for Peace) talked to during the Consultative Meetings in 2007 indicated that although this was a welcome initiative, *Mato Oput* is a cultural practice of the *Acholi* and does not totally embrace the practices of the *Langi* who were equally affected by the conflict. The women in Langi area therefore, wondered how perpetrators were to atone for their sins to individual survivors, and how the system would apply in their locality. As feminists, we are alerted to the fact that many African traditional reconciliation processes use women's bodies in resolving conflict (by marrying off girls to compensate for losses on the side of opponents). Women requested for an in-depth explanation of how the *Mato Oput* process will be executed, without realizing 'peace' at the expense of women's dignity. Activists are still waiting for the completion of the talks to make their judgment.

**Summary:**

There are several challenges posed by the parallel interventions in the GNOU. We however need to remember that peace is not the mere absence of war and that post conflict reconstruction must also embrace security (DDR), justice and reconciliation, social and economic wellbeing, as well as governance and participation.

**What are Women asking for?**

Uganda is in need of sustainable transitional justice mechanisms so that we can finally realize justice and peace, and begin to reconstruct and develop one crucial part of our country. It is suggested that these processes observe the following:

- Ensure the inclusiveness of specific interest groups in participation, in identification of priorities and in addressing of needs. Women

form half the population and therefore, any sustainable peace and development process should identify their priorities and engage them in promoting development.

- Ensure the dignity of people in all mechanisms. People are not objects but should remain subjects of development processes. Community voices should be articulated in interventions.
- There should be coordination and management of various peace building mechanisms that are instituted in war-torn communities, to avoid contradictions and embrace peace in a holistic way.
- We should ensure and guarantee the bodily integrity of women and address all loopholes that continue to make their bodies a communicative mechanism to the enemy. We need to address archaic laws related to marriage (bride wealth) and land ownership.
- There is need to ensure the compensation (in all forms), to survivors of SGBV, and assure them of protection and confidence in the judicial systems to enable them to secure legal justice.
- Countries which are in states of fragility need to promote, protect and respect the human rights of women in wounded communities, by translating the international instruments they have ratified into national law. There are many protection mechanisms for women that can be used to realize justice and sustainable development, including *CEDAW*, *BPfA*, *Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa*, *UNSCR 1325 on Women, Peace and Security*, among others.
- Finally, we should engage in pro-active mechanisms to avert conflict. States should have early warning systems and include peace building into institutional training curricula, to ensure that citizens and institutions can embrace a culture of peace. War has no tangible, sustainable benefits, and therefore, all efforts must be geared towards peaceful resolution of conflicts.



## Brief Background

Uganda's history of impunity is characterized with militarism and extrajudicial revenge on soldiers and civilians associated with ousted regimes. Instability arises in part, due to lack of respect for constitutionalism where successive regimes have accessed power by violent means. Cycles of violence have been witnessed through military coups including: Milton Obote being ousted in 1971 and again in 1985, Idi Amin Dada's overthrow in 1979, and Tito Okello' fall in 1986. The historical militarization of Uganda's politics largely explains why the 18-year old rebellion in Northern Uganda against the National Resistance Movement (NRM) government has been seen as part of "normal" political business (Lomo & Hovil 2004: pg.15).

After a period of armed conflicts, perpetrators of sexual violence often go unpunished for their crimes committed during armed conflict. Systematisation of sexual violence, prevalence of self stigmatisation among women, fear of repercussions from the perpetrators of sexual violence amongst witnesses, and disregard for specific accountability agenda on sexual violence at peace negotiations undermines justice for women thus breeding impunity.

## Conclusion

In conclusion therefore, the paper has provided the human face of conflict and addressed the consequences of the armed conflict in the GNOU on women. It has further illustrated how the issues of transitional justice unfold for women caught between warring factions. It has laid out the complexities that may deter justice and reconciliation, and analysed how the pillars of peace have been manifested in the situation, and the questions that women still have.

It is my firm belief that women should remain central to all post-conflict rehabilitation processes both as participants and recipients of dividends, if communities are to heal and develop in sustainable ways. Furthermore, we should embrace a culture of peace to avert and stop war from happening, as some of its debilitating consequences can never be completely addressed.

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# Interrogating Transitional Justice:

## Sexual And Gender-based Violence

By Professor Makau Mutua

### Introduction

It is now fashionable in academic and activist circles to speak of transitional justice in normative, inflexible terms that suggest a utopian certainty. Nothing could be further from the truth. At the outset, we need to understand that transitional justice concepts are experimental – good experiments to be sure – but that they do not offer us tested panacea because they are essentially works in progress. This is not meant to diminish the utility of the concepts or to throw cold water on them as a beachhead for recovering societies with a legacy of traumatic conflict. Rather, it is to recognize their limitation so that we do not stampede to the temple only to find it empty of the goddess of truth. What is more useful for us to do is to imagine transitional notions as one incomplete vehicle through which we can understand and start the recovery of a tormented society. If we keep this perspective, then we are more likely to achieve a more realistic result.

In the last two decades, the concept of transitional justice has come to represent the midwife for a democratic, rule of law state.<sup>1</sup> The script for the construction of such a phase is now regarded as an indispensable building block for sound constitutionalism, peace-building, and national reconciliation in post-conflict societies or societies emerging out of abusive, authoritarian, and fractured periods.<sup>2</sup> In fact, policy-makers and statesmen now increasingly realize that a human rights state that internalizes human rights norms cannot be created unless the political society concretely addresses the grievances of the past. There is no future without a past, and the future is largely a result of the past. Unless we construct a future based on the lessons of the past, we are bound to repeat our own mistakes and retard the development of our society.

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1 Priscilla Hayner, *Unspeakable Truths* (2000) Routledge Press, New York

2 Desmond Tutu, *No Future Without Forgiveness* (1999). Rider, London

The term transitional justice captures two critical notions. First, it acknowledges the temporary measures that must be taken to build confidence in the construction of the post-despotic society. Secondly, by its own definition, transitional justice rejects a winner-take-all approach as a beachhead to the future. In other words, transitional justice calls for deep concessions on either side of the divide. No one party or faction can be fully satisfied. Unyielding, none concessionary demands can only foil the truce that is essential for national reconstruction. But equally important is the realization that transitional justice rejects impunity for the most hideous offenders. To shield egregious perpetrators would only encourage a culture of unaccountability for past abuses. Hence a balance must be struck between justice for the victims and retribution against offenders.<sup>3</sup>

The vast majority of states lack the requisite political will to effect transformative transitions. That is why most political transitions are either still born or aborted affairs. For Africa, this calls for soul-searching at all levels of society – within the political class, among the intelligentsia, in civil society, and the general public. In other words, Africans must ask themselves: Is transitional justice a necessity for us if we are to create a democratic polity? If so, what vehicles should we construct to effect transitional justice, and what mandate shall we give such vehicles? But even as we ask these questions, we must remain mindful about the cost of abandoning transitional justice measures. The reason for this is simple: We cannot exorcise the ghosts of the past without confronting them. The past will always be with us.

Even if we accept as a basic premise – which we do – that transitional justice processes and institutions are desirable and indispensable, we would be derelict not to interrogate the internal contradictions of the project. I say so because the human rights project, which encompasses transitional justice, is an incomplete doctrine that is afflicted by gaping holes.<sup>4</sup> One of the blind spots of the human rights movement was for a long time women’s rights. There is no doubt that international law – which includes human rights – as a discipline has historically been inattentive to women’s rights. In fact, Hilary Charlesworth and Christine Chinkin, leading feminist scholars, have accused

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3 Martha Minow, *Between Vengeance and Forgiveness: Facing History after Mass Atrocities* (1998). Beacon Press, Boston

4 Makau Mutua, *Human Rights: A Political & Cultural Critique* (2002). University of Pennsylvania Press, Philadelphia

international law of its male, patriarchal construction.<sup>5</sup> For a long time, at least until the 1995 Beijing UN Conference on Women, women's rights were a backwater in human rights, in spite of the existence of the *Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)*. Only in the last decade have we seen serious attempts to remove women rights from the ghetto of the rights discourse.

This is our challenge at this conference, and in the human rights movement, particularly in the context of transitional justice in Africa. How do we demarginalize women's rights questions in the construction of transitional justice vehicles? In particular, how do civil society, academics, states, funding organizations, and intergovernmental organizations address – in serious ways – the problems of sexual and gender violence in transitional justice contexts? We know from the historical record that sexual and gender violence is arguably the most predominant abomination in civil conflicts and wars. Yet we also know that this egregious form of violence is either never reported, or rarely attracts the attention of the media. Even more distressing is the fact that gender and sexual violence is almost never calibrated in transitional justice processes, and is usually an afterthought when it is. This has been true in many of the transitional justice processes that have been put in place in the last two decades, although that is beginning to change. In Africa, as indeed in other parts of the world, women are the pillar on which the fabric of society is built in the home and outside of it. In a very real sense, both the public and private spheres are made possible by women, although in the former their invisibility is obscene. This invisibility pertains to the official public sphere in terms of public power defined as official positions within the state, civil society, and the market. Paradoxically, the invisibility extends to women victims and survivors of sexual and gender-based violence in the public sphere during civil conflicts and wars. The challenge for Africans is to develop both conceptual tools and strategies – at the political and intellectual levels – to smash the walls of invisibility and exclusion so that sexual and gender-based violence can be exposed to the sunlight of the public domain. Without this first critical step transitional justice mechanisms will continue to exclude sexual and gender-based violence.

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5 Hilary Charlesworth and Christine Chinkin, "The Gender of *Jus Cogens*," 15 *Human Rights Quarterly* 63 (1993).

## Vehicles for Transitional Justice

Transitional justice measures can be effected through a number of avenues. While truth commissions or similar vehicles stand out, there are many other possibilities. For instance, one could think of institutional reformist measures that are legislative, judicial, political, economic, social, administrative, educational, sectoral, or a combination of some, or all of the above. To complicate the picture, civil society – broadly defined – could also initiate its own transitional justice measures, including peoples' commissions or mock tribunals. However, in spite of this wide array of possibilities, the truth commission has since the 1980s been regarded as the most effective tool for coalescing the agenda of transitional justice.<sup>6</sup> Even so, cognizance must be taken of the fact that the truth commission has performed its political and social functions with mixed results. The reason for this has not been with the instrument of the truth commission per se. Rather, the varying degrees of success of the truth commission have been in the particular conception and construction of each specific truth commission. In most instances, the truth commission was deeply compromised by former regime elements. In others, the emergent ruling elites were either too timid or hypocritical in their understanding of transitional justice. Most importantly, however, is the reality that most truth commissions have focused on a narrow, limited agenda that did not have the potential to transform society or provide the possibility of social justice.

But truth commissions are not the only vehicle for realizing transitional justice. There is a rich tableau of devices that have the possibility of creating a bridge between an unforgiving past and a hopeful future. Regimes can opt for sectoral reforms that, when put together, amount to an aggressive transitional justice agenda. One can imagine judicial reforms – such as purging corrupt and incompetent judges; aggressively prosecuting perpetrators of past abuses; writing a democratic constitution; repealing repressive legislation; and reforming law enforcement agencies – as a credible transitional justice approach. While all these measures are critical and necessary to reconstruct and heal society, they should not preclude a truth commission, the only omnibus instrument that has the potential to create a cathartic experience for the whole society. To centre women's rights in a transitional justice project,

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<sup>6</sup> Neil Kritz, Jr., (Ed), *Transitional Justice: How Emerging Democracies Reckon with Former Regimes* (1995)

one can imagine the repeal or enactment of laws that make the female gender visible in the legal system. These would include, but not be limited, to laws that sanction without pity sexual and gender-based violence. Or one could think of educational initiatives that develop a gender consciousness in the judicial system such that sexual and gender violence is not an afterthought or absent from the minds of judges.

In this paper, I argue that African states need both truth commissions in certain cases, and the specific, targeted sectoral reforms in other cases to overcome the deep distortions and legacy of despotism and social hatreds that afflict their bodies politic. But I want to argue – rather emphatically – that Africa should avoid the traps of most transitional justice programs that have focused on the so-called human rights violations alone while leaving completely untouched the equally important arena of economic crimes, which are intrinsically connected to sexual and gender based violence. In fact, I would argue that economic powerlessness – which is connected to political powerlessness – lies at the root of sexual and gender based violence. I regret to say that this blindness of targeting civil and political rights violations while completely overlooking economic, social, and cultural rights is one of the major drawbacks of the human rights corpus. In my view, such an approach cannot address the real causes of powerlessness – which ought to animate the human rights agenda.<sup>7</sup> We must remember that rights are fights over resources, and not abstract struggles taking place in the outer orbit without going to the fundamentals of the human condition. That is why no credible transitional justice program can fail to address the difficult, but necessary, subject of economic powerlessness for women.

In any case, as a matter of logic and conception, it is nonsensical to imagine the human rights corpus as a bifurcated dogma of two unrelated and completely independent categories of entitlements. There can be no watertight distinctions between civil and political rights, on the one hand, and economic, social, and cultural rights, on the other. Every right, no matter its ideological categorization, has at its core aspects of both sets of rights. To reduce the argument to the level of absurdity, we may want to ask: Can a person really eat the right to vote? Conversely, how can the right to food be guaranteed if citizens do not have the franchise

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<sup>7</sup> Makau Mutua, "Savages, Victims, and Saviors: the Metaphor of Human Rights," 42 *Harvard International Law Journal* 201 (2001).

to elect a responsible and accountable government? The right of women to own land and to control it and other economic resources is central to combating the kind of powerlessness that leads to sexual and gender-based violence. Human powerlessness and human dignity does not know these categories. That is why it would be spurious for us to address one set of rights violations, and not the other.<sup>8</sup>

## Reconceiving Women and Gender

In virtually all societies around the world – even in the liberal industrial democracies of the West – women still labour under an avalanche of disadvantages. The patriarchy, a system of social ordering that has historically placed the male as the superior of the female, is the conceptual justification for the subordination of women to men. Hetero-patriarchy, hetero-normativity, and phallocentrism – or male-centeredness, to be simple – describe a world view in which the male occupies a hallowed place in human civilization. Pseudo-scientific, religious, cultural, moral, and biological attempts to justify this gender hierarchy have held sway over millennia.<sup>9</sup> As a result, discrimination and privation has been the lot of the majority of the world's women. Not even formal equality and abstract autonomy, the two key tenets of liberalism, have sufficed to combat the deep seat of gender bias and misogyny. Africa's patriarchal cultures mirror others elsewhere in the world, although they are exacerbated by the continent's underdevelopment and its grinding impoverishment in an unforgiving global economy. Nevertheless, progress on limiting the cancer of the patriarchy and ultimately eliminating it in Africa is both a conceptual and material task.

But this is a task that is easier said than done. Social transformation is an arduous task. But taking a cue from CEDAW, we can identify several starting points. One cannot overemphasize the importance of early learning in the home. Children initially learn through mimicry and the modelling of those within the home. To raise new men – and women – it is absolutely essential that what is learned at home in the early stages of life is not misogynistic. Keep in mind that both men and women can teach misogyny. This is the first line of defence against the patriarchy. It is important that parents, if they

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8 Makau wa Mutua, "The Ideology of Human Rights," 36 *Virginia Journal Of International Law* 589 (1996).

9 Sylvia Tamale, *When Hens Begin To Crow: Gender and Parliamentary Politics in Uganda* (1999). Westview Press, Boulder Colorado



are more than one, model the right behaviour in the home for children. This early consciousness about the sharing of labour in the home, the relationships between the genders in the family, and the absence of pre-conditioned male dominated hierarchies within the home is likely to create more gender sensitive progeny. But this begs the question. Where do parents get gender and political awareness that allows them to transmit those values to their offspring? This, I believe, is fundamentally an obligation of the state to create an educational system that forges a citizenship that is averse to misogyny. This requires a curriculum and an instructional faculty in primary and secondary schools that is designed to transform the individual. Waiting to develop a different citizen after these stages is an often futile exercise. NGOs and intergovernmental organizations such as UNESCO and the UN High Commissioner for Human Rights can play important roles in curriculum conception and teacher training in gender and human rights. There is new scholarship on masculinities that opens a dialogue on how to create a better man devoid of the hatred of women.<sup>10</sup> In my view, changing worldviews at the earliest stages of human development will be key to reformulating our understanding of sexual and gender-based violence.

But this alone will not suffice. The society as a whole needs to undergo a catharsis about women as human beings, and not objects of sex or work. Societal stereotypes which are based on myths of misogyny need to be combated at various levels. For example, there is no reason why women's rights work is seen as the preserve – or responsibility – of women's rights organizations. In Kenya, for instance, FIDA and the League of Kenya Women Voters have been tagged as the groups invested with this mandate. Many other human rights organizations have marginal programs on women's rights. Even when so-called mainstreaming of women's rights was all the rage, nothing fundamentally different happened. It was a song for donors without a political commitment. What we realize today is that women's rights have to be explicitly part of the agenda of every civil society organization. But beyond that, the state in all its iterations must address women's rights. This means the full inclusion of women in its political, economic, judicial, and bureaucratic structures so that they are not aliens in decision-making where laws and public policies are determined. In other words, the entirety of society must be engendered.

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<sup>10</sup> Athena D. Mutua, ed., *Progressive Black Masculinities* (2006) Routledge Press, New York.

Finally, it is not possible to reconceive women without unpacking the myth from fact about sexuality, gender-based violence, and womanhood in a cultural, legal, social, and political context. In most cultures, including African ones, the woman is viewed primarily as a sexual object for the pleasure of the man. It is not an extreme view to state that many cultures see women as akin to property for possession by men. In such cultures, women's bodies and their sexualities are not the preserve of the individual, but of the community and the man. In Uganda, for instance, these dehumanized conceptions of women result in rape, defilement, and various brutalities against girls and women.<sup>11</sup> In other cultures, even the concept of rape may not exist within marriage, or outside of it, and sexual assaults and other forms of gender-based violence are blamed on the victim. How does society re-educate men – and sanction them when they deviate – to understand that women's bodies are not chattel? Many laws on the books either condone sexual stereotypes, men's control over women's bodies, or proscribe the ability of women to control their own sexuality. To transform these deep-seated and utterly backward universes will require new constitutional and legal orders, a judiciary and state with the political will to stand up for women, and inclusion of women at all levels of social and political engagement.

## Unpacking Sexual and Gender-based Violence

In the history of civil conflict and wars, the most vulnerable populations are usually women, girls, and the elderly. However, only women and girls are targeted for their gender. In the most recent conflicts in the former Yugoslavia, Rwanda, Darfur in Sudan, the Democratic Republic of Congo, Iraq, Afghanistan, and even in Kenya after the disputed elections in 2007, women and girls have borne the brunt of the atrocities. This is often the case even though women and girls are rarely direct participants in the conflicts, or the bearers of arms. Since women are regarded as property in many cultures, violating them is seen as a diminution of the men who "own" them. That is how women and girls become weapons of war and for which men fight over. This view of the woman as the appendage of the man has deep rooted basis in religion and traditional notions of nationalism. Imagine, for instance, the biblical story of the woman as having been created out of a single rib of a man!

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<sup>11</sup> Sylvia Tamale, "How Old is Old Enough?: Defilement Law and the Age of Consent in Uganda," 7 *East African Journal of Peace & Human Rights* 82-100 (2001).

Antiquated notions of masculinity and nationalism still hold sway in forging misogyny. In the case of the former Yugoslavia, for example, Serbians sexually violated Bosnian Muslim women with a view to committing genocide. In one particularly chilling incident, Serbs carried out a massive rape of as many as 20,000 Bosnian Muslim women.<sup>12</sup> Todd Salzman characterized the violations as “an assault against the female gender, violating her body and its reproductive capabilities as a weapon of war.”<sup>13</sup> He traced the genesis of these atrocities to a Serbian culture that usurps the female body and reduces the woman to “her reproductive capacities in order to fulfil the overall objective of Serbian nationalism by producing more citizens to populate the nation.”<sup>14</sup> According to him, this view of the female body is deeply rooted in Serbian culture, the Serbian Orthodox Church, and Serbian official policies. This view of the woman is analogous to some African cultures in which men who are HIV positive defile virgin girls to “cure” themselves. Obviously, infecting the girls is unimportant to them, as long as it “cures” the men.

Sexual and gender-based violence in Sierra Leone, Rwanda, and now in Darfur is a sadistic impulse on the part of the perpetrator, and is intended to psychologically “kill” the victim. Frequently, the sexual predator actually physically kills the victim. This certainly was the case in Rwanda, as demonstrated in the famous Akayesu case before the International Criminal Tribunal for Rwanda.<sup>15</sup> In that case, it was clear that Hutu attackers targeted Tutsi women and their bodies as an instrument of genocide. The same has been largely true of the atrocities of the Janjaweed in Darfur. However, what has been so disturbing is that public outrage and international opinion still fails to understand the gender dimensions of genocide – that women are targeted at several levels as a racial or ethnic identity in addition to the fact of their gender. This failure to centre gender in the understanding of sexual violence erases women from the face of genocide and treats them as non-existent. As a result, responses to women as such are few, if any. This means that women who survive sexual and gender-based violence have no place to turn for their traumas. Their communities often regard them as

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12 M. Cherif Bassiouni & Marcia McCormick, *Sexual Violence: An Invisible Weapon of War in the Former Yugoslavia* (1996). International Human Rights Law Institute, De Paul University College of Law.

13 Todd A. Salzman, “Rape Camps as a Means of Ethnic Cleansing: Religious, Cultural, and Ethnic Responses to Rape Victims in the Former Yugoslavia,” *20 Human Rights Quarterly* 348, 349-52 (1998).

14 *Id.*

15 *Prosecutor - v - Akayesu*, Trial Chamber, International Criminal Tribunal for Rwanda, [1998], Case No. ICTR-96-4-T <http://www.ictor.org/ENGLISH/cases/Akayesu/judgement/akay001.htm>

“damaged” and official transitional justice institutions have generally had little to offer.

## **Legal, Political, and Strategic Responses**

It is clear a full frontal approach to the problem of sexual and gender-based violence is indispensable to understanding and addressing the problem in whatever transitional justice vehicle is chosen by a country. A number of responses should be contemplated because of the multifaceted nature of the problem. For instance, criminal sanctions against perpetrators are necessary, even in the context of a truth commission. Thus adjudicatory responses form one of the core vehicles. We should keep in mind that adjudication has several purposes – these can be punitive, deterrent, compensatory, or correcting a historical wrong. They can also be civilizational. Some of these focus on the perpetrator, others on the victim or survivor. But others can and should be rehabilitative – that is, seeking to heal the traumas of victims and survivors as well as their families. Here, one of the purposes is to ease the reintegration of the survivors and their families back into society. Sometimes truth telling and public acknowledgement will play a role in this process.

Whatever strategies are employed, it is essential to have a legal and policy framework for addressing these societal deficits. It is clear to us that the law – itself a product of the patriarchy in virtually all states – is woefully underdeveloped in dealing with sexual and gender-based violence. This is doubly the case in the wake of civil conflicts and wars where the fabric of society has been badly damaged or even decimated. Imagine that in peacetime it is virtually impossible to get most societies to deal honestly with sexual and gender-based violence. This is true whether such abuses take place within the home or outside of it in the workplace or other locales. The machinery of the state and law enforcement has never been eager in any society to interrupt the lives of perpetrators. This means that civil society must work extremely hard and remain vigilant to make sure that the requisite laws are passed and that enforcement authorities do their job.

The law has not been a great friend to women. Take for example, the international criminal law in this area. Both the statutes of the Yugoslav and Rwanda tribunals did not exactly centre sexual offences in their

frameworks, although they recognized rape as an egregious offence. That is why the Akayesu opinion, which is a path-breaking ruling in terms of making international law, is so important. It recognized for the first time in such a tribunal the seriousness of rape and other sexual offences in the context of conflict and war as an element of genocide and crimes against humanity. Why it took so long for an international tribunal to make such a critical finding is ample demonstration of the blindness of international law to gender. This is a blindness that is directly lifted from municipal laws. It is this lacuna that has to be filled at the jurisprudential level if sexual violence is to be addressed seriously.

One of the major challenges for any transitional justice vehicle is finding the facts about sexual and gender based violence. Often, the victims may not report such abuses, even to truth commissions. This was the case with the South African truth commission. Women either refuse to come forward, or minimize their own suffering, when they do. As Priscilla Hayner has written:

*Even with a flexible mandate and the intention of fairly gathering information about all patterns of abuse, a commission [truth] may well fail to document certain widely experienced abuses. Perhaps the most commonly underreported abuses are those suffered by women, especially sexual abuse and rape. Many commissions have received far less testimony about sexual abuse than in the numbers or proportion that they suspected took place.<sup>16</sup>*

This is both a political, cultural, and legal problem. Societies in transition need to de-stigmatize sexual and gender-based violence so that women can come forward to report such atrocities. A number of approaches, such as testimonies given without revealing the identity of the victim may yield better results in more conservative societies. In other cases, women statement-takers may be more successful than their male counterparts in getting information out of survivors. Whatever the case, it is important that transitional justice mechanisms be victim-centred in sexual and gender-based violence situations. Otherwise, women and girls will stay away because they will feel that they are a means to an end they do not understand or

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<sup>16</sup> Hayner, *Unspeakable Truths*, supra note 1, at 77.

endorse, or are pawns in a larger political game. There is no substitute for making sure that reparatory measures are put in place to assist victims and to raise public consciousness about the problem. This is true no matter what transitional justice vehicle is adopted. Ultimately states and societies in transitional justice contexts need to arrive at a high national consensus or convergence on the importance of tackling sexual and gender-based violence otherwise nothing much will happen.

## **Conclusion**

The invisibility of sexual and gender-based violence in society in general, and transitional justice contexts in particular, is intrinsically bound up with the invisibility and marginalization of women in public life. Until societies decide that women are as important as men – and that human dignity means dignity for all genders – the failure to take seriously and address sexual and gender based violence will persist. Unfortunately, this means that the fundamental reforms that societies emerging out of conflict or war need will not be thoroughgoing. A society's progress can be measured by the way it treats women. That's because patriarchy – the source of most subordination – thrives on the exploitation of the female gender. If transitional justice is to become a bridge to the society of the future, it will have to centre the rights of women in its agenda.

# Sexual and Gender Based Violence in CAR, DRC and Sudan:

## The Limits and Possibilities of Transitional Justice

*By L. K. Bosire*

In considering the wars in the Central African Republic (CAR), Darfur, and the Democratic Republic of Congo (DRC) where the use of sexual and gender-based violence (SGBV) is widespread, this paper seeks to accomplish two tasks. The first task is descriptive: to give an overview of the manner in which the International Criminal Court (ICC) has responded to SGBV in the three countries. The second task is a modest attempt to analyze why SGBV continues to be inadequately addressed. Here, the paper considers the practical challenges that are inherent in transitional justice as a tool, particularly in its preference of some harms and narratives over others. The paper also considers the conceptual challenges that come with understanding SGBV itself, in particular the implications of a focus on sexual violence over other forms of violence and that of a focus on women over other feminized identities. The paper concludes with the suggestion of some useful debates for the consideration of scholars and practitioners, including the possibilities of a consideration of rape as torture, and the ramifications of focusing on criminal outcomes of political crises, to the neglect of necessary political solutions. In sum, the paper offers that transitional justice can only make a modest contribution to addressing SGBV, and that complex political crises underlying and causing violence must not be left on the wayside as we advocate around the criminal symptoms.

## **Part 1: Transitional Justice Responses to Sexual and Gender Based Violence**

### ***Central African Republic (CAR)***

Between October 2002 and March 2003, CAR President Ange-Félix Patassé invited the forces of Jean-Pierre Bemba, the Commander in Chief of Mouvement de Libération du Congo (MLC) to fight a rebel movement led by François Bozizé, the former Chief of Staff of the CAR army. In February 2003, International Federation for Human Rights (FIDH) referred the case to the ICC, following an extensive field mission to the conflict-affected areas where they found widespread rape, particularly from the forces of Bemba.<sup>a</sup> A key feature of in the CAR conflict was the high reported number of victims of rape. Under the presidency of Bozizé, who won the war, the highest court in the CAR determined that they would not be able to address the rape cases. In December 2004, the CAR government made a state referral to the ICC. According to the Office of the Prosecutor of the ICC (OTP), CAR became *the first time the Prosecutor ... open[ed] an investigation in which allegations of sexual crimes far outnumber alleged killings.*<sup>b</sup>

Evidence was compiled by local women's groups, which documented over 1,000 cases of rape. An organisation of victims kept a registry of the violations while providing support to the victims of sexual violence, sexual slavery and forced pregnancy. Once the ICC decided to open an investigation into the CAR in 2007, this evidence was handed over. The ICC subsequently deemed 600 of the reports on rape valid, and determined that they could establish from them a pattern.<sup>c</sup> In 2008, the ICC issued arrest warrants for Bemba, for charges including rape, particularly for violations committed in an area called PK 12 and in the town of Mongoumba. Bemba was also charged with committing outrages upon human dignity/ humiliating and degrading treatment in the same locations.<sup>d</sup> *"Mr. Bemba's arrest is a warning to all those who commit, who encourage, or who tolerate sexual crimes," said the Prosecutor of the ICC, Mr Luis Moreno Ocampo.*<sup>e</sup> Ocampo went on to say:

*There are no excuses for hundreds of rapes. There are no excuses for the rape of a little girl, with her parents watching. There are no excuses for commanders ordering, authorizing or acquiescing to the commission of rapes and looting by their forces.<sup>f</sup>*



*This arrest was significant for impunity on at least two levels. First, by arresting the former vice-president of DRC and leader of the country's opposition, the ICC was making a statement about how high it could go.<sup>9</sup> Second, for NGO observers, this was a crucial case in centralizing sexual violence in international justice. Many observers had started to fear that non-prosecution of sexual violence was leading to a situation where rape was "perpetrated by civilians such as demobilised child soldiers, who saw rape occurring habitually," resulting in a communities in which rape "permeated into a pattern of conduct in the population".<sup>h</sup> With the case of Bemba focusing on rape, advocates against SGBV saw light at the end of their tunnel.*

### **Darfur**

SGBV violations in Darfur are at least two-fold. First is the abuse by the government forces and the Janjaweed against women and girls, and second are the failures of the laws governing rape, which amount to further abuse: rape is charged as adultery, and therefore those coming forth to report rape are in danger of further victimization, unless they have witness of "four competent men", a requirement that can be hard to fulfil.<sup>i</sup> In a report done by Refugee International (RI) in 2007, it was reported that not only was rape wide-spread in Darfur, but the government did not acknowledge its existence. For instance, President Bashir was on international media declaring that "it is not in the Sudanese culture or in the culture of the people of Darfur to rape. It doesn't exist."<sup>j</sup> This happened at the same time as MSF reported treating hundreds of women for rape in Darfur.<sup>k</sup> In March 2007, RI reports that 2 women were sentenced to death by stoning because of adultery. They advocated against the conflation of rape and adultery arguing that it was not an inherently Muslim approach, citing Pakistan where the law had been reformed to allow for such a differentiation.<sup>l</sup> In her March 2008 report, the UN Special Envoy for Sudan also found that rape continued to be widespread in Darfur, and that there was reluctance on the part of victims to report to the police.<sup>m</sup> State military functionaries are immune from prosecution. Victims also lack services, and are unwilling to go to NGOs to receive them: in the atmosphere of strong regulation by the government over the NGOs, victims are suspicious about the neutrality of the NGOs serving them.

The ICC includes rape as part of the charges in the arrest warrants of **Ahmad Muhammad Harun ("Ahmad Harun")** and **Ali Muhammad Ali Abd-AL-**

**Rahman (“Ali Kushayb”).**<sup>n</sup> Both warrants include two charges for rape, both as crime against humanity and as a war crime. The first charge is for the rapes of Fur women in Bindisi and surrounding areas on 15 August 2003. The second count of sexual violence is for the rape of at least 10 mainly Fur women and girls from Arawala town in December 2003 constituting both a crime against humanity and a war crime. They are also charged with contributing to outrage upon the personal dignity of the same women. Considering that the arrest warrant of Ali Kushayb has 50 counts and that of Ahmad Harun 42, the two counts of rape are thin charges, but they are there. Again, a hopeful sign for advocates about the possibilities of international law in addressing SGBV.

### ***Democratic Republic of Congo***

Of the three cases, rape in the DRC has been by far the most visible. UNICEF says that it happens at *“a scale and brutality unparalleled elsewhere in the world.”* Women get traumatic fistula after rape is perpetrated with objects including guns. Girls carry colostomy bags because of destroyed internal organs. Particularly in Eastern DRC, organizations like Human Rights Watch have documented many atrocities, and there have been a large number of reports, books and advocacy efforts focused on the subject.<sup>o</sup>

However, the DRC is the case where perhaps there has been most dissatisfaction so far with regard to bringing accountability for rape. For instance, the charges against Thomas Lubanga did not include rape, and Radhika Coomaraswamy, the UN Special Representative on Children and Armed conflict, presented an amicus curiae to the ICC asking them to interpret the recruitment of child soldiers to include sexual violence suffered by abducted girls.<sup>p</sup> She urged the court to *“reject”* an interpretation of the *“using [children] to participate actively in hostilities”* clause that excluded girls, citing the fact that the Cape Town principles recognize as child soldiers the girls *“recruited for sexual purposes and for forced marriage.”*<sup>q</sup>

In *The Prosecutor v Germain Katanga and Mathieu Ngudjolo Chui*, the charges on the arrest warrants include sexual and gender based violence. The two are charged, in particular, with the planning and executing an attack aimed at wiping out the village of Bogoro on 24 February 2003, including rape and sexual slavery of women in that village.<sup>r</sup> Hearings to confirm the charges for which the prosecutor seeks to hold the two accountable started on 27 June 2008. This case so far has demonstrated some of the shortcomings of

the international platform of international justice in addressing rape. In late May/early June 2008, IWPR reported that the sexual charges against the two would be scrapped due to contention over how to protect the witnesses whose testimonies would have backed up the charges of sexual violence, provoking outrage amongst activists.<sup>5</sup> The issue of the protection of witnesses - in particular whether the ICC could practice “preventive relocation” for prosecution witnesses, is a discussion between the VWU and the OTP that is still ongoing.<sup>†</sup> The witness’ testimony was later accepted after they came under the protection of the ICC protection system.<sup>u</sup> But the fact that international legal procedures can cause such potential hiccups informs SGBV advocates that the ICC will not be the panacea.

## **Part II - Limits of transitional justice in addressing SGBV**

The paper so far has outlined the efforts to address rape from a judicialized perspective. A broader analysis of TJ and SGBV demonstrates challenges arising on at least two levels: a practical level and a conceptual one.

On the practical level, challenges arise from the inadequacies of TJ as a tool to address SGBV. At the level of formal, international justice described in the three cases, only a handful of people will be brought to trial, as part of what Bells calls a paradox of attenuated justice that seems necessary at moments of transition.<sup>v</sup> Further, SGBV crimes may not be central to the charges in these perpetrators’ cases. International Justice takes into account the greatest crimes, and SGBV is seldom considered in that package. The case of Bemba signals a hopeful direction, but the fact that the Lubanga case did not consider that some children might be recruited for sexual purposes is a drawback. Focusing attention away from international justice to regional, hybrid or even domestic justice mechanisms reveals that variations of same challenges are replicated. Kelsal and Stepakoff demonstrate in their work on Sierra Leone that women may have been psychologically harmed by the manner in which women’s stories on sexual violence were silenced, for the benefit of the “*integrity of the proceedings*”.<sup>w</sup> Formal justice at the national domestic level, while arguably capable of processing more perpetrators, has many challenges that have been adequately addressed elsewhere. At the formal level, transitional justice becomes a national (or international) project and not a moment of individualizing harm and privatizing it.<sup>x</sup>

Informal, or restorative justice, is offered as the alternative framework for seeking justice for SGBV, since here accountability is locally defined and understood. However, measures like TRCs are not without their problems. Conceptually, restorative justice focuses on “restoring,” while for most women, a restoration to normalcy would mean giving up the “perverse equality gains” achieved by women at moments of transition, and a return to inequality.<sup>y</sup> In a practical example, Rosser shows the shortcomings of the Historical Clarification Commission of Guatemala in narrowly conceptualizing sexual violence and leaving out “reproductive” crimes.<sup>z</sup> Some restorative justice measures have inequalities embedded into them, as Allen has shown with regard to Uganda.<sup>aa</sup> Further, these alternative justice measures themselves can have different priorities from those held by private individuals. Others have argued that the ways in which women understand harm; and the manner in which harm may be defined by various transitional justice measures may be different. Women may much prefer to focus on secondary effects of violence, while transitional justice defines the primary.<sup>ab</sup>

Some conceptual challenges in addressing SGBV arise from the very understanding of the content of SGBV, and consequently, can impact the appropriateness of the tools chosen to address it. In other words, the problem must be well understood in order for the right tool to be applied to it, and the challenge is that there is no consensus about the nature of the problem.

Some scholars have expressed a worry that the focus on sexual violence can draw attention away from other areas of violence in women’s lives. According to Nesiah, a focus on SGBV can hide other important facets of women’s experiences from view. Such neglected experiences may include “internally displaced women, women who became sole breadwinners as a result of human rights abuse against spouses, women refugees who fled to other countries, or women prisoners.”<sup>ac</sup> In other words, in writing into the transition story the oft-neglected story of SGBV, we write out many other women’s experiences. Nesiah adds:

*While sexual violence is critical, it does not capture the complex and multidimensional ways in which women experience abuse. Moreover, reducing women’s violations to sexual abuse reproduces more widespread prejudices that reduce women to sexual beings alone.<sup>ad</sup>*

In her view, there is a risk that the stories of rape are appropriated for activist agendas, reducing complex women into “*just points on a graph that will help us buttress statistics about sexual abuse.*”<sup>ae</sup>

A second conceptual challenge is offered by Skjelsbaek, who argues that sexual violence is not related to intrinsic male or femaleness. She also and rejects theories based on “*essentialist*” claims of rape as stemming from militaristic masculinity that targets all women or some women.<sup>af</sup> Instead, she considers sexual violence to stem from constructed power relations, where some groups are feminized and others masculinized. She offers that the association of femininity and victimization is inevitable, so that men, ethnic groups, and other identities in a war zone are feminized and ‘*othered*’, while the rapist is masculinized, even men can be raped. Such a construction can help us understand why men can be raped and why female soldiers can be instrumental in the capture and subjugation of younger women in combat zones. In this view, then, responses that assume that it is women who are targeted rather than feminized groups, are bound to be misapplied.

### **Part III – Concluding Considerations**

The discussions in Part II above illustrate that our challenges are not only in a quest to make transitional justice measures deliver, but also in defining the contours of the problem for which we are mobilizing the transitional justice response. But for the purposes of the practical activist, these debates are incomplete, since they do not provide guidance for one who wants to understand why SGBV elicits such faint responses and what needs to change in order for the problem to be tackled robustly. Here I suggest some discussions that may be more helpful.

The first would be a debate on how to rescue SGBV from the realm of ‘*soft*’ law in which most issues affecting women tend to fall, and into ‘*hard*’ law.<sup>ag</sup> We know that some scholars have raised the issue of rape as torture.<sup>ah</sup> Perhaps the rise in attention to the use of guns and other objects to rape women (and men) as we have seen in Eastern Congo, where the outcome is physical and visible - young girls are walking around with colostomy bags and traumatic fistula because of destruction of internal organs - makes this case more strongly than “*traditional*” rape. What is the status of this debate on rape as torture, if there is one? Why has there been no active effort to have rape be

thus recognized, in order for it to fall under the Convention against Torture, with the benefit of the Convention's robust sanctions? What would need to be done for such recognition to be given, since it is possible that seeking such recognition would be a more useful direction to apply energy than to yet another document or declaration, or any other 'soft law' condemnation?

The second necessary debate would be on what sustainably addressing of SGBV might look like. In advocacy, is it possible that focus on SGBV leads to a decoupling of the criminal outcome from the political conflict from which it originated, even when it is clear that addressing the political conflict is what will sustainably address the needs of vulnerable populations? Further, given the high stigma for SGBV and the fact that reintegration of victims back into their communities can be one the hardest processes, is it possible that singling out victims of rape for the purposes of redress as understood by the international community, can be disrupting, unless coupled with strategies to support community reintegration of the affected women? On the realm of practical action where advocates capitalize on the victimization of rape to pursue a (necessary) agenda of redistribution and the economic empowerment of women, do we have empirical evidence of how such redistribution is causally related to sustainably addressing SGBV in conflicts? This is not to say that the "*symptoms*" should not be addressed. But we have a challenge when all advocacy efforts assume they are inherently beneficial, while they may be decrease rather than increase the agency of affected women. Further, it is possible leave the political problem on the wayside, or worse, for advocacy to become an act of "*doing something*", a substitute for a political solution.

The last point is that we must also debate – and soul-search- on whether the focus on rape and other criminal outcomes of these political processes criminalizes African wars (and makes them deserving of courts and policing rather than robust diplomacy and political settlements), feeding into an image of Kaplan's 'Coming Anarchy'. The problem of rape needs to be solved, but the solution is not another condemnatory declaration. What are the triggers of meaningful action, who are the people at the helm of that trigger, are they being engaged? It might be that activists need to be pitching their tents outside the doors of the political actors who must resolve the conflict, while also looking to formal and formal accountability processes to make modest contributions to the problem. It means that the paths taken by

advocates have to provoke and demand that things be different, especially at the level of politics.

I raise these issues not to distract us from the advocacy goal of drawing attention to rape of women, but as a way to point to gaps where scholars and practitioners must engage. At its most modest, transitional justice can be taken to be a process that can help populations to re-imagine the possibilities of citizenship and democracy, bringing into the picture those who have been outside the reach of the state. This is particularly the case of women who have experienced SGBV, who, through transitional justice debates, can be allowed to see themselves as citizens owed protection by the state debate. Beyond that, as discussed above, transitional justice has major shortcomings when it comes to addressing SGBV. Academic and practitioner debates too have left many questions unaddressed. While action is important, such action must be considered within a broader picture, and this broader picture is messy and political, but it cannot be ignored.

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# Security Sector Reforms For Managing Sexual And Gender Based Violence

*By Dr. Annie Barbara Chikwanha*

*Security sector institutions are so thoroughly grounded in institutionalized militarised masculinity that gender training merely dances on the edges, offering little challenge to the overall ideology, structure and practice of these organizations. Thus gender training can give an illusion of progress, but nothing really changes. (Beth Worounik 2007)*

## Introduction

### Security Sector Governance

We have been witnessing a paradigm shift (though a slow one) from the notion that security policy is a preserve of those with the technical competence in terms of articulating, strategizing and implementing policies. This shift has resulted in civil society groups and parliamentarians amongst others increasingly exercising their citizenship rights through carving out space for themselves to review and monitor their respective states' security sectors. This makes up part of what is called security sector governance. If governance is taken to mean the manner in which decisions are made and implemented, the paradigm shift that has been occurring within the security sector has thus seen more actors being involved in the decision making process. Democratic governance of the security sector demands civil control as a basic standard which includes a civilian secretariat and parliament. However, it is essential to be cautious since the presence of many actors can make Security Sector Governance quite complex since having too many policies/players can often be as good as having none.

It is important to emphasise that Sexual and Gender Based Violence (SGBV) does not only arise out of war but is a reflection of continued inequality and

injustice women suffer during peace (Worounik undated). Many of the noble efforts to combat SGBV have remained unconnected and very often there are parallel initiatives that do make a big difference to those they reach. But to achieve an effective, systematic and coherent global response to the problem, it is essential to pull together all these efforts and this can be partly achieved by drawing in the security sector through designs that weave in a gender sensitive thread throughout.

What then is SGBV? SGBV is the specific violence directed at women and sometimes children in both the public and private spheres of life. It embodies physical and emotional harm and all threats to inflict deliberate harm on women. Many forms of abuse thus fall into this category: rape, sexual enslavement, assault, denial of basic provisions, confinement, harassment, over work, forced pregnancy, domestic violence and verbal abuse. These are aspects of SGBV that women suffer all over the world. According to UNIFEM, 1 in 3 women has suffered one or more aspects of SGBV and normally so at the hands of an intimate partner.

There are many forms of *'violence'* that do not necessarily involve conflict and just as with conflict situations, women are still at the receiving end. There are cases when victims of oppression are not in a position to resist or fight back as with political (or ordinary) prisoners, members of the public who suffer at the hands of those in possession of the state's coercive instruments and then there are those who are vulnerable simply because of their gender. Gender violence is exacerbated by the absence of effective security provision for the vulnerable groups. Evidence from a World Bank study conducted in 60 countries and including about 60 000 people revealed that insecurity and vulnerability are the priority concerns of the poor. The report revealed that poor people, especially women and children feared persecution by the police, and they cited lack of justice, civil conflict and war as key sources of insecurity. UN reports have documented examples such as the MONUC civilian and military personnel who were accused of 150 cases of sexual exploitation and general abuse of civilians in the DRC (Mulgavh et al 2005)

What then are the security policies and programmes in many African countries attempting to achieve? We are all aware of the plethora of conventions/protocols/policies that are designed to protect women but we are forced to ask: *"How do they impact the different sexes and what is their potential to*

*protect women?"* There are also a lot of policy innovations to reduce and eradicate violence against women, plausible public demonstrations of political will by the political leadership and a lot of rhetorical techno speak as well. This then forces us to ask: Where do things go wrong? There is consensus on gender mainstreaming in legal documents, policy statements, institutions and organizations within the global governance arena and yet only the state security sector gets the entire pie when it comes to budgetary allocations for 'security'. If policies are framed and assumptions made that the relevant institutions will act on implementing the policies, then where is the will lacking? And does *'The Responsibility to Protect'* really include women?

Security is always a priority concern for the poor and the marginalized and it affects different groups in different ways and state security decisions rarely take into account women's needs. Women's organizations, because of capacity and organizational problems, rarely enter into discussions let alone lobby for greater or better security provision. Much of the advocacy work is on policy changes yet without requisite security sector reforms policies become impotent. When security diminishes, children and women become the most vulnerable to the predatory nature of security forces. Insecurity disrupts lives, affects social capital networks of the poor which they rely on as a safety net in times of crisis and it generally affects well-being, retarding progress in all dimensions. Violence against women (domestic) and the fact that many wars are fought on women's bodies, (rape during wars) means that their voices are crucial and critical for reforming the security sector. The question is: *"without a critical analysis of the security sector's attitudes towards gender violence how can the sector reform desirably?"*

Civil society has been involved in implementation, awareness raising, dissemination of policy implications, capacity building and monitoring socio-economic and the gender impact of policies. Among the most important avenues is the International Great Lakes Region Conference call for symbiotic partnerships between governments and civil society's organisations towards implementation of the 10 protocols cutting across Democracy, Gender, Peace and Security, and Development. All these themes are indicators of security governance and *'enabled roles'* of civil society but we are forced to ask: Where are the voices of women in security governance? These questions point to the aims of this paper: to argue for the reform of the security sector in the fight against SGBV.

## **Security Sector Reform (SSR)**

SSR is a holistic approach that emphasizes the interconnectivity of the security sector: military, police, immigration officials, intelligence services, justice, penal systems and government bodies that monitor and manage the security sector. Then there are also civil society organizations, the media, private military companies and non-state armed actors (Valasek 2007). The latter two institutions tend to have powers that are above the law (Sanam and Conaway 2005). They have at times been used as instruments of the state used to oppress the citizens and have in many cases, contributed to the militarization of the state. It is thus clear that reforms of this sector are crucial for enhancing good governance and promoting peace. Key actors in the security sector are journalists and policy makers who both have the ability to influence and address gender security issues and create visibility that could push for the prioritisation of gender issues in the security sector. The term is usually applied in post – conflict situations and this has led to a neglect of the security sectors in both developing and developed countries and in transitioning democracies. Still, it is critical in post –conflict building to prevent the recurrence of conflict, to enhance public security and lay the foundation for reconstruction and development (Bastick 2008).

Sanam and Conaway have come up with four categories that explain the anatomy of the security sector. These are:

- (1) groups possessing authority to use force – military, police, paramilitaries and intelligence services;
- (2) institutions that monitor and manage the sector- government ministries, parliament and civil society;
- (3) structures responsible for maintaining the rule of law- judiciary, ministry of justice, prisons, human rights commissions, local and traditional justice mechanisms;

and we can add a 4<sup>th</sup> group;

- (4) non-state actors like armed opposition movements, militias and private security firms

The two further map out four dimensions of SSR as follows:

- (1) the political dimension which is based on the principle of civilian control over military and security bodies
- (2) the institutional dimension –which caters for the technicalities requisite for organizations to function- structures, staffing, equipment
- (3) the economic dimension – which is about the finances of security activities and
- (4) the societal dimension -which spells out the modalities and creates space for civil society to scrutinise policies and programmes

The importance of these dimensions is that any reform process has to start with dialogue amongst all the stakeholders- public, parliamentarians and security agents themselves. Usually, SSR plans are part of peace agreements with details usually worked out later and as we have demonstrated time and again, women’s voices are usually absent at these high tables. It is essential to note that much of the SSR in Africa and Defence Reforms in particular are influenced to a large degree by foreign actors. For example, the British Military Advisory Training Team (BMATT) drove the process in Zimbabwe, South Africa and Namibia, DynCorp in Liberia and the ***Department for International Development (DfID)*** in South Sudan and Sierra Leone. This underlines the importance of state capacity. Lack of state capacity creates space for foreign run SSR resulting in a lack of local ownership and a neglect of the security concerns of the local population which never come to the table. For instance, the current Liberian reforms –the training paramilitary brigade is modelled on the United States Special Forces when really the need is for basic policing and border security.

### **Institutional framework for addressing SGBV**

Concrete steps to implement the involvement of women in conflict resolution and declarations have remained wanting. For instance, the *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979)* calls on states to eliminate all obstacles to women’s involvement in decision making and the continuation of SGBV is one such obstacle. It covers both public and private acts of violence and sets out recommendations for states to address violence against women, including legal protection, prevention and reporting.

- The *Brussels Call to Action (2006)* clause<sup>14</sup> urges the incorporation of strategies to prevent and respond to sexual violence in disarmament, demobilization and reintegration and in security sector reform processes and ensuring the full engagement of the security sector, including the police and the army to prevent and respond to sexual violence in a sensitive and effective manner. Whilst this action is ideal, it fails to take into account that many African countries fail to domesticate many international protocols. Hence the protocols remain essentially that: international protocols. Without spelling out mechanisms for doing this, governments that struggle with the political will needed to empower women will simply gloss over the suggestions and argue that they already run human rights courses for all security details and that is quite adequate yet in the case of African countries, subsuming women's rights under human rights has stalled the provision of security for women who have extra needs because like children and other vulnerable groups, they experience the impact of conflicts and development differently.
- All the EAC members have obligations to regional security under the *Peace, Security, Good Governance, Economic Development and Regional Integration Stability Pact* for the Great Lakes Region (GLR). Signatories to the 2006 *Comprehensive Pact on Peace, Security and Stability in the Great Lakes Region* pledged to develop joint approaches to HIV/AIDS, women's empowerment, environmental protection and human rights under four main areas and peace and security is one of them. Also, through the *Protocol on Non Aggression and Mutual Defence in the Great Lakes*, countries in the region agreed on the need to renounce the threat or use of force as a means of policy or instrument aimed at settling disagreements or disputes or to achieve national objectives in the Great Lakes Region. This is in line with the *United Nations Charter* and the *Constitutive Act of the African Union*. Furthermore, the *Pact on Security, Stability and Development in the Great Lakes Region* contains the *Dar es Salaam Declaration*, the *10 Protocols*, the *Programmes of Action* with over thirty individual projects, the *Regional Follow Up Mechanism* and the *Special Fund for Reconstruction and Development in the Great Lakes Region*. The *EAC Treaty (1999)*, at Chapter 23, under "*Co-operation in Political Matters*": Articles 123 to 125 spells out the purpose of the

*Protocol* as encouraging common Foreign and Security Policy (ies). Two of the policies have the potential to enforce the provision of security for vulnerable groups: through strengthening community security in all ways and by developing and consolidating democracy and rule of law and respect for Human Rights and fundamental freedoms.

But as we all know, violence against women continues unabated in this region. The Notion of Stability Pacts embodies the philosophy of peaceful resolution of conflicts while abandoning the use of the military instrument and relies upon negotiated, multilateral structures that could serve the interests and safety concerns of women if they are included in such structures.

- The Peace and Security Agenda as set out by the African Union adds more obligations for the states to honour these obligations and invest in an active security sector reforms which can contribute significantly to the consolidation of peace and development.
- The *UN Security Council Resolution 1325*, adopted in October 2000, reiterates the importance of bringing gender perspectives, issues of concern to women as well as men, to the centre of attention in all UN peacemaking, peace building, peacekeeping, humanitarian activities, and rehabilitation and reconstruction efforts. This accounts for the progress made so far with regard to women's participation in post conflict resolution and peace building. But still, it does not point out the need for SSR. Bits and pieces are implied in many of the mandates. Women peace activists worldwide are using *Resolution 1325* as a tool for raising awareness about women's experiences of conflict and for holding local authorities and governments accountable. In 2003, a resolution drafted along the lines of *1325* was introduced in the US Congress. In Israel, Knesset members have introduced a bill based on *1325* as a means of raising awareness about the issue of women's participation in peace and security issues. In Sri Lanka, women peace activists run workshops on '*taking 1325 to the village*' – introducing the resolution to local women and informing them of their rights under international law (Damilola 2008). It is only through such efforts that women can be empowered to make input and raise their voices in urging reforms to the security sector in their countries. Yet in African countries, this usually takes place in post-conflict scenarios.

- At the parliamentary level, security issues are usually handled by Standing Committees on Security and Territorial Integrity. These Committees are normally responsible for issues related to:
  - i. security and territorial integrity;
  - ii. cooperation in matters related to military;
  - iii. declaration and cessation of war;
  - iv. organisation of services related to intelligence;
  - v. immigration and emigration;
  - vi. Military, police and other members of national security service.

Each country's emphasis is on security issues related to state security threats and other forms of insecurity but not necessarily threats to human security. This implies a need to re-examine the whole spectrum of the security sector in African countries.

- Even the *African Charter on Human and Peoples' Rights (1981)* and the *Protocol the African Charter on Human and People's Rights on the Rights of Women in Africa (African Women's Protocol) (2003)* do not concretely provide for full involvement of women in conflict resolution and prevention in Africa. The *African Union (AU) Constitutive Act (2001)* corrected the deficiencies evident deficiencies of the *Charter of the Organisation of African Unity (OAU) (1963)* that did not generally provide for gender equality and the protection of women. At the initial outset, its concerns were with state security for the African states transitioning from colonial to majority rule. Protecting vulnerable citizens and democratising security governance was not a priority then. The AU has since promulgated the *Solemn Declaration on Gender Equality in Africa* which provides that at least 50% of all the members of the Commission of the AU must be women. The issue is whether these noble intentions could be extended to the security sector at the national level?
- Women's rights are captured in the African Regional Human Rights System that is based on the *African Charter on Human and Peoples'*



*Rights (ACHPR) (1981)*. However, the *Charter* is also discredited due to claw back clauses that appear to take away certain rights by placing limitations on them (Mugisha 2008). It is important to point out that the *Charter* only provides for the protection of women's rights in a single article that also provides for the protection of children and the family (Article 18 of the *ACHPR*). Inclusion in governance is not explicit- it is implied in the clauses. The *African Women's Protocol*, adopted by the Assembly of the AU on 11 July 2003 in Maputo, Mozambique, was an attempt to effect the identification, promotion, fulfilment and protection of women's rights in both the private and public spheres and is structured to take care of the specific situation of women in Africa that is imbued with cultural obstacles. Still, the situation of women definitely remains highly vulnerable to human rights abuses even after the coming into force of the *African Charter*. The rights to life, integrity, and security of the woman are still compromised because the *Protocol* omits clauses on rape as a weapon of war in a comprehensive way. And yet in all the conflicts on the continent, including election related violence, have seen the use of rape as a weapon of war and genocide against women. Article 10 of the *Protocol* provides that women should have a right to peaceful existence and states that they have the right to participate in the promotion and maintenance of peace. It advocates their involvement in all structures and processes that are in place for the protection of returnees, IDPs, refugees, asylum seekers and the repatriated. These provisions exist but their incorporation into national policies and action plans is the missing link to achieving dignity for women. Internally displaced women and girls are another special category requiring protection just as much refugees. International Humanitarian Law is applied to these circumstances but still, there are numerous reports of security agents violating the very people they are supposed to protect.

Leroux (2007) emphasizes that security services are a subset of the State and that security is a public good hence the security services use public monies to provide the public good – security. To this end he advocates ten principles of democratic governance in the security sector. Several of these have implications for combating SGBV:

### **Box 1 Ten principles of democratic governance in the security sector.**

- (1) The security forces should be accountable to elected civil authorities and civil society.
- (2) The security forces should adhere to international law and domestic constitutional law.
- (3) There should be transparency in security-related matters.
- (4) The security sector should adhere to the same principles of public expenditure management as the other sectors of government.
- (5) There should be an acceptance of the clear hierarchy of authority between civil authorities and security forces.
- (6) The civil authorities should have adequate capacity to exercise political control and constitutional oversight of the military sector.
- (7) There should be adequate capacity within civil society to monitor the security sector and to provide constructive input into political debate on security policies.
- (8) The political environment should be conducive to civil society playing an active role.
- (9) The security forces should have access to professional training consistent with the requirements of democratic societies.
- (10) High priority should be accorded to regional and sub-regional peace and security by policy makers. (Ball 2004, Leroux 2007)

## **Women's Work and Security**

If the concept of security implies the ability of the state institutions to ensure the protection of all citizens; men, women, girls and boys then perhaps the failure is more noticeable when it comes to protecting women. Women have known for generations that they bear the brunt of wars. It is from this experience that phenomenal groups such as the Mano River Union Women's Network for Peace emerged. A network of women from Liberia, Sierra Leone and Guinea, the group used its local contacts and informed research to expose the arms trafficking networks in the region. This aptly demonstrates the power of women's groups. All regions with raging conflicts are awash with illegal arms and communities can contribute to dismantling these networks of traffickers. Women's groups have lobbied successfully at times, especially through regional organizations, for inclusion in peace negotiations and agreements in many countries that have experienced violent conflicts, Burundi, Somali and Sudan Women's networks, relying on their extensive local, and increasingly, regional

reach, are key allies in building and sustaining vital public support for ongoing peace processes yet their voices are rather silent in reformation of the security sector. Advocacy efforts must be extended to the security sector.

A pertinent question to ask is: *“How many African countries that contribute troops to peace making missions have ratified the Rome Statute of the International Criminal Court?”* 30 countries have ratified and only 12 of these contribute troops to peacekeeping missions: Senegal, Ghana, Gabon, South Africa, Niger, Nigeria, Uganda, Tanzania, Zambia, Congo-Brazzaville, Kenya and Chad. And when we turn back to look at the record of each country in SGBV perpetrated by members of the security forces, we find that very few do not have blemishes at the national level. Ending impunity through strengthening the legal and judicial systems and by providing adequate resources to prosecute perpetrators only works when the entire criminal justice system is sensitive to SGBV. The South African police have been implicated time and again in demanding sexual favours from female victims and perpetrators of crime. The same allegations have been made about the Zambian police. Across all the countries, female prisoners are either raped by people supposed to protect them and/or at times they submit to sexual demands to ease the hardship of prison life. And female police officers in particular are looked down on by their male counterparts as well as by the institutions and are usually hired to fill in the lower ranks.

Women’s organisations have done magnificent work in trying to build up knowledge and capacity to criticize laws that infringe on women’s rights, violate the Constitutional Bill of Rights and discriminate against them. These efforts can be expanded within the state and regionally whilst still maintaining their autonomy from the state. Some of the exemplary initiatives are:

- Rwanda –Women’s Equity in Access to Care and Treatment –a legal programme aimed at training paralegals and medical personnel on rights of persons who have been victims of SGBV-empowerment model
- Uganda –‘Raising Voices’ raising awareness within community based organisations and professional sectors including the police and other law enforcement agents
- South Africa/Uganda - Many efforts have concentrated on community based networks to help survivors deal with the trauma

The issue of concern is that all these countries have been violent hot-spots at some point in their history and measures shouldn't be designed to be reactive. What is needed is a proactive approach that prevents rather than just attempt to cure.

Bernard Mugisha (2008) makes an apt observation that explains how women remain vulnerable to SGBV from all directions:

*In direct relation to human suffering, African women (and to a great extent children) have had the worst of conflict in Africa. Throughout African conflicts, women have been easy targets of abduction, systematic rape and sexual enslavement in Rwanda, the DRC, northern Uganda, Sierra Leone, Darfur and Liberia (among other countries). The patriarchal systems ensure that women remain in a position inferior to men and this perpetuates their vulnerability. The gender relations prevailing in Africa imply that women have to gather firewood, fetch water and seek food even in conflict times. This leaves them exposed to rebels, militia and even government soldiers, at whose hands they suffer rape, enslavement and all other kinds of SGBV.*

## Security Agents' Atrocities on Women

Despite all these frameworks and noble efforts to contain SGBV, security agents are one of the groups that struggle to restrain themselves from violating women's rights.

### *Box 2 Examples of security agents' atrocities on women*

- (1) In the DRC, young girls in the eastern provinces have been repeatedly and systematically raped by both the local militia and in some instances, the peace keepers. Press reported on rape, torture, fathering of peacekeeper babies and the inevitable desertion. Sierra Leone reported registering 6 600 peacekeeper babies in 2002. In many instances, the girls were made to exchange sex for food. Girls in the DRC stated that sex took place sometimes in UN cars and sometimes in the camps! See *The War Within the War: Sexual Violence against Women and Girls in Eastern Congo*. A Report compiled by Human Rights Watch on SGBV in Eastern DRC, 2002, available at; <<http://www.hrw.org/reports/2002/drc/Congo0602.pdf>> (accessed on 18 December 2007) and Elizabeth Ren and Ellen Johnson Sirleaf in *Women, War and Peace: The Independent Experts' Assessment of the Impact of Armed Conflict on Women and Women's Roles in Peace-building* (UNIFEM, 2002) 71

- (2) In Uganda, sex has become a commodity in the displacement camps where HIV/AIDS continues to spread and young girls face a big risk. In these camps infant mortality rates remain very high at 290 per 1000 live births against a national average of 88 and security agents have been implicated in many of the sexual exploitations that occur in the camps (Nannyonjo 2004).
- (3) In the Kashmir conflict in India, it is estimated that between 7 000 and 16 000 women have been sexually assaulted by militant groups and the security forces in the region (UNIFEM 2003).
- (4) Two years after SSR in Sierra Leone, complaints of corruption, insensitivity to gender based violence and unwillingness to investigate rape complaints especially those committed by security agents persist. Domestic violence remains high especially since men can claim compensation from alleged lovers of their wives, in some places. Wives have thus become a commodity husbands can trade for income (Human Rights Watch 2006).
- (5) In Zimbabwe, Human Rights Watch (2006) has documented rapes and sexual assault on women and girls by the 'Green Bomber' Youth Brigades. These youths are usually in camps undergoing 'patriotism classes' and some para-military kind of training. Female opposition leaders have been publicly beaten by the police for demanding democratic rule. On June 16, a large group of demonstrating women (Women of Zimbabwe Arise) was arrested and brutalized by the police.
- (6) Police in many countries are known to persuade parents of sexually abused girl children to drop the charges and negotiate marriage instead or settle for compensation.
- (7) Incidences of incarcerated females being impregnated by prison officials are reported in many countries.

Women suffer in all dimensions during conflict. First, they are victims of conflict and in their victim status, they are very often exposed to sexual exploitation and abused by peacekeepers. This implies the necessity of having women at the forefront of decision-making in the security sector to ensure that perpetrators are held responsible for actions committed against women and children (Damilola 2008).

Through the ICC, the international community does attempt to hold peacekeepers criminally liable for sexual abuse of women and children. The national court systems and the UN also make feeble attempts but there are too many barriers to all these mechanisms. Amongst them is the Temporal Jurisdiction of the ICC, Article 98(2) agreements, the immunities of the UN personnel as specified in the *Model Status of Forces Agreement*; Article 16 of the *Rome Statute* and

the general inability and unwillingness of national court systems to prosecute peacekeepers. In any case, article 5 of the *Rome Statute of the ICC* excludes the category of crimes committed by peacekeepers as they are neither genocide, crimes against humanity, war crimes or crimes of aggression.

Women in confined spaces such as displacement camps or refugee camps are particularly vulnerable to gross human rights abuses especially by government security personnel, Ugandan camps are an excellent example of such abuses that have been documented by many researchers and humanitarian workers.

In some cases, governments fail to update records of deceased land holders such that widows in particular become very vulnerable when the men fight for the deceased's land which, traditionally, should be passed on to the man's family – a stark contradiction to constitutional provisions on equality in most countries. A study in Kenya showed that women are victims of land conflicts over boundaries with neighbours/relatives, inheritance disputes and finally land sales. With access to justice a pipe dream for peasant women in particular, it is not surprising that the majority of those involved in these conflicts opt for informal conflict resolution institutions such as community elders' committees. Unless murder is committed, security agents turn a blind eye to evicted widows as this is a '*domestic issue*' in their *lingua franca* and frame of reference when women need protection. These informal institutions are presided over by men and judgments can only be in favour of the same gender. Other than lack of money to access formal justice institutions, we can safely conclude that these women lack confidence in the criminal justice institutions.

## **The Silence on Atrocities Committed by Private Security Agents**

Private Military Companies (PMCs) have been involved one way or the other in Africa's wars. The scarcity of security services during conflict and the immediate post-conflict period creates a vacuum that is in many cases filled in by PMCs. PMCs are defined as companies that specialise in military skills and their clients are usually governments but insurgents, militia groups and other armed factors can also contract their services (Schulz Sabrina and Yeung Christina 2008). There have been instances of private security personnel, of

both sexes, being implicated in SGBV that includes the sexual abuse of women, men, boys and girls. These instances have been reported in other continents mainly in the Middle East and Asia. And there is a demonstrated historical link between prostitution/sex work, women and child trafficking for sex purposes and the presence of regular armed forces (ibid). Because PMCs tend to recruit from the military and former insurgents, we can safely conclude that these tendencies and practices would also be applicable to their workforce. The range of services they provide bring them into contact with civilians (see box below) and worse still, there are sometimes no restrictions on their movements as with regular soldiers and if they are sex predators, then their prey is always within reach.

### **Box 3 Services Provided by Private Military Companies**

- Military training
- Military intelligence
- Arms procurement
- Combat and operational support
- Humanitarian de-mining
- Maintenance
- Military and non-military support services
- All other services that have been outsourced from the military

However, because of the patronage linkages with politicians in developing countries, PMCs are likely to go unpunished for any criminal acts they may commit. Without an international regulatory framework, other than International Humanitarian Law that can be used to punish SGBV crimes, many atrocities probably go unreported and unpunished in Africa. With the *Rome Statute of the ICC* recognizing SGBV as a war crime against humanity, only lack of political will and capacity could explain the absence of action. With many criminal justice systems struggling to function professionally, PMCs do get away with a lot of injury. Their self regulation through the *International Peace Operations Associations Code of Conduct* and national mechanisms such as the *British Association of Private Security Companies Charter and Code of Conduct* leave a lot to be desired when it comes to gender considerations. As we all know, No policy action is a deliberate policy option. Perhaps men are supposed to do what is only natural to them?

The companies in the box below have all operated in African countries but information on their violation of human rights and especially on SGBV is difficult to come across. This is not surprising as these military outfits are not accountable to the publics that host them. On the contrary, there is information on PMCs SGBV violations operating in other continents as shown next to Dyncorp's reported activities in box 4.

**Box 4 Private Military Companies and SGBV**

Executive Outcomes	Angola/ Sierra Leone
Sandline International	Sierra Leone
Armour Group	Mozambique/Sudan
Betchel Corporation	Democratic Republic of the Congo
Stability Control Agencies	Democratic Republic of the Congo
Brown & Root Corporation	Somalia
GeoLink	Great Lakes Region
Dyncorp International	Kosovo allegations of sexual violations Illegal prostitution and trafficking in Bosnia, frequenting brothels where women were kept as sex slaves
Kellogg, Brown and Root	Allegations of sexual abuse

*Compiled from Gumedze 2007 and internet data*

**Public Assessments of Police Effectiveness and Implications for SSR**

Public opinion data provides valuable information on the quality of law enforcement African citizens experience and also give insight into what the public thinks of some of the criminal justice institutions. The data presented in the table below shows that both males and females show no differences when they express fear of being attacked in their homes. Likewise they are both likely to suffer the same levels of physical assaults. Both genders defer to corrupt police authorities when it comes to paying bribes and over 50% in both categories believe that top officials are likely to evade justice when they commit crimes and yet if they were to commit one, they would face the wrath of the law (90/80% respectively).



However, more females report having difficulties in obtaining help from the police (8.6% difference) and they are also less likely to seek help from the police than men (7% difference). This exposes the attitudes of law enforcement agents to women in need of protection.

**Table 1 Public Opinion on police effectiveness- Pooled data from 18 African countries (%)**

		Nation	Females	Males
How often feared crime in home	Always/many times/several times	21.0	21.1	20.8
How often physically attacked	Always/many times/several times	4.2	4.2	4.6
Pay bribe to avoid problem with police	Once or twice/A few times/often	10.9	10.9	10.9
Enforce law: top official commits serious crime	Likely/very likely	52.6	53.2	52.9
Enforce law: you commit serious crime	Likely/very likely	90	89	90.4
Difficulty in obtaining help from the police	Easy/very easy	34.3	42.9	45.8
Proportion that doesn't seek police services	Never try	18.0	11.4	7.2

*Afrobarometer survey data 2005 [www.afrobarometer.org](http://www.afrobarometer.org)*

Strangely enough, both sexes have similar proportions that give the same reasons given for not trying to obtain police assistance. It is worrying though that respondents reported that they don't need the service (81.6% males/79.5% females). We can read this to mean these can afford to 'buy security' in the private sector or they solve their own problems which gives rise to vigilante justice. Even more disturbing is that some reported that government does not provide it (1%). Though the proportion is small, this is evidence of the skewed nature of security provision in urban areas. And also an average of eight in ten (81.6%) report that the question on seeking police services is not applicable. Since over 70% of the population resides in rural areas, we can deduce that the majority of these resort to traditional justice mechanisms which are yet to be reconciled with the constitutions in practically all African countries.

**Table 2 Why not try to get help from the police (%)**

	National	Females	Males
Missing data	.2	.2	.2
Don't need/use it	12.5	13.8	10.6
Don't know how	1.3	1.3	1.6
Govt. does not provide	1.0	1.0	1.0
No personal connections	.5	.6	.4
Other	2.4	2.6	1.9
Not applicable	81.6	79.5	84.4
Don't know	.6	.7	.4
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>

*Afrobarometer survey data 2005 [www.afrobarometer.org](http://www.afrobarometer.org)*

The good news is that a healthy proportion (average 68.7%) show knowledge of their rights as they report that they would lodge complaints through legal channels if they were wrongfully arrested. Still a good 10% revealed that they would seek influential connections and this signals mistrust of the criminal justice system.

**Table 3 What to Do In The Event Of a Wrongful Arrest (%)**

	National	Females	Males
Missing data	.0	1.0	.0
Don't worry, things will resolve	3.2	3.7	2.9
Lodge complaint through proper channels	66.5	64.5	68.7
Use connections with influential	9.6	9.8	9.7
Offer tip or bribe	4.3	4.0	4.2
Join in public protest	2.1	2.0	2.4
Other	3.6	3.7	3.8
Nothing can be done	7.0	7.7	5.8
Don't know	3.6	4.7	2.6
<b>Total</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>

*Afrobarometer survey data 2005 [www.afrobarometer.org](http://www.afrobarometer.org)*

## What Can Be Done?

The question now becomes how can the security sector be reformed? The box below contains some suggestions for the different actors that can make the difference on ending SGBV.

### *Box 5 Security Sector Reforms and Ending SGBV*

- Provide periodic analyses of major incidences and record trends to manage security threats to women
- Document major cultural barriers to combating SGBV and exchanging knowledge at the local and regional levels
- Encourage states to be transparent about atrocities committed by security agents on women and encourage them to be accountable in fulfilling their responsibilities in protecting women
- Continued advocacy to promote women to senior national and regional security portfolios
- Promote a culture of respect within security agencies for human rights through civic education programmes
- Initiate public dialogue on security threats posed by security forces to women
- Build capacity and assist local communities in monitoring abuse of authority by security forces
- Lawyers, judges, magistrates and even customary court justices all need to familiarize themselves with the provisions of the laws on preventing discrimination against women
- Monitor government adherence to regional and international protocols that enhance the quality of life and the security of women
- Remove immunity of peacekeepers from criminal prosecution and make them accountable to host nations
- Establish public fora for women from the military, parliament and civil society and identify common ground that will enable strategizing on requisite SSR
- Implement UN security Council Resolution 1325 in full
- Ensure that women play a key role in the design and implementation of post conflict resolution and peace building activities
- Support and strengthen women's organizations in their peace building efforts by giving them space to be directly involved with vulnerable women
- Conduct country audits and assessments of security institutions from a gender and or security perspective. This is essential for every country
- Strengthen the protection and representation of refugee and displaced women, by paying special attention to their health, rehabilitation and training needs
- End impunity and ensure redress of crimes committed against women in war and violent conflict.

## Conclusion

Women have and continue to influence post conflict resolution and peace building processes so that they go beyond defining peace as the absence of violent conflict and focus on the principles of inclusion. Women need to be present to discuss issues such as genocide, impunity and security if a just and enduring peace is to be built. However, without matching reforms in the security sector, this will remain a far-fetched dream for the many women who are battered and bruised by the security forces and the masculine oriented cultures that currently surround many of our institutions.

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- ii. See: Noeleen Heyzer, preface, *Not a Minute More: Ending Violence against Women* by UNIFEM (UNIFEM, 2003) 6.

- iii. Countries that signed the pact were: Angola, Burundi, Central African Republic, Democratic Republic of Congo, Kenya, Rwanda, Sudan, Tanzania, Uganda and Zambia. The pact was the product of a six year African initiative to reduce tension, suspicion and hostilities between area governments and establishing a framework for addressing the regions, pressing economic, security and humanitarian problems. See the ECOSOC Great Lakes Peace Report.
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