



ADDRESSING CONFLICT-RELATED SEXUAL VIOLENCE THROUGH TRUTH COMMISSIONS IN AFRICA

Given the severity of sexual and gender-based violence during conflicts, truth commissions are increasingly addressing conflict-related sexual violence (CRSV). As the **African Union Transitional Justice Policy** states, truth commissions “should pay special attention to sexual and gender-based violations, including harmful cultural practices, rape and sexual violence,” and “strive not only to deliver justice for women, but also to transform fundamental gender biases in transitional societies that hinder women from claiming and enjoying their socio-economic and political rights” (paras. 53–54).

The goal is redress for CRSV victims/survivors in a gender-diverse manner, acknowledging that CRSV affects women, girls, men, boys and LGBTIQ+ and gender non-conforming persons alike. Redress relies on equality for all genders, while also responding to the particular discrimination and inequality women and girls continue to face on the African continent.

Drawing on examples from several African truth commissions, this policy brief outlines best practices to date and presents recommendations for better enabling accountability, reparation and guarantees of non-recurrence for CRSV. Written for policy makers and practitioners working towards holistic transitional justice in Africa, the brief shows how to improve truth-seeking and truth-telling processes to promote lasting redress for victims/survivors of CRSV, with a focus on truth commission mandates, operations, final reports, and recommendations.

Comprehensive mandates

A truth commission’s mandate states the territory, period, events, actors, types of violations and other factors that the commission will investigate, including in terms of CRSV. Usually, it is included in the commission’s establishing legislation or decree.

CRSV “refers to rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage, and any other form of sexual violence of comparable gravity ... that is directly or indirectly linked to a conflict.”
(United Nations)

The mandate of the Kenya Truth, Justice and Reconciliation Commission, for example, set a precedent by listing sexual violations among the types of violations under investigation, specifying rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, and any other form of sexual violence of comparable gravity which constitutes a crime against humanity. The mandate tasked the commission with recommending specific reparation measures for victims/survivors of sexual violence.

The Liberia Truth and Reconciliation Commission's mandate, meanwhile, required the commission to give special attention to issues of sexual and gender-based violence, particularly the experiences of women and children. It called for the establishment of special mechanisms for protecting victims/survivors' dignity and safety as well as preventing re-traumatisation. The mandate also stated that the commission should recommend measures for the rehabilitation of CRSV victims/survivors.

Although progressive in their inclusion of sexual violence, the Kenyan and Liberian truth commission mandates used gender-exclusive language that limited crimes of a sexual nature to women and children. This undermined the integration of male and gender-diverse victims/survivors of CRSV in the commission's proceedings. To address this shortcoming, truth commission mandates should be based on regional and international legal frameworks and norms on sexual and gender-based violence, including more recent standards relating to sexual orientation and gender identity and expression.

Policy makers drafting or advising on the mandate should use clear language on CRSV and incorporate protections for victims/survivors. They should also ensure that victims/survivors participate actively in developing the mandate. The African Union Transitional Justice Policy provides for this type of participation "through affirmative action measures in designing and implementing the full measure of transitional processes crafted for the transitional needs of the affected country" (para. 39).

Recommendations

- List the forms of CRSV the commission will address, based on regional and international legal frameworks and norms. Key references include the African Union Transitional Justice Policy, the

United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, and the resources of the United Nations Independent Expert on sexual orientation and gender identity.

- Use explicit language that is inclusive of different gender identities – e.g., women, girls, men, boys, and LGBTQI+ and gender non-conforming persons – to avoid the erasure of any experiences of sexual violence during the truth commission process.
- Incorporate special mechanisms that specify operations for ensuring the safety and dignity of CRSV victims/survivors, including vetting during hiring processes and establishment of protection measures.

Gender-dedicated operations

A truth commission's operations determine the commission's functions, roles and responsibilities and how it will interpret and fulfil its mandate, including the degree to which gender and CRSV are mainstreamed in the process.

Before beginning operations, the Sierra Leone Truth and Reconciliation Commission held consultative workshops with selected women's and youth groups, faith-based groups and nongovernmental organisations working with victims/survivors and ex-combatants to gather opinions on issues of reconciliation in the country. The commission distributed questionnaires to additional local organisations, seeking input from victims/survivors of CRSV and other stakeholders on their needs, which included medical assistance, psychosocial support

*To learn more about how truth commissions in Africa have addressed CRSV, see the Centre for the Study of Violence and Reconciliation's **African Transitional Justice Hub**.*



and skills training from both the truth commission and the state. The commission also established a partnership with the Forum for African Women Educationalists with the aim of facilitating the inclusion of women's and girls' conflict experiences in its processes.

Truth commissions are "bodies established to examine and address violations and abuses. They also serve to establish a full historical record of such violations, including the various experiences of diverse groups such as women, children and youth, the identity of the victims and perpetrators, as well as the role of various State and non-State institutions, and to provide for measures of reconciliation and healing."

(African Union)

In terms of personnel, most African truth commissions have included women as commissioners and on staff, although none has succeeded in ensuring gender equity or gender diversity. The Central African Republic Truth, Justice, Reparation and Reconciliation Commission contracted consultants with expertise in gender and transitional justice to train personnel and help develop tools for investigating CRSV.

The Côte d'Ivoire Dialogue, Truth and Reconciliation Commission established a gender sub-committee with the explicit goal of integrating gender into the approach and operations of the commission. The Gambia Truth, Reconciliation and Reparations Commission established a special sexual and gender-based violence taskforce. The Liberia Truth and Reconciliation Commission formed a gender unit and gender committee to analyse the gender dimensions of the conflict and promote women's participation in the commission. These bodies investigated CRSV and organised consultation meetings to amplify victims/survivors' voices, while also seeking to empower women during commission processes.

The Kenya Truth, Justice and Reconciliation Commission and the Gambia Truth, Reconciliation and Reparations Commission both adopted a gender policy to enable gender mainstreaming and gender sensitivity in a uniform manner throughout their operations.

The Gambian commission, like the Sierra Leonean commission before it, also implemented witness protection measures in the form of closed hearings and written testimonies for victims/survivors of sexual violence. It organised confidential special hearings for child victims/survivors.

Together, these gender-sensitive measures help to ensure that truth commissions mainstream gender throughout their processes and provide targeted recommendations for redressing CRSV and gender inequality in a lasting manner. While consultations with CRSV victims/survivors and other stakeholders help guide these gender-sensitive measures, truth commissions, as noted above, should go beyond consultations to ensure that victims/survivors of CRSV actively participate in the design of truth commission operations.

Recommendations

- Acquire gender and CRSV expertise and training for commission staff.
- Establish measures for the active participation of victims/survivors of CRSV in developing gender-sensitive operations. A key approach is partnership, through memoranda of understanding or other formal agreements, with victim/survivor groups and civil society organisations working on CRSV.
- Adopt a gender policy with an inclusive framework to guide the commission's operations.
- Establish a gender unit to ensure gender-mainstreaming throughout truth commission operations.

Responsive final reports

The final report documents a truth commission's findings and provides recommendations, including regarding CRSV.

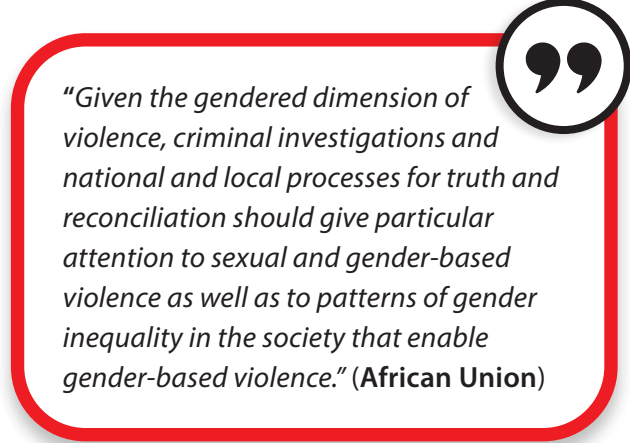
The Kenya Truth, Justice and Reconciliation Commission and the Gambia Truth, Reconciliation and Reparations Commission final reports provided definitions of CRSV, using international, regional and domestic legal frameworks. The Kenyan commission drew its definitions from the **International Conference on the Great Lakes Region Protocol on the Prevention and Suppression of Sexual Violence against Women and Children** and the **African Union Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa**.

The Gambian commission, meanwhile, drew its definitions from the **Rome Statute of the International Criminal Court**, the **United Nations Convention on the Elimination of all Forms of Discrimination Against Women** and the **Hague Principles on Sexual Violence**. It also used definitions from the **African Commission on Human and Peoples' Rights Guidelines on Combating Sexual Violence and its Consequences in Africa** and the Gambian Women's Act of 2010 and Sexual Offences Act of 2013.

Both the Kenyan and the Gambian commission final reports went into detail about the context, nature and impact of CRSV on victims/survivors and society. The Gambian commission dedicated a volume to sexual and gender-based violence, while the Kenyan one dedicated several sections to the documentation of sexual violence. Despite these efforts, the Gambian commission limited its findings to already well-known cases, victims/survivors and perpetrators of CRSV, without adequately addressing lesser-known cases and societal gender inequality.

Many African truth commission final reports have conflated women, gender, sexual violence and gender-based violence. For example, the Sierra Leone Truth and Reconciliation Commission documented sexual violence only against women, despite reports, for example, of men as victims and women as perpetrators. This approach

serves to reinforce biases and normative behaviours of gender roles and gendered violence. It also reinforces a culture of stigma and silence, which often leads to hesitation to report sexual and gender-based crimes.



"Given the gendered dimension of violence, criminal investigations and national and local processes for truth and reconciliation should give particular attention to sexual and gender-based violence as well as to patterns of gender inequality in the society that enable gender-based violence." (African Union)

By drawing on updated legal frameworks and norms in authoring their final reports, truth commissions can ensure a comprehensive understanding of the background, nature, context and impact of CRSV and gender inequality. Regarding discrimination against women and girls more specifically, the African Union Transitional Justice Policy states that truth commissions "should, in their reports, address the cultural, socio-economic, legal and political status of women. Special chapters on women and girls should detail issues of discrimination and inequality affecting them. Reports should include recommendations to advance women's and girls' rights" (para. 53).

Recommendations

- Present and apply clear definitions of gender and sexual and gender-based violence drawn from updated regional, international and local legal frameworks.
- Document all types of sexual and gender-based violence in a gender-diverse manner to comprehensively record and analyse CRSV and recognise all CRSV victims/survivors.
- Dedicate a volume of the final report to findings on CRSV, including historical background, enabling societal factors, all types of violations, victim/survivor testimony and expert insights.

Targeted recommendations

Usually non-binding, truth commission recommendations provide general or specific guidance to state and non-state actors on how to respond to the commission's findings to ensure accountability, reparation and guarantees of non-recurrence for past violations, including CRSV.

The Gambia Truth, Reconciliation and Reparations Commission final report gives recommendations specific to sexual and gender-based violence in ten categories: restitution, compensation, rehabilitation, satisfaction, legal reforms, judicial reforms, criminal reforms, prosecution, institutional reforms, educational reforms, and other measures gathered under the category of guarantees of non-recurrence. The report makes specific recommendations on reparations for victims/survivors of CRSV.

The Gambian commission established the Victim Support Fund to ensure that adequate funding and disbursement mechanisms are available for reparations. Following in the footsteps of the Sierra Leone Truth and Reconciliation Commission, the Gambian commission also instructed the country's National Human Rights Commission to oversee the implementation of its recommendations.

Truth commission recommendations should be separate from general recommendations and prioritise specific measures that address the needs and demands of victims/survivors of CRSV. These special recommendations should be developed with the active participation of victims/survivors and civil society groups that work with them. According to the African Union Transitional Justice Policy, the aim is to "reveal patterns of gender abuse, improve access to justice ... [and] inform institutional reform to promote gender justice" (para. 54).

Recommendations

- Ensure victims/survivors of CSRV participate in drafting the recommendations.
- Publish targeted recommendations on addressing CRSV.
- Ensure a wide range of victims/survivors are covered by the recommendations, taking different forms of CRSV and gender diversity into account.
- Designate an independent body with the power to monitor progress and hold state and non-state actors accountable for implementation.
- Create an implementation fund.

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ABOUT THE CENTRE FOR THE STUDY OF VIOLENCE AND RECONCILIATION

The Centre for the Study of Violence and Reconciliation (CSVr) is an independent non-governmental organisation established in South Africa in 1989. CSVr is a multi-disciplinary institute that seeks to understand and prevent violence, heal its effects and build sustainable peace at the community, national and regional levels. Through our research, advocacy and psychosocial support work, and in collaboration with communities affected by violence, we seek to enhance state accountability, promote gender equality and build social cohesion, integration and active citizenship.

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