Gendered Structural Inequalities in Conflict and Post-Conflict Contexts

Master's Research Paper

by

Daniella Guzzi

Graduate Program in Political Science

A Major Research Paper submitted in partial fulfillment
of the requirements for the degree of
MA Political Science

The School of Graduate and Postdoctoral Studies
The University of Western Ontario
London, Ontario, Canada

Abstract

The prevalence of gender based violence in conflict, as it impacts women, is often undermined or under-recognized by actors in the international arena. The gendered characteristics of violence reflect structural inequities that have different effects from pre-conflict, through conflict, and into post-conflict society. This paper will examine how gender based violence is a consequence of structural inequities that permeate gendered social relations which become intensified throughout conflict. As such, this paper understands gender based violence as a 'continuum' rather than a point of exceptionality. By recognizing violence as 'continuum,' the underlying norms, values and structural inequalities which adversely affect women, can be understood as politically motivated, and thus, a matter of state concern. Current transitional justice literature aims to outline the rehabilitation and reconstruction of post-conflict societies through a narrow vision of human rights violations which excludes gendered, structural inequalities. On this premise, this paper will outline how the transitional justice literature emphasizes 'extraordinary' violations of political and civil human security, while severely neglecting instances of 'ordinary' breaches of economic, social and cultural rights. It will be argued that sustainable peace in a post-conflict society is not attainable without adequate recognition of the underlying structural inequities that lead to the outbreak of violence. This paper will conclude that the current transitional justice mechanisms in the literature remain insufficient to deal with gender based violence, effectively perpetuating gendered structural inequalities that disproportionally affect women.

Table of Contents

Introduction:

The perception persists that armed conflicts disproportionately affects men as opposed to women. This is because combatants are predominately male; so the direct effect of war, combatant fatality, largely kills more men than women.[1] However, there is a growing body of literature that has examined the effect of war on women. The recent literature has began specifically inquiring into the gendered implications and structural inequalities that are vital to understanding the cause of conflict. Throughout the literature, there is a consensus that armed conflict exacerbates gendered inequalities that were present in the pre-conflict period, and sustained into the post-conflict society. These structural inequalities include but are not limited to "ethnic, religious, and gender discrimination, poverty, poor health, limited education, and lack of economic opportunities."[2] Structural inequalities are understood to be a reflection of power imbalances that have been institutionalized into the social structure.[3] The literature demonstrates that armed conflict and its aftermath further intensifies these gendered inequalities. A critical assessment of the literature will allow this paper to assess how gendered structural inequalities affect conflict and post-conflict societies.

The first chapter of this paper will demonstrate the extent to which armed conflict is inherently gendered. The literature presents conflict as a patriarchal ideology of domination and subordination while displaying overtly masculine features. This contention is largely supported by "the aggressive character of the war itself, to dominate and control another nation or people."[4]

---

[1] Thomas Plumper and Eric Neumayer, "The Unequal Burden of War: The Effect of Armed Conflict on the Gender Gap in Life Expectancy," *International Organization*: 723.

[2] Jennifer Balint, Julie Evans and Nesam McMillian, "Rethinking Transitional Justice, Redressing Indigenous Harm: A New Conceptual Approach," *International Journal of Transitional Justice* 8.2 (2014): 199.

[3] Mary Caprioli, "Primed for Violence: The Role of Gender Inequality in Predicting Internal Conflict," *International Studies Quarterly* 49, no. 2 (2005): 164.

[4] Rashida Manjoo and Calleigh McRaith, "Gender-Based Violence and Justice in Conflict and Post Conflict Areas," *Cornell International Law Journal* 44 (2011): 11.

While this belief is widely accepted by many scholars, others demonstrate how societal and cultural constructions of gender roles have an influence on the conduct of conflict. The extent to which the literature has positioned post-conflict reconstruction measures, or transitional justice (TJ) mechanisms as inherently gender neutral, will also be analyzed. TJ advocates for an emphasis on reinstating and protecting civil and political rights, while overlooking social, economic and cultural rights. As such, the TJ literature presents TJ as ill-equipped to address histories of structural inequalities. As chapter one will establish, there is a large intersection between gender, structural inequalities, and conflict. Therefore, the extent to which TJ fails to address gender specific inequalities because of its gender neutral mandate will be examined. The gendered nature of armed conflict along with the gender neutral reality of TJ will highlight the discrepancy between the conflict and post-conflict societies. The entirety of this paper calls for a recognition of conflict and the subsequent violence in post-conflict societies as gendered and as a derivative of structural inequalities. Without such recognition, sustainable peace can not be attained.

The second chapter of this paper examines gendered relations during conflict, as they resemble domination and subordination between male and females. This section develops the argument that these relations are merely intensified realities of the pre-conflict society, deriving from structural inequalities. Further, the direct and indirect effects of conflict, along with the international legal mechanisms afforded to address these realities will be explored. The literature will demonstrate that the interaction between the genders reflects a pre-existing social reality of domination exhibited by males. This reality is reaffirmed through the victimization of women, both directly and indirectly and in both the public and the private sphere during conflict. The exacerbated effects of social reality that are carried into conflict establishes the

disproportionately gendered outcomes of armed conflict but also highlights the underlying structural inequalities that often influence the effects. Chapter three examines the literature available on the relationship between states exhibiting structural inequalities and the resultant likelihood of engaging in armed conflict. This section examines studies that have measured the relationship between gendered structural inequalities as they predict conflict. In all studies assessed, there is a commonality in the fact that the level of gender equality is widely indicative of subsequent state involvement in violent conflict.

Chapter four aims to explore the extent to which the literature demonstrates TJ as masculinist, selective and politicized. To recognize women's experience of violence during armed conflict on a continuum will help balance the gendered issues within a post-conflict society. Currently, not all instances of violence warrant state involvement or TJ mechanisms. By framing violence on a continuum, the binaries between ordinary and extraordinary violence, as well as public and private violence are blurred. By acknowledging the continuum of violence, any structural inequalities or institutionalized structures that normalize particular violence and exceptionalize others can be recognized and reformed. Chapter five critiques TJ mechanisms, and puts forth that TJ is not transformative, but rather acts as a form of social inequality management. By identifying current limitations of specific TJ mechanisms, it will be demonstrated how they fail to address violence against women. Based on an inherent patriarchal nature and fueled by masculine bias, TJ mechanisms will be shown to be incapable of recognizing and addressing structural inequalities. This is detrimental to the rehabilitation of conflicted societies; as these structural inequalities influence conflict, initiate gendercide, and effect post-conflict society. This will allow for a nuanced understanding of conflict and the effects it has on women, while advocating for TJ to recognize and reform structural inequalities.

Chapter 1: Gendered Understandings of Conflict and Post Conflict

1.1: Armed Conflict as Inherently Gendered

The perception of women as peacekeepers and men as aggressors has solidified itself in the organization of war.[5] The stereotypical idea of male and female pervades conventional wisdom surrounding the discrepancy between the gendered experience of armed conflict. This ideology is demonstrated by Page and Shapiro, who discovered "in practically all realms of foreign and domestic policy, women are less belligerent than men."[6] These gender roles mimic traditional notions of hegemonic masculinity. Connell defines hegemonic masculinity as a "configuration of gender practices which legitimizes the patriarchy; it guarantees the dominant position of men and the subordination of women."[7];[8] Accordingly, for the duration of this paper the interplay between the genders will be regarded as a means of domination versus subordination.

Dominant gender roles influence gender relations throughout conflict and are indicative of the inequalities that are exhibited towards women during conflict. For example, because of the assumed male dominance, they are the first to access food, shelter and health care during conflict. Whereas, women and children often go starving and displaced. Gender roles in armed conflict resemble a gendered hierarchy that is present prior to conflict. Gendered hierarchies are suggestive of "a set of social practices, beliefs, ideas, values and speech that promote male domination and superiority and female subordination and [inferiority]."[9] Gendered hierarchies

---

[5] Natalia Linos, "Rethinking gender-based violence during war: Is violence against civilian men a problem worth addressing?," *Social Science & Medicine* 68, no. 8 (2009): 1550.

[6] Benjamin Page and Robert Y. Shapiro, *The rational public: Fifty years of trends in Americans' policy preferences*, (Chicago: University of Chicago Press: 1995): 295.

[7] Ibid.

[8] Connell, R. W. 1995. *masculinities*. Berkeley; Los Angeles;: University of California Press.

[9] Caprioli, "Primed for Violence: The Role of Gender Inequality in Predicting Internal Conflict," 164.

are mobilized when gendered structural inequalities are normalized and institutionalized. Connell supports this notion by demonstrating that "the top levels of business, military and government provides a convincing corporate display of masculinity."[10] Goldstein further corroborates this in his concept of hegemony. He argues that "defense and military institutions are associated with specific gender stereotypes and expectations that remain consistent across cultures and time."[11] This is because historically, military and security institutions have been sites known to embody and resemble hegemonic masculinity norms. As Hopton's inquiry into the issue of dominant gender roles has suggested, "military traditions have a profound influence in shaping men's ideas about masculinity."[12] Levsen found that the first world war (WWI) developed the idea of the male warrior or the masculinization of the military.[13] WWI became a test of manhood, measured by courage, strength, and sacrifice. As such, "the military [is understood to be] a gendered and gendering organization, and that through numerous discursive practices, the masculine gendered structure of the military has been pervasive on a wider, societal level."[14] Hirschfield further argues, "of all occupations that are allotted to one or the other sex, none has been considered so much a male privilege as that of the soldier."[15] The relationship between masculinity and militarism have become closely associated. Throughout history, "war fighting became a form of male rite of passage; 'to be a real man is to be ready to fight.'"[16] As such, gender has become

---

[10] Ibid.

[11] Annica Kronsell, "Gendered practices in institutions of hegemonic masculinity: Reflections from feminist standpoint theory," *International Feminist Journal of Politics* 7, no.2 (2005): 282.

[12] Richard, Godfrey, "Military, masculinity and mediated representations: (con)fusing the real and the reel," *Culture and Organization* 15, no. 2 (2009): 205.

[13] Levsen, "Constructing elite identities: University students, military masculinity and the consequences of the great war in Britain and Germany." *Past & Present* 198 (2008): 152.

[14] Ibid., 205.

[15] Ibid.

[16] Richard, Godfrey, "Military, masculinity and mediated representations: (con)fusing the real and the reel," *Culture and Organization* 15, no. 2 (2009): 205.

closely connected to conflict. This means that conflict is widely associated with masculinity. Primarily, what is being demonstrated is that conflict and the military, have become significant symbols in wider conceptions of gender.[17] The gendered expectation of conflict indicates that armed conflict is perpetuated and reliant on gender roles. In turn, armed conflict is inherently gender-cognizant in its enlistment of combatants and the duties assigned accordingly. The act of war is inherently gendered and has gendered influences and implications on the social and cultural construction of masculinity.[18] It is important to note that the predominant view of the connection between masculinity and militarization, while significant, is reliant on the institutionalization of a gendered hierarchy. As such, it is predominantly based on the social production of gender and masculinity. Nonetheless, the social determinants of gender will be demonstrated to implicate armed conflict and the outcomes of such.

1.2: Transitional Justice as Inherently Gender Neutral

TJ has been acknowledged as "a means of dealing with past human rights violations in societies transitioning from either war to peace or from autocratic to democratic regimes."[19] The United Nations (UN) has defined TJ as,

> the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation' and as comprising both judicial and non-judicial mechanisms aiming to balance a variety of goals including 'the pursuit of accountability, truth and reparation, the preservation of peace and the building of democracy and the rule of law.[20]

Both legal and non-legal mechanisms are available for TJ to apply in order to amend past

---

[17] Ibid., 205.
[18] Ibid.
[19] Wendy Lambourne and Vivianna Rodriguez Carreon, "Engendering Transitional Justice: a Transformative Approach to Building Peace and Attaining Human Rights for Women," *Human Rights Review* 17 (2016): 74.
[20] Ibid.

injustices and revert the society to pre-conflict conditions. These are inclusive of: criminal prosecutions, truth commissions, truth and reconciliation commissions, and reparations. Chapter 6 examines TJ mechanisms thoroughly, and specifically their limitations in addressing the inequalities and injustices suffered by women.[21] However, this section aims to establish that TJ in its entirety, is a gender-neutral process.

TJ advocates for a focus on civil and political rights while disregarding awareness for economic, social and cultural rights. Due to this disregard, TJ approaches have been widely labeled as inadequate to address structural inequalities including "poverty, poor health, limited education, lack of economic opportunities," and gender discrimination.[22] To date, "no transitional agreement includes benchmarks for progress" for the above mentioned socioeconomic inequalities. TJs lack of explicit attention towards economic, social and cultural right is representative of a larger gendered enforcement gap when considering that women suffer from socioeconomic inequalities far more commonly than men.[23] As a result of the inattention afforded to these socioeconomic conditions, structural inequalities have the potential to become further perpetuated.[24] As such, it is plausible to suggest that TJ's gendered enforcement gap resembles a sense of gender blindness, as women are severely neglected in the distribution of reconstruction and redress strategies.

The literature highlights a connection between socioeconomic discrimination and gender. To elaborate, women are most commonly affected by socioeconomic discrimination, and the

---

[21] Ibid., 75.

[22] Balint, Evans and McMillian, "Rethinking Transitional Justice, Redressing Indigenous Harm," 199.

[23] Fionuala Ni Aolain, "Advancing Feminist Positioning in the Field of Transitional Justice," *International Journal of Transitional Justice* 6 (2012): 224.

[24] Monica McWilliams and Fionnuala Ni Aolain, "'There is a War Going on You Know' -- Addressing the Complexity of Violence Against Women in Conflicted and Post Conflict Societies," *Transitional Justice Review* 1.2 (2013): 19.

effects of war exacerbate these pre-existing inequalities, both throughout the conflict and at the outcome of conflict.[25] As such, the pervasiveness of structural and socioeconomic inequalities is widely correlated to the continuity of violence against women (VAW) within the literature. As such, the literature urges TJ to increase its mandate in order to be inclusive of pre-existing inequalities, and prevent or repair the worsening conditions of human rights. However, currently TJ mandates are defined narrowly, to the inclusion of direct effects of war, irrespective of underlying structural inequalities. Scholars have recognized this as TJs most detrimental shortfall, which is directly related to the lack of gender and structural inequalities analysis assumed by TJ methods. This is partly attributed to the lack of female presence, engagement, and consideration in TJ negotiations.[26] Accordingly, the literature focuses on TJs ability to incorporate gendered initiatives, such as addressing the myriad of structural inequalities as they affect women.[27] The literature frames TJ as "constructing human rights violations narrowly and to the exclusion of structural and gender-based violence."[28] Given that conflict intensifies pre-existing violence, which will be expanded upon throughout this paper, it is suggested that VAW throughout and post-conflict is reflective of structural inequalities that existed before conflict.[29] These gendered inequalities continue, and arguably worsen, in the post-conflict society.[30] Accordingly, it is particularly important for TJ to understand violence broadly, and to the extent that it is motivated by structural inequalities.

---

[25] Lambourne and Rodriguez Carreon, "Engendering Transitional Justice," 85.

[26] Ni Aolain, "Advancing Feminist Positioning in the Field of Transitional Justice," 206.

[27] Christine Bell and Catherine O'Rourke, "Does Feminism Need a Theory of Transitional Justice? An Introductory Essay," *International Journal of Transitional Justice* 1 (2007): 30.

[28] Rosemary Nagy, "Transitional Justice as Global Project: Critical Reflections," *Third World Quarterly* 29. 2 (2008): 276.

[29] Jelke Boesten, "Analyzing Rape Regimes at the Interface of War and Peace in Peru," *The International Journal of Transitional Justice* 4.1 (2010): 114; Shana Tabak, "False Dichotomies of Transitional Justice: Gender, Conflict and Combatants in Colombia," *International Law and Politics* 44 (2011): 114.

[30] Ibid.

TJ advocacy will be examined based on its ability to focus on gendered structural inequities as the effect women and invoke suffering, victimization, and issues of human security. Without explicit attention to the underlying causes of conflict, there is the possibility that they will recur in the post-conflict society. This is problematic because it yields further potential for VAW, which challenges the legitimacy of the alleged state of peace and security that TJ mechanisms aim to produce. Overall, a major insufficiency of TJ, as it affects women, is its inability to recognize and address the occurrence and permanence of violence after transition.

Chapter 2: Gender Relations and Armed Conflict

       To substantiate the argument that conflict is inherently gendered, this section will delve into the gender relations present during conflict. The literature suggests that armed conflict further worsens gender relations that existed in the pre-conflict society. Gender relations will refer to the way men and women interact. More specifically, gender relations have implications on access to or distribution of power.[31] This means that armed conflict adversely affects the power dynamics between men and women, inherently disfavoring women and displacing power into the hands of 'masculine' institutions. Given the interplay between the genders, war has been argued to be inherently patriarchal, or overtly masculine.[32] Colombini explains that these gendered relations of domination and subordination are reflective of a society that is deeply ingrained in a patriarchal structure, wherein the woman is seen as property to be possessed, controlled, and dominated by man.[33] She equates this phenomenon to the perpetuation of and state acceptance of VAW during armed conflict because it has become normalized by society. Given the interplay between the genders, the literature positions war as inherently patriarchal, and overtly masculine.[34]

       When examining the reality of unequal gender relations during armed conflict, the literature has established a positive correlation between states with pre-existing structural inequalities and subsequent violence perpetrated by the state, or engagement in intra-or interstate conflict. This relationship between structural violence and subsequent involvement in intra-or interstate violence will be expanded upon in Chapter 3. An assessment of gender relations

---

[31] Amani El Jack, "Gender and Armed Conflict: Overview Report - BRIDGE," Bridge Development-Gender, 11.
[32] Manuela Colombini, "Gender-based and sexual violence against women during armed conflict." *Journal of Health Management* 4, no.2 (2011): 169.
[33] Ibid.
[34] Ibid.

during armed conflict highlights a correlation between structural violence and societal tolerance of violence. When structural violence is lessened, the societal tolerance of violence decreases concurrently, resulting in fewer instances of both intra- and interstate conflicts.[35] Contrarily, when structural violence is supported and institutionally legitimized, the incidence of armed conflict increases, as violence becomes normalized.

Galtung's theory of structural violence is defined as "systematic exploitation that becomes part of the social order."[36] This theory will be used to guide our analysis into how existing structural violence is indicative of state engagement in future instances of inter or intrastate violence. It is believed that because structural violence becomes ingrained in social order, it is also normalized, institutionalized and an indicator of future violence. Structural inequalities are mainly based on subjugation, which is rooted in the concept of a gendered hierarchy, domination, and the use of force.[37] As such, these structural inequalities resemble the power dynamics of gender. By failing to address structural inequalities as a predictor of conflict, it will be demonstrated to affect the continuance and perpetuation of gendered implications of armed conflict and as a hindrance to peace.

2.1: Violence against Women as a Tactic of Warfare

VAW is a strategic tactic of armed conflict. The UN defines VAW as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty,

---

[35] Ibid.
[36] Ibid.
[37] Ibid.

whether occurring in public or in private life."[38] The term VAW is typically used interchangeably with the term GBV. However, there is an important distinction between the terms. GBV is directed towards women because they are the subordinate gender and typically susceptible to domination by men; as such, it symbolizes the power inequalities between women and men. Secondly, it demonstrates the limitedness of the term gender. GBV most commonly refers to the violence perpetrated against women, leaving men as invisible victims, as they too can be victims of violence based on their gender. Men are typically disregarded as victims of sexual violence because this reality is not aligned with pre-determined gendered roles, which frame men as perpetrators and aggressors. Likewise, the UN Economic and Social Councils' disregard of male victims of conflict-related sexual violence merely strengthens heteronormative gender ideologies and masculinity, which further segregates the genders. [39];[40] While men and boys can also be victims of GBV, the literature widely acknowledges that the majority of persons affected by GBV are women and girls as a result of underlying structural inequalities that encompass an unequal distribution of power between women and men. GBV is understood by the UN as an exercise of power relations between the perpetrators and victims, or between men and women.[41] This power dynamic typically views men as powerful and dominant and conceptualizes women as subordinate. This further reflects and reinforces the patriarchal structure of society,[42] by allowing sexual violence to be mobilized against women, working as a tool for destruction and domination. On this premise, it is argued that a continuance of GBV

---

[38] World Health Organization. *Violence Against Women: Intimate Partner and Sexual Violence against Women (*Geneva, Switzerland: United Nations, 2016).
[39] E. A. P. Gorris, "Invisible victims? Where are male victims of conflict-related sexual violence in international law and policy?" *European Journal of Women's Studies* 22, no. 4 (2015): 415.
[40] Ibid.
[41] UN Human Rights. *Sexual and Gender-Based Violence in the Context of Transitional Justice.* New York, NY: Office of the High Commissioner, 2014.
[42] Colombini, "Gender-based and sexual violence against women during armed conflict," 169.

during armed conflict produces, perpetuates, and normalizes gendered power relations.[43]

Arguably, the most rampant form of GBV during armed conflict is 'rape as a weapon of war.' Beyond that, GBV includes abuses such as "slavery, forced impregnation/miscarriages, kidnapping/trafficking, forced nudity, and disease transmission."[44] Yet, VAW in the form of sexual violence is the most prominent. The potential consequences of GBV include the "transmission of sexually transmitted infections (STI), physical harm to reproductive organs, psychological trauma, social ostracization and stigmatization, limited access to reparations and economic insecurities."[45] The direct effects of GBV are most commonly coupled with structural inequalities as they affect women and limit female rehabilitation.

2.2: Violence Against Women in International Legal Mechanisms

The 1994 UN Declaration on the Elimination of Violence against Women (DEVAW) was the first declaration put forth by the international community in works to eradicate the prevalence of VAW. Additionally, the 1998 Rome Statute was the first international legal document to recognize, "widespread and systematic acts of sexual and gender-based violence (SGBV) as an act of genocide, a war crime and a crime against humanity."[46] Accordingly, strategic rape during conflict has increasingly been gaining prominence in the legal arena.[47] However, only violence that fits the 'rape-as-a-weapon-of-war' script are recognized in the legal sphere.[48] Doris Buss's definition of 'rape as a weapon of war' refers to "sexual violence as having a systematic,

---

[43] Brandon Hamber, "Masculinity and Transitional Justice: An Exploratory Essay," *International Journal of Transitional Justice* 1.3 (2007): 383.
[44] Manjoo and McRaith, "Gender-Based Violence and Justice in Conflict and Post Conflict Areas," 12.
[45] Ibid.
[46] Sara E. Davies and Jacqui True, "Reframing conflict-related sexual and gender-based violence: Bringing gender analysis back in," *Security Dialogue* 46, no. 6 (2015): 495.
[47] Doris Buss, "Rethinking Rape as a Weapon of War," *Feminist Legal Studies* 148, no. 17 (2009): 148.
[48] Boesten, "Analyzing Rape Regimes at the Interface of War and Peace in Peru," 110.

pervasive, or officially orchestrated aspect, emphasizing that rapes 'are not random but appear to be carried out as deliberate policy.'[49] This is largely limiting for rape victims whose experience does not fit the norm. While progress in securing international legal responses to instances of rape as a tactic of war is essential, Swaine argues that there are problems with such a specific or limited category. Swaine states, "it decouples strategic rape from endemic gendered and sexualized violence prevalent before, during and after conflict—creating arbitrary distinctions that may not hold true in reality."[50] For example, Fiona Ross shows how the South African Truth and Reconciliation Commissions' emphasis on a specific rape script "obscured the systemic oppression of women by both the apartheid regime and the resistance and limited women's testimony to a 'perfect victim' narrative."[51] In other words, 'rape-as-a-weapon-of-war' as a category, largely ignored many female victims who experienced oppression, or violence, in ways that did not fit the narrative. The case of South Africa supports the argument that there may be limitations of a definitive and legally recognized category of conflict-related 'rape victim.'

To further demonstrate the limitations of such a definitive category, Swaine suggests that 'strategic politicized rape' is not the predominant form of violence that women experience during conflict.[52] In support, Swaine cites a study conducted in Colombia which found that "45 percent of women reported rape by a family member and 22 percent by actors affiliated with an armed group in conflict-affected areas."[53] Accordingly, as per international law, only the 22 percent of rapes committed by a political actor are subject to legal repercussions, whereas the 45

---

[49] Buss, "Rethinking Rape as a Weapon of War," 150.

[50] Aisling Swaine, "Beyond strategic rape and between the public and private: Violence against women in armed conflict," *Human Rights Quarterly* 37, no.3 (2005): 759.

[51] Fiona C. Ross, *Bearing Witness: Women and the Truth and Reconciliation Commission in South Africa* (London: Pluto Press, 2003)

[52] Swaine, "Beyond strategic rape and between the public and private," 759.

[53] Ibid., 760.

percent of rapes conducted by a family member are labeled as non-politically motivated, in the

'private' domain subject to minimal perpetrator-consequence. Similarly, McWilliams and Ni

Aolain found that more than half the women killed during the Northern Ireland conflict had been

killed by their partners, highlighting the grave severity of a rise of private-domestic violence

during conflict.[54] Given these findings, it seems that the majority of VAW during conflict is

perpetuated in the 'private' sphere, which as per international standards, is not a matter of state

concern. The high prevalence of 'private' VAW goes largely unnoticed because "when a woman

was the target of a sectarian, conflict related murder," she was regarded as an innocent victim of

political and conflict-related violence.[55] However, the same woman murdered in a "domestic

assault in her own home received minimal media attention without any public consensus that a

violation had taken place."[56] This highlights the under-recognition that private violence garners,

while reaffirming a divide between public and private instances of VAW. This calls for the

recognition of VAW on a continuum to blur the distinction between private and public violence,

which in effect would offer more acknowledgment, protection, and justice for all harms endured

by women.

2.3: Direct and Indirect Consequences of Armed Conflict

The physical impacts of armed conflict are fundamentally gendered. Men bear the direct

consequences of war: combatant fatality, as they disproportionately occupy the position of

combatant in comparison to their female counterparts.[57] However, throughout the literature

scholars such as Ghobarah, Huth and Russett, Li and Wen, and Plumper and Neumayer have

---

[54] McWilliams and Ni Aolain, "There is a War Going on You Know," 26.
[55] Ibid.
[56] Ibid.
[57] Plumper and Neumayer, "The Unequal Burden of War," 723.

suggested that throughout the entire conflict period and into the post-conflict state, armed conflict more adversely affects women than men. This is directly correlated to the effect of indirect consequences of war, including effects on the national economy, damage to health-related facilities and infrastructures, decreased government spending on public health, the degree of social cohesion, and psychological distress.[58]

Ghobarah, Huth, and Russett argue that the effects of armed conflict on public-health care surpasses the period of active warfare, and disproportionately affects women and children.[59] In a cross-national analysis of World Health Organization's (WHO) data on death and disability, it was found that "wars greatly raise the subsequent risk of death and disability from many infectious diseases, including malaria, tuberculosis, and other infectious respiratory diseases."[60] Overall, females constitute 33 of the 54 affected groups, and children of both genders aged 5 to 14 account for 15.[61] Women are most commonly affected by public health concerns; this is a result of men being granted first access to health care due to the dominant positioning of their gender. While men may represent actual combatant deaths during the war; in analyzing the indirect health consequences driven by conflict, the greatest victims are women and children. Indirect effects occur because infrastructure is often damaged through conflict, and resources to re-stabilize the conflict ridden state will likely be diverted away from health.[62] The decreased resources allocated to health leads to an increase in civilian vulnerability to diseases, which is further increased by "loss of income and assets, or population displacement."[63] A significant example of this is the spread of HIV/AIDS in conflict-ridden zones. Women are often at higher

---

[58] Ibid., 473-474.
[59] Hazem Adam Ghobarah, Paul Huth, and Bruce Russett, "Civil Wars Kill and Maim People- Long After the Shooting Stops," 189.
[60] Ghobarah et al., "Civil Wars Kill and Maim People- Long After the Shooting Stops," 200.
[61] Ibid., 199.
[62] El Jack, "Gender and Armed Conflict: Overview Report - BRIDGE," 11.
[63] Ibid.

risk of contracting HIV/AIDS as a result of sexual violence and displacement, which are both effects of armed conflict. In Rwanda, 67 percent of rape survivors tested HIV positive post-genocidal conflict.[64] This validates females disproportionate vulnerability to disease, which is exacerbated by the effects of armed conflict.

Li and Wen studied how armed conflict effects adult mortality, across countries and over time.[65] They found that "while men tend to suffer higher mortality immediately from conflict, women in the long run experience as much mortality owing to the lingering economic effects of these conflicts."[66] They confirm that women often bear the indirect consequences of war, with rape being one of the most extreme and prevalent resemblances of the patriarchal desire of female domination.[67] Overall, Li and Wen demonstrate how women are often the recipients of the indirect consequences of war, yet these effects remain largely under recognized and under resolved.

Plumper and Neumayer identify three indirect effects that are assumed to implicate how armed conflict further intensifies existing inequalities that disproportionately affect women by lowering their life expectancy: *the economic damage effect, the displacement effect, and the sexual violence effect*.[68] The *economic effect* is the "damage to agriculture and systems of food distribution; basic infrastructure such that provides access to electricity, safe water and sanitation is impeded; and destruction of medical and health care infrastructures."[69] The agricultural and infrastructure damage leads to unemployment and an adverse effect on income levels. For

---

[64] Ibid., 10.
[65] Quan Li and Ming Wen, "The Immediate and Lingering Effects of Armed Conflict on Adult Mortality, Time-Series Cross-National Analysis," 4 *Journal of Peace Research* 42 (2005): 472.
[66] Ibid., 487.
[67] Manjoo and McRaith, "Gender-Based Violence and Justice in Conflict and Post Conflict Areas," 44.
[68] Plumper and Neumayer, "The Unequal Burden of War," 728.
[69] Ibid., 729.

example, agricultural production was negatively affected by the war in Mozambique, and 80 percent of cattle stock was lost.[70] During the 1994 Rwandan genocide, the most people lost on average half of their cattle stock, and 12 percent of households lost their homes entirely.[71] Consequently, this has a direct effect on per capita income levels. Accordingly, "the per capita income in Nicaragua at the onset of the civil war was $4,276. At the end of the civil war, per capita income had declined to $1,913."[72] As a result, the majority of the population has an increasingly difficult time in meeting their basic survival needs. Women are more likely to suffer from these indirect economic effects of armed conflict due to "pre-existing gendered social structures."[73] Plumper and Neumayer find that in "male dominated societies, males get priority to resources at the expense of girls and women."[74] If gender-equality is predictive of state engagement in armed conflict, as this paper will further develop, then "in societies where female discrimination is widespread even during peacetime, women will suffer particularly strongly from the destructive power of violent conflict."[75] This is to say, when women are subjected to structural inequalities during a state of 'peace' times, their reality of inequalities will be further exacerbated by armed conflict.

Armed conflict results in displacement from ones' home, either internally as an internally displaced person (IDP) or across borders as a refugee.[76] To understand the severity of the *displacement effect*, the World Bank has gathered data which demonstrates that "at the end of 2009 approximately 42 million people had been forced to leave or flee their homes due to

---

[70] El Jack, "Gender and Armed Conflict: Overview Report - BRIDGE," 15.
[71] Ibid., 17.
[72] Plumper and Neumayer, "The Unequal Burden of War," 730.
[73] Ibid., 725.
[74] Ibid., 730.
[75] Ibid,.731.
[76] Ibid.

violence."[77] Of these 42 million displaced people, 15 million were refugees outside their country of residence, and 27 million became internally displaced persons(IDP).[78] The World Bank stipulates that women and children comprise 80 percent of all refugees and internally displaced people as a result of conflict.[79] Given the large percentage of female refugees, they are the ones who are most commonly affected by the poor health conditions and lack of health care in refugee camps. Toole reports data from a Burmese refugee camp in Bangladesh where female infants were twice as likely to die versus male infants, and the mortality rates of females above the age of five was 3.5 times higher than that of males.[80] Accordingly, the displacement effect largely targets women and children, both of which are already disadvantaged by the realties of structural inequalities, but when coupled together the reality of the *displacement effect* is fatal.

Lastly, and presumably, the most common indirect effect of conflict is sexual violence. As previously mentioned, sexual violence in the form of rape has become a tactic of war, largely targeting females. The occurrence of sexual violence against women is substantial, for example: in the former Yugoslavia it is estimated that 20,000 women were raped; the Rwandan genocide has estimations that approximately 300,000 to 400,000 women suffered rape.[81] Due to the subsequent health complications, rape is attributed to lowering the life expectancy of women more than that of men during conflict.[82] Overall, women are victims of direct and indirect conflict-related violence in both the public and the private sphere, demonstrating not only the disproportionately gendered effects of armed conflict but also the underlying structural inequalities that have a causal relationship to these effects.

---

[77] World Bank. 2011. *World Development Report 2011*: Conflict, Security and Development. Washington DC.
[78] Ibid.
[79] Ibid.
[80] Plumper and Neumayer, "The Unequal Burden of War," 731.
[81] El Jack, "Gender and Armed Conflict: Overview Report - BRIDGE," 13.
[82] Plumper and Neumayer, "The Unequal Burden of War," 748.

Chapter 3: Gendered Structural Inequalities Predicting Conflict

Feminist and international relations theorists have argued that gender-equal societies are less vulnerable to collective violence internally and between other states.[83] Studies by Caprioli, Caprioli and Boyer, Regan and Paskeviciute, and Melander have found a positive relationship between the level of gender equality in a state and peaceful relations with other states.[84] Accordingly, the level of gender equality in the pre-conflict state seems to be indicative of the resulting conflict or lack thereof. This domestic-international political link is based on the premise that "states duplicate patterns of domestic politics in the international arena and apply the same political norms in both domestic and international politics."[85] The inequalities present in the home state are indicative of their engagement in violence which perpetuates existing inequalities. The literature largely agrees on the correlation between state structural inequalities and engagement in violence. This correlation will become the premise for analyzing the gendered effects of armed conflict for the duration of the paper. This is crucial to overcoming instances of VAW. Without proper recognition of the structural inequalities that may fuel states violent behavior, it is unlikely that states can be rehabilitated and that VAW will dissipate. Two arguments about how political gender equality may effect state involvement in intra or interstate violence are advanced throughout this section. The *essentialist argument* holds that women are inherently more averse to violence than men.[86] The *constructivist argument* asserts that the rejection of oppression towards women may also signal the rejection of other forms of abuse of

---

[83] Erik Melander, "Political Gender Equality and State Human Rights Abuse," *Journal of Peace Research* 42, no. 2 (2005): 149.
[84] See Caprioli 2000, 2005; Caprioli and Boyer 2001, Melander 2005, and Regan and Paskeviciute 2003.
[85] Mary Caprioli, "Gendered Conflict," *Journal of Peace Research* 37, no. 1 (2000): 52.
[86] Ibid.

fellow human beings.[87] While each argument puts forth a different explanation, each aims to reach the conclusion that an increase in domestic gender equality will result in a decrease assertion of state involvement in violence.

Caprioli inquired about a link between a domestic environment of inequality and engagement in state aggression on an transnational level.[88] Caprioli argues that states with higher percentage of women in parliament would experience lower levels of conflict and states with a longer duration of female suffrage will experience lower levels of international violence.[89] She also argues states with lower fertility rates will exhibit lower levels of international violence and states with higher female participation in the labor force will exhibit lower levels of international violence.[90] In all domains of equality, Caprioli demonstrated that the more presence women have in the public or political sphere, the fewer states engaged in state or international violence. Her findings are supported by the *essentialist argument* because the stereotypes that pervade the literature surrounding the efficacy of women in leadership, political, and public roles mean that "women work for peace, and men wage war –cooperative women, conflictual men."[91] She argues that "the inclusion of women as equal members of society will affect foreign policy, in that their domestic equality correlates with lower levels of international militarism."[92] Her findings lend support to the assertion that women are inherently more peaceful. Consequently, an increase of women in the public sphere decreases the level of support, otherwise available from men, towards the use of international violence.

---

[87] Melander, "Political Gender Equality and State Human Rights Abuse," 151.
[88] Caprioli, "Gendered Conflict," 51.
[89] Ibid.
[90] Ibid., 60.
[91] Mary Caprioli and M. A. Boyer, "Gender, Violence, and International Crisis," *Journal of Conflict Resolution* 45, no. 4 (2001): 503.
[92] Caprioli, "Gendered Conflict," 53.

Similarly, Regan and Paskeviciute explored the extent to which fertility rates are associated with the use of force by a state.[93] Like Caprioli, their results demonstrate that countries with lower birth rates are less likely to engage in armed conflict. The results are based on the assumption that lower birth rates or fertility rates are indicative of higher female involvement in the public domain. Ultimately, both Caprioli and Regan and Paskeviciute' analyses emphasized that the higher female presence is in the public domain, is positively correlated to a more peaceful approach to state organization and interaction with other states, which further supports the *essentialist argument*. An increase in female engagement in the economic and political aspects of society points to a decreased likelihood of state involvement in interstate and intrastate armed conflict.[94] This line of argumentations follows the expectation that women work for peace, thereby an increase of female presence in the public domain will fuel peaceful negotiations, negating the effect of men's predisposition towards violent measures. In both Caprioli and Regan and Paskeviciute' studies, there was a perceived notion of innate female aversion to conflict; so, when there is greater female political equality, state level of conflict decreases because women are prone to reach peaceful negotiations as opposed to engagement in violent measures.

The *essentialist argument* tests for a gender gap in the willingness to use force between men and women.[95] The gender gap theory suggests 'cooperative women and conflictual men.' It is assumed that the inclusion of gender equality will affect a decrease in states use of force based on innate features of women to be averse to conflict. To support this theory, Meuller concluded

---

[93] Patrick M. Regan, and Aida Paskeviciute, "Women's Access to Politics and Peaceful States," *Journal of Peace Research* 40, no.3 (2003): 287.
[94] Ibid., 289.
[95] Caprioli, "Gendered Conflict," 53.

that "women generally are less favorable to escalation than men," this observation held true for

World War II, the Korea War, the Vietnam War, and the Gulf War.[96] Similarly, in regards to the

British experience with conflict, Welch and Thomas found no gender gap in ideology or partisan

affiliation but found a substantial difference in the actual use of force realized.[97] Conversely, in a

study of the Gulf War, Gallagher found a large gap in female support of Iraqi forces at 22

percent versus male support at 48 percent.[98] As such, there remains conflictual opinions within

International Relations literature between those who argue there is a gender gap in the desire to

use force and those who perceive women and men have similar values in terms of using force.

Conover suggests that the gender gap is created by women who identify with the women's

movement because they conform to idealized notions of what it means to be a woman.[99]

Whereas, Grand and Newland suggest that any current gender gap in the desire to use force will

be eliminated simply by including more women into parliamentary, leadership, or military

positions. This will provide a larger sample size to assess the incentive for female leaders force,

while also placing women in a viable position to actually be able to use force effectively.[100]

In opposition to the gender gap theory, Tessler and Warriner adopt a more gender-neutral

value system. They argue that there is no substantial evidence that suggests women are

inherently less militaristic than men.[101] However, they found that "those who are more

supportive of equality between women and men are also more favorably disposed toward

diplomacy and compromise."[102] This suggests that there is a relationship between "more pacific

---

[96] Ibid., 54.
[97] Ibid.
[98] Ibid.
[99] Pamela Johnston Conover, "Feminists and the Gender Gap," *The Journal of Politics* 50, no. 4 (1988): 999.
[100] Caprioli, "Gendered Conflict," 53.
[101] Ibid.
[102] Caprioli and Boyer, "Gender, Violence, and International Crisis," 509.

attitudes and international conflict."[103] They assert that the actuality of this relationship relies on the degree of gender equality present in the state.[104] Caprioli states that irrespective of conformity to the gender gap theory or a more gender-neutral value system her evidence stipulates that for long as women are made more equal members of society, international militarism will decline.

Melander found a positive relationship between a state's level of gender equality and subsequent engagement in interstate and intrastate violence. However, his findings demonstrated support for the *constructivist* argument. An increase in gender equality was found to be positively associated with a decrease in state-sponsored human right abuses; for example, "political imprisonments, torture, killings, and disappearances domestically."[105] Melander used two indicators that he believes signal political gender equality. The first being the prevalence of a female chief executive of the state and the second is the percentage of women in parliament.[106] For the examination of the first aspect of political gender equality, Melander borrows the data from Caprioli and Boyer, who identify female leaders during the 20th century.[107] Caprioli and Boyer define a female leader as, "the president, prime minister or any other decision maker who is essentially the decision maker of last resort on decisions to use force and other high-level international decisions."[108] They identified ten crises in the 20th century wherein female leaders were present, and within those ten crises, there were the same four women: Golda Meir, Indira Gandhi, Margaret Thatcher, and Benazir Bhutto.[109] This demonstrates the small amount of

---

[103] Ibid.
[104] Ibid.
[105] Melander, "Political Gender Equality and State Human Rights Abuse," 151.
[106] Ibid., 150
[107] Ibid., 151
[108] Caprioli and Boyer, "Gender, Violence, and International Crisis," 505.
[109] Ibid.

females in political or decision making roles, which can be connected to the stereotypical assumptions towards gender roles and public office, as outlined in Chapter 2.

Despite the consistent idealization of the notion that states with female chief executives and higher levels of female representation in parliament have lower levels of human rights abuses, neither idea has been confirmed in the research.[110] This proved to be problematic to the *essentialist* argument, as it practically refutes the premise that woman are inherently more prone to peaceful measures. The lack of support may signal that female chief executives are in fact not biologically less violent or belligerent than their male counterparts. Caprioli and Boyer attribute the continued propensity toward violence to a male-defined and male-dominated political environment.[111] In the ten crises where female leaders were present, they showed that the "violent character of most of these crises is maintained, and the use of violence as a crisis management technique escalated in many instances."[112] They attributed the violent responses from female leaders to females having to prove themselves as competent leaders, in an otherwise male-saturated, female-averse political domain.[113] This signals recognition to pre-existing gender relations and the necessity for women to occupy the opposite gendered position to achieve recognition and respect in an otherwise male-saturated environment. This assertion is further supported by Caprioli and Boyer, who found that "women who emulate men in the way Thatcher, Gandhi, and Meir did, are more likely to succeed as national political leaders."[114] Female leaders must emulate male gender stereotypes partly to overcome preconceived notions of the unsuitability of female leaders.[115] Given these findings, it is difficult to sustain the *essentialist* argument; yet it is not possible to

---

[110] Melander, "Political Gender Equality and State Human Rights Abuse," 161.
[111] Caprioli and Boyer, "Gender, Violence, and International Crisis," 507.
[112] Ibid.
[113] Ibid.
[114] Ibid., 508.
[115] Ibid.

test the validity of the *essentialist* argument from such a small sample size and draw any statistical conclusions. Subsequently, support falls to the *constructivist* argument, where male aggressiveness and female aversion to violence is associated with definitions of man and woman, which are socially constructed and emulated.[116]

Caprioli attributes instances of structural violence as indicative of the level of a states domestic equality, and as such its potential predictive role of intrastate violence. As Sideris argues, violence remains a central element defining the gendered relation between men and women.[117] The socially accepted relationship between the genders effects the level of cultural violence a state experiences, which further generates the reality of gendered structural violence. In effect, at the root of violent relations is a struggle for power or the interplay between domination and subordination between male and female. In other words, the gender disparity that exists in the distribution of power is rooted in structural violence, which is created and sustained by cultural norms.[118] In fact, Caprioli states that "gender is an integral aspect of structural and cultural gendered violence, for gender forms the basis of structural inequality in all states."[119] It is also particularly important to note that no state has yet to achieve full gender equality, which subjects women internationally to victimization by structural inequalities.[120] Galtung has stipulated that an assessment of both structural violence and cultural violence and how they work to influence one another, are determinants to understanding societal levels of violence because together they create the necessary rationalization for violence.[121] As previously defined,

---

[116] Melander, "Political Gender Equality and State Human Rights Abuse," 153-154.
[117] Caprioli, "Primed for Violence: The Role of Gender Inequality in Predicting Internal Conflict," 164.
[118] Ibid.
[119] Ibid.
[120] Ibid.
[121] Ibid., 163.

structural violence is understood by Galtung as "systematic exploitation that becomes part of the social order."[122] Tickner identified that achieving peace necessitates "overcoming social relations of domination and subordination."[123] Accordingly, the inequality that persists between men and women is an impediment to peace. As such, Caprioli concludes that "gendered structural hierarchies, maintained by norms of violence and oppression, should result in higher levels of intrastate violence by inuring people to violence and by providing the framework for justifying violence."[124] The theoretical assumptions surrounding an inherent link between a states level of gender equality and subsequent engagement in both interstate and intrastate violence have been identified. This positive correlation will be carried on in the subsequent sections of this paper to demonstrate the effects of gender inequality during and post-conflict.

---

[122] Ibid., 164.

[123] Ann Ticker, *Gender in International Relations,* New York: Columbia University Press: 128.

[124] Caprioli, "Primed for Violence: The Role of Gender Inequality in Predicting Internal Conflict," 165.

Chapter 4: Transitional Justice: Masculinist, Selective, Politicized

Now that a relationship has been established between domestic gender equality and state engagement in violence, this section will advocate for violence to be recognized on a continuum throughout the pre-conflict period into the post-conflict period. As such, TJ will be assessed based on its ability to recognize and rectify "social injustices, patterns of inequality, and marginalization that were underlying causes of conflict and that inflicted suffering and victimization of women."[125] TJ has been criticized for "being a 'selective process,' due to time, resource and political constraints."[126] This has lead to the unanimous critique throughout the literature that TJ excludes structural and gender-based violence in their assessment of human rights violations.[127] Moreover, TJ emphasizes 'extraordinary' violations of political and civil infringements of human rights, while disregarding the apparently 'ordinary' violations of economic, social and cultural rights.[128] Consequently, TJ treats private violence suffered by women as a form of 'ordinary violence' that is irrelevant to the conflict or politically fueled in any way, and therefore dismissing it as a viable factor of consideration or rehabilitation in the international arena.[129] A large focus on extraordinary violence dismisses the commonality of 'ordinary' violence that women regularly endure. This enables TJ to produce "subjects and truths that are blind to gender and social injustices."[130] By disregarding 'ordinary' violence, TJ largely disregards the structural inequalities that probe said violence. This enables VAW to appear in a 'transitioned' society, where the structural inequalities were never reformed. As such, TJ runs the risk of reverting a conflicted society to pre-conflict norms, inclusive of structural, socio-

---

[125] Rama Mani, "Dilemmas of Expanding Transitional Justice, or Forging the Nexus between Transitional Justice and Development," *International Journal of Transitional Justice* 2.3 (2008): 253.
[126] Nagy, "Transitional Justice as Global Project," 276.
[127] Ibid.
[128] Ibid.
[129] Ibid.
[130] Ibid., 275.

economic, cultural and gender inequalities. As such, it will be argued that by focusing narrowly

and predominantly on what seems to be 'conflict-related' violence and to the exclusion of

'ordinary violence,' TJ initiatives have created a gendered hierarchy of suffering. Wherein, men

profit from TJ initiatives more so than women, as they are typically the victims of direct,

'conflict-related' violence.

4.1: From Conflict, To Transition

Nagy argues that "transitional justice has typically appeared salient only after massive

direct violence has been brought to a halt."[131] This provokes inquiry into "what exactly is

transitional justice transitioning from, and what it is transitioning to?"[132] As developed above,

the literature has presented a distinction between what TJ considers political or conflict-related

violence (public) and what is not (private). This explanation of TJ processes further suggests "a

fixed interregnum period with a distinct end; it bridges a violent or repressive past and a

peaceful, democratic future."[133] The detriment of such a distinct division is that it rejects the

'continuum of violence' that women experience, while completely disregarding that VAW

continues, if not worsens, in post-conflict societies. For example, a global review of 50 countries

found significant increases in GBV following armed conflict.[134] By disregarding the potential of

a continuity of violence, 'ordinary' instances of VAW become normalized. It is this

normalization that has lead to a "disconnect in linking the general continuum of violence that

---

[131] Ibid., 280.
[132] Tabak, "False Dichotomies of Transitional Justice," 113.
[133] Nagy, "Transitional Justice as Global Project," 280.
[134] World Bank. 2011. *World Development Report 2011*: Conflict, Security and Development.

women experience, whether in times of conflict, peace, or transition."[135] Through acknowledging

violence on a continuum, the "underpinning norms, values and institutional structures that

normalize certain violence's [private violence] and exceptionalize others [public violence],"

could be identified and rehabilitated.[136] Without said examination, TJ mechanisms have the

potential to "simply reassert and cement the male-oriented relationships that lead to the conflict

in the first place."[137] While TJ mechanisms work to repair the political problems in the society, it

largely fails to dismantle structural inequalities that disproportionately affect women, and have

significant implications in the post-conflict society. For example, in Burundi, the pre-conflict

patriarchal structures tied women's economic and legal status to their husbands and fathers;

leaving displaced single women or widows in the post-conflict society particularly vulnerable

without access to land and unable to support their families.[138] The situation in northern Uganda

was quite similar, the patriarchal structure excluded women from legal and social institutions,

along with land rights, which "had a severe impact on the post-conflict lives of widows and

otherwise single women, many of whom are forced into violent relationships, sex-work or

exploitative labor such as domestic servants."[139] Accordingly, since structural inequalities persist

throughout the entire period, there is no concrete distinction for when TJ needs to be applied in

order to combat the structural violence.

---

[135] Fionnuala Ni Aolain, "Women, Security and the Patriarchy of Internationalized Transitional Justice," *Human Rights Quarterly* 31 (2009): 1078.
[136] Boesten, "Analyzing Rape Regimes at the Interface of War and Peace in Peru," 113.
[137] Ibid.
[138] Lambourne and Rodriguez Carreon, "Engendering Transitional Justice," 85.
[139] Ibid.

4.2: Violence against Women on a 'Continuum of Violence'

From a feminist approach, GBV during armed conflict is simply a heightened demonstration of violence that exists in the pre-conflict society. UN Deputy Secretary-General Asha-Rose Migiro has confirmed this view by stating "if a culture of violence and discrimination against women and girls exists prior to conflict, it will be exacerbated during conflict."[140] This conception is further supported by Rehn and Johnson-Sirleaf who argue, "[t]he extreme violence that women suffer during conflict does not arise solely out of the conditions of war; it is directly related to the [ordinary] violence that exists in women's lives during peacetime."[141] Throughout the literature, there is pressure to disrupt the binaries between public and private demonstrations of VAW. Scholars such as Boesten, Anderson, and Manjoo and McRaith, argue for acknowledgment of the "continuity and affinity in the use of violence rather than [a mere instance of] rupture and exceptionality."[142] They advocate for the recognition of GBV on a 'continuum,' because it maintains the potential to transpire from pre-conflict, through conflict, and into the post-conflict society. By doing so, the "underpinning norms and institutional structures that normalize certain violence and exceptionalize others," can be acknowledged.[143] Without complete acknowledgment of the likelihood of violence continuing, ordinary and normalized violence that is perceived as legitimate and non-reprehensible has the potential to sustain the post-conflict society. For the purpose of this paper, private demonstrations of GBV or VAW will refer to instances of domestic violence or intimate partner violence (IPV), whereas public instances of GBV or VAW will be understood as politically-or-conflict motivated. This is an integral point of analysis necessary to interrogate the causal relationship between conflict and

---

[140] Manjoo and McRaith, "Gender-Based Violence and Justice," 15.
[141] Ibid.
[142] Boesten, "Analyzing Rape Regimes at the Interface of War and Peace in Peru," 113.
[143] Ibid.

post-conflicts' intensification of domestic violence and to analyze the breadth of effects armed conflict has on gender relations. Currently, there remains a distinction between public and private instances of violence in both practicality and theory. Only public demonstrations of violence that are regarded as an effect of armed conflict are recognized as state responsibility and subject to state intervention and ramifications. As such, this supports the stream of literature that argues for an elimination of the private/public distinction, which will subject both direct and indirect demonstrations of violence to state intervention, hopefully reducing continuation and exacerbation of violence

In her analysis of the Peruvian war, Boesten concluded that "wartime sexual violence is not an aberration or an exception but an exacerbation of existing violence and gender and racial inequalities."[144] She also argues for a destruction of the binaries of public and private violence. Throughout her analysis, she places significant emphasis on the phenomenon of invisible sexual violence during the Peruvian War. Boesten identified invisible sexual violence as rape at the community or household level. She also demonstrated that rape has been categorized into something more "benign or even participatory," where women used their sexuality in exchange for protection from the effects of conflict.[145] She attributes the invisibility of sexual violence to pre-conflict understandings and acceptance of gendered social relations. Ultimately, her research highlights that the violence that women suffer during conflict does not result exclusively "out of the conditions of war; but it is directly related to the violence that exists in women's lives during peacetime."[146] Anderson takes this further to suggest that "the attitudes and values that give rise

---

[144] Ibid., 129.
[145] Ibid., 123.
[146] Manjoo and McRaith, "Gender-Based Violence and Justice," 15.

to private violence lay the groundwork for public violence."[147] She identifies that "both are rooted in mind-sets where domination, control, and beliefs in [male] superiority and [female] inferiority are central."[148] These mindsets can be referred to the institutionalization of structural and cultural inequalities, which justifies the use of force by a superior against an inferior. Given the continuity of these occurrences between public and private life, they cannot safely be separated to one spectrum of life but rather, shall be placed on a continuum.

4.3: Violence against Women as 'Dual-Purpose' and 'Conflict Related'

Green and Ward found evidence that suggests, violence that occurs during and post-conflict, irrespective of public or private nature, can be 'dual-purpose' and 'conflict related' in nature. To elaborate, they cite that, "violence that meets both political and organized goals, as well as personal goals can coexist."[149] The authors demonstrate, through an analysis of violence in post-invasion Iraq, how political and criminal violence have converged. They found that at the onset of the invasion of Iraq there was a clear distinction between organized use of violence by and against military members or combatants, and subsequent 'opportunistic violence' that was directed towards civilians.[150] The subsequent wave of 'opportunistic violence' normalized kidnapping, rape, and other crimes as a consequence of the chaos the war created.[151] Most recently, the literature has observed a correlation between opportunistic and organized violence.[152] This correlation is seen in so far as militants are committing 'opportunistic' violent

---

[147] McWilliams and Ni Aolain, "'There is a War Going on You Know," 34.
[148] Ibid.
[149] Penny Green and Tony Ward, "The Transformation of Violence in Iraq," *The British Journal of Criminology* 49, no. 5 (2009): 609.
[150] Ibid., 612.
[151] Human Rights Watch (1993), Genocide in Iraq: The Anfal Campaign against the Kurds. Washington, DC : Author
[152] Green and Ward, "The Transformation of Violence in Iraq," 611-612.

acts as a means to achieve a greater political objective. Throughout the transformation of violence that Green and Ward identify, they state the most important characteristic to be 'dual-purpose' acts of violence, wherein acts of "murder, rape, kidnapping, smuggling and robbery that simultaneously accommodate individual and organizational goals."[153] This recognition of 'dual-purpose' violence signals that a distinction between politically and personally motivated, or public and private, should not be made. As demonstrated, there exists connections between politically-organized public violence and non-political private violence.

4.4: Intimate Partner Violence: Private in Nature, Public and Political in Causation

Most theories that propose an explanation for the increase of IPV in a post-conflict society, has recognized it to be a pre-conflict structural equality that is exacerbated by conflict, and thus a matter of state concern. It is important to consider that what has been acknowledged about IPV in post-conflict societies is controversial, and largely limited. The literature attributes this fragmentation to the broader issues of underreporting, private nature and lack of state involvement. This has led to the assumption that the data reported throughout the literature is not entirely reflective of the actual frequency of IPV. Nonetheless, with the accessible data, IPV is demonstrated as an issue of serious concern and explicit attention.

Evidence suggests that "post-conflict societies do statistically experience greater proportions of domestic and intimate violence."[154] Scholars such as, Ni Aolain and McWilliams, Tabak, Green and Ward, Hamber, and Sideris demonstrate that a rise in IPV is directly indicative to gendered relations that were existent pre-conflict, and have been exacerbated post-conflict.

---

[153] Ibid., 621.
[154] Ni Aolain, "Women, Security and the Patriarchy of Internationalized Transitional Justice," 1068.

For instance, "[the] reassertion of violence in the private sphere constitutes a form of compensation for male combatants, for their loss of public status and hegemony."[155] Ni Aolain has developed this line of argumentation as the 'returning warrior' paradigm. This paradigm stipulates that through conflict combatants become conditioned and normalized to the use of force and violence. So in the post-conflict society, the combatant equates the domestic sphere as an appropriate site to re-assert power and control through physical force and violence.[156] As Ni Aolain notes, the literature largely fails to demonstrate that by not addressing structural there are "long-term structural implications for the success of any specific security reform efforts."[157] Based on this paradigm, Ni Aolain urges transitioning societies to deconstruct the binaries between the public and private domains, along with the dichotomy of 'ordinary' versus 'extraordinary' violence. Without such examination, the 'returning warrior' problem will persist, and women's security in the home will continue to be compromised.[158] While Ni Aolain does not address ways to prevent the 'returning warrior' paradigm, she does suggest that by including violence against women as a central aspect of attaining security in a post-conflict society, the militarized view of what constitutes safety and peace, post-conflict, will follow suit.[159] Similarly, Tabak claims the 'returning warrior' originates from conflict-related or political motives, suggesting that the domestic violence experienced is, in fact, a state-responsibility. Tabak states that during conflict men are regarded as political figures pursuing a political objective, but post-conflict they assert political prominence in the domestic domain through violent measures as a means of compensating for the loss of their political status as a soldier.[160] In her analysis of

---

[155] Ibid.
[156] Ibid.
[157] ibid
[158] Ibid.
[159] Ibid.
[160] Tabak, "False Dichotomies of Transitional Justice," 138.

Colombian combatants, Tabak found that "individuals who have been trained as soldiers to use violence often have difficulty interacting with their families in ways that do not involve violence."[161] This culture of violence pervades post-conflict society if unrecognized as a central aspect of security.

Further, to demonstrate that VAW is conflict-related or politically motivated, Ni Aolain and McWilliams argue that the female body is a symbol of political power. In particular, "women's bodies are targeted as a method and means of warfare [to assert authority and domination]" for men to re-assert their power and control within the state. [162];[163] The same purpose of sexual violence is often repeated in the private sphere, as IPV is largely a means to assert domination and power inside the home and within the relationship. Similarly, Sideris and Hamber recognize the use of violence in the domestic sphere as an instance of domination over the female body as a means to reassert or re-affirm their masculinities. To these authors, IPV is seen as politically-motivated and conflict related because ex-combatants have to reaffirm their masculine identity, which may emerge from conflict damaged. To Sideris, this means their sense of masculinity has been disrupted throughout the conflict. Hamber attributes this disruption of masculinities to the fact that women may be required to assume traditionally male roles in order to survive and provide for their families. For example, Hamber argues that women who were excluded from the public domain in the pre-conflict society, had to become financially independent in order to survive throughout conflict.[164] This disrupts traditional gender roles, as familial support is usually within the male domain. So men are typically determined to reassert

---

[161] Ibid.
[162] McWilliams and Ni Aolain, "'There is a War Going on You Know," 14.
[163] Ibid.
[164] Hamber, "Masculinity and Transitional Justice," 385.

their manliness upon returning home from war. Hambers' clinical study surrounding the psychology of masculinity has found that "methods to restate one's manhood most commonly takes place within intimate relationships and through violent measures."[165] He found that when masculine norms are challenged men can experience 'gender-role stress', which can result in abuse, violence, and force towards their partners.[166] Conclusively, IPV may be understood as "being rooted in male vulnerability stemming from social expectations of manhood that are unattainable," due to economic constraints, psychological effects of war, and unemployment.[167]

Finally, an increase in the availability of weapons caused by conflict arguably increases the prevalence of IPV. In their case study of Northern Ireland, McWilliams and Ni Aolain found that the number of domestic violence fatalities had significantly increased which they recognized as an effect of the increased availability of legally held weapons.[168] As a direct result of the conflict police, prison services and army members were able to apply for and receive personal protection arsenals. This led to an increase of households occupying weapons when compared to any other part of the United Kingdom or the Republic of Ireland.[169] Consequentially, this increased availability of weapons coupled with the aforementioned gendered hierarchies, social circumstances and vulnerability, women in these households were subject to significantly higher risk of personal harm.

Several explanations have been put forth to explain an increase of GBV or IPV in the aftermath of war. These include the 'returning warrior' paradigm and exaggerated masculinities, the female body as an emphasized point of power, male vulnerability and social conditions, and

---

[165] Ibid.
[166] Ibid., 386.
[167] Ibid., 383.
[168] McWilliams and Ni Aolain, "There is a War Going on You Know," 31.
[169] Ibid., 25.

an increase in the availability to weapons. The public-private distinction has been demonstrated to ignore the continuities of violence for women, while under-recognizing the extent to which women are the ongoing targets of violence before, during and after violent political conflicts.[170] This calls for a deconstruction of the binaries between private and public violence and a recognition of the continuity of 'ordinary' and 'extraordinary' forms of violence. Scholars and international actors have attributed the prevalence of GBV "as a tool of war, contributing to the intentional destabilization, humiliation, and degradation of a population."[171] Because GBV is understood as evidence of gendered-power relations between male and female, a lack of explicit attention afforded to the prevalence of GBV runs the risk of engendering, continuing, and regularizing gendered-power relations.[172]

---

[170] Ibid., 31.
[171] Ibid.
[172] Hamber, "Masculinity and Transitional Justice," 383.

Chapter 5: Limitations of Transitional Justice

The primary limitation of TJ identified in this paper is its inability to address structural inequalities and indirect violence. This is due to a focus in TJ on civil and political rights and subsequent disregard for economic, social and cultural rights. As such, TJ works towards eliminating political violence in conflict ridden zones but fails to formulate a causal relationship between structural inequalities, political violence, conflict and GBV. Therefore, this section adopts the 'conflict transformation theory' to emphasize said limitation. The conflict transformation theory regards peacebuilding as a "relational and institution-building process that addresses both direct violence and the underlying structural violence of socioeconomic and political discrimination and disadvantage."[173] As demonstrated throughout this paper, women experience both direct and indirect violence from conflict and suffer disproportionately from underlying structural violence.

5.1: Social Inequality Management

The literature presents TJ as incapable or reluctant to address structural inequalities. As the literature suggests recognizing 'rape as a tactic of war' and including women in TJ processes, are both essential but not adequate to deal with the intricate forms of violence experienced by women. The literature argues for a closer regard to structural inequalities as they affect conflict. Laplante argues, that peace can not be sustained if the structural inequalities that lead to violence are not addressed.[174] On this premise, she is asserting that a society cannot achieve a state of complete peace, if civilians are still suffering from structural violence and inequalities.

---

[173] Lambourne and Rodriguez Carreon, "Engendering Transitional Justice," 72.
[174] Lisa J. Laplante, "Transitional Justice and Peace Building: Diagnosing and Addressing the Socioeconomic Roots of Violence through a Human Rights Framework," *International Journal of Transitional Justice* 2.3 (2008): 331.

McWilliams and Ni Aolain further support Laplante as they argue that it is "fundamentally contradictory to address one form of violence [direct, physical violence] without the other [structural violence], as there exists theoretical and practical linkages between conflict and non-conflict VAW."[175] Similarly, Lambourne and Rodriguez-Carreon argue that a "gender-sensitive, gender-responsive or even gender-inclusive approach to transitional justice is insufficient and inadequate."[176] Instead, they advance a "gender-transformative approach to TJ that focuses on transforming psychosocial, socioeconomic and political power relations in society as a means to attaining human rights for women and building a sustainable peace."[177]

Without appropriate acknowledgment of structural inequalities that stimulate conflict, the literature suggests that TJ simply aims to manage social inequalities as opposed to transforming structural inequalities.[178] The literature has theorized why TJ remains incapable or reluctant to address structural inequalities. The most common explanation is put forth by Balint, Evans and Nesam, which claims TJ places focus on individual responsibility and a protection of civil and political rights.[179] As a result, TJ largely ignores social, economic and cultural rights, which effects a dismissal of structural inequalities; this phenomenon has been theorized throughout the literature as outlined below.

Firstly, Arthur recognizes that TJ emerged during a period of constant political change, wherein many states were focused on adopting democracy.[180] As such, TJ mechanisms were largely developed out of liberal democratic ideals. The adoption of democratic regimes

---

[175] McWilliams and Ni Aolain, "'There is a War Going on You Know," 6.
[176] Lambourne and Rodriguez Carreon, "Engendering Transitional Justice," 73.
[177] Ibid.
[178] Martha Fineman and Estelle Zinsstag, *Feminist Perspectives on Transitional Justice,* UK, Cambridge: Intersentia Publishing Ltd (2013): 273.
[179] Balint, Evans, and Nesam, "Rethinking Transitional Justice," 198.
[180] Paige Arthur, "How 'Transitions' Reshaped Human Rights: A Conceptual History of Transitional Justice," *Human Rights Quarterly* 31.2 (2009): 321.

understood claims to justice that "prioritized legal-institutional reforms and responses [civil and political rights] – over other claims [economic, cultural and social rights] to justice that were oriented toward social justice and redistribution."[181] Accordingly, declaring and protecting civil and political rights were regarded as prerequisites to promoting the development of a liberal democratic form of governance. This offers clarity to "why transitional justice is structured around the pursuit of legal accountability and institutional reform," and "why TJ is concerned with guaranteeing the broad enjoyment of civil and political rights as the basis of such a democratic society."[182] Balint and Evans assert, the historical-political circumstances that TJ developed from is to blame for their inattention to social, economic and cultural rights.

Additionally, following the establishment in liberal democratic ideals, Western court systems mostly prosecute civil and political right infringements. The Western system is of relevance and importance because TJ in its entirety is built on liberal, democratic principles and largely resembles Western ideals. These include protection from human right violations by all sectors of society. It can be argued that courts prosecution of civil and political rights is reflective of their ability to place individual accountability, which in effect makes the prosecution process simpler. As Mani explains, "broader social and structural inequalities [such as poverty, poor health, limited economic opportunities] are not easily reduced to questions of individual responsibility and accountability [in court proceedings] and hence are not adequately addressed through existing transitional justice approaches."[183] As such, TJ related court proceedings largely mimic Western proceedings, which are typically to the exclusion of social, economic and cultural rights.

---

[181] Ibid., 322.
[182] Balint, Evans, and Nesam, "Rethinking Transitional Justice," 200.
[183] Ibid.

Lastly, TJs inattention to social, economic and cultural rights can be equated to its dependence on a seemingly 'sequential' framework. TJ focuses on the moment of political 'rupture,' and only then are TJ mechanisms authorized and applied.[184] This reliance on a moment of exceptionality and subsequent discontinuity means that "parameters for past, present and future are set by the transitional institutions themselves."[185] This is detrimental because it ignores the continuity of violence, of which this paper has rightly established. In reality, the past and future are 'intertwined and co-implicated.'[186] So, without acknowledgment between and within past, present and future incidents, TJ remains unable to recognize and repair structural inequalities that initiated conflict, became exacerbated by conflict, and persisted in transitioned post-conflict societies. Given the unanimity surrounding TJs lack of consideration for social, economic and cultural rights, the duration of this section will analyze and identify the limitations of TJ's principal mechanisms: criminal prosecutions, Truth Commissions (TC) and Truth and Reconciliation Commissions (TRC), and reparations. This will allow for a greater analysis of TJs potential as a mechanism to rehabilitate conflicted societies and initiate change.

5.2: Criminal Prosecutions

The literature supports criminal prosecutions because it holds perpetrators of GBV legally accountable for their actions. Additionally, criminal proceedings address direct physical harms as they result from war crimes, crimes against humanity, or genocide.[187] However, criminal prosecutions are critiqued on their overstated assumption on female willingness to

---

[184] Zinaida Miller, "Effects of Invisibility: In Search of the 'Economic' in Transitional Justice," *International Journal of Transitional Justice* 2.3 (2008): 270.
[185] Ibid.
[186] Balint, Evans, and Nesam, "Rethinking Transitional Justice," 201.
[187] Lambourne and Rodriguez Carreon, "Engendering Transitional Justice," 75.

testify as a rape or sexual violence victim. Women's incentive to testify is largely obscured by fear of societal and familial ostracization and stigmatization. In cultures where women are ostracized for being a rape victim, women are less likely to engage in legal testimonies, making their opportunities to seek justice through criminal prosecutions a notional idea.

Lambourne and Rodriguez-Carreon critique criminal prosecutions on the basis that they may, in fact, lessen the extent of violence endured. Regarding sexual violence, criminal justice is only indicative of the physical act and physical harms done. However, as suggested throughout the paper, sexual violence presents itself in a myriad amount of ways. Criminal prosecutions fail to recognize other aspects of physical harm that derive from sexual violence, for example, reproductive health, HIV/AIDs, and psychological trauma. In addition to that, there is the material and social consequences of testifying as a rape-victim. In many societies where gendered inequalities are so deeply institutionalized, they are also largely unforgiving of sexual violence victims. To elaborate, a report by *Redress and African Rights* acknowledged the experiences of Rwandan women when returning to their villages after testifying to their rapes at the International Criminal Tribunal for Rwanda (ICTR). Many of these victims were regarded as 'dishonored, dirty and unmarriageable.'[188] The report also noted several cases where women were either killed or beaten, to either discourage them from testifying or as a form of reprimanding them for testifying. On this premise, it seems that criminal prosecution does not ensure justice for these women, and may create worsened implications for their livelihood.

Conversely, Bell and O'Rourke, argue that the development of special units such as the Sierra Leone Special Court and the International Criminal Tribunal for Rwanda is progress to achieving justice in the field of criminal prosecutions. The authors attribute this progress to the

---

[188] Ibid., 76.

fact that special units often place more focus on specific issues, such as sexual violence, while also accommodating testimonies, and providing counselling and support.[189] While they are correct in their assertion that special units are an advancement towards the opportunity of achieving a greater depth of justice, they neglect to recognize the rarity of these special units. Lambourne and Rodriguez-Carreon assert that "international energy and resources are invested in a small number of high profile prosecutions."[190] Additionally, these special units largely mimic traditional TJ mechanisms in the sense that they highly disregard the structural effects that may have probed violence in the first place. In addition to this, Henry cites that these legal procedures prevent women from being able to "tell their story, find justice and experience healing."[191] To substantiate this claim, she cites the International Criminal Tribunal for the Former Yugoslavia (ICTY) wherein women were "interrupted and prevented from narrating their own experiences"[192] It was common place for witnesses to not be asked anything about their rape, or to be disregarded when they brought it up. The Special Court for Sierra Leone endured a similar reality. Grewal cites examples including "cases in which charges of rape had been dropped and the female witnesses were instructed not to speak of their rape at all during testimony and instead to focus on other crimes they had experienced during the civil war."[193] Conclusively, the special courts and criminal tribunals seem like a revolutionary outlet for victims of sexual abuse, but in actuality, they remain limiting and dismissive.

---

[189] Bell and O'Rourke, "Does Feminism Need a Theory of Transitional Justice?" 28.
[190] Lambourne and Rodriguez Carreon, "Engendering Transitional Justice," 78.
[191] Nicola Henry, "Witness to rape: The limits and potential of international war crimes trials for victims of wartime sexual violence," International Journal of Transitional Justice 3 (2009): 120.
[192] Lambourne and Rodriguez Carreon, "Engendering Transitional Justice," 75.
[193] Grewal K, "Rape in conflict, rape in peace: Questioning the revolutionary potential of international criminal justice for women's human rights," *Australian Women's Feminist Law Journal* 33 (2010): 70-72.

5.3: Truth Commissions and Truth and Reconciliation Commissions

Truth Commissions (TC) and Truth and Reconciliation Commissions (TRC) are used to expose and reveal wrongdoings by government officials or non-state actors in order to make amends. Recently, TCs and TRCs have included gender and sexual violence offences as part of their commission mandates, yet the effect of their inclusion remains unsatisfactory.[194] The TRC of South Africa set the example to incorporate gender units and female participation.[195] Irrespective of their initiatives, the final TRC report completely muted women's voices and experiences with sexual violence throughout the conflict.[196] Similarly, the TC of East Timor also incorporated gender and sexual violence. Yet again, irrespective of the 'gender mainstreaming' initiatives, the mandate remained predominately gender neutral in outcome. The prevalence of women reporting their experience of sexual violence and rape was less than anticipated based on evidence stipulating the widespread occurrence of sexual violence throughout the conflict.[197] This is not to challenge the importance of the inclusion of women, since their accounts are necessary to understand the prevalence of GBV. As such the inclusion of women, while necessary, remains insufficient.

TCs are further critiqued throughout the literature on the premise that they "hold the potential to ask not only what happened during periods of political violence and armed conflict but also *why* the violence occurred at all."[198] As Laplante argues, TCs are able to identify *what* happened, because this is understood in terms of the civil and political rights that have been violated and individual accountability can simply be assigned. However, TCs failure to

---

[194] Bell and O'Rourke, "Does Feminism Need a Theory of Transitional Justice?" 28.
[195] Lambourne and Rodriguez Carreon, "Engendering Transitional Justice," 79.
[196] Ni Aolain, "Advancing Feminist Positioning in the Field of Transitional Justice," 215.
[197] Lambourne and Rodriguez Carreon, "Engendering Transitional Justice," 79.
[198] Laplante, "Transitional Justice and Peace Building," 334.

interrogate *why* the violence occurs simply affirms TJs general unwillingness to recognize the consequences of structural inequalities as they affect conflict. This was most evident in the TCs of Argentina, Chile and El Salvador. While these TCs recognized the weaknesses of institutions which contributed to the violence, they failed to delve into the structural realities that influence the corruption and weakness of institutions.[199] An interrogation of the structural inequalities, as they affect societal and institutional relations allows for the ability to delve into the root causes of GBV and IPV. As previously argued, by failing to address the underlying structural inequalities TJ in its entirety fails to comprehend and rectify symptoms of GBV and IPV. Most recently, the TC of Peru explored the historical context of the states. They were able to emphasize a link between "poverty and social exclusion, and [subsequent] political violence that 'ignited' and then became the backdrop of the war."[200] This not only supports the papers contention that conflict arises from pre-existing structural inequalities, but that TCs do, in fact, have the mechanisms necessary to delve into *why* the conflict happened. However, the final Peruvian TC failed to uncover the "underlying sociopolitical and economic matrix of gender inequalities," specifically.[201] This demonstrates that the TC failed to be entirely gender-inclusive in its assessment of structural inequalities. In addition, the rarity of TCs that mimic the Peruvian example, in the sense that it is investigative of structural inequalities in the capacity of gender relations or not, is further indicative of TJs large inability to identify *why* the violence occurred. Ultimately, success of TCs require thorough consideration of the range of harms endured by females, without proper acknowledgment and understanding on the structural inequalities that

---

[199] Ibid., 335.
[200] Ibid.
[201] Lambourne and Rodriguez Carreon, "Engendering Transitional Justice," 80.

may have motivated conflict, TCs are unable to address the issue entirely and present appropriate or sufficient recommendations.

5.4: Reparations

Reparations are intended to "acknowledge harm, establish responsibility and adopt measures that can contribute towards redress – materially, symbolically and morally."[202] Like other TJ mechanisms, reparations focus largely on violations of civil and political rights, while ignoring abuses of economic, social, and cultural rights. As such, victims of economic, social and cultural right abuses are largely under-acknowledged. Additionally, the underlying causes of violence that may be a derivative of deeper socio-economic inequalities are under investigated. Beyond that, Borer identifies that receiving reparations for right abuses are dependent on partaking in legal proceedings.[203] As section 6.2 has demonstrated, victims of sexual abuse remain hesitant to testify in legal proceedings due to subsequent ostracization or stigmatization by their families or communities. Consequently, their opportunity to receive reparations is further impeded.

Reparations are further critiqued on the premise that they are "legally defined and traditionally understood as being about returning the victim to some pre-existing state prior to the crime being committed."[204] As such, Valji argues that reparations may, in fact, reassert pre-existing and underlying inequalities that may have motivated sexual violence initially. Accordingly, he asserts that to be impactful and transformative, reparations must "directly

---

[202] UN Women. *A Window of Opportunity: Making Transitional Justice Work for Women, 2nd edition,* by Nahla Valji (New York, NY: United Nations Entity for Gender Equality and the Empowerment of Women, 2012).
[203] Lambourne and Rodriguez Carreon, "Engendering Transitional Justice," 81.
[204] Ibid., 82.

address pre-existing underlying inequalities."[205] Without explicit attention afforded to structural inequalities, reparations simply run the risk of reproducing an unequal distribution of rights and resources, and reproducing social and gendered hierarchies.

Finally, reparations are often discriminatory in their application. Manjoo and McRaith argue that "cultural views on the role of the women…may have a negative impact on women's access to reparations."[206] For example, in many African countries, men are recognized as the head of the household and thus, they are monetarily compensated for his wife's rape.[207] Further, some countries determine the amount offered as reparation based on the income earned by the person who was victimized or killed.[208] For example, "in Northern Ireland reparations made by the government for the conflict-related death of a mother to six children resulted in only £84."[209] Conversely, the compensation given to a family of a working father would likely surpass £100,000.[210] The discrepancy in monetary compensation granted to victims of conflict related violence or fatalities resembles the gendered hierarchy, wherein women are valued much lower than men. It is further indicative of structural socio-economic inequalities as the affect women.

Overall the majority of critiques offered against TJ mechanisms is that they neglect structural inequalities in their assessment of rehabilitation efforts. As TJ attempts to return societies to pre-conflict norms, it encounters the potential to restates structural inequalities.[211] Thereby, Tietel confirms that "TCs have tended to adopt a historical view of justice, rather than a broader structural reform project."[212] By doing so, they disregard power relations which are

---

[205] Ibid.
[206] Manjoo and McRaith, "Gender-Based Violence and Justice," 17.
[207] Ibid.
[208] Ibid.
[209] Ibid.
[210] Ibid., 18.
[211] Tabak, "False Dichotomies of Transitional Justice," 115.
[212] Laplante, "Transitional Justice and Peace Building," 355.

indicative of economic and political realities. The critiques are also unanimous in their assertion that TJ mechanisms are essentially gender-neutral, intensely entrenched in male bias, and unsuited to addressing structural inequalities. Rielly suggests that in order to deconstruct this inherent patriarchal bias, and work towards gender inclusivity TJ should "understand how patriarchy, militarism and nationalism interact to produce gendered identities and experiences that are inimical to women's human rights in both conflicts and transitions."[213] Lambourne and Rodriguez-Carreon and Manjoo and McRaith assert that participation of men and women is essential to change discriminatory laws, attitudes and institutions. More specifically, Manjoo and McRaith argues that "measures must be taken to increase reporting of gender-based crimes, including lowering the social stigma attached to rape victims."[214] Overall, as this section has advanced, incorporating women into TJ processes is necessary, but not sufficient. Scholars advance that accountability will lower the prominence of GBV. As such, TJ mechanisms should work toward strengthening the judicial system and reforming the security section, to increase reporting and reduce impunity.[215]

---

[213] Niamh Reilly, "Seeking Gender Justice in Post-Conflict Transitions: Towards a Transformative Women's Human Rights Approach," *International Journal of Law* 3.2 (2007): 158.
[214] Manjoo and McRaith, "Gender-Based Violence and Justice," 31.
[215] Ibid.

Conclusion

As we have presented in this paper, women are impacted by armed conflict in a myriad of ways. In doing so, this paper refuted the widely held perception that because armed conflict directly injures and kills more men than women, men are the predominant victims of armed conflict. Instead, this paper examined the literature that suggests armed conflict disproportionately affects women as opposed to men. The gendered characteristics of violence were demonstrated to reflect structural inequities that have differential impacts from pre-conflict, through conflict, and into post-conflict society. This paper demonstrated that armed conflict and its aftermath further intensifies these gendered inequalities. This was realized by demonstrating that conflict embodies a patriarchal ideology of domination and subordination while displaying overtly masculine tendencies. Simply put, the extent to which armed conflict is inherently masculine was established. It was found that aggressive character of the war itself: to dominate and control another nation or people, was indicative of the masculine nature of conflict. Beyond that, the literature demonstrates how a societal and cultural construction of gender roles have an effectual influence on the conduction of conflict and a resulting impact on the masculine tendencies of conflict. This paper critiqued transitional justice literature on the premise that it places too much emphasis on 'extraordinary' violations of political and civil human security, while severely neglecting instances of 'ordinary' breaches of economic, social and cultural rights. This paper concluded that current TJ mechanisms in the literature remain insufficient to dealing with gender based violence, which effectively perpetuates gendered structural inequalities that disproportionally affect women. As such, this shapes the TJ mechanisms that are afforded to reconstruct the society, as largely gender blind, or gender neutral.

The entirety of this paper called for a recognition of the gendered nature of conflict and the subsequent violence, as a derivative of structural inequalities. By failing to recognize violence on a continuum, TJ measures fail to achieve sustainable peace by failing to adequately recognize the underlying structural inequities that lead to violence in the first place. This assertion was corroborated throughout the paper by empirical studies which tested the correlation between states with severe structural inequalities and subsequent engagement in violence. In all studies assessed, there was a correlation between the level of gender equality and succeeding state involvement in violent conflict. Conclusively, this paper demonstrated the importance of understanding violence on a continuum, wherein the underlying norms, values and structural inequalities as they impact women and motivate conflict could be interrogated. By acknowledging the continuum of violence, any structural inequalities or institutionalized structures that normalize certain violence and exceptionalize others can be recognized and reformed, it also allows for a distortion of the binaries between ordinary and extraordinary violence, as well as public and private violence.

Bibliography

Arthur, Paige. "How 'Transitions' Reshaped Human Rights: A Conceptual History of Transitional Justice." *Human Rights Quarterly* 31.2 (2009): 321-367.

Balint, Jennifer, Julie Evans, and Nesam McMillan. "Rethinking Transitional Justice, Redressing Indigenous Harm: A New Conceptual Approach." *International Journal of Transitional Justice* 8.2 (2014): 194-216.

Bell, Christine and Catherine O'Rourke. "Does Feminism Need a Theory of Transitional Justice? An Introductory Essay." *International Journal of Transitional Justice* 1 (2007): 23-44.

Boesten, Jelke. "Analyzing Rape Regimes at the Interface of War and Peace in Peru." *The International Journal of Transitional Justice* 4.1 (2010): 110-129.

Buss, Doris E. "Rethinking 'Rape as a Weapon of War'." *Feminist Legal Studies* 17, no. 2 (2009): 145-163.

Caprioli, Mary. "Gendered Conflict." *Journal of Peace Research* 37, no. 1 (2000): 51-68.

Caprioli, Mary. "Primed for Violence: The Role of Gender Inequality in Predicting Internal Conflict." *International Studies Quarterly* 49, no. 2 (2005): 161-78.

Caprioli, Mary, and M. A. Boyer. "Gender, Violence, and International Crisis." *Journal of Conflict Resolution* 45, no. 4 (2001): 503-18.

Colombini, Manuela. 2002. Gender-based and sexual violence against women during armed conflict. *Journal of Health Management* 4 (2): 167-83.

Conover, Pamela Johnston. "Feminists and the Gender Gap." *The Journal of Politics* 50, no. 4 (1988): 985-1010.

Davies, Sara E., and Jacqui True. "Reframing conflict-related sexual and gender-based violence: Bringing gender analysis back in." *Security Dialogue* 46, no. 6 (2015): 495-512.

Declaration on the Elimination of Violence Against Women, G.A. Res. 48/104, art. 1, U.N. Doc. A/48/49 (Dec. 20, 1993).

El Jack, Amani. ""Gender and Armed Conflict: Overview Report" - BRIDGE." Bridge Development-Gender. Accessed April 2017.

Fineman Alberston, Martha and Estelle Zinsstag. *Feminist Perspectives on Transitional Justice.* UK, Cambridge: Intersentia Publishing Ltd, 2013.

Godfrey, Richard. 2009. Military, masculinity and mediated representations: (con)fusing the real and the reel. *Culture and Organization* 15 (2): 203-20.

Gorris, E. A. P. "Invisible victims? Where are male victims of conflict-related sexual violence in international law and policy?" *European Journal of Women's Studies* 22, no. 4 (2015): 412-27.

Green, Penny and Tony Ward. "the Transformation of Violence in Iraq." *The British Journal of Criminology* 49, no. 5 (2009): 609-627.

Grewal, Kiran. "Rape in Conflict, Rape in Peace: Questioning the Revolutionary Potential of International Criminal Justice for Women's Human Rights." *Australian Feminist Law Journal,* 33, no. 1 (2010): 57-79.

Ghobarah, Hazem Adam, Paul Huth, and Bruce Russett. 2003. Civil Wars Kill and Maim People- Long After the Shooting Stops. American Political Science Review 97 (2):189-202.

Hamber Brandon. "Masculinity and Transitional Justice: An Exploratory Essay." *International Journal of Transitional Justice* 1.3 (2007): 375-390.

Henry, Nicola. "Witness to Rape: The Limits and Potential of International War Crimes Trials for Victims of Wartime Sexual Violence." *International Journal of Transitional Justice* 3, no. 1 (2009;2008;): 114-134.

Human Rights Watch (1993), Genocide in Iraq: The Anfal Campaign against the Kurds. Washington, DC: Author .
——(2003a), Basra: Crime and Insecurity under British Occupation. Washington, DC: Author.
——(2003b), Climate of Fear: Abduction of Women and Girls in Baghdad. Washington, DC: Author.

Kronsell, Annica. 2005. Gendered practices in institutions of hegemonic masculinity: Reflections from feminist standpoint theory. *International Feminist Journal of Politics* 7 (2): 280-98.

Lambourne, Wendy and Vivianna Rodriguez Carreon. "Engendering Transitional Justice: a Transformative Approach to Building Peace and Attaining Human Rights for Women." *Human Rights Review* 17 (2016): 71-93.

Laplante, Lisa J. "Transitional Justice and Peace Building: Diagnosing and Addressing the Socioeconomic Roots of Violence through a Human Rights Framework." *International Journal of Transitional Justice* 2.3 (2008): 331-355.

Li, Quan, and Ming Wen. 2005. "The Immediate and Lingering Effects of Armed Conflict on Adult Mortality. A Time-Series Cross-National Analysis." 4 *Journal of Peace Research* 42 (2005): 471-92.

Linos, Natalia. 2009. "Rethinking gender-based violence during war: Is violence against civilian men a problem worth addressing?" *Social Science & Medicine* 68 (8): 1548-51.

Mani, Rama. "Dilemmas of Expanding Transitional Justice, or Forging the Nexus between Transitional Justice and Development." *International Journal of Transitional Justice* 2.3 (2008): 253-265.

Manjoo, Rashida and Calleigh McRaith. "Gender-Based Violence and Justice in Conflict and Post Conflict Areas." *Cornell International Law Journal* 44 (2011): 11-31.

Melander, Erik. "Political Gender Equality and State Human Rights Abuse." *Journal of Peace Research* 42, no. 2 (2005): 149-166.

Miller, Zinaida. "Effects of Invisibility: In Search of the 'Economic' in Transitional Justice." *International Journal of Transitional Justice* 2.3 (2008): 266-291.

McWilliams, Monica and Fionnuala Ni Aolain. "'There is a War Going on You Know' -- Addressing the Complexity of Violence Against Women in Conflicted and Post Conflict Societies." *Transitional Justice Review* 1.2 (2013): 4-44.

Nagy, Rosemary. "Transitional Justice as Global Project: Critical Reflections." *Third World Quarterly* 29. 2 (2008): 275-289.

Ní Aolain, Fionnuala. "Advancing Feminist Positioning in the Field of Transitional Justice." *International Journal of Transitional Justice* 6.2 (2012): 205–228.

Ni Aolain, Fionnuala. "Women, Security and the Patriarchy of Internationalized Transitional Justice." *Human Rights Quarterly* 31 (2009): 1056-1085.

Page, Benjamin I., and Robert Y. Shapiro. 1992. *The rational public: Fifty years of trends in Americans' policy preferences*. Chicago: University of Chicago Press.

Plumper, Thomas and Eric Neumayer. 2006. "The Unequal Burden of War: The Effect of Armed Conflict on the Gender Gap in Life Expectancy." *International Organization*, 60, 3, Summer: 723-54.

Regan, Patrick M., and Aida Paskeviciute. 2003. Women's Access to Politics and Peaceful States. Journal of Peace Research 40 (3):287-302.

Reilly, Niamh. "Seeking Gender Justice in Post-Conflict Transitions: Towards a Transformative Women's Human Rights Approach." *International Journal of Law* 3.2 (2007): 155-172.

Swaine, Aisling. 2015. Beyond strategic rape and between the public and private: Violence against women in armed conflict. *Human Rights Quarterly* 37 (3): 755.

Tabak, Shana. "False Dichotomies of Transitional Justice: Gender, Conflict and Combatants in Colombia." *International Law and Politics* 44 (2011): 104-163.

Tickner, J. Ann, 1992. *Gender in International Relations*. New York: Columbia University Press.

UN Women. *A Window of Opportunity: Making Transitional Justice Work for Women, 2nd edition,* by Nahla Valji. New York, NY: United Nations Entity for Gender Equality and the Empowerment of Women, 2012.

UN Human Rights. *Sexual and Gender-Based Violence in the Context of Transitional Justice.* New York, NY: Office of the High Commissioner, 2014.

World Health Organization. *Violence Against Women: Intimate Partner and Sexual Violence against Women.* Geneva, Switzerland: United Nations, 2016.

World Bank. 2011. *World Development Report 2011: Conflict, Security and Development.* Washington DC: The World Bank.