

Chapter 51

The Role of Non- and Quasi-Judicial Accountability Mechanisms in Addressing a Wide Range of Needs of Victims of Sexual Violence as a Weapon of War

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ABSTRACT

This chapter turns to the potential contribution of quasi- or non-judicial post-conflict justice processes in complementing international criminal justice for addressing the needs of victims of conflict-related sexual violence. Drawing on insights from the previous chapters, it first analyses how effective redress for victims of sexual violence in post-conflict settings should be conceived in light of the complexity of the victims' experiences and the legacy of these crimes in communities. The discussion emphasises the potential transformative effects of truth-seeking processes and other community-based transitional justice measures on the often challenging social dimension of sexual violence as a weapon of war. The author argues, however, that whilst it is necessary to integrate these crimes into domestic transitional justice processes, this should be done alongside embedding appropriate measures to facilitate the participation of victims without running the risk of being exposed to further harm.

INTRODUCTION

This chapter critically analyses the potential contribution of contextualised, locally-embedded transitional justice processes in complementing the formal criminal justice processes for advancing effective redress for victims of sexual violence as an element of war strategies. Specifically, it widens the scope of transi-

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tional justice by examining how the increasing diversification of domestic quasi/non-judicial transitional justice processes can provide greater recognition of the lived experiences of victims of conflict-related mass sexual violence than possible within the international criminal justice processes. This is particularly relevant to the critical task of addressing the direct social dimension of these crimes in affected communities and promotes changes to enable the victims' social reintegration. As explained in the the previous chapter, what makes the phenomenon of sexual violence as a weapon of war distinctive from ordinary crimes is the way in which these crimes destroy the social fabric of families and communities and set the scene for a broader social degradation within affected communities. There is substantial empirical evidence that perpetrators of these crimes in conflict situations often explicitly link their brutal acts of sexual violence to this broader social degradation within societies.¹

The strategic use of sexual violence as a weapon of war represents a great threat to the safety of affected communities. The damaging social effects of these crimes add yet another component to the social disruption caused by armed conflicts. Fionnuala Ní Aoláin, Catherine O'Rourke and Aisling Swaine argue that even after conflict has ended, the impacts of sexual violence persist, including a myriad of social challenges for victims impeding their reintegration in their communities (F. Ní Aoláin, C. O'Rourke & A. Swaine, 2015). Essentially transitional societies enduring the legacy of sexual violence as a military tactic must contend with a wide range of complex challenges in the reconstruction process after conflicts due to the degradation of moral values and societal disintegration or weakened solidarity within communities (J. L. Leatherman, 2011). The earlier discussion of distinct aspects of sexual violence as a weapon of war and their implications for the victims' needs in post-conflict situations has shown that victims of these crimes yearn for social acknowledgment and validation of their complex experiences and the restoration of their human and civic dignity. As Ní Aoláin, O'Rourke and Swaine argue, the societal recognition and validation of the actual lived experiences of victims of these crimes can significantly empower them, and ultimately assist their long-term recovery process (F. Ní Aoláin, C. O'Rourke & A. Swaine, 2015). Perhaps most importantly, the social acknowledgement and validation of the traumatic experiences of victims of such crimes can significantly contribute to breaking down negative attitudes towards them in post-conflict situations to enable their reintegration in communities.

In the aftermath of mass violence, states often resort to various quasi- or non-judicial transitional justice mechanisms focussing on uncovering the truth about the dark past, vindicate the dignity of victims and foster reconciliation in broken communities (S. Buckley-Zistel *et al.*, 2014). These include an increasing range of mechanisms such as truth commissions and other community-based approaches to accountability and reconciliation after mass violence such as the *Gacaca* process in Rwanda (P. Clark, 2010). In recent years, quasi-or non-judicial transitional justice mechanisms have gained global significance as effective tools in the reconstruction of societies existing mass violence. Despite the perceived value of truth-seeking processes as complementary transitional justice mechanisms alongside the formal criminal prosecutions, several empirical accounts suggest that rape and other acts of sexual violence often tend to be neglected or marginalised in the growing diversification of these mechanisms (M. Alam, 2014, L. Yarwoord, D. Mazurana and K. Carlson, 2009). This reality can be explained by the absence of a perspective devoted to these crimes in the mandates of some truth-seeking processes and the lack of appropriate mechanisms aimed at facilitating the victims' adequate engagement.

It is worth noting, however, that, despite the total disregard or no recognition of the harm suffered by victims of conflict-related sexual violence in various domestic approaches to accountability and reconciliation, some of the recent domestic transitional justice processes have provided due diligence to the unique nature of sexual violence occurring in conflict situations (M. Alam, 2014).² Recent develop-

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