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## **Gender Justice and Peacebuilding**

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### **Definition**

Gender justice in peacebuilding contexts can be defined as efforts to recognise, and provide redress for, the gendered harms of war. In post-war contexts, transitional justice mechanisms are often used to address complex legacies of mass violence and widespread human rights abuses. In recent decades, feminist researchers and activists have highlighted the importance of integrating gender justice into peace and justice initiatives. This entry focuses on two key approaches to achieving gender justice in peacebuilding settings. The first, legal justice, is a top-down, formal approach to gender justice. It involves states and/or international organisations establishing courts and tribunals where perpetrators are held accountable under international criminal law. The second, women's courts and tribunals, represents a bottom-up, informal approach to gender justice. It involves grassroots actors creating informal truth-telling mechanisms, which may better respond to the needs of survivors and the communities in which they live.

### **Introduction**

The question of how to achieve gender justice in peacebuilding contexts has occupied the minds of policymakers, practitioners, and researchers alike in recent years. Since the 1990s, reports of sexual and gender-based violence (SGBV) experienced by civilians in situations of armed conflict have attracted increased attention. The widespread use of rape, sexual slavery, enforced pregnancy, and other forms of SGBV during periods of war and dictatorship has been documented by international media and human rights organisations. Sharper awareness of the gendered logic and impact of violent conflict has led to calls to transform transitional justice mechanisms - including criminal trials, truth-telling initiatives, reparation programmes, institutional reform – that are used to help societies recover from war and authoritarian rule. A key challenge is to ensure that transitional mechanisms recognise and respond to gender-based harms, and also confront the (hetero-)sexism underpinning SGBV.

Early transitional justice initiatives were criticised for being 'gender-blind' – since many failed to incorporate gender and the situated experiences of women, girls, and non-binary people into the design and implementation of these accountability mechanisms. UN Security Council Resolution 1325 and subsequent resolutions on 'Women, Peace and Security' provide an important impetus to integrate gender justice into peacebuilding. These resolutions emphasise the importance of preventing and prosecuting crimes of SGBV in situations of armed conflict. They stress the need to ensure that survivors access justice and redress. Crucially, they emphasise the importance of recognising women as agents of post-war justice and peacebuilding processes.

Transitional justice mechanisms have the potential to acknowledge the gendered harms of war. By advancing criminal accountability for SGBV, uncovering the truth about human rights

violations, and awarding symbolic and/or material reparations, for example, these mechanisms can extend important measures of justice and redress to victims and survivors. Acknowledging victims of SGBV, challenging socio-economic injustice, and providing a platform for survivors to voice their experiences and concerns are all important steps to prompt positive transformation following violent conflict. Some progress in tackling SGBV in conflict has been made in recent years. Yet, key obstacles to achieving gender justice remain, resulting in all-too-frequent failure to hold perpetrators accountable and to provide victims with adequate redress.

## **Definition**

Gender justice in peacebuilding contexts can be defined as efforts to recognise, and provide redress for, the gendered harms of war. In post-war contexts, a variety of transitional justice mechanisms - including criminal trials, truth-telling initiatives, reparation programmes, institutional reform – are used to address complex legacies of mass violence and widespread human rights abuses. These mechanisms have often failed to provide justice to victims of gender-based violations.

Feminist research and activism have stressed the importance of integrating gender justice into peacebuilding. Building a just and durable peace requires identifying and addressing the gendered harms of war. It also entails designing and implementing justice processes and institutions that succeed in challenging rather than reinforcing gendered hierarchies of power (Valji 2007; Campbell 2007). Without addressing unequal power relationships, confronting (hetero)sexist attitudes and behaviours, and dismantling oppressive power structures and institutions, the shift from war to peace is unlikely to be long-lasting.

Acts of sexual violence - including rape, sexual enslavement, enforced pregnancy, forced marriage, forced prostitution, and other forms of sexual assault - are examples of the gendered and sexualised forms of harm experienced by people of different genders during armed conflict. Sexual violence can be defined as “acts of violence that are enacted, intended, or experienced as ‘sexual’, either because they involve sexual or reproductive organs or otherwise relate to the victim or perpetrator as sexual agents” (Buss 2014: 8). These acts may be experienced by women and men, girls and boys, and people from sexual and gender minorities, who are living in conflict settings.

Rape is not an inevitable part of war (Wood 2009). However, the coercive circumstances of violent conflict can provide the enabling conditions for sexual violence to emerge (Campbell 2018: 481). Different forms, functions, and patterns of sexual violence in conflict have been observed by researchers and peace-workers. Some acts of sexual violence may be strategic and form part of an “orchestrated policy to achieve military and political ends” - such as the destruction of a protected group (genocide) or an attack against a civilian population (Buss 2014: 10). Other acts may be opportunistic, perpetrated without an instrumental goal.

Crucially, sexual violence in conflict is strongly connected to pre-war inequalities, with particular groups in society targeted along lines of gender, as well as race, class, sexuality, nationality, etc. (Boesten & Wilding 2015). Addressing the underlying causes or enabling conditions of sexual violence in conflict requires connecting such acts to pre-existing structures

of inequality, including gendered patterns of violence, domination, and oppression that span both wartime and peacetime (Buss 2014: 7). Achieving gender justice in peacebuilding contexts therefore involves not only ensuring that transitional justice mechanisms respond to individual survivors' interests, needs, and rights to redress. It also requires tackling asymmetrical relationships, transforming unequal social structures and institutions, and challenging cultures of domination that promote and/or maintain gender inequality before, during, and after conflict.

## **Theorising Gender Justice**

### *Justice as Recognition, Redistribution, and Representation*

Nancy Fraser's model of justice as recognition, redistribution and representation provides a useful framework for understanding and evaluating gender justice initiatives in peacebuilding contexts. This framework can be used to identify the gendered forms of exclusion and inequality that are so often constructed and maintained in the transition from war to peace (O'Reilly 2018).

Fraser (2008: 16) defines justice as "parity of participation", whereby social relations and institutions enable everyone to "participate as peers". Participatory parity requires distributing resources equitably in society, and promoting modes of representation which grant recognition, foster respect and social esteem.

Fraser (1997, 2005) highlights three institutionalised forms of injustice that require redress:

- Cultural/symbolic injustice, which is rooted in negative forms of representation, non-recognition, and disrespect of certain individuals and social groups.
- Socio-economic injustice, which refers to economic exploitation, marginalization and discrimination that act as barriers to full participation in society.
- Participatory injustice, meaning the marginalization and exclusion of disadvantaged individuals and social groups from political institutions and decision-making processes.

Tackling gender injustice requires social arrangements which foster respect and value the contributions and activities of all groups in society. This means challenging androcentrism, heterosexism, racism, and other discriminatory norms, values, and practices so that members of all social groups can participate as equals in social life. Confronting gender injustice also involves tackling the root causes of poverty and income inequality, to ensure that human needs are satisfied and to prevent women and other marginalised groups from experiencing exploitation. Challenging gender injustice also requires creating structures and institutions that enable women to participate fully and equally in political life.

### *Gender Justice in Peacebuilding Contexts*

Extending Fraser's model to peacebuilding contexts, there is evidence that all three forms of gender injustice are frequently present (O'Reilly 2018). For example, female combatants often experience stigma and discrimination after wars end, after having challenged conventional norms surrounding 'acceptable' womanhood (Shekhawat 2015: 17). This is common example of cultural/symbolic injustice.

Wars also produce socio-economic injustice. Armed conflict leads to material destruction – of property, infrastructure – and creates economic recession and poverty in the post-war period (Đurić Kuzmanović and Pajvančić-Cizelj 2020). The economic impacts of war are not gender-neutral, with both women and survivors of SGBV more likely to experience poverty, job insecurity, and economic exploitation (Kuzmanović & Pajvančić-Cizelj 2020).

As regards participatory injustice, women living in conflict-affected settings continue to be drastically under-represented in formal peace negotiations (Bell 2018). At these negotiations, crucial decisions are made concerning the establishment of post-war justice mechanisms (Ní Aoláin and Turner 2007). This exclusion reduces the likelihood that the gendered impact of conflict is discussed and addressed.

### *Affirmative vs Transformative Remedies*

Fraser outlines two contrasting approaches to remedying injustice: affirmation and transformation (1997). Affirmative remedies strive to fix unjust outcomes without changing the social arrangements that generated inequity in the first place. One example, of affirmative recognition, is the criminal prosecution of SGBV in conflict. Prosecuting SGBV extends recognition that SGBV is as serious and as violent as other crimes (Chappell 2015). This remedy is significant since it challenges the historical silencing of survivors' experiences. By making visible sexual violence and other harms that women disproportionately endure, prosecutions also offer acknowledgement of “women as equal and worthy members of ... ‘humanity’” (Buss 2014: 11).

Transformative remedies, in contrast, aim to correct unjust outcomes by transforming the underlying structural inequalities that enable SGBV to emerge. One example, of transformative redistribution, is the decision to award forms of reparations that challenge, rather than reaffirm, the root causes of violence and discrimination. By destabilising the gendered economic structures and divisions of labour, reparations can be used to transform the structural position of survivors rather than merely returning them back to a pre-war position of economic marginalization and discrimination (Manjoo 2017).

### **Gender Justice from Above: Legal Justice**

There is a long history of SGBV being perpetrated in armed conflict. Notorious examples from the 20th Century include the sexual enslavement of Korean ‘comfort women’ by Japanese military during World War II (Kimura 2016); the targeting of civilians, including the rape of women and girls, during the 1990s wars in Yugoslavia (Campbell 2007); and the use of sexual violence during the Rwandan genocide (Mibenge 2013).

Rape was for centuries prohibited by international humanitarian law and by military codes regulating armed conflict (Meron 1993). Yet, historically, very few perpetrators were brought to justice. Wartime rape and sexual violence were often wrongly characterised as involving damage to women's “honour” rather than recognised as violent crimes (Jarvis 2016: 11). Consequently, perpetrators of sexual violence in war enjoyed widespread impunity.

Early prosecutions under international criminal law (ICL) failed to recognise SGBV as international crimes. Sexual violence crimes were largely overlooked by the 1945 International Military Tribunal (Nuremburg Tribunal) and 1946 International Military Tribunal for the Far East (Tokyo Tribunal, or IMTFE), which were created following World War II (De Brouwer 2005: 5-9). The Charters of both Tribunals, which outlined the crimes falling within the Tribunals' jurisdiction, failed to expressly reference sexual and gender-based crimes (Askin 2003: 301). Sexual violence was not explicitly prosecuted at Nuremburg, and the Tokyo Tribunal prosecuted rape in a limited fashion and under general war crimes categories (Askin 2003: 301).

### *Prosecuting Crimes of SGBV*

Since the 1990s, however, ICL has been applied progressively to challenge impunity for these crimes. The UN Security Council established the International Criminal Tribunal for the Former Yugoslavia (ICTY) in 1993 and International Criminal Tribunal for Rwanda (ICTR) in 1994. These tribunals were charged with bringing prosecutions for war crimes, for genocide, and for crimes against humanity (Haddad 2011). Prosecutions under ICL have also taken place at other *ad hoc* tribunals (including tribunals for Cambodia, Lebanon, Sierra Leone and Timor Leste), at domestic courts, and at the permanent International Criminal Court (ICC) (Londras 2010: 290).

The Rwandan and Yugoslav tribunals took important steps to establish accountability for crimes of sexual violence. These tribunals set out legal definitions for sexual violence offences and demonstrated that rape and other forms of sexual violence were prosecutable under charges of war crimes, crimes against humanity, and genocide (Campbell 2016: 227). The 1998 Rome Statute (which created the ICC) built on ICTY and ICTR jurisprudence by recognising a wide range of sexual and gender-based crimes. The Rome Statute explicitly recognised that rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, and "any other form of sexual violence" can be committed as a war crime or as a crime against humanity (Chappell 2014: 186). And, for the first time, persecution on the grounds of gender was recognised as a crime against humanity (Chappell 2014: 186). These advances challenge the androcentrism of ICL and its historical failure to recognise gender-based harms (Chappell 2015).

International courts and tribunals have introduced a range of policies and strategies to advance the prosecution of SGBV. The Rwandan and Yugoslav Tribunals, and the ICC, all put in place witness protection and support measures, to encourage sexual violence victims to participate as witnesses in court proceedings. These measures include the use of pseudonyms and closed sessions. They also include prohibitions on the admissibility of evidence relating to the prior sexual conduct of a victim, and the use of consent as a defence (De Brouwer 2005: 231-282). Victims and Witnesses Sections were also established to provide counselling and support to victims and witnesses, and training to Tribunal/Court staff (De Brouwer 2005: 277-278). These measures were introduced to safeguard witnesses' rights to privacy and dignity, to safety, and to physical and psychological well-being (De Brouwer 2005: 231-282).

Steps have been taken to address the historical under-representation of female lawyers, and to embed "gender competence" within the Court and Tribunals (Chappell 2015; Jarvis and Nabti 2016: 79). The Rome Statute, for example, states that "a fair representation of female and male

judges” should be considered when appointing judges to the bench (ICC Statute cited in Chappell 2015: 63). Gender advisors and other dedicated mechanisms have also been used to focus attention on sexual violence crimes. At both the ICTY and ICTR, for example, specialised teams were created to investigate sexual assaults. A Legal Advisor for Gender-related Crimes was also appointed to the Office of the Prosecutor at both tribunals, to help advance the investigation and prosecution of sexual violence offences (Haddad 2011: 114-116; Jarvis and Nabti 2016: 74-76).

### *Limitations of Criminal Justice Mechanisms*

Progress has been made in challenging the traditional gender bias of international law. Yet, there remain significant barriers to prosecuting SGBV. Jarvis and Vigneswaran (2016) highlight as key concerns misconceptions regarding the nature of sexual violence (such as the belief that victims are reluctant to testify) and the impact of prosecutorial discretion on which crimes should take priority. The authors also identify key hurdles, or “pressure points”, at each phase of legal proceedings. For example, sexual assault allegations may not be adequately investigated, and charges for sexual violence may fail to be included in indictments or may be dropped at the pre-trial phase (Jarvis and Vigneswaran 2016: 54-66). The attrition of sexual violence cases from the criminal justice system remains a significant concern.

Other scholars identify a need to further develop ICL, so that it more accurately reflects the gender harms of war (Campbell 2016; Jarvis 2016). They point out that prosecutions are hampered by the fact that crimes of SGBV are not stand-alone offences under ICL and are instead prosecuted as war crimes, crimes against humanity, or as genocide. Consequently, prosecutors must place these acts within the context of conflict, and outline the connections to other acts of violence, so that SGBV can be appropriately charged (Jarvis 2016: 5-8). Another problem is that some forms of SGBV achieve “heightened visibility” while other “types of harms and categories of victims are rendered invisible or unseeable” through the process of legal categorisation (Buss 2009: 154-155). At the ICTR, for example, sexual violence perpetrated against Hutu women and Tutsi men tended not to be prosecuted, since these acts did not form part of a genocidal strategy (Buss 2009; Mibenge 2013). One solution to the under-development of ICL, proposed by Campbell (2016), is to introduce a convention on the prohibition, prevention, and punishment of sexual and gender-based crimes. This convention would set out these offences and “incorporate a full range of implementation, enforcement, and referral policies and mechanisms” (Campbell 2016: 229).

The suitability of legal remedies in providing justice to survivors of SGBV is also debated. Key challenges facing victim-witnesses include trauma, fatigue, community silence, and inadequate witness support mechanisms (Jarvis and Vigneswaran 2016). The adversarial structure of legal proceedings can mean that testifying in the courtroom, particularly under cross-examination, is a disempowering experience (Kelsall & Stepakoff 2007; Mertus 2004). Despite the constraints of the legal process, it is important to recognise that witnesses have found space to articulate agency and resistance (Grewal 2017). Nevertheless, the subversive potential of criminal justice is constrained by the tendency of international legal norms and practices to reinforce (rather than undermine) hierarchical gender norms (Campbell 2007).

To promote agency and recovery, Mertus (2004: 124) advocates the use of bottom-up justice mechanisms, such as people's tribunals, grassroots truth commissions, and memory projects, as complementary to criminal trials. These methods, she points out, focus on addressing victims' needs, rather than punishing perpetrators. These mechanisms can "help create a narrative that fully includes survivors' experiences and empowers them in the process", thereby honouring their agency and strength in recovering and rebuilding their lives (Mertus 2004: 124).

## **Gender Justice From Below: Women's Courts and Tribunals**

The shortcomings of legal justice have prompted feminists and women's organisations to pioneer the development of informal truth-telling mechanisms. In the last two decades, civil society groups have organised dozens of Women's Courts and Tribunals across the world. These are specifically designed to acknowledge women's experiences of violence and injustice and to call for formal recognition of gender-based harms. Women's Courts and Tribunals follow a tradition of "popular justice" in which individuals and groups from civil society deliver justice using informal mechanisms (O'Reilly 2016: 428). Popular justice promotes notions of "popular sovereignty, direct governance and control by the people" (Merry & Milner 1995: 4). They involve civil society actors, rather than states or international organisations, taking responsibility for organising proceedings.

### *History of Women's Courts and Tribunals*

Women's Courts and Tribunals are part of "a global movement that seeks to relook at rights and other notions of justice from *the lives and life visions of women* – particularly from the global South" (El Taller, cited in Duhacek 2015: 160). The concept and model for the Women's Court emerged in the Asia Pacific region, from the work of the Asian Women's Human Rights Council (AWHRC) which organised several Courts in the region.

The first Women's Court was held in Lahore, Pakistan (1992) and focused thematically on violence against women (Kumar 2005: 192). Since then, Women's Courts have taken place across Asia and have addressed different aspects of gender violence and injustice - including crimes committed against Dalit women (Bangalore, 1994), human trafficking (Kathmandu, 1995), war crimes against women (Tokyo in 1994), and the violence of development (Bangalore, 1995) (Kovačević et. al. 2011: 21-33).

AWHRC's sister organisation, El Taller International, brought these courts to Africa, the Middle East, and to Central and South America (Duhacek 2015: 175). The Courts have examined a range of topics including the feminisation of poverty (Nairobi, 1999), nuclear issues and land rights (Aotearoa, 1999), and war and peace (Cape Town 2001) (Kumar 2005: 194).

A recent example was the Women's Court for the former Yugoslavia, held in May 2015 in Sarajevo. Thirty-six women from all Yugoslav successor states (Bosnia & Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia, and Slovenia) publicly testified before an audience of around 500 people. The *Women's Court – A Feminist Approach to Justice* is significant, since it offered an alternative, feminist model of justice to women affected by the violent dissolution of the Yugoslav state during the 1990s (Duhacek 2015).



Women's tribunals are another important form of popular justice. The first Women's Tribunal, the International Tribunal on Crimes Against Women, was organised in Brussels in 1976. It brought together over two thousand women from over forty countries to raise awareness of violence against women and to demand that states sanction gender crimes (Russell and Van De Ven 1990: 6). Since then, several women's tribunals have been convened across the world. At the Global Tribunal on Women's Human Rights (Vienna, 1993), for example, participants protested the failure of human rights mechanisms to protect women's rights (Bunch & Reilly 1994). Other Tribunals have sought justice for survivors of wartime sexual violence – including the Women's International War Crimes Tribunal on Japan's Military Sexual Slavery (Tokyo, 2000), the Guatemala Tribunal of Conscience for Women Survivors of Sexual Violence during the Armed Conflict (Guatemala City, 2010), and the Women's Tribunal on Sexual Violence on Women During Conflict (Kathmandu, 2014).

### *Alternative Model of Gender Justice*

A similar model of gender justice underpins the work of Women's Courts and Tribunals. First, it is grassroots women's organisations, survivor's organisations and other actors from civil society who take the lead in organising proceedings. The Women's Court for the former Yugoslavia, for example, was organised by a coalition of women's groups and non-governmental organisations from across the region of ex-Yugoslavia (Duhacek 2015).

Second, these alternative mechanisms are established in response to the failure of formal justice mechanisms to secure redress for survivors of SGBV (Duhacek 2015). The Women's Tribunal in Tokyo, for example, was created in response to the failure of the IMTFE to bring charges against those responsible for rape and sexual slavery by the Japanese military during World War II, and in response to the refusal of the Japanese government to accept legal responsibility for these crimes (Chinkin 2001: 335-336).

Third, Women's Courts and Tribunals are designed as women-only hearings. Violence specifically perpetrated against women, particularly rape and sexual violence is significantly under-reported in the proceedings and reports of mainstream justice mechanisms. The rationale for organising women-only hearings in Guatemala and other peacebuilding contexts is that supportive spaces are required to enable women to testify to violence against themselves (Crosby and Lykes 2011: 461).

Fourth, since Women's Courts and Tribunals take place in contexts where perpetrators of human rights abuses enjoy widespread impunity, the process of organising and preparing for each court or tribunal is emphasised as strongly as the hearings themselves (Duhacek 2015: 161). In the lead-up to the Women's Court for former Yugoslavia, for example, women's organisations spent five years prior to the event raising awareness of the initiative within their local communities and working with potential witnesses by providing practical and psychological support and preparing them to testify (O'Reilly 2016). This preparatory process is viewed as essential to ensure that a supportive environment is created where survivors feel safe and empowered to voice their experiences.

Fifth, in contrast to international criminal tribunals (such as the ICTY and ICTR), Women's Courts and Tribunals localise justice by holding proceedings in the countries where human rights abuses

took place, rather than organising these in third countries (Chinkin 2001: 339-340; O'Reilly 2016: 429). This allows each initiative to design the preparatory process and proceedings so that they acknowledge and respond to the situated experiences, interests, and concerns of the context in which they take place (Duhacek 2015). It also provides opportunities to create space for public discussions and debate on the wartime past, using street performances, art exhibitions, and other artistic interventions and alternative commemorative practices (O'Reilly 2016).

Sixth, the structure of proceedings holds some continuity with the structure of legal proceedings. The Women's Tribunal in Tokyo, for example, resembled a mock trial. It featured testimonies of women who survived military sexual slavery and was the first time these experiences were publicly aired. Prosecution teams from ten countries where women were enslaved, plus two lead prosecutors, presented indictments (Chinkin 2001: 336). After oral and documentary evidence was presented by victim-witnesses and by expert witnesses, a panel of international judges deliberated before handing down a preliminary judgement. This judgement indicated that the Tribunal found Emperor Hirohito guilty on the basis of command responsibility, and also indicated that Japan was responsible for crimes of rape and sexual slavery as crimes against humanity (Chinkin 2001: 338).

#### *Reformist vs Transformative Approaches*

There are, however, important differences between women's courts and tribunals with legal proceedings. Unlike criminal trials, the proceedings are not adversarial and these alternative justice mechanisms do not have the power to sanction perpetrators or award reparations (Duhacek 2015). Furthermore, while some women's court and tribunals are "distinctly legal projects" that aim to reform and extend the law, others demonstrate "transformative ambitions beyond the law" (Otto 2017: 228).

The Women's Tribunal in Tokyo took a reformist approach to gender justice. It was designed to extend IMTFE proceedings and drew on international law which was applicable at the time of the events to establish guilt and legal responsibility (Chinkin 2001: 338). In this way the Tribunal aimed to extend legal justice to women who had been denied justice by the IMTFE and formal justice institutions, and also aimed to contribute to the development of international law (Dolgopol 2003).

By contrast, the Sarajevo Women's Court represents a transformative approach which moved beyond the framework of legal justice (Otto 2017). It offered an explicitly feminist model of justice which promoted greater empathy for, and solidarity with, survivors of SGBV (Zajović 2015), whilst also providing space for women to take up agential roles as "political subjects" (rather than objects) of justice (O'Reilly 2016: 426). As described by participants of preparatory workshops, the Court aimed to:

- Make visible the continuum of violence experienced by women across war and peace
- Give voice to women's situated experiences and incorporate these into collective memory
- Acknowledge the suffering of victims
- Identify the wider social, economic, cultural, relational, and personal context in which violence against women was enabled
- Construct a new approach to justice that addresses victims' needs

- Empower women and create transnational networks of solidarity
- Prevent future crimes and build a just peace for future generations (Zajović 2015: 26-27)

At the proceedings, witnesses testified to a wide spectrum of harms and to the ongoing impact of war and of post-war liberalisation processes. Expert testimonies contextualised witnesses' accounts, highlighting the structural inequalities and hierarchies of power that provided the enabling conditions for SGBV to materialise (O'Reilly 2016). The preliminary decision issued by the Court's Judicial Council named the crimes that were perpetrated. It also identified as responsible individuals and groups who were part of "systems of criminality, which reinforce and intensify unequal power relations between men and women" (Bunch et al. 2015: 5). The decision called for "truth, justice, reparations, and a commitment that these crimes will never recur" (Bunch et al. 2015: 6). It also foregrounded the courage and agency of survivors in giving testimony and fighting for justice. Overall, the Sarajevo Court extended recognition of women across the former Yugoslavia as victims, as survivors, and (crucially) as agents of change. It also expanded women's participation in justice processes and strengthened calls for redistributive justice in the region (O'Reilly 2016).

## **Summary**

Feminist contributions to the fields of transitional justice and peacebuilding have critically evaluated the extent to which post-war justice mechanisms adequately respond to gendered forms of violence and help to build a gender-just peace. A top-down approach aims to provide gender justice from above. This involves states and/or international organisations establishing courts and tribunals where perpetrators are held accountable under the law. Prosecutions under ICL have been used to challenge impunity. By prosecuting SGBV in conflict, acts of SGBV are recognised as serious crimes worthy of redress. Legal rules and practices of rendering justice have evolved significantly in recent decades. Yet, further steps are required to address gaps in gender justice and to ensure that the law adequately captures gendered experiences of harm. There is an ongoing need to identify and address the various barriers to prosecution and to enable survivors of SGBV to participate in legal proceedings in ways that honours their agency and courage in surviving these crimes.

An alternative approach is to use women's courts and tribunals. This bottom-up approach involves grassroots actors establishing informal truth-telling initiatives. Women's courts and tribunals aspire to better respond to the needs of survivors and the communities and societies in which they live. These provide alternative arenas in which survivors of SGBV can testify to the various harms endured - in public and private, in wartime and in peacetime. They open up space to discuss the continuity of the forms of violence that are experienced across war and peace.

Whichever mechanisms (or combination of mechanisms) are chosen, many feminists point to the need to shift the focus from affirmative to transformative approaches to remedying injustice. Building gender-just peace involves not only acknowledging the gender harms of war. It also involves achieving a more equitable distribution of material resources within a society. Moreover, gender-just peace means enabling survivors of SGBV to participate as agents of post-war justice and peacebuilding processes. Both criminal trials and grassroots truth-telling

initiatives can contribute to gender justice in peacebuilding contexts. The challenge is to use these mechanisms to generate positive impacts on the lives of individuals and communities recovering from war. This involves challenging (rather than reinforcing) the underlying gender inequalities that enable gendered forms of violence to be perpetrated.

## **Cross-References**

Feminist Peace Research

Gender and conflict-affected economies

Socioeconomic Justice and Peacebuilding

Transitional Justice in Bosnia and Herzegovina

Transitional Justice in Croatia

Transitional Justice and Peacebuilding

Women, Peace and Security Agenda

Women's Organizations in Post-conflict Contexts

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