

ADDIS ABABA UNIVERSITY
COLLEGE OF LAW AND GOVERNANCE STUDIES



***The Role of Women and Women Victims in the Transitional
Justice Policy of Ethiopia: A Comparative Study***

**A Thesis Submitted to the School of Law, Addis Ababa University, in Partial
Fulfillment of the Requirements for the Degree of Master of Laws (LL.M in
Human Rights Law**

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Advisor: Dr. Demelash Shiferaw (Assistant Professor)

**Addis Ababa
July, 2025 G.C**

ADDIS ABABA UNIVERSITY

SCHOOL OF LAW

**The Role of Women and Women Victims in the Transitional Justice
Policy of Ethiopia: A Comparative Study**

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Declaration

*I, Ayda Birhanie hereby declare that this thesis “**The Role of Women and Women Victims in Transitional Justice Policy in Ethiopia: A Comparative Study**” is my original work and prepared by my own effort under the close advice and guidance of my advisor. The sources and materials used in this work had cited according to Oxford standard for Citation of Legal Authorities (OSCOLA).*

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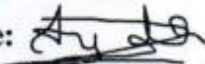
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Acknowledgment

When I was writing this thesis paper, there are people who supported me by supervising, advising, and by providing financial, moral and material support that helps me to complete the study. Because of that, I would like to thank and recognize them for their contributions.

From the beginning, I would like to thank God who brings a health and strength for me to complete the thesis work. Next, I would like to thank sincerely my thesis advisor Dr. Demelash Shiferaw Reta for his unreserved supervisions and advice in the expense of his precious time. Especially I would like to thank him for suggesting this title for my thesis, for his attractive approach and immediate responses.

Secondly, I would like to thank my mother, Mrs. Roman Girmay who provides great support for me to complete the whole LLM. program including this research and My husband Mr. Melaku Berihun for his unwavering love and support throughout this journey. His constant encouragement and understanding have been my greatest strength.

Finally, I would like to express my gratitude to all my friends who contributed their support, thoughts and materials for the completion of this research paper.

List of Acronyms

- AUTJP African Union Transitional Justice Policy (2019)
- CEDAW Convention on the Elimination of All Forms of Discrimination Against Women (1979)
- EPRDF Ethiopian People's Revolutionary Democratic Front
- ETJP Ethiopian Transitional Justice Policy (2024)
- FDRE Federal Democratic Republic of Ethiopia
- GBV Gender Based Violence
- ICTJ International Centre for Transitional Justice
- ICC International Criminal Court
- ICTR International Criminal Tribunal for Rwanda
- JEP Special Jurisdiction for Peace
- SGBV Sexual and Gender Based Violence
- TJ Transitional Justice
- TRC Truth and Reconciliation Commission
- UN United Nations
- UNSCR United Nations Security Council

Abstract

This study analyzes the role of women and women victims in Ethiopia's Transitional Justice (TJ) Policy, highlighting the ongoing exclusion of women from decision-making despite their disproportionate suffering during conflict. The research examines the gap between Ethiopia's commitments to gender inclusion and the actual participation of women, particularly as decision-makers. Employing a qualitative and comparative approach, the study assesses the 2024 Ethiopian Transitional Justice Policy compared to policies of Rwanda, Sierra Leone, and Colombia. While the current Ethiopian policy, developed through broad consultations and consideration of global experiences, is a significant guideline with improved gender provisions, it lacks concrete mechanisms such as quotas, gender committees to ensure women's participation and lacks clear compensation provision. In contrast, other countries institutionalize gender inclusion through detailed legal frameworks. The study recommends that forthcoming laws, formulated based on this policy, be comprehensive, practical, and provide guaranteed, meaningful participation of women, ensuring mechanisms for inclusion are clearly defined and actionable.

Table of Contents

Declaration	i
Acknowledgment	iv
List of Acronyms	v
Abstract	vi
CHAPTER ONE	1
1. Introduction.....	1
1.1. Background of the study	1
1.2. Research Problem.....	3
1.3. Research Questions	4
1.3.1. Main Research Question:	4
1.3.2. Sub-Questions:	4
1.4. Objectives of the Study	5
1.4.1. General Objective:	5
1.4.2. Specific Objectives:	5
1.5. Literature Review	5
1.6. Methodology	7
1.6.1. Research Design and type	7
1.6.2. Type of Data Sources and Collection	7
1.6.3. Data Analysis	8
1.7. Scope	8
1.8. Significance of the Study	8
1.9. Organization of the study	9
CHAPTER TWO	10
Gender and Transitional Justice: An Overview of the Conceptual, Theoretical and Legal Frameworks.....	10

2.1.	Introduction	10
2.2.	Conceptual Frameworks.....	10
2.2.1.	Concept of Transitional Justice.....	10
2.2.2.	Objectives of Transitional Justice.....	12
2.2.3.	Mechanisms of Transitional justice	16
2.2.4.	Gender and transitional justice.....	21
2.3.	Theoretical framework	24
2.3.1.	Feminist Theory	24
2.3.2.	Social Justice Framework	25
2.3.3.	Intersectionality.....	26
2.3.4.	Human Rights Discourse	26
2.3.5.	Gender and Conflict Theory	27
2.4.	Legal Frameworks on Women’s Participation in Transitional Justice	28
2.4.1.	International Legal Frameworks	28
2.4.2.	African Regional Legal Frameworks.....	31
CHAPTER THREE		34
Women and Women Victims Participation in Comparative Perspective: Assessing Ethiopian Transitional Justice Policy		34
3.1.	Introduction	34
3.2.	Women’s Participation in Transitional Justice: Comparative Study	35
3.3.	Ethiopia's Transitional Justice Mechanisms: Historical Aspect and Previous Attempts	38
3.4.	Current Ethiopian Transitional Justice policy	39
3.5.	Comparative Study of Women’s Role in Ethiopia’s Transitional Justice Policy	41
3.5.1.	An Evaluation of Women’s Role in Ethiopian Transitional Justice Policy.....	41
3.5.2.	Women's Contributions to Truth, Reparations, and Reconciliation	45

3.6. Challenges to Gender-Inclusive Implementation in Ethiopia	47
3.7. Lessons for Ethiopia.....	50
CHAPTER FOUR	52
Conclusion	52
Recommendations.....	54
Bibliography	56

CHAPTER ONE

1. Introduction

1.1. Background of the study

Transitional justice has become a feature of transition processes related to post-conflict peacebuilding efforts. It has been identified as an important objective in transitions from conflict.¹ It is crucial for women and women victims as it provides a framework to address gender-specific harms experienced during conflict and repression. Transitional justice mechanisms take different forms. They encompass retributive justice measures aimed at addressing impunity, primarily by holding perpetrators legally accountable for their crimes, truth-telling processes, often in the form of truth commissions, reparations and restorative justice measures, including reparations and the restitution of property and efforts at reconciliation.²

Transitional justice mechanisms implemented in conflict-affected and transitional contexts must prioritize gender justice by recognizing women's experiences of violence and conflict. It is essential that women actively participate in shaping the mandates and structures of transitional justice.³ Ensuring gender justice means not only addressing impunity for sexual and gender-based violence but also guaranteeing women's equal access to redress for human rights violations and abuses and involvement in post-conflict reform.⁴ Women are often among the most affected by armed conflicts, experiencing gender-based violence, displacement, and loss of livelihood. Despite their significant contributions to peacebuilding and reconciliation, their inclusion in transitional justice mechanisms has historically been limited.⁵ This research explores the critical role of women and women victims in transitional justice policies, with a focus on Ethiopia, while drawing lessons from Rwanda, Sierra Leon and Colombia.

¹ United Nations Secretary-General, 'The Rule of Law and Transitional Justice in Post-Conflict Societies,' S/2004/616 (August 23, 2004).

² Domingo P., 'Transitional justice and the Women, Peace and Security agenda.' (2022) ODI Thematic note. London: ODI <<https://odi.org/en/about/our-work/the-women-peace-and-securityagenda-breaking-down-silos/>> 9

³ Ibid

⁴ Moyo, K., & Lahai, J. (Eds.), *Gender in Human Rights and Transitional Justice*, Palgrave Macmillan (2017) <<https://doi.org/10.1007/978-3-319-54202-7>> 4.

⁵ 'Addressing Gender in Transitional Justice', (2015) Demarcating Progress Institute, London 5.

The United Nations (UN) and other organizations now view transitional justice as an essential component of post-conflict peacebuilding. The UN defines transitional justice 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”.⁶ International legal instruments such as the Rome Statute of the International Criminal Court (1998), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and United Nations Security Council Resolution 1325 (2000)⁷ underline the importance of integrating a gender perspective in these processes. These frameworks recognize that transitional justice must address both the systemic exclusion of women and the specific crimes they endure during conflicts, such as sexual violence and exploitation.⁸

At the regional level, the African Union’s Transitional Justice Policy (2019) and Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (the Maputo Protocol) (2003) emphasize the inclusion of women in post-conflict justice mechanisms.⁹

Ethiopia, a country with a long history of political transitions and conflicts, provides a unique context for examining the role of women in transitional justice. Women in Ethiopia have faced gender-based violence, systemic discrimination, and exclusion from decision-making processes, particularly during periods of political upheaval and conflict.¹⁰ The Ethiopian Constitution¹¹ and

⁶ United Nations Secretary-General, ‘The Rule of Law and Transitional Justice in Post-Conflict Societies,’ S/2004/616 (August 23, 2004).

⁷ UN Women, ‘Preventing Conflict, Transforming Justice, Securing the Peace: A Guide Study on the Implementation of United Nations Security Council Resolution 1325’, (2015) (Retrieved March 30, 2017) <http://wps.unwomen.org/pdf/en/GlobalStudy_EN_Web.pdf> accessed 21 February 2025.

⁸ United Nations Security Council ‘Resolution 1325 on Women and Peace and Security’ S/RES/1325 (31 October 2000) p 2, 8, 9. And UN Committee on the Elimination of Discrimination Against Women, ‘General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations’ (2013) p 29 (a).

⁹ African Union, *African Union Transitional Justice Policy* (February 2019) <https://au.int/sites/default/files/documents/36541-doc-au_tjp_eng_web.pdf> art 39 , 73 And Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (adopted 11 July 2003, entered into force 25 November 2005) (Maputo Protocol) art 11(3).

¹⁰ Human Rights Watch, ‘Ethiopia: Women and Girls Face Violence in Conflict’ (10 March 2022)<<https://www.hrw.org>> accessed 23 February 2025.

¹¹ Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Federal Negarit Gazeta, No.1 (Addis Ababa, 21 August 1995) art 25.

the Criminal Code¹² provide legal guarantees for gender equality and criminalize gender-based violence, but their implementation remains inconsistent.

This study aims to assess the extent to which Ethiopian transitional justice policy incorporate the perspectives of women and women victims, comparing these efforts with best policies and lessons learned from countries such as Colombia, Rwanda and Sierra Leon. By examining Ethiopia’s legal frameworks and policy initiatives in transitional justice, the research seeks to identify strategies for more inclusive, effective policy and implementation approaches.

1.2. Research Problem

Despite decades of global and regional advocacy for gender-sensitive transitional justice mechanisms, the experiences and needs of women remain inadequately addressed in many post-conflict contexts.¹³ The lack of gender inclusion in transitional justice mechanisms not only perpetuates the marginalization of women but also undermines the effectiveness and legitimacy of these processes.

Ethiopian Transitional Justice Policy, adopted in April 2024, marks a historic step toward addressing the widespread human rights violations and conflicts that have plagued the country. However, the policy remains in its early stages, with implementation yet to commence amid ongoing security challenges, political tensions, and institutional capacity constraints. Despite international and regional frameworks emphasizing the importance of gender inclusion and victim-centered approaches, some reports shows that the policy’s design and preparatory phases have not fully ensured meaningful participation or representation of women and women victims.¹⁴ Moreover, the complex socio-political environment, including unresolved conflicts and competing peacebuilding processes, has delayed critical public consultations and the establishment of coordinating institutions necessary for effective implementation. This gap raises concerns about

¹² Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No 414/2004, art 620 ff.

¹³ UN Women, ‘A Global Study on the Implementation of UNSCR 1325: Women, Peace, and Security (2015) <<https://www.unwomen.org>> accessed 23 February 2025.

¹⁴ Tadesse Simie Metekia, ‘Monitoring Transitional Justice in Ethiopia: The Crucial Role of the African Union’ policy paper (December 2024) and Towards A Gendered Transitional Justice Policy and Implementation Processes in Ethiopia (policy breief) NEWA Ethiopia. And UN Women, ‘Civil Society Organizations’ engagement in transitional justice policy’ 12 August 2024.

the policy's legitimacy, inclusiveness, and potential to deliver justice and reconciliation equitably. Therefore, there is a pressing need to critically assess the gender inclusivity of Ethiopia's transitional justice policy at this formative stage and explore how lessons from other countries' experiences can inform a more effective and participatory implementation process.

This research seeks to address these gaps by examining the role of women and women victims in Ethiopia's transitional justice policy, comparing these with best practices from other post-conflict countries. By analyzing the shortcomings of current policy and identifying opportunities for reform, the study aims to contribute to the development of more inclusive and effective transitional justice mechanisms in Ethiopia and beyond.

1.3. Research Questions

1.3.1. Main Research Question:

Has the Ethiopian Transitional Justice Policy adequately incorporate gender inclusion, similar to policies and practices in other post-conflict countries?

1.3.2. Sub-Questions:

1. What is the meaning and purpose of gender inclusion in transitional justice process or policies?
2. Does the Ethiopian transitional justice policy ensure women participation and representation in the design and decision making process? To what Extent, if any?
3. What lessons and experiences from comparative study may be drawn to inform Ethiopia's transitional justice mechanisms in terms of ensure meaningful participation of women?
4. How adequate are existing mechanisms in Ethiopia towards ensuring women victims contribute to truth-telling, reparations, and reconciliation efforts beyond giving testimony, in comparison to post-conflict countries?
5. What prospects and challenges exist in the implementation of gender-sensitive transitional justice policies in Ethiopia?
6. What policy, legal and other measure be taken to women and women victims participation in truth-telling, reparations, and reconciliation?

1.4. Objectives of the Study

1.4.1. General Objective:

To critically assess whether Ethiopia's transitional justice policy adequately recognize the role of women and women victims in comparison with policies and practices in selected post-conflict countries to identify strategies for promoting gender-inclusive transitional justice mechanisms.

1.4.2. Specific Objectives:

1. To examine the meaning and purpose of gender inclusion in transitional justice processes and policies.
2. To assess the extent to which the Ethiopian Transitional Justice Policy ensures women's participation and representation in the design and decision-making processes.
3. To identify lessons from comparative post-conflict countries that can inform Ethiopia's efforts to ensure meaningful participation of women in transitional justice mechanisms.
4. To evaluate the effectiveness of existing mechanisms in Ethiopia in enabling women victims to actively contribute to truth-telling, reparations, and reconciliation efforts, beyond mere testimony compared to other post-conflict countries.
5. To explore the prospects and challenges in implementing gender-sensitive transitional justice policies in Ethiopia.
6. To propose policy, legal, and institutional measures needed to enhance the participation of women and women victims in truth-telling, reparations, and reconciliation processes.

1.5. Literature Review

Transitional justice is a multidisciplinary field that encompasses legal, political, and social dimensions aimed at addressing past human rights violations and fostering reconciliation in post-conflict societies. Scholars such as Ruti Teitel, in her book *Transitional Justice*, have extensively discussed the evolution and scope of transitional justice mechanisms, including truth commissions, criminal prosecutions, institutional reforms, and reparations programs.¹⁵

¹⁵ Ruti G. Teitel, *Transitional Justice*, (2000) oxford university press, NewYork 1-285

The inclusion of a gender perspective in transitional justice, as highlighted by Khanyisela Moyo and John Idriss Lahai in their book *Gender in Human Rights and Transitional Justice*¹⁶ and Catherine O'Rourke in her book *Gender Politics in Transitional Justice*¹⁷, emphasizes addressing the unique harms faced by women during conflicts and ensuring their active participation in these processes.

Henok Abebe's article, *The Facade of Justice: Transition-less Transitional Justice of Ethiopia*, critiques the structural and political challenges of transitional justice in Ethiopia. He emphasizes issues such as government control, ongoing conflict, and institutional weaknesses. While his work briefly mentions victims, it does not specifically analyze gendered experiences of justice, women's participation, or the impact of transitional justice policies on women. He argues that Ethiopia's transitional justice process lacks a genuine transition and is unlikely to achieve justice and stability due to persistent conflicts and the government's involvement in human rights violations.¹⁸

Tayesen Majore Dedila's thesis "Addressing Gross Human Rights Violations Through Transitional Justice Mechanisms in Ethiopia: Critical Analysis of Transitional Justice Framework of the Peace Agreement between Government of Ethiopia and TPLF", it highlights Ethiopia's need for a comprehensive and inclusive transitional justice system to address past gross human rights violations, particularly following the Tigray conflict and in line with the Pretoria Peace Agreement.

Despite the growing body of literature on gender and transitional justice, there is limited research focusing specifically on Ethiopian current transitional justice policy. Studies by Ethiopian scholars highlight the systemic challenges women face in accessing justice and participating in political processes. However, existing research often overlooks the lived experiences of Ethiopian women in transitional justice processes and fails to provide a comprehensive analysis of their roles as both victims and agents of change. This study aims to address this gap by offering a comparative

¹⁶ Moyo, K., & Lahai, J. (Eds.) *Gender in Human Rights and Transitional Justice*, Palgrave Macmillan (2017) <<https://doi.org/10.1007/978-3-319-54202-7>> 1- 265.

¹⁷ Catherine O'Rourke, *Gender Politics in Transitional Justice* (1st ed. 2013) Routledge <<https://doi.org/10.4324/9780203431252>>

¹⁸ Heneok Abebe, 'The Facade of Justice: Transition-less Transitional Justice of Ethiopia', LLM. Thesis (Central European University 23 May 2024) available at SSRN: <<https://ssrn.com/abstract=4852322> or <http://dx.doi.org/10.2139/ssrn.4852322>> 1- 24

analysis of Ethiopia's transitional justice policies and practices in relation to gender inclusion, drawing lessons from other post-conflict contexts.

1.6. Methodology

1.6.1. Research Design and type

In order to address the research questions stated above, I employed qualitative method of study and a descriptive comparative design since the study primarily focuses on the legal frameworks and identifying of women's participation in Ethiopia's transitional justice policies and compare these practices to Rwanda, Sierra Leon and Colombia. The selection of these countries for comparison is based on their diverse yet influential experiences in integrating gender considerations within transitional justice frameworks. These countries faced serious gender-based violations during conflict, similar to Ethiopia and adopted innovative mechanisms that Ethiopia can draw from to improve its own policy. Rwanda and Sierra Leone were specifically selected as African countries because, like Ethiopia, they share similar socio-economic challenges and regional and cultural contexts. These similarities make the comparison more relevant and practical.

The study adopts a doctrinal type research relying primarily on legal policies to analyze transitional justice policy in Ethiopia and selected post-conflict countries. The comparative method enables the study to draw lessons from other post-conflict countries, such as Rwanda, Sierra Leon and Colombia, which have gender-sensitive transitional justice. By comparing Ethiopia's policy with these contexts, the research identifies best policy and implementing method that can inform recommendations for reform.

1.6.2. Type of Data Sources and Collection

To achieve the objectives of the study, both primary and secondary data sources was used. The Ethiopian Transitional Justice Policy is the primary data. With regard to the secondary source of data, I had made a comprehensive review of the domestic and foreign literature and also policy documents and non-binding rules on the subject matter, books, journal articles, expert writings, international organization recommendations, non-governmental organization reports, countries experience, and research works. These data along with the data to be obtained through primary data sources was evaluated so as to reach a conclusion.

1.6.3. Data Analysis

Since the research type is a comparative doctrinal research data collected through desktop research, accessing electronic databases and institutional websites. The analysis involves a qualitative review of legal texts and policy documents to identify patterns, gaps, and opportunities for enhancing gender inclusion in transitional justice.

1.7. Scope

The study focuses on assessing women's participation and representation under Ethiopia's transitional justice policy in comparison with selected countries. While the comparative analysis provides valuable insights, the study's findings aim to contribute to the broader discourse on gender-sensitive transitional justice.

1.8. Significance of the Study

The study is significant for several reasons:

First, by focusing on the role of women and women victims in transitional justice policy, this research aims to inform how to implement the policy with meaningfully incorporate women's voices, experiences, and contributions in transitional justice processes.

By drawing lessons from other post-conflict countries, the study provides a comparative perspective that underscores the importance of adopting context-specific yet universally informed strategies for gender inclusion. These insights can benefit not only Ethiopia but also other countries grappling with similar challenges.

The study fills a critical gap in the literature by focusing on the intersection of gender and transitional justice in Ethiopia. The findings contribute to the broader discourse on transitional justice, gender equality, and post-conflict recovery, enriching academic and policy-oriented debates.

Ultimately, this study contributes to the broader discourse on gender and transitional justice, offering insights into how Ethiopia can better address the needs of women while advancing sustainable peace and justice.

1.9. Organization of the study

The research consists of four chapters, including this introductory chapter, which outlines the background of the study, statement of problem, objective of study, significance of the study, scope and methodology. Chapter two provides conceptual, theoretical frameworks of transitional justice and gender inclusion as well as international and regional legal frameworks on Gender and transitional justice. Chapter three provides the Ethiopian legal framework on Transitional justice and analyze the Role of Women and Women Victims in Ethiopian transitional justice in comparison with Rwanda, Sierra Leon and Colombia. The last chapter provides the conclusion and recommendations.

CHAPTER TWO

Gender and Transitional Justice: An Overview of the Conceptual, Theoretical and Legal Frameworks

2.1. Introduction

Although the field of transitional justice has increasingly explored since the 1990s, gendered experiences in this area are less documented and the long and difficult process of creating and implementing transitional justice mechanisms may result in the exclusion or negation of gender sensitivity in practice.¹⁹ It is important that a gendered approach is taken at every part of a conflict resolution or reconciliation process and that all routes are as inclusive as possible of the whole population. By understanding that people experience conflict in different ways, post conflict mechanisms can cater to these nuances.²⁰ This chapter provides a comprehensive review of existing conceptual, legal and theoretical perspectives relevant to the study of gender and transitional justice. It examines the key concepts, legal frameworks, and theories that underpin the role of women and women victims in transitional justice mechanisms. It is relevant to recognizing and redressing gender-specific harms, to ensuring women's participation and leadership in all stages of the process and to promoting institutional and societal transformation toward gender equality.

2.2. Conceptual Frameworks

2.2.1. Concept of Transitional Justice

A 2004 report by the UN Secretary-General refers to transitional justice 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. These may include both judicial and non-judicial mechanisms, with differing levels of international

¹⁹ Addressing Gender in Transitional Justice (n 5) 5.

²⁰ Ibid.

involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof.²¹

The African Union (AU) offers a complementary but broader definition in its 2019 Transitional Justice Policy. The AU defines transitional justice as “various (formal and traditional or non-formal) policy measures and institutional mechanisms that societies, through an inclusive consultative process, adopt to overcome past violations, divisions and inequalities and to create conditions for security and democratic and socio-economic transformation.”²² The AU’s definition emphasizes not only accountability and reconciliation but also socio-economic transformation, national ownership, inclusion of traditional justice mechanisms, and addressing governance deficits rooted in Africa’s unique historical and political context.

Both definitions share the core goals of accountability, justice, and reconciliation. However, the AU’s definition expands transitional justice to include socio-economic justice, gender justice, and traditional mechanisms, reflecting Africa’s specific challenges and priorities.

For the purpose of this thesis, the working definition adopted aligns with the AU Transitional Justice Policy, as it provides a more holistic and context-specific framework relevant to Ethiopia. Thus, transitional justice in this study refers to the combination of judicial and non-judicial measures both formal and traditional that Ethiopian society employs through inclusive processes to address past human rights violations, promote accountability, foster reconciliation, and enable democratic and socio-economic transformation.

It is proposed that four underlining elements combine to bring about the necessity for transitional justice, namely, massive or generalized violations of human rights with a direct or indirect involvement of government, the decree of a transitional process, judicial or alternative measures and mechanisms in a holistic process and a justice policy with clearly identified objectives.²³

²¹ UN Rule of Law, ‘Transitional justice’ (2004) 8 <http://www.unrol.org/article.aspx?article_id=29 > accessed 16 March 2025.

²² African Union, *African Union Transitional Justice Policy* (February 2019) https://au.int/sites/default/files/documents/36541-doc-au_tjp_eng_web.pdf section 1 p 3.

²³ S Koko, ‘Implementing transitional justice in post-transition Central African Republic: What viable options?’ (2021) 21 *African Human Rights Law Journal* 954-984 959 <<http://dx.doi.org/10.17159/1996-2096/2021/v21n2a38> >.

Its purpose is to address past violations, divisions, and inequalities, thereby fostering conditions conducive to security, democratic governance, and socio-economic transformation.²⁴ Transitional justice aims to assist societies burdened by histories of violent conflicts and severe human rights violations in their transition toward a future characterized by justice, equality, and dignity.²⁵ The concept of justice in transitional justice involves judicial and non-judicial measures to ensure perpetrators' accountability and provide redress to victims. Beyond addressing past wrongs, justice also encompasses establishing fair institutional, social, and economic systems that promote governance and inclusive development.²⁶

In periods of conflict, repression or societal upheaval, widespread and systematic human rights violations often occur. Transitional justice provides methods to address these violations through mechanisms like truth commissions, criminal prosecutions, reparations and institutional reform. The International Centre for Transitional Justice²⁷ cites such reasons for transitional justice as 'trying to achieve accountability and redressing victims, transitional justice provides recognition of the rights of victims, promotes civic trust and strengthens the democratic rule of law'.²⁸

2.2.2. Objectives of Transitional Justice

Transitional justice processes are frequently assigned numerous responsibilities and carry various expectations, some explicit and others implicit. The four core objectives that all transitional justice processes seeking to address the consequences of widespread human rights abuses, especially mass atrocity and genocide, have in common are the following: i) Establishing the truth; ii) Accountability; iii) Reconciliation; and iv) Reparation.

Establishing the truth

²⁴ United Nations, 'Transitional Justice a Strategic Tool for People, Prevention and Peace' (Guidance Note of the Secretary General) (2023); and also Report of the Special Rapporteur on 'the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence' as cited in Pablo de Greif, eds., *Justice and Reparations*, in *The Handbook of Reparations* (Oxford University Press, 2006) 19.

²⁵ Ibid.

²⁶ Ibid.

²⁷ The International Centre for Transitional Justice is a non-profit organization focusing on transitional justice, <<http://ictj.org/>>.

²⁸ International Centre for Transitional Justice, 'What is transitional justice?' (2014) <<http://ictj.org/about/transitional-justice>> accessed 18 March 2025.

The establishment of truth regarding past abuses is a fundamental component of any transitional justice process. Establishing an accurate historical record, a ‘collective memory’, of previous human rights violations is regarded as essential, as achieving a reasonably comprehensive understanding of the past is crucial for realizing the other objectives of transitional justice, such as accountability, reparations, and reconciliation.²⁹

Different academic disciplines engage with the question of “what is truth,” yet the concept remains deeply contested.³⁰ A central debate concerns whether truth can be objectively determined or whether truth is inherently subjective. The definition and nature of truth are thus widely debated. “According to William James, “true ideas are those we can assimilate, validate, corroborate and verify.” This means “...truth is measured by way of evidence.’ According to Aristotelian thought, truth is the correspondence between the proposition and the reality of which the proposition is made. There are various philosophical and religious conceptions of truth.”³¹ In the context of transitional justice, the issue centers on assertions about past events. Some scholars argue that such assertions can be considered true if they are supported by objective evidence or verification. Others maintain that truth is more subjective, while some view it as a social construct where truth is defined by those in positions of power.³² Most scholars argued, Truth serves as a fundamental requirement for reconciliation, which is considered to be a prerequisite for sustainable peace.³³ The act of truth-telling is believed to facilitate social healing and reconciliation, support or occasionally substitute justice, enable the creation of an official historical account, fulfill a public educational role, assist in institutional reforms, foster democracy, and help prevent and discourage future atrocities..³⁴

Accountability

Accountability within the framework of transitional justice refers to identifying and assigning responsibility of individuals, organizations and states for past wrongs and of sanctions appropriate

²⁹ Gerald Gahima, *Transitional Justice in Rwanda: Accountability for atrocity*, (Routledge Newyork 2013) 5.

³⁰ Demelash Shiferaw, ‘National Prosecution and Transitional Justice: The Case of Ethiopia’, PHD thesis University of Warwick (2014) 111.

³¹ Ibid.

³² Ibid 113.

³³ Gerald Gahima (n 29).

³⁴ Ibid.

to such wrongs.³⁵ The notion of accountability extends beyond criminal justice to include civil suits and administrative and political measures.³⁶ Proponents of accountability attribute a wide range of potential benefits to the process. It is seen as the appropriate response to the legitimate cry of victims for recognition and justice. It is argued that accountability helps prevent future violations, whereas impunity encourages their recurrence.³⁷ Generally, accountability process particularly criminal trials, provide a higher degree of truth, focusing not only examining the events, but also clearly establish who is personally responsible for the abuses.³⁸

Reconciliation

Reconciliation has come to be recognized as an essential component of transitional justice processes. It has different meanings; some writers have provided conceptual definitions of reconciliation. Reconciliation has been described as acknowledgement and remorse from perpetrators, and forgiveness from the victims, peaceful co-existence, democratic decision-making and reintegration, it also encompassing four key elements: truth, mercy, peace and justice.³⁹ In transitional societies, reconciliation carries two significant and interconnected dimensions. The first involves reconciliation among different, often conflicting, groups within the population regarding the past conflict.⁴⁰ The second dimension focuses on reconciling the present with the past to facilitate a shared and consensual future..⁴¹

Transitional justice also seeks to foster reconciliation by addressing societal divisions caused by human rights violations. Reconciliation is viewed as the ultimate goal of transitional justice policies and practices, as well as their legitimizing norms.⁴² The rendering of justice to the victims helps to establish the truth about the violence of the past, and the acknowledgement of the abuses of the past, it is argued, helps to lessen hatred and hostility among individuals and communities,

³⁵ Vandeginste S, 'Law as a Source and Instrument of Transitional Justice in Burundi', PhD thesis (Belgium University of Antwerp 2009) 27-30.

³⁶ Vandeginste S, 'Law as a Source and Instrument of Transitional Justice in Burundi', PhD thesis (Belgium University of Antwerp 2009) 27-30.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Demelash Shiferaw (n 30) 131.

⁴⁰ Ibid 132.

⁴¹ Ibid.

⁴² Zalaquett, J., 'Confronting Human Rights Violations Committed by Former Governments: Principles Applicable and Political Constraints' in *State Crimes: Punishment and Pardon*, New York: Aspen Institute (1989) Reprinted in *Hamline Law Review* (1990) 13, 623.

thereby, allowing members of a society to live together non-violently and to begin a journey of reconciliation and healing.⁴³ Reconciliation include the personal healing of survivors, the reparation of the past injuries, the building or rebuilding of non-violent relationships between individuals and communities and the acceptance by the former parties to a conflict of a common vision and understanding of the past.⁴⁴

Reparation

Reparation in transitional societies is intended to address past injustices and is regarded as a key element of reparative justice within transitional justice frameworks.⁴⁵ The rationale for reparations is to repair, to the extent possible, the harm that the victim has suffered as a result of the violation of his or her human rights.⁴⁶ It is a public acknowledgement of the violation of the rights of victims, of the suffering the victims have been subjected to as a result of such abuse, and of acceptance by the state of its responsibility in law for breaches of legal obligations attributable to former regimes.⁴⁷ Many scholarly works on transitional justice consider reparation to be a fundamental element of transitional processes. The core concept behind reparation is that victims of human rights violations, or their families and relatives, hold a claim for compensation against successor governments.⁴⁸ Therefore, reparations are not claims against individual wrongdoers but rather claims directed at the government or society for harms caused by previous regimes.⁴⁹ Reparation, therefore, is very much related to the notion of justice, giving rise to the notion of ‘reparatory justice’.⁵⁰ One important question regarding reparation is whether successor regimes are obligated to address the injustices committed by previous governments. This dilemma often arises during transitional periods. According to Ruth G, international law clearly places a duty on states to provide reparation for past wrongs.⁵¹

Generally, these objectives are not isolated or independent; rather, they are deeply interrelated and mutually reinforcing. Establishing the truth often serves as the factual foundation for ensuring

⁴³ Crocker D.A., ‘Transitional Justice and International Civil Society: Toward a Normative Framework’, (1998) 5(4) *Constellations: An International Journal of Critical & Democratic Theory* 492 – 517.

⁴⁴ *Ibid*

⁴⁵ Ruth G. Teitel, (n 15) 119.

⁴⁶ Vandeginste S (n 34).

⁴⁷ *Ibid*.

⁴⁸ Demelash Shiferaw (n 30) 112.

⁴⁹ *Ibid*.

⁵⁰ *Ibid*.

⁵¹ Ruth G. Teitel, (n 15) 119.

accountability. Truth-telling is widely regarded as a precondition for meaningful reconciliation, as societies cannot move forward without first acknowledging and understanding the nature and extent of past violations. Accurate accounts of past abuses also help determine who is entitled to reparations and what form those reparations should take be it monetary, symbolic, or institutional reform.

Accountability plays a vital role in reducing impunity, which is crucial for rebuilding trust and fostering reconciliation. It also provides both moral and legal justification for reparations. When responsibility is clearly established, reparative measures are less likely to be perceived as mere acts of charity or appeasement. In turn, reparations especially those that are symbolic or community-based can facilitate healing and recognition, thereby contributing to reconciliation.

2.2.3. Mechanisms of Transitional justice

There are a different types of transitional justice mechanisms including; i) Truth and Reconciliation Commissions, ii) Criminal Prosecutions, iii) Reparation Processes and iv) Institutional Reform. This sub-section discusses the most common transitional justice mechanisms. This is relevant to the research problem because transitional justice mechanisms directly address the harms and injustices experienced during conflict, which disproportionately affect women in Ethiopia. It helps to highlight how women's specific needs and experiences can be recognized and remedied within the transitional justice process.

A) Truth and Reconciliation Commissions refer to non-judicial processes concerned with uncovering facts and truths about past events, or facilitating formal acknowledgements of what occurred.⁵² These commissions generally operate within a limited timeframe to conduct investigations, concluding their work with a public final report.⁵³ The core activities of each commission usually include collecting statements from victims and witnesses, performing thematic research, including assessments related to gender and child violations and their causes and consequences, organizing public hearings and other awareness programs, and issuing a comprehensive final report that presents their findings and recommendations.⁵⁴ The main goal of Truth and Reconciliation Commissions is to examine past abuses to comprehend the scope,

⁵² Gerald Gahima (n 29) 21.

⁵³ Ibid.

⁵⁴ Ibid.

patterns, causes, and effects of those violations. Ultimately, these commissions aim to assist society in recognizing and accepting a disputed or suppressed history, while giving victims the opportunity to share their experiences publicly. This process seeks to foster healing between victims and perpetrators through the public acknowledgment of the victims' suffering.⁵⁵

Truth commissions are widely respected in policy-making, human rights advocacy, and international development circles. However, they do have limitations. By concentrating on past abuses, they may overlook how violence, rooted in historical legacies, evolves into new forms during the transition period forms that can also threaten the rule of law, human security, peace, and prevention of recurrence. Additionally, truth commissions can sometimes be established by new regimes for self-interested purposes, such as discrediting former governments and political opponents, legitimizing the current political order, or protecting their own members from legal accountability.⁵⁶ Truth commissions that do not have the authority to identify individual perpetrators may be seen as attempts to conceal past wrongdoings. Furthermore, because their recommendations are not legally binding, they may reinforce feelings of victimization instead of providing victims with closure and healing.⁵⁷ It remains difficult to measure how effectively truth commissions, like other transitional justice mechanisms, accomplish their intended goals.⁵⁸

B) Criminal prosecutions or tribunals can take place at local, national or international level. States have an obligation to investigate allegations of human rights violations and, when sufficient evidence exists, to prosecute those responsible. If individuals are found guilty, states are also obliged to impose appropriate punishments.⁵⁹ Conversely, victims have both moral and legal rights to obtain remedies for human rights violations that, in cases of serious breaches of international human rights law and gross violations of international humanitarian law, include prosecutions. criminal prosecutions within transitional justice frameworks are also seen as ways to lessen victims' feelings of marginalization and grievance, rebuild trust between victims and the state, promote new social norms, and support the reform of institutions in emerging governments.⁶⁰

⁵⁵ Gerald Gahima (n 29) 22.

⁵⁶ Ibid.

⁵⁷ Ibid 23.

⁵⁸ Ibid.

⁵⁹ Ibid 16.

⁶⁰ Ibid 17.

Famous examples include the International Tribunal for the former Yugoslavia,⁶¹ the International Criminal Tribunal for Rwanda (ICTR),⁶² the Special Court for Sierra Leone⁶³ and the International Criminal Court (ICC).

Following on from the precedent set by the Nuremburg Trials to prosecute the most serious of international crimes, those crimes which are considered Jus Cogens are generally prosecuted at tribunals such as these.⁶⁴ They may also include a mix of national and international actors such as the hybrid courts of Cambodia or Iraq.⁶⁵

The criminal justice mechanism plays a crucial role in transitional justice by promoting accountability, deterring future violations, delivering justice to victims, and establishing an accurate historical record through legal proceedings. However, the effectiveness of punishment as a deterrent remains a subject of debate.⁶⁶ Despite this, it can be argued that punitive measures are more effective than non-punitive alternatives in preventing future violations.⁶⁷ Criminal prosecution contributes to this objective by uncovering the truth about past abuses, publicly condemning such acts, and educating society on the consequences of engaging in similar conduct. Through this process, it encourages a societal reassessment of core values and reinforces fundamental principles such as the rule of law and human dignity.⁶⁸ In doing so, truth-telling and punishment serve not only as a deterrent but also as a means of public education and moral reinforcement. Moreover, criminal trials can help break cycles of violence by re-establishing legal norms and respect for human rights. Prosecution also plays a vital role in the development of competent, trustworthy, and legitimate institutions particularly within the justice sector that can earn public confidence.⁶⁹ As such, it represents a deliberate step away from oppressive past

⁶¹ The International Tribunal for the former Yugoslavia is a tribunal set up by the United Nations to deal with the war crimes committed in this area. It was established in 1993. This tribunal prosecutes individuals rather than states and holds them personally to account.

⁶² The International Criminal Tribunal for Rwanda was set up in 1994 following a UN resolution on the subject. The remit of the tribunal was to deal with the most serious crimes committed during the Rwandan genocide.

⁶³ The special Court for Sierra Leone was set up jointly between the government of Sierra Leone and the UN. It has the ability to deal with serious crimes committed since 1996 in Sierra Leone.

⁶⁴ Addressing Gender in Transitional Justice (n 5) 11.

⁶⁵ Ibid.

⁶⁶ Demelash Shiferaw, (n 30) 94-97.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Ibid.

regimes and may serve as a powerful instrument in the broader transformation toward a democratic society.

C)Reparations: It stand out among transitional justice mechanisms for their direct focus on victims of human rights violations.⁷⁰ The reparation process can include material compensation or symbolic acts such as apologies from governments. It is often regarded as crucial step in post conflict recovery because they publicly recognize the suffering endured by victims. By addressing these past harms, reparations offer a form of restoration and compensation, serving as a foundation for building a better future. This future is founded on acknowledging past wrongs, symbolizing a break from the past and a commitment to preventing similar injustices from happening again.⁷¹

In 2005, the General Assembly of the United Nations adopted a text on the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law Principle 15 provides:

Adequate, effective and prompt reparation is intended to promote justice by redressing gross violations of international human rights law or serious violations of international humanitarian law. Reparation should be proportional to the gravity of the violations and the harm suffered. In accordance with its domestic laws and international legal obligations, a State shall provide reparation to victims for acts or omissions which can be attributed to the State and constitute gross violations of international human rights law or serious violations of international humanitarian law. In cases where a person, a legal person, or other entity is found liable for reparation to a victim, such party should provide reparation to the victim or compensate the State if the State has already provided reparation to the victim.⁷²

Reparations function as a vital mechanism of restorative justice.⁷³ When implemented effectively, they can foster the transformation of deeply divided societies by promoting a shared sense of the

⁷⁰ International Centre for Transitional Justice, ‘Reparations in Theory and Practice’ (2007) <<http://ictj.org/sites/default/files/ICTJ-Global-Reparations-Practice-2007-English.pdf>> accessed 21 March 2025.

⁷¹ Demelash Shiferaw, (n 29) 128.

⁷² UN OHCHR, ‘Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law’ (2005) <<http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>> accessed 21 March 2025.

⁷³ Demelash Shiferaw, (n 30) 128

common good and strengthening collective unity. In this way, reparations contribute meaningfully to reconciliation processes. Moreover, some argue that the provision of reparations can reduce the likelihood of individuals or communities resorting to retributive actions, offering a constructive alternative rooted in acknowledgment and healing.⁷⁴

Given these interlinked benefits, it is reasonable to assert that reparations should form an integral part of any transitional justice framework. Nevertheless, the practical implementation of a reparations policy presents significant challenges, particularly in contexts marked by widespread human rights violations, limited resources, and the simultaneous demands of nation-building and development.⁷⁵ A key difficulty lies in confronting the often-suppressed and politically sensitive truths of historical injustice. For reparations to be meaningful, societies must reach a consensus on the nature and extent of the harm caused, as well as on the most appropriate forms of redress.⁷⁶

Therefore, reparations cannot stand alone. They must be closely linked to other elements of transitional justice such as truth-telling, criminal accountability, and institutional reform. Only through a comprehensive, integrated approach can societies develop reparation programs that not only address past abuses but also pave the way for sustainable peace and justice.

D) Institutional reform: Institutional reform is a key mechanism within transitional justice that involves changing public institutions, particularly those that may have contributed to conflict or supported repressive regimes. The goal is to transform these institutions into more effective, accountable entities that can better support the transition to peace, sustain long-term peace, and uphold the rule of law. Reforming institutions is a central task for countries transitioning from authoritarianism or conflict towards democracy and peace, helping to rebuild trust in public systems and prevent the recurrence of abuses.⁷⁷ Institutional reform supports the achievement of transitional justice policies in two principal ways. First, it strengthens public institutions to be fair and efficient, thereby helping prevent future human rights abuses. Second, it enhances the capacity of public institutions particularly in the security and justice sectors to ensure criminal accountability for past violations.⁷⁸ Institutional reform may involve reform of some or all of the

⁷⁴ Demelash Shiferaw, (n 30) 129

⁷⁵ Ibid.

⁷⁶ Ibid 130.

⁷⁷ Gerald Gahima (n 29) 28

⁷⁸ Ibid

following: ‘the police, military personnel, intelligence services, customs, certain segments of the justice sector, and non-state actors with security functions’.⁷⁹

The primary purpose of institutional reform in transitional justice is to prevent the recurrence of human rights violations by transforming or rebuilding state institutions such as the judiciary, police, military, and intelligence services that were complicit in past abuses. It seeks to ensure that these institutions operate democratically, transparently, accountably, and in respect of human rights.

Strategies to reform institutions aimed at enhancing respect for human rights and preventing violence must focus on the integrity and capacity of institutional personnel. The primary method for reforming such personnel is vetting, a process that assesses individuals' suitability for public service, especially those who may have been involved in past human rights abuses. Vetting examines adherence to human rights standards and professional conduct to determine if individuals should be excluded from public institutions. This process is critical to supporting the institutional goals of promoting human rights, accountability, and the rule of law.⁸⁰ Vetting is the process of assessing the integrity of members of institutions previously responsible for human rights abuses to determine their suitability for continued public service.⁸¹ his process evaluates an individual's adherence to relevant human rights standards, professional conduct, and financial propriety. It aims to decide if the past behavior of government officials, particularly their respect for human rights, justifies their exclusion from public institutions.⁸² Vetting is generally part of a broader institutional reform effort, which itself should be integrated into a comprehensive transitional justice policy to help build institutions that uphold human rights, reconciliation, and peace..

2.2.4. Gender and transitional justice

It has been stressed that a deliberate inclusion of gender in transitional justice process essential both for its legitimacy and effectiveness. Hence, making sure that gender is intentionally addressed in transitional justice is the first step in a longer process. In 2000, the UN Security Council passed resolution 1325 which expressed:

⁷⁹ Addressing Gender in Transitional Justice (n 5) 13.

⁸⁰ Gerald Gahima (n 29) 28.

⁸¹ Ibid.

⁸² Ibid.

concern that civilians, particularly women and children, account for the vast majority of those adversely affected by armed conflict, including as refugees and internally displaced persons, and increasingly are targeted by combatants and armed elements, and recognizing the consequent impact this has on durable peace and reconciliation.⁸³

This resolution marks a significant international recognition that experiences of war impact men and women differently, emphasizing that peacebuilding must include women. Since transitional justice contributes to long-term peace, it underscores the critical need for a gender-sensitive approach that addresses the unique harms faced by women and promotes their meaningful participation. Such an approach helps transform structural inequalities and ensures that transitional justice processes are inclusive, effective, and contribute to sustainable peace.⁸⁴

Conflict impacts societies in numerous ways, including mortality and morbidity, indirect health effects, sexual and gender-based violence (SGBV), widowhood, migration and displacement, economic shifts, and changes in political and civil structures.⁸⁵ Some of these will be explored below in relation to gender to give greater depth to the analysis. This in turn provides the rationale for the need to include gender sensitivity in transitional justice. The purpose of a gender sensitive approach to transitional justice is to ensure that any and all processes are as inclusive as possible.⁸⁶

Sexual and gender based violence is a significance way in which men and women's experiences of conflict differ, and highlighting why transitional justice must incorporate this perspective. This has been reaffirmed in both Resolution 1825 passed in 2008 and Resolution 1888 in 2009 by the Security Council. Even though it is being addressed increasingly in discourse at the international level, SGBV continues to affect large numbers of people in conflict zones.⁸⁷ There are countless examples of SGBV being used as a weapon of war. For example, in situations of ethnic based conflicts 'gender is what is attacked during the violence' through rape or genital mutilation.⁸⁸ Additionally, sexual exploitation and sexual slavery operate within clandestine economies in

⁸³ United Nations Security Council 'Resolution 1325 on Women and Peace and Security' S/RES/1325 (31 October 2000) 4.

⁸⁴ Addressing Gender in Transitional Justice (n 5) 16.

⁸⁵ Ibid.

⁸⁶ Ibid.

⁸⁷ Ibid 19.

⁸⁸ Mazurana D., 'Gender and the Causes and Consequences of Armed Conflict. In: Mazurana D et al Gender, Conflict, and Peacekeeping' (2005) Maryland: Rowmand & Littlefield Publishers Inc. 33.

conflict zones. A notable example is Sierra Leone, where forced conjugal slavery was common and prevalent among various armed factions.⁸⁹

As the above paragraph demonstrates, the effects of conflict can be gendered. Therefore, it is essential that transitional justice process incorporate and address these distinct experiences; this is also known as gender mainstreaming.⁹⁰ The concept of gender mainstreaming in transitional justice emphasizes the need to apply a gender-sensitive lens to all aspects of the process. This includes how transitional justice is defined, the mechanisms chosen to implement it, and the types of human rights violations that are addressed. Gender mainstreaming requires that the distinct experiences, needs, and rights of both men and women are considered and integrated at every level of transitional justice from policy design to practical implementation.⁹¹

In principle, this approach ensures that all related legislation, policies, and procedures whether formal or informal adhere to the core values of gender equality and inclusivity.⁹² It seeks to prevent the marginalization of gender-specific harms and promote equitable participation in rebuilding post-conflict societies. Firstly, it crucial to explain why gender mainstreaming is important. As previous noted, men and women experience and react to conflict in different way. For example, men likely to be killed directly in combat while women often endure indirect consequences such as forced migration.⁹³ Secondly, conflict can alter traditional gender roles. Many women who were part of the Revolutionary Armed Forces of Colombia were treated as equals to men in a military capacity.⁹⁴ owever, after the conflict ended, there was a tendency to revert to conventional gender roles. This shift can jeopardize reintegration and reconciliation efforts if the changes in gender

⁸⁹ Abigail Gyimah, 'Gender and Transitional Justice in West Africa: The Cases of Ghana and Sierra Leone', (2009) African Leadership Center Research.

⁹⁰ Mainstreaming a gender perspective is the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in any area and at all levels. It is a strategy for making the concerns and experiences of women as well as of men an integral part of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres, so that women and men benefit equally, and inequality is not perpetuated. The ultimate goal of mainstreaming is to achieve gender equality.

International Labour Organisation, 'Definition of Gender Mainstreaming' <<http://www.ilo.org/public/english/bureau/gender/newsite2002/about/defin.htm> > accessed 25 March 2025.

⁹¹ Addressing Gender in Transitional Justice (n 5) 26.

⁹² Ibid 27.

⁹³ Ibid.

⁹⁴ Ibid

roles brought about by the conflict are not considered.⁹⁵ This highlights the importance of gender inclusion in post conflict transitional justice process.

Therefore, including gender as a specific point in transitional justice (and so ensuring the mainstreaming of it) is crucial not only addressing societal inequalities and grievances but also recognizing individuals unique experiences of harm. Moreover, because of their different experiences in conflict, men and women are likely to bring different issues to the table.

2.3. Theoretical framework

The intersection of gender and transitional justice is a critical area of study that explores how transitional justice mechanisms (such as truth commissions, trials, reparations, and institutional reforms) address the unique experiences and needs of different genders in post-conflict and post-repression contexts. The theoretical foundation for understanding this intersection can be elaborated through several key concepts and frameworks:

2.3.1. Feminist Theory

Feminist theory argues that traditional notions of justice often neglect the specific experiences and voices of women and gender minorities.⁹⁶ It emphasizes that war and conflict have distinct gendered dimensions, with women frequently the targets of sexual violence, marginalization, and systemic discrimination. Feminist approaches argue for recognizing women not only as victims but as active agents in peacebuilding and societal reconstruction. They call for justice that addresses both direct violence (e.g., sexual violence) and structural inequalities rooted in patriarchy and traditional gender norms.

Feminist theory has faced criticism for imposing Western liberal feminist frameworks that may not align with local cultural contexts.⁹⁷ Traditional feminist approaches often emphasize criminal accountability and formal legal remedies for gender-based violence, which can overlook broader structural and socio-economic inequalities.⁹⁸ Moreover, feminist scholarship is diverse,

⁹⁵ Addressing Gender in Transitional Justice (n 5) 28.

⁹⁶ Katharine T. Bartlett, 'Feminist Legal Methods' (1990)103 Harvard Law Review 833.

⁹⁷ Elias O. Opongo, 'Gendering transitional justice processes in Africa: a feminist advocacy approach to truth commissions', *Journal of the British Academy*, 9(s2), 2021 35–52

⁹⁸ *Ibid*

encompassing radical feminism, queer theory, postcolonial feminism, intersectionality, and other perspectives. This plurality sometimes results in fragmented approaches, complicating the development of a coherent feminist agenda within transitional justice and making it challenging to implement universally accepted policies.⁹⁹

In response to critiques of Western dominance, contemporary feminist scholarship increasingly incorporates intersectionality and postcolonial perspectives. These approaches emphasize local agency and context-specific understandings of justice.¹⁰⁰ Feminist theorists advocate for expanding transitional justice beyond formal legal mechanisms to include reparations, truth-telling, institutional reforms, and socio-economic empowerment.¹⁰¹ This holistic approach addresses structural violence and the continuum of gendered harm, encompassing both private and systemic forms of violence. Furthermore, feminist theory promotes women's active participation as agents of change rather than merely as victims. This empowerment-oriented approach challenges traditional victimhood narratives and fosters transformative justice.¹⁰²

2.3.2. Social Justice Framework

Social justice theory focuses on fairness in the distribution of resources, opportunities, and privileges within society. This framework posits that transitional justice must serve not only to address past wrongs but also to promote social equity and empowerment for marginalized groups, particularly women, in post-conflict situations.¹⁰³ Social justice involves recognizing systemic inequalities and providing reparative measures that contribute to the social and economic empowerment of disadvantaged groups.¹⁰⁴

This theory strength is, it focuses on fairness and equality, promoting inclusive participation and representation to ensure marginalized groups have a voice in decision-making. however, social justice is a broad and sometimes vague concept, which can cause confusion about its meaning and application.¹⁰⁵ Its multiple interpretations and complex goals often make it difficult to reach

⁹⁹ Elias O. Opongo (n 97)

¹⁰⁰ Ibid.

¹⁰¹ Fionnuala Ní Aoláin, 'Advancing Feminist Positioning in the Field of Transitional Justice, The International Journal of Transitional Justice', Vol. 6, 2012, 205–228,

¹⁰² Ibid

¹⁰³ Ruti G .Teitel, (n 15) 19

¹⁰⁴ Catherine O'Rourke, (n 17) 690.

¹⁰⁵ Ibid.

consensus on policies or institutional reforms. Additionally, some warn that group-based policies aimed at correcting historic injustices might lead to new forms of unfairness or reverse discrimination.

2.3.3. Intersectionality

Intersectionality posits that individuals are affected by multiple intersecting social identities, leading to varying experiences of violence and injustice.¹⁰⁶ This theory argues that policies and practices must recognize these overlapping identities to be effective.¹⁰⁷

Intersectional analysis reveals how women from different backgrounds (e.g., racial, ethnic, socio-economic) experience conflict and justice differently.¹⁰⁸ It challenges single-axis analyses of discrimination by emphasizing the complexity of social stratifications and their overlapping effects. In transitional justice, intersectionality enables a holistic understanding of women's experiences, accounting for how structural inequalities compound gendered violence and exclusion.¹⁰⁹ This approach advocates for inclusivity in transitional justice processes to ensure that the needs of the most marginalized are not overlooked.

2.3.4. Human Rights Discourse

Transitional justice should align with international human rights standards that dictate the need for accountability and redress for human rights violations, particularly those disproportionately affecting women.¹¹⁰ Human rights instruments provide a legal framework that can guide the implementation of gender-sensitive transitional justice mechanisms.¹¹¹ Ensuring accountability for gender-based crimes is integral to the legitimacy and functioning of transitional justice.

The strength of this framework lies in its comprehensive approach that balances legal redress with restorative measures, emphasizing victims' dignity and the rule of law as pillars for sustainable peace and democracy.¹¹² However, its universalist language of human rights may clash

¹⁰⁶ Ange-Marie Hancock, 'Empirical Intersectionality: A Tale of Two Approaches' (2013) 3 (2) UC Irvine Law Review 259-296.

¹⁰⁷ Ibid.

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

¹¹⁰ Moyo, K., & Lahai, J., (n 4) 146.

¹¹¹ Ibid.

¹¹² Ibid.

with cultural specificities, raising concerns about imposing external norms.¹¹³ Despite these critiques, the human rights discourse remains central for legitimizing transitional justice efforts and establishing international standards for accountability and victim recognition.

2.3.5. Gender and Conflict Theory

This theory argues that gender roles and norms significantly influence both the dynamics of conflict and the societal responses to it, including in the transitional justice context.¹¹⁴ Gendered norms may exacerbate situations of violence but also can be pivotal in post-conflict recovery and peace-building processes. The involvement of women in peace negotiations and transitional processes can lead to more sustainable and holistic outcomes.¹¹⁵

These theoretical frameworks provide crucial insights into how gender influences experiences of violence and concepts of justice in transitional periods. By integrating these perspectives into transitional justice practices, more effective, inclusive, and equitable processes can emerge, ultimately contributing to lasting peace and societal resilience.

Generally, this theoretical framework provides a robust foundation for critically assessing Ethiopia's transitional justice policy through a gender-inclusive lens. These theories collectively emphasize the necessity of recognizing women not only as victims but as active agents in transitional justice processes, addressing both direct gender-based violence and structural inequalities rooted in patriarchy and socio-economic disparities. And also it provides a comprehensive lens to evaluate whether the policy adequately recognizes women's roles and needs, and to propose strategies that promote gender-inclusive, context-sensitive transitional justice mechanisms capable of fostering lasting peace and social equity in Ethiopia.

¹¹³ Moyo, K., & Lahai, J., (n 4) 146..

¹¹⁴ Sjoberg, Laura, and Sandra Via, *Gender, War, and Militarism: Feminist Perspective*, Praeger security international (2010) 158.

¹¹⁵ Ibid.

2.4. Legal Frameworks on Women’s Participation in Transitional Justice

Women's participation in transitional justice is essential for ensuring inclusive, equitable, and sustainable peace processes. This section outlines the key international and regional legal instruments that promote and protect women's rights and their involvement in transitional justice mechanisms. By examining both international frameworks as well as African regional instruments like the African Union Transitional Justice Policy and the Maputo Protocol, the section highlights the evolving legal commitments to gender-sensitive justice in post-conflict settings.

2.4.1. International Legal Frameworks

Several core international instruments form the foundation for protecting women’s participation rights in transitional justice such as CEDAW, UNSC resolutions, and the Rome Statute.

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), provides the overarching framework for women’s rights, requires states to ensure gender equality in all fields.

The monitoring Committee of the CEDAW, as the human rights treaty monitoring body with particular responsibility for the protection and promotion of human rights, has developed normative guidance in gender and transitional justice. In the tapestry of international normative actors, the CEDAW Committee has also identified gender and transitional justice as an area of concern. For example, the Committee’s General Recommendation Number 30 on the rights of women in conflict prevention, conflict and post-conflict situations calls on state parties to address transitional justice mechanisms as part of broader activities to ensure women’s access to justice.¹¹⁶ The General Recommendation further calls for the inclusion of women in all levels of decision-making in transitional justice mechanisms.¹¹⁷ The Committee specifically calls concern to an exclusive focus of transitional justice on violations of civil and political rights:

Transitional justice mechanisms have not succeeded in fully addressing the gendered impact of conflict and in taking into account the interdependence and interrelatedness of all human rights violations which have occurred during conflict. For most women, post-

¹¹⁶ UNHRC, ‘First Thematic Report, Special Rapporteur on Truth, Justice, Reparation and Guarantees of Non-Recurrence’ (2012) UN Doc A/HRC/21/46 38 (c)

¹¹⁷ Ibid.

conflict justice priorities should not be limited to ending violations of civil and political rights but should include violations of all rights including economic, social and cultural rights.¹¹⁸

In the CEDAW Committee's state monitoring activities, it has scrutinized ongoing processes of transitional justice as a matter of priority.¹¹⁹

UN Security Council resolution 1325, provides the basic legal framework within which efforts and increasing the participation of women in conflict resolution take place. Primarily it makes a clear statement that women can play an important role in conflict resolution processes. It has thus "made visible women's agency and political activism and promoted an expanded acceptance of the various roles women may play in conflict."¹²⁰ As a result, it has provided a context in which women's advocacy groups can mobilize to come up with creative ways to ensure implementation of the principles contained in 1325 notwithstanding lack of progress from states.¹²¹

Subsequent resolutions like resolution 1820,1888,1889 addresses specific issues like sexual violence in conflict and increasing women's participation in peace processes.

In addition, the United Nations Security Council addresses gender and transitional justice in two of the later Women, Peace and Security Resolutions. Resolution 2106 reiterates the importance of addressing sexual violence in transitional justice mechanisms,¹²² while Resolution 2122 in its preamble recognizes that:

More must be done to ensure that transitional justice measures address the full range of violations and abuses of women's human rights, and the differentiated impacts on women and girls of these violations and abuses as well as forced displacement, enforced disappearances, and destruction of civilian infrastructure.¹²³

¹¹⁸ UNHRC, 'First Thematic Report, Special Rapporteur on Truth, Justice, Reparation and Guarantees of Non-Recurrence' (2012) UN Doc A/HRC/21/46 76.

¹¹⁹ Ibid.

¹²⁰ Dianne Otto, 'A Sign of "Weakness"? Disrupting Gender Certainties in the Implementation of Security Council Resolution 1325' (2009) 13(2) International Feminist Journal of Politics 165, 173.

¹²¹ Ibid.

¹²² United Nations Security Council, 'Security Council Resolution 2106' (24 June 2013) UN Doc S/RES/2106, 12.

¹²³ United Nations Security Council, 'Resolution 2122 on Women and Peace and Security', S/RES/2122 (18 October 2013) preamble.

The Rome Statute of the International Criminal Court (ICC), adopted in 1998, is a crucial document regarding international criminal law, and it contains several provisions that relate to transitional justice and gender.

Although the Rome Statute does not explicitly mention transitional justice, its establishment of the ICC plays a significant role in the transitional justice framework by Accountability for Atrocities that The ICC prosecutes serious crimes, such as genocide, war crimes, and crimes against humanity, which are often the focus of transitional justice processes and Reinforcing Rule of Law by providing a mechanism to hold perpetrators accountable, the ICC reinforces the rule of law, which is a fundamental element of transitional justice.¹²⁴

Gender considerations are integral to the Rome Statute, which recognizes that gender-based crimes are serious violations of international law. For instance, Article 7 explicitly lists sexual violence as a crime against humanity. This includes acts such as rape, sexual slavery, enforced prostitution, forced pregnancy, and other forms of sexual violence, Article 8 also addresses gender-based violence, including rape and sexual violence in the context of armed conflict.

The Rome Statute requires the ICC to consider the gender dimensions of crimes. This is crucial for ensuring that SGBV is prosecuted effectively. It also emphasizes the rights of victims and witnesses, including those who are victims of sexual violence. It recognizes the need to provide specialized support to these individuals, considering the unique challenges they face.

We infer from the above discussion that international legal frameworks explicitly recognize the importance of women's participation and gender sensitivity in transitional justice processes. The instruments emphasis women's meaningful inclusion at all levels of decision-making is essential for effective, legitimate, and sustainable transitional justice and victim-centered, inclusive, and holistic approaches are necessary to achieve justice and long-term peace.

Ethiopia ratified these legal instruments therefore, has a duty to ensure women's active participation in all aspects of transitional justice and fails to prioritize gender concerns or include women meaningfully violates international obligations.

¹²⁴ Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 90, arts 5–8

2.4.2. African Regional Legal Frameworks

African Union Transitional Justice Policy (AUTJP): it provides a comprehensive framework that emphasizes gender considerations in transitional justice processes in African contexts.

The AUTJP explicitly recognizes the prevalence of GBV in African conflicts. Provisions related to this include the need for mechanisms that address GBV as part of transitional justice efforts.

The policy emphasizes a victim-centered approach that respects the dignity and rights of all victims. This is outlined in Article 4, which focuses on the need for justice to be inclusive and victim-oriented. Article 5 states that transitional justice processes should be inclusive, ensuring the participation of marginalized and vulnerable groups, particularly women and children, in designing and implementing justice mechanisms.

The AUTJP stresses the importance of establishing effective monitoring systems to assess the implementation of transitional justice measures, particularly in relation to addressing GBV. This is highlighted in Article 11, which addresses the need for accountability and monitoring.

AUTJP's emphasis on gender sensitivity throughout its provisions suggests an understanding of the intersectional nature of justice, acknowledging that gender, ethnicity, age, and socio-economic factors must be considered in transitional justice initiatives.¹²⁵

Article 8 speaks to restorative justice approaches that promote dialogue and community engagement in addressing the impacts of violence, emphasizing the importance of recognizing the particular harms suffered by women and marginalized groups.

Article 15 emphasizes the need for building the capacities of national and local actors in transitional justice processes, including understanding and effectively addressing issues related to GBV.

AUTJP highlights the connection between transitional justice and broader development goals, stressing that addressing justice can aid in achieving gender equality and women's empowerment. This is implied in Articles 9 and 10, which refer to holistic approaches to peacebuilding and sustainable development.

¹²⁵ African Union, *African Union Transitional Justice Policy* (February 2019) https://au.int/sites/default/files/documents/36541-doc-au_tjp_eng_web.pdf (n 22)

The AUTJP has the status of a non-binding policy instrument.¹²⁶ Even if it is a soft law it serves as a guiding framework for African Union Member States on how to design and implement transitional justice processes in line with African values and international norms.¹²⁷ And also the policy draws from existing AU legal instruments such as the African Charter on Human and Peoples' Rights and the Maputo Protocol, which are legally binding. Therefore, while the AUTJP itself is non-binding, it is grounded in binding human rights norms and provides authoritative guidance to AU Member States, including Ethiopia, on how to conduct gender-sensitive, inclusive, and accountable transitional justice processes.

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo protocol): has significant relevance to gender and transitional justice, particularly in the context of post-conflict reconstruction and the promotion of women's rights and protections in Africa.

The Maputo Protocol emphasizes the rights of women and ensures gender equality as fundamental principles.¹²⁸ This recognition is critical in transitional justice settings, where women's voices and experiences are often marginalized. The Protocol mandates states to take measures to ensure equal participation of women in decision-making processes,¹²⁹ which is vital for meaningful transitional justice efforts.

The Protocol explicitly addresses GBV, recognizing it as a violation of human rights. (article 3) In transitional justice frameworks, where societies transition from conflict or repressive regimes, GBV often increases. The Maputo Protocol requires states to undertake specific actions to combat violence against women, including ensuring effective legal and policy frameworks,¹³⁰ which can inform the design and implementation of transitional justice processes.

Transitional justice mechanisms often deal with the needs of victims, and the Maputo Protocol advocates for the support and protection of women who have suffered violations. This includes

¹²⁶ CSVr, "The State of Transitional Justice in Africa," report on the 3rd African Transitional Justice Forum <https://csvr.org.za/wp-content/uploads/2021/06/3rd-African-TJ-Forum-Report-Rubin-2020-1.pdf>

¹²⁷ AUTJP, (n 22) Section 1 p 14–15.

¹²⁸ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) 2003, art 2.

¹²⁹ Ibid art 9.

¹³⁰ Ibid art 4.

providing access to justice, reparation, and support services for women affected by violence, which is crucial to achieving restorative justice in post-conflict scenarios.

Article 9 of the Maputo Protocol calls for the active participation of women in the political and decision-making processes of their countries. In the context of transitional justice, this translates to ensuring women's representation in truth commissions, reparations committees, and other relevant bodies. Promoting women's involvement is crucial not only for equitable justice but also for building sustainable peace.

The Protocol's provisions on health (Article 14) are particularly relevant in post-conflict contexts where women's health and reproductive rights may be compromised. Transitional justice mechanisms must consider these aspects to support women's recovery and empowerment after conflict-related violence and trauma.

The Maputo Protocol connects women's rights to broader development goals, emphasizing that justice for women is integral to national development. In transitional justice contexts, this perspective can help integrate women's rights into national rebuilding efforts, addressing both immediate needs for justice and long-term socio-economic empowerment.

The Protocol calls for mechanisms to monitor its implementation and ensure accountability for violations of women's rights. This emphasis on accountability can reinforce accountability in transitional justice processes, ensuring that gender-based violations are addressed, and perpetrators held to account.

Therefore, even if there is no explicit reference to "transitional justice" in the text of the Maputo Protocol itself. However, the AUTJP explicitly draws on the Maputo Protocol as a normative framework to guide gender-sensitive transitional justice processes.¹³¹ It recognizes the Protocol's principles such as gender equality and protection of women's rights, as foundational for designing TJ measures that address the gendered impacts of conflict and human rights violations.

¹³¹ AUTJP, (n 22) Section 3, 101.

CHAPTER THREE

Women and Women Victims Participation in Comparative Perspective: Assessing Ethiopian Transitional Justice Policy

3.1. Introduction

Ethiopia has undergone a few transitional periods under different regimes in the last fifty years. The first transition was from monarchical rule to a military dictatorship, followed by a transition from a military dictatorship to the Transitional Government of Ethiopia, eventually giving way to the authoritarian rule of the Ethiopian People's Revolutionary Democratic Front (EPRDF). The transition from the EPRDF to the incumbent Prosperity Party can be considered a third transition, potentially paving the way for a new phase of transitional justice.

This chapter explores the extent to which Ethiopia's 2024 National Transitional Justice Policy incorporates gender inclusion and promotes women's participation in the transitional justice process. The analysis is organized around some thematic areas derived from the research questions, and integrates comparative insights from other post-conflict countries such as Rwanda, Colombia, and Sierra Leone. Colombia's transitional justice legal framework, particularly through the Special Jurisdiction for Peace (JEP) and the Truth Commission (CEV), has made pioneering strides in addressing gender inclusion. It leads with an intersectional and innovative approach to gender persecution and reproductive violence in transitional justice; Sierra Leone combines judicial responses with progressive gender equality legislation; and Rwanda has implemented multiple transitional justice mechanisms, including national trials and Gacaca courts, to address the atrocities of the 1994 genocide, which had a profoundly gendered impact with widespread sexual violence against women. It emphasizes women's political participation even if it faces challenges in achieving substantive gender equality in policy outcomes. Each country's experience highlights different facets of integrating gender inclusion into post-conflict justice and societal rebuilding. These countries policy framework offer practical illustrations of how gender considerations can be institutionalized in transitional justice mechanisms. In addition, the chapter identifies legal, institutional, and policy mechanisms used in these countries and drawing out lessons for Ethiopia.

3.2. Women’s Participation in Transitional Justice: Comparative Study

Under this section, an overview is provided of women’s participation in transitional justice from a comparative perspective by focusing on experiences of three selected countries, namely Rwanda, Sierra Leone, and Colombia. The main purpose is to highlight how each country has incorporated gender perspectives into their transitional justice frameworks, including legal provisions and institutional mechanisms to empower women and women victims. By examining these diverse approaches, the section seeks to illustrate best practices, challenges, and the critical role of women as active agents in achieving justice, reconciliation, and sustainable peace in post-conflict societies. These countries are selected because they offer valuable lessons relevant to Ethiopia’s complex post-conflict context, characterized by ethnic diversity, economic challenges, and ongoing political transition. Rwanda and Sierra Leone, as African countries with histories of ethnic violence and civil war, provide regionally comparable experiences in implementing transitional justice, particularly in integrating women’s participation and addressing gender-based violence. Colombia, chosen for having one of the most advanced and gender-inclusive transitional justice policies globally, offers a model of comprehensive legal frameworks and institutional mechanisms that prioritize women’s roles as active agents in peacebuilding. Together, these countries represent diverse economic, geographic, and historical circumstances that can inform Ethiopia’s efforts to develop effective, gender-sensitive transitional justice policy.

A) Rwanda

Rwanda’s transitional justice policy explicitly incorporates gender inclusion as a core principle, emphasizing gender mainstreaming, women’s empowerment, and protection from gender-based violence as integral to national transformation and reconciliation. Following the 1994 genocide, Rwanda implemented a multifaceted transitional justice system, including the International Criminal Tribunal for Rwanda (ICTR) and Gacaca courts. The ICTR set historic precedents in prosecuting sexual violence as a tool of genocide.¹³² Women played active roles in community level Gacaca courts as judges and participants. Rwanda also adopted gender-sensitive reparations and legal reforms to promote women’s rights.¹³³ Civil society and women’s organizations were

¹³² Phil Clark, *The Gacaca Courts, Post-Genocide Justice and Reconciliation in Rwanda: Justice without Lawyers* (Cambridge University Press 2010) 142.

¹³³ *Ibid.*

instrumental in shaping policy and ensuring accountability.¹³⁴ Rwanda's approach is seen as a model in incorporating gender perspectives in post-conflict justice. There was an explicit use of legal pluralism combining international, national, and customary justice systems.

The government implemented gender quotas across various levels of governance, including transitional institutions. By law, women were guaranteed at least 30% representation in all decision-making bodies (Rwandan Constitution, Art. 9(4)).¹³⁵ Women's participation in Gacaca courts rose significantly. According to *Never Again Rwanda* (2019), women made up 34% of Gacaca judges by 2005 and 37% by 2013. The government and civil society also promoted women's leadership in post-conflict reconstruction through institutions like the Ministry of Gender and Family Promotion.¹³⁶

B) Sierra Leone - Legal Framework & Institutional Mechanisms:

Sierra Leone's transitional justice framework is primarily embodied in two key legal and policy instruments: The Lomé Peace Agreement (LPA) of 1999 and the Agreement Establishing the Special Court for Sierra Leone (SCSL), 2002.

Sierra Leone's transitional justice policy, particularly as embodied in the Truth and Reconciliation Commission (TRC) established by the TRC Act 2000 and operating from 2002 to 2004, includes several specific provisions related to women's participation and, it explicitly recognized gender-based violence as a serious crime in and included gender-specific hearings.¹³⁷ The TRC's mandate required it to give special attention to the experiences of women and children.¹³⁸ The Commission created a Gender Unit that conducted closed, women-only hearings to ensure confidentiality and comfort for survivors of sexual violence. The Reparations Programme incorporated a gender-sensitive approach by prioritizing female war victims, especially survivors of sexual violence, for services like psychosocial support and vocational training.¹³⁹ In 2015, Sierra Leone's president

¹³⁴ Ibid.

¹³⁵ Constitution of the Republic of Rwanda (as revised to 2015), art 9(4).

¹³⁶ Phil Clark (n 132).

¹³⁷ Truth and Reconciliation Commission Act (2000) sec 6(2)

¹³⁸ Ibid

¹³⁹ Abigail Gyimah (n 89) 30.

issued a formal apology to women victims, symbolizing state recognition of their suffering and the government's commitment to reparations and healing.

C) Colombia - Legal Framework & Institutional Mechanisms:

Colombia's transitional justice policy is a comprehensive framework designed to address the legacy of decades-long internal armed conflict through a combination of truth, justice, reparations, and reconciliation mechanisms. The policy is primarily embodied in the **Justice and Peace Law (2015)** and further developed through the **2016 peace agreement with the FARC**, along with subsequent institutional and legal reforms. The policy promotes women's participation not only as victims but also as active agents and leaders in transitional justice processes.¹⁴⁰ Women have served as commissioners, advisors, and leaders in civil society advocacy, shaping the design and implementation of TJ mechanisms.¹⁴¹

The **Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace (2016)** is a central legal-political document in Colombia's transitional justice process. Key legal outcomes include, the establishment of the Comprehensive System of Truth, Justice, Reparation, and Non-Repetition, Gender-sensitive transitional justice mechanisms, and Legal recognition of victims' rights and guarantees of non-repetition.¹⁴²

Colombia's 2016 Peace Agreement¹⁴³ between the government and the FARC guerrilla group integrated gender justice as a cross-cutting principle.¹⁴⁴ A Gender Sub-Commission was created during the peace negotiations, ensuring that women's perspectives were central to the agreement.¹⁴⁵ The **Special Jurisdiction for Peace (JEP)** is part of the Comprehensive System of Truth, Justice, Reparation and Non-Repetition. It is a central judicial component of Colombia's transitional justice system. It is a restorative justice mechanism designed to deal with crimes committed during

¹⁴⁰ Tabak, Shana, False Dichotomies of Transitional Justice: Gender, Conflict and Combatants in Colombia (September 13, 2011). New York University Journal of International Law and Politics (JILP), Vol. 44, p. 103, 2011, Available at SSRN:< <https://ssrn.com/abstract=1926956> or <http://dx.doi.org/10.2139/ssrn.1926956>>

¹⁴¹ Ibid.

¹⁴² Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace (Colombia), (2016) pt 5, 6.

¹⁴³ Ibid preamble.

¹⁴⁴ Ibid pt 6.1

¹⁴⁵ Ibid.

the internal armed conflict, ensuring truth, accountability, and reparations for victims.¹⁴⁶ And it includes a Gender Commission that monitors the inclusion of women in proceedings, investigates sexual and gender-based crimes, and promotes women's participation in truth-seeking, reparations, and reintegration.¹⁴⁷ The government partnered with civil society organizations to implement differentiated measures for women ex-combatants and conflict-affected populations.

3.3. Ethiopia's Transitional Justice Mechanisms: Historical Aspect and Previous Attempts

Over the past fifty years, Ethiopia has experienced several significant transitions under different regimes. The first major shift was from centuries of monarchical rule to a military dictatorship known as the Dergue. This was followed by a transition from military rule to the Transitional Government of Ethiopia, which eventually gave way to the authoritarian Ethiopian People's Revolutionary Democratic Front (EPRDF). More recently, the shift from the EPRDF to the current Prosperity Party marks a third transition, potentially opening a new chapter for transitional justice in the country.

The Dergue came to power in 1974 by overthrowing the long-standing monarchy and renamed itself the Provisional Military Government of Ethiopia. It ruled without a formal constitution until 1987, when it adopted a new constitution for the People's Democratic Republic of Ethiopia, signaling an attempt to move beyond its provisional status. Despite its name, the Dergue never truly acted as a transitional government.¹⁴⁸ It set up a military court and an Inquiry Commission to investigate alleged crimes by former officials, initially suggesting a commitment to lawful justice.¹⁴⁹ Many officials even voluntarily submitted themselves for trial, expecting fair hearings.¹⁵⁰ However, this process was abruptly halted in 1977 when Mengistu Hailemariam ordered the execution of senior monarchical officials, effectively ending the commission and abandoning the idea of transitional Justice.¹⁵¹

¹⁴⁶ Diego Fernando Tarapués Sandino, 'The Special Jurisdiction for Peace and Sui Generis Transitional Justice,' <https://doi.org/10.5771/9783748923534-63> (2022) 63.

¹⁴⁷ Ibid.

¹⁴⁸ Henok Abebe (n 18) 6.

¹⁴⁹ Simeneh Kiros, 'Conspicuous Absence of Independent Judiciary and 'Apolitical' Courts in Modern Ethiopia' 15/2 *Mizan Law Review* (2021) 394.

¹⁵⁰ Ibid.

¹⁵¹ Henok Abebe (n 18) 7.

In 1991, the EPRDF, led by the Tigray People's Liberation Front, overthrew Mengistu's regime and took control of Addis Ababa. The new Transitional Government established the Special Public Prosecutor's Office in 1992 to investigate and prosecute former Dergue and Workers' Party officials.¹⁵² The prosecutions targeted high-ranking party members, security forces, and others involved in abuses. However, no special court was created, and the scope of crimes to be addressed was not clearly defined. The transitional justice process focused heavily on trials, neglecting other important aspects such as truth-seeking, reconciliation, amnesty, and reparations.¹⁵³ The trials faced criticism for targeting only Dergue officials, ignoring other opposition groups, violating defendants' rights, and lacking public Participation.¹⁵⁴

Despite these efforts, neither transitional period succeeded in fully establishing an effective mechanism to hold human rights violators accountable or to transform Ethiopian society. While the Dergue trials marked progress compared to the regime's prior summary executions, they fell short of embedding the rule of law deeply into society. Moreover, during and after the trials, Ethiopia continued to experience serious human rights abuses including GBV, indicating that neither the government nor the public had fully learned from past injustices. The transitional justice pursued under the EPRDF ultimately failed to prevent the repetition of grave crimes.

Generally, Ethiopia's previous transitional justice processes have largely fallen short in terms of gender inclusion and meaningful participation of women. Historically, these efforts focused predominantly on prosecuting political and military officials, the mechanisms were heavily trial-centered and neglected broader elements such as truth-seeking, reparations, and reconciliation, where gender-sensitive approaches are crucial. Women's voices and perspectives were largely marginalized, reflecting deep-rooted societal and institutional gender inequalities.

3.4. Current Ethiopian Transitional Justice policy

The incumbent government of Ethiopia recognizes the necessity of a transitional justice and national dialogue process to address the nation's past and present challenges. Consequently, it has

¹⁵² A Proclamation to Provide the Establishment of the Special Public Prosecutor's Office, Proclamation No 22/1992 of Ethiopia.

¹⁵³ Henok Abebe (n 18) 7.

¹⁵⁴ Ibid

approved a transitional justice policy¹⁵⁵ and established a National Dialogue Commission.¹⁵⁶ The transitional justice policy acknowledges that gross human rights violations,¹⁵⁷ including genocide, crimes against humanity, war crimes, extrajudicial killings, enforced disappearances, and rape have been committed in Ethiopia. The policy sets forth the goals of maintaining accountability and the rule of law to serve justice, quell enmity, and halt ongoing conflicts and human rights violations.¹⁵⁸ The policy outlines principles and directions regarding legal, operational, and structural requirements for its implementation. It ensures that the process adheres to continental and international principles of transitional justice, aiming to be sustainable, transparent, accountable, and just.¹⁵⁹

Here, the question raised is whether approval by the Council of Ministers is sufficient to legitimize the document. Should it have been adopted by the House of Peoples' Representatives (HoPR)? In Ethiopia's legal and constitutional framework, the HoPR holds the highest legislative authority and is primarily responsible for enacting laws such as proclamations,¹⁶⁰ which the Council of Ministers then implement and enforces these laws¹⁶¹ and may enact directives and regulations. While the Council of Ministers can approve policies, the TJ policy, given its fundamental importance in addressing issues of justice, accountability, and national reconciliation, transcends ordinary executive decisions and requires broader democratic legitimacy. Since the HoPR represents the Ethiopian people through elected members and has the constitutional mandate to legislate on matters of federal jurisdiction, the TJ policy should have been ratified by the HoPR to ensure compliance with legal procedures, enhance transparency, accountability, and public participation, and thereby secure its legitimacy and effectiveness. This approach aligns with the constitutional hierarchy where the HoPR enacts laws and the Council of Ministers executes them, making parliamentary adoption essential for a policy as critical as transitional justice. On the other side we can argue that, while parliamentary adoption of the TJ policy would reinforce its legitimacy and public trust, the primary legal necessity is that any future laws or regulations

¹⁵⁵ Federal Democratic Republic of Ethiopia, *Transitional Justice Policy* (2024).

¹⁵⁶ Proclamation No 1265/2021, *A Proclamation to Provide for the Establishment of the Ethiopian National Dialogue Commission*, Federal Negarit Gazette, 28th Year, No 9 (29 December 2021).

¹⁵⁷ Transitional Justice Policy, (n 155) 2.

¹⁵⁸ *Ibid* 4-6.

¹⁵⁹ *Ibid*.

¹⁶⁰ FDRE constitution (n 11) 55.

¹⁶¹ *Ibid* 77.

operationalizing the policy's recommendations are subject to HoPR approval. Thus, the absence of HoPR ratification for the framework policy may be less problematic if it serves only as a guideline, with proper legislative procedures followed for all resultant legal enactments.

Ethiopia has experienced several waves of political transitions and internal conflicts, significantly affecting women and other vulnerable groups. Although the Ethiopian Constitution and Criminal Code provide for gender equality and criminalize gender-based violence, implementation has been inconsistent.¹⁶²

The Ethiopian Transitional Justice Policy establishes "gender mainstreaming" as a foundational principle for all mechanisms of transitional justice.¹⁶³ It mandates that women must be meaningfully represented in all phases of the transitional justice process, from design to implementation. Proportional representation of women is explicitly required in the composition of the Truth Commission, Special Bench under the Federal High Court, and the Special Prosecution Office.¹⁶⁴

Moreover, the policy mandates that the selection and appointment of commissioners, judges, and prosecutors must ensure gender diversity and representation.¹⁶⁵ Women are also categorized as part of "vulnerable groups" whose needs must be prioritized in the design of reparations and rehabilitation programs.¹⁶⁶ And the policy outlines a specific mandate for the Ministry of Women and Social Affairs to facilitate psychological, legal, and medical services to women, especially survivors of sexual and gender-based violence.¹⁶⁷

3.5. Comparative Study of Women's Role in Ethiopia's Transitional Justice Policy

3.5.1. An Evaluation of Women's Role in Ethiopian Transitional Justice Policy

¹⁶² UN Women, 'Ethiopia Country Gender Equality' Profile Brief (2024) https://africa.unwomen.org/sites/default/files/2024-07/abridged_version-ethiopia_country_gender_profile.pdf accessed 03 April 2025.

¹⁶³ Transitional Justice Policy, (n 155) 1.5.8.

¹⁶⁴ Ibid 2.1.3, 2.1.4, 2.2.2.

¹⁶⁵ Ibid 2.2.2.

¹⁶⁶ Ibid 2.9.

¹⁶⁷ Ibid 3.1.1.H.

Ethiopia's transitional justice policy outlines multiple avenues for women to engage actively, including contributing to truth-seeking mechanisms, participating in community reconciliation forums, and influencing reparations design through participatory processes facilitated by the Truth Commission.¹⁶⁸ The policy also aims to empower women to take leadership roles in vetting, amnesty, and reparations initiatives, addressing their historical exclusion from formal decision-making. While the policy acknowledges women's victimization in armed conflict, particularly sexual and gender-based violence,¹⁶⁹ it stops short of mandating their active decision-making roles in designing, implementing, or monitoring transitional justice mechanisms. Despite this limitation, emerging efforts and recommendations seek to expand women's participation beyond testimonial roles, promoting more inclusive and gender-sensitive transitional justice processes.

This policy reflects important progress over previous frameworks, incorporating lessons from international experiences and conducting extensive public consultations. According to Mr. Awel Sultan, head of the National Human Rights Action Plan Secretariat at the Ministry of Justice, approximately 80 consultations were held nationwide, including 47 in regional states, providing a broad base for stakeholder input. The policy explicitly recognizes women as a vulnerable group and seeks to enhance their participation, marking a clear emphasis on gender sensitivity.¹⁷⁰

Similarly, Mrs. Teguada Alebachew, a member of Ethiopia's Transitional Justice Working Group, noted that the policy development referenced international standards such as United Nations guidelines and the African Union Transitional Justice Policy to comprehensively address issues affecting women victims. Public consultations attempted to involve women meaningfully, with women comprising about 34% of overall participants. In addition, three women-only consultations were conducted in Mekele, Bahirdar, and Addis Ababa, engaging women survivors alongside civil society and academic professionals.¹⁷¹

Despite these positive steps, both experts highlighted significant limitations that hinder full gender inclusivity. Mr. Awel Sultan pointed out that only three of the 80 consultations were exclusively

¹⁶⁸ Transitional Justice Policy, (n 155) 2.4.2.

¹⁶⁹ Ibid 3.2

¹⁷⁰ Interview with Mr. Awel Sultan, National Human Rights Action Plan Secretariat, Ministry of Justice (08 July 2025).

¹⁷¹ Interview with Teguada Alebachew, Assistant Professor, School of Law and Federalism Studies, Ethiopian Civil Service University and Transitional Justice working group (20 July 2025).

for women, predominantly attended by professional women rather than direct conflict victims. This limited representation challenged the policy's ability to integrate diverse female victim perspectives. Furthermore, the drafting process lacked sufficient emphasis on gathering victims' testimonies, focusing instead on recommending the establishment of judicial mechanisms to address cases after policy adoption. Work on these courts is ongoing. Mr. Awel also expressed concern about the marginalization of women's rights advocates in the process, who were often derogatorily labeled as feminists, undermining authentic gender advocacy.¹⁷²

In line with these observations, Mrs. Teguada stressed that gender considerations were initially overlooked in the formation of the transitional justice working group and required persistent advocacy to ensure women's representation. Women accounted for only three of the thirteen working group members, limiting their influence in decision-making. Additionally, male stakeholders tended to treat gender issues as extensions of general provisions rather than distinct priorities, weakening their visibility and impact. She argued that even if the policy's provisions are well-intentioned, they are not enough on their own to guarantee substantive engagement by women in decision-making processes. Therefore, she hopes that complementary laws and regulations will address these gaps by explicitly mandating clear decision-making roles for women and establishing gender quotas.¹⁷³

To address these gaps, Mrs. Teguada advocates for explicit gender quotas within the enacted related TJ laws to secure substantive women participation. She also criticized the removal of clear compensation provisions for vulnerable groups, especially women survivors, during the Council of Ministers' approval stage. She underscored that reparations must be clearly defined and unambiguous to preserve the dignity and facilitate the recovery of women victims¹⁷⁴

Collectively, the insights from Mr. Awel Sultan and Mrs. Teguada Alebachew reveal that while Ethiopia's transitional justice policy demonstrates a growing sensitivity to gender issues, some challenges remain. These include ensuring broader and deeper inclusion of women's diverse experiences, especially those of victims; increasing women's representation and decision-making

¹⁷² Interview with Mr. Awel Sultan (n 170).

¹⁷³ Interview with Teguada Alebachew (n 171).

¹⁷⁴ Ibid.

power in policy processes; clearly articulating reparations; and addressing the marginalization of gender advocates. These measures are critical to fulfilling the policy's goals of fairness, accountability, and responsiveness within Ethiopia's transitional justice framework.

The FDRE Ministry of Justice's Green Paper (2023) acknowledges sexual and gender-based violence but lacks robust mechanisms to ensure women's active roles in decision-making, reparations design, or institutional reform.¹⁷⁵

Testimony-taking forums and public consultations (e.g., the national dialogue initiatives and hearings by the Ethiopian Human Rights Commission) have featured women narrating abuses, but this rarely translates into policy-shaping authority. Although the policy calls for gender-sensitive approaches, it lacks mandatory provisions to ensure the structural inclusion of women within transitional justice institutions. There are no directives for:

- Gender-balanced leadership within truth commissions or reparations programs;
- The creation of dedicated gender units or commissions;
- Quotas or safeguards to guarantee female representation in transitional justice processes.

This omission stands in sharp contrast to the approaches adopted by other post-conflict countries.

In **Rwanda**, for instance, women played active roles in the *Gacaca* courts, with approximately 34% of judges (*Inyangamugayo*)¹⁷⁶ being female by 2005.¹⁷⁷ Their involvement extended beyond testimony to adjudication and community reconciliation.

In **Sierra Leone**, women gave testimonies in both public and closed sessions during the Truth and Reconciliation Commission, particularly detailing experiences of SGBV.¹⁷⁸ Prominent female leaders, such as Yasmin Jusu-Sheriff, were central to the TRC's operations. Notably, the

¹⁷⁵ "Women and girls are disproportionately affected by conflict-related sexual violence, However, mechanisms ensuring their full participation remain underdeveloped." Green Paper on Transitional Justice Options, FDRE MoJ, (2023) 24.

¹⁷⁶ The term **Inyangamugayo**, meaning "person of integrity" in Kinyarwanda, refers to the lay judges who presided over Rwanda's Gacaca courts, it is community-based tribunals established to address the crimes of the 1994 genocide. These judges were elected by their communities for their moral standing rather than formal legal training.

¹⁷⁷ Organic Law No. 16/2004, 14.

¹⁷⁸ Abigail Gyimah (n 89) 33.

establishment of a dedicated Gender Unit within the TRC signaled a strong commitment to addressing gender-based crimes and ensuring women’s active leadership and participation.¹⁷⁹

In **Colombia**, women participated in peace negotiations and held leadership positions within the JEP. The JEP’s Gender Commission plays a crucial role in investigating and prosecuting gender-based crimes.¹⁸⁰ This institutionalization of gender considerations represents a comprehensive and inclusive approach to transitional justice.

By contrast, Ethiopia’s transitional justice policy lacks institutional mandates for gender quotas or formal mechanisms to ensure women’s inclusion. Unlike Colombia or Rwanda, Ethiopia has not established a Gender Unit or commission dedicated to monitoring and promoting women’s participation. While civil society organizations and women’s rights groups have advocated for greater inclusion, their influence on formal structures remains minimal.

3.5.2. Women's Contributions to Truth, Reparations, and Reconciliation

The Transitional Justice Policy mandates that truth-seeking mechanisms must pay special attention to gender-based and sexual violence.¹⁸¹ Victims of such violations are to be given platforms for testimony, redress, and public acknowledgment. Reparations are to be holistic, including compensation, restitution, satisfaction, rehabilitation, and guarantees of non-repetition. These must be tailored to the needs of women and other vulnerable groups.¹⁸² The policy also enables traditional justice systems to participate in reconciliation and reparations, provided they meet gender-sensitive standards.¹⁸³ Women must not be excluded from customary mechanisms and their rights must be upheld during such processes.

Though the policy references reparations as one of the pillars of transitional justice, it lacks compensation and specificity about how women’s experiences and needs will be considered in the reparations design process.¹⁸⁴ This general statement fails to outline:

- What “needs” are,

¹⁷⁹ Abigail Gyimah (n 89) 33.

¹⁸⁰ Diego Fernando (n 146) 64

¹⁸¹ Transitional Justice Policy (n 155) 2.2.1.

¹⁸² Ibid 2.4.1.

¹⁸³ Ibid 2.8.

¹⁸⁴ Ibid 4.1.4.

- Who defines them,
- And how women will be involved in that definition process.

In contrast, **Colombia** sets a high standard through the Special Jurisdiction for Peace, which features a Gender Commission that not only investigates conflict-related sexual violence but also ensures that women help construct truth narratives as experts and decision-makers rather than merely as victims.

Sierra Leone's TRC held special sessions focused on sexual violence, creating a platform for women to provide testimony in safe, closed hearings.¹⁸⁵ While this Gender Unit effectively gathered and analyzed patterns of SGBV, women's contributions were not fully integrated into the broader national justice discourse.¹⁸⁶

On the reparations front, Ethiopia promises comprehensive redress yet lacks compensation and guidelines on designing policies on how implementing measures that address women's specific needs. Colombia, however, embeds reparations within a peace accord that incorporates intersectional protections. These measures include land restitution, psychosocial support, symbolic gestures, and priority access to services tailored for women.¹⁸⁷

Regarding reconciliation, Ethiopia supports customary practices provided that gender standards are met; however, the mechanisms for ensuring these standards are enforced remain unclear. Conversely, Colombia actively integrates women's organizations into reconciliation efforts especially in rural areas affected by war, thereby strengthening trust and social cohesion through grassroots peace initiatives. Sierra Leone witnessed vibrant symbolic reconciliation processes where women's groups contributed to community healing by blending traditional approaches with modern outreach, even though these efforts lacked long-term institutional continuity.

Overall, while Ethiopia's transitional justice policy recognizes gender-specific harms, it primarily positions women as recipients of justice rather than as active architects of the process. In contrast,

¹⁸⁵ Truth and Reconciliation Commission of Sierra Leone, 'Witness to Truth: Final Report of the Sierra Leone TRC,' (2004) 3b, ch 3 89.

¹⁸⁶ Ibid.

¹⁸⁷ Final Agreement...(n 142) 5.1.3.

Colombia institutionalizes women's participation at every stage from truth-seeking to reparations and reconciliation. While Sierra Leone offers both symbolic and procedural recognition of women's roles yet falls short of systematic follow through. To move beyond tokenism, Ethiopia must establish permanent structures such as dedicated gender units, quotas, and oversight bodies that empower women to play a decisive role in shaping future justice processes.

3.6. Challenges to Gender-Inclusive Implementation in Ethiopia

One of the primary challenges to implementing a gender-inclusive transitional justice process in **Ethiopia is the continuation of armed conflict within the country.** Ongoing hostilities hinder the creation of a stable environment necessary for meaningful transitional justice and it's not safe for women victims meaningful participation.

Moreover, the current transitional justice policy does not clearly state whether gross human rights violations being committed by the incumbent government and other warring parties during the ongoing conflict will be addressed. This lack of clarity risks excluding recent and current atrocities from accountability measures, thereby undermining the credibility and effectiveness of the process. For transitional justice to be both legitimate and inclusive, it must necessarily confront and redress current and ongoing human rights violations. These include abuses committed by the Ethiopian government, non-state armed groups, and foreign forces operating within the country's borders.

A credible transitional justice process cannot take place in the midst of active conflict. Therefore, a crucial first step must be the cessation of hostilities involving all belligerent actors. Without peace and political stability, it will be impossible to ensure meaningful participation

Institutional weakness

Courts in Ethiopia are often perceived as extensions of the executive branch, exhibiting a lack of judicial independence and impartiality, particularly in cases involving the government or political issues.¹⁸⁸ The national transitional justice policy acknowledges the need for institutional reforms

¹⁸⁸ Lemlem Dejen Mulugeta, 'Judicial Independence in Ethiopia and Its Challenge Vis-à-Vis the UN Basic Principle on Independence of Judiciary' *Journal of Political Science and International Relations* (2023) 6 (4) 111-119.

within the judiciary, recognizing that judicial institutions have historically been complicit in human rights abuses. To prevent the recurrence of such abuses, comprehensive reforms are deemed necessary. Given that the policy document itself acknowledges the judiciary's past failures and identifies them as a focus for reform, it raises the question of how these institutions can be expected to advance the cause of transitional justice and render justice effectively

The Ethiopian transitional justice policy envisions a separate chamber within the current court system. The professional group that drafted the policy proposed establishing a discrete court system (a special court); however, their proposal was rejected in favor of establishing a new chamber under the Federal High Court.¹⁸⁹ The policy outlines the establishment of a special chamber within the Appellate and Cassation Bench of the Federal Supreme Court. Foreign nationals will be allowed to advise and train but not serve as judges.

The policy also aims to establish a free, independent, and impartial prosecution office separate from the current Ministry of Justice. Although it allows professionals from other countries to participate in consulting and training investigators and prosecutors, the policy does not permit the participation of foreigners as investigators or prosecutors.

However, the issues of independence and impartiality will continue to hover over the prosecution office, especially in a country like Ethiopia, where the incumbent government is committing crimes, sometimes along ethnic lines, and a peace pact does not stop hostilities. This concern is one of the reasons the UN established a hybrid prosecution office in countries like Sierra Leone. The UN Secretary-General has stated, 'the appointment of an international prosecutor will guarantee that the Prosecutor is, and is seen to be, independent, objective and impartial.'¹⁹⁰

In addition, a lack of gender competence among transitional justice actors in Ethiopia such as legal professionals, truth commissioners, and investigators poses another major barrier. Without targeted training, women's experiences may be overlooked or inadequately addressed.

¹⁸⁹ For Fairness: Special Court of Special Chamber in the Existing Court System? https://www.youtube.com/watch?v=UxdLEcZ1dhA&ab_channel=ShegerFM102.1Radio Marshet Tadese, who led the professional group that drafted the national transitional justice policy told to Shager Radio that their proposal of establishing a separate special court has rejected by the government in favor of establishing a special chamber under the Federal High Court.

¹⁹⁰ United Nations, Secretary-General on the Establishment of a Special Court for Sierra Leone, U.N. Doc. S/2000/915 (Oct. 4, 2000) 9.

Colombia's JEP has developed specialized gender units and protocols to ensure gender-sensitive approaches to justice which is a model Ethiopia could adapt to improve institutional responsiveness.

Cultural Barriers

Deeply entrenched patriarchal norms and gender stereotypes continue to hinder women's participation in public life, especially in rural and conflict-affected areas of Ethiopia. In societies where traditional gender roles prevail, women often face social stigma for participating in justice processes or reporting gender-based violence. For example, **Sierra Leone's** post-civil war TRC struggled to secure testimonies from women, particularly survivors of sexual violence, due to fear of ostracism and limited community support.¹⁹¹ Similarly, in **Colombia**, the transitional justice system initially underestimated the need for safe spaces and protection mechanisms for women, limiting early engagement. Ethiopia faces comparable risks if culturally sensitive outreach and protection mechanisms are not including in the policy to encourage and protect women's participation.

Resource Limitations

Gender-sensitive reparations programs require substantial and sustained investment something that remains a challenge for Ethiopia given the country's economic constraints and ongoing instability. In **Sierra Leone**, the reparations program designed after the conflict lacked adequate funding and failed to deliver on many of its promises to women survivors, particularly those who had suffered sexual violence.¹⁹² In contrast, **Colombia's** reparation framework under the Victims' Law included comprehensive measures such as psychosocial support, land restitution, and economic empowerment for women.¹⁹³

Coordination Challenges

¹⁹¹ Nowrojee, Binaifer, 'Making the Invisible War Crime Visible: Post-Conflict Justice for Sierra Leone's Rape Victims', *Harvard Human Rights Journal* (2005) 18.

¹⁹² Ainley, Kirsten, 'Transitional Justice in Sierra Leone: A Critical Analysis,' (2017) *International Journal of Transitional Justice* 11(1).

¹⁹³ Final Agreement...(n 142) 5.1.3.

The effectiveness of Ethiopia's transitional justice policy depends on coordination between federal, regional, and local actors, including civil society and traditional dispute-resolution systems. **Rwanda's** integration of Gacaca courts into its national justice framework, despite their limitations, demonstrated a successful, highly centralized attempt to align traditional mechanisms with state policy.¹⁹⁴

3.7. Lessons for Ethiopia

While the transitional policy does not clearly stipulated how women participated in implementation process and women in transitional justice processes are often seen merely as victims or witnesses, experiences from **Rwanda, Sierra Leone, and Colombia** show that with the right legal, institutional, and social frameworks, women can play far more substantive roles.

Institutionalize Women's Participation in Decision-Making Structures

Rwanda's post-genocide recovery offers a powerful example of how legal and constitutional reforms can institutionalize women's participation in governance and justice. After the genocide, Rwanda introduced quotas requiring women to hold at least 30% of decision-making roles both in parliament and in transitional institutions like the Gacaca courts. As a result, women comprised around 35% of Gacaca judges, helping ensure that gender-based crimes were taken seriously and addressed with sensitivity.¹⁹⁵ Therefore, Ethiopia should ensure women's representation in truth commissions, reparations boards, and local peace committees through clearly stipulated legal quotas or mandatory inclusion frameworks.

Embed Gender in the Legal and Policy Framework

Only when gender is mainstreamed into the design, implementation, and monitoring of transitional justice can women's roles expand. Rwanda's constitutional and legal reforms embedded gender at every level of governance, while Colombia's Peace Accord had a gender chapter developed in consultation with women's groups. Therefore, Ethiopia should integrate a stand-alone gender chapter and gender-sensitive provisions into all transitional justice laws which will enhance based on this pollicy, with clear accountability mechanisms.

¹⁹⁴ Burnet, Jennie E. 'Gender Balance and the Meanings of Women in Governance in Post-Genocide Rwanda,' (2008) African Affairs 107(428).

¹⁹⁵ Ibid

Recognize and Support Women’s Grassroots Peacebuilding Roles

In **Colombia**, many women’s organizations like Ruta Pacífica de las Mujeres and Red Nacional de Mujeres who played vital roles in shaping transitional justice debates, developing victim registries, and monitoring implementation of the peace accord.¹⁹⁶ The 2016 Peace Agreement explicitly recognized women’s roles in peacebuilding and created a Gender Sub-Commission to oversee implementation from a gender perspective. Therefore, Ethiopia Should officially recognize and fund women-led grassroots initiatives working on peacebuilding, documentation of abuses, and reintegration. Include them as stakeholders in policy planning and implementation. And also Ethiopia must ensure adequate funding and donor coordination to avoid the pitfalls of underfunded gender-specific initiatives.

Provide Psychosocial and Legal Support to Enable Women’s Advocacy

In **Sierra Leone**, many women survivors were too traumatized or marginalized to engage meaningfully in the transitional justice process. The Truth and Reconciliation Commission did include a special "women’s hearing," (e.g., counseling, safe spaces, legal aid) to empower women as advocates for broader justice.¹⁹⁷ So Ethiopia should invest in survivor-centered services especially psychosocial support, legal empowerment, and safe community spaces that equip women to become long-term advocates, not just passive participants.

Move Beyond Testimony to Transformative Reparations

Rwanda and Sierra Leone offered limited or symbolic reparations, while **Colombia** took a more comprehensive approach. Colombia’s Victims and Land Restitution Law (Law 1448/2011) provided land titles, healthcare, education, and income-generating projects targeted at women survivors. This shifted their role from victims to rights holders with a stake in the future. Therefore, Ethiopia Should design and implement transformative reparation which includes compensation and empower women socially and economically.

¹⁹⁶ L. Monroy-Santander and G. Otálora-Gallego, ‘Disrupting the Transitional Justice Circuit: Everyday Transformative Gender Justice in Colombia’, (2024) 18(5) *Journal of Intervention and Statebuilding* 659–680 <https://doi.org/10.1080/17502977.2024.2314239> 670.

¹⁹⁷ Nowrojee, Binaifer (n 188).

CHAPTER FOUR

Conclusion

Transformative Justice (TJ) is a comprehensive approach that seeks not only to address individual harm but also to transform the social structures and systemic inequalities that enable violence, particularly against women. It prioritizes the experiences and needs of women victims by centering their safety, healing, and agency while holding offenders accountable within their communities without relying on punitive state systems. TJ is crucial for women because it confronts intersecting oppressions such as patriarchy and gender discrimination, promotes inclusive participation of women in justice processes, and strives for lasting social, democratic, and economic transformation that prevents future harm and empowers women toward equality and dignity.

This study critically assessed the inclusion of women and women victims in Ethiopia's transitional justice framework, comparing it with post-conflict countries such as Rwanda, Sierra Leone, and Colombia which have clear stipulations on their policies and institutionalized gender-sensitive approaches. Ethiopia's 2024 Transitional Justice Policy reveals significant efforts to integrate gender considerations. The policy articulates gender mainstreaming as a guiding principle, recognizes women as a vulnerable group, and supports the participation of women across all mechanisms within transitional justice frameworks. These elements reflect progressive intent and align with international standards emphasizing the inclusion of women in post-conflict justice and reconciliation processes.

However, notable weaknesses undermine the policy's transformative potential. The drafting process involved only a limited number of women with minimal decision-making influence, which compromises true representativeness. Despite recurrent references to gender inclusion, the policy lacks clear, enforceable provisions detailing how gender equality should be operationalized, such as the absence of quotas or measurable targets for women's representation and participation. Furthermore, the reparations section presents compensation ambiguously, offering no concrete guarantees for women survivors. Although the policy is intended as a guiding framework complemented by future legislation, relying solely on subsequent laws risks for inconsistent application of gender commitments. These gaps need explicit incorporation within the policy itself to ensure effective implementation.

Implementation is further complicated by ongoing conflict, institutional weaknesses, resource limitations, cultural barriers, and a lack of gender competence among justice actors, all of which hinder the policy's ability to address gender-based violence and empower women victims effectively. Comparatively, countries like Rwanda, Sierra Leone, and Colombia have tackled similar challenges by mobilizing institutional and financial resources to establish gender-sensitive transitional justice bodies such as gender units and commissions and engaging civil society to foster inclusive, credible processes. Their experiences underscore the necessity of concrete mechanisms and resource allocation to translate policy intentions into substantive protection and meaningful participation for women.

For Ethiopia to realize a genuinely gender-responsive transitional justice process, it must strengthen the TJ Policy by clearly enact broad implementation laws, embracing enforceable standards like gender quotas or dedicated gender bodies, and clarifying compensation for women. Integrating these measures within the policy would help move beyond symbolic inclusion, addressing systemic barriers and institutional deficits. Drawing lessons from comparative experiences, Ethiopia's transitional justice efforts require not only strong gender commitments on paper but also practical actions that overcome cultural and institutional challenges, supported by adequate resources. Only through such comprehensive and deliberate approaches can the transitional justice process deliver effective remedies and transformational change for women victims in Ethiopia.

Recommendations

Based on the findings, here are five actionable recommendations:

✓ **Establish Legally Mandated Gender Quotas**

The legislative and executive bodies should use the current Transitional Justice Policy as a guiding framework to enact clear legal provisions mandating minimum gender quotas in all transitional justice mechanisms, such as truth commissions, reparations boards, prosecution offices, and national dialogues. Legislative bodies must broadly interpret the policy's gender-inclusive principles to legally require women's meaningful participation as decision-makers, ensuring that quotas are not merely aspirational but enforceable and embedded in the design and operation of these institutions.

✓ **Strengthen Gender Inclusion Through Dedicated Institutional Mechanisms**

To ensure meaningful gender inclusion in transitional justice process, upcoming laws enacted under the existing policy should explicitly establish dedicated Gender Units within bodies like the Truth Commission and Special Prosecution Office to monitor gender-based violations and ensure gender-sensitive programming. These laws must also mandate the creation of a Gender Committee responsible for overseeing and reporting on gender inclusion across all transitional justice stages. And also there should be a stand-alone gender chapter defining gender-specific harms and outlining strategies for women's participation.

✓ **Accelerate Implementation of the Transitional Justice Process**

Given that the policy serves as a crucial guideline demonstrating the government's commitment, it is imperative to swiftly move from policy adoption to actual implementation. The prolonged conflict and profound suffering, especially among women victims, demand urgent action to begin reparations, facilitate reconciliation, issue national apologies to victims, and hold perpetrators accountable. Delays risk deepening grievances and may trigger renewed cycles of conflict. Therefore, the government should prioritize timely enactment and operationalization of the transitional justice mechanisms outlined in the Implementation Roadmap, ensuring that justice and healing processes address victims' pain without further postponement. Early and effective implementation is essential to foster lasting peace, social cohesion, and prevent future violence.

✓ **Provide Psychosocial, Legal, and Economic Support to Women Victims**

To enable women's active participation, the government should offer trauma-informed psychosocial services, legal aid, and economic empowerment programs. This will allow SGBV survivors to move from passive victims to empowered justice advocates.

✓ **Proactive Role of Civil Society Organizations in Advancing Gender-Inclusive Transitional Justice**

Women-led civil society organizations (CSOs) should be formally recognized as key stakeholders in Ethiopia's transitional justice process and supported with government and donor funding to conduct community reconciliation, documentation, and monitoring.

Building on the government's commitment expressed in the Transitional Justice Policy, these CSOs must proactively advocate for the enactment of laws that concretely implement the policy's gender-inclusive provisions. Rather than waiting for international institutions, women-led CSOs should lead in shaping legal reforms, proposing practical actions, and continuously pushing for effective enforcement to ensure women's meaningful participation and protection throughout transitional justice mechanisms. This proactive engagement will strengthen accountability and outreach, especially in rural and marginalized areas, and help translate policy commitments into tangible outcomes for women victims.

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