



Transitional Justice and National Action Plans on Women, Peace and Security in the Middle East and North Africa Region



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Cover photo: ISIS victim Adol Edo, 44 years old, from Khanansor village in Sinjar (Shangal), stands with her daughter in their home in Bahadre Town west of Dohuk city in the Kurdistan Region in Iraq. Photo: EPA



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EXECUTIVE SUMMARY

There is sustained momentum around both National Action Plans (NAPs) on women, peace and security (WPS) and transitional justice in the Middle East and North Africa (MENA) region. Transitional justice refers to the range of mechanisms employed to achieve accountability and redress for past human rights violations. Both the transitional justice process and the WPS NAP process offer significant opportunities for the advancement of gender equality and enhanced accountability for and protection of women's rights. UN Security Council Resolution 2106 (2013) under its WPS agenda calls attention to the importance of a comprehensive approach to transitional justice in armed conflict and post-conflict situations, encompassing the full range of judicial and non-judicial measures.

Resolution 2467 (2019) "encourages concerned Member States to ensure the opportunity for the full and meaningful participation of survivors of sexual and gender-based violence at all stages of transitional justice processes, including in decision-making roles, [and] recognizes that women's leadership and participation will increase the likelihood that transitional justice outcomes will constitute effective redress as defined by victims and will respond to important contextual factors". Existing and planned National Action Plans are critical tools in advancing regional and national approaches to gender-inclusive transitional justice. In the Arab states region, the Republic of Iraq, the Hashemite Kingdom of Jordan, the Lebanese Republic, the State of Palestine, the Republic of Tunisia and the Republic of Yemen all have WPS NAPs.

Transitional Justice and National Action Plans on Women, Peace and Security in the Middle East and North Africa Region offers a gender analysis of transitional justice processes in the region. The research identified areas of good practice in ensuring gender-sensitive transitional justice in the case studies. For example, the Iraqi Law on Yazidi Female Survivors (2021), the Lebanese Law 105 on enforced disappearances and the Report of the Tunisian Truth and Dignity Commission all provide evidence of some effort by states to better integrate

women and gendered harm into transitional justice processes.

Further, the report develops and applies a Checklist for Integrating Transitional Justice into National Action Plans on Women, Peace and Security in order to examine the WPS NAPs for their integration of transitional justice. In general, the findings indicate an overall positive evolution of WPS NAPs in the region in terms of improved integration of transitional justice into NAPs. The integration of transitional justice into the NAPs was only evident when transitional justice processes gave explicit attention to women and gender.

Looking forward, the report identifies critical areas of substantive action for the mutual implementation of transitional justice and WPS NAPs, namely consultation and participation; fact-finding and documentation; access to justice; security sector and justice sector reform; strengthening implementation and accountability; and budget specification. Finally, the report details a set of recommendations for national governments, civil society and the United Nations in the MENA region for the improved integration of transitional justice in WPS NAPs. These include the use of the transitional justice checklist housed in this report; improved capacity building and programming on transitional justice; and the examination of relevant frameworks towards creating an environment that enables the integration of transitional justice.

ACRONYMS AND ABBREVIATIONS

IDP	Internally displaced person
MENA	Middle East and North Africa
NAP	National Action Plan
TDC	Truth and Dignity Commission
UN	United Nations
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
WPS	women, peace and security

1. INTRODUCTION

There is sustained momentum around both transitional justice and National Action Plans on women, peace and security in the Middle East and North Africa region. Both sets of processes offer significant opportunities for the advancement of gender equality and enhanced accountability for and protection of women's rights. WPS NAPs provide unique opportunities for the development, implementation and monitoring of positive measures for gender-inclusive peacebuilding. Transitional justice – the range of mechanisms employed to achieve accountability and redress for past human rights violations – has become a critical component of efforts to end conflict, build peace and strengthen the rule of law post-conflict. Embedding gender sensitivity in transitional justice processes is therefore a legal, policy and programming priority for gender-inclusive peacebuilding and for establishing a gender-just peace. This intersection of transitional justice and WPS NAPs is critical for the Arab region for manifold reasons. Foremost among them are the ongoing accountability issues

arising from high levels of gender-based violations in responses to the Arab Spring and in conflicts with the Islamic State of Iraq and the Levant (ISIL/ISIS).

In the Arab states region, the Republic of Iraq, the Hashemite Kingdom of Jordan, the Lebanese Republic, the State of Palestine, the Republic of Tunisia and the Republic of Yemen all have WPS NAPs. In addition, transitional justice processes are ongoing in each of these countries. Prior to the Arab Spring uprisings, regional experience with transitional justice was limited. Until 2011, Morocco and Iraq – and to some extent Algeria – were the only MENA countries that had attempted to deal with the past in this way. Regardless of the success of these contexts, they provide an important background that informs the current transitional justice landscape in countries across the region. The countries examined in this report – Iraq, Jordan, Lebanon, Palestine, Tunisia, Yemen – are powerful in their illustration of different dynamics and emphases of transitional justice. As this report outlines in further detail, Iraq is a case study in

which – after de-Ba’athification – transitional justice has primarily taken the form of reparations, up to and including the recent Law on Yazidi Female Survivors. Jordan is a context in which transitional justice primarily concerns the country’s refugee population from neighbouring conflicts. The case study is therefore useful in revealing important gender dynamics in the relationship between transitional justice and forced migration.

Transitional justice in Lebanon received important impetus in 2018 with Law 105 on enforced disappearances. Given the manifold gendered harms resulting from enforced disappearances, this transitional justice initiative offers important opportunities to reveal, recognize and deliver some measure of redress for gendered harm. Transitional justice in Palestine remains relatively limited, no doubt due to ongoing high levels of conflict-related violence. Nevertheless, recent developments at the International Criminal Court can reveal how a focus on high-level prosecutions, driven by international institutions, may form part of gender-sensitive transitional justice.

Tunisia is the case study with the most comprehensive and advanced transitional justice context, with a notable emphasis on truth recovery. The recent report of the Tunisian Truth and Dignity Commission therefore provides a powerful example of truth-led transitional justice processes and their potential for gender sensitivity. Yemen meanwhile

is a context in which ongoing violent conflict has severely limited prospects for transitional justice. Some external efforts towards accountability, in particular from the UN Human Rights Council, have to date had limited impact, but they do have the potential to support the principle of gender-sensitive transitional justice.

Notably, whereas relatively few of the case studies have expressly adopted comprehensive transitional justice laws and policies, all of the cases under study have adopted WPS NAPs. In the Arab states region, the NAPs of Iraq, Jordan, Lebanon, Palestine, Tunisia and Yemen form an established basis from which to launch gender-responsive approaches to peace, security and transitional justice. Consequently, the NAPs of each of these six countries potentially constitute key tools for enabling a gender-sensitive approach in all areas of transitional justice. The purpose of this report is therefore to support and advance the utilization of WPS NAPs in the implementation of gender-sensitive transitional justice in the MENA region. The report is focused on providing guidance to states and civil society in the MENA region, and to the UN system, on the mutual implementation of WPS NAPs and transitional justice. The focus countries are Iraq, Jordan, Lebanon, Palestine, Tunisia and Yemen. As the first dedicated report on WPS NAPs and transitional justice, it is hoped that the report will also be of interest to a broader audience beyond the MENA region.

1. How To Use This Report

The report is organized into distinctive sections to enable users to access discrete information and guidance that is of most relevance to their work, as well as to read and use the report in its entirety. The report is organized as follows:

- Section 1: Introduction
- Section 2: Overview of Transitional Justice, WPS and NAPs; Report Methodology
- Section 3: Transitional Justice, Gender and WPS NAPs in the MENA Region
- Section 4: Going Forward – Critical Areas of Substantive Action for the Mutual Implementation of Transitional Justice and WPS NAPs
- Section 5: Recommendations
- Appendices

2. OVERVIEW OF TRANSITIONAL JUSTICE, WPS AND NAPS; REPORT METHODOLOGY

Overview of Transitional Justice: Key Features and Potential Gender Significance

Transitional justice, which is the range of mechanisms employed to achieve redress for past human rights violations, has become a critical component of efforts to end conflict, build peace and strengthen the rule of law post-conflict. Transitional justice is understood to involve four pillars: prosecutions, truth, reparations and guarantees of non-recurrence. Given the important role of transitional justice processes providing accountability and redress for past human rights violations while supporting their non-recurrence, embedding gender sensitivity is a legal, policy and programming priority for gender equality. Efforts to integrate a gender perspective into transitional justice have come about over the last two decades in response to the relative neglect of women's experiences during and after conflict; biases in the law and in the constructs of human rights themselves that have been carried through into the working of transitional justice mechanisms; and biases in processes such as peace negotiations, where deals are reached without women's representation.

Throughout this body of work, gender themes and priorities in transitional justice are diversely defined, but typically hinge around the following three areas:

- The participation of women and gender-diverse groups
- Recognition and redress for gender harms, especially against women and girls
- Revealing structural gender inequalities that render women vulnerable to particular types of gender harm

Therefore, multiple aspects of adopting a gender perspective must be considered in the conceptualization, design and implementation of national transitional justice strategies and mechanisms, in order to provide an adequate and comprehensive response with respect to women, girls and all victims of serious gender-based human rights violations, and to ensure their effective participation in those processes. The 2020 report of the UN Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence titled *The Gender Perspective in Transitional Justice Processes* was dedicated to distilling progress and best practice in the integration of gender into transitional justice². A summary of the special rapporteur's key findings and recommendations are reproduced as a table in Appendix 1.

¹ The current UN Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence has proposed a fifth pillar of memorialization. For the purpose of clarity and consistency, this report adopts the more established four-pillar approach.

² UN Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence (2020), *The Gender Perspective in Transitional Justice Processes*.

Overview of Gender and Transitional Justice in WPS and NAPs

The UN Security Council has paid specific attention to the issue of women, peace and security since its landmark Resolution 1325 (2000) and its subsequent resolutions, in which it called for increased representation of women at all decision-making levels and the establishment of gender-sensitive mechanisms for the prevention, management and resolution of conflict, including in justice and security reform processes. The WPS resolutions address transitional justice directly (as outlined in Appendix 2). For example, Resolution 2106 (2013) calls attention to the importance of a comprehensive approach to transitional justice in armed conflict and post-conflict situations, encompassing the full range of judicial and non-judicial measures.

Resolution 2467 (2019) “encourages concerned Member States to ensure the opportunity for the full and meaningful participation of survivors of sexual and gender-based violence at all stages of transitional justice processes, including in decision-making roles, [and] recognizes that women’s leadership and participation will increase the likelihood that transitional justice outcomes will constitute effective redress as defined by victims and will respond to important contextual factors”.

In summary, the WPS resolutions endorse a holistic transitional justice approach that involves prosecutions, truth, reparations and guarantees of non-recurrence; they emphasize the importance of ending impunity, in particular for sexual violence in armed conflict, and call for the exclusion of such

crimes from amnesty laws; and they prioritize access to justice – including access to transitional justice – for survivors of sexual and gender-based violations.

Moreover, UN Security Council Resolution 1889 (operational paragraph 17) requested the Secretary-General to submit to the UN Security Council

“for consideration, a set of indicators for use at the global level to track implementation of its resolution 1325 (2000), which could serve as a common basis for reporting by relevant United Nations entities, other international and regional organizations, and Member States, on the implementation of resolution 1325 (2000) in 2010 and beyond”³.

Indicator 25 is dedicated to transitional justice (Appendix 3). The indicator identifies a valuable set of issues and priorities for gender-inclusive truth-telling and truth commissions. An updating of this indicator in line with developments in the WPS resolutions since 2010 would give greater attention also to amnesty laws and prosecutions, reparations and guarantees of non-recurrence. Further, importantly, through their endorsement of women’s participation and a gender perspective in all aspects of conflict resolution and peacebuilding, the WPS resolutions include several provisions throughout with implications for the conduct of gender-sensitive transitional justice.

3 The 26 indicators are organized into 4 pillars – Prevention, Participation, Protection, and Relief and Recovery – and offer a way to track and account for implementation. The 26 indicators are listed on pages 15–21 of the Secretary-General’s report (S/2010/498).

Integrating NAPs and Transitional Justice: A Framework for Analysis

While the UN Security Council has declined to nominate mandatory measures for accountability for member state actions, there have been several proposals for enhanced modes of accountability. Principal among these proposals has been the call for UN member states to adopt state-level National Action Plans on WPS to implement the resolutions through national policy.⁴ Action plans were formally recognized by the UN Security Council in an

operational paragraph of Resolution 2242 (2015), which “welcomes” the adoption of NAPs to date and “encourages” further implementation strategies at national levels. Ninety-six UN member states have responded to calls for NAPs.⁵ Existing published work on NAPs is very useful in understanding the common structure and content of NAPs, the key elements of which are set out in Text Box 1.

Text Box 1: Key Elements of NAPs

- Explaining the national and international legal and policy framework on WPS
- Articulating a government’s commitments and priorities regarding WPS
- Outlining specific actions that various ministries, agencies and institutions will undertake to fulfil commitments and achieve change
- Promoting coordination across these governmental bodies and (in some instances) clarifying the specific role and contributions of civil society
- Offering additional tools for successful implementation, such as monitoring and evaluation systems or coordination structures
- Specifying human, technical and financial resources needed for implementation
- Explaining the reporting and accountability measures

Source: Mirsad Miki Jacevic (2019), “WPS, States, and the National Action Plans” in Sara E. Davies and Jacqui True (eds.), *The Oxford Handbook of Women, Peace, and Security*, page 274.

Moreover, with the growing evidence base, there is increasing consensus around best practice in NAP implementation and accountability. Common priorities from the extant research are as follows: the importance of consultative processes in NAP development; specificity in NAP commitments (including in their budget commitments);

responsiveness to local WPS needs; a whole-of-government approach to implementation; continuous learning through monitoring and evaluation; and meaningful accountability⁶.

4 For a full discussion, see Aisling Swaine (2009), “Assessing the Potential of National Action Plans to Advance Implementation of UNSC Resolution 1325”, *Yearbook of International Humanitarian Law* Vol. 12, pp. 403–33.

5 For a comprehensive database of all current and former NAPs, see <https://www.wpsnaps.org>.

6 Caitlin Hamilton, Nyibeny Naam and Laura J. Shepherd (2020), *Twenty Years of Women, Peace and Security National Action Plans: Analysis and Lessons Learned*, University of Sydney.

Research Process and Methods

The research process involved three steps. The first step was to conduct and collate a gender analysis of transitional justice processes in the six MENA countries, namely Iraq, Jordan, Lebanon, Palestine, Tunisia and Yemen. This desk-based research adopted a four-pillar approach to transitional justice, identifying primary legal and policy documentation and secondary academic and civil society publications on prosecutions/amnesties, truth, justice and reparations for past human rights violations in the relevant countries. Gender analysis followed the identified priority gender inquiries in transitional justice, namely the participation of women and gender-diverse groups; the recognition of and redress for gender harms, especially against women and girls; and the revealing of structural gender inequalities that render women vulnerable to particular types of gender harm.

The second step of the research process was to examine the integration of transitional justice within past and current WPS NAPs in the six MENA countries. The distillation of common approaches and best practice in NAP design, development and implementation provides several opportunities for the integration of gender-sensitive transitional justice into NAPs. On the basis of the identified key elements of NAPs, the report adopted the following Checklist for Integrating Transitional Justice into WPS NAPs as its framework for case study analysis:

- Are transitional justice laws/policies within its identified legal framework?
- Do the specific actions outlined include implementation of gender dimensions of transitional justice?
- Does planned coordination across government and civil society include gender dimensions of transitional justice?
- Do monitoring and evaluation systems and coordination structures established by the NAP address implementation of gender dimensions of transitional justice?
- Are resources specified for the implementation of gender elements of transitional justice?
- Do reporting and accountability measures apply to gender aspects of transitional justice also?

The checklist was then applied to recent and current WPS NAPs in the six MENA countries under analysis.

The third and final step in the research process was, on the basis of findings from steps one and two, to identify actions and areas for the mutual implementation of transitional justice and WPS NAPs. These actions and areas are identified in the report, both for specific countries and for transitional justice and WPS NAPs more broadly in the MENA region.

3. TRANSITIONAL JUSTICE, GENDER AND WPS NAPS IN THE MENA REGION

Iraq

Transitional Justice

Iraq has experienced a range of transitional justice initiatives (see Table 1), including the trial and execution of its former leader, purges of the civil service and the military, and a series of reparations initiatives dedicated variously to families of those killed by the Ba'ath regime ("martyrs"), individuals unjustly dismissed from jobs due to Ba'athist policies, victims of military operations since the US-led invasion in March 2003, which was subsequently expanded to include ISIS victims, and the most recent 2021 Law on Yazidi Female Survivors⁷.

7 Erin Daly (2014), "Transitional Justice in Iraq: Learning the Hard Way", Israel Law Review Vol. 47, pp. 63–83.

Prosecutions	Trials of Saddam Hussein and other regime leadership figures
Truth	N/A
Reparations	Law No. 3 (2006) provides for reparations for families of those killed by Ba'ath regimes – children of martyrs are allotted plots of land, given social security benefits, grants for the Hajj and even funds to cover wedding expenses
Reparations	Law No. 24 (2005) Establishment of Political Prisoners in Iraq restores those who had been unjustly dismissed from their posts by Ba'athist policies, returning them back to public office
Reparations	<p>Law No. 20 (2009) Compensation for Victims of Military Operations, Military Mistakes and Terrorist Actions, for victims since the US-led invasion of March 2003, has five categories of victims: martyrdom or being missing; full or partial disability; injuries/casualties and conditions requiring short-term treatment; damages to property (including vehicles, houses, agricultural land, stores and inventory, and companies); and damages affecting employment and study. For the first three categories, reparations can have the form of a one-time grant, a monthly pension or a plot of residential land, to be awarded directly to the victim or to the family of the victim (in the case of martyrdom or loss). Challenges to date have included:</p> <ul style="list-style-type: none"> • Compensation distributed at governorate level, and internally displaced persons (IDPs) do not feel safe enough to return to governorates • High standard of proof • Large number of requests overburdening the system • Bureaucratic and non-specialized awarding body
Reparations	<p>Law No. 57 (2015), amending Law No. 20, making processes more flexible and changing the composition of bodies to include victims' representatives; however, problems and challenges persist, including:</p> <ul style="list-style-type: none"> • Bodies still effectively judicial rather than administrative • Severely challenged by the scale of the ISIS crisis (structure not intended for this many victims)
Reparations	<p>2021 Law on Yazidi Female Survivors provides for compensation, rehabilitation and medical treatment, economic opportunities, remembrance, individual and collective reparations, ceasing violations and protecting access to future criminal justice efforts (guarantees of non-recurrence) for:</p> <ul style="list-style-type: none"> • Female survivors of Daesh (ISIS) kidnapping • Women and girls subjected to sexual violence • Yazidi child survivors of kidnapping • Yazidi/Turkmen/Christian and Shabak survivors of mass killings and mass eliminations carried out by Daesh in their areas
Reparations	Guarantees of Non-recurrence: De-Ba'athification

TABLE 1: TRANSITIONAL JUSTICE IN IRAQ

None of these transitional justice initiatives involved an avowed focus on either women or gender until the 2021 Law on Yazidi Female Survivors, though each initiative carried important gendered implications. For example, during the Ba'ath Party era, human rights violations had unique consequences for women. The result of three decades of Ba'ath Party rule was 1.5 million widows in Iraq. Additionally, thousands of women were neither married nor officially widowed, their husbands disappeared in regime prisons or executed and buried in unmarked graves. Thousands of single mothers raised the next generation of Iraqi citizens without partners.⁸ Thus, Law No. 3 (2006) stood to offer important benefits to surviving female relatives; however, unless such benefits are deliberately designed to subvert discriminatory gender norms, they can play an unfortunate role in reinforcing them.

Careful scrutiny is required of property ownership laws and inheritance laws to ensure that surviving female relatives benefit from these reparation programmes on a basis of equality with men. Indeed, insisting on the equitable distribution of benefits can play an important role in subverting discriminatory laws and norms. Likewise, employment restitution policies such as Law No. 24 (2005) can risk reinforcing men's dominance in the public sphere and women's confinement to the private sphere, by guaranteeing public appointments to men. Restitution in particular has been identified as a potentially problematic gender approach to reparations because of the commitment to restore the victim to the status quo ante. For women, this may be a position in which she was deprived of property ownership rights, control over her finances, or access to education and employment.

The operation of Law No. 20 (2009) has been shown to have delivered in important respects for some victims. The law has also had some adverse gender consequences, due to the deteriorating security situation in Iraq since 2014, which prevented victims from submitting reparations claims. Further, women typically face more literacy

and access-to-justice obstacles, in addition to the particular challenges faced by the disproportionately female IDP population.⁹ For example, compensation was to be paid by the victim's governorate, but the disproportionately female IDP population was unwilling to return to their governorate of origin due to continuing insecurity.

Further, gendered obstacles of literacy and control over official documentation compounded the ability of female claimants to meet the high standard of proof required for compensation claims. Even the reforms introduced by Law No. 57 (2015) to increase flexibility in respect of acceptable documentation and the standard of proof maintained the system as primarily judicial, rather than administrative. Comparative research on gender and reparations has identified manifold advantages for women and for the redress of gender harm that come from adopting administrative rather than judicial approaches.¹⁰ Principal among these advantages is the obviation of the difficulties and costs associated with litigation, including high expense, the need to gather evidence that in some cases may be unavailable, the pain associated with cross-examination, and frequent lack of trust of victims in established or unreformed judicial systems.¹¹

By contrast, the most recent transitional justice initiatives to address Yazidi survivors have had a strong gender component. The 2021 Law on Yazidi Female Survivors makes provision for reparations, but also endorses prosecutions (see Text Box 2). Members of the Iraqi Parliament passed this historic law on 1 March 2021. Based on the initial bill submitted by the Iraqi Presidency in March 2019, it will deliver long-awaited relief not only to Yazidi women, but also to other survivors belonging to ethno-religious communities targeted by the self-declared Islamic State of Iraq and the Levant.

8 Mohammed Ihsan (2019), "Transitional Justice in Iraq After 2003" in J. Eriksson and A. Khaleel (eds.), *Iraq After ISIS*, Palgrave.

9 See further: Fionnuala Ni Aolain, Catherine O'Rourke and Aisling Swaine (2015), "Transforming Reparations for Conflict-Related Sexual Violence: Principles and Practice", *Harvard Human Rights Journal* Vol. 28, pp. 97–146, 137.

10 Ruth Rubio Marin, ed. (2006), *What Happened to the Women? Gender and Reparations for Human Rights Violations*, Social Science Research Council.

11 Pablo de Greiff (2006), "Introduction. Repairing the Past: Compensation for Victims of Human Rights Violations" in Pablo de Greiff (ed.), *The Handbook of Reparations*, Oxford University Press, p. 10.

Text Box 2: Key Elements of the Law on Yazidi Female Survivors

The newly adopted bill is aimed at providing assistance to (as per the bill):

1. Every Yazidi [female] survivor kidnapped by Daesh and freed afterwards.
2. Women and girls from the (Turkmen, Christian, Shabak) components who were subjected to the same crimes mentioned in Article 1 [namely, every woman or girl who has been subjected to crimes of sexual violence from her kidnapping, sexual slavery, selling her in slavery markets, separating her from her family, forcing her to change her religion, forced marriage, pregnancy and forced abortion, or inflicting physical and psychological harm to her by Daesh since the date (August 3, 2014) and was freed afterward].
3. Yazidi child survivors who were under the age of eighteen at the time of their kidnapping.
4. Yazidi, Turkmen, Christian and Shabak survivors from the mass killings and mass elimination carried out by [Daesh] in their areas.

This law aims to provide survivors with compensation to secure “a decent life for them”. The law further aims to ensure that survivors are provided with rehabilitation and any other assistance needed to help with their integration into society and prevent a recurrence of the violations. Furthermore, it recognizes 3 August as a national day of remembrance of victims and survivors of the atrocities. Lastly, the bill emphasizes the need to prosecute the perpetrators of the atrocities who shall not benefit from amnesty.

The passing of the Law on Yazidi Female Survivors in March 2021 represented an important milestone for the recognition and provision of remedies for the suffering of Yazidis and other captives of ISIL/ISIS in Iraq. It also is one of the very few international precedents – and the first in the Arab region – of states taking deliberative action to specifically address the rights and needs of the survivors of sexual violence in conflict. However, any law is only as good as it is implemented. Hence, there is a need to discuss the challenges and opportunities related to the implementation of the Law on Yazidi Female Survivors, including the necessary institutional infrastructure, capacity and collaboration, as well as ways to ensure effectiveness, sustainability, financing and compliance with standards and best practices, particularly in light of the identified gender issues in previous reparation initiatives in Iraq. There is also some concern at the selectivity of the legislation in terms of the universe of victims and the recognized harms. For example, the American Bar Association has noted:

discrimination. Limiting protection, rights and remedies to one group of victims but not others will also likely further long-standing tensions between groups in Iraq. Although this reparations scheme has the potential to impact the immediate needs of sexual violence victims if implemented (such as physical and mental health), reparations for the conflict will not be comprehensive if victims of other crimes and other groups are not included in future schemes, and delay of this inclusion could further tensions between groups.¹²

These tensions in the selectivity of harms being recognized remain a live concern, not least for female survivors of violations not addressed by this law.

International law requires that rights to remedy and reparations be applied without

¹² American Bar Association Center for Human Rights (June 2020), *Reparations Bill for Victims of Sexual Violence during Conflict: Recommendations to Ensure Compliance with International Standards*.

Integration of Transitional Justice in the WPS NAP

The first Iraqi NAP (2014–2018) was adopted by the Federal Government of Iraq and the Kurdistan Regional Government. The NAP was structured around six pillars: (1) Participation; (2) Protection and Prevention; (3) Promotion; (4) Social and Economic Empowerment; (5) Legislation and Law Enforcement; and (6) Resource Mobilization. The NAP Introduction, which discusses the broader policy and legislative context for the NAP, made some mention of transitional justice, noting for example the 2012 adoption of the law on “compensation for victims of terrorism and the martyrs of the army and police”. The substance of the NAP objectives, logical frameworks (logframes) and actions, however, make little express reference to transitional justice. Nevertheless, several aspects of the NAP might potentially have been marshalled to gender-sensitive transitional justice.

For example, there are a number of actions and indicators under the NAP’s Pillar 1 (Participation) that could usefully be applied to transitional justice initiatives in Iraq, including Specific Action 1: “Review and amend existing policies (security, civil service) to promote women’s participation [at the] local and national level”. Likewise, the relevant indicator (i.e. “Number of women and presence of women’s rights in formal peacebuilding structures/process in Iraq”) should also include structures and processes for the ongoing and potential new reparation programmes.

The NAP’s Pillar 2 (Protection and Prevention) includes a number of actions and indicators on sexual and gender-based violence that could usefully integrate the design, operation and outputs of transitional justice initiatives. For example, Action 1 (“Capacity building for institutions – police/security training on GBV”) could include personnel from reparation programmes. Likewise, Indicator 3 (“Formulation of laws pertaining to compensation and violence against women”) clearly implicates transitional justice and reparations. The critically important actions to “create a commission on monitoring implementation of legal changes recommended in the NAP” and to “introduce and develop gender-based statistics” might readily have been aligned to transitional justice programming.

In January 2020, Iraq adopted a second NAP for the period 2020–2024, which reads in part:

Many factors affected the execution of the action plan as scheduled such as the conflicts seen in various areas of Iraq, which changed priorities. The economic crisis [was] accompanied by low oil prices, which affected the sources of funding and the cancellation of the Ministry of Women’s Affairs, which was the only national mechanism responsible for the follow-up of the execution of the plan, in addition to the insufficient management skills necessary for the role at national levels.

Thus, the government’s own assessment of the NAP implementation was negative. The report on the implementation of the first NAP recommended organizing consultations at the widest formal and societal scale when developing the second NAP.¹³ It also stressed the importance of improving the monitoring and evaluation framework by applying appropriate tools based on qualitative and quantitative indicators, including by ensuring efficient and continuous data collection from the field where activities are carried out among the target audience. Further, it recommended work on developing a media plan to introduce the national framework on WPS. Finally, the report highlighted certain issues in the first NAP: the lack of follow-up, the lack of an evaluation framework, not setting a time limit for the completion of activities and access to outcomes, and the failure to identify actors responsible for implementation and the budget. This report in turn set the priorities for the second NAP, the pillars of which remained the same: participation, protection and prevention.

In a unique structure, the NAP’s logframe addresses not the substantive commitments under the three pillars, but rather implementation of the recommendations from the report, all focused on “institutional effectiveness and efficiency”. The

13 Cross-Sector Task Force (2020), *National Report on the Implementation of Iraq National Action Plan for United Nations Security Council Resolution 1325 on Women, Peace and Security, 2014–2018*, available at: <https://www.efi-ife.org/sites/default/files/Report%20-%20Implementation%20Iraq%20NAP%201325%20English.pdf>

logframe sets out outcomes, activities and indicators and is organized along four objectives:

- Effectiveness in implementing the national action plan for women, peace and security with rational management and good coordination between partners
- To establish results-based management for knowledge management, follow-up and evaluation to support the National Action Plan for women, peace and security
- A media plan to support the national efforts of women, peace and security

- Establishing a national mechanism to manage and finance the implementation of UN Security Council Resolution 1325

Positively, the second NAP includes reference to transitional justice laws/policies in its identification of the plan's legal framework, with specific discussion of the (then) draft law on survivors of ISIS, which is now the Law on Yazidi Female Survivors. The logframe of outcomes, activities and indicators, with their focus on institutional effectiveness and efficiency, however, makes no provision for the integration of transitional justice into the NAP.

Jordan

Transitional Justice

Transitional justice concerns in Jordan have primarily emerged in law and policymaking for its large refugee population, in particular from conflicts in Syria, Palestine and Iraq. (This is also true of Lebanon, which has been a key destination for refugee populations fleeing conflicts in Syria, Palestine and Iraq.) Gender considerations for these refugee populations have to date, understandably, been approached through a policy and programming lens of humanitarian assistance and complex emergencies,¹⁴ as distinct from transitional justice. Jordan is experienced in direct state management of refugees due to the multiple waves of migration. Thus, the Jordanian experience illuminates the essential relationship between forced migration and transitional justice.

Global practice in the relationship between forced migration and transitional justice has involved innovations such as the prosecution of arbitrary

displacement as a war crime; the investigation of forced migration by truth commissions; the creation of restitution commissions; and the provision of compensation to refugees and internally displaced persons. Further, many refugees and IDPs (and members of the diaspora)¹⁵ have participated in these transitional justice initiatives across diverse contexts as witnesses, claimants, “beneficiaries” and leaders in the push for accountability. The relationship between forced migration and transitional justice remains, however, vastly underexplored. Even less is known about the gendered needs and priorities of refugees engaging in transitional justice processes.

Significantly, the Syrian refugee population in Jordan has been surveyed for its views on transitional justice in a major study conducted by the International Center for Transitional Justice.¹⁶ The findings showed notable variation according to gender, ethnicity and city of origin, but also revealed some

14 See further: Refugee Studies Centre (April 2012), *Displacement, Transitional Justice and Reconciliation: Assumptions, Challenges and Lessons*, Forced Migration Policy Briefing 9, University of Oxford

15 The Liberian Truth and Reconciliation Commission's diaspora project stands out as an important example of how refugees and other diaspora members may assume leadership roles in transitional justice and reconciliation processes, potentially strengthening state–diaspora relations. One of the few truth commissions to date to strategically engage diaspora members, the Liberian TRC worked in cooperation with a US-based non-governmental organization (Advocates for Human Rights) and diaspora leaders to collect more than 1,600 statements in Ghana, the United Kingdom and the United States. In addition, official hearings were convened in the United States, at which diaspora members could testify. The results of the diaspora project informed the official findings of the Liberian TRC and were featured in a separate report, *A House with Two Rooms: Final Report of the Truth and Reconciliation Commission of Liberia Diaspora Project* (Advocates for Human Rights, 2009). As a result of the diaspora engagement, the Liberian TRC produced recommendations of particular interest to refugees and other diaspora members, including allowing those in the diaspora to vote in Liberian elections and legalizing dual citizenship.

16 International Center for Transitional Justice (2019), *An Uncertain Homecoming: Views of Syrian Refugees in Jordan on Return, Justice and Coexistence*, Research Report.

consistent gender patterns. Economic concerns included damage to or occupation of homes, broader destruction of the country's physical infrastructure, and unemployment. Female interviewees, especially widows, expressed particular concern about going back to Syria without a house or source of income. Syrian legislation that allows the government to claim abandoned property was perceived by some as an effort to dissuade refugees from returning, in part because of the difficulty of obtaining documents proving ownership.

As men are more likely to hold formal legal title to land and to possess the relevant documents, such document requirements are particularly exclusionary of female refugees. Men spoke specifically about their fear of arrest, detention, torture and forced conscription, while women related their traumas, larger responsibilities, family relationship concerns and economic challenges, as well as their resilience and new social roles. The refugees' experiences

while in Jordan also had implications for return, justice and coexistence. They have faced a range of challenges, including social and economic exclusion, tensions with host communities, and restrictive state policies. While these realities have left refugees vulnerable as a whole, particular groups are especially marginalized, and refugees in camps often feel trapped and excluded. At the same time, refugees both inside and outside of camps have shown their resilience in the face of hardship.¹⁷

More positively, some experts in refugee studies advocate transitional justice as a valuable vehicle for recognizing refugee agency, documenting harms experienced by refugees, and integrating refugees into accountability and peacebuilding planning. Most notable, the Refugee Studies Centre at Oxford University has outlined proposals for integrating the forcibly displaced into transitional justice processes and mechanisms (Text Box 3).

Text Box 3: Proposals for Integrating Forced Migration and Transitional Justice

- Consulting with refugee populations on the design of transitional justice and reconciliation initiatives
- Seeking the input of refugees and IDPs as witnesses in trials and truth commissions
- Convening truth commission sessions in camps or in countries with large diaspora populations, with a view to improving diaspora relations and strengthening external support for democratic and economic development
- Appointing refugees to positions of responsibility in transitional justice bodies and coexistence projects
- Employing information and communication technologies to support the involvement of refugees in dispersed geographic locations, while respecting that the utility of such tools is limited by lack of access to advanced technologies and the need for "in-person" participation opportunities
- Acknowledging that, although it is on the whole desirable for efforts to address past injustices to be as inclusive as possible, it may not always be possible to provide direct material benefits such as financial compensation to vast numbers of displaced persons. Particularly where material benefits are limited, expectations must be managed carefully, which requires regular, clear communication with all stakeholders about the particular benefits being offered, their limitations, eligibility, timelines and the distribution process.

Source: Refugee Studies Centre (April 2012), *Displacement, Transitional Justice and Reconciliation: Assumptions, Challenges and Lessons*, Forced Migration Policy Briefing 9, University of Oxford.

Although not specifically addressed to gender inclusion or to Jordan, the proposals in Text Box 3 are readily applicable to ensuring the inclusion of

women and gender harm in refugee populations in relevant transitional justice processes.

17 See further: Omer Karasapan (27 January 2022), "Syrian Refugees in Jordan: A Decade and Counting", <https://www.brookings.edu/blog/future-development/2022/01/27/syrian-refugees-in-jordan-a-decade-and-counting/>.

Integration of Transitional Justice in the WPS NAP

In terms of national gender policies, the government has adopted the Jordanian National Action Plan for UN Security Council Resolution 1325 2018–2021, which is monitored by the Jordanian National Commission for Women and relevant ministries. The commission is also in charge of the National Women’s Strategy in Jordan (2020–2025), and it led a national coalition to develop the NAP. The plan is organized towards the achievement of four goals: (1) achieve gender responsiveness and the meaningful participation of women in the security sector and in peace operations; (2) achieve the meaningful participation of women in preventing radicalization and violent extremism, as well as in national and regional peacebuilding; (3) ensure the availability of gender-sensitive humanitarian services (including psychological, social, legal and medical services); and (4) foster a community culture that recognizes gender needs, the importance of gender equality, and the role of women (including young women) in peace and security.

In terms of WPS NAPs, the Jordanian experience illuminates the increasingly prominent question of the domestication of WPS commitments in the NAPs of states that are not in conflict or are post-conflict. Large-N studies (studies with numerous cases) of NAPs reveal that relatively few countries address questions of migration and asylum within their text and the experience of women in the country who have exited conflict violence (one noteworthy exception is Ireland’s third National Action Plan, which makes provision for a review of its “direct provision” policy for asylum seekers).¹⁸ Due to the novelty and importance of transitional justice for refugee populations, Jordan has a valuable opportunity to forge good practice in this area.

Goal 3 of the NAP states: “Ensure the availability of gender-sensitive humanitarian services (including psychological, social, legal and medical services) that are safely accessible by Jordanians and refugees (including those women and girls most vulnerable to violence and in need of protection in host communities and refugee camps in Jordan), in full alignment with the Jordan Response Plan for the Syria Crisis.” The Jordan Response Plan for the Syria Crisis (2016–2018) and the Jordanian National Action Plan for UN Security Council Resolution 1325 are consistent in their goals for recovery for those most impacted by the Syrian crisis. Joint efforts focus on improving and scaling up legal aid as well as providing health care for survivors of gender-based sexual violence. The plan also seeks to provide immediate access to justice for both Jordanian and Syrian women and girls vulnerable to violence in crisis-affected areas (refugee camps and host communities) in light of the surrounding armed conflicts.

The NAP logframe under Goal 3 provides admirable detail in its commitments and initiative to improve access to document incidences of sexual and gender-based violence, to ensure access to justice for victims and survivors, and to enhance the gender sensitivity of police and justice sector personnel handling such violations. As currently framed, these provisions pertain to the essential issue of accountability for violations suffered as refugees within Jordan. Useful next steps in NAP efforts to integrate transitional justice would give thought also to gendered violations that occurred during conflict in the refugee’s country of origin.

¹⁸ *Women, Peace and Security: Ireland’s Third National Action Plan for the Implementation of UNSCR 1325 and Related Resolutions 2019–2024*, page 34.

Lebanon

Transitional Justice

As is common to a number of the case studies, Lebanon has undergone multiple different phases of transitional justice. In the aftermath of protracted civil conflict in the 1980s, the Ta'if Agreement was largely silent on measures for addressing the war's past abuses, but the Lebanese Parliament adopted an amnesty law in 1991. Amnesty International described the Lebanese Amnesty Law as "deeply flawed", as it exempted all international crimes from prosecution, but included less severe ones to be tried by the Justice Council. More recently, Lebanon has also experienced internationalized criminal justice, by means of the Special Tribunal for Lebanon established by a resolution of the UN Security Council in 2007 to prosecute those responsible for the 2005 assassination of Rafic Hariri, the former Lebanese prime minister, and the deaths of 21 others, as well as those responsible for connected attacks.¹⁹ The principal contemporary discussion of transitional justice in Lebanon concerns the Law on the Missing and Forcibly Disappeared Persons (or Law 105), which was adopted in November 2018. From a legal perspective, Law 105 constitutes the first step on the path to establishing a comprehensive approach to clarifying the fate and whereabouts of missing and forcibly disappeared persons. This milestone was followed in mid-2020 by the appointment of the members of the National Commission for the Missing and Forcibly Disappeared as the individuals in charge of translating the provisions of Law 105 into reality. Despite numerous challenges, this commission is reported to be exerting all possible efforts to fully carry out its tasks.²⁰

Law 105 and its implementation have important gender implications due to the manifold gender dynamics of enforced disappearance and its consequences in Lebanon.²¹ The International Center

for Transitional Justice has conducted extensive work with Lebanese partners to document the impact on women of enforced disappearances that occurred during Lebanon's civil war (1975–1990), focusing in particular on the effects on the wives of the missing or disappeared. According to this work, the impact of enforced disappearance on women has been effectively hidden from the Lebanese public due to state policies of impunity and official forgetting, which makes Law 105 of potentially huge significance. Until now, the crimes have remained largely secret, and victims were denied their rights to truth and justice. In this civil society documentation work, the wives of missing or disappeared persons emphasized the social, psychological, legal and financial effects of disappearance on their lives and the lives of their children.²² Their primary, and sometimes only, concern was to learn whether their husband was dead or alive, and if dead, to request the return of his body. Prior to Law 105, not one of these women had yet received clear information – or even the promise of such information – from the government about her husband's fate. The women reported profound consequences of this lack of information, stating that they remained "often trapped in the moment when their husband went missing, [continuing] to exist in a state of social and legal limbo, living with the shadows of the past".²³

In addition, the wives of missing or disappeared persons in Lebanon endured practical, legal and emotional hardship, which Law 105, if successfully implemented, stands to remedy. Legal and administrative procedures such as accessing bank accounts, applying for children's identity documents, claiming inheritance, transferring property titles, and remarrying are extremely difficult. If the missing person was the primary wage

19 United Nations (2007), "Statute of the Special Tribunal for Lebanon", Attachment to UN Security Council Resolution 1757, UN Doc S/RES/1757.

20 International Committee of the Red Cross, *Guide to Law 105 on the Missing and Forcibly Disappeared Persons: Questions and Answers*, p. 7

21 International Center for Transitional Justice (March 2015), *Living with the Shadows of the Past: The Impact of Disappearance on Wives of the Missing in Lebanon*.

22 Ibid.

23 Ibid., page VII

earner, financial hardship pervades the family's daily life. Compounding these problems, families often experience isolation, intimidation and extortion, sometimes at the hands of those responsible for committing the disappearance. In seeking redress in a patriarchal environment, these women also reported having to negotiate a social and political context that is highly discriminatory towards them, contributing to the already overwhelming challenge of finding answers and support from relevant authorities. As victims and survivors of grave human rights violations whose basic rights have not been met, these women relay in this report their most pressing demands and views on their government. In a context of tremendous loss, what they ask for is a basic remedy. Initiatives from the Lebanese government are critical to ensuring that this issue

will not stall and continue leaving families in limbo, breaching their right to justice and truth.

In this context, it is essential that the implementation of Law 105 (Text Box 4) adopts gender sensitivity as a priority to ensure that the law is implemented in transformative ways which subvert rather than reinforce these discriminatory gendered experiences. Best practice dictates women's inclusion in decision-making and key bodies, recognition and redress for these identified gender harms, and – most importantly – flexible processes that proactively mitigate the literacy challenges and resource and time burdens participating women experience. An intersectional approach should also be adopted, recognizing that, due to the passage of time, many of these women will be older and will require tailored support to navigate claims processes.

Text Box 4: Overview of Law 105 Key Provisions

Law 105 provides for the following key points:

- The adoption of a legal definition for missing and forcibly disappeared persons
- The recognition of the families' right to know the fate of their loved ones and have their remains retrieved, as enshrined in international human rights law and international humanitarian law
- The acknowledgment of the families' right to be informed and to access information pertaining to the tracing of the missing and forcibly disappeared persons, as well as to all the legally non-confidential investigations, including their rights to be respected, to be treated in a non-discriminatory manner, and to receive moral and financial compensation
- The creation of an independent National Commission for the Missing and Forcibly Disappeared Persons in Lebanon, which shall be the entity in charge of the clarification of the fate and whereabouts of the missing and forcibly disappeared persons

Integration of Transitional Justice in the WPS NAP

The National Commission for Lebanese Women led the drafting of the Lebanese WPS NAP across a range of government ministries. The NAP has five priority areas: (1) participation in decision-making at all levels; (2) prevention of conflict; (3) prevention of – and protection of women and girls from – gender-based violence; (4) relief and recovery; and (5) normative frameworks.

It is highly promising that the Lebanese NAP includes a specific output and intervention on transitional justice, namely Intervention 4.1.4 under Output 4.1: "Implement Law No. 105 on enforced disappearances to set up a national committee to carry out its responsibilities as stipulated in Article

26 of the law." This intervention belongs to Strategic Priority 1 of the plan: "Women's participation in decision-making at all levels". Expressly including Law No. 105's implementation in the NAP brings an additional monitoring mechanism to the law's implementation; importantly, it also recognizes the law as being of gender significance.

As it stands, however, Law 105 is not fully integrated into the plan. For example, while the law is referenced within the strategic priority on participation, the intervention does not specify any targets or priorities around ensuring women's participation as decision-makers, personnel and/or claimants under the law. Further, the law might usefully have been reflected

also under the fourth strategic priority, relief and recovery, which instead attends only emergency and refugee planning and thus fails to recognize the connection between transitional justice and recovery from conflict. Provision under this strategic

priority might usefully have brought further scrutiny to the recognition of gendered harm and structural gender inequalities under the operation of Law No. 105.

Palestine

Transitional Justice

Relative to the other cases under study, transitional justice in Palestine is not yet a key topic of public or policy discussion; this is no doubt attributable to the long-running and ongoing Israel–Palestine conflict. Some academic literature on transitional justice in Palestine discusses either civil society transitional justice initiatives (so-called “bottom-up” transitional justice)²⁴ or isolated aspects of institutional reform, such as judicial education and training.²⁵ Official policy has instead centred on raising international attention and engaging international mechanisms for scrutiny of the conflict. Most notable in this regard have been recent developments in engaging the International Criminal Court Office of the Prosecutor. Most significant is the decision of the Pre-Trial Chamber that the court does have jurisdiction over alleged international crimes perpetrated in Gaza and the West Bank, including East Jerusalem. To

date, legal proceedings at the International Criminal Court have focused exclusively on the question of jurisdiction and as such have not yet provided a forum for documentation of gender harm.

Nevertheless, existing research on gender and conflict in Palestine evidences clear gendered patterns in violations – in terms of gender-based violence, the high civilian death toll and severe property destruction – and in their impacts, including on shelter, education, water and sanitation, food security, livelihoods, and health.²⁶ Now that the Office of the Prosecutor is proceeding with a preliminary investigation, fact finding and documentation related to gender aspects of alleged international crimes perpetrated by Israel and the Palestinian National Authority may emerge and should be a priority for any accountability process.

24 Brendan Ciarán Browne (2019), “Transitional Justice and the Case of Palestine” in C. Lawther and L. Moffett (eds.), *Research Handbook on Transitional Justice*, Elgar Publishing.

25 Reem Bahdi and Mudar Kassis (2020), “Institutional Trustworthiness, Transformative Judicial Education and Transitional Justice: A Palestinian Experience” in S. El-Masri et al. (eds.), *Transitional Justice in Comparative Perspective, Memory Politics and Transitional Justice*, Palgrave.

26 For documentation of gender harm in the Israel–Palestine conflict, see further: UN Women (2021), *Gender and War in Gaza Untangled: What Past Wars Have Taught Us*, <https://www2.unwomen.org/-/media/field%20office%20palestine/attachments/publications/2021/06/d8-rga%20brief-compressed%203.pdf?la=en&vs=851>.

Integration of Transitional Justice in the WPS NAP

The Palestine WPS NAP was led by the Ministry of Women's Affairs and is organized around three strategic objectives: (1) enhance the protection of Palestinian women and girls, especially from the violations of the Israeli occupation; (2) hold the Israeli occupation accountable; and (3) enhance the participation of Palestinian women in local and international decision-making processes. Importantly for the unfolding International Criminal Court developments, the NAP includes specific commitments to ensure international accountability for violations against Palestinian women and girls (see Appendix 4). Relatedly, the NAP commits the government to including interventions around enhancing access to justice for victims of gender-based violence under Strategic Objective 1: "Enhance the protection of Palestinian women and girls, especially from the violations of the Israeli occupation".

In October 2020, Palestine adopted a second-generation NAP for 2020–2024, supported by UN Women. The plan includes Accountability as its second strategic pillar. According to the plan:

The State of Palestine focuses under the second pillar on using independent international accountability mechanisms to hold the Israeli occupation accountable for its violations of Palestinian women's and girls' rights, to request ending impunity, and ensuring justice for women victims and survivors. This pillar recommends using monitoring and documentation to highlight the gendered impact of occupation on Palestinian women's rights and [using] human rights charter-based bodies (e.g. the Human Rights Council; special procedures of the Human Rights Council; UN Special Rapporteurs; independent experts;

and relevant working groups) and human rights treaty bodies to highlight such impact. In addition, it aims at organizing international and regional lobbying and advocacy campaigns, which include using all available mechanisms to call for the protection of women victims of conflict [and] also supporting their access to justice and reparation as articulated in the International law.

Under this pillar, the plan commits to a number of related outcomes and outputs. The Accountability pillar does give significant priority to documentation and international awareness of violations of Palestinian women's rights, indicating integration of transitional justice elements into the plan.

It is important that the implementation of the NAP is used as an opportunity to further integrate transitional justice into the plan's other strategic pillars, namely prevention and protection, participation, and relief and recovery. Pillar 1, Prevention and Protection, for example, provides for access to services and access to justice for victims of sexual and gender-based violence in the West Bank and Gaza. Implementation should include accountability and transitional justice measures, and potentially also provision for reparations. Pillar 3, Participation, should be implemented to include participation in decision-making related to transitional justice and accountability. Provisions for security sector reform should be implemented to exclude violators of women's rights from reformed institutions. Pillar 4, Relief and Recovery, focuses on humanitarian relief, but should be implemented to also include broader reparation entitlements. The second NAP therefore shows clear evidence of some integration of transitional justice. Implementation of the plan will create several important opportunities for deeper and more comprehensive integration.

Tunisia

Transitional Justice

Tunisia is undoubtedly the case study with the most developed and coordinated laws and policies on transitional justice. Given the post-uprising situations in neighbouring Libya and Egypt, Tunisia has no contemporary role model in the Arab world to follow, and therefore developments in this country are important for the wider MENA region.

Of greatest contemporary significance are the transitional justice processes inaugurated by the 2013 Organic Law on Transitional Justice, which established a Truth and Dignity Commission (TDC) tasked with addressing reparations, accountability, institutional reform, vetting and national reconciliation. The law specifically called for the creation of a Fund for the Dignity and Rehabilitation of Victims of Tyranny (Article 41), and for special chambers with trained judges to deal with cases of human rights violations (Article 8). The law provides that violations against women and children are at the core of the issues to be addressed by the TDC (Article 4).

Perhaps most importantly, the law mandated the TDC to investigate both gross human rights violations and systematic infringements of any human rights committed by the previous regime (Article 3). This mandate is as groundbreaking as it is comprehensive. Importantly, the law empowers the TDC to consider not just “extraordinary” offences of political violence, but also the many systematic “ordinary” ones that so deliberately targeted Tunisian women deemed to be opponents of the Ben Ali regime.

Significantly, the law also specifically enumerates rape and any form of sexual violence as being among the “gross violations of human rights” that can be investigated and also prosecuted, thereby overcoming the public-private distinction that had defied the best efforts of many preceding truth commissions to impose accountability for gender-based violence. Article 70 of the Transitional Justice Law provided the government with a one-year deadline to devise an action plan for the implementation of the recommendations of the

TDC, with the Legislative Council tasked to oversee the programme’s level of enforcement.

The TDC reported in May 2019 and evidenced several aspects of best practice in gender-sensitive and gender-inclusive truth recovery (Text Box 5). The commission secured very extensive engagement from women and documented violations experienced by many women. The commission received 14,057 files of women victims, representing 23 per cent of the total files of victims of human rights violations that have reached the commission. These files covered all age groups and all periods of time, as well as all regions of the country. The commission devoted a public hearing to victims on 10 March 2017, during which many victims testified about violations against women. Hearings concerned 8,369 women, representing 59 per cent of the submitted files. Women were victims of 23,717 violation cases. Also, 3,099 files that have been investigated concerned violations of freedom of dress and belief, representing 37 per cent of the submitted files. The TDC referred 68 cases of women victims to the Specialized Criminal Chambers for transitional justice.

In Chapter 4 of the Organic Law on Transitional Justice and Its Organization (Law No. 53-2013), the legislator stressed the need to take into account the specificity of the reality of violations against women. The TDC has therefore adopted a gender approach for equal access to civil, political, economic and social rights, and for the promotion of equity between genders, particularly for women who have suffered violations with reference to Article 8 of the law. Based on Article 67 of the commission’s by-laws regulating the rules of procedure, the Women’s Committee has been established as an essential mechanism to take into account the specificity of women victims in tackling problems that could prevent them from being involved in the transitional justice process.

Text Box 5: Truth and Dignity Commission Special Provisions and Measures for Women

I. Special procedures and measures for women victims

As a result of the specificity of women victims in this process, the TDC has identified procedures and mechanisms that help to gain the confidence of women victims and ensure good communication with them. Among the most important measures:

- Creating a toll-free green number dedicated to receiving calls from women victims and answering their various queries, giving them the freedom to choose the gender of the call receiver. In this context, the Women's Committee receives a periodic report on these calls from the TDC Call Centre.
- The establishment of reception desks for women within the control office.
- Providing special care within the immediate care unit (health, social and psychological) in order to provide psychological framing for women victims, children, vulnerable groups, older persons and people with special needs.
- Providing special attention in the regional offices to ensure accurate statements and testimony at the TDC.
- For secret hearings, enabling women to choose any regional office away from their place of residence, or mobile offices, in order to ensure the confidentiality of the hearing and its data and to encourage the victim to testify.
- Special protection measures within the witness protection programme for victims eligible to participate in public hearings.
- Protection procedures adopted particularly for the files of sexual violation victims: digitization, encoding and encryption of the file; identification and reduction of the sphere of interaction among the TDC's specialists dealing with the file in order to stem any potential data leakage. These procedures had been applied to files of victims of both sexes. The TDC has also intervened to protect women victims in situations where they had been harassed by security services after testifying at the TDC.
- Drafting the statement during the secret hearings and allowing the provision of elements on the violations in a way that addresses the specificity of women-related violations such as "pregnancy, abortion, forced sterilization, forced weaning, forced divorce, child raiding, removal of babies from their mother in prison, discrimination in prison, violations of freedom of dress, consideration of special health needs, etc.". The statement contributes to identifying the proportion of violations, their types and their geographical and age distribution.

Source: Truth and Dignity Commission (2019), *Final Comprehensive Report*, page 372.

One clear way in which the TDC report overcame the limitations found in traditional approaches to gender and transitional justice was in recognizing and documenting the diverse and manifold ways in which women's human rights are violated. A frequent criticism of gender-sensitive approaches to transitional justice is that they commit exclusive focus to violations of sexual violence. The TDC report, by contrast, captures the diverse gendered harms caused by violence and political repression. For example, the report includes a comprehensive account of the systematic, repressive gendered policies against political dissidents during the Habib

Bourguiba period; the targeting of women engaged in political protest – including raids on their homes and use of violence – in the popular uprisings leading to the revolution of 2010 and the fall of the regime in 2011; and the overall effect of human rights violations on the families of political dissidents for the full period covered by the TDC (1956–2013).²⁷

Working with UN Women, the TDC developed a database and confidential hearings, in which women documented violations experienced by their male political dissident relatives; the impact of human rights violations on marital relations and children;

27 Truth and Dignity Commission (2019), *Final Comprehensive Report*, Part Four: Abuses against Women, pp. 370–390.

the interrelated impacts of human rights violations and gender relations; and the ability of women and men to confront repression and rebuild themselves.²⁸ The outcome of this dedicated inquiry is to yield an account of the private effects of public repression and violence, which is unparalleled in transitional justice practice to date. The detailed accounting of the shattering of marriage relationships, the forced divorce or separation of spouses among political opponents, the damage to relationships between fathers and children, and the targeting of women engaged in public protest through unfair sham trials (thereby forcibly returning women from the public sphere of protest to the private sphere either of home or prison) is comprehensive.

Ultimately, the TDC recorded 229 political trials involving women, which represented only a sample of the total. The commission also provided psychological follow-up with a female psychiatrist during the collection of testimonies and the investigations. They were accompanied to the hospital to test their psychological condition and assess the rates of damage. Further, the commission undertook intersectional analysis – for example, by providing a gender breakdown of the child victims of

rape and sexual abuse in detention centres and an account of the underlying gender dynamics leading to this gender differential.

It is important also to note the TDC's gender limitations. Most notably, women who came forward could not do so confidentially. Ultimately, this denies the agency of women who would choose to disclose confidentially. Further, in practical terms, the lack of confidentiality dissuaded many women from filing complaints, which has had longer-term consequences for them and their families, in terms of the TDC's goal of a comprehensive and inclusive documentation of harm.

The TDC report recommendations are clear and consistent in their emphasis on guarantees of symbolic reparations, primarily apologies and memorials, some measure of collective reparations providing for economic development, and the extensive delineation of proposed reforms to guarantee non-recurrence of the identified violations. These recommended reforms addressed both discrimination against women in general and specific reforms for the prevention of the recurrence of sexual and gender-based violence (Text Box 6).

Text Box 6: Institutional Reforms for Forms of Violence and Sexual Assault, Including Rape

The state has to:

- Develop a comprehensive programme to address the phenomenon of violence, including sexual violence and rape, by inmates, prison staff and security personnel in all detention facilities, especially women's prisons.
- Train law enforcement officers on respecting human rights and on republican security values.
- Adopt in its legislation a definition of sexual violence crimes that includes the elements provided for in Article 8(2)(e) of the Rome Statute of the International Criminal Court and consider that their occurrence constitutes conditions for aggravating punishment.
- Explicitly state that it is compulsory to bring all allegations of sexual violence, in particular rape, to an independent doctor as soon as possible and before an investigation is initiated; that it is also possible to conduct psychological examinations to determine the consequences of the complainant's mental state; and that the doctor must in all cases draw up the relevant report as soon as possible after the incident.
- Coordinate in the field of judicial monitoring of detention conditions among the competent authorities; ensure thorough investigations in all allegations of sexual assault in detention centres; punish perpetrators; provide medical and psychological rehabilitation to victims; and activate the witness protection programme.

Source: Truth and Dignity Commission (2019), *Final Comprehensive Report*, page 606.

²⁸ Ibid.

Given the relative newness of the recommendations, there is as yet little progress or documentation of implementation. Further, implementation challenges typically accompany reform recommendations in transitional justice. It is critically

important, therefore, for local and international gender advocates to maintain constant vigilance over the implementation of purportedly positive recommendations emerging from transitional justice processes and mechanisms.

Integration of Transitional Justice in the WPS NAP

The NAP was developed by a joint steering committee led by the Ministry of Women, Family and Children, and made up of government entities and civil society. The plan has five components or pillars: (1) prevention; (2) protection; (3) participation; (4) relief, peacebuilding and reconstruction; and (5) information and advocacy. Under Pillar 4, the NAP includes extensive provision for transitional

justice. Importantly, through its Outcome 2, the NAP recognizes the connection between women's and girls' access to justice and their access to transitional justice (see Table 2). Further, the NAP incorporates transitional justice throughout actions to achieve this outcome. As such, the NAP's Pillar 4 evidences an integrated approach to addressing past and continuing gender harm.

Outcomes	Procedures	Indicators	Responsible Entity	Partners
2. System enabling women and girls to access justice, including transitional/ transformative justice	<ul style="list-style-type: none"> Streamline access to justice for women and girls, especially victims of sexual violence. Adopt the transitional justice procedures and mechanisms for women and girls. Reinforce the capabilities of the parties and institutions concerned with the application of the transitional justice system for women and girls. Adopt procedures and mechanisms that prevent the impunity of perpetrators of violence, especially sexual violence, against women and girls. 	<ul style="list-style-type: none"> The ratio of places prepared to receive complaints and ensure the confidentiality of files The number of women's and girls' files deposited with the Transitional Justice Commission The number of women and girls receiving urgent reparation The number of women and girls receiving comprehensive reparation The number of victimized women and girls referred to the competent judicial departments 	<ul style="list-style-type: none"> Presidency of the Republic Presidency of the Government Ministry of Justice Ministry of National Defence Ministry of Interior Higher Authority on Human Rights and Fundamental Freedoms High Judicial Council 	<ul style="list-style-type: none"> Related civil society organizations Related UN organizations Related international and donor organizations

Table 2: NAP Pillar 4 (Relief, Peacebuilding and Reconstruction) Outcome 2

The adoption of the NAP preceded the TDC report. However, if the state accepts the TDC recommendations, there is substantial scope for the NAP to enable and reinforce implementation of the recommendations. The NAP identifies relevant procedures, indicators, responsible entities and partners for achieving several of the reforms

envisaged in the TDC report – for example, those concerning access to justice, reparations, judicial reform and other measures. There is potential, therefore, for the NAP monitoring, evaluation and oversight to integrate elements of the TDC report recommendations also.

Yemen

Transitional Justice

Transitional justice developments in Yemen have been severely hampered by the context of a fragile state and ongoing violent conflict. Attempts at a negotiated end to the conflict in 2011 resulted in a peace agreement that was perceived to be externally imposed and prioritized state stability over accountability for conflict violations. While draft transitional justice laws were considered by the national parliament in 2012, there has been no

effective delivery on any of the mooted transitional justice measures.

There have been some ongoing civil society²⁹ and external efforts to advance accountability – for example, a request from the UN Human Rights Council to the UN Security Council to refer Yemen to the International Criminal Court – but such initiatives have to date had little impact on the ground.

Integration of Transitional Justice in the WPS NAP

The development of the WPS NAP (2020–2023) was led by a technical team comprised of the Ministry of Social Affairs and Labour, the Yemeni Women's Union and the National Women's Committee. The plan is built around four goals: (1) strengthen women's participation at all levels of decision-making; (2) guarantee the prevention of conflict and all forms of sexual violence, extremism and terrorism; (3) strengthen women's protection from all forms of violence; and (4) provide humanitarian needs for women during and after conflict in a gender-responsive manner.

The NAP has been critiqued for being developed without sufficient consultation with civil society, for lacking a dedicated budget, and for poor implementation overall.³⁰ In terms of transitional justice, it features only under Goal 1 ("to enhance women's participation at all levels in decision-making positions") and is focused on training women on transitional justice. While potentially valuable, the output is not attributed to any specific agency. Further, without fuller integration across the NAP's priorities, it is unclear how the WPS NAP can support gender inclusion in any ultimate transitional justice process in Yemen.

²⁹ See, for example, Mwatana for Human Rights (2020), *A Tragedy without Justice: Human Rights in Yemen*, <https://mwatana.org/en/a-tragedy-without-justice/>.

³⁰ See, for example, Maha Awadh (9 April 2020), "Unfulfilled Ambition: Yemen's National Action Plan for Women Leaves Much To Be Desired", <https://www.wilsoncenter.org/blog-post/unfulfilled-ambition-yemens-national-action-plan-women-leaves-much-be-desired>.

Conclusion

It is clear that both transitional justice and the WPS agenda share important elements in their international normative and legal frameworks. Both frameworks are designed to enhance peace and security, human rights accountability, and gender equality. Both frameworks include avowed commitments to non-discrimination and women's participation. Both frameworks place particular emphasis on the recognition of and redress for gender harm. Further, as is evident from the legal and normative frameworks and the case studies, both transitional justice and WPS NAPs offer opportunities for the meaningful advancement of women's rights and equality in their conception and design. Transitional justice offers particular opportunities for the participation of women, the identification of gender harm and the revealing of structural gender inequalities. When implemented at the national level, transitional justice can provide a legislative basis for progress, institutional infrastructure and resources, as well as important outputs and outcomes (prosecutions, truth commission reports, reparations, institutional reforms), all of which have the potential to advance women's rights and equality. Meanwhile, WPS NAPs detail specific commitments to advance women's rights and equality, allocated to specific state actors, and bring accountability and oversight (and often a budget) to these commitments. As such, national transitional justice policies and WPS NAPs offer significant potential for mutual implementation for the overall enhancement of women's rights and equality.

Despite this potential, the case study discussion found only limited evidence of mutual implementation in practice. The reasons for this potential to go unexploited are manifold, but some are worth highlighting. First, and most important, there is evidence of embedded silos in thinking between transitional justice and WPS, in which the former is viewed as past focused and the latter as forward looking. There is evidence, both globally

and in the MENA region, of an underappreciation of transitional justice as a gendered process with important implications for women and gender equality. Likewise, with noted exceptions, WPS NAPs tend not to be viewed as a valuable opportunity to advance accountability and redress for past harm, including past gendered harm. These silos in thinking translate in practice into silos in policymaking and implementation, in which transitional justice and WPS law/policies are led by different government departments and involve different personnel, expertise and sectors of civil society.

The research identified areas of good practice in ensuring gender-sensitive transitional justice in the case studies. For example, the Iraqi Law on Yazidi Female Survivors (2021), the Lebanese Law 105 on enforced disappearances, and the report of the Tunisian Truth and Dignity Commission all provide evidence of some effort by states to better integrate women and gendered harm into transitional justice processes. In general, the findings indicate an overall positive evolution of WPS NAPs in the region, in terms of improved integration of transitional justice into NAPs. Importantly, the integration of transitional justice into the WPS NAPs was only evident when transitional justice processes gave explicit attention to women and gender. The Checklist for Integrating Transitional Justice into WPS NAPs provides immediate practical guidance for actions that address a NAP's identified legal framework, specific actions outlined, coordination across government and civil society, monitoring and evaluation systems, specified resources, and reporting and accountability measures. Going beyond these immediate practical actions, the report turns in the next section to critical areas of substantive action for the mutual implementation of transitional justice and WPS NAPs.

4. GOING FORWARD: CRITICAL AREAS OF SUBSTANTIVE ACTION FOR THE MUTUAL IMPLEMENTATION OF TRANSITIONAL JUSTICE AND WPS NAPs

Based on the report findings, this section details the following substantive actions as priorities for the meaningful integration of transitional justice in WPS NAPs in the MENA region and beyond.

1) Consultation and Participation

Both national transitional justice laws/policies and WPS NAPs depend on broad consultation and participation, including with women's civil society groups and female victims and survivors, in order to ensure both their legitimacy and their efficacy. In many contexts, women's rights organizations will be more actively engaged with WPS NAP consultation processes, while women in victims' organizations will be more actively engaged with transitional justice consultations and processes. By improving

integration between consultation processes for both, there is significant scope to enhance the overall participation of women from diverse perspectives in the development of national transitional justice laws/policies and WPS NAPs. The NAP also provides an invaluable opportunity for women's civil society organizations to secure funding for transitional justice initiatives.

2) Fact-finding and Documentation

Without avowed commitment and dedicated resources to the identification and documentation of gender harms, such harms are often overlooked in transitional justice processes and outputs. Nevertheless, the documentation of gender harms remains an immediate and longer-term priority for any transitional justice process to be gender-inclusive. For example, in contexts that are inauspicious for transitional justice in the immediate

aftermath of violence, gender-inclusive fact-finding and documentation are essential for ensuring that accountability processes in the longer term have the required evidence base to establish accountability for gender harm also. Thus, even where WPS NAPs cannot explicitly provide for or address transitional justice laws/policies, they can be important in ensuring fact-finding and documentation.

3) Access to Justice

Access to justice (including access to transitional justice) is an obvious area of shared priority for both WPS NAPs and transitional justice laws/policies. Key gendered obstacles to justice include the following:

- Literacy requirements for participation
- Requirements for unavailable or difficult-to-access civic documentation
- Absence of formal legal guarantees of gender equality and equal treatment
- Absence of female justice sector personnel
- Unavailability of practical supports, including childcare, physical access, transportation and income replacement, to enable women to

report violations and participate in judicial and transitional justice proceedings

- Insensitivity to preferences for confidentiality and/or anonymity
- Lack of provision for other special measures to protect women from revictimization, such as the use of screens and voice distortion
- Social stigma
- Inadequate psychosocial support, in particular gender-appropriate counselling

Commitments to remove or mitigate gendered obstacles to justice stand to advance both WPS NAPs and transitional justice laws/policies.

4) Security Sector and Justice Sector Reform

Transitional justice laws/policies and WPS NAPs have a mutual interest in security sector and justice sector reform. Truth recovery processes will often investigate and reveal institutional failings of the security and justice sectors that permitted – and even directly perpetrated – past human rights violations. Further, the exclusion of past violators from reformed security forces and justice

institutions (through recruitment policies, training and oversight) is core to the transitional justice pillar on guaranteeing non-recurrence. Likewise, the WPS resolutions and many WPS NAPs address improving women's participation, enhancing gender training, and enhancing the gender sensitivity of security sector and justice sector personnel. Therefore, the potential for mutual implementation is considerable.

5) Strengthening Implementation and Accountability

Implementation and accountability has been an area of very concerted effort and improvement with regard to WPS NAPs globally. There is potentially very promising scope, therefore, for the mutual implementation of transitional justice and WPS NAPs when aligned to particular innovations in NAP accountability and implementation, namely:

- Implementation reports by states

- Internal and external review of NAP implementation by the state
- Reporting to national parliaments or scrutiny by national parliaments
- Oversight groups for NAPs
- Supervisory role of women's civil society groups in NAP implementation ³¹
- NAP monitoring and evaluation, including transitional justice elements

³¹ See further: Barbara Miller, Milad Pournik and Aisling Swaine (May 2014), *Women in Peace and Security through United Nations Security Resolution 1325: Literature Review, Content Analysis of National Action Plans, and Implementation*, Institute for Global and International Studies, George Washington University, page 43.

6) Budget Specification

Research on NAPs identifies budget specification as an area of substantial improvement in more recent NAPs.³² Including specification for resources to integrate gender and transitional justice programming is an apparent and important area of potential synergy. Further, the UN Secretary-General's Seven-Point Action Plan on Gender-Responsive Peacebuilding (2010) stated that

15 percent of post-conflict project funding should be dedicated to addressing gender equality. The UN Global Study on Resolution 1325 calls for the same (still unmet) 15 percent gender target to be applied to all peace and security spending, including in transitional justice programming. NAPs may be an important tool to this end.

³² Caitlin Hamilton, Nyibeny Naam and Laura J. Shepherd (2020), *Twenty Years of Women, Peace and Security National Action Plans: Analysis and Lessons Learned*, University of Sydney, page 13.

5. RECOMMENDATIONS

National governments in the MENA region should

Utilize the Checklist for Integrating Transitional Justice into WPS NAPs, while also tailoring approaches to national and local gender and accountability needs;

Work proactively to avoid silos between WPS and transitional justice law-making and policymaking, for example, by doing the following:

- Housing both policy frameworks within the same government ministries or formalizing relationships between the relevant ministries through a memorandum of understanding
- Engaging women's organizations and women in victims' organizations in all consultations,

decision-making, implementation and monitoring across WPS NAPs and transitional justice

- Ensuring that national systems for reporting to international institutions, including the Secretary-General's annual report on WPS and human rights treaty monitoring, report in an integrated way on the mutual implementation of WPS NAPs and transitional justice commitments
- Resourcing civil society to advance this work – for example, with a dedicated budget line in WPS NAPs for shadow reporting to human rights treaty bodies on state implementation of WPS NAPs and transitional justice commitments

Civil society in the MENA region should

Propose initiatives that aim to promote accountability with a gender lens;

Consider more fully the entire suite of legal and policy frameworks for advancing WPS, including transitional justice laws/policies;

Work to integrate gender throughout accountability-focused civil society organizations' advocacy and engagement, including in civil society work on documentation and awareness raising;

Hold states to account for the mutual implementation of WPS NAPs and transitional justice commitments.

The United Nations should

Support governments to better integrate their activities on WPS and transitional justice into its regional and country-specific programming, through expertise, resources and capacity building;

Build and resource civil society capacity to work on both WPS and transitional justice;

Fund gender-inclusive civil society initiatives on transitional justice;

Work to develop clearer normative frameworks that integrate and mutually reference transitional justice processes and WPS NAPs. The frequency with which NAPs and transitional justice operated in distinct parallel tracks reveals an acute need for such clarity. For example, the WPS resolutions themselves make

limited specific reference to transitional justice, and – notably – the UN Global Study on Resolution 1325 concludes negatively on transitional justice policy and practice under the WPS agenda. By contrast, CEDAW General Recommendation Number 30 is relatively specific in its articulation of integrated and mutually reinforcing implementation of both frameworks. Likewise, in its state party monitoring, the CEDAW Committee has given relative priority to transitional justice. The development of clearer normative frameworks integrating transitional justice and WPS NAPs should be a particular priority for the human rights institutions of the United Nations.

Recommendations for Future Research

In academic and policy fields, research on the potential and actual relationship between WPS NAPs and transitional justice is markedly underdeveloped. This finding is all the more surprising given the explosion of research on WPS NAPs and on the

gender aspects of transitional justice. Given the centrality of legal, policy, civil society and budgetary momentum surrounding WPS NAPs, further and deeper efforts to link both areas of research are acutely needed.

6. APPENDICES

Appendix 1: Best Practice in Adopting a Gender Perspective in Transitional Justice Process

	Prosecutions	Truth Commissions	Reparations	Guarantees of Non-recurrence
Participation of women and gender-diverse groups	<ul style="list-style-type: none"> Ensuring women's access to justice Personnel and training Specialization (e.g. gender units) Safeguarding and protection 	Operational issues: <ul style="list-style-type: none"> Staff training and profile Public hearings 	Access	Gender representation in new institutions
Recognition and redress for gender harms, especially against women and girls	<ul style="list-style-type: none"> Tackling impunity Prioritization strategies 	<ul style="list-style-type: none"> Organizational structure Cross-cutting and gender unit Mandate Scope of violations 	<ul style="list-style-type: none"> Definition of universe of victims Definition of reparation measures and benefits Approaches to evidence Prioritization 	Lustration – excluding violators of women's rights
Revealing (and redressing) structural gender inequalities	Ensuring women's access to justice	<ul style="list-style-type: none"> Final report Comprehensive gender analysis, including structural gender inequalities 	<ul style="list-style-type: none"> Reparative effects, i.e. avoiding stigmatization and advancing transformative equality Reparative benefits 	<ul style="list-style-type: none"> Understanding and addressing structural causes of violations Comprehensive review of all regulatory provisions for discrimination in order to inform recommendations

This table summarizes the findings and recommendations of the UN Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence (2020): *The Gender Perspective in Transitional Justice Processes*.

Appendix 2: Transitional Justice in WPS Resolutions

UN Security Council Resolution	Resolution Summary	Provision for Gender-sensitive Transitional Justice
1325 (2000)	Reaffirms the important role of women in conflict prevention and resolution, peace negotiations, peacebuilding, peacekeeping, humanitarian response and post-conflict reconstruction; stresses the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security	Operational Paragraph 11 stresses the need to exclude international crimes of sexual and gender-based violence, where feasible, from amnesty provisions.
1820 (2008)	Calls for recognition that conflict-related sexual violence is a tactic of warfare, and as such there is a need for the training of troops on preventing and responding to sexual violence, the deployment of more women to peace operations, and the enforcement of zero-tolerance policies for peacekeepers	Operational Paragraph 4 stresses the need to exclude international crimes of sexual and gender-based violence, where feasible, from amnesty provisions; calls upon Member States to comply with their obligations for prosecuting persons responsible for such acts to ensure that all victims of sexual violence, particularly women and girls, have equal protection under the law and equal access to justice; and stresses the importance of ending impunity for such acts as part of a comprehensive approach to seeking sustainable peace, justice, truth and national reconciliation.
1888 (2009)	Calls for greater leadership to address conflict-related sexual violence, deployment of teams (military and gender experts) to critical conflict areas, and improved monitoring and reporting on conflict trends and perpetrators.	The Preamble endorses a transitional justice approach to accountability, “drawing attention to the full range of justice and reconciliation mechanisms to be considered, including national, international and ‘mixed’ criminal courts and tribunals and truth and reconciliation commissions, and noting that such mechanisms can promote individual responsibility for serious crimes, and also peace, truth, reconciliation and the rights of the victims”. Operational Paragraph 17 urges inclusion of sexual violence issues in, inter alia, vetting of armed and security forces, justice, reparations and recovery/development.
1889 (2009)	Calls for the development of global indicators to track the implementation of Resolution 1325	
1960 (2010)	Calls for an end to sexual violence in armed conflict, particularly against women and girls, including through the improvement of measures aimed at ending impunity for perpetrators of sexual violence	The Preamble endorses a transitional justice approach to accountability, “drawing attention to the full range of justice and reconciliation mechanisms to be considered, including national, international and ‘mixed’ criminal courts and tribunals and truth and reconciliation commissions, and noting that such mechanisms can promote individual responsibility for serious crimes, and also peace, truth, reconciliation and the rights of the victims”.

UN Security Council Resolution	Resolution Summary	Provision for Gender-sensitive Transitional Justice
2106 (2013)	Calls for the strengthening of efforts to end impunity for perpetrators of sexual violence in conflict; it acknowledges that this not only affects large numbers of women and girls, but also men and boys	Operational Paragraph 4 draws attention to the importance of a comprehensive approach to transitional justice in armed conflict and post-conflict situations, encompassing the full range of judicial and non-judicial measures. Operational Paragraph 12 reiterates the importance of addressing sexual violence in armed conflict...in specific provisions of peace agreements, including those related to transitional justice mechanisms; stresses the need for the exclusion of sexual violence crimes from amnesty provisions.
2122 (2013)	Calls for the United Nations, regional organizations and Member States to create stronger measures for women to participate in all phases of conflict, including prevention, resolution and recovery, and have a seat at the peace table	The 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.
2242 (2015)	Calls for actions to improve the working methods of the WPS agenda; calls to integrate the WPS agenda in countering terrorism and violent extremism	Operational Paragraph 14 urges Member States to strengthen access to justice for women in conflict and post-conflict situations, including...reparation for victims as appropriate.
2467 (2019)	Strengthens justice and accountability and calls for a survivor-centred approach in the prevention of and response to conflict-related sexual violence	Operational Paragraph 15 urges Member States to strengthen access to justice for victims of sexual violence in conflict and post-conflict situations, including women and girls, including through...reparations for victims as appropriate. Operational Paragraph 16d encourages concerned Member States to ensure the opportunity for the full and meaningful participation of survivors of sexual and gender-based violence at all stages of transitional justice processes, including in decision-making roles, [and] recognizes that women's leadership and participation will increase the likelihood that transitional justice outcomes will constitute effective redress as defined by victims and will respond to important contextual factors. Operational Paragraph 17 recalls the applicable provisions of international law on the right to an effective remedy for violations of human rights, calls upon Member States to make such effective remedy and assistance available to victims of sexual violence in conflict and post-conflict situations, and encourages Member States and other relevant actors to give due consideration to the establishment of a survivors' fund. Operational Paragraph 18 recognizes that women and girls who become pregnant as a result of sexual violence in armed conflict, including those who choose to become mothers, may have different and specific needs, and [notes their]...lack of access to reparations.

UN Security Council Resolution	Resolution Summary	Provision for Gender-sensitive Transitional Justice
2493 (2019)	Refocuses on women's participation; addresses, inter alia, the work of the Peacebuilding Commission and regional organizations	

Appendix 3: Indicator 25 – Post-conflict Institutions and Processes of Transitional Justice, Reconciliation and Reconstruction Are Gender Responsive

Designation	Description	Context-specific Issues to Address in Supporting Narrative	Operational Paragraphs in Security Council Resolutions
Extent to which truth and reconciliation commissions include provisions to address the rights and participation of women and girls Responsibility: Office of the UN High Commissioner for Human Rights and UN Women	Report on: Mandate <ul style="list-style-type: none"> • Consultations with women and special hearings • Existence of gender unit • Provisions for women's participation, witness protection and psychosocial support • Awareness campaigns targeting women and girls Outcome report <ul style="list-style-type: none"> • Women commissioners and female staff of the truth and reconciliation commissions • Participation of women as witnesses • Recommendations addressing gender equality issues • Gender chapter 	a. Extent to which gender issues have been restricted to one specific chapter and/or mainstreamed throughout the report b. Degree of engagement of women and girls c. Extent to which violations of women's and girls' rights are addressed in view of known patterns of war-time violations	1325 (2000): 9, 11 1820 (2008): 4, 10 1888 (2009): 6, 7, 8a 1889 (2009): 3, 10

Appendix 4: Transitional Justice in the Palestinian NAP Accountability Pillar

Outcome 2.1: Increased availability of periodic, high-quality data, information and statistics on the implementation of Resolution 1325

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Output 2.1.1: Institutional capacities on monitoring and evaluation of Resolution 1325 implementation are strengthened.

Outcome 2.2: International and regional support mobilized to hold the Israeli occupation accountable for its violations of Palestinian women's rights.

Output 2.2.1: The various UN agencies and bodies are more aware of the gendered impact of the occupation on Palestinian women.

Output 2.2.2: UN Member States are more aware of the gendered impact of the occupation on Palestinian women.

Output 2.2.3: Impact of the occupation on Palestinian women is highlighted through human rights charter-based bodies (e.g. the Human Rights Council; the Special Procedures of the Human Rights Council; Special Rapporteurs; independent experts; and relevant working groups) and through the framework of the Human Rights Monitoring System at the United Nations (Human Rights Treaty Bodies).

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