

**Fulbright New Century Scholars on the Global Empowerment of Women  
Working Group on Responses to Violence Against Women**

**Recommendations on Establishing an International Truth Commission on Violence  
against Women (ITC-VAW)**

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**PREAMBLE**

Violence against women has been widely recognized as a pervasive global problem. It is an enduring impediment to the empowerment of women and more generally to social justice and peace. This violence is particularly acute in situations of armed conflict. From Afghanistan to Iraq, Colombia to Sudan, Sri Lanka to the Balkans, armed conflicts around the world inflict hardship and suffering on millions of civilians. In recent and present wars, it has been estimated that about 90 percent of the fatalities are civilians.<sup>1</sup> Among those fatalities, women are regularly raped before being killed. In addition, rape and other forms of sexual violence are increasingly used as weapons of war and instruments of terror.

Silence surrounding gender violence contributes to the violence by maintaining it and exacerbating its traumatic impact on victims and its broader consequences for all women. It is well recognized that providing a public space for breaking the silence and recording the testimonies of violence contributes to justice and helps to minimize possibilities for reoccurrence. Previous truth commissions have played this role in many places around the world; however within these forums attention to violence against women has largely been ignored or inadequate.

The magnitude of the global problem of violence against women is such that it requires multiple strategies on many different levels. As one such strategy, our Working Group suggests the establishment of an International Truth Commission on Violence Against Women (ITC-VAW).

**BACKGROUND**

The United Nations was established in 1945 to protect international peace and security and to promote human rights and relations among states. In the 60 year history of Security Council decisions, Security Council Resolution 1325 stands out as a groundbreaking effort to finally address wartime violence against women. SC Res. 1325, on Women, Peace, and Security, was passed unanimously on October 31, 2000. It is the first and only resolution passed by the Security Council which requires that women be included in all peace processes and which specifically addresses the impact of war on women.

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<sup>1</sup> Barbara Ehrenreich, *Blood Rites: Origins and History of the Passions of War*, \_\_\_

The Resolution calls on all parties to armed conflict to take special measures to protect women and girls from rape and other forms of gender violence, and it emphasizes the responsibility of states to end impunity and prosecute those responsible for genocide, war crimes, and crimes against humanity, including those related to sexual violence, and to exclude these crimes from amnesty provisions.

As a direct result of Resolution 1325, UNIFEM commissioned two experts, Elisabeth Rehn and Ellen Johnson Sirleaf, to write an independent assessment on how to accelerate the implementation of SC Res. 1325. Their 2002 report, entitled “Women War Peace,”<sup>2</sup> makes recommendations intended to ensure that women are included at all levels and at all phases in peace processes and that violence against women is addressed. Nonetheless, some five years after SC Res.1325 was adopted, inadequate progress has been made in including women in peace negotiations and peacekeeping operations, and in addressing and redressing violence against women.

In chapter one of the experts’ report, focused on violence against women, their first recommendation is to call for the establishment of “[a]n international Truth and Reconciliation Commission on violence against women in armed conflict as a step towards ending impunity. This Commission, to be convened by civil society with support from the international community, will fill the historical gap that has left these crimes unrecorded and unaddressed.”<sup>3</sup> It is this recommendation which is the focus of the Fulbright Working Group on Responses to Violence Against Women. The present document, the joint product of the Working Group, makes recommendations on ways such an International Truth Commission on Violence Against Women (ITC-VAW) could usefully be designed and structured, including the scope, context, mandate, composition, and proceedings of such a commission.

This document attempts to offer a model for designing an International Truth Commission that emphasizes the empowering aspects of inclusion and justice and which recognizes women not solely as victims, but also as leaders, agents, and strong survivors. It is also designed to provide a guide for not only an International Truth Commission on Violence Against Women in armed conflict, but also for other initiatives, so that future efforts can ensure that gender related crimes are adequately documented and reported. All efforts should be made to ensure that past, current, and future gender related crimes are no longer ignored, marginalized, or silenced.

Of the past approximately 26 truth commission reports published over the last three decades, only a handful have addressed either women’s issues or gender related crimes, and none in adequate detail or scope.<sup>4</sup> This is especially true for commissions that conducted their work before 1993, when international accountability for atrocity crimes

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<sup>2</sup> Rehn, Elisabeth & Ellen Johnson Sirleaf, “Women War Peace: The Independent Experts’ Assessment.”, Progress of the World’s Women 2002, Volume 1. UNIFEM. 2002.

<sup>3</sup> Women War Peace, pg. 19. See also pgs. xvi and 140.

<sup>4</sup> These include Peru, Guatemala, South Africa, Haiti, Sierra Leone, and probably East Timor (forthcoming).

was largely absent. Through the international criminal justice mechanisms in particular, gender justice has been a crucial development in international criminal law.

It is the opinion of the Working Group that the best initial approach to establishing an international truth commission on violence against women in armed conflict would be to use the commission as a forum to reopen past truth commissions with the objective of including the voices and experiences of women. This will help inform the historical record on the human rights violations and crimes committed against a particular group in a society. This is intended primarily as a starting point for the Commission's work, which should eventually cover other situations instead of simply supplementing the information in past truth commission reports.

While here focused initially on reopening past truth commissions, the Commissioners are encouraged to also make recommendations on violence against women committed in other situations, related to and without relation to conflict situations and including current conflicts. For example, even if there is not a truth commission on the crimes committed in Darfur, Sudan, the Commissioners should proactively highlight the gender related crimes and advocate on behalf of victims of those crimes. And in Eritrea, where there was a 30 year history of wartime atrocities, including gender abuses, which have never been addressed by a truth commission or any other proceeding, the ITC-VAW should recognize and endeavor to provide information about the neglected situations. The Commissioners should next consider a report focused exclusively on situations where no truth commission or other forms of redress have occurred, and emphasize the gendered nature of the attacks dominating these conflicts.

The Working Group recognizes that countless instances of violence, much less violence against women, has not been covered by truth commissions or by other remedial measures. Violence against women is exceedingly prevalent inside and outside of conflict situations. We have focused here on reopening former truth commissions to include gender issues simply as a practical starting point. It is envisioned that many other situations of violence against women will also be addressed by an international truth commission focused on violence against women.

Our proposal recommendation arises in a context of broader debates over constructions of women as agents rather than victims. In the area of violence against women, the Working Group is of the opinion that this is a false dichotomy. To focus exclusively on women's agency runs the risk of denying the structural limits on this agency, and ignoring the pain and fear that accompany violence. At the same time, however, we agree that it is essential to see women not simply as victims, and to recognize, celebrate, and support the incredible resiliency, creativity, generosity, and strength of women, including in the face of widespread violence and oppression. It is necessary to recognize complexities of women's experiences and the possibility that women may simultaneously be victims, survivors, and agents of change (as well as perpetrators of violence).

Historically women have been blamed, shamed, and silenced about violence perpetrated against them, especially sexual violence. Within such a context, the identification,

documentation and validation of these silenced crimes is critical toward achieving a more just truth. It is in this sense that an International Truth Commission provides opportunities for transforming deeply entrenched attitudes and practices of gendered violence.

We recognize that the empowerment of women is an ongoing process in which the International Truth Commission will form but one contribution. Most notably, we see the ITC-VAW as changing cultural contexts from ones that support and encourage gender violence to ones that treat it as both criminal and immoral. At the same time, the ITC-VAW would support women giving testimonials so as to provide a context that would maximize possibilities for empowerment of these women and their communities.

## **CONTEXT**

The ITC-VAW should focus on gender crimes in conflict and post-conflict situations, especially sexual violence and gender related persecution. Other serious human rights violations that negatively impact women, such as gender apartheid or forced sterilization, should also be considered.

Unlike other truth commissions that have been primarily national in scope, the ITC-VAW will be international and will include diverse national and political contexts. While testimonies of victims and survivors will be sought from women and girls of the countries that have had a truth commission in the past, the information will be more broadly useful to women and society worldwide. Efforts should be made to ensure that the information collected covers a broad spectrum of groups, with particular emphasis on including women and girls from marginalized groups and sectors of society, and that a gender sensitive approach and procedures are adopted and implemented to prevent re-victimizing the survivors.

Simultaneously, the ITC-VAW should build upon the interest and support of global civil society. It should collaborate with parallel initiatives to establish justice and/or reparation mechanisms for women in a process of national and international healing, with a view to deconstructing and changing attitudes toward women and the treatment of gender related crimes.

In addition to including the voices and experiences of women from a historical standpoint that is accurate and inclusive, emphasis should also be placed on raising awareness of the gender related crimes and the need for healing and dialog to ensure that these crimes are prevented or punished in the future.

It is also important to achieve the equitable participation of men and women on the creation and implementation of policies against impunity and on addressing the root causes of violence against women. Ignoring gender differences means to disregard specific needs and attributes of males and females. To strengthen the possibility of non repetition of the violations, all sectors of society must be involved in deconstructing and eradicating discrimination and violence against women.

## COMPOSITION

Based on the experiences of some of the more effective truth commissions, it is recommended that the International Truth Commission be comprised of 5-9 Commissioners. Key principles to be considered in nominating and selecting Commissioners are regional diversity, knowledge of and commitment to gender justice issues, solid proficiency on gender based violence, and diversity of professional expertise, among other criteria. Language skills should be considered. The convening body should encourage human rights organizations and other interested parties to make nominations and ensure that the selection process is inclusive and transparent.

In principle, it is important to strive for a gender balance in the appointment of Commissioners and staff. For the ITC-VAW, however, it is important that most or all of the Commissioners are women because the truth commissions that the ITC-VAW is reopening were made up primarily or exclusively of men. Data also suggests that survivors of gender crimes, particularly sexual violence (both female and male survivors), are more likely to report the crimes to female investigators/Commissioners.

While membership should reflect regional and multidisciplinary diversity, particular emphasis should be placed on representation from areas where previous truth commissions have been held. This selective regional diversity will be complemented with broader international representation to allow connections to be drawn between issues arising in this process and those likely to be relevant to women in other areas of conflict that have not been served by truth commissions.

It is essential that the ITC-VAW be comprised largely of experts on women's rights. This is necessary both to guarantee the most efficient and gender competent operation of the Commission and to secure the cooperation and trust of groups and other advocates working with women and child victims and survivors of armed conflict.

It is also recommended that at least 50% of the Commissioners have expert knowledge relating to the particular issues facing survivors of gender related violence. An ethos of sensitivity within the Commission to the varying cultural dynamics of gender violence, and in particular, sexualized violence, will be important for ensuring that Commissioners get to hear the most complete testimonies, and that they do so in a way that is most likely to respect the ongoing safety and privacy issues facing women testifying before the Commission.

## MANDATE

The Commission should initially focus its attention on reopening all past truth commission reports to add information on the experiences and voices of women. The scope of human rights violations addressed for each report will be dependent on the particular truth commission reopened at the time.

It is now established in international jurisprudence that rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, forced nudity, forced abortion, forced marriage, and sexual mutilation and other forms of violence against women may constitute international crimes. Gender persecution, sexual torture, and other gender related crimes are also recognized. When consistent with the scope of the abuses authorized in the particular mandate of the report being reopened, these crimes should be included within those investigated and reported.

The scope of the investigations will be that contained in the original report, except this time the investigations will have a gendered lens focused on violations of women's rights or gender crimes. In the event the original scope of the mandate of previous commissions excludes gender related crimes, for example when the mandate is limited to deaths, consideration should be given to expanding the original scope of crimes for the purpose of capturing those committed exclusively or disproportionately against women.

Issues such as geographic and temporal scope and naming of perpetrators will be dependent on the mandate of the particular truth commission reopened, as long as these issues are consistent with human rights norms, the protection of victim-survivors, and promoting the empowerment of women. Indeed, in circumstances where, for example, the temporal jurisdiction of the truth commission resulted in the exclusion of forced sterilization in post conflict situations, the Commissioners should, on a case by case basis, broaden the jurisdiction of the case being redressed in order to more adequately and fully report on the situation of women.

The ITC-VAW will not have any formal legal powers, unless such powers are successfully negotiated by the UN or other appropriate authorities. As a civil society generated commission, supported by the international community, it is however expected to carry popular and moral authority.

States, human rights organizations, the UN, and other appropriate bodies are strongly urged to provide the Commission with access to state/military files and other sources of information and to cooperate fully in the relevant fact finding missions, including the identification of potential victim-witnesses to be interviewed.

The Commissioners should have a broad degree of flexibility/freedom in interpreting this mandate consistent with guaranteeing that the experiences of women are documented and included and ensuring that women are treated with dignity and respect.

## **PROCEEDINGS**

In reopening past truth commissions, most proceedings should be conducted in the country where the violations occurred. However, public proceedings outside of the country where the crime was committed, such as in Vienna, New York or Geneva, should also be considered. Security of all parties, including Commissioners, should be given priority.

Proceedings in country could be either public or private, at the discretion of the commissioners and staff, with an emphasis on which type proceeding would be most empowering for the particular victim-survivors. Public proceedings may, at the request of the victim, witness or commissioner be conducted with measures intended to protect the identity of a survivor or other witnesses, including perpetrators.

All proceedings must be conducted with the utmost care taken to protect the integrity and privacy of victim-survivors and to support the women participating in this process. Information should be gathered on victim-survivors, as well as from organizations or individuals who can provide testimony of a broader scope than individual crimes.

It should be recognized that some victim-survivors want their names to be made public, while others vehemently object to publication of their identity. The wishes or needs of the victim-survivors or other witnesses should at all times be respected.

The Commission's staff should give special attention to sensitivity for survivors of sexual violence. As experience shows, it is very difficult for women to give information to third parties on these issues. The cultural, religious, or traditional stereotypes and practices should also be considered, and where appropriate, addressed.

In order to secure broad participation, there should be wide dissemination of information about the Commission's work prior to, during and after the Commission proceedings.

It will be important for the Commissioners to consult other experts in order to best represent on the diversity of perspectives and expertise that come from different professional and other positions, including lawyers, social scientists, and psychologists, widely respected leaders of women's groups, senior civil servants and members of humanitarian groups with experience on women's issues.

## **SPONSORSHIP**

The ITC-VAW should be convened by civil society, led by the NGO Working Group on Women Peace Security, ideally in affiliation with UNIFEM and the Division for the Advancement of Women (DAW). Support and sponsorship will be sought from a range of international bodies and development groups, non-governmental organizations and national governments. The United Nations Department of Peacekeeping Operations (DPKO) should be approached as a potential sponsor.

Wide consultation should take place with other parties who may be interested in sponsorship. Experts on violence against women and truth commissions, as well as high profile activists and key scholars and other professionals working in related areas, should be encouraged to participate.

## **RESOURCES**

Governments unanimously adopted SC Res. 1325 and thus should be encouraged to fulfill the terms of the resolution. Additionally, fiscal support for the Commission will need to be generated from many other sources. The feasibility of the project is likely to depend on volunteers as well as cost efficient and cost effective structures and processes. Tight budgeting must be carefully balanced with securing adequate resources for the Commission so that it can operate to achieve its mandate in a way that is both effective and well regarded.

It is recommended that a small-centralized secretariat be established to coordinate the project, with one senior project leader (likely a lawyer or social scientist with relevant experience). The location of this secretariat will be dependent on selection of Commissioners and on funding sources.

Each of the Commissioners should be based in their home countries. Travel costs for Commissioners and staff would be one of the major expenses of the project. There would need to be sufficient funding for 1-2 Commissioners to travel to and conduct proceedings in each country where a previous truth commission has been conducted, as well as to attend Commission meetings. Adequate support staff is also critical to ensuring the success of the ITC-VAW.

Competent interpreters, particularly women, with experience in discussing issues surrounding violence against women should be sought and encouraged to participate.

## **FOLLOW UP**

After the completion of a report (or series of reports) which provides information on the experiences and voices of women in areas served by past truth commissions, additional efforts are needed to not only advertise the findings of the report(s), but also outline additional steps needed for a broader Truth Commission on Violence Against Women.

The report should be distributed widely for educational purposes as a basis for training of public officers, armies, health professionals, and to support grass roots movements for women's empowerment. Documents should be translated into all appropriate languages. Access to information about the report(s) or work of the Commission should be readily available on a website.

This should all be done in the context of ongoing efforts to increase awareness of SC Res. 1325 to ensure that gender related crimes are prevented or punished, and that Res. 1325 is implemented.