



PROJECT MUSE®

Intersectionality, Transitional Justice, and the Case of
Internally Displaced Moro Women in the Philippines

Ronli Sifris, Maria Tanyag

Human Rights Quarterly, Volume 41, Number 2, May 2019, pp. 399-420 (Article)

Published by Johns Hopkins University Press



➔ For additional information about this article

<https://muse.jhu.edu/article/725311>

Intersectionality, Transitional Justice, and the Case of Internally Displaced Moro Women in the Philippines

Ronli Sifris & Maria Tanyag

ABSTRACT

This article explores the relevance of adopting an intersectional approach to transitional justice by focusing on the specific context of internal displacement and Moro women in Mindanao, Philippines. The analysis begins with a discussion of the value of adopting an intersectional lens when addressing overlapping and interrelated forms of sexual and gender-based violence perpetrated in armed conflicts. It then proceeds to examine how such an approach may assist in revealing everyday practices that complicate dichotomies of gendered agency and victimhood. Capturing these intersections is vital for ensuring the most marginalized groups of women and girls faced with protracted displacement and compounded suffering are at the heart of transitional justice programs.

I. INTRODUCTION

Over the past four decades, violence has become a way of life in Mindanao resulting in scores of people experiencing immense suffering. In the words of the Transitional Justice and Reconciliation Commission (TJRC), the independent body charged with formulating recommendations for a

Ronli Sifris is a Senior Lecturer in the Faculty of Law, Monash University; Deputy Director of the Castan Centre for Human Rights Law and Co-Convenor of the Monash Law, Health & Wellbeing Group.

Maria Tanyag is a lecturer in International Relations at the Coral Bell School of Asia Pacific Affairs, Australian National University. She was previously a research fellow at Monash University Gender, Peace and Security Centre. Her work has also been published in journals such as *Signs*, *Women's Studies International Forum*, *Gender & Development*, and the *International Feminist Journal of Politics*.

post-conflict agenda in the Bangsamoro, “[i]ncidents of violent conflict and systematic discrimination and exclusion have become a collective experience and memory. The people of the Bangsamoro are poor and tired and they want peace.”¹ Internally displaced Moro women are amongst the most marginalized people in Filipino society. They have suffered in similar ways to Moro men as a result of armed conflicts, but have also endured distinct forms of suffering. Their experience is an example of why transitional justice programs need to adopt an approach that recognizes the intersectional harms endured by marginalized groups. At the same time, when transitional justice is responsive to overlapping forms of inequalities, it can help usher in a more inclusive and sustainable peace.

This article draws from empirical research combining primary and secondary sources of data on conflict-related internal displacements in Mindanao, Philippines. Primary data were gathered using in-depth interviews conducted by Tanyag with thirty-five key-informants from various stakeholders representing government, international organizations, and grassroots civil society groups representing Moro women. Ongoing security threats in Mindanao and ethical concerns on minimizing harms to participants shaped the research in a specific manner. First, participants were identified initially through desk research, existing organizational contacts, and purposive snowball sampling. The interviews were semi-structured and were conducted in two key sites in the Philippines: Metro Manila in the capital and Davao, Mindanao between January and March 2015, and then between March and April 2016. Second, the research relied on secondary sources including survey research conducted in internal displacement sites by the Mindanao Working Group at the Ateneo de Davao University (between 2006 and 2010) and by Nisa Ul Haqq Fi Bangsamoro, a local NGO. These sources were vital given the limitation of the research (interviews were not directly conducted among internally displaced women). Last, the research also drew from official humanitarian crisis monitoring reports and related documents from government, non-government, and international humanitarian organizations, such as those regularly conducted by the Philippine Protection Cluster, UN Refugee Agency (UNHCR), and UN Office for the Coordination of Humanitarian Affairs (OCHA). These different references were analyzed to corroborate and critically interrogate the interview findings.

This article includes three main parts. Part I begins with a discussion of the importance of adopting an intersectional lens when formulating a transitional justice response in order to accurately understand the suffering of the most marginalized groups of women, and to determine the appropriate vehicle for addressing multiple, compounded harms. Part II then provides

1. TRANSITIONAL JUST. & RECONCILIATION COMM'N, REPORT OF THE TRANSITIONAL JUSTICE AND RECONCILIATION COMMISSION, at xi (2016) [hereinafter TJRC].

background and context to the Mindanao conflict, noting that violence in Mindanao has been both vertical and horizontal, but that the peace process has tackled vertical violence primarily. The impact of the lack of recognition of horizontal or within-group forms of violence for Moro women's continued insecurity serves as an illustration of the importance of intersectionality. Women's experiences before, during, and after conflicts are not only gendered, but shaped by other social structures based on class, ethnicity, religion, clan or kinship, age, and sexuality. These interstices help contextualize the varied experiences of agency and victimhood in times of conflict and peace across different groups of women. Finally, in Part III the article turns to assess the movement towards transitional justice in Mindanao, focusing on the Bangsamoro peace process. In this section, it reveals both the notable extent of women's leadership and participation in the peace process and how this representation translated throughout the peace agreement and Report of the Transitional Justice and Reconciliation Commission. Ultimately, however, the article concludes that for advances in transitional justice to be inclusive, they require concerted efforts to reveal and stem the root causes to the continued insecurities experienced by the multiply-vulnerable, such as Moro women in internal displacement.

II. TRANSITIONAL JUSTICE, GENDER, AND INTERSECTIONALITY

Compared to the more established fields of international human rights and international humanitarian law, transitional justice has a relatively short legacy. This short history is reflected in the fact that "[o]nly relatively recently has a distinctly feminist language and methodology emerged."² That said, within this short period, feminists have won significant gains. For example, in a number of transitional contexts, political and social conditions have given rise to new opportunities for women. One illustration is post-genocide Rwanda wherein the Parliament achieved a female majority as a direct consequence of the conflict that created a 70 percent female population owing to disproportionate male deaths; and subsequent institutional reform efforts.³ Generally speaking, women's grassroots movements have advocated, with some success, for a feminist approach to transitional justice; the oft cited example being the increased recognition of certain forms of harm that disproportionately affect women, such as sexual and gender based violence

-
2. Fionnuala Ní Aoláin, *Advancing a Feminist Analysis of Transitional Justice*, in *FEMINIST PERSPECTIVES ON TRANSITIONAL JUSTICE: FROM INTERNATIONAL AND CRIMINAL TO ALTERNATIVE FORMS OF JUSTICE* 43, 44 (Martha Albertson Fineman & Estelle Zinsstag eds., 2013).
 3. Swanee Hunt, *The Rise of Rwanda's Women: Rebuilding and Reuniting a Nation*, 93 *FOREIGN AFF.* 150, 154 (2014).

(SGBV).⁴ Recognition of these forms of harm stemmed from both the grassroots level and the United Nations itself. Thus, since the International Criminal Tribunal for the former Yugoslavia began prosecuting various forms of sexual violence, demanding accountability for such harms has been a mainstay of the transitional justice discourse with the range of crimes gradually expanding to include, for example, forced marriage.⁵ Further, the adoption of UN Security Council Resolution 1325 on Women, Peace, and Security in 2000 constituted formal recognition in the international legal sphere that political violence and its resolution are gendered and “that transitions from political violence should be transformative for women.”⁶ A number of additional Security Council resolutions addressing SGBV in times of conflict followed this groundbreaking resolution.⁷

That said, despite feminist progress in transitional justice discourse, there is still much work to be done. Accordingly, “[f]eminist criticism points to the frequent exclusion of women from transitional justice processes on the ground in transitional states, the elision of gendered harms and the damaging preoccupation of these processes with public harms and the ‘primary’ cause of political violence.”⁸ For instance, transitional justice discourse largely buys into the public/private divide, rendering invisible many of the harms disproportionately suffered by women, domestic violence being the obvious example.⁹ Even within the “public” realm, political repression is frequently conceptualized to exclude gender specific repression, such as virginity testing.¹⁰

The practical effect of the public/private divide leads to a skewed focus on SGBV in the public realm and an emphasis on women’s “secondary victimhood,” which indirectly keeps the emphasis on the public harms suffered by men and away from private harms suffered by women.¹¹ Pursuant to this construct of prioritizing “public” and state-level violence, transitional justice particularly concerns itself with rape in detention or by a member of the armed forces, while rape by a “non-combatant” falls outside of its remit.¹² This is especially relevant in the context of Mindanao where sexual violence perpetrated by private actors in the context of *rido* (i.e., war among

4. See generally CATHERINE O’ROURKE, GENDER POLITICS IN TRANSITIONAL JUSTICE (2013).

5. *Id.* at 18, 22.

6. *Id.* at 3–4.

7. See Resolution 1820, adopted 19 June 2008, S.C. Res. 1820, U.N. SCOR, 5916th mtg., U.N. Doc. S/RES/1820 (2008); Resolution 1889, adopted 5 Oct. 2009, S.C. Res. 1889, U.N. SCOR, 6196th mtg., U.N. Doc. S/RES/1889 (2009); Resolution 1960, adopted 16 Dec. 2010, S.C. Res. 1960, U.N. SCOR, 6453d mtg., U.N. Doc. S/RES/1960 (2010).

8. O’ROURKE, *supra* note 4, at 7.

9. Ní Aoláin, *supra* note 2, at 48, 54.

10. *Id.* at 48.

11. O’ROURKE, *supra* note 4, at 20–21.

12. *Id.* at 25.

clans or tribes) is left “under the radar.”¹³ Rape and sexual violence during times of conflict encompass a broad range of motivations and causes that are not necessarily “strategic” or systematically used as weapons of war.¹⁴ As Fionnuala Ní Aoláin points out, there is a need for “a more nuanced understanding of the intersectionality of violence in women’s lives—the layering of conflict violence, personalised and group vendetta on top of the normalised levels of violence and intimidation for women.”¹⁵ There is a need for a “conversation about the ongoing realities of violence, discrimination and exclusion for women within which the conflict or the repression may only constitute a narrow dimension.”¹⁶ To invoke the Mindanao example once again, Moro women may suffer violence at the hands of the military, rival clans, or their own families. Accordingly, addressing the harms endured by Moro women requires a wider lens than one that focuses solely on traditional forms of state-based violence.

Further, transitional justice discourse fails to challenge systemic, structural issues that are gendered in their impact, such as the effect of neo-liberal economics (i.e., capitalism),¹⁷ issues of systemic discrimination, or violations of economic, social, and cultural rights. As well as having a gendered impact, these issues also lend themselves to an analysis of intersectional harm. For example, women who disproportionately suffer conflict-related poverty are also likely to be women from certain minority ethnic backgrounds—such as Moro or non-Muslim indigenous Lumad women in Mindanao—who face pre-existing discrimination especially in accessing state welfare and resources vital to human development.¹⁸ The impact of these human rights violations is long-term, gradual, and less likely to be episodic than conflict-specific injuries. Thus, the added layers of marginalization have an effect on the daily lives of affected communities beyond the period of conflict. Aisling Swaine points out that “[b]y revealing the gendered norms that inform and are informed by conflict’s key features, feminist inquiry has nudged the boundaries of ‘conflict’ and ‘peace’ to reveal the connections between armed conflict and the pre-conflict legal and social order.”¹⁹ Transitional justice must be attentive to how pre-conflict structural inequalities, especially for women, are multiple and compounded.

-
13. Sara E. Davies, Jacqui True, & Maria Tanyag, *How Women’s Silence Secures the Peace: Analysing Sexual and Gender-Based Violence in a Low-Intensity Conflict*, 24 *GENDER & DEV.* 459, 463 (2016).
 14. Aisling Swaine, *Beyond Strategic Rape and Between the Public and Private: Violence Against Women in Armed Conflict*, 37 *HUM. RTS. Q.* 755, 756 (2015).
 15. Ní Aoláin, *supra* note 2, at 58.
 16. *Id.*
 17. *Id.* at 56.
 18. Sara E. Davies & Jacqui True, *Reframing Conflict-Related Sexual and Gender-Based Violence: Bringing Gender Analysis Back In*, 46 *SEC. DIALOGUE* 495, 501 (2015).
 19. Aisling Swaine, *Law and Negotiation: A Role for a Transformative Approach?*, 7 *GLOB. POL’Y* 282, 282 (2016).

The fact that women are not a homogenous block means that while some women experience compounded and different forms of marginalization, others are able to secure positions of power. This adds significant complexity to the task of structuring an inclusive transitional justice process. For example, as will be discussed below, while many hail the inclusion of women in the Bangsamoro peace process as a feminist victory, a closer examination reveals that women's direct participation was evident only from the State's negotiation team. This is important because the views, interests, and harms addressed by a peace process are typically those of greatest concern to the negotiators; thus leaving the concerns of those without a seat at the negotiating table rarely adequately addressed. This leaves women, especially marginalized women in internal displacement sites, without a voice in the transitional process.²⁰ Invoking a very different example, Eilish Rooney makes the point that working class women were prominent in Northern Ireland negotiations thereby explaining the inclusion of socio-economic issues in that agreement.²¹ Yet, even if broader groups of Moro women were included to a greater extent in the peace negotiations, they may choose to remain silent on those forms of harm that potentially implicate or vilify other members of their "group" or risk "betraying" group identity. In this context, Kimberle Crenshaw's work examining the way that identity politics may lead women from minority groups to subvert their own interests for the sake of the group is highly relevant.²² Moro women may not speak up about the particular harms inflicted on them by Moro men because they prioritize the needs of the Bangsamoro above their needs as women. It is with this in mind that this article now turns to consider the Mindanao conflict and the plight of Moro women.

III. THE MINDANAO CONFLICT: BACKGROUND AND CONTEXT

Violent armed conflict between the Moro liberation fronts and the Philippines' government began in the late 1960s.²³ According to Cordillera Castillo, the "formation of the Ilaga in the late 1960s and the eventual declaration of Martial Law in 1972 was a rupture which marked a profound shift in social relations in Central Mindanao."²⁴ This rupture led to "mass violence and

20. Eilish Rooney, *Intersectionality: A Feminist Theory for Transitional Justice*, in FEMINIST PERSPECTIVES ON TRANSITIONAL JUSTICE, *supra* note 2, at 89, 89–90.

21. *Id.* at 104.

22. See generally Kimberle Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241 (1991).

23. There are two main factions of Moro rebels: Moro Islamic Liberation Front (MILF) and Moro National Liberation Front (MNLF).

24. Rosa Cordillera Castillo, *Perspectives on Truth, Justice, Reparation, and Reconciliation in Central Mindanao*, in MOVING BEYOND: TOWARDS TRANSITIONAL JUSTICE IN THE BANGSAMORO PEACE PROCESS 29, 30 (Venus Betita et al. eds., 2014).

social polarization” in which the various ethnic groups (including Christian settlers, Moros, and indigenous peoples) viewed themselves as the victims.²⁵ It unearthed historical grievances beginning with American colonial rule systematically displacing Moros from traditional lands, subjecting them to discrimination, and denying them access to state resources.²⁶ Presently, the main forms of violence in Mindanao can be categorized as “vertical,” between the State and the Moro liberation fronts, and “horizontal,” between the various ethnic groups and clans. According to estimates from the Bangsamoro Conflict Monitoring System (BCMS), 60 percent of armed conflicts in the most conflict-prone region in Mindanao (Autonomous Region in Muslim Mindanao) involved civilian perpetrators, followed by state armed forces at 19 percent.²⁷ Moro rebel group perpetrators such as the Moro Islamic Liberation Front (MILF) and Moro National Liberation Front (MNLF) were involved in only 5 percent of violent conflicts.²⁸ It is too simplistic to frame the violence as a “Muslim-Christian conflict,” and is equally too simplistic to frame it as political, economic, or socio-cultural.²⁹ For instance in Mindanao, clans and ethnic tribes blur the separation of the different spheres between the government, military, and rebel groups such that it is possible for *rido*, which is technically war among clans or tribes, to eventually “escalate” into violence between MNLF and MILF when key members of these respective groups belong to the feuding parties. This occurs, as Malcom Cook and Kit Collier observe, because “individual clans can be simultaneously represented in local politics, local military commands and local insurgency commands.”³⁰ Conflict strings, as Steven Rood argues, occur when “[w]hat begins as a dispute between families can end with organized armed forces clashing as parties to the dispute persuade others to become involved—or the Philippine military may mistake a clan clash for a separatist operation and intervene on its own.”³¹ The security situation is thus a highly complex amalgamation of ethnic, religious, and cultural violence that has entrenched identity politics, rendering not just the recording of conflicts difficult but importantly the achievement of peace and reconciliation.³²

25. *Id.* at 31.

26. See generally THOMAS M. MCKENNA, MUSLIM RULERS AND REBELS: EVERYDAY POLITICS AND ARMED SEPARATISM IN THE SOUTHERN PHILIPPINES 86–112 (1998); TJRC, *supra* note 1.

27. INT’L ALERT, REBELLION, POLITICAL VIOLENCE AND SHADOW CRIMES IN THE BANGSAMORO: THE BANGSAMORO CONFLICT MONITORING SYSTEM (BCMS), 2011–2013, at 27 (2014).

28. *Id.*

29. Marian Pastor Roces, *Fine Grain and Big Picture*, in MOVING BEYOND, *supra* note 24, at 41, 41.

30. MALCOM COOK & KIT COLLIER, LOWY INST. FOR INT’L POL’Y, MINDANAO: A GAMBLE WORTH TAKING 38 (2006).

31. STEVEN ROOD, E.-W. CTR. WASH., SER. NO. 17, FORGING SUSTAINABLE PEACE IN MINDANAO: THE ROLE OF CIVIL SOCIETY 6 (2005).

32. *Id.* at 6–8.

Protracted, intermittent, and cyclical armed conflicts in Mindanao mean that the insecurities faced by households and communities are not only multiple and compounded, but also increasingly banal and a part of everyday life.³³ In other words, for many in conflict-affected areas of Mindanao, extraordinary violence has become ordinary violence. In many cases, it is through powerful clans that the more pernicious forms of violence have occurred; some such clans have amassed weapons and built private armies to advance their political and economic interests and quell opposition.³⁴ Against this highly complex and volatile background, it is notable that on 27 March 2014 the MILF and the government of the Philippines executed the Comprehensive Agreement on the Bangsamoro, ostensibly ending decades of vertical violence.³⁵ That said, true to the complexity of the Mindanao situation, the peace process failed to address horizontal violence, such as intra-clan violence or *rido*, which remains an ongoing cause of insecurity. The omission of clan and community level violence from the peace process conveniently erases the State's responsibility for addressing such forms of violence, for example by holding members of the MILF to account for the perpetration of violence against civilian Moros, including SGBV. The omission of horizontal violence from the rubric of the peace process has a gendered dimension that replicates the public/private distinction often found in both domestic and international law (discussed above). This article now turns to this issue of the effect of the conflict on Moro women.

A. Effect of the Conflict on Moro Women: An Example of Intersectionality

The prospect of either being forcibly and permanently displaced from their homes or staying and risking exposure to further violence faces families directly located in areas where violent clashes intermittently occur. In 2014, nearly half a million Filipino people (mainly in Mindanao) were displaced.³⁶ The vast majority of displaced persons in Mindanao belong to Bangsamoro. They are amongst the poorest, most vulnerable internally displaced persons in the Philippines.³⁷ Moro women's experiences of displacement as a result of the conflicts in Mindanao is an example of intersectionality. How they

33. See generally INT'L ALERT, REBELLION, POLITICAL VIOLENCE AND SHADOW CRIMES IN THE BANGSAMORO, *supra* note 27; *Philippines: Mindanao Displacement Snapshot (January 2017 to October 2017)*, OCHA SERV. (2017), <https://data.humdata.org/organization/ocha-philippines>.

34. See generally HUM. RTS. WATCH, "THEY OWN THE PEOPLE": THE AMPATUANS, STATE-BACKED MILITIAS, AND KILLINGS IN THE SOUTHERN PHILIPPINES (2010); AMNESTY INT'L, PHILIPPINES: IMPUNITY FOR TORTURE, UNLAWFUL KILLINGS AND ENFORCED DISAPPEARANCES (2011).

35. Davies, True, & Tanyag, *supra* note 13, at 460.

36. *Id.* at 468.

37. *Id.*

are able to navigate daily life across agency and victimhood is not a reflection of their gender, ethnicity, or religion alone, but a reflection of the combination of these attributes. In other words, they suffer not as women and not as Moro, but as *Moro women*. Displacement brings its own form of violence. As the Special Rapporteur on violence against women points out, families “flee to escape arbitrary killings, rape, torture, inhuman or degrading treatment, forced recruitment or starvation, but too often, they encounter the same level of insecurity, violence and threats of violence, reinforced by a climate of impunity, at their destination, including camps for internally displaced persons.”³⁸ In addition to the extraordinary effects of conflict on Moro women unpacked below, the years of conflict, tension, and discrimination against Bangsamoro have had a distinct impact on women in ordinary ways as well. For example, Moro women are easily recognized as such on account of their visible identity markers, such as the hijab and niqab. This has led to difficulties accessing education, employment, and other opportunities.³⁹ The discussion below considers some of the effects of the years of conflict on Moro women, both in the context of displacement and more broadly. These effects constitute barriers that ultimately prevent broader groups of Moro women from becoming full stakeholders in transitional justice and peace in Mindanao.

1. *Paid and Unpaid Work*

Regardless of where families’ displacement occurs, their survival and well-being rely heavily upon the unpaid care and domestic work performed by women. As primary caregivers, women in their roles as mothers, daughters, and wives predominantly perform the unpaid care and domestic work in the family and because displacement is among the key ways by which conflict disrupts (and keeps disrupting) everyday lives, the burden of making life as normal as possible is on women. They do so through the continued performance of daily care and domestic work routines for the family, often under difficult circumstances. As one Moro female informant asserted, just the basic act of food provisioning such as preparing and cooking meals are more difficult in evacuation camps where everything is makeshift.⁴⁰ Women have to routinely deal and “improvise” with sub-standard living conditions as they attempt to fulfill their familial duties. As the “care work responsibilities increase in times of conflict . . . *Babae ang dumi-diskarte* [it is the

38. *Eliminate Violence Against Internally Displaced Women and Girls, say UN Experts*, U.N. HUM. RTS. OFF. OF HIGH COMM’R (2014), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15343&LangID=E> (quoting the UN Special Rapporteur on Violence Against Women).

39. TJRC, *supra* note 1, at 21.

40. Personal Interview with Moro Female, in Quezon City, Phil. (18 Mar. 2015).

women who find ways . . .].”⁴¹ Sometimes, the women ensure the survival of the family by sacrificing their own wellbeing. For example, Moro women reported that when they are displaced and food is lacking, they endure their own hunger as long as the children are able to eat.⁴²

Further, when the men cannot fulfill their traditional duties as the provider or breadwinner of the family—either because they are fighting or have died in conflict—women are both the caregivers and the breadwinners. The role of breadwinner is particularly challenging for women who are only equipped with the skills of homemaker or caregiver and who are at a distinct legal disadvantage. For example, widowed women are not legally entitled to assume ownership of land held in their husband’s name.⁴³ Thus, poverty is a widespread problem and the link between conflict and the feminization of poverty well established.⁴⁴ Female-headed households are prevalent in conflict-affected areas of Mindanao, where the majority of displaced persons are women and children.⁴⁵ Moro women, consequently, may engage in economic activities to ensure that their families survive displacement and are more likely than men—for reasons associated with masculine identity and honor—to ask for humanitarian assistance.⁴⁶ Economic desperation may push women and girls to “sell” their bodies in exchange for relief goods or money to buy them on the black market. This practice, allegedly fairly common, is locally known as *palit bigas*, which literally translates to “in exchange for rice.”⁴⁷ The trade of sex in the Zamboanga and Cotabato displacement camps reportedly thrived within weeks of communities’ displacement there due to scarcity, and inequitable distribution, of local and foreign humanitarian relief assistance.⁴⁸

41. Personal Interview with Female Representative of Int’l Dev. Org., in Davao, Phil. (10 Mar. 2015).

42. EDERLINDA M. FERNANDEZ, CONFLICT, STATE FRAGILITY AND WOMEN’S REPRODUCTIVE HEALTH: THE CASE OF BASILAN, PHILIPPINES 29 (2006) (quoting an internally displaced Moro woman from a focus group discussion).

43. TJRC, *supra* note 1, at 54.

44. *Id.* at 21.

45. INTERNAL DISPLACEMENT MONITORING CTR. (IDMC), NORWEGIAN REFUGEE COUNCIL, PHILIPPINES: LONG-TERM RECOVERY CHALLENGES REMAIN IN THE WAKE OF MASSIVE DISPLACEMENT 7 (2015).

46. Personal Interview with Female Representative of Int’l Dev. Org., in Davao, Phil. (10 Mar. 2015).

47. Personal Interview with Male Representative of Local Nongovernment Org., in Quezon City, Phil. (25 Mar. 2015).

48. Personal Interviews with Female Representative of Local Nongovernment Org., in Quezon City, Phil. (18 Feb. 2015); Personal Interviews with Female Representative of Int’l Dev. Org., in Davao, Phil. (10 Mar. 2015); Personal Interviews with Male Representative of Local Nongovernment Org., in Quezon City, Phil. (25 Mar. 2015); Personal Interviews with Male Country Representative for Int’l Org., in Makati City, Phil. (18 Apr. 2016).

2. Reproductive Health

Conditions of displacement have a negative impact on the health of Moro women. For example, urinary tract infections are common in displacement camps where conditions may be unsanitary and where women may restrict the frequency of their urination due to fear of attack on their way to the facilities.⁴⁹ Further, lack of clean water may mean that Moro women have to choose between carrying out the religious practice of ablution using unclean water, thereby putting their health at risk, and neglecting their religious obligations in the interests of safeguarding their health.⁵⁰ Women's reproductive health may be particularly vulnerable given the lack of access to the full range of reproductive health services in displacement camps and the increased risks to women associated with giving birth in the camps.⁵¹ Childbirth in the IDP camps can also have a traumatizing effect on women. For example, as one woman reported, "[i]t was difficult to give birth inside the tent. It was very cold. Many people were looking at me and I felt helpless and ashamed but could not do anything but suffer in silence."⁵² Thus, Dolores Daguino and Norma Gomez's survey among internally displaced persons in Pikit, Cotabato found that women's reproductive health, including personal hygiene and maternal health care, are the most neglected needs in times of displacement.⁵³

Yet, it is not only the displacement camps, but conflict more broadly, that has compromised women's reproductive health. For example, the UN Populations Fund attributed the high vulnerability of Mindanao women to risky pregnancy and unsafe birth delivery to several decades of armed conflict that weakened health infrastructures in the region.⁵⁴ Further, the lack of reporting of SGBV (discussed below) also contributed to a lack of appropriate reproductive health care services for dealing with such violence. For instance, there is a shortage of emergency contraception, post-exposure prophylaxis for HIV infection, and treatment for sexual transmitted diseases.⁵⁵ History and culture complicates the need for such services and the solution to their absence. Broadly speaking, the absence of contraception is problematic for women's reproductive health, yet the solution is not as simple as merely providing contraception.

49. Dolores S. Daguino & Norma T. Gomez, *Reproductive Health Among the Internally Displaced Persons (IDPs) in Pikit, Cotabato*, 27 PHIL. E-J. 69, 79–80 (2010).

50. FERNANDEZ, *supra* note 42.

51. See generally UNFPA, STATE OF THE WORLD POPULATION 2015: SHELTER FROM THE STORM: A TRANSFORMATIVE AGENDA FOR WOMEN AND GIRLS IN A CRISIS-PRONE WORLD (2015).

52. Daguino & Gomez, *supra* note 49, at 28 (quoting an interview with twenty-eight year old female, Moro IDP).

53. *Id.*

54. *Women Suffer Most in Mindanao Conflict*, IRIN NEWS (28 Nov. 2008), <http://www.irin-news.org/report/81708/philippines-women-suffer-most-mindanao-conflict>.

55. UNFPA, *supra* note 51, at 46, 54.

As noted by a key-informant, “there is some concern although not a major or widespread fear that when you bring contraceptives to Muslim communities that the motive is to control the population of minorities.”⁵⁶ Prevailing ethno-religious tensions thus render the solution to lack of access to health services more complex than simply the availability of such services. Pressures for women to fulfill their role as biological and cultural reproducers intensify during times of conflict. This means that especially in displacement sites, women undergo pregnancy at great personal risk, but doing so may nevertheless benefit group interests in the long run. Moro women’s poor sexual and reproductive health outcomes, especially high maternal mortality and fertility rates, lie within the intersections of state neglect of public health systems in conflict-affected areas of Mindanao, societal pressures to culturally and biologically reproduce clan and ethnic identities in the face of depletion, and wider nationalist struggles defining majority-minority populations.

3. *Rido and the Associated Violence Against Moro Women*

Rido fundamentally links to the deep importance given to ethnic, clan, and kinship identities and the cultural role of family in protecting honor and enacting retribution for crimes against honor.⁵⁷ Although clan feuds may be triggered by disputes over land and material resources, conflicts also arise when families, clans, or ethnic groups struggle to protect their group’s honor which itself has a material base. Inscribed within Moro cultural code is the concept of honor, or “*maratabat*,” something that must be defended strongly, if not violently, when it is slighted or besmirched.⁵⁸ There is thus an assumption of ensuring that each person receives his or her due whether symbolically or materially. Honor-based eruptions of *rido* are particularly gendered when the feud is a response to actual or perceived sexual conduct involving women. The common outcome is a cycle of recurrent revenge killings owing to the deep emotions involved.⁵⁹ In the words of a Mindanao police officer:

When there is *rido*, most of the time, women are not involved in the conflict. But when they are or do get involved, it gets out of proportion. Crimes against chastity, if it happens here, is more than *rido* that is why they get settled immediately in the traditional way. . . . They have this tradition of *maratabat* or the pride of the men who are relatives of the victim and the pride of the women in

56. Personal Interview with Female Representative of Int’l Dev. Org., in Davao, Phil. (10 Mar. 2015).

57. Wilfredo Magno Torres III, *Introduction to RIDO: CLAN FEUDING AND CONFLICT MANAGEMENT IN MINDANAO* 3, 4 (Wilfredo Magno Torres III ed., Expanded ed. 2014).

58. *Id.* at 11.

59. *Id.* at 3.

connection with her male relatives that makes things very complicated—that is why these incidents are settled immediately and no longer get to us.⁶⁰

In fact, the reporting of such violence to the police may be viewed as tantamount to a declaration of war and may therefore escalate the conflict.⁶¹

Further compounding the intersectional aspect of SGBV in Mindanao is the influence of class or clan hierarchy. According to Sara Davies, Jacqui True, and Maria Tanyag, “rape and sexual violence are commonly perpetrated by elite clans and their private armies, against poor women in rival clans, or within indigenous communities. . . . [w]omen belonging to elite clans are less vulnerable to attack.”⁶² Further, such women are more at risk of violent retribution if they officially report the crimes experienced.⁶³ Women without access to adequate male or clan protection, for example, are more often compelled as a rape victim to marry the perpetrator whether this be from the rival clan or state armed forces. Thus, the extent of suffering is not equal among all Moro women. Suffering is further compounded internally within the Bangsamoro at the intersection of gender, ethnicity, religion, and class.⁶⁴

In order to avoid the frequently violent response to crimes against honor, women often remain silent in the face of SGBV due to the burden of embodying clan or ethnic identities, or both. As one key-informant observed, “[N]ot speaking up is a way by which they protect others—their own family (children), or communities from further violence. They would rather be individual victims of sexual violence than allow loss of life through clan wars.”⁶⁵ Further, as SGBV is viewed as an attack on the honor of the woman, her family, and her clan, victims will often remain silent to protect honor. They may also refrain from reporting such violence out of a fear that the “resolution” will involve further self-sacrifice, such as forced marriage with the perpetrator.⁶⁶ As a key-informant emphasized, “[r]ape is very taboo in Mindanao. No reporting or complaints and even if there are legal remedies in place, victims just disappear. . . . Shame, the importance on family/clan identity, honor all these add pressure for victims to just keep quiet.”⁶⁷ Crucially, incidents of SGBV are not unique to *rido* and there are numerous stories of Moro women being abducted, raped, sexually abused,

60. WOMEN ENGAGED IN ACTION ON 1325, WOMEN, PEACE AND SECURITY IN THE AUTONOMOUS REGION IN MUSLIM MINDANAO: A CIVIL SOCIETY REPORT 53 (2016).

61. Davies, True, & Tanyag, *supra* note 13, at 468.

62. *Id.* at 463.

63. *Id.* at 467.

64. *Id.* at 461.

65. Personal Interview with Female Gender Specialist to the Peace Process, in Quezon City, Phil. (3 Feb. 2015).

66. NISA UL-HAQQ FI BANGSAMORO, THE PHILIPPINE (MINDANAO) REPORT, MUSAWAH: A GLOBAL MOVEMENT FOR EQUALITY AND JUSTICE IN THE MUSLIM FAMILY 3–5 (2009).

67. Personal Interview with Female Representative of Int’l Dev. Org., in Davao, Phil. (10 Mar. 2015).

mutilated, and killed by State security forces, as well as reports of trafficking and sex slavery. As pointed out by the TJRC, “[w]omen were victimized, not just because they were women, but because they were *Moro* women” (emphasis added) and cultural norms relating to the masculine “protector” and the feminine “protected” dictate that an attack on women is a vehicle for emasculating and disempowering *their* men.⁶⁸ Reporting in such a situation is even more difficult: first, because the people tasked to protect are also those who perpetrate violence, and second, reporting does not protect them from “losing face” within their communities.

The stigmatization of SGBV leads to failed reporting of such crimes and consequently skews the formal recorded data, which creates the appearance of much lower levels of SGBV than in fact exist.⁶⁹ These internalized barriers to reporting must be borne in mind when formulating appropriate conflict and transitional justice responses. It is not only the stigmatization of SGBV that renders it invisible. Other factors influencing the lack of accurate data relating to SGBV include: lack of secure access to legal mechanisms, bureaucratic disincentives to record such events at the local level, and frequent displacements which render it difficult to identify and monitor affected populations. This lack of accurate data means that SGBV patterns in Mindanao remain unclear, limiting our understanding of the problem’s extent.⁷⁰ As Swaine puts it, “not naming violence silences its link to conflict.”⁷¹ Accordingly, “in the four years that the UN Secretary-General has provided annual reports on sexual violence in conflict-affected situations, neither the Philippines nor Mindanao specifically have been mentioned.”⁷²

B. Towards Transitional Justice in Mindanao

So far, this article elucidated the various forms of intersectional harms endured by Moro women, from displacement to negative health outcomes to SGBV. Using an intersectional lens, Moro women’s experiences in conflict reveal a complex dynamic beyond binary accounts of agency and victimhood. Positive moves are afoot towards transitioning Mindanao from conflict to peace, which, if successful, could immeasurably benefit the lives of Moro women. The following Part examines Mindanao’s movement towards transitional justice and how integrating an intersectional approach can make the security of Moro women a central component of a transitional justice program.

68. TJRC, *supra* note 1, at 36.

69. Davies, True, & Tanyag, *supra* note 13, at 463.

70. *Id.* at 468.

71. Swaine, *supra* note 14, at 775.

72. Davies, True, & Tanyag, *supra* note 13, at 465.

1. *The Bangsamoro Peace Process*

The Bangsamoro peace process, that being the peace process between the government of the Philippines and the Moro Islamic Liberation Front, culminated in the historic signing of the peace agreement on 27 March 2014. The good will and commitment needed on both sides to reach this stage suggest that the signing of the peace agreement is a momentous step towards peace in Mindanao. That said, notably, there are multiple actors and multiple levels of conflict; therefore, it is not anticipated that this peace process will bring to an end all violence in the region.⁷³ Nevertheless, after decades of vertical violence, it represents progress. According to Cardinal Quevedo, a Catholic bishop in Mindanao, the agreement fulfills three fundamental aspirations: “the aspiration of the Moro people for self-determination, and the country’s twin aspirations of preserving national sovereignty and national territorial integrity.”⁷⁴ It is also an expression of transitional justice, which will hopefully help to facilitate peace and reconciliation, lead to increased democratization and accountability, and address the concerns of the various stakeholders in the region.⁷⁵ As further noted by Orlando B. Cardinal Quevedo:

The Annexes of the Comprehensive Agreement on the Bangsamoro spell out major elements of transitional justice, such as respect for fundamental human rights, establishment of new judicial processes, reform of political institutions and processes, reform of security forces, reintegration into ordinary life of former combatants. Educational and religious institutions will have to play their role for reconciliation as they contribute towards the substantial reduction of biases and prejudices among Mindanaons.⁷⁶

Further, the process envisages that the Philippines’ national congress will pass the Bangsamoro Basic Law, “which lays the foundation for the establishment of” an autonomous Bangsamoro region.⁷⁷ This aspect of self-determination goes hand in hand with reparations for land dispossession.⁷⁸

2. *Women’s Leadership and Participation*

The Bangsamoro peace process is historic in terms of women’s leadership and participation.⁷⁹ For example, according to the UN Women Global Study between 1990 and 2011 across thirty-one peace processes that the United Nations was involved in, women represented just “2.4 per cent of

73. *Id.* at 464.

74. Orlando B. Cardinal Quevedo, *Foreword to MOVING BEYOND*, *supra* note 24, at 5, 5.

75. *Id.*

76. *Id.*

77. Galuh Wandita, *Lessons from Aceh for Mindandao: Notes from the Field*, in *MOVING BEYOND*, *supra* note 24, at 20, 22.

78. *Id.*

79. See generally MARIE O’REILLY ET AL., INT’L PEACE INST., *REIMAGINING PEACEMAKING: WOMEN’S ROLES IN PEACE PROCESSES* (2015).

chief mediators, 3.7 per cent of witnesses, and 9 per cent of negotiators.”⁸⁰ In the case of Mindanao, “women made up 50 percent of the government’s negotiating team and 25 percent of the signatories.”⁸¹ Significantly, the government appointed Miriam Coronel-Ferrer, a woman, as chief negotiator and signatory of the peace deal.⁸² Indeed, women’s presence in the peace panel enabled the creation of high-level opportunities for drawing attention to the gendered consequences of armed conflicts and including women in transitional justice processes. For instance, provisions in the peace agreement and succeeding annexes, which specifically address matters of direct concern to women, include:

- a) at least 5 percent of Bangsamoro official development funds must be set aside for supporting women through a gender and development plan (Annex on Revenue and Wealth Sharing, 2013);
- b) the Bangsamoro governance structure shall consist of a council of elders where women and other sectors will be guaranteed representation (Annex on Power Sharing, 2013); and
- c) targeted socio-economic assistance for decommissioned MILF women auxiliary forces (Annex on Normalization, 2014).⁸³

Further, in June 2014, the Global Summit to End Sexual Violence in Conflict recognized the Philippines (with its majority-female delegation) as a “success story” or a model for women’s participation in peacebuilding.⁸⁴ In addition, a key piece of national legislation called the Magna Carta of Women Act of 2009 (Republic Act 9710) specifies the Philippine State’s obligations in conflict situations. For instance, pursuant to section 29, the peace process shall advance with due consideration for increasing the number of women participating in decision-making processes; ensuring that the peace agenda addresses women’s welfare and concerns; and recognizing the role that women play in the peace process. The Philippines is also credited with promoting the Women, Peace and Security (WPS) agenda as the first country in the Asia Pacific region to draft a National Action Plan for the implementation of UN Security Council Resolution 1325. This National Action Plan on 1325 has been “localized,” meaning it has been implemented

80. U.N. ENTITY FOR GENDER EQUAL. & EMPOWERMENT OF WOMEN, *WOMEN’S PARTICIPATION IN PEACE NEGOTIATIONS: CONNECTIONS BETWEEN PRESENCE AND INFLUENCE* 45 (2d ed. 2012).

81. O’REILLY ET AL., *supra* note 79, at 19.

82. Davies, True, & Tanyag, *supra* note 13, at 460.

83. MAVIC CABRERA-BALLEZA ET AL., *GLOB. NETWORK OF WOMEN PEACEBUILDERS, SECURITY COUNCIL RESOLUTION 1325: CIVIL SOCIETY MONITORING REPORT 2014*, at 23, 45 (2014); *see also* O’REILLY ET AL., *supra* note 79, at 24.

84. *Filipina Peacebuilders Lauded for Leadership at Global Summit to End Sexual Violence in Conflict*, REPUBLIC OF THE PHIL. DEP’T OF FOREIGN AFF. (19 June 2014), <https://dfa.gov.ph/dfa-news/dfa-releasesupdate/3250-filipina-peacebuilders-lauded-for-leadership-at-global-summit-to-end-sexual-violence-in-conflict>.

as concrete programs in conflict-affected areas in the Philippines, including Mindanao.⁸⁵ According to Davies, True, and Tanyag, “[t]he Bangsamoro peace process in Mindanao is considered to be relatively inclusive compared to previous negotiations . . . yet our assessment is that it is still characterised by limited representation and participation of diverse groups . . . affected by conflict, particularly marginalised women.”⁸⁶ It is to this deficit that this article now turns.

3. *The Gender Deficit*

The success story behind women’s participation in the Bangsamoro peace process is significantly more apparent in the case of women on the government panel rather than the MILF’s. By and large, the “MILF leadership is still very patriarchal and this was made evident throughout the peace process.”⁸⁷ Overall, the MILF’s side of the negotiating table remained exclusively male and never had a frontline female representative despite having female auxiliary forces.⁸⁸ In other words, the number of women involved within various roles in the peace process gradually increased, however, this increase reflects the government panel and broader groups of Moro, where women’s participation were limited to indirect consultations spearheaded by the government.⁸⁹ Further, the exclusion of Moro women at the national level from the Bangsamoro peace process serves to maintain the faulty image that Moro women are in need of protection, whose best interests can only be articulated by their protectors—male MILF leaders at the negotiating table.⁹⁰

According to a female representative of an international organization involved in capacitating women in peacebuilding, “we were unable to access BIWAB [Bangsamoro Islamic Women Auxiliary Brigade]. The MILF leaders were very protective of them and would not let us meet.”⁹¹ Accordingly, as is becoming a somewhat familiar refrain in transitional justice discourse, while women’s participation in peace negotiations increased, there lacked direct participation of marginalized women, in this case Moro women. The deeply embedded norm of Moro masculine pride in part shapes the MILF’s

85. MAVIC CABRERA-BALLEZA ET AL., *supra* note 83, at 8; WOMEN ENGAGED IN ACTION ON 1325, *supra* note 60, at 27.

86. Davies, True, & Tanyag, *supra* note 13, at 469.

87. Personal Interview with Female Representative of Non-Government Org., in Quezon City, Phil. (15 Apr. 2016).

88. MAVIC CABRERA-BALLEZA ET AL., *supra* note 83, at 23.

89. O’REILLY ET AL., *supra* note 79, at 21–22.

90. The only exception is the lawyer, Raissa Jajurie, who led the legal team of the MILF. The MILF negotiating panel never had a female. See Yasmin Busran-Lao, *Peacebuilding From the Grassroots to the Peace Table and Back*, KABABAIHAN AT KAPAYAPAAAN, March 2014, at 8, 9.

91. Personal Interview with Female Representative of Int’l Org. Involved in Capacitating Women in Peacebuilding, in Quezon City, Phil. (19 Apr. 2016).

resistance to including women within their ranks, even as they negotiated with women from the government. The lack of direct participation among Moro women on the MILF panel is telling of the prevailing masculinist biases within the Moro rebel group.⁹² Indeed, minority populations' claims to self-determination and political autonomy—when applied without regard to intersectionality—may serve to further embed women within patriarchal structures that deny them of bodily autonomy, and define their experiences of insecurity.

This dilemma pre-dates the peace process as, since the 1970s, Moro societies in Mindanao lived under plural legal systems. Moros are subject to Sharia Law for personal and family relations. In addition, they may also settle grievances through customary laws. Under Presidential Decree 1083, also known as the Code of Muslim Personal Laws (CMPL), the Code shall prevail over national laws that conflict with its provisions. The code predates the country's signing of the UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), and other national laws on gender equality have not been reviewed since its enactment and survive the peace deal.⁹³ Accordingly, while the precarious conditions of Moro women are exacerbated by armed conflicts, they are also rooted in pre-existing patriarchal structures that undermine their bodily autonomy and other rights.

The peace deal, secured by an all-male MILF panel, seeks to expand and further entrench Sharia law under the envisioned autonomous Bangsamoro region. Evident in the cases of CMPL and Sharia provisions within the Comprehensive Agreement on the Bangsamoro are that the ability to still practice traditional laws and customs underpins the group right of the Bangsamoro to self-determination, articulated primarily from the vantage point of male Moro rebels. Many of these traditions, however, relate to regulating the family and proscribing appropriate sexual relations and reproductive practices, to women's detriment. As Ní Aoláin and Rooney observe, "transitions may result in a reordering and transformation of the public whilst simultaneously contributing to the reassertion of patriarchy in the private."⁹⁴ The Bangsamoro peace process, much like the CMPL, subordinates substantive gender reforms, including the promotion of sexual and reproductive rights to that of more "political" goals within nationalist struggles, precisely because this serves the interests of male MILF rebels. This also explains the absence of discussions relating to SGBV from the peace process, despite the high rates

92. Miriam Coronel-Ferrer, *Woman at the Talks*, in KABABAIHAN AT KAPAYAPAAN, *supra* note 90, at 3–5; ANNALISE MOSER, GLOB. NETWORK OF WOMEN PEACEBUILDERS, WOMEN COUNT: SECURITY COUNCIL RESOLUTION 1325: CIVIL SOCIETY MONITORING REPORT 10–11 (2010).

93. Isabelita Solamo-Antonio, *The Philippine Shari'a Courts and the Code of Muslim Personal Laws*, in THE SOCIOLOGY OF SHARI'A: CASE STUDIES FROM AROUND THE WORLD 83, 83 (Adam Possamai, James T. Richardson, & Bryan S. Turner eds., 2015).

94. Fionnuala Ní Aoláin & Eilish Rooney, *Underenforcement and Intersectionality: Gendered Aspects of Transition for Women*, 1 INT'L J. TRANS'L JUST. 338, 349 (2007).

of such violence directed against Moro women; and in turn the failure of the peace process to address the conditions underpinning the continued perpetration of SGBV or to establish adequate accountability or reparations measures for victims.⁹⁵

In a struggle between violations of women's rights and violations of ethnic or religious rights, the transitional justice process in the Philippines has to date prioritized ethnic and religious rights. There has been little effort to find a way to address the intersection of gender, class, ethnicity, and religion. The Mindanao peace process raises a number of important questions from the perspective of the role of gender in transitional justice, for example: How should transitional justice deal with recognizing the group right to self-determination on the one hand and violations of women's rights by group culture on the other? How should transitional justice ensure that the voices of *all* women are heard? What responsibility does the State have to protect the rights of minority women and what happens when violations of those rights occur in the private (as opposed to public) space? The Report of the Transitional Justice and Reconciliation Commission seeks to grapple with some of these questions. It is to an examination of this Report that this article now turns.

C. Reports of the Transitional Justice and Reconciliation Commission

The Transitional Justice and Reconciliation Commission (TJRC) was established in 2014 as part of the Normalization Annex of the Framework Agreement on the Bangsamoro. It was mandated to “undertake a study and to make recommendations with a view to promoting healing and reconciliation among the different communities affected by the conflict in Mindanao and the Sulu archipelago.”⁹⁶ After an extensive consultation process, the TJRC released its first report in February 2016, concluding that:

[T]hese issues are the result of three interlocking phenomena—violence, impunity, and neglect—which, in turn, are rooted in the imposition of a monolithic Filipino identity and Philippine State by force on multiple ethnic groups in Mindanao and the Sulu archipelago that saw themselves as already preexisting nations and nation-states.⁹⁷

As part of its recommendations for “dealing with the past,” the TJRC recommended a transitional justice framework, which included measures related to truth—notably the establishment of a national truth commission—justice,

95. Davies, True, & Tanyag, *supra* note 13, at 463, 468.

96. TJRC, *supra* note 1, at x.

97. *Id.* at xi.

reparations, and institutional reform, and emphasized the need for gender and cultural sensitivities to be taken into account.⁹⁸

Significantly, the TJRC consisted of seven members, one of whom was a Senior Gender Adviser. Thus, from the outset the TJRC recognized the importance of looking at the conflict and its resolution through a gendered lens. This strong gender integration within the transitional justice framework is a clear continuation and impact of promoting gender equality within the Bangsamoro peace process. For example, the TJRC emphasized the impact of the years of conflict on Moro women and the extent of SGBV perpetrated during the conflict. It underscored many of the issues discussed above, including matters relating to discrimination, displacement, human trafficking, and the link between conflict and poverty.⁹⁹ It also recognized violations of both civil and political rights, as well as economic, social, and cultural rights, and their unique impact on women. Importantly for this article, the Report also highlights the intersectional nature of the suffering endured by Moro women. For instance, the Report notes “numerous cases of gender discrimination in the disregard for established customs,” such as replacing female *Panglima*, who traditionally served as counsellors of the Sultan, with men.¹⁰⁰ In addition, the Report discusses the economic effects of the conflict on Moro women who are unprepared to be breadwinners due to cultural demarcations of traditional roles.¹⁰¹ Further, in the context of SGBV, it identifies that “[w]omen were victimized, not just because they were women, but because they were Moro women” and stresses the double-victimization arising from the cultural stigmatization of SGBV, leading to the silencing of victims.¹⁰²

In February 2017, the TJRC released two supplementary reports. The first is entitled the “Listening Process Report” to highlight the importance of grassroots consultations and dialogue for sustainable peace.¹⁰³ This report elaborates on the contextual evidence through direct accounts or “voices” of communities affected by conflict to substantiate the recommendations outlined in the first report. The second report, the “Land Report,” specifically identifies the significance of land disputes as a major source of violence. Consequently, the report stresses the promotion of land rights in Bangsamoro as a key route to sustainable peace.¹⁰⁴ These reports represent a small initial step towards a comprehensive transitional justice program in Mindanao, but it is an important step, particularly as many of the recommendations are

98. *Id.* at 74.

99. *Id.* at 21.

100. *Id.* at 28.

101. *Id.*

102. *Id.* at 36.

103. See generally TRANSITIONAL JUST. & RECONCILIATION COMM’N, TJRC LISTENING PROCESS REPORT (2017).

104. See generally TRANSITIONAL JUST. & RECONCILIATION COMM’N, TJRC LAND REPORT: DEALING WITH THE PAST AND LAND DISPOSSESSION (2017).

directed towards the implementation of specific transitional justice measures. The recommendations from the TJRC focus and expand upon the right to the truth and the duty to preserve memory, the right to justice, the need for a comprehensive reparations program, and the importance of preventing further violations and of establishing good governance and the rule of law. A number of the recommendations aim specifically at addressing the suffering of Moro women. For example:

- “[d]evelop culturally and gender-sensitive educational material related to the Bangsamoro;”¹⁰⁵
- create gender-balanced technical working groups in the field of education;¹⁰⁶
- establish gender-sensitive health care services;¹⁰⁷
- elaborate on a “gender-sensitive development plan;”¹⁰⁸
- “[i]nstitutionalize capacity building for women;”¹⁰⁹
- ensure Moro women’s “meaningful political participation;”¹¹⁰
- “[e]nhance the National Action Plan on Women, Peace and Security to include a Regional and / or Local Action Plan on UN Resolution 1325 and 1820 in the [Autonomous Region of Muslim Mindanao];”¹¹¹ and
- “[e]ncourage [recruitment of [more] Moro women” in the armed forces and police.¹¹²

According to Priya Pillai, from a gendered perspective, the first report is significant in a number of ways. For instance, its focus on structural issues and causes of the conflict enables a more holistic and comprehensive understanding of the situation. Further, the attention paid to the experiences of marginalized women is a significant step, as is the attention to issues beyond SGBV, such as the economic impact of the conflict.¹¹³ Transitional justice, from these reports, embodies a conceptualization of justice beyond “dealing with the human rights abuses of previous regimes” and towards addressing gender within the intersections of historical grievances and contemporary women’s rights.¹¹⁴ Whether the TJRC’s recommendations are effectively implemented remains to be seen.

105. TJRC, *supra* note 1, at 81.

106. *Id.*

107. *Id.* at 85.

108. *Id.* at 86.

109. *Id.* at 89.

110. *Id.*

111. *Id.* at 88.

112. *Id.* at 90.

113. Priya Pillai, *The Report of the Philippine Transitional Justice & Reconciliation Commission: Amplifying the Voices of Women*, GEORGETOWN INST. FOR WOMEN, PEACE & SEC. BLOG (30 Mar. 2016), <http://giwps.georgetown.edu/the-report-of-the-philippine-transitional-justice-reconciliation-commission-amplifying-the-voices-of-women/>.

114. Ní Aoláin & Rooney, *supra* note 94, at 338.

IV. CONCLUSION

The signing of peace agreements is an important step in transitioning to peace and justice. As historically contingent artifacts, they hold promise for enabling transitional justice mechanisms that can deepen human rights commitments and usher inclusive peace. This article used the case of Moro women and internal displacement in Mindanao, Philippines to examine how the adoption of an intersectional approach can enrich and render meaningful transitional justice mechanisms. First, the article demonstrated the significance of incorporating an intersectional lens to understanding the gendered dynamics of armed conflicts and peace processes. Second, employing intersectionality in the analysis of conflict and peace, the article also showed how multiple structures of inequality penetrate transitional justice approaches. That is, this article demonstrated that intersectionality is a lens through which to understand women's experiences before, during, and after conflicts.

Transitional justice, from the standpoint of the most marginalized and internally displaced Moro women, requires eliminating root causes of all forms of insecurity in both public and private spheres, as well as across all relations of power based on gender, class, religion, and ethnicity. The full implementation of justice and reconciliation throughout all stages of reform in Mindanao must not lose sight of the implicit intersectional approach embedded within the TJRC reports. Capturing these intersections is vital for ensuring the most marginalized groups of women and girls faced with protracted displacement and compounded suffering transform into equal stakeholders in transitional justice programs.