



Transitional Justice 'Gender' Bias: Examining Conflict-related Sexual Violence
Discourse in select African Truth Commissions.

by

Lesego Sekhu

1849304

Supervisor

Dr Christine Bischoff

Department of Sociology

A Master's Research Report

Submitted to The Faculty of Humanities, School of Social Sciences

University of the Witwatersrand

In Partial Fulfilment of the Requirements

for the Degree MA Sociology

March 2025

Plagiarism Declaration

I, **Lesego Sekhu**, student number **1849304**, earnestly declare that this research report, ethics clearance number **SOCL-2023-06**, is entirely my own work and has not been submitted for examination at any other academic institution. I am fully aware of the ethical implications of plagiarism and the significance of academic integrity. Therefore, all external sources used in this research have been cited and referenced in compliance with the academic standards of the University of the Witwatersrand.

Signature: 

Date: 21 August 2025

Dedication

"By words, we learn thoughts, and by thoughts, we learn life"- Jean Baptiste Girard

Today, more than ever, knowledge is power. The intersection of misinformation, disinformation, and discrimination demonstrates the calculated effort to distort reality, incite division, and erode trust in our social fabric.

Words are instrumental in articulating how we see ourselves and others, our world, and what is possible. This research study advocates for the transparency of knowledge production and the economies around it that influence what is spoken about and what is meant in what is not spoken.

I dedicate my thesis to my community, who have been beside me during the process of writing this ambitious paper. Thank you to my family, Ma, Daddy, and Tee, for your unwavering support, love, and belief in me. From the moment I applied to pursue my Master's to this moment of submission, you have been by my side, encouraging me at every step. I thank you dearly- this is as much mine as yours.

I express my deepest gratitude to my supervisor, Dr. Christine Bischoff. Thank you for meticulously reading every draft, for your constructive feedback, and for your constant encouragement, especially when I doubted myself. It has been a true privilege to work with you.

This thesis would not have been possible without all of you.

Abstract

The prevalence of conflict-related sexual violence (CRSV) has significantly shaped transitional justice mechanisms, particularly truth commissions (TCs), by influencing the methodologies, data types, and institutional responses with the aim to address sexual violence during conflict. Despite these advances, heteronormativity—particularly cisgenderism and forced heterosexuality—remains a dominant framework in transitional justice, influencing what is recognised and excluded in discussions on gender, sexual violence, and conflict. Using a case study methodology, this study examines how African TCs comprehend gender and its implications for the recognition, documentation, and archiving of CRSV. It analyses three key mandates and final reports: the 2004 Sierra Leone Truth and Reconciliation Commission (SLTRC), the 2013 Kenyan Truth, Justice and Reconciliation Commission (TJRC), and the 2021 Gambian Truth, Reconciliation, and Reparations Commission (TRRC). Guided by a constructivist analysis and informed by the theories of coloniality of power and coloniality of gender, this research finds that although CRSV is prioritised, these commissions often adopt a binary, universalised sex/gender model which privileges heterosexual narratives and marginalises diverse sexual and gendered experiences of violence. The findings reveal that TCs both reproduce and resist colonial and heteronormative legacies, offering critical insights into the production of knowledge about CRSV in African post-conflict transitions.

Keywords: African Truth Commissions, Conflict-related sexual violence, Coloniality, Gender, Sexual and Gender minorities.

Table of contents

Plagiarism Declaration	2
Dedication	3
Abstract	4
List of Figures	7
List of tables	8
List of abbreviations.....	9
Chapter one: Introduction to the study.....	10
1.1. Introduction	10
1.2. Research Aim	12
1.3. Research Problem	13
1.4. Research Questions	14
1.5. Research Objectives.....	15
1.6. Outline of subsequent chapters	15
Chapter Two: An overview of the history of conflict and sexual violence in Sierra Leone, Kenya, and The Gambia	16
2.1. Introduction	16
2.2. Sierra Leone	16
2.3. Kenya.....	19
2.4. The Gambia	22
2.5. Chapter Summary	25
Chapter Three: The Presence of the Colonial Past in Contemporary Human Rights	26
3.1. Introduction	26
3.2. Coloniality of power and its impact on knowledge production	26
3.3. Coloniality of Gender	32
3.4.TCs: Guardians of international norms and standards	34
3.5. TJ: The discourse of conflict-related sexual violence	40
3.6. Chapter Summary	47
3.7. Conceptual Framework.....	48
Chapter Four: Methodology	49
4.1. Introduction	49
4.2. Study scope	49

4.3. Research Methods	52
4.4. Sampling.....	56
4.5. Data Analysis Strategy	57
4.6. Validity and Self-reflection.....	59
4.7. Ethical considerations of the study.....	61
4.8. Chapter Summary	62
Chapter Five. Norms and Narratives: How TC's Interpretation of gender shapes conflict-related Sexual Violence.....	64
5.1. Introduction	64
5.2. Norms and Narratives: How international norms shape gender and violence	64
5.3. Dominant discourse of conflict-related Sexual Violence	68
5.4. Encouraged silence	86
5.5. Chapter Summary	89
Chapter Six: Hetero-conformity and Compulsory Heterosexuality in African Truth Commissions.	90
6.1. Introduction	90
6.2. Part one: Evolution of international norms and standards on the gendered perspective of conflict and its impact on local African contexts.	90
6.3. Part two: The dominant discourse in CRSV	100
6.4. Part Three: The consequence of CRSV dominant discourse.....	106
6.5. Part Four: Encouraged silence (conspiracy of silence): The impartiality of the historical record of violations.	110
6.6. Chapter Summary	114
Conclusion.....	116
7.1. Introduction	116
7.2. Impact of coloniality of gender on how African truth commissions interpret conflict-related sexual violence	116
7.3. Study implications.....	120
7.4. Limitations.....	121
7.5. Recommendations	121
Reference list:	123
Appendix A: Ethics Clearance	145

List of Figures

Figure 1: Administrative provisions for selecting SLTRC committee members -----	69
Figure 2: SLTRC procedure for the appointment of Commissioners -----	70
Figure 3: Criteria for establishing special units for the Kenyan TJRC-----	70
Figure 4: The Gambian TRRC human rights violations definition in the mandate -----	71
Figure 5: TRRC Special procedures mandated for SGBV testimony -----	71
Figure 6: TRRC definition of witness and victim included in the mandate-----	72
Figure 7: SLTRC policy for investigating CRSV in methodology and processes in the final report-----	73
Figure 8: Example of the SLTRC statement forms -----	73
Figure 9: Excerpt of the processes and methodology of the SLTRC documenting sexual violence -----	74

List of tables

Table 1: International and regional principles and conventions about sexual and gender-based violence-----	66
Table 2: International and regional principles and conventions about sexual and gender-based violence and their gender categorisation-----	94

List of abbreviations

<i>ACA</i>	Abuja Ceasefire Agreement
<i>AFRC</i>	Armed Forces Revolutionary Council
<i>CAR</i>	Central African Republic
<i>CEDAW</i>	Convention on the Elimination of All Forms of Discrimination Against Women
<i>CRSV</i>	Conflict-related Sexual Violence
<i>DRC</i>	Democratic Republic of Congo
<i>GBV</i>	Gender-based Violence
<i>HIV</i>	Human Immunodeficiency Virus
<i>ICC</i>	International Criminal Court
<i>KANU</i>	Kenya African National Union
<i>LGBTQ+</i>	Lesbian, Gay, Bisexual, Transgender, and Queer
<i>LPA</i>	Lome Peace Agreement
<i>MSM</i>	Men who have Sex with Men
<i>PAPT</i>	President's Alternative Treatment Programme
<i>RUF</i>	Revolutionary United Front
<i>SGBV</i>	Sexual and Gender-based Violence
<i>SV</i>	Sexual Violence
<i>SLTRC</i>	Sierra Leone Truth and Reconciliation Commission
<i>TC</i>	Truth Commission
<i>TJ</i>	Transitional Justice
<i>TRC</i>	Truth and Reconciliation Commission
<i>TJRC</i>	Truth, Justice and Reconciliation Commission
<i>TRRC</i>	Truth, Reconciliation and Reparations Commission
<i>UN</i>	United Nations
<i>WPS</i>	Women, Peace and Security
<i>WSW</i>	Women who have Sex with Women

Chapter one: Introduction to the study

1.1. Introduction

“Every new wave of warfare brings with it a rising tide of human tragedy, including new waves of war’s oldest, most silenced, and least-condemned crime.”

On 14 July 2023, during a day-long meeting with United Nations Security Council delegates from 15 nations, Pramila Patten, Secretary-General Special Representative on Sexual Violence in Conflict (SRSG/SVC), spotlighted the alarming rise in conflict and the corresponding increase in reported cases of sexual violence. Sexual violence is a historical and recurrent feature of conflict. Nevertheless, the escalation of conflict across the globe—often rooted in colonial legacies, international interference, or unresolved historical injustices—in countries including the Democratic Republic of the Congo (DRC), Ethiopia, Haiti, Iraq, Palestine, Ukraine, and South Sudan, which faces renewed civil war, exposes millions of civilians to unprecedented levels of conflict-related sexual violence (CRSV).

CRSV is a form of sexual and gender-based violence (SGBV) commonly referring to rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilisation, castration, genital beatings, forced marriage, and any other sexual violence of comparable gravity. These violations are perpetrated against women, men, girls and boys directly or indirectly linked to conflict. Highlighting the global oversight and impunity of this violence, Patten expressed concern about the persistence of CRSV despite increasing public discourse, condemnation, and commitment from different stakeholders to fight against this violence.

Over the past two decades, CRSV discourse has grown in line with broader conflict and transitional justice (TJ) study trends, emphasising the complexities of context-specific histories of conflict, violence, human rights abuses, and political transitions. International and local Women's movements, feminist scholars, and policymakers have long challenged the view of sexual violence as an inevitable consequence of war, instead framing it as a form of political violence and a tool of social control that threatens women's security in both peacetime and conflict (Meger, 2016, p. 150). For this reason, the increase in CRSV discourse is primarily attributed to feminist mobilisation and interventions highlighting the gendered dimensions of conflict, violence, and authoritarianism (Bell & O’Rourke, 2007; Scully, 2009; O’Rourke, 2013; Schulz, Hamber & Touquet, 2024).

These insights have shaped international peacebuilding and humanitarian approaches, including the monumental 2000 United Nations 1325 Resolution on Women, Peace and Security (WPS) agenda, the first international resolution explicitly emphasising gendered experiences of violence. The frequent occurrence of CRSV in recent conflicts and the long-lasting trauma and physical health issues have contributed to advocacy needs in affected

communities. Subsequent policy developments have translated into international and regional principles, policies, advocacy campaigns, research, and institutions recognising CRSV survivors' circumstances and needs.

Despite the perceived achieved 'progress', little is currently known about sexual and gender minorities¹, inclusive of non-binary, transgender, and queer peoples, specific vulnerabilities to sexual violence in conflict and their post-conflict needs. These exclusionary continuities demonstrate a "capture problem with gendered harms" (Ní Aoláin, 2012, p. 205), with cisgender and forced heterosexuality underpinning mainstream discourses about gender, sex, sexuality, sexual violence, and conflict. This distorts the discourse about CRSV with sexual and gender minorities' experiences left unaccounted for in mainstream conversations about gender and conflict (Fobear, 2014; Hagen, 2016; Lee, 2022; Schulz et al., 2024).

To analyse this 'capture problem' in dominant CRSV discourse, this study adopts a social constructivist perspective to challenge dominant narratives. I argue that ideas, norms, identity-making, language are not neutral and instead play a critical role in shaping dominant theory and knowledge development around gendered violence, particularly CRSV, in African TJ and peacebuilding discourse.

Using a case study approach, the research examines three key African truth commissions (TC) mandates and final reports to investigate how they understand and contribute to the normative knowledge of CRSV. In societies recovering from conflict, repressive politics, and human rights violations, TCs are a key tool in TJ (Hayner, 2000; Ben-Josef Hirsch, 2014), fulfilling the principle of truth-seeking and reparations. These non-judicial bodies, established by governments or official authorities, investigate past patterns of human rights abuses (Hayner, 1994, 2000; Langer, 2017). Over time, TCs have evolved from "weaker alternatives to trials" to "complementary judicial options," reflecting the growth of international humanitarian norms regarding justice, peace, and reconciliation in post-conflict settings (Ben-Josef Hirsch, 2014).

The three case studies analysed in this research are the Sierra Leone Truth and Reconciliation Commission (TRC) (2002-2004), the Kenya Truth, Justice and Reconciliation Commission (TJRC) (2008-2013), and the Gambia Truth, Reconciliation and Reparations Commission (TRRC) (2017-2021). These are the only African TCs that explicitly included SGBV as a thematic investigative issue in its mandate, operations, and recommendations. Sexual violence across these African contexts remains a taboo subject; therefore, their

¹ The use of sexual and gender minorities takes lead from decolonial literature, demanding the recognition of African and indigenous sexual and sexualities subjectivities that can exist outside the global knowledge of lesbian, gay, bisexual, transgender (LGBT). In our decolonising efforts, we should recognise that our ability to practice coloniality in applying an external language to unfamiliar, understudied subjectivities. However, where relevant to the literature used in the paper, if other authors use LGBT I will use the same language in my critique.

inclusion brings to light the extent of sexual violence during the conflict, showing us the efforts made in transitioning societies to address past sexual and gendered harms.

The research study is grounded in decolonial theoretical framework, employing Aníbal Quijano's (2000) *theory of coloniality of power* and Maria Lugones's (2007, 2016) *theory of coloniality of gender*. Quijano's (2000, 2007) theory of coloniality of power critiques the centrism of European knowledge in formerly colonised societies and the struggle for epistemic autonomy in these contexts. Correspondingly, Lugones (2016) offers a critical theoretical insight to gender norms construction, interpreting the modern gender/sex system as a colonial area of existence in which power is delineated. She believes gender to be a category of the separation of power as a means to control and exploit. Given the Anglo-colonial history of these three African contexts, these theories reveal the persistence of colonial, heteronormative, and cisnormative logics within transitional justice frameworks of gender and the current theorisation of CRSV.

This study argues that the prevailing conceptualisation and theorisation of CRSV within TJ processes lack the gendered and racial theoretical capacity to comprehend same-sex sexual violations, particularly in hostile environments, where currently conflict actors often embody cisgender and heterosexual norms. As Crawford (2013, p. 505) argues, the current framing of sexual violence isolates the violence conceptually through language, "it affects the types of wartime sexual violence is recognised and condemned by the international community, [thus establishing] the kinds of 'victims' granted assistance... empowered agents, or perpetrators."

By employing the theoretical lenses of power and gender, I ask critical questions about the intersections of gender, sexuality, race, and power within universalised norms and standards of CRSV. I explore how can decolonial theory, underpinned by feminist and queer critical thought, enhance our understanding of gender, sexualities, armed conflict, and conflict transitions? By adopting this approach, the study contributes to emerging literature, raising critical questions about the different systems of oppressive power and how TJ addresses intersectional interpretations of power.

1.2. Research Aim

In more traditional disciplines, including particular post-colonial and economic corners, colonialism is considered a period that no longer exists. This is because colonialism has long been theorised to be specific to a time-and-space that relies on policies, occupation of land, exploitation of resources, and political control. Dispelling these views, this study illustrates the continuities of colonial violence in TJ theory development, focusing on the description of CRSV and the methodology of how this violence is captured in African TCs and circulated within the pyramid of knowledge production.

For a very long time, ‘truth’ and facts were privileged concepts, experiences, and epistemology. In the system of colonialism, Eurocentric knowledge systems were the only accepted producers of knowledge. This left colonised peoples' knowledge *othered* under the authority of the universalisation of Eurocentrism.

Adopting a decolonial analysis, the concept of coloniality, referring to the regionalism of knowledge according to theories of Western modernity, Eurocentrism, and global capitalism as a means to control and manage perceptions of reality and understanding (Quijano, 2000; Mignolo & Walsh, 2018) is central to this research study. The theory of coloniality considers that the beliefs of the central and the periphery of knowledge are colonial in their conception and that Eurocentric knowledge and perceptions of reality are universal, neutral, and apolitical. By examining how select African TCs interpret gender and how this influences our knowledge about CRSV, the study documents the power dynamics involved in the politicisation of knowledge development.

In this moment of history, often ‘eulogised’ as a post-truth politics era, this study advocates for the transparency of language and discourse and how we build the world around us and define to each other and ourselves what is real, in this case, true and what is not true. The research question and sub-questions aim to document the historical power structures that continue to shape culture, labour, romantic and platonic relations, intellectual life, and, in our case, shape interpretations of conflict, violence, and sexual violence. The research study examines the consequences of colonialism in today’s interpretation of violence and our complicity as knowledge producers in our roles as TJ scholars and practitioners. It serves as social commentary on our interactions with the past and present and what tells us about how we imagine the future through knowledge development, hoping to contribute to critical discussions on decolonising the discipline of TJ and, more broadly, peacebuilding and humanitarian education.

1.3. Research Problem

The United Nations Development Programme (UNDP) reported in 2022 that rape and sexual violence in conflict are increasing alongside the rising tide of conflict around the world. Women and girls, often collectively reported on, are recorded to be disproportionately affected by CRSV. Evidence supports their over-emphasis in reporting. The United Nations Regional Information Centre (UNRIC) reported that “95% of the total 3,622 UN-verified reported cases of CRSV were by women and girls, with men and boys at 4%” (UNRIC, 2024). The UNDP reported in 2022 that it is estimated that for every reporting of sexual violence by a woman, a further 10 to 20 cases go unreported and left unaddressed (Brown & Lavoie, 2022). Therefore, much of the reported data is a conservative estimate.

For long, much of the media, educational and information campaigns, and policies have been oriented towards the protection of women and girls against sexual violence during conflict.

TJ and peacebuilding scholars and practitioners (see Schulz, 2016, 2018, 2020; Dolan, Baaz & Stern, 2020; Njoku & Dery, 2021; Chynoweth, Buscher, Martin & Zwi, 2022; Yagi, Malette, Mwindo & Maisha, 2022) have critically problematised the theorisation that CRSV only affects women and girls by documenting and reporting on the impacts of sexual violence against men and boys. This has been welcomed with contemporary reporting of CRSV, including men and boys as victims and not just perpetrators of CRSV.

This research study pushes the gender question by questioning the present gendered gaze in the current reporting of CRSV and gendered conflict perspectives to include sexual and gender minorities. Sivakumaran (2007) laments the underreporting of sexual violence by men against men, stating that if sexual violence is reported as pervasive during the conflict, then men and boys are victims too. This research report adds to this claim from more than a decade ago by making the statement that if sexual violence is reported as pervasive, then sexual and gender minorities are victims of sexual violence. Latin American TCs, including the 2022 Colombian Truth Commission, Comisión de la Verdad, have taken the initiative in reporting LGBTQ+ victims of conflict violence, including sexual violence. Comparatively, no African TC has reported on sexual violence against sexual and gender minorities.

Despite the merits of progress, TJ, in this case, African TCs, have limitations in conceptualising gender and gendered harms. The contemporary reporting of CRSV supports prescriptive narratives of sexual and gender-based violence (SGBV), excluding non-binary, gender-fluid, and transgender victims and perpetrators from CRSV discourse, resulting in the distortion of this violence as well as the policies of redress intended to protect against and establish measurements of accountability.

1.4. Research Questions

How do African truth commissions conceptualise conflict-related sexual violence, as illustrated by the 2004 Sierra Leone Truth and Reconciliation Commission, the 2013 Kenya Truth, Justice and Reconciliation Commission, and the 2021 Gambian Truth, Reconciliation, and Reparations Commission?

1.4.1. Sub-questions:

- a. How does the Sierra Leone, Kenyan, and The Gambian truth commission's define gender in their mandate and final reports?
- b. How does the Sierra Leone, Kenyan, and The Gambian truth commission's define sexual violence and victimhood, and with what exclusions?
- c. How do truth commissions' definitions of gendered violence reflect colonial and heteronormative power structures?

1.5. Research Objectives

This research study intends to document how coloniality impacts how African TCs interpret gender and CRSV. The research study looks at three African TCs: the 2004 Sierra Leone Truth and Reconciliation Commission (SLTRC), the 2013 Kenya Truth, Justice and Reconciliation Commission (TJRC), and the 2021 Truth, Reconciliation, and Reparations Commission (TRRC) and investigates how these TCs addressed sexual and gender-based violence during their respective investigative periods. These three TCs are the only African TCs that acknowledged CRSV in their mandate, operations, final report, and recommendations. These case studies are the most relevant to answer the research question since their focus on sexual violence allows me to investigate the theoretical foundations of their gender perspective in conducting these explorations of SGBV.

It is critical for TJ's advocacy of inclusivity to be aware of its theoretical limitations and gender biases and to actively challenge systems of power that perpetuate inequality and facilitate violence. This research study suggests that we think, see, and act differently to highlight marginalised narratives in the discourse.

1.6. Outline of subsequent chapters

The second chapter of the research report is a background of each country's case study, documenting the conflict, the extent and accounts of sexual violence during the conflict, and establishing the TC. This immerses the reader into the world of TJ and peacebuilding, for those both familiar and unfamiliar to meet as equals standing on the same footing of understanding. Chapter Three is the literature review elaborating on the theoretical framework of the coloniality of knowledge and gender, applying it to TJ's gendered insights of conflict. Chapter Four outlines the research methodology and research design of the research report. Chapter Five details the findings from the data collected from the three African TC mandates and final reports. Chapter Six consists of the analysis and discussion of the findings, interpreting how TCs interpret, understand, and apply gender in their documentation of CRSV, telling us how these institutions develop theory and knowledge about violence. The concluding chapter of the research report ends with a reflection and concluding thoughts.

Chapter Two: An overview of the history of conflict and sexual violence in Sierra Leone, Kenya, and The Gambia

2.1. Introduction

Representing three regions of the African continent: West (Sierra Leone), East (Kenya), and North-West (The Gambia), this chapter provides historical and political context that led to the establishment of the 2004 Sierra Leone Truth and Reconciliation Commission (SLTRC), 2013 Kenyan Truth, Justice, and Reconciliation Commission (TJRC), and the 2021 Gambian Truth, Reconciliation, and Reparations Commission (TRRC).

Considering that coloniality ultimately is the investigation of the encounter between the colonised and coloniser, each country case begins with the violence of the colonial occupation to historicise the site of violence.

Knowing that colonial violence is inherently intersectional, the chapter includes sexuality and imperial order as structuring logics to understanding the postcolonial trajectory of conflict and justice. This perspective sets the stage for analysing how these TCs have responded—or failed to respond—to CRSV.

The chapter then delves into the periods of conflict investigated by each TC. It is followed by a description of the sexual violence committed during the conflict, the actors involved, and the types of sexual violence of the time. The section ends with a brief of the TCs, detailing their investigative mandate.

2.2. Sierra Leone

2.2.1. Conflict

Sierra Leone's history is shaped by colonial encounters, particularly between the Limba ethnic group and European settlers. The nation's heritage today includes people from diverse backgrounds, such as the Yoruba and Igbo ethnic groups of Nigeria, Syrians, Black Londoners, British soldiers from the American Civil War, Jamaican Maroons, and recaptured enslaved individuals. 1787 is marked as the beginning of modern Sierra Leone, marking the founding of Freetown as a settlement for Black settlers from Europe and the Americas (Harris, 2014, p. 9).

Portuguese sailors were among the first Europeans to occupy Sierra Leone, followed by British and other European traders. For a century, the Sierra Leonean territory was developed as a Colony consisting of the Freetown peninsula and islands at the coast south of the peninsula. After the Berlin Conference (1884-1885), marked by the 'scramble for Africa', Sierra Leone became a British Protectorate in 1896. From then until independence in 1961, the country saw the inhabiting of settlers, the formation of a settler economy, civilisation, and knowledge systems centralising Britain and entrenching their occupation.

Throughout this period, racialised systems, understood to be the hierarchical structure based on race, were entrenched, resulting in black locals losing their land and resources, and excluding them from the economy. Alongside racialised systems, colonial gendered and sexual systems organised around heteronormative sexual arrangements were implemented in the colony. In 1861, the British colonial Offences Against the Person Act 1861 was introduced, criminalising sexual intimacy between men, and those systemised as men under the new orders of colonialism. Pre-colonial Sierra Leone held diverse, flexible gender and sexual systems, with patrilineal and matrilineal societies. Women were active political and economic actors, taking lead in agriculture and trade.

The British empire encouraged division according to binary gender systems of male and female, man and woman. Women's political and economic position was diminished into domestic roles, forcing them to depend on their husbands and male family figures. Furthermore, infrastructure and property rights became strictly patrilineal in nature (Hazel, 2011). In 1907, the Christian Marriage Act was introduced, implementing monogamous marriages between identified women and men (Harrell-Bond, 1977). This Act rejected polyamorous, polygamous, and same-sex relationships. Under both these laws, local and indigenous gender and sexual customs were rejected and regulated, legalising and naturalising binary intimate relations and systems.

On 27 April 1961, Sierra Leone gained independence but was only made a republic on 19 April 1971. Despite this, gendered and sexual systems remained, with the 1861 Act still enforced today. In 1965, the Civil Marriage Act was established, recognising indigenous and local marriage customs and unions (ibid). However, 'customary' marriages held no real legal standing, and under statutory laws, married women and children were not financially protected because the marriage was not recognised under these laws.

From 1991 to 2002, the country endured a devastating civil war, with over 50,000 deaths and almost half a million civilians displaced. On 23 March 1991, the Revolutionary United Front (RUF) under Foday Sankoh, with the support of the Liberian rebel group the National Patriotic Front of Liberia (NPFL) and its leader Charles Taylor, attempted to overthrow the Sierra Leonean government under President Joseph Momah (Momodu, 2017). The conflict escalated with foreign involvement from Britain, Liberia, and Guinea.

In March 1996, an elected civilian government was sworn in, and the RUF signed the Abidjan Peace Accord, which inevitably ended the conflict. However, in May 1997, a group of Sierra Leone Army officers establishing the Armed Forces Revolutionary Council (AFRC) conducted a staged coup. The AFRC, once in power, joined forces with RUF, establishing a new government to govern over the capital city. Under the leadership of Johnny Paul Koroma, the war was re-established. In January 1999, the RUF captured Freetown, leading to widespread atrocities, including mass killings and sexual violence. The Lome Peace Accord, establishing a ceasefire, was signed on 7 July 1999. The war ended in 2002 after a final push by Sierra Leone's army, British forces, and United Nations peacekeepers.

2.2.2. Sexual Violence During the Conflict

The rise of military leadership and governance permitted increasing sexual violence. Guerilla warfare reportedly facilitated systematic sexual violence, with rebel militia engaging in sexual assaults during home raids and food-finding missions (Bensel & Sample, 2017). The sexual violations included individual and gang rape, sexual assault with inanimate objects, sexual slavery, forced marriage, and forced pregnancy.

The widely documented sexual abuse in the Sierra Leonean civil war follows a pattern of militia-led conflicts like the Lord's Resistance Army and ISIS, wherein women and girls were abducted to perform domestic duties in the rebel group's compound. The RUF is identified as the paradigmatic perpetrator group. Women and girls were abducted and forced into marriages and exposed to frequent sexual abuse, specifically non-consensual sex, by rebel soldiers, particularly commanders, as they were offered as "bush wives" (Bensel & Sample, 2017, pp. 1090-1091). Women performed 'traditional' gendered roles of wives and mothers, caregivers, and the rebels as husbands and fathers, 'providers and protectors'. They were forced to perform domestic duties such as cooking, cleaning, being primary caregivers of the children, both their own and abducted children and lastly, becoming wives and companions of their abductors.

Reported sexual violence between male victims and male perpetrators as well as sexual and gender minorities' is highly underreported. During the conflict, it is reported that both men and boys experienced sexual violence by male perpetrators (Human Rights Watch, 2003). Despite this finding, many feared being perceived as homosexual and being outed for those identifying as homosexual and/or queer. Resulting in, few boys and men reporting on their experiences of sexual violence. The overwhelming silence is a consequence of stigma, specifically anti-queer, anti-homosexual, and anti-gender fluid stigma, supported by the existing anti-queer discriminatory laws.

The institution of marriage and the nuclear family unit legitimatised and domesticated the gendered interactions and the sexual abuse. This is exemplified by the policy of 'no rape' within the RUF that prohibited rebel fighters from having sex, consensual and non-consensual, of wives of different fighters. Fighters faced consequences, including death, if this violation was committed (Marks, 2014, p. 74). Marriage and children resulting from the marriage within the RUF system were considered rewards, offering the fighters a privileged status (Marks, 2014).

2.2.3. Truth and Reconciliation Commission

The signing of the 1999 Lome Peace Agreement (LPA), together with the Abuja Ceasefire Agreement (ACA) (2000 and 2001), ended the war and mandated the establishment of the Truth and Reconciliation Commission (TRC). In 2000, President Ahmad Tejan Kabbah and parliament passed the Truth and Reconciliation Commission Act, in line with Article XXVI of the LPA, establishing the TRC.

The TRC was established collaboratively with the Special Court for Sierra Leone (SCSL). The two mechanisms operated simultaneously to address human violations, focusing on gendered crimes. The TC articulated gendered crimes as the particular forms of suffering experienced by women, particularly sexual violence.

2.3. Kenya

2.3.1. Conflict

British colonial occupation from 1909 until 1960 had a grave imprint on contemporary Kenya's social, economic, and political relations. Characterised by racialised ethnic tensions and resource mismanagement, the country has faced ongoing violence, including the 1969 assassination of political leader Tom Mboya, Daniel Arap Moi's 24-year presidency, involving politically motivated ethnic violence and electoral irregularities in 1992 and 1997, and the 2007 presidential election.

In 1500 AD, the Portuguese Empire made initial contact with the region. However, it was not until the late 19th century, during the European "Scramble for Africa," that Kenya came under British colonial rule. In 1895, Kenya became a British protectorate. Britain's administration was met with significant resistance, mainly from the Mau Mau, a nationalist movement consisting primarily of people from the Kikuyu ethnic group who resisted British land policies. By 1952, resistance escalated, and the British administration declared a state of emergency, ordering repressive measures, including mass arrests and widespread violence.

Ethnic conflict is widespread across the country, with many districts either recovering from or still experiencing intra-state conflict. In particular, the regions of North Eastern, Rift Valley, Western, Coast, Central, Eastern, Nyanza, and Nairobi have witnessed some of the worst incidents, making them central to understanding Kenya's ethno-socio-political struggles. Ethnicity, a central factor in these conflicts, refers to an individual's heritage and cultural identity, which are closely tied to people's essence of community and belonging (Hutchinson & Smith, 1996; Baumann, 2004). Colonial policies promoted the politicisation of ethnicity, fostering the perception of resource scarcity. The colonial experience of hoarding resources, characteristic of extractivist policies, created artificial scarcity, dividing populations into those with and without resources. This colonial legacy continues to shape Kenya's political and economic structure, where inequitable access to resources and power fuels modern conflicts (Muhula, 2009).

Besides ethnic division, Kenya inherited entrenched heteronormativity. In 1930, the Colonial Office Model Code was established under the Kenyan Penal Code, criminalising identified male same-sex behaviour, it also extended to identified female. In Kenya's Penal Code, Section 162 'Unnatural offences' replicated the earlier Section 208, stating: "Any person who has carnal knowledge of any person against the order of nature; or has carnal knowledge of an animal; or permits a male person to have carnal knowledge of him or her

against the order of nature, is guilty of a felony and is liable to imprisonment for fourteen years” (Gomes and Waites, 2019, p. 30).

Social purity campaigns encouraged imperial sexual morality among locals and Asian and British settlers, establishing binary gender and sexuality systems as well as legitimising common law marriage. Pointedly, although these identities were legally criminalised, there is very few recorded persecutions of ‘unnatural crimes’, and diverse gender and sexual identities.

After Kenya gained independence in 1963, Jomo Kenyatta, leader of the Kenya African National Union (KANU), became the first president. His administration was marked by Kikuyu's dominance in government and the military. Since independence, Kenya has been dominated politically by two ethnic groups, the Kikuyu and Kalenjin, despite having 42 ethnic groups (Accord, 2024). This dominance, coupled with political patronage, triggered ethnic violence, particularly during elections, with civilians, political figures, and their families targeted across ethnic lines.

Following the assassination of Tom Mboya, a political leader from the Luo ethnic group, in 1969, the country experienced widespread ethnic unrest, and Kenyatta responded by suppressing opposition and banning political parties other than KANU. This began the one-party rule, entrenching ethnic divisions in Kenya’s contemporary politics.

1978 Daniel Arap Moi, vice president, was elected president after Kenyatta’s death. Continuing the one-party system, Moi’s gained a reputation for corruption and committing grave human rights abuses. Despite calls for reform, Moi remained in power until 2002, following years of violent elections in 1992 and 1997, which were marked by perpetual ethnic-motivated violence and accusations of electoral fraud. When Mwai Kibaki became president in 2002, hopes for change emerged, but Kenya’s deep-rooted ethnic divisions remained.

These tensions came to a head in the 2007 presidential election after Kibaki and the Party of National Unity won, triggering violence. Kibaki’s victory, amid widespread allegations of electoral fraud, sparked violent protests. The violence primarily targeted the Kikuyu community, destroying property, looting, and the displacement of thousands. By February 2008, an estimated 1,300 people had been killed, and over 650,000 displaced. Sporadic violence continued for months, underscoring the deep political and ethnic rifts that continue to shape Kenya’s future (Asaala & Dicker, 2013).

2.3.2. Sexual violence during the conflict

Sexual violence in Kenya is first documented during British colonial occupation and administration. The historical significance of the documented first accounts of sexual violence during the British colonial occupation demonstrates how sexual violence is structural and systemic, influencing other forms of violence documented in contemporary Kenya.

In response to the 1952 Mau-Mau rebellion, the British colonial government arrested, detained and sent to detention centres many men and women accused of being rebellion initiators. Archive records report that women were often forced into nakedness and beaten, raped (with objects being inserted into their genitalia), and their chests being squeezed between heavy objects. In detention camps, men were castrated and maimed (Global Survivors Fund, 2023). From some of the memoirs written by Mau-Mau and Kikuyu detainees, these acts of violence were not done in isolation. Instead, violations were perpetrated in tandem with other violence, including threats of death and whippings (ibid). Sexual violence was systematically perpetrated as a method of discipline, humiliation, and instilling fear (Sewell, 2021).

This method of violence continued even after Kenya's independence from Britain in 1963. Sexual violence has been reported to be used as a strategic tool to punish, intimidate, and humiliate individuals and communities perceived to be on the 'wrong' side of the political divide (Global Survivors Fund, 2023). Sexual violence is perpetrated by state and non-state (civilian) actors. The bilateral ethnic conflict between the two dominant ethnic groups, the Kiyuku and Kalenjin, involved targeted sexual violence across the ethnic group lines. The 2007-2008 post-election violence is the most documented, with pervasive violence, unrest, serious human rights violations and abuses, including electoral-related sexual violence (Alai, 2019).

Sexual violence is considered a serious social ill as well as a public health and human rights concern in contemporary Kenya. Horizontal inequalities, defined as inequalities in economic, social or political dimensions or cultural and ethnic status between cultural groups, are the primary conditions that instigate much of the violence in the country.

Sexual violence during Kenya's 2007-2008 post-election violence targeted women and girls, primarily involving acts such as rape, genital mutilation, targeted infection of Human Immunodeficiency Virus (HIV), and forced pregnancies (Global Survivors Fund, 2023). Older women, young children, pregnant women, and postpartum women all experienced sexual attacks. Many women were targeted because of their ethnicity and political affiliations, often sexually violated during ethnic clashes and raids (Odhiambo, 2016). Many women and girls were raped in the presence of their family members, and their relatives even raped some at the instruction of armed perpetrators.

Men and boys were also subjected to sexual violence, including sodomy, rape, castration, genital mutilation and forced circumcisions (Odhiambo, 2016). Many of the sexual attacks experienced by these men were followed by physical violence, including stabbing, kicking, cutting with machetes, and beatings. Also, as a strategy of sexual violence, Kikuyu men forcibly circumcised Luo men (Ahlberg & Njoroge, 2013). They also forcibly infected many of these men with HIV. Incidents of being forced to watch or commit acts of sexual violence against family members are also reported.

Between 2008 and 2010, women who have sex with women (WSW) and men who have sex with men (MSM) were vulnerable to targeted sexual violence. Many reported that their perpetrators, often male individuals, stated the perpetrated violence was to 'correct' and 'punish' them for the sexual orientation and expression. Groups of individuals identifying as queer in coastal counties of Kilifi, Kwale, and Mombasa have been threatened or attacked in incidences of mob violence (Human Rights Watch and PEMA Kenya, 2015).

Overall, the Commission of Inquiry into Post-Election Violence, known as the Waki Commission, documented 900 cases of sexual violence (Alai, 2019). Perpetrators were identified as security agents, militia groups, and civilians. Women and girls were disproportionately represented as victims of sexual violence, but men and boys were also victims of sexual violence. The reporting of male (men and boys) victims of sexual violence was inconsistent and was often written from a perspective of disbelief. This can be because it continues to be taboo (sexual assault of men) as men in different contexts have different hegemonies that portray men and boys (who will be men one day) as invulnerable and impenetrable.

2.3.3. Truth, Justice and Reconciliation Commission

Between 2007 and 2008, a national negotiation process, the Kenya National Dialogue and Reconciliation, set principles to establish initiatives, platforms and institutions of accountability. On 13 April 2008, the Government of National Unity, also known as the Grand Coalition Cabinet, was established following negotiations between the Orange Democratic Movement and the Party of National Unity. The GNU supported the establishment of TJ mechanisms and initiatives, including the Kenyan Truth, Justice and Reconciliation Commission (TJRC), to address and resolve deep-rooted ethnic and political tensions and bring justice to victims of past and contemporary injustices.

In late October 2008, the Kenyan parliament passed the Truth, Justice, and Reconciliation Act, initiating the creation of the TC. President Mwai Kibaki signed the Bill into law on 28 November 2008. The Truth, Justice, and Reconciliation Commission (TJRC) 's mandate was to investigate armed conflict and negative practices between 1963 and 2008, gross human rights violations, abuses of power, and misuse of public office (TJRC Act, 2008).

2.4. The Gambia

2.4.1. Conflict

The Portuguese first invaded the Gambia, establishing trading stations in the late 1400s. Other European nations followed, including Britain, France, Netherlands, Sweden, and Courlander (today known as an area in Latvia). Britain and France were the leading competitors in the 'Scramble for the Gambia', but following the 1783 Treaty of Versailles, Britain was granted control of the Gambia, and France retained part of Albreda, the northern bank of the river (U.S Department of State, 2009).

From 1821 until 1843, the Gambia was administered as part of British West Africa alongside Sierra Leone, Nigeria, British Cameroon, and the Gold Coast. In 1888, the Gambia became a separate colony, and in 1889, after negotiations between France and Britain, it became a British Crown colony. In 1900, the Gambian territory became a British protectorate, independent from British West Africa.

Under the British protectorate, indigenous romantic and sexual relations were regulated to socialise and naturalise binary heterosexual systems. In 1934, the Colonial Code instituted prison sentences of up to 14 years for anyone with “carnal knowledge of any person against the order of nature” under Chapter XV, Section 143(1). Part 4(c) of the Criminal Code (Amendment) Act 37 (2005) clarified the meaning of “carnal knowledge against the order of nature” to include anal and oral sex, the use of “any object or thing” to “simulate sex”, and “committing any other homosexual act with the person” (International Lesbian, Gay, Bisexual, Trans and Intersex Association, 2023).

During the 1950s, calls for independence began with the emergence of the political party system. Early political parties were the urban-based Gambia Democratic Party (DP) led by Reverend J.C. Faye, the Gambia United Party led by Pierre Sarr Njie, the Gambia Muslim Congress led by Alhadiji Ibrahima Garba and Jahumpa, and the Protectorate Progressive Party (PPP) led by Dawda Kairaba Jawara (Nyang, 1977). On 18 February 1965, Britain granted the Gambia independence within the Commonwealth with Jawara of PPP as Prime Minister. On 24 April 1970, the Gambia became a republic, and Jawara was the first democratically elected president.

On 22 July 1994, a young army lieutenant, Yahya A.J.J Jammeh, and a group of young army officers led a ‘*bloodless*’ military coup d’état against Dawda Kairaba Jawara (Turkewitz, 2019). Jammeh and his army associates were popular among Gambians for campaigning against government economic corruption and mismanagement. Jammeh dissolved the government, arrested its members and abolished the Constitution (Harris & Jaw, 2024).

In August 1996, military leaders passed a political ban sanctioning political parties from practising political activity. In early 1997, the National Assembly held elections, and Jammeh, with his political party, the Alliance for Patriotic Reorientation and Construction (APRC), won the elections, becoming Jawara’s successor. With a newly approved 1997 Constitution, Jammeh governed for 22 years until his defeat in the 2016 election.

President Jammeh’s regime is characterised as authoritarian, with him governing through state-sanctioned violence as his presidency was distinguished by extrajudicial killings, SGBV, rape, torture, enforced disappearances, arbitrary arrests and detentions, and other gross human rights violations that his military Junta carried out. He also had a personal ‘hit squad’ known as the Junglers and an armed group, ‘the Green Boys’ (Salvioli, 2019). As a direct consequence of Jammeh’s presidency, approximately 240 persons were reportedly murdered (Darboe, 2022).

His authority extended to terrorise same-sex and same-gendered sexual and romantic relations. The Criminal Code was amended in 2005 to limit women to 5-year sentences for “gross indecency”. The law was expanded again with the Criminal Code (Amendment) Act38 (2014). Part 4 of the Act introduces the category of “aggravated homosexuality”, laying out factors such as the spread of HIV and being a “serial offender” as grounds for life-imprisonment (ILGA World, 2023).

Emboldened by his ‘God-like’ persona, Jammeh preached sermons and went as far as to claim that he was ‘mandated by God’ to cure HIV/AIDS and cancer, resulting in the creation of the President’s Alternative Treatment Programme (PAPT). The PAPT involved the distribution of herbal concoction promoted as a ‘cure’ for HIV/AIDS, which was given to HIV-positive patients. Witch hunts involving arrests by the presidential guard and forced detention of primarily older people who were beaten and forced to consume a hallucinogenic drink were also conducted under the command of Jammeh (Amnesty International, 2009; Federici, 2010, p. 12; Nossiter, 2009; Harris & Jaw, 2024).

The country was enshrined by local, regional and international law, yet Jammeh, with assistance from his enablers, including Jimbee Jammeh (cousin), who procured young women for him and the National Intelligence Agency (NIA), disregarding the rule of law (Salvioli, 2019). In 2013, Jammeh announced that the country would leave the Commonwealth and the International Criminal Court (ICC) (Perfect, 2014). In 2015, the country was renamed the Islamic Republic of The Gambia. On 1 December 2016, the presidential elections were held, and Jammeh, after 22 years of leadership, was defeated by the Coalition 2016² presidential candidate Adama Barrow. Jammeh initially accepted the defeat; however, on 9 December 2016, he refused to accept the election result, citing electoral abnormalities, triggering a constitutional crisis.

Regional leaders from Nigeria, Liberia, Sierra Leone, and Ghana travelled to the Gambia to negotiate the transition of power from Jammeh to Barrow. The Economic Community of West African States (ECOWAS) threatened military intervention. Amidst the political crisis, Barrow fled to Senegal and was inaugurated at the Gambian Embassy in Dakar as the internationally recognised President of the Gambia. Despite diplomatic efforts from regional leaders and national protests, an ECOWAS military intervention occurred, ultimately ending the 2016-2017 Gambian constitutional crisis. On 21 January 2019, according to a negotiated ECOWAS-peace pact, Jammeh officially stepped down and was exiled to Equatorial Guinea.

2.4.2. Sexual violence during conflict

There is not much reported on sexual violence committed during either Portuguese or British occupation. Instead, most of the reporting and documentation of sexual violence in the

² Coalition 2016 consisted of seven Gambian political parties, civil society groups and one independent² presidential candidate, Adama Barrow.

Gambia is reported to have occurred under Jammeh's regime. Therefore, the scope of discovery on CRSV in the Gambia is limited.

SGBV is reported to have operated as an exertion of authority, with sexual violence (SV) specifically identified as an instrument of repression, torture, punishment and humiliation used by government officials. Sexual abuses such as rape, sexual torture and forced nudity were state-sanctioned and carried out systematically according to state-orchestrated policy.

Other reporting of sexual abuse during Jammeh's regime includes sexual violation of female sex workers (FSW) by clients. Sex work is illegal in the Gambia, encouraging the sexual abuse of FSW, with 1 in 4 women reporting having been forced to have sex with clients (Sherwood, Grosso, Decker, Peitzmeier, Papworth, Diouf, Drame, Ceesay & Baral, 2015, p. 4). There is also reported widespread domestic violence (Jaw & Gassama, 2023) and Intimate Partner Violence (IPV) (Idoko, Ogbe, Jallow & Ocheke, 2015).

Considering the criminalisation of sexual and gender diverse activities, there is little to no reporting of their violations against them as a group.

2.4.3. Truth, Reconciliation and Reparations Commission

On 13 December 2013, the National Assembly passed the Truth, Reconciliation, and Reparations Act, establishing the Truth, Reconciliation, and Reparations Commission (TRRC), which received presidential assent on 13 January 2018. The Commission's mandate involved investigating human rights violations and establishing an impartial historical record of the violations committed from July 1994 to January 2017 under former president Yahya A.J.J. Jammeh, as well as considering reparations for the victims of the abuses.

2.5. Chapter Summary

This section detailed the historical and contemporary violence of each country's case study, providing context to the circumstances that informed the establishment of the TCs in the respective country studies. The background also provides us with the context of which sexual violence took place and what the reporting of sexual violence is.

Chapter Three: The Presence of the Colonial Past in Contemporary Human Rights

3.1. Introduction

The colonial world is all around us. From Palestine to Djibouti to Niger, countries continue to be occupied by foreign military personnel, including Britain, Belgium, France, Germany, Israel, Japan, and the United States of America (USA). Such presence reflects ongoing struggle for access to human and natural resources, underscoring how colonialism remains a global organising logic (Isilow, 2023).

TJ operates through a temporal governance logic that distinctly categorises violence across separate present, past, and future periods. This interpretation of time and space significantly renders the past and its power systems insignificant to present conflict relations. This convention of time and space establishes epistemological conventions and interpretations of violence that determine some victims, perpetrators, contexts, and violence being visible and invisible. This has the potential to harmfully distort our interpretations of violence and its character, preventing us from creating measures to protect against future harm.

The enduring impact of colonialism is embedded in material culture, monuments and architecture, archives, images, music, dress and dance, and people. In a less tangible but significant way, it shapes policies, economies, international relations, intellectual life, epistemologies, linguistic practices, and all forms of belonging. Hence, the proclamation of the end of colonialism brings about pause to decolonial, feminist, Indigenous, and queer thinkers who reject continued suffering under the sovereignty of powerful countries and their dominant politics.

This chapter introduces literature on colonality as a theory to explore the continuities of colonialism. The research report focuses on the theories of colonality of power and colonality of gender developed by theorists Aníbal Quijano (2000) and Maria Lugones (2007, 2016). The theories will be introduced and applied to analyse the politics of knowledge production and our conceptualisation of gender in TJ. This is followed by the role of TCs as knowledge producers focusing on how gender is conceptualised and integrated.

The chapter ends with an exploration of the concept of CRSV, how the phenomenon developed, the application of the concept, and the role of gender in conceptualising what is possible and not possible with CRSV.

3.2.1. Coloniality of power and its impact on knowledge production

Emerging from a critical sociological and philosophical exploration into the social, political, economic, and intimate relations of contemporary Latin America, Latin American scholars, including González Casanova (1965), Enrique Dussel (1993), Aníbal Quijano (2000), Nelson Maldonado-Torres (2007), and Walter Mignolo (2007) amongst others, embarked on the

discovery into the historical encounter between the coloniser and the colonised and how this encounter impacts our relationship with ourselves and our inhabited environment. These authors and those who follow the epistemic logic of decolonisation have called for the decolonising of the mind to liberate the colonised from colonial truths, beliefs, imaginations, and realities. One theory that stands out in theorising decolonisation is the coloniality of power by Aníbal Quijano (2000).

Coloniality, first coined by González Casanova in his work *Internal Colonialism and National Development* (1965), speaks to the continuities of colonial structures in post-colonial independent societies and how they continue to dictate how the formerly colonised conduct themselves. Pointedly, this theory makes a clear distinction between the concepts of colonialism and coloniality, with the former understood as a form of domination by a physical institution involving individuals or groups over a territory (Casanova, 1965; Horvath, 1972) and the latter as an encompassing political, cultural, epistemological, and symbolic condition (Casanova, 1965; Quijano, 2000). Coloniality speaks to an enactment of power that is “ontologically colonial in its origin, whose articulation as a global order followed the European invasion of colonialism, particularly settler colonialism” (Fregoso Bailón & De Lissovoy, 2019, p. 84). This theorisation aligns with other decolonial epistemes, such as neo-colonialism, often referring to a foreign country's indirect control of a less developed country or small economies, that looks into the mechanisms of control through the use of economic, political, cultural, or other pressures to influence and perform dominance over countries, particularly former dependencies.

Quijano (2000) introduces the theory of coloniality of power, discussing the Eurocentrism of knowledge and how it operates to distort how we [the colonised or at least formerly colonised depending on your training] think, conceptualise, and create our realities. Quijano (2000) introduced two critical arguments: (1) the racialisation of power and (2) the complicity of modernity, rationality and coloniality. The racialisation of power is theorised to be the imposition of race and/or ethnic classification of people as the cornerstone to determining the matrix of power. Quijano, amongst other decolonial theorists, theorises that throughout the colonial expansion, race became a principal determinant of the world's social, economic, and political order that differentiated individuals into privileged and non-privileged categories. Theorists including Maria Lugones, Ngũgĩ wa Thiong'o, bell hooks, Amina Mama, Michel Foucault, and Oyèrónké Oyěwùmi, amongst others, have furthered this theorisation by recognising that the world is classified across different measures of *being* such as gender, ethnicity, sexuality, subjectivity, and knowledge as a means to capture the subaltern.

His second argument stems from the concepts of *Totality* and *Totalitization*, mainly referring to the centralism and dominance of Western epistemology. This research study primarily focuses on Quijano's (2000, 2024) second argument, which concretely establishes the

foundation for the exclusion argument. According to Quijano (2000), *Totality* negates and excludes the differences and the possibilities of other totalities, centralising the colonial model of the Self and the Other, also understood as the rational and non-rational. With the conquering of territories, knowledge became regionalist, with Western epistemologies claiming dominance and negating other systems of knowledge production and ways of *being*.

Hence, authors Castro-Gómez (2008) and Mignolo (2008) commend Quijano's (1992) distinction of coloniality by the 'measures' of modernity. What distinguishes coloniality and colonialism is the concept of modernity and the socialised measurement of modernity in contemporary society. The phenomenon of modernity and, more recently, globalisation are theorised as inextricably linked to coloniality as they perform the methods of "*othering*" in centring one mode of knowledge and comprehension over another. Quijano (1992, p. 13) articulates coloniality and modernity as a means to "... participate in the colonial power, but also ... to enable some people to achieve the same material benefits and the same power that Europeans enjoyed" [translation by De Lissovoy and Bailón, 2019, p. 84]. Dussel (1993) corroborates this interpretation by claiming modernity as an essential or exclusive European phenomenon and colonial product of control.

The coloniality of knowledge looks at the domination of one body of knowledge, particularly Western bodies of knowledge, which have historically only allowed or considered one way of seeing the world over others. Balibar (2016, p. 216) calls this "allowing for one-sided, or historically dissymmetrical translations between cultures." If we look at the order of colonial control, the established authority gave dominance to name things, define what exists and what does not exist, and conceptualise the real and non-real of our reality. Traditional colonial thinking followed categorical philosophy using the important principles of definition, classification, and explanation as measures to gain authority.

Coloniality, unlike colonialism, speaks to the patterns of imperial power that define culture, labour, knowledge production, and interpersonal relationships beyond the limitations of the colonial administration's presence (Maldonado-Torres, 2007; Richardson, 2012; Lugones, 2016). From a decolonial interpretation, coloniality succeeds colonialism through the performance and interaction of everyday patterns of power. The coloniality of power relates to the interconnections of modern forms of exploitation and domination, influencing areas of authority, knowledge and the economy (Maldonado-Torres, 2007). Horvath (1972) elaborates that knowing is having power; having power enhances chances of surviving, which is a man's instinct. To have authority over defining what X is is to classify, which is "to have control of identifying all things" (Horvath, 1972, p. 45) as X or not X and who is in control of defining X. Here, power operates through knowledge production, what is said, documented, archived, and made visible or invisible. To which, reality is socially constructed through language, discourse, norms, and institutions .

The next section looks at the development of TJ and the consequence of the centrality of international human rights. Here, the colonality of power will be used in practice to understand the centrality of knowledge of human rights and how they shape the parameters of inequality systems within the TJ paradigm.

3.2.2. Coloniality of power in practice: The dawn of human rights and transitional justice

Since the 20th century, human rights discourse has prioritised a standard set of principles around development, establishing a “legitimate community of rights” (Gozdecka, 2018, p. 115). These standard sets of rights draw from a majoritarian system that assumes a ‘collective belonging’ constructed along accepted value systems. The issue with this approach to rights development is the forced homogenisation of beliefs, contributing to a hierarchy of rights and a system of exclusion which threatens other epistemic communities because of the categorisation of what is considered legitimate rights and who is considered legitimate to contribute to the development of rights discourse.

From its inception during the third wave of democratisation in Latin America, TJ mechanisms have been implemented to advance democratic values and principles in non-democratic societies, specifically authoritarian regimes (Arthur, 2009; Turner, 2013). During this period, human rights discourse became central to international political rhetoric with universalised liberal ideals of democracy and equality. Under this context, TCs and other TJ mechanisms perform across different conflict contexts as agents of human rights discourse.

Decolonial scholars and TJ practitioners, Grosfoguel (2007), Madlingozi (2010), Maldonado-Torres (2011), Santos (2015) and Jamar (2022) argue that the hegemony of knowledge in TJ is quintessential coloniality. These scholars establish terminology, including epistemic violence, epistemic oppression, and epistemicide, to describe how the superiority of episteme strives for universality and authority of truth. Each author argues that this follows colonial epistemology and its consequence of silencing the subject, who is often the African woman, and rendering them accessible, knowable and transparent.

There are continuities of inequalities that represent linkages between colonialism, racism, sexism, and other forms of dehumanisation portrayed by the epistemologies of TJ (Madlingozi, 2010; Maldonado-Torres, 2011). The knowledge produced, shared, and considered legitimate within TJ is a very political endeavour. Categories of victims, perpetrators, violence, and truth are not neutral or universal but are constructed through institutional discourse and shaped by socio-political and colonial histories.

There is an asymmetrical power dynamic between the different knowledge contributors based on who is the creator and the created, establishing boundaries of labour, ownership, control and domination (Macdonaldo-Torres, 2007, p. 246). Arthur (2009) argues that TJ

conceptual boundaries, normativity, and socialised norms stem from ex-colonising countries that have taken little accountability for their involvement in historical crimes and instead use TJ as a continuum of coloniality in its mark of mass education and the universalisation of democratisation. Although the TJ epistemic community has slowly begun acknowledging local, national, and regional voices as sources of knowledge, international epistemic groups knowledge disseminated from universities, international humanitarian bodies, international courts, and policy bodies are still privileged as 'expert' knowledge and mainstreamed (Jones, 2021; Jones & Lühe, 2021).

Critically, international human rights standards and norms predominantly stem from countries of the Global North, where normative assumptions are centred around liberal notions that democracy can be achieved in any country according to international standards and foreign expertise (Arthur, 2009; Samset, 2020; van der Merwe & Lykes, 2020; Miller, 2021; Jones & Lühe, 2022). The problem with this, as put by Sharp (2018), is that the 'liberal legalist' character of TJ determines what is emphasised and marginalised within its epistemic framework. TJ follows similar processes within the framework of globalisation to systematise, institutionalise, and disseminate education on human rights through generalisations located in Euro-Western conceptualisation (Arthur, 2009; Madlingozi, 2010; Samset, 2020; van der Merwe & Lykes, 2020; Jamar, 2022).

The consequence is that the Global South, particularly Africa and Latin America, continue to be the subject of study. At the same time, Europe and the West are the authors of the violence. This reinterprets a colonial logic that is extractive and exploitative because of the practice of stolen and incomplete thought, idea formation, and sense of knowing. Taiwo (1993, p. 893), in their interpretation of the colonial impact on Nigerian epistemic communities, speaks to the consequence of colonial modes of knowledge production and the particular categorisation of thinkers along marked divisions of labour as "strictly owners/producers" and "users and consumers". This is reinterpreted in a TJ context where conflict-impacted societies are users and consumers while TJ 'experts' are owners and producers.

Academia and its associated institutions, like universities and academics, have been extensively critiqued for privileging specific knowledge, and contributing to institutional systems of inequality (Taiwo, 1993; Ballantyne, 2019; Gani & Marshall, 2022). Drawing from Edward Said's (1977) literary contribution in his published work, *Orientalism*, academia adopts a system of knowledge production that produces a series of hierarchal oppositions between the centre (Europe) and the periphery. This reproduces the colonial relations of the *Self* and *Other*, where there are the owners and producers of knowledge, and the formerly colonised continue to be studied.

Much like the theories of decoloniality and anti-colonialism, *Orientalism* critically looks at the hegemony of colonial thought and the centrality of the coloniser's reality as normative

and objective. At the same time, the colonised is the periphery, and their reality is subjective to the context. It is through hegemony that coloniality is possible and has longevity beyond colonialism. This is because domination is done through hegemony in culture, scholarship, and institutions like universities that become a churning system of thought. Therefore, the parameters of thought and what is possible to think about are established and taught. Arguably, coloniality is both an active and passive instruction because it is done through learned discourse; it is cognitive, can be practised unconsciously, and is in the subconscious.

The impact of these unequal norms and standards is realised in the accepted knowledge of violence that is then codified, translated, and crystallised in their repetition across contexts. Ben-Josef Hirsch (2014, p. 814) articulates this as the “logic of appropriateness”. The formation of ideas and concepts, reasoning, and argumentation framed by TC practice are associated with emerging norms and/or standards, which assumes other forms of knowledge and its production are irrelevant (Ben-Josef Hirsch, 2014). Read (2019) speculates that the growing global shift towards knowledge banks, economies, and markets that privilege ‘experts’ and ‘expertise’ demonstrates how knowledge is traded for authority. The consequence of coloniality in TCs is that specific violence is codified as violent, harmful crimes, and others are invisibilised and non-violent, which can further mystify taboo topics like SGBV.

Following in the footsteps of disciplines such as Sociology, International Relations, Humanitarian Studies, Anthropology, and Politics, TJ and human rights discourse must integrate decolonial and anti-colonial theoretical frameworks. It is essential to examine its colonial roots critically and reflect on how it continues to perpetuate racial, gendered, and colonial ideologies. The next section delves into coloniality theory, focusing on the coloniality of gender and its impact on today's understanding of sex, sexuality, and gender.

3.3. Coloniality of gender

Building on Anibal Quijano's foundational concept of coloniality of power, Lugones (2007, 2016) develops the theory of the coloniality of gender. Quijano's (2000, p. 21) coloniality of power posits that, “all power is constructed in relation to domination, exploitation, and conflict as a consequence of social actors fighting over the control of the three basic areas of human existence: sex, labour, collective authority, and subjectivity/intersubjectivity”. He establishes these categories as areas of existence where power is exercised to attain resources and products.

The limitation to Quijano's theory is that he conflates sex with gender, treating female/male, woman/man, and femininity/masculinity as interchangeable, and failing to acknowledge the fluidity of these categories of sex, gender, characteristics and expression, and sexuality. Lugones (2016) argues that although critical of the social and physiological environment, Quijano's coloniality of power theory lends itself to patriarchal interpretation of gender that accepts “euro-centred capitalist understanding” (p. 37) of gender, which fails

to capture the colonial experiences of colonised women [and non-binary and non-conforming sexualities and genders]—subjecting the theory of colonialism and coloniality to describe men’s experiences of violence solely.

Heteronormativity, referring to the belief that heterosexuality is the default or only acceptable sexual orientation, and that gender is binary—is itself a colonial imposition. As Robinson (2016) explains, this framework naturalises romantic and sexual relationships as occurring only between men and women, reinforcing male/female binaries.

Before colonial conquest, many African societies, including the Yoruba group of Nigeria, Buganda Kingdom of Uganda, Basotho Kingdom of Southern Africa, Maale group of North regions amongst other indigenous African groups, practised a plurality in gender, sexuality, and sexual relationships; therefore, existing outside the colonial binary. Meiu (2015) argues that sexuality represented a central domain of colonial imagination and intervention through which various social actors, who were involved in the politics of the empire, constructed and contested arguments about race and culture, difference and sameness, superiority and inferiority, morality and indecency. Colonialism targeted this diversity by constructing “native” sexualities as deviant and immoral, thus legitimising intervention, surveillance, and control under the guise of moral reform.; thus, instilling binary sex, sexuality, and gender norms.

Colonial agents deployed sexual morality campaigns that pathologised non-normative sexualities and gender expressions. These efforts sought not only to police bodies but to realign kinship, reproduction, and labour in accordance with Eurocentric capitalist ideals. By classifying indigenous erotic practices as “sex” in the colonial lexicon, colonisers marked them as irrational, immoral, and in need of civilising. Lenore Manderson (1997) refers to this moralisation of sex as central to the “moral logic of colonialism.” Sexual politics became essential to the colonial project—not just for pleasure or control, but as an economic strategy. Colonisers promoted the nuclear heterosexual family as the cornerstone of settlement schemes like the family farm (Phillips, 2005), and deployed unmarried men as enforcers of colonial order and extractive labour systems. This required the rigid enforcement of sex/gender binaries for both colonisers and the colonised.

Lugones (2007, 2016) expands Quijano’s (2000) parameters of the areas of existence by including gender and sexuality as central axes that determined colonial relations between the colonised and coloniser. Coloniality of gender theory critiques colonialism, modernity, Eurocentrism, capitalism, nationalism, racism, heterosexism, and homophobia as processes of control over sex, its resources, and products that constitute gender domination and inequality.

Drawing on social constructivist theory, which refers to social interactions’ influence in shaping how individuals and groups perceive and experience reality, Lugones argues that colonial powers used socially constructed designations of gender to determine who

accessed resources and who remained subordinate. Under this framework, patriarchy and heteronormativity became tools to institutionalise inequality and naturalise colonial hierarchies.

In theorising the relationship between the colonised and coloniser, looking at the encounter within the framework(s) of Totality and Othering is necessary. What can be learnt from Quijano (2000) is the function of knowledge as a medium of control. Within the authority of naming things and people, giving meaning and understanding, and regionalising knowledge as a Eurocentric custom, the colonial authority determined an individual's role and function within the system of colonialism. Without any form of resistance to this labelling, by continuing with the naming and understanding, coloniality is performed. Therefore, the first point of order of decolonial work is un-naming, for the colonised to experience a de-ownership of one's identity, existence and reality.

Mendoza (2015) suggests that decolonial and post-colonial movements have struggled to incorporate feminist theories within their theorisation fully. In a patriarchal society that has an unyielding prioritisation of privileged men's interests, men's social practices shape the gender order, including economic relations, institutions, and sexuality. Therefore, as explained by Mendoza (2015), decolonial, post-colonial and anti-colonial theorists', often men, ignorance of incorporating gender as a social power structure shapes the epistemic foundations of conceptualising the colonised (subaltern's) experiences and oppressions. Hence, despite functioning as resistance studies, these disciplines uphold colonial norms and systems of inequality. This demonstrates a performance of coloniality because the centrality of themselves and their lived experiences assumes normative experiences of blackness, establishing the *Self* category against other forms or interpretations of blackness as the *Other*. Therefore, even in their imagination of theories of marginality, coloniality continues as the practice of exclusion and exploitation that is performed along gender and sexuality.

In colonial knowledge, there are defined gendered binaries hinged on assumptions of 'natural' or 'birthed' origins. This presumes an unambiguous binary sex/gender paradigm where people are classified very neatly as male or female. The modern gender system facilitates patriarchal norms as it replicates colonial unequal distributions of power that subjugate women under both men and the state. Under the sex/gender paradigm, the presumed binary is readily determinable by analysis of biological factors (Greenberg, 2002), which justifies and 'naturalises' gendered inequality between the categories of man and woman. To further validate this sex/gender system, there are indicators defined as femininity and masculinity to designate expectations and roles assumed to be 'natural' of the binaric system. Re-establishing the colonial order of the racialised *Self* and *Other* trope through the sex/gender system.

Judith Butler (2002) points to how subjects are constituted by the linguistic and political systems of power from which they wish to emancipate themselves. Hence, anti-colonial,

decolonial and post-colonial feminists identify the modern gender system as the consolidation of the colonial order. Segato (2024) interprets modern gender and sexuality differences as articulating colonial transformations. Within this gendered trope, there are heteronormative 'truths' such as motherhood, fatherhood, the nuclear family and more with the assumptions (believed to be 'natural' and 'biological') of heterosexuality that determine gender according to antagonistic relations of the social groups of women and men.

Decolonial, anti-colonialist and African feminist and gender scholars have pushed back against the 'naturalism' of the gender binary with examples of a plurality of genders and sexuality specific in the Obinrin and Okunrin of Nigeria and two-spirit peoples of North America and other geopolitical locations of Native Americans inhabit. Significantly, the knowledge of gender and sexuality plurality is not unknown to colonial knowledge and literature. Instead, as established by theories of 'areas of existence', plurality is justified in its oppression because of its otherness to the privileged *Self's* reality. Kusnierkiewicz (2019, p. 2) suggests that "maleness and whiteness emerge as matters of historical consciousness related to regimes of power, not simply sex or skin color." Therefore, in contrast, non-maleness and non-whiteness are the historical unconsciousness, making the colonised mythical, justifying our oppression.

Mendoza (2015) argues for an intersectionality perspective in the colonality of power theory to interpret gender as a racialising mechanism. Anti-colonial, decolonial, and post-colonial feminist thinkers are necessary to fill the gap and advance the conversations of decolonisation that have stumped the movement so far. According to Lugones (2007, 2016), by portraying gender as solely defined by biological sex and heterosexuality, where these dominant accounts erase diverse (non-binary and non-heteronormative) allocations of gender across colonial lines. This is where, as Mendoza (2015) argues, sex becomes the origin story that naturalises the claims of inferiority and superiority, colonised and the coloniser, men in a patriarchal society benefit from but also significantly suffer in this pedagogy. One would claim – how do men suffer? – and for the next section, I will discuss rape myths and the socialisation of sex and gender norms that silence and alienate male and sexually and gender diverse experiences of sexual violence.

3.4. Truth Commissions: Guardians of international norms and standards

Ben-Josef Hirsch (2014) marks the 1998 South African Truth and Reconciliation Commission (TRC) as the accelerant for the initial ideational change of TCs from a passive TJ mechanism to a 'holistic' tool for social and political change alongside other democratisation efforts. TCs perform as producers and consumers of knowledge, contributing to emerging international norms and standards and their implementation in local contexts. One can consider their measurable success, particularly in Africa, where most TCs and other TJ mechanisms have been implemented.

This section of the third chapter elaborates on TCs' developments as guardians of international norms and standards and their effectiveness in addressing human rights violations, particularly CRSV. The primary themes of this section focus on how TCs interpret and communicate gender, gendered crimes, and sexual crimes.

3.4.1. Truth Commissions and the requirements of advancing international norms and standards

“The Commission [Sierra Leone Truth and Reconciliation Commission] has had to address different types of truth” (TRC, 2004a, p. 82).

TCs have increasingly become a staple among TJ mechanisms in societies recovering from intra-state conflict, repressive politics, regime changes, and severe human rights violations (Hayner, 2001; Hirsch, 2014). TCs are typically non-judicial temporary bodies established by an official authority (president or parliament) to investigate patterns of human rights abuses committed in the past (Hayner, 1994, 2000; Langer, 2017, p. 180; Sarkin, 2018; Wiebelhaus-Brahm, 2009, 2020).

Since the completion of the 1998 South African Truth and Reconciliation Commission (TRC), the truth-seeking mechanism has been internationally endorsed to achieve multiple important psychological, political and legal goals in its particular democratisation efforts in countries recovering from conflict, particularly in either former authoritarian regimes or non-democratic regimes. The developmental shift of TCs from the “weaker alternatives to trials to the morally equal and complementary judicial option” (Ben-Josef Hirsch, 2014, p. 810) sits alongside the growth and universalisation of international humanitarian norms and standards on transition, justice, peace, reconciliation, and the implementation of standards in the post-conflict environment (Wiebelhaus-Brahm, 2020).

TCs have been celebrated as TJ instruments for pursuing truth and justice. But behind the scenes, TCs involve a rigorous political process that often hinders their true potential because how we understand and (re)interpret the ‘truth’ is intensely political. Critically, although TCs are well-established tools of truth-telling and authors of the truth, the institution follows the formula introduced by Jago (2018, p.1), which includes the “relation between a proposition – the content of our sayings, thoughts, beliefs, and so on—and an entity (or entities) in the world”. This can be interpreted to mean that truth is established during the process of *truth-making* that resembles the correspondence theory of truth of Russell (1906, n.d.) that establishes the requirements of truth-making to involve the existence of a worldly entity in correspondence with one another. It is formalised as one-to-one or one-to-many; therefore, there can be many truth-makers because it involves many elements already mentioned, including thought, beliefs, experiences, and much more.

Many scholars, including Rushton (2006), Wiebelhaus-Brahm (2009a, 2009b, 2010), O' Bakiner (2014), Kohanski (2020), Winston (2021), amongst many others, have challenged the theories and principles of the 'truth' in TCs and other truth-telling and truth-seeking mechanisms with many coming to a consensus of the value and impact of these institutions. One thing that is agreed upon is that "... no two compilations of global TC experience are the same" (Kohanski, 2020, p. 114). Nevertheless, there are global norms and standards that most, if not all, TCs are expected to abide by for governments to be considered to address and address human rights violations appropriately.

Wiebelhaus-Brahm (2020) investigates the roles of TCs across three case studies: the 2004 Moroccan Equity and Reconciliation Commission, the 2010 Sri Lankan Lessons Learnt and Reconciliation Commission, and the 2011 Bahrain Independent Commission of Inquiry. From Wiebelhaus-Brahm's (2020) investigations, global norms are weaponised by local governments to evade accountability by framing the perpetrators and violations committed, with the result of exonerating the national government and allowing certain violations to continue with impunity. There is obvious bias across the case studies. Wiebelhaus-Brahm (2020) identifies that support from international allies and adopting international instruments like TCs can fulfil accountability and transparency throughout the truth-seeking process. Accordingly, the Moroccan and Bahrain TCs received significant international support, shielding the government from overt criticism and support for reform measures rather than persecuting perpetrators for committing human rights violations, particularly those that implicated state figures.

Here, TCs are demonstrated to be intellectual agents with dominance over the governance of knowledge production, particularly what is considered and believed to be a violation, what crimes are criminal, performed with impunity or not considered crimes at all, as well as who are identified as victims and perpetrators and how perpetrators should be punished and what recommendations are considered satisfactory for victims. Scholars, including Bevernage (2010, 2012), Aboueldahab (2021), McAuliffe (2021), Miller (2021), and Destroyer & Evrard (2025), amongst others, have already been critical of TJ temporal convictions, particularly the reckoning of violent past in the present and how this impacts the types of violations that are recognised, the actors held accountable for violations committed, recognised victims of violations committed, and inherently what truth is identified and acknowledged.

According to what has already been theorised, TJ upholds a temporal governance afflicting how the principles of criminal prosecutions, truth-seeking, reparations and various forms of reform and prevention are pre-conditioned. Miller (2021) criticises TJ practices and discourse for conducting narrow interpretations delimiting the conditions of accountability and recognition through being selective in which past and for which wrongs should be pursued.

Miller (2021, p. 849) argues that TJ advances “linear progress narratives that define the proximate past as traumatic and the future as democratic, liberal, reconciled, and peaceful”. This can be interpreted to demonstrate a coloniality of power through the production and management of knowledge, following Swartz's (2009), Santos's (2015), and Madlingozi's (2018) arguments that TJ foundations have colonial afflictions and how its mechanisms, like TCs masquerade as colonial instruments purporting master ‘narratives’. Significantly, Grunebaum (2011), who also makes critical arguments about the temporality of TJ, particularly TCs and the integrity of the truth about atrocities, recognises that the temporality of ‘transition’ offers hope in uncertainty.

Winston (2020) investigates the 1974 Commission of Inquiry into Disappearances in Uganda, arguing that TCs are not benign, innocent projects adopted by governments. Instead, they should be understood as what they are: a political endeavour and instrument in practice, often involving tactical concessions. Winston (2020) elaborates tactical concessions to mean sites of active contestation involving various leaders interested in advancing human rights and others intending to reverse or slow the process towards advancing human rights.

Importantly, this is justified by whose truth, how much truth, and what we do with that truth are all highly political topics involving subjects of serious negotiation during peace processes and other transitional pursuits (Winston, 2020). This is no different from the phenomenon of CRSV and its integration into TJ mechanisms, mainly TCs. TCs can control information and knowledge production through the efforts in selecting violations, the period of investigation, the investigative personnel, and who presides over deciding justice and accountability for violations committed. Domestic and international politics influence the decision-making of TCs and the intention of the TC.

The next section will follow up on the above insights by broadly looking at the TC's gender perspectives and how this demonstrates a coloniality of gender.

3.4.2. Transitional Justice's gendered perspective of conflict and redress

The passing of the 1325 United Nations Security Council on Women, Peace and Security (WPS) agenda in 2000 signalled significant progress in peacebuilding policy, as it was one of the first resolutions explicitly highlighting and emphasising gendered experiences of violence. TJ is traditionally a field where male experiences of conflict have been prioritised, and male perspectives dominated processes and efforts of post-conflict resolution and peacebuilding (Schulz et al., 2024). The WPS agenda initiated a robust set of internationally agreed norms and standards promoting gender equality and strengthening women's participation, protection, and rights between the conflict, transitioning, and post-conflict cycle to encourage conflict prevention and post-conflict reconstruction.

The WPS policy agenda included four principles: participation, protection, prevention, and relief and recovery. The first principle, participation, advocates for women to participate equally to men in peace, political and security decision-making processes at national, local,

regional and international levels. The second principle, protection, desires to ensure women's and girls' rights are protected and promoted in conflict-affected situations with a particular focus on SGBV crimes. The third principle, prevention, speaks to the implementation of measures to prevent all forms of violence against women and girls in conflict-affected situations and includes measures to fight impunity and involve women in conflict prevention measures. The last principle, relief and recovery, focuses on meeting women and girls' specific humanitarian needs and reinforcing women's capacities to act as leaders in the post-conflict environment (United Nations Peacekeeping, 2024, p. 13).

Since then, significant progress has been made in mainstreaming women's experiences and voices in truth, justice, reparation, guarantees of non-recurrence, conflict and post-conflict discourse. The normative framework for the WPS policy agenda has been amended with nine subsequent Security Council resolutions aligning with TJ and peacebuilding discourse increased coverage of conflict-related sexual violence. Resolution 1820 (2008) was the first to mention sexual violence as a tactic of war, emphasising the prevalence of conflict-related sexual violence and the characteristic nature of the violence experienced by women and girls. The Security Resolution 1888 (2009), 1960 (2010), 2106 (2013), and 2467 (2019) explicitly reference sexual violence as a priority gendered crime, with each resolution besides 1888 (2009) explicitly referencing women as victims of this violence.

Alongside these international developments of norms and standards on gendered experiences of conflict, TCs have become significant instruments in acknowledging women's conflict experiences with an emphasis on investigating sexual violence as part of compiling a historical record of the conflict and providing adequate redress for conflict-related sexual violence survivors. Gyimah (2008) narrates the influence of the WPS policy agenda by identifying TCs' efforts to address gender justice. They document the priorities to include women's participation in peace decision-making, acknowledging the importance of women's involvement in the transitioning period (Gyimah, 2008, p. 14).

Gender mainstreaming, understood within the TJ context to mean investigating gendered aspects of human rights violations to ensure gender-inclusive and gender-sensitive language in public policies, programmes, and projects, has been adopted by TCs, often interpreted in the directive for gender representation in commissioner selection, investigation of human rights violations, and suggested recommendations. This is evidenced across TCs in Sierra Leone, Kenya, Morocco, the Gambia, and Tunisia, amongst others in Africa. Critically, Gyimah (2008), like many other scholars, including Fobear (2014) and Schulz (2020, 2021), problematise TJs' incorporation of gender perspectives and gender-responsive measures as it is synonymous with women and women's needs. In these contexts, women are understood by the binaric gender system that understands gender by the sex allocation of femalehood and femininity.

In recent TJ and peacebuilding discourse, scholars and practitioners alike have critically conceptualised TJ gender discourse as homophobic, transphobic, biphobic, and blind to the

intersectionality of identities of the victims that disproportionally expose them to violations (Schulz et al., 2024). The coloniality of gender introduced in this chapter shows itself here in that the depictions of gender rely on the binaric and often oppositional gender dynamic that upholds the liberal order of power (Kusnierkiewicz, 2019) as it does not address the system of gender and the violence it perpetuates, instead re-invents it in distinguishing crimes where men are inherently perpetrators according to violent masculine tropes celebrated in conflict, and where women are inherently the victims often distressed by the violent masculinity that they are helpless to run away from.

Also, in recent years, as a performance of women's inclusivity, the understanding of violence and transition has been "dominated under the veil of neutrality" (Schulz et al., 2024, p. 4). The concepts of 'gender neutral', gender, and 'gender equality' adaptations to TJ norms and standards are reflect categories to allocate power according to the social, political, and economic systems, not interventions of doing away with gender. Feminist anthropologist Kimberly Theidon has argued that "...gender hearings, gender units, and gender-sensitive TCs amongst other gendered measures is policy-speak for "adding women" (2009, 4 quoted in Schulz et al. 2024, p. 4). Naffine (1999 quoted in Loizidou, 1999, p.289), when speaking to the adoption of gender-neutral rape laws, speaks to the falsehood of gender-neutrality by stating that "equality does not necessarily produce a more just legal system but does create the liberal fantasy of a fairer system" (Loizidou, 1999, p. 289). This has meant that men and male-presenting experiences are not analysed or seen as gendered, thus missing how they are connected to patriarchy, power differentials in society, and gender inequality. In essence, the failure to perceive these connections blinds us to the very systems that contribute to and sustain conflict.

The modern gender/sex system does not accommodate the nuances of the diverse experiences across the spectrum of gender and sex as it currently translates in binaric interpretation. Within international norms and standards developments, gendered human rights violations and gendered experiences of conflict are "iconised" into gendered binaries that conceal diverse experiences of violence.

The problem in TJ's research on gender is that it already exists as if known because of theories of coloniality. The temporal governance that these institutions suffer with already pre-conditions human rights violations, the actors involved, and the forms of accountability then conflict-related sexual violence, its character, the violations, and the psyche of the perpetrators is already known. The coloniality of power and coloniality of gender inhibits any new theorisation of sexual violence. Therefore, we are left with it never being discovered and instead plainly reported on without nuance or understanding.

To analyse these gendered blind spots, the next section of the literature review introduces decolonial theories of coloniality of power and coloniality of gender to discuss the interactions of modern power, gender, race, and sexuality and how they influence the documentation and conceptualisation of conflict-related sexual violence in TJ discourse.

3.5. Transitional Justice: The discourse of conflict-related sexual violence

Sexual violence in conflict is as old as war. However, historically, its inclusion in conflict, conflict-resolution, and peacebuilding discourse has been inconsistent and was, for many years, ignored by political actors, including conflict actors, state leaders, governments, and civilians themselves.

In recent TJ and global discourse, the taboo surrounding sexual violence has taken on a new shape where it is progressively discussed, reported on, investigated, researched, written about, and, in truth commissions documented and suggested recommendations.

Notwithstanding, sexual violence continues to invite a shroud of shame, humiliation, embarrassment, and fear that prohibits the reporting and investigation of sexual violence, thus limiting the scope of knowledge on this phenomenon.

This next section discusses the phenomenon of conflict-related sexual violence and how TCs have taken up the task of addressing this violence. The literature exploration will also identify and engage with themes about gender, sex, sexuality, and gender-based violence.

3.5.1. Conflict-related sexual violence

TJ scholars widely point to both the Yugoslavian War (1992-1995) and the Rwandan Genocide (1994) as the triggering events for the spotlighting of sexual violence in peacebuilding and TJ discourse. Following the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), rape was codified as an international human rights violation and acknowledged as a crime against humanity, act of genocide, and war crime (Pruitt, 2012; Nordås & Cohen, 2021).

Alternatively, Harrington (2011) suggests that anti-rape advocacy and policy implementation in peacebuilding and legalist contexts stem from the development of trauma science and the particular medicalisation of rape. They argue that, the attention to the psychological dimensions of human rights discourse, engendered further research that moved away from the ideas that sexual violence both in peacetime and conflict were more than opportunistic but potentially motivated by economic, political, social, and legal factors.

At the same time, feminist legal scholars and transnational advocacy groups were instrumental in pushing for the recognition of gender-based violence in international criminal law. Activists and organisations such as Women's Initiatives for Gender Justice and scholars like Christine Chinkin (1994) and Catharine MacKinnon (2008) argued for the redefinition of wartime rape as a deliberate tactic of war, not merely a personal or cultural crime. Their work laid the foundation for gender provisions in the Rome Statute (1998) and contributed to a broader reframing of sexual violence as a tool of power and domination (Askin, 2003; Coomaraswamay, 2015).

The succinct occurrence of legal precedence, scientific understandings of trauma, and feminist and survivor-led groups has contributed to the particular inclusion of sexual

violence in peacebuilding. Over the last two decades, there has been extensive research and methodological dedication to the study of CRSV, contributing to a growing body of research dedicated to this phenomenon. The sexual violation of women, girls, men, and boys in conflict has been documented in TJ as rampant with terminology such as ‘widespread’, ‘systematic’, ‘weapon of war’, and ‘tactic of war’.

The term *conflict-related sexual violence* has seen many variants, including ‘wartime rape’ and sexual violence in conflict, all recognising that this type of violence falls within the broader spectrum of gender-based violence (GBV) and sexual and gender-based violence (SGBV). The initial accounts of this phenomenon documented it as violence against women (VAW) but have since been recognised to be perpetrated against men and boys, too.

In the recording and knowledge production of CRSV, epistemic limitations distort the interpretations of this phenomenon. First, it begins with time. As already briefly discussed, sexual violence in conflict is historical, dating to the biblical, Greek mythologies, and world wars predating the 1900s. The issue of time has already been confronted under the previous heading title: 3.2.1. *TCs and the requirements of advancing international norms and standards*, and it is demonstrated to implicate the knowledge about CRSV severely.

Very few TJ instruments, including TCs, have directly addressed colonial violence, particularly the sexual violence perpetrated against predominantly African black women by European white colonial authority and fellow enslaved African black men. The 2011 Mauritian Truth and Justice Commission and the present Burundi Truth and Reconciliation Commission are examples of commissions addressing colonial violence. Both of their mandates, which state the terms and conditions regarding the territory, period, events, actors, types of violations, and other factors that the commission will investigate, emphasised the financial implications of colonial violence with little to no investigative scope of the sexual crimes of colonial violence.

This misjudgement in investigative scope and methodological admissions lends to old tropes of women, particularly Black African women, being property ‘*chattel*’ to European white colonial authority. Mama (1997) articulates contemporary GBV in the African context by referring back to imperialism and the naturalising behaviour of violence. Mama (1997) expresses that women from oppressed classes, often African black women, were sexually and economically exploited by the white colonial authority. She paints the imperial landscape for African black women as a place of minimal economic and political opportunities that exhibited no social ascension in the racialised and gendered environment. Both Mama (1997) and Adesina (2020) articulate the particular degradation of African black women's status under colonialism and the particular deterioration of these women's economic power. Hence, Mama (1997, p. 49) claims that African black women and other women of oppressed groups had two options of employment, “brothel and the poorhouse.”

In settler colonies, African women also occupied another category involving the domestication of their role and identity in colonial society. Many were not offered access to education and instead trained to be “suitable wives” (Mama, 1997, p. 52), mirroring ideals of ‘civilised’ femininity originating from bourgeois Victorian ideology. In their respective contexts, Mama (1997, 2001) and Oyewumi (2004) document that this period re-defined the gender relations of colonised communities wherein the ‘preferred’ and ‘respectable’ woman was to stay at home and maintain the household while men laboured to provide for this ideal household. Men and women were forced to perceive each other as husband and wife, and later fathers and mothers, with women iconised by these roles. Building her virtue to lose at the behest of another man to take.

Dobkin (1968) elaborates on the domestication of African women, referring to the Mandel Decree of 1939 and the Jacquinet Decree of 1951, which instituted the regulation of the woman’s domestic role and the gender roles and relations of the colonised. These decrees specifically focused on the right of consent to marriage, the allocation of bride price, and the minimal age of marriage (Dobkin, 1968, p. 391). This was similarly demonstrated in the Sub-Saharan region in colonial Bulawayo, Zimbabwe, where African black women were administratively recognised as legal minors in the control of their husbands and the state, disqualifying them from fully participating as active citizens (Mhike, 2016). In both contexts, Black African women, alongside their European white colonial counterparts, were now categorised as either respectable or unrespectable women according to how and when they conformed to domesticated roles of the new gender social order (Dobkin, 1968; Mhike, 2016), which Hungwe (2006) illustrates that those who rejected these roles were labelled prostitutes, “dishonourable and lacking in dignity” (p. 3).

Looking back to heading title 3.3. *Coloniality of Gender*, colonial administrations established a ‘universal’ morality and truth about sex, sexuality, and gender that was enforced on the colonised through administration, legalisation of gendered and sex norms, and the institutionalisation of these norms through legalisation and normalisation. According to an early statement of Lieutenant Governor Hesling of the Upper Volta illustrated by (Dobkin, 1968, p. 391), the condition of the Indigenous women [her sexual and gender behaviour] was:

“... entirely abnormal and contrary to the fundamental principles of human rights [...] which necessitates the enactment of profound reforms [on our part]. [...] the condition of Indigenous women appears [...] outrageously contrary to the essential principle of human rights and civilization.”

This is an example of a coloniality of gender as gender relations were ordered through a forced heterosexuality that perceived the gender norms of the colonised. Contrastingly, the chaos and violence of the settler colonies also meant that the European white colonial administration organised prostitution services for many ‘ex-pats’ in settler colonies, where African women were collectively forced into prostitution, subjecting them to sexual

violence, sexual assault, and sexual harassment. Beyond the context of labour, the violence of the colonial conquest involved widespread violations, including rape and sexual abuse, particularly in the rejection of resistance of enslaved and colonised groups. In this context, sexual violence is both a means of degradation and an ordering of gender according to the administration against those resisting their expected gender role. Ndiyo (2013, 2014), in the context of Cameroon, drawing from contemporary accounts of sexual violence, documents rape and sexual abuse as enacted by perpetrators to 'correct' against genders and sexualities considered transgressive to the binaric sexual and gender order. This demonstrates that the construction of gender under the colonial order was created through violence, violating women and men from their gendered and sexual ambitions, definitely killing non-heterosexual relations and genders.

Second is the contemporary conceptualisation of CRSV. In older texts of sexual violence, the rape of women was reported to dishonour men or male figures, as women were seen as the possession of men (Crawford, 2013). Contemporary reporting of CRSV has similarly followed these tropes, particularly in the theorisation of under-reporting. Women are said to avoid reporting because of the humiliation and embarrassment experienced by their male family figures because of their violations. Also, the theorisation of perpetrators' motivations for committing sexual violations is argued to humiliate, embarrass, and bring about dishonouring cultural groups, ethnic groups, and households, particularly male family figures. This is despite reports (see Girard et al., 2022 and examples in South Sudan) of the economic motivations for rape committed by men who could not afford dowry or follow through with cultural customs because of economic disadvantage caused by the conflict.

Constructivist theory posits that knowledge is not neutral or objective, but rather subjective and often actively constructed according to interactions with the world. Dominant narratives are often not fixed but actively conditioned to be universalised definitions that scholars have criticised as having developed essentialised, heteronormative, binary-gendered, and racialised actors of conflict-related sexual violence (Lewis & Alldén, 2024). This demonstrates to us what power can do, in that when you possess knowledge because of geographical, racial, gendered, historical, economic authority enables the influence in meaning-making.

Dolan et al. (2020) make a bold statement that TJ conceptualises CRSV as if it is already known. What is meant by this is that there are repeated distinctions, which Lewis & Alldén (2024, p. 190) elaborate as the "requisite components" that define what can be understood to be conflict-related sexual violence and what cannot be considered sexual violence. What is already known is the violence itself, the actors involved, and the perpetrator's motivations, subsequently affecting the recommendations and measures of redress directed at addressing this sort of violence.

Mortimer, Powell, & Sandy (2019) point to this discrepancy in knowledge and theory development to be a consequence of rape myths and how they shape how we

conceptualise, understand, and reason with sexual violence, particularly rape. Rape myths are the false beliefs about the prevalence and causes of rape and other sexual abuses that are widely held and often stereotype rape, rape victims, and rapists (Burt, 1998; Armstrong et al., 2018, p. 102; Boateng, Doumbia, Kooffreh & Kwakye-Nuako, 2023; Murray, Calderón & Bahamondes, 2023, p. 1663). In other definitions, there is an emphasis on rape as an exercise of male aggression against women (Lonsway & Fitzgerald, 1994); however, critical queer, feminist, and gender scholars have found this definition to assume gender roles and further stereotypes that invisibilise LGBTQ+ survivors of sexual violence and their experiences.

Rape myths stem from patriarchal societies that are framed alongside heterosexism, cissexism, homophobia, transphobia and other systems of oppression. The belief in heterosexuality — mainly based on essentialist assumptions of the binary between women and men, their assumed antagonistic reflexive relationship, specific to assumed gender roles of one who pursues (man) and the other is chased (woman) —underpins many rape myths that often villainise victims and dissociate responsibility from the perpetrator (Hayes et al., 2016; Armstrong et al., 2018). Much of the literature on rape myths and their impact focuses on cisgender women’s experiences of sexual violence perpetrated by cisgender men (Mortimer et al., 2019). With research on rape myths in universities (Bhagal & Corbett, 2016; Finchilescu & Dugard, 2021), police (Parratt & Pina, 2017), and media (Franiuk et al., 2008; Hedrick, 2021), among other spaces.

This is in contradiction of more recent evidence of same-sex non-consensual sexual relations (rape and other sexual abuses) accounts during the conflict, which continues during and after transitional periods with impunity. The All Survivors Project (2020) projected that in nearly every armed conflict in which sexual violence is found to be pervasive, widespread, and systematic, same-sex sexual violations are prevalent.

Because of the context of rape myths, male and/or male-presenting survivors of sexual violations are not believed because of assumed physical strength that is either meant to protect them from harm or their sexual prowess that assumes that men can never be victims of sex, sexual misunderstandings, or not desiring sexual activity. Men and those who have masculine physical appearances are seen as biologically very sexual and physically dominant, which makes them seem invulnerable and, most importantly, impenetrable. In Hlavka’s (2017, p. 482) study on stigma-related underreporting for young men, participants stated that sexual assault “embodied a threat to boys’ (hetero)gendered selves, as they described feelings of shame and embarrassment, disempowerment, and emasculation”.

According to theories of heterosexuality, the physical bodies of men, male-presenting, and boys, despite their innocence, are culturally identifiable as the penetrator and not the penetrated. In contrast, women are penetrated, which are the defining physical differences which influence the expected gendered roles. It is this rationale that the sex/gender binary is harmful as the physical appearance of these genders assumes ‘natural’ and ‘biological’

roles, which for men and male-presenting individuals are perpetrators and women victims. Hence, men are silent about their experiences of sexual violence because of the possible questions of their gender and performance of gender, which looks like fears of homosexuality (Couturier, 2012). Fears of homosexuality are conditioned by rape myths that perpetuate women as penetrable, specifically by a penis, and men or individuals with a penis as the ones penetrating. It similarly follows the theory of being the chaser (a role reserved for men) and the chased (a role reserved for women). This means women as perpetrators are often considered a myth, especially when men are victims of sexual assault.

Rape myths are not limited to be harmful to cisgender men and women but are harmful to sexual and gender minorities. The limitations in the scope and understanding of same-sex perpetrator and victim sexual violence distort the sexualised nature of the violence and the full extent of the harm suffered by actors. Sexual violence experienced by sexually and gender-diverse persons is severely under-reported for two reasons: 1. the limited categories defined as CRSV, and 2. the context where the violence is committed. The heteronormative theorisation and conceptualisation of CRSV have resulted in the assumptions, essentialist and normative understandings of this phenomenon that prevents us from asking questions beyond sexual violence being political violence.

Only recently have international humanitarian bodies acknowledged sexual violence perpetrated against sexually and gender-diverse persons (LGBTQ+). Even with this development in the scope of investigation and literature, there continues to be an underreporting of violence that has yet to be fully realised. Also, for many of the contexts, including those that are being included as case studies, homosexuality is criminalised, which lessens the scope and does not allow for their experiences even to be part of the investigative mandate.

Referring back to the concept of coloniality of gender, these distortions, while a product of evidence, are based on dominant myths and stereotypes of sex and gender. Evidence can serve as a feedback loop. The enthusiasm for evidence-based policy has meant a limited version of 'evidence' constantly being promoted. TC discourse on conflict-related sexual violence shows itself as one of the most evidence-hungry discourses. The focus on the rationale and objective of evidence-based research has meant that quantitative forms of knowledge with apparent facticity tended to be preferred (Read, 2019). Litthoz-Monnet (2017, p. 574) and Read (2019, p. 470) both suggest that this is a response to a crisis of legitimacy on the part of international organisations who seek to justify their policies as "evidence-based", "rational", and founded on neutral expertise.

Pointedly, evidence reports (Nordås & Cohen, 2021; Murphy et al., 2024; United Nations, 2023, 2024) show that women and girls are routinely the targets of sexual violence during conflict, thus, justifying their overt representation in the documentation of sexual violence and rape. Women's visibility in international sexual violence discourse signals the impact of

women's and feminist movements on reshaping conceptual framings of conflict and transition defined in TJ (Bell & O'Rourke, 2007; Scully, 2009). In Read's (2019) study, they conducted a historical sample of peacekeeping in Darfur, Sudan, recording that no systematic compiling of data was collected to track the impact of conflict on women (Read, 2019). Instead, the only captured data depicting women's experiences of conflict were women as victims of CRSV. This finding is part of a more extensive critique of TJ's standardised depiction of sexual violence of women as only victims (Gorris, 2015; Sidebotham, Moffatt & Jones, 2016; Read, 2019).

This standardised depiction of sexual violence distorts narratives of sexual and gendered nuances of conflict that inadvertently de-politicises the actors and actions in conflict (van der Merwe & Lykes, 2020), which marginalises men, sexual and gender minorities, and child victims of sexual violence. The repeated description of sexual violence across these contexts assumes an established criterion of context, actors, and motivations. Baaz and Stern (2013) account for this depiction of sexual violence in conflict as a consequence of the policy-like nature of TJ and peacebuilding. If these concepts are conceptualised under universalised understanding, then they are held responsible by international standards. This can be problematic since local mechanisms are undermined and peripheralised.

Pointedly, this also holds the narrative of specific actors and contexts. Most of the CRSV discourse eschews what Lewis & Allden (2024, p. 190) understand as "requisite components" that define what can be understood as CRS and what is not understood as sexual violence. Universal interpretations of rape in conflict rest on "a combination of who (profile of the victims and perpetrators); what (elements of the offence) and why (the motive)" (UN Action, 2011, p. 2). This has resulted in the universalisation of CRSV, which is both racialised and gendered. In identifying the who, most perpetrators are Black African men and victims are Black African women and girls, the what is often the most horrifying accounts of violence that usually portrays a collective perpetrator and repetition of gang-related attacks; and lastly, the why is defined by the terms of 'weapon of war', 'instrument of terror' and 'tool of war'. These depictions are often acontextual and determine sexual interactions according to Euro-Western interpretations, which reiterate gendered and sexual colonial tropes (Wood, 2014; Gorris, 2015; Sidebotham et al., 2016; Read, 2019). Sidebotham et al. (2016) acknowledge this ideally by stating that "conflict-related sexual violence is constructed as if already known and understood" (p. 1152).

Read (2019) argues that the conceptualisation of sexual violence is not without its own 'politics', especially in the non-governmental organisation (NGO) space. NGOs are identified as one of many authoritative figures in the theoretical and conceptual framing of CRSV (Gorris, 2015). The disadvantage is that external actors, often Euro-Western financiers, fund NGOs. Also, because of financial precarity, NGOs gatekeep access to their findings as it becomes their currency to trade, gain global epistemic authority, and bid for more funding. Because of the unequal relationship between donors and NGOs, donors are also considered

experts. Therefore, their interests also determine the global criterion of sexual violence (ibid).

Therefore, established knowledge of CRSV outside of the distinguished international criterion is minimised (Gorris, 2015). There is only one feedback loop that justifies established theories of conflict-related sexual violence, which discounts first-hand experiences and delimits the testimony methodology that is prioritised in TJ. Therefore, instead of empowering victims/survivors of CRSV, they are silenced and disempowered (Sidebotham et al., 2016, p. 1152). Therefore, the research study will analyse this tension and address the victim hierarchy, which is determined by the normative knowledge of CRSV.

3.6. Chapter Summary

The literature review exemplifies the importance of establishing a decolonial perspective on crises like CRSV. So far, TJ has made a fortified effort to investigate, research, and interpret CRSV as a contemporary phenomenon that exemplifies society's continued social ills and conflict. However, it has made the mistake of leaning on the familiar temporal governance that necessitates the orderly package of conflict, hostility, and violence in fixed anecdotes of time and space. Using coloniality theories, there is an opportunity to document and understand the violence of sexual violence as a product of domination, exploitation, and othering adopted from the era of colonialism. This gives us the opportunity to theorise anew violence and the themes of violence, such as gender, sex, and sexuality, that continue to oppress and expose people to this vulnerability.

Understanding how social systems are reproduced across different epochs assists us, researchers, academics, and policymakers alike in creating evidence-based, contextualised, and historically motivated strategies that can help tackle the crisis of conflict-related sexual violence. Acknowledging the intersectionality of gender with broader power structures is critical for creating impactful solutions to address continued forms of gendered violence in both conflict and 'peacetime' and encourage nuanced conceptualisations of gender and violence.

3.7. Conceptual framework

This section focuses on the conceptual framework that directed the research study.

- *Decolonial critique* looks at colonial continuities in the post-colonial period (Jamar, 2022).
- *Coloniality of power* is a concept developed by sociologist Aníbal Quijano, which critiques the long-lasting effects of colonialism on social, political, and economic structures, even after formal decolonisation. It explores the racialisation of power relations, how it influences global dynamics and maintains colonial legacies in contemporary societies. At its core, coloniality of power argues that the colonial process did not just involve the control of territory but also the establishment of a global system of racialised power that continues to shape the modern world. It reveals how colonial

rule fundamentally reorganised the world order in ways still felt today, particularly regarding race, knowledge, labour, and identity.

- *Coloniality of gender* is a theory developed by decolonial Latin feminist Maria Lugones detailing the impact of colonialism on indigenous gender norms. It explores how colonial powers imposed political, economic, and racial domination through structured gender relations in ways that continue to affect contemporary understandings of gender, sexuality, and identity. These impositions disrupted or erased pre-existing, often more fluid and diverse, gender roles.
- *Conflict-related sexual violence* is defined as incidences or patterns of sexual violence against women, men and children occurring in conflict or directly influenced by conflict (Gorris, 2015).
- *Epistemic violence, epistemic oppression, and epistemicide* are conventions that a singular epistemic tradition achieves universality and authority to 'truth' (Grosfoguel, 2007).
- Foucault (1980) defines *power-knowledge* as a reciprocal relationship between power and knowledge (Rabinow, 2011; Olsson, 2010). Power exists all around us and is legitimised and reproduced through knowledge.
- *Transitional Justice* involves acknowledgement, prosecution, compensation, and forgiveness of past crimes during political transformation in a conflict-impacted society (United States Institute of Peace, 2008).

Chapter Four: Methodology

4.1. Introduction

Chapter four details the methods and data analysis strategy used to examine how the select African TCs investigate, document, and disseminate knowledge about CRSV. Grounded in decolonial epistemology, particularly coloniality of power and coloniality of gender, this research adopts a qualitative research design, leveraging critical reading and a case study approach to capture the nuanced interpretations of gender and gendered violence across the three African TC case studies: the 2004 Sierra Leone Truth and Reconciliation Commission (SLTRC), 2013 Kenya Truth, Justice and Reparations Commission (TJRC), and the 2021 Gambia Truth, Reconciliation and Reparations Commission (TRRC).

This chapter begins with the scope of the research, detailing the context of establishment of each TC and later providing insight into the process of the final reports. This is followed by the research design, critical reading and case study approach; the sampling method of non-probability and purposive methods; and the constructivist data analysis strategy alongside decolonial, feminist and queer theoretical framework to interrogate the dimensions of power through the TCs language use and knowledge production in discussing CRSV. The section concludes with ethical considerations of the study, detailing the dependability, credibility, and transferability of the research study for potential future research.

4.2. Study scope

4.2.1. Social and political context of conflict and TCs

The post-colonial African context has suffered recurring cycles of violence, involving colonial occupation, struggles for independence and post-independence armed conflict. The immense human loss and suffering, destruction of infrastructure, weakening of government institutions, political transition, and increased socio-economic instability experienced during conflict (Le, Bui & Uddin, 2022) exposes many already vulnerable groups to the risk of sexual victimisation. According to the United Nations 2020 Factsheet, African countries reported the highest numbers of CRSV cases globally. Armed security forces from both non-state and state groups are guilty of targeting civilians with rape, gang rape, sexual slavery, abductions and other forms of sexual abuse (United Nations, 2024).

Gender and sexuality are inextricably linked to an individual's vulnerability and exposure to sexual violence during conflict because of conditions, including forced displacement, economic insecurity, housing and food insecurity that encourage sexual exploitation, and lack of social support. Women, girls, non-binary and queer persons' are particularly at risk because of entrenched sexual and gender norms, criminalisation of sexual and gender minorities', and the social and political barriers to reporting that silence victims and survivors. The opportunity and normalisation of violence, with the near-total impunity for sexual crimes against gender and sexual diverse persons, ensures that violations go unnoticed.

This research study focuses on country cases from Sierra Leone, Kenya, and the Gambia, formerly Anglo territories that experienced distinct forms of colonial violence, independence and post-independence armed conflict. For this reason, these countries established TCs to investigate and document a historically ‘accurate’ truth about the past and human rights violations, identify the victims and perpetrators of violence, and report on the suggested recommendations to acknowledge and provide redress for the violations committed. Despite these objectives, their respective TCs operated in legal and political environments hostile to sexual and gender minorities.

Across the 15 years between the different mandates, the Gambia passed a legislature prohibiting consensual same-sex sexual relations and relations in 2014. Before this legislation, same-sex relations were already prohibited according to historical colonial laws; however, the Criminal Code (Amendment) Act 2014 introduces the new crime with a punishment of a lifetime in prison for ‘aggravated homosexuality’ for ‘serial offenders’ and gay or lesbian people who live with HIV (Amnesty International UK, 2018). This legal shift followed the former president’s public statements calling homosexuals “vermin” and vowing to “cut off [their] heads” (Stone, 2015).

Such attitudes are shared across the other countries, with Sierra Leone and Kenya upholding their respective colonial anti-sodomy laws. It is a little-known fact that one of the greatest exports of British colonialism was homophobia. Of the 69 countries where homosexuality is criminalised, more than half (36) are former British colonies (Migrant Rights Network, 2023). This leaves many sexual and gender minorities’ vulnerable to discrimination, harassment, and physical and emotional abuse without any state or social support and protections.

These legal regimes not only silence queer and non-binary victims of CRSV but also shape the TCs’ ability to name and address such harms. The language, frameworks, and definitions used in the mandates and final reports are produced within systems that uphold binary gender norms and reject non-normative sexualities. As discussed in *Chapter Three*, these systems reinforce a cis-normative and heteronormative understanding of sexual violence, rooted in colonial and patriarchal logic.

For this reason, it is critical that this study situates CRSV within the broader socio-legal context in which TCs operate. The exclusion of gender-diverse experiences is not incidental—it is structured by law, culture, and power. Recognising this context is essential to understanding why certain things are included, omitted, or made impossible within official accounts of violence and justice in transitional settings.

4.2.2. Case Selection: Defining the Truth Commission parameters

Since the twentieth century, TCs have become adequate institutions to investigate the history of human rights violations. With its truth-telling process, recommendations, and implementation for redress and reparations, they are relevant to public discourse about CRSV. Since the mid-1990s, many TCs have acknowledged sexual violence as a human rights

violation. However, many have been limited in scope, investigative operations, recommendations, and implementation regarding SGBV, which has hindered opportunities for full redress specific to SGBV.

This research study analyses three state-sponsored³ African TC mandates and final reports, including the 2004 Sierra Leone Truth and Reconciliation Commission (SLTRC), the 2013 Kenya Truth, Justice, and Reconciliation Commission (TJRC), and the 2021 Gambia Truth, Reconciliation, and Reparations Commission (TRRC). Spanning over a 17-year gap between the first country case study, the 2004 SLTRC (2002-2004), and the more recent country case study, the Gambia TRRC (2017-2021), the selected case study TCs are the only African commissions that incorporated a gender perspective and sexual violence as thematic areas for their mandate, investigative operations, interpretations of their findings, recommendations, and their implementation processes. The implementation of recommendations is not the scope of the research study since there are too many inconsistencies in output and timeline that this study cannot cover.

The study's unit of analysis is the mandate and final reports for each TC. Formats across the different TCs vary, but generally, the mandate states the territory, period, events, actors, types of violations and other factors that the commission will investigate. The final report functions as an official document cataloguing the TC's investigative findings, testimonies of witnesses, survivors of violations, and, in some cases, perpetrators. The document is also responsible for following up with the commission's commitments, which are first introduced in their mandates.

Under the SLTRC mandate, the commission investigated human rights violations, including CRSV, from the beginning of the conflict in 1991 until the signing of the Lomé Peace Agreement on 7 July 1999 (Truth and Reconciliation Act 2000, 2000, p. 5). The scope of the study's investigation begins with the signing of the Lomé Peace Agreement in 1999 and ends with the SLTRC's operations in October 2004.

The Kenyan TJRC mandated the commission to investigate historical human rights violations, including CRSV, from 12 December 1963 until 28 February 2008 (Truth, Justice and Reconciliation Act 2008, 2008, p. 9). The scope of the study's investigation begins with the signing of the TJRC Act 2008 and continues until the end of the Kenyan TJRC's operations in August 2013.

³ This research study did not consider civil society or international-led TCs. State-sponsored TCs are significant because they are given authority and resources to investigate historical injustices nationally. This model is flawed, considering that truth-seeking and truth-telling are political and influenced by social and economic issues. However, with government support, TCs are given legitimacy and credibility, enabling their findings and recommendations to be more widely accepted, encouraging legal and policy reform.

The Gambian TRRC mandate states that the commission investigates human rights violations, including CRSV, committed under former president Yahya A.J.J. Jammeh's regime between July 1994 and January 2017 (Truth, Reconciliation, and Recommendations Act, 2017, 2017, p. 8). The scope of the study's investigation begins with the signing of the TRRC Ac in 2017 and continues until the end of the TTRRC's operations in December 2021.

The initial research plan included the Tunisian Truth and Dignity Commission as a case study. However, the available digital version of the commission's final report was amended, undermining the integrity of the original report. The only available version of the report I had access to was the Executive Summary translated by Avocats Sans Frontieres in Tunisia. The Executive Summary is comprehensive, consisting of 644 pages and nine parts, detailing the commission mandate, existing TJ mechanisms in the country, the events leading up to establishing the commission, the *modus operandi*, findings of violations committed, recommendations and reparations. While translation can bridge languages and cultures, as Sun (2022) notes, it inevitably leads to a loss of meaning. Given that my research focuses on the meaning within TC texts, I could not confidently conduct an authentic analysis of a redacted, summarised, and translated text.

Considering the scope of the TCs, the research study about how coloniality of gender impacts the understanding of conflict-related sexual violence (CRSV) follows the collective timeline of the TCs, which spans from 7 July 1999 to December 2021.

4.3. Research Methods

4.3.1. Research Design

This research study employed a qualitative research design grounded in decolonial feminist epistemology to explore how colonial legacies about gender shape the understanding of sexual violence in African TC reports. The advantage of qualitative research methods is that they involve strategic collection, organisation, and interpretation of textual information. They are thoughtful, deliberate, and conceived with attention to the research context, thus making them strategic. This approach allows a deeper understanding of subjective experiences, meanings, and social phenomena.

The enduring impact of colonialism is embedded in our intellectual life and how we develop our linguistic practices and conceptualise our reality. Language is essential to socialising normative ideas, thoughts, and identity (Rampton, 1995). Any discourse is significant as it controls and shapes what we think, know, and are allowed to know (parameters), influencing what we consider possible (Bowleg, 2023, p. 2). Following Quijano's (2000) criticism of *Totality* and *Totalitism*, the consequence of coloniality to knowledge is the codification of reality around certain perceptions of the truth, a truth selected in the context of TJ by experts, elites and the decidedly qualified.

As Denscombe (2023) elaborates, the decolonial project challenges the hegemony of Western knowledge and colonial ways of thinking. A critical decolonial feminist approach is

adopted to analyse the textual data necessary to conceptualise, as Lazar (2007) states, an issue of access to forms of discourse relevant to the discourse of justice, rehabilitation, accountability, and affirmation of victimisation offered in TJ and TC discourse. This perspective helps interpret broader epistemological questions about the construction of knowledge, the limits of our understanding, and the power dynamics that shape them.

The qualitative research method provides flexibility to explore these epistemological questions and their complexities, ensuring nuanced understanding and measuring of the systems of power and their capacity to impact our everyday lives. By focusing on these intersections of power, gender, and coloniality, the study aims to shed light on how historical structures continue to influence the representation of sexual violence and the experiences of survivors in African TC reports. This encourages complex discussions about decolonising our approaches in TJ to be more intentional in addressing.

4.3.2. Case study

This study adopts a multiple case study design to examine how various African TCs conceptualise gender and how these conceptualisations shape the understanding of CRSV. Case study research is particularly suited for generating in-depth insight into contemporary phenomena embedded in real-world contexts (Coombs, 2022). As Yin (1999, p. 1211) argues, the method allows for an intensive focus on a single phenomenon while maintaining attention to its broader socio-political environment.

Multiple case study analysis enables the researcher to examine several related instances to explore one overarching issue or theme (Creswell & Poth, 2018). This study applies that logic to three African truth commissions: the Sierra Leone Truth and Reconciliation Commission (SLTRC, 2004), the Kenyan Truth, Justice and Reconciliation Commission (TJRC, 2013), and the Gambian Truth, Reconciliation and Reparations Commission (TRRC, 2021).

The main research question is: How do African truth commissions conceptualise and address conflict-related sexual violence within transitional justice frameworks? Using the 2004 Sierra Leone, 2013 Kenyan, and 2021 Gambian truth commissions as case studies. The central question is supported by four sub-questions:

- a. How does the Sierra Leone, Kenyan, and The Gambian truth commission's define gender in their mandate and final reports?
- b. How does the Sierra Leone, Kenyan, and The Gambian truth commission's define sexual violence and victimhood, and with what exclusions?
- c. How do truth commissions' definitions of gendered violence reflect colonial and heteronormative power structures?

These questions seek not only to interrogate how CRSV is addressed in official narratives but also to expose the broader ideological frameworks shaping TJ discourses around gender, violence, and victimhood.

A key strength of the case study approach is its capacity to capture both the phenomenon and the context in which it occurs, particularly when the two are interdependent or indistinct (Yin, 2009, p. 18). As bell hooks (1991, quoted in Ross et al., 2024, p. 17) notes, theory is not born in abstraction but emerges from critical engagement with lived realities. In this sense, the case study approach allowed me to consider how racialised, gendered, and colonial power structures influence knowledge production within transitional justice mechanisms, particularly around CRSV.

The *unit of analysis* for these case studies is the mandate and final reports of the respective TCs. Like most mandates and final reports, all final reports were made public and available on the respective TC website. What follows is a description of the reports, detailing the chapters and content of the chapters:

The SLTR final report consists of three volumes and one appendix. Volume one consists of five chapters detailing the mandate, setting up of the commission, concepts and theoretical framework, operations, and methodology; Volume two consists of five chapters, including the Executive summary, findings, recommendations, reparations, and list of victims; Volume three is split into A and B, A consists of four chapters detailing historical antecedents to the conflict, governance, the military and political history of the conflict, and the nature of the conflict, B consists of eight chapters detailing the impact of mineral resources on the conflict and country, external actors involved in the conflict, women and the armed conflict, children and the armed conflict, youth and the armed conflict, the TRC and Special Court for Sierra Leone (SCSL), reconciliation, and national vision; and, the last volume is the appendices. The commission began its operation in October 2002 and ended in October 2004. The commission established a dissemination plan that involved the production of the report in multiple local languages, the formation of dissemination committees to distribute the report locally and nationally, and the use of workshops to promote dialogue about reconciliation, peace, and TJ in the country (Svärd, 2010, pp. 49-50). Despite the dissemination plan, the physical version of the report was not made easily accessible. The government and the international community did not do much to promote the dissemination; instead, much of the responsibility was left to civil society. It is available online on the SLTRC website, where I accessed the reports.

The Kenyan TJRC final report comprises 2 210 pages which are divided into three volumes: Volume One includes the mandate, the methodology and framework, and the challenges that the commission faced; Volume Two is divided into three parts: IIA, IIB, IIC, IIA details the historical context of the conflict, and human rights violations committed including unlawful killings and sexual violence, IIB details economic marginalisation and discrimination, and IIC details gender and gross violations experienced by women, children and the committed gross human rights violations, and human rights violations committed against minority groups; and IIC details ethnic realities and tensions as well as establishing a

path towards healing and reconciliation; lastly, Volume Three details implementation and monitoring mechanisms, and recommendations and reparations framework.

The final TC, the Gambian TRRC, consists of the most volumes with 16. Volume One is compendium (Part B) consisting of the recommendations for prosecution; Volume Two details the violations committed by the Armed Forces Provisions Ruling Council (AFPRC) Junta; Volume Three details the 11 November 1994 coup attempt; Volume Four details the unlawful killing of Ousman Koro Ceesay (former Minister of Finance and Trade); Volume Five records the attacks on religious freedoms; Volume Six details the April 10 and 11 student protests; Volume Seven details attacks on freedom of speech, media, and freedom of expression as well as attack on political opponents; Volume Eight details the violations committed by the Junglers; Volume Nine details the violations committed during the President's Alternative Treatment Program (PAPT); Volume 10 details sexual and gender-based violence (SGBV); Volume 11 details 2009 witch hunt exercises; Volume 12 details the killing and forced disappearances of West African migrants; Volume 13 details institutional hearings: National Intelligence Agency (NIA); Volume 14 details the institutional hearings: the Gambia Prison Services; Volume 15 details institutional hearings: justice sector entities; and, Volume 16 details reparations and reconciliation efforts. Witness portraits also accompany the final report.

Considering the extensive length of these TCs, I adopted a similar method to Paulson and Bellino's (2017), using the table of contents to direct me to sections relevant to answering the research sub-questions: *How does the Sierra Leone, Kenyan, and The Gambian truth commission's define gender in their mandate and final reports? How does the Sierra Leone, Kenyan, and The Gambian truth commission's define sexual violence and victimhood, and with what exclusions?* The table of contents alerted me to gendered perspectives and findings of the conflict, such as sexual violence, operations, and mandates.

Following a glossary from [The Gender and Sexuality Campus Center at Michigan State University](#), a key guide was also used to identify relevant terms and texts. The glossary is expansive but I did not restrict myself; instead, I adapted it according to the language used in the respective reports. The key includes terms such as sex, sexual violence, sexual harassment, rape, penetration, sexual assault, and other terminology adopted from the United Nations handbook on CRSV. The key guide also included terms for gender and sexuality: woman, man, girls, boys, queer, non-binary, transgender, sexual minority, gay, and variations of LGBTQ+, including LGBT, LGBTQ, LGBTI, and gender diverse. This guide enabled me to document and analyse the language use, interpreting how gender and sexuality are perceived both within the guide and outside if this guide did not report sufficient findings.

4.3.3. Critical Reading

The research study also used critical reading, which is defined as examining and evaluating arguments' validity in written text (Van, Li & Wan, 2022). This method is attuned to the social constructivist analysis strategy as it actively engages text by analysing, interpreting, and evaluating its content. This method addresses the main question: *How do African truth commissions conceptualise conflict-related sexual violence, as illustrated by the 2004 Sierra Leone Truth and Reconciliation Commission, the 2013 Kenya Truth, Justice and Reconciliation Commission, and the 2021 Gambian Truth, Reconciliation, and Reparations Commission?* It requires a comprehension of the text, which critical reading enables the detection of patterns and reading of ideas in the text, sentences, and understanding of the cultural and historical context of the text to interpret what the text says, does, and means (Duncan, n.d.; Kurland, 2000). The research study relied on decolonial, feminist, and queer conceptual and theoretical knowledge in this process of critical reading to interpret the language used in the three TCs discourse about CRSV.

Critical reading involves three phases: (a) activate, (b) engage, and (c) extend. The 'activate' phase entails identifying strategies for intentional reading (AVID, 2021). This study's strategy involved selecting texts for the literature review on gender perspectives in TCs and how TJ addresses CRSV. This selection clarified concepts and shaped the language used to capture findings from the TC reports. The 'engage' phase involved engaging with the text to understand key concepts and vocabulary to aid in a more profound comprehension of the text (ibid). The interaction of the text in the literature review enabled me to possess the language, information, and discourse about CRSV and TJ and how this could translate to TCs' interpretations of this violence. This process enabled the development of the 'expertise' necessary to analyse the final reports. The final phase involves extending beyond the text, followed through in Chapter Five of the findings and Chapter Six of the discussion, involving developing analytical skills to sort through the three TC final reports, evaluating the language used, establishing themes, and synthesising the findings in the discussion and finalise in the conclusion.

This method was also used for data collection. The focus is on all the TC mandates and final reports; however, the research study focuses on gender and CRSV, defining the relevance of the text subject. Therefore, I could be selective in my findings when conducting my analysis. In being selective of the text, I could continue the critical reading process to interpret both what and how the text portrayed the subject matter of CRSV in these TCs.

4.4. Sampling

The research study used a non-probability sampling method to select the African TCs. Non-probability sampling involves using subjective or knowingly biased methods to select data from a population. It uses non-random criteria, including availability, geographical proximity, or expert knowledge of the subject matter, to answer the research question

(Nikolopoulou, 2023). While this method is criticised for potential bias and assumption risks, I adapted it using expert selection and case study methods.

Expert sampling is purposive, drawing on a researcher's specialised knowledge in a specific field or area of study (Vehovar, Toepoel & Steinmetz, 2016). This method of sampling is apt because of my three-year working experience at the non-profit organisation (NPO), the Centre for the Study of Violence and Reconciliation (CSVR), working on conflict, TJ in Africa, CRSV, and SGBV.

For two years and seven months, I worked on a project, *Sexual Violence and Truth: The Role of TCs in Addressing CRSV in Africa and Latin America*, implemented by CSVR in partnership with the Chr. Michelson Institute (Norway) and the Overseas Development Institute (UK), funded by the Research Council of Norway. I collected qualitative data on TC's documentation of CRSV, capturing data using Google Forms to develop a CRSV and TC database. To clarify, I did not use the project's resources for this research study and instead relied solely on public reports offered by the select African TCs. The case studies I reported on included the Central African Republic (CAR), Mauritius, Morocco, South Sudan, The Gambia, and Uganda. I currently work on monitoring TJ efforts and mechanisms effectiveness in addressing past violence in select African countries, including the already mentioned nations as well as Algeria, Burundi, Chad, Democratic Republic of the Congo (DRC), Ghana, Seychelles, Somalia, and Togo.

My professional experience qualified me to select relevant case studies to deliver the information necessary to answer the research question. Considering my experience, I pre-read 19 state-sponsored African truth commissions dated between the 1974 Ugandan Commission of Inquiry into the Disappearances of People in Uganda and the 2022 Seychellious Truth, Reconciliation and National Unity Commissions, and the findings were that these three case studies are the only African commissions that incorporated CRSV in their mandate, operations, final report, and recommendations. Since no other commission besides Tunisia has achieved this criterion, these three case studies provided relevant and appropriate generalisations to answer the research question.

4.5. Data Analysis Strategy

The research project adopted a social constructivist strategy to investigate the historically driven reciprocity of coloniality, imperialism and modernity in how the three African TCs detailed CRSV. This strategy interrogates how power operates through discourse — that is, how CRSV is defined, legitimised, and made exclusionary through the language and narratives deployed by transitional justice mechanisms.

Accompanied by Foucault's insights on the relationship between power and knowledge, this analysis views power and knowledge as mutually constitutive, embedded in ideology, institutions, and systems of control. Knowledge and discourse are not neutral but instead

shaped by historical variables, the outcome of uneven social and political relationships, technology and power.

By adopting a constructivist conceptual analysis, we are able to study “what does ‘power’ do” (Guzzini, 2005, p. 495), enabling an investigation of how discourses on CRSV are constructed, legitimised, and rendered exclusionary within TJ mechanisms. Within this conceptual framework, to believe at face value what one hears, reads, or sees as ‘truth’ would lead to serious errors of overlooking the social circumstances within which particular sets of ideas are produced, circulated and maintained (Waitt, 2010).

The primary concern of the research questions is to establish what power is being wielded in the TJ discourse about CRSV. How the interpretations of sexual violence are inherently exclusionary in its inclusion of women’s experiences of violence as solely sexual violence. Iconising the role of women in both conflict and post-conflict resolution. Across all three case study countries, the criminalisation of same-sex relations and gender non-conformity forms a critical part of the discursive context in which truth commission reports were written.

In Sierra Leone, the Offences against the Person Act 1861 bans sodomy and ‘buggery’, which is defined as anal sexual intercourse, among other ‘unnatural’ sexual acts (Raidoo, 2023). A remnant of its colonial past, Act 1861 was created during British colonial occupation. Act 1861 specifically targets MSM and does not reference women who have sex with women (WSW), transgender persons, or non-binary persons, and instead is illusive with what is considered ‘unnatural acts’. Although never fully enacted, this law remains a tool of sexual and gender regulation, encouraging targeted acts of violence, particularly sexual harassment and threats of violence (UNHCR, 2007) and forcing the gendered *othered* into hiding. Since passing the 2014 criminal code of ‘aggravated homosexuality’ in the Gambia, persecution of MSM, WSW, transgender persons and non-binary persons continues.

Similarly, Articles 162, 163, and 165 of the Kenyan Constitution prohibit homosexuality. Since 2010, the Constitution of Kenya publicly defines marriage as strictly a union between a male and female and under the Family Protection Bill (2023), same-sex marriage is prohibited. Kenyan public discourse emphasises the ‘natural order’ between male and female, arguing homosexuality is morally deviant, with over-reliance on religion and tradition as justification for harassment, legal discrimination, and social rejection of gender and sexual minorities. With the proposed Family Protection Bill (2023), prohibited acts include aggravated homosexuality, same-sex marriage, unnatural sexual acts, sex reassignment prescriptions or procedures with a penalty of imprisonment and, in some instances, death (Family Protection Bill, 2023, pp. 9-15).

These legal frameworks form the discursive context in which the TCs were produced. As such, they directly shape what forms of CRSV were recorded, how gender was defined, and

whose suffering was acknowledged. The analysis examines how TCs internalised or resisted these dominant discourses through their language, categorizations, and omissions.

In this discursive environment, decolonial, feminist, and queer theoretical lenses are indispensable. Decolonial theory allows for a critique of how knowledge systems rooted in colonial modernity continue to regulate understandings of gender and sexuality. Feminist and queer theories interrogate the naturalisation of binary gender and heterosexuality, exposing how institutions, including TCs, can reproduce exclusion through seemingly progressive frameworks (Kramer, 2019).

After years of women's movements for our inclusion in conflict theorisation, and to be part of the processes of peacebuilding. Hallmarked as measures of liberalism and modernity, feminist politics have been appropriated and instrumentalised to exclude non-conforming individuals. This intersectional approach reveals how CRSV is often framed in a way that excludes sexual and gender-diverse persons, reinforcing heteronormative conditions and understandings.

In analysing the TC reports, I paid close attention to how CRSV is *framed, categorised, and excluded* through language. By situating the reports within their legal, social, and political contexts — marked by criminalisation, moral conservatism, and colonial legacies — this analysis examines how certain narratives are prioritised while others are silenced. This tells us about the objects of truth, which, TCs could interpret CRSV, what is 'real' and thinkable, and what is not.

4.6. Validity and Self-reflection

4.6.1. Validity and reliability

Yin (2014, p. 219) argues that case study research plays a crucial and legitimate role in academic inquiry. He emphasises the power of high-quality case study research by proposing three essential criteria: (a) **rigour**, (b) **validity**, and (c) **reliability**. His paper defends the case study research design, arguing against the view that the design is not a "sufficiently robust research strategy" (Quintão & Almeida, 2020, p. 264). Establishing this criterion encouraged the research's rigour, validity and reliability; below, I explain how it was achieved in this research study.

Rigour is defined as the degree and clarity of fit between the study's goals, research design, implementation, and reporting, including interpretation of results (Tolmie, Bowe, Clarke, Guest & Stephens, 2024, p. 1). It ensures that the study is systematic, methodical, and credible. Rigour is particularly crucial in establishing dependability and auditability—two qualities that contribute to the overall reliability of the research. Dependability speaks to the consistency and **reliability** of the study's findings. This was achieved in this research study through purposive sampling, a method that allowed for the deliberate selection of case studies most relevant to the research question. To be selected as a unit of analysis for

the research study, all the TCs had to include CRSV as a priority thematic area in their mandates, operations, final reports, and recommendations.

Reliability involves ensuring that others can trace and verify the methodology to achieve the same or similar results. The identified selection criteria support future research studies and how they can develop a selection criterion to identify relevant TCs to correspond with their research question. The deliberate selection can maintain consistent and appropriate data collection through in-depth, nuanced, and detailed investigation of each case study.

Validity refers to the extent to which the study's findings accurately represent the research phenomenon and whether those findings apply to broader contexts (Patino & Ferreira, 2018, p. 183). Quintão, Andrade & Almeida (2020) explain that adopting multiple case studies can make the analysis more robust. This speaks to the consistency and credibility of qualitative research and the extent to which an authentic account of the data has been captured and reflected in the conclusions. The selected case studies were the only African TC that made CRSV an agenda in their mandate, operations, final findings, and recommendations. These could only be the units of study which I addressed. By comparing these cases, it was possible to draw broader conclusions about the understanding and representation of CRSV and gender within the context of African TJ.

The credibility of qualitative research is further bolstered by the consistency of findings across multiple case studies. Consistency refers to the extent to which the conclusions drawn accurately reflect the data and are not influenced by researcher bias. To improve this consistency, I used critical discourse analysis to examine the final reports of these commissions, comparing findings from previous scholars who have studied similar issues. Also, a critical read of CRSV and the perceptions of gender in conflict and conflict resolution enabled me to use the language to interpret my findings. Alongside the critical discourse analysis of the final reports, scholars before me have found similar findings in their studies. This allowed me to make informed comparisons, identifying patterns and context-specific differences in how CRSV is addressed in various TC and TJ contexts.

The finding's consistency is also a result of the purposive sampling method wherein the selection of the truth commission was intentional, considering that they were selected according to the criterion that each followed a gender-responsive strategy in their mandate, investigative operations, final report findings, and recommendations. This method ensured a welcomed outcome of relevant data to interpret and produce results to analyse to answer the research question. This also ensures transferability, which refers to future research and what is necessary to examine both this study and its adaptations in the future.

4.6.2. Self-reflection

My work experience has deepened my understanding of TJ and CRSV, influencing how I report on violence, the actors involved, and the outcomes of TJ efforts. While TJ emphasises documenting women and girls as primary victims of sexual violence and framing gender

inequality as impacting women and motivation for the violence women experience, this perspective limits our ability to address CRSV fully. It has implications for policy development, often excluding sexual harms experienced by sexual minorities and broader discussions, hindering progress.

This study reflects the field's assumptions and my lens on capturing CRSV. Efforts to address gendered blind spots in TJ have made strides in recognising women and girls' experiences in conflict (McKay, 1998; Hossain, Zimmerman & Watts, 2014; Ospina-Alvarado et al., 2017; Ellsberg et al., 2021), and policies now focus on protecting and involving women and girls. Truth-telling processes have also prioritised SGBV and included women in decision-making roles. However, we still face challenges in conceptualising gender and often equating gender with sex, despite the distinctions between the two that influence one's vulnerability and how to provide redress differently.

Contemporary interpretations of sexual violence in TCs and other mechanisms reflect the biases of individual countries, influenced by anti-homosexual and anti-queer legislation, as well as a 'know-it-all' mentality that questions the credibility of both the field and the conceptualisation of CRSV. As Grant (2021) writes,

"We all have blind spots in our knowledge and opinions. The bad news is that they can leave us blind to our blindness, which gives us false confidence in our judgment and prevents us from rethinking".

Grant (2021) sheds light on the 'know-it-all' attitude among researchers, practitioners, and scholars of gender and conflict. When given the choice between being right or being effective, our preference should always be effective. Using the coloniality of knowledge and gender as an analytical tool has helped me recognise the barriers we perpetuate as practitioners and scholars.

Grant (2021) continues to say that despite our blind spot,

"The good news is that with the right kind of confidence, we can learn to see ourselves more clearly and update our views.

This idea, though aimed at cognitive blind spots, applies to our understanding of gender and CRSV. Questioning the 'known knowns'—what we think we know—opens space to explore the 'don't know what we don't know,' expanding our theoretical frameworks. As a field and a people, we should be able to revise our thinking and think anew to understand and explain such phenomena.

4.7. Ethical considerations of the study

4.7.1. Ethical clearance

The School of Social Sciences Ethics Committee ratified the research project under the University Human Research Ethics Committee (Non-medical), bearing **Protocol Number**

SOCL-2023-06. The research project's risk level is minimal, and the ethics clearance certificate is attached in the Appendix section.

4.7.2. Considerations of the Researcher

The research project used a case study design analysing three African TC mandates and final reports. No participants were involved, so neither informal nor formal consent was required.

I adopted a decolonial theoretical framework, knowing the potential repetition of unequal power dynamics between knowledge producers and consumers. Existing literature by decolonial scholars argues that the 'expert' narration of violence, specifically CRSV, in TJ exhibits continued coloniality in the conceptualisation of development, progress, and modernity. Developing systems and relations of power through language and knowledge production systems reinforce unequal power dynamics and inequalities linked to colonialism, racism, sexism, and other forms of dehumanisation portrayed by the epistemologies of TJ (Madlingozi, 2010; Maldonado-Torres, 2011). As a TJ practitioner, researcher, and student, I play both the role of a knowledge producer and consumer. By this logic, I must be critical of my own voice in my critique of TJ, as I have blind spots from experience.

This study contributes to critiques of the Euro-Western-centric epistemic authority in TJ, which often determines the parameters of rational knowledge (Bell, Campbell, & Nì Aolàin, 2007; Madlingozi, 2010; Hamber, 2016). Problematising policy-centric language, the information captured and linguistic normativities of TJ, and other methods through text perpetuating the two critical concepts of linguistic imperialism and epistemic violence (Ravishankar, 2020; Jamar, 2022).

The expert voice, often attained through formal education, must be critically examined in my writing on gender and sexual violence to avoid perpetuating harm. This is done by analysing both the text and my language, interpretations, and assumptions through decolonial, feminist, and queer lenses. It is critically asking myself, what about my writing and interaction with the text demonstrates coloniality, and how can I decolonise this process?

4.8. Chapter Summary

This chapter outlined the comprehensive approach employed to examine the role of the coloniality of gender in the investigation, documentation, and dissemination of conflict-related sexual violence by select African TCs. By adopting a qualitative design rooted in decolonial epistemology, the research integrates critical reading and a case study methodology to explore the intersection of gendered violence and colonial legacies within the contexts of Sierra Leone, Kenya, and the Gambia. The application of Foucauldian critical discourse analysis, guided by decolonial, feminist, and queer theoretical frameworks, ensures a nuanced examination of the gendered dynamics at play in each commission's final

report. Through purposive sampling and rigorous ethical considerations, the study aims to contribute to a more robust and nuanced understanding of how coloniality continues to shape how gender and violence are represented and understood in post-conflict African settings. The methodological rigour established here sets the foundation for future research in this area, ensuring the dependability and transferability of the findings to similar contexts of gendered violence and post-conflict truth-telling.

Chapter Five. Norms and Narratives: How TC's interpretation of gender shapes conflict-related sexual Violence

5.1. Introduction

This chapter details the findings of the research study. It is organised according to three themes. The first theme is *International gender and conflict norms*; the second is *'Typical scripts': The dominant discourse of CRSV*; the third theme is *The consequence of the dominant discourse*; and the last theme is the *Conspiracy of silence*.

5.2. Norms and Narratives: How international norms shape gender and violence

Each TC is premised on laws, principles, and jurisprudence that establish the norms for interpreting the violence investigated and addressed in the truth-telling process. Typically, these are established in the TC's mandate. However, this section also explores the TC's final report, which mentions the principles, laws, and jurisprudence followed in interpreting CRSV, including other forms of SGBV. Below, the evidence is provided under a title to highlight the main theme/finding.

5.2.1. International norms and the boundaries of accepted violence.

The 1999 Lome Peace Agreement (LPA), together with the Abuja Ceasefire Agreement (ACA) (2000 and 2001), initiated the end of the Sierra Leonean war and mandated the establishment of the Sierra Leone Truth and Reconciliation Commission. In 2000, President Ahmad Tejan Kabbah and parliament passed the Truth and Reconciliation Commission Act, in line with Article XXVI of the LPA, establishing the SLTRC. Under Part III of the Act, the mandate established the functions of the commissions by stating:

"The object for which the Commission is established is to create an impartial historical record of violations and abuses of human rights and international humanitarian law related to the armed conflict in Sierra Leone, from the beginning of the Conflict in 1991 to the signing of the Lomé Peace Agreement; to address impunity, to respond to the needs of the victims, to promote healing and reconciliation and to prevent a repetition of the violations and abuses suffered" (TRC Act, 2000, p. 5).

The Kenyan TJRC Bill stipulates that the standard of human rights violations, particularly those identified as victims, follow a criterion of national and international standards as interpreted here:

"“victim” includes any person who, or group of persons, which, with the occasion or because of the human rights violation, has suffered any individual or collective harm, loss or damage by acts or omissions which violate the rights granted under the

Constitution or any written law in Kenya, International Human Rights Law and International Criminal Law” (TJRC Bill, 2008, p. 8).

This is further exemplified by the inclusion of international standards in the mandate objectives:

“(c) investigating gross human rights violations and violations of international human right law and abuses which occurred, including massacres, sexual violations, murder, and extra-judicial killings and determining those responsible for the commission of violations and abuses” (TJRC Bill, 2008, p. 10).

This is repeated under Part III – Amnesty Mechanisms and Procedures, wherein the Kenyan TJRC Bill states that the commission will not grant amnesty for acts according to

“crimes against humanity or genocide within the meaning of international human rights law” (TJRC Bill, 2008, p. 33).

The adoption of crimes against humanity fundamentally premises the investigation foundations against international law, with the Bill defining it to include

“imprisonment or severe deprivation of physical liberty in violation of international law and persecution against any identifiable political, racial, ethnic, cultural, religious, gender or other grounds that are universally recognised to be impermissible under international law” (TJRC Bill, 2008, 2008, p. 5).

Pointedly, the Kenyan Truth, Justice and Reconciliation Commission Bill, 2008 outlines the commission's objectives to be specific to the context of the country by stating the objectives to include:

“(a) establishing an accurate, complete and historical record of violations and abuses of human rights and economic rights inflicted on persons by the State, public institutions and holders of public office, both serving and retired, between 12th December 1963 and 28th February 2008, including the – (i) antecedents, circumstances, factors and context of such violations; (ii) perspectives of the victims; and, (iii) motives and perspectives of the persons responsible for the commission of the violations, by conducting investigations and hold hearings” (TJRC Bill, 2008, p. 9).

The objectives are furthered by stating that the commission must,

“(b) establish as complete a picture as possible of the causes, nature and extent of gross violations of human rights and economic rights which were committed during

the period between 12th December 1963 and 28th February 2008, including the – (i) antecedents, circumstances, factors and context of such violations; (ii) perspectives of the victims; and, (iii) motives and perspectives of the persons responsible for the commission of the violations, by conducting investigations and hold hearings” (TJRC Bill, 2008, pp. 9-10).

The Gambian Truth, Reconciliation and Reparations Commission Act, 2017 only mentions international law concerning crimes against humanity by defining human rights violations as,

“... acts of torture, unlawful killings, sexual and gender-based violence, enforced disappearances of persons, inhumane and degrading treatment, arbitrary arrest, detention without trial; whether committed in isolation or as part of a crime against humanity, whether committed individually or in concert with others,” (TRRC Act, 2017, pp. 3). Besides this, there is no reference to international humanitarian law, norms, principles or standards.

5.2.2. International norms on gender and conflict

Table 1 presents key international and regional conventions and principles about gender-based violence, promotion of women and gender equality, and CRSV included across the three TCs' mandate and final report. Alongside the conventions, these findings track which interventions the different TCs incorporated in their gender perspective on conflict.

Table 1: *International and regional principles and conventions about sexual and gender-based violence*

	Sierra Leone	Kenya	The Gambia	Total
1979/81 United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	X	X	X	3
1994 The Office of the High Commissioner for Human Rights (OHCHR) Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT)	X	X	X	3
1995 Beijing Declaration		X		1
1998 Rome Statute of the International Criminal Court: crimes against humanity, genocide, and war crimes	X	X	X	3

2000 United Nations 1325 Resolution on Women, Peace and Security (WPS)	X			1
2003 African Charter on Human and Peoples' Rights on the Rights of Women in Africa (African Women's Protocol), also known as the Maputo Protocol	X	X	X	3
The Convention on the Rights of the Child (CRC)	X		X	2
Optional Protocol to the Convention on the Rights of the Child on sale of children, child prostitution and child pornography			X	1
International Conference on the Great Lakes Region (ICGLR) Protocol on the Prevention of Sexual Violence against Women and Children		X		1
International Covenant on Civil and Political Rights (ICCPR)	X			1
International Covenant on Economic and Cultural and Social Rights (ICECSR)	X			1
The African Charter on the Rights and Welfare of the Child	X			1
Universal Declaration of Human Rights recognising the right to life, liberty and security (protect against sex discrimination)	X			1
The fourth Geneva Convention... characterising rape as an attack on women's honour	X			1
Hague Principles on Sexual Violence			X	1

The Gambian TRRC acknowledged the national legislation, including the Children's Act 2005, the Women's Act 2010, and the Sexual Offences Act 2013. The Children's Act 2005 regards child abuse as any violation of the child's rights that causes physical or mental harm. It addresses sexual abuse and exploitation of children "in every form and stipulates severe punishment for those who commit such acts" (TRRC, 2021a, p. 8). The Women's Act 2010 defines the national interpretation of violence to mean physical, mental, and emotional abuse. The Act states that all women should be protected against any form of physical, sexual, psychological or economic harm, suffering, or violence occurring in the domestic setting or public (TRRC, 2021a, p. 7). The Women's (Amendment) Act 2015 prohibits female circumcision, making it an offence for all who engage in the procedure. The Sexual Offences

Act 2013 criminalises all forms of sexual assault, exploitation and harassment. The Act expands the ‘linguaging’ of sexual offences to include coercion concerning the enforcement of a sexual act. The Act looks backwards and forward-looking, addressing past and future crimes.

The SLTRC did not reference national law in framing CRSV, but in its Volume 3B, it did provide a section titled “National and International law pertaining to women in Sierra Leone” (TRC, 2004c, p. 109), which reviewed international and national laws and their impact on local women’s rights. The SLTRC made mention of the international laws that were observed in reviewing the experiences of women and girls, particularly rape and sexual violence during the conflict, which is observed in Table 1.

The TJRC acknowledged the international laws and principles mentioned in Table 1. It also acknowledged the national law of the Sexual Offences Act (SOA) enacted in 2006. The Act recognised rape as “a violation against women and girls” (TJRC, 2013b, p. 709). The Act introduced new categories of sexual offences in Kenya’s criminal system. It included “sexual assault with an object, rape by more than one person (gang rape), deliberate infection with HIV/AIDS, trafficking for sexual exploitation, and child pornography” (TJRC, 2013b, pp. 709-710) as well as rape being penetration of genital organs of women or men (TJRC, 2013b, p. 710). The TJRC also acknowledged the Children Act, focusing on a “child should be protected from sexual exploitation and use in prostitution, inducement, or coercion to engage in sexual activity” (TJRC, 2013b, p. 710). The TJRC also referenced the Counter Trafficking in Persons Act that enacted protections against trafficking for sexual exploitation. The TJRC also mentioned the Persons with Disabilities Act, recognising the special vulnerabilities of girls and women to exploitation.

5.3. Dominant discourse of conflict-related Sexual Violence

This section of the findings demonstrates the language of interpretation of conflict-related sexual violence in these three truth commissions. The sections are divided by categories of evidence captured throughout the mandate and final commission reports, which are further broken into operations, findings, and recommendations.

5.3.1. Mandate:

The mandate refers to the formal authority and scope given to the commission by a legal or constitutional framework, such as a law, peace agreement, or government decree. This mandate outlines the commission’s objectives, responsibilities, and powers, defining its purpose and guiding its operations. From the outset, the SLTRC, TJRC, and the TRRC prioritised sexual violence as a thematic area of investigation of human rights violations.

Sierra Leone

The Sierra Leone Truth and Reconciliation Commission Act Part III of the Act mandated that the function of the commission is to give “special attention to the subject of sexual abuses and the experiences of children within the armed conflict” (TRC Act, 2000, p. 5). This

instruction is in addition to other mandate functions that investigate and report the causes, nature, and extent of the violations and abuses committed during the conflict. The commission mandate established a gender approach that included “taking account gender representation” (TRC Act, 2000, p. 9) when establishing committees. The gender approach was also adopted in the criteria for their selection panel and selection coordinator, as Figures 1 and 2 show below:

Figure 1: *Administrative provisions for selecting SLTRC committee members*

PART IV – ADMINISTRATIVE PROVISIONS

10. 1. To assist it in the performance of its functions, the Commission may appoint such committees as it may consider necessary.
2. A committee under this section shall include persons who are not members of the Commission but who are appointed, taking into account gender representation and regional participation in the work of the Commission.

(TRC Act, 2002, p. 8).

Figure 2: *Procedure for the selection of nominees for appointment for SLTRC commissioners*

- v. Based on the recommendations from the Selection Panel and the criteria established in subsection (2) of section 3, the Selection Coordinator shall recommend four citizens members for appointment to the Commission, and will suggest a possible Chair. Both the Selection Panel and the Selection Coordinator should take into account gender representation and regional considerations in making their selections.

(TRC Act, 2002, p. 12).

Kenya

The TJRC Bill, 2008, integrated international humanitarian laws as part of its mandate, referencing crimes against humanity and genocide, which all included CRSV as a human rights violation. The commission identified CRSV as a primary investigative subject by categorising “rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity” (TJRC Bill, 2008, p. 5) as thematic interests. These thematic interests are repeated on page six regarding gross human rights violations: “rape or any other form of sexual violence” (TJRC Bill, 2008, p. 6) and page nine, “investigating gross human rights violations and violations of international human rights law” (TJRC Bill, 2008, p. 10), and the functions of the commission are established to “investigate and provide redress in respect of crimes of a sexual nature

against female victims” (TJRC Bill, 2008, p. 14). These international principles also identified that “gender” (TJRC Bill, 2008, 5 & 7) as a category in which people can be targeted and persecuted, and the commission should investigate associated abuses.

The Kenyan TJRC Bill (2008, p. 31) authorised the commission to create special units and adopt specific measures to address women's experiences as they were identified as vulnerable. Under the functions of the commission on addressing crimes of a sexual nature and providing redress to victims, “Female victims” are singled out as a priority. See Figure 3 below:

Figure 3: *Criteria for establishing special units for the Kenyan TJRC*

Establishment of
special units.

27. (1) The Commission may establish special units and adopt specific mechanisms and procedures to address the experiences of—

- (a) women;
- (b) children;
- (c) persons with disabilities; and
- (d) other vulnerable groups.

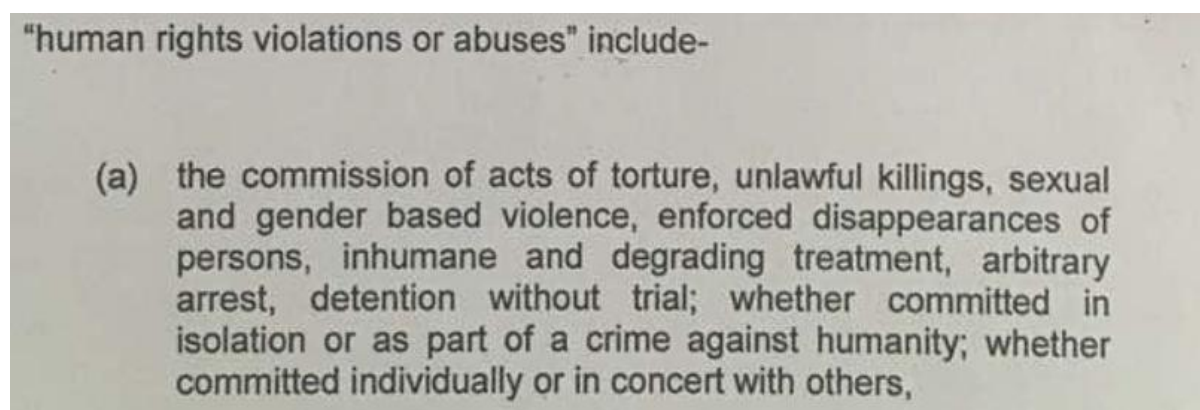
(TJRC Bill, 2008, p. 31).

In appointing commissioners, the selection panel was expected to select according to the principle of gender equity (TJRC Bill, 2008, p. 20). Amongst the selected commissioners, the mandate authorised three to have knowledge and expertise in “forensic audit, investigation, psycho-sociology, anthropology and social relations, conflict management, religion or gender issues” (TJRC Bill, 2008, p. 21). Also, in nominating or appointing persons as commissioners, the National Assembly and the President were expected to adopt gender equity. The procedures and mechanisms adopted by the commission were expected to “pay particular attention to gender-based violations” (TJRC Bill, 2008, p. 31).

The Gambia

The Gambian Truth, Reconciliation, and Reparations Act distinguishes sexual and gender-based violence as a human rights violation or abuse. See Figure 4 below:

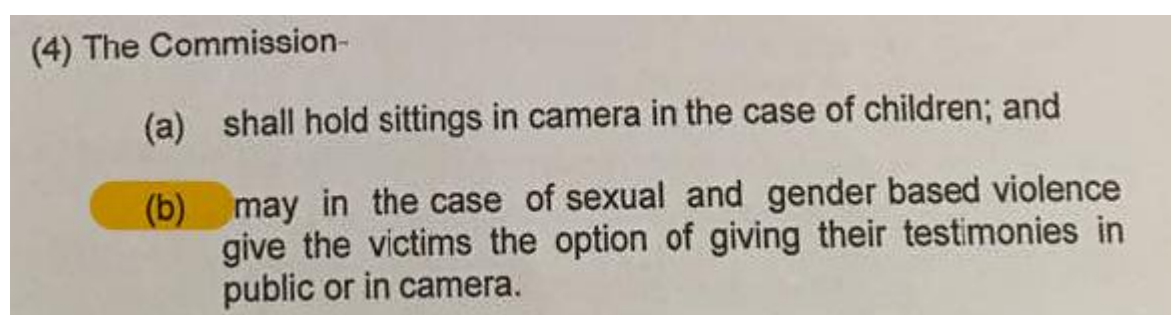
Figure 4: *The Gambian TRRC human rights violations definition in the mandate*



(TRRC, 2017, p. 3).

In selecting commissioners, the Gambian president was mandated to consult with the Female Lawyers' Association to ensure the implementation of gender diversity according to their standards. The TRRC Act established a gender perspective that includes "adopt[ing] a child and gender-sensitive approach in conducting its investigations in cases of children and women" (TRRC Act, 2017, p. 10). Alongside the gender perspective, the mandate expected special conditions for the testimony of sexual and gender-based violence victims and witnesses. See Figure 5 below:

Figure 5: *TRRC Special procedures mandated for SGBV testimony*

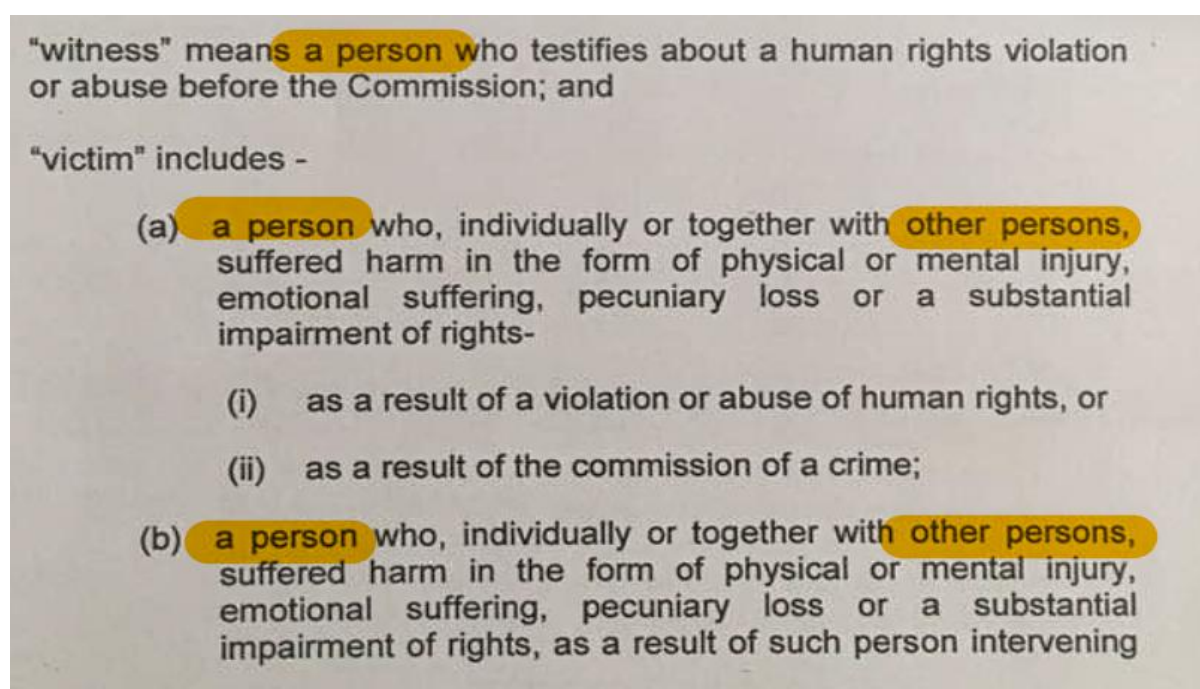


(TRRC Act, 2017, p. 12).

The TRRC Act also requested that the commission establish a committee on "child protection and sexual and gender-based violence" (TRRC Act, 2017, p. 14).

When referring to victims and witnesses, the TRRC Act, 2017, identifies them as 'persons.' See Figure 6 below:

Figure 6: TRRC definition of witness and victim included in the mandate



(TRRC, 2017, p. 4).

The TRRC adopted a gender-neutral approach without referencing or implying distinctive gender signifiers. Elsewhere in the mandate, under the heading on removing members, the president categorises members according to the binary sex/gender system by calling members "he or she" (TRRC Act, 2017, p. 7).

5.3.2. Operations:

TC operations are the activities and processes undertaken to fulfil the mandate objectives and functions. Some of the activities undertaken by these commissions include gathering data and documentation, particularly in the form of conducting witness and survivor testimonies and hearings and collecting and analysing findings. This section will describe the different commissions' operations for investigating CRSV.

Sierra Leone

Under their 'General policy', the commission established a gender-sensitive approach involving adequate representation of women in the commission body and ensuring women's participation during commission proceedings (TRC, 2004a, p. 142). More specifically, under Chapter Five of the Sierra Leonean TRC final report titled Methodology and Processes, the commission established policies and procedures to guide their work. Amongst other themes, the commission dedicated select policies to address the violence experienced by women, which were displayed under the title Women and Children (TRC, 2004a, p. 141). Their involvement was motivated by Section 6 (2) of the TRC Act 2000, stipulating that the commission give special attention to SGBV. See Figure 7 below:

Figure 7: SLTRC policy for investigating CRSV in methodology and processes in the final report

Policies

Women and Children

2. Section 6(2) of the TRC Act stipulates that the Commission should give special attention to the subject of sexual abuse and to the experiences of children in the armed conflict. Section 7(4) of the Act enjoins the Commission to implement special procedures to address the needs of victims such as children, those who have suffered sexual abuse and child perpetrators of abuses or violations.

(TRC, 2004a, p. 141).

The commission collaborated with international and local organisations to provide technical support. This was authorised by the Project Coordination Agreement signed in November 2002 between the Commission and the United Nations Fund for Women (UNIFEM). The commission declared that the partnership with UNIFEM was to “ensure that gender-based violence was properly accounted for during the commission’s work” (ibid). The partnership was also estimated to ensure gender mainstreaming, particularly the participation of local women’s groups in the commission processes.

Policies relating to statement-taking and hearings also adopted a gender-sensitive approach. The specific gender-sensitive approach included testimonies from women and girls, with the commission drawing upon specific guidelines dealing with victims of SGBV. Commission staff were briefed and trained in GBV when taking statements from women and children. In the instruction of the statement form, the statement taker is referred to by the sex/gender markers of “he/she” or “his/her” (TRC, 2004a, p. 188). This forced heterosexual gendering is reiterated by the statement form requesting personal details of the statement giver. See Figure 8 below:

Figure 8: Example of the SLTRC statement forms

Section 2: Personal Details of the Statement-Giver

The Statement-Giver is the person who tells his/her story to the Commission.

A. Personal details:

1. Family name: _____
2. First name: _____
3. Other names: _____
*Alias, combat name, nickname.
4. Date of birth: _____
5. Age at incident: _____
6. Ethnic group: _____
7. National Identity / Passport (where available): _____
8. Place of birth: _____
9. Nationality: _____
10. Occupation/Education level: _____
11. Marital Status: _____
12. Sex: _____

(TRC, 2004a, p. 198).

The commission only identifies three categories of sex: female, male, and unknown. The commission refers to their statement takers as he/she or his/hers.

As a sensitivity measure, the commission hired two women as statement takers to take statements by women victims of sexual abuse. The commission determines this to reflect a “gender balance among the statement takers” (TRC, 2004a, p. 165). The commission coordinated “special interviews” dedicated to women and girls, victims of sexual violence, children, and ex-combatants (TRC, 2004a, p. 166).

Sensitisation processes were designed for multiple vulnerable groups, including women and children. The commission collaborated with the Law Group to create a Women’s Task Force, advocating for women’s participation during the TRC’s proceedings and the Special Court (TRC, 2004a, p. 159). It also collaborated with civil society organisations, including several women’s groups and UNIFEM.

Under the principles governing the hearings, the SLTRC (2002-2004) offered closed hearings for two important aspects of the mandate that required it to “capture the experiences of women and children” (TRC, 2004a, p. 240). The closed hearings were defined as “special hearing procedures” (p. 195) designed to respond to the community’s cultural sensitivities, taboos, and the witness’s best interests. These sensitivities and taboos included “where the violation is a sexual nature” (ibid). See Figure 9 below:

Figure 9: *Excerpt of the processes and methodology of the SLTRC documenting sexual violence*

134. The Commission was uncertain as to whether women would be willing to testify about sexual violence and rape. A number of publications had referred to the “closed” nature of Sierra Leone’s traditional societies and concluded that women would not be willing to testify about their experiences for fear of stigmatisation by their communities. To the Commission’s surprise and satisfaction, women testified in large numbers and in great detail about their experiences. While women were advised that they could request to give their statements to a female statement taker, many of them declared that they did not mind talking to male statement takers. Such testimonies enabled the Commission to fully incorporate the experiences of women into its work.

(TRC, 2004a, p 169).

Where the testimony involves sexual violence, the commission followed special measures designed to be in the best interests of witnesses. The special measures included:

- “a. The witness shall be interviewed by female commissioners only. All male commissioners and other male staff shall be excused from the hearing.
- b. Where there is no female commissioner present, this fact should be communicated to the witness and the witness shall be notified of her right to give the testimony at another location and time where a female commissioner would be present.

c. The witness reserves the right to waive the requirement of clause (a) above and give her testimony in the presence of male commissioners and/or staff.” (TRC, 2004a, p. 241).

The commission states these measures are necessary for “the dignity of such victims had to be respected, and the trauma of their experiences appreciated. The electronic recording of their testimonies was done in such a way as to avoid their being identified” (TRC, 2004a, p.183). These measures were motivated by the commission, where it is stated that “the Commission advised women victims of sexual violence who indicated interest in appearing before the Commission to opt for a closed hearing... [where women refused] the Commission undertook great efforts to explain to the women the possible consequences of such an appearance and sought to know if they had consulted their family members. Thus, only in exceptional circumstances did victims of sexual violence give any testimony in public” (TRC, 2004a, p. 183).

Kenya

This logic is similarly adopted by the Kenyan TJRC (2008-2013). The commission held separate hearings for women only. “Special procedures were implemented for the women's hearing [which was titled] ‘Conversations with women’” (TJRC, 2008b, 9). These hearings were presided over by “female Commissioners and staff...” (ibid). The commission made sure to have women detail their interlocking experiences of gender and the gendered violations to not restrict their testimonies to rape and sexual violence (ibid, 13).

The Gambia

The Gambian TRRC was committed to examining and exposing the scale, context, nature, gravity and impact of sexual violence as it was committed during the mandated period (TRRC, 2021a, p. 8). The TRRC final report volume 10, titled Sexual and Gender-based Violence, offers definitional interpretations of sexual violence, gender, gender-based violence, rape, and SGBV as torture that both premised the commission's operations and developed from their investigations.

The TRRC established a 2018 Investigative Plan as Theme R titled “*Systematic rape of girls and women and other SGBV*”. The TRRC adopted a detailed Strategic Plan for the Investigation and Presentation of Evidence during the Commission’s Thematic Hearings on SGBV (shortened as the ‘Strategic Plan’) to underpin the investigation and operations of CRSV. The Strategic Plan’s five thematic areas included:

- “i. Creation of an SGBV Task Force with centralised expertise (comprised of lawyers, investigators, researchers, statement-takers and psychosocial support officers whose expertise lay in their previous experience working with victims of sexual violence);
- ii. An overview of the scope of SGBV incidents within the commission’s mandate;
- iii. Identifying potential investigative leads;

- iv. Options on different types of SGBV hearings; and,
- v. Public sensitisation on SGBV matters through public hearings (including expert testimony) and targeted public messaging” (TRRC 2021, p. 8).

The commission operationalised gender in the Strategic Plan to look at sexual violence against men and boys beyond sexual torture, including rape and other acts by the former regime. The TRRC stated they did not want to exclude “any class of victims or by not accurately labelling violations as excluding victims would contribute to their re-victimisation” (TRRC, 2021a, p. 9). The TRRC acknowledges the reasons for the alleged unlawful detention and torture, including the targeting of sexual identity.

The commission established an SGBV Task Force, necessitating a requirement of expertise in sexual and gender-based violence. The SGBV Task Force consisted of individuals expected to have expertise and/or previous experience working with victims of sexual violence, including lawyers, investigators, researchers, statement-takers and psycho-social support officers (TRRC, 2021a, p. 9). Besides the SGBV Task Force, the TRRC staff was generally expected to have basic competencies in SGBV matters.

The SGBV Task Force travelled to all 7 regions of the Gambia to create awareness about the mandate of The Commission by engaging with women and victims of sexual violence, encouraging them to share their experiences. The responsibilities of the SGBV Task Force included directly approaching and cooperating with SGBV victim-witnesses (individual and group witnesses), identifying other non-victim investigative leads, interviewing and collecting witness statements and other evidence from SGBV victims/survivors and witnesses, providing counselling services for SGBV victims/ survivors and affected family members as early as possible and throughout their interactions with the TRRC and making referrals for related services (e.g. medical and long-term psycho-social services) to external partners where necessary. The SGBV Task Force was also responsible for recommending relevant referrals for witness protection by incorporating appropriate protection arrangements for those at risk.

The gender-neutral approach was adapted for a gender-sensitive approach to avoid gender stereotypes. The commission offered gender-sensitive training for all members of the SGBV Task Force and all investigators and statement takers on basic concepts of SGBV, building long-term rapport and trust, adherence to key principles (“not harm”, mitigating harm and informed consent), interviewing techniques and appropriate/ inappropriate questioning, identification of interview locations and settings (and changing the locations as necessary), various methods of avoiding re-traumatisation, ability to explain the value of psycho-social support, explaining the various TRRC processes as they relate to SGBV (including the Commission’s mandate and what to expect following their participation in one or more of the TRRC process(es)).

The Gambian TRRC also consisted of a Women's Affair Unit (WAU) and Victims Support Unit (VSU), specifically dealing with sexual and gender-based violence. Throughout the commission's work, the WAU was created to ensure women's voices and actions were mainstreamed (TRRC, 2021a, p. 9). The WAU was designed for women to "provide a safe space for women to share their experiences of human rights violations, especially SGBV" (ibid). The WAU conducted listening circles specifically to capacitate women across the country. The Victims' Support Unit (VSU) provided support services to SGBV survivors, including medical and psycho-social support, support in livelihood and wellbeing, personal security, safety and protection, logistics and daily management of issues related to the participation of victims in TRRC processes. The Psycho-Social Unit ensured that men, women, boys, and girls had access to responsive victim-centred support services in their engagement with the TRRC, which led to emotional preparation, participation, and coping throughout the process.

5.3.3. Findings:

TC findings refer to the insights of the commission's investigations. The findings often detail the committed human rights violations, their scale, and the broader context of the violations. Also, the findings often interpret who the victims are, who is/are the perpetrators, or who is responsible. This section details the three TCs' findings, research, and analysis on CRSV in their respective contexts.

Sierra Leone

The SLTRC Volume 2 of the final report organised sexual and gender-based violence (SGBV) under the headings and sub-headings of Women and Children. The commission identifies women and girls as deliberate targets of sexual violence and rape by armed groups during the conflict (TRC, 2004b, p. 168). Women are also identified as victims of GBV. Women were subjected to violations, including "included torture, rape, sexual abuse, sexual slavery, trafficking, enslavement, abductions, amputations, forced pregnancy, forced labour and detentions" (TRC, 2004b, p. 169).

Chapter five of Volume 2 of the SLTRC compiled two lists of victims based on the statements collected during their operations. The first list documented victims of sexual violence and forced conscription. In total, 1 014 victims were named in the TRC statements. Of the 1 014 victims, 726 were identified as female, with all besides 100 testifying to being sexually abused, raped, sexually exploited, and forcefully naked. 288 victims were identified as male, with no statement recording sexual violence. According to the statements, men experienced torture and assault, forced labour, and forced conscription. There is no mention of what torture or assault is meant in this context.

Across the three SLTRC final report volumes, the report used sex, female and male, to interpret gender, woman and man. In a cross-analysis, gender, women and girls, and sexual violence overlapped consistently, defining how CRSV was understood and interpreted. Also,

throughout Volume One of the SLTRC final report, women and children are concurrently mentioned, with reference to SGBV.

Kenya

The Kenyan TJRC Volume Two A dedicates chapter six to sexual violence. Also, in Volume Four of the final report, the commission dedicates the heading of *Sexual Violence* to document the findings on CRSV. The Commission found that cases of sexual violence increased during the conflict. During the mandated period of investigation, the findings of committed sexual violence including gang rapes, sodomy, defilement, sexual slavery, sexual assault and torture, and forced circumcision and other mutilation of sexual organs (TJRC, 2013b, p. 32).

Sexual violence is defined as a crime that intimately impacts the victim both physically and psychologically. The commission explains that sexual violence targets all civilians by stating that “women and girls are the main victims of sexual violence, although men and boys are increasingly subjected to sexual violence too” (TJRC, 2013c, p. 708). According to the Kenyan TJRC,

“For a long time, women and girls were believed to be the main, if not the only, victims of sexual violence. Early human rights instruments were accordingly drafted with the assumption that women and girls were the only potential victims of such crimes. Such definitions omitted males (men and boys) as victims and did not envisage situations in which women or men perpetrated sexual violence against men. Over time, there has been an acknowledgement that men and boys are victims of sexual violence, and as such, the definitions have evolved to include them and, consequently, extended protection to them as victims. Still, sexual violence against male victims is even more under-reported and under-investigated compared to sexual violence against women” (TJRC, 2013c, p. 708).

The final report finds that sexual violence against women was rampant during forceful evictions conducted by the state and/or its agents. The report evidences the finding by including insight into 30 statements from women who were raped in Kitui, Kenyan district, during an eviction referred to as the ‘Kavamba operation’ (ibid). Significantly, the commission finds that women and girls, as well as men and boys, are victims of sexual violence. The report acknowledges that their findings go against their assumptions about CRSV, particularly rape, stating that against the commission’s “belief that women and girls are the sole victims of sexual violence, [their findings show] men and boys have also been targeted (TJRC, 2013c, p. 708). The commission highlights that there is a lack of evidence of men being victims of sexual violence as a consequence of underreporting.

The commission found that most perpetrators were state security agents, primarily the General Service Unit (GSU), the Kenya Police, the Administration Police, and the Kenya Military. Perpetrators were also identified as “state security agents, ordinary citizens, members of organised militia groups, as well as British soldiers stationed in Kenya for

training purposes” (TJRC, 2013b, p. 33). Despite evidence of sexual violence perpetrated by these actors, the commission states that security agents colluded with each other to evade responsibility, accountability, investigation, prosecution, and justice, breeding a culture of impunity.

According to the final report, perpetrators took advantage of the breakdown of social order, the increase in armed conflict, as well as general lawlessness to commit sexual with impunity (ibid). The final report concludes that the motivations for sexual violence are based on ethnicity and assumed political affiliations.

The Gambia

The TRRC findings on CRSV are documented in Volume 10 of the final report. Perpetrators are identified as senior state officials, senior security officials, and other men in leadership. The report identifies nine primary perpetrators: former president Yahya A.J.J. Jammeh, Ousman Sonko, General Solo Bojang; Captain Saihou Jallow, Badgie, a PIU officer implicated for the sexual violations inflicted on Sainabou Camara; Foday Barry; Baba Saho; Kawsu Camara (Bombardier); Alagie Martin; Solo Bojang; and Sheikh Omar Jeng for their respective sexual crimes committed (TRRC, 2021a, p. 53).

The final report identifies sexual and gender-based violence as an abuse of power. According to the final report, perpetrators are defined as “powerful men” taking advantage of women and girls, subjecting them to “rape, sexual assault, sexual harassment and sex exploitation, with impunity” (TRRC, 2021a, p. 26). Jammeh’s regime created a “climate of fear that they [these powerful men] themselves created to commit these violations” (ibid). The TRRC findings determine that sexualised torture, forced nudity, and rape were an “organizational policy of the former regime” (TRRC, 2021a, p. 27).

Further, the commission declares that sexual violence was used to repress, punish, intimidate, humiliate, and ill-treat individuals who were opposed to or perceived as being opposed to the former president Jammeh or his Alliance for Patriotic Reorientation and Construction (APRC) party (TRRC, 2021a, p. 47). The sexual violations committed by perpetrators included rape, sexual exploitation, sexual assault, sexual harassment, and sexualised torture. Sexual violations are noted to be both primary and secondary violations as the commission finds sexual violence also accompanied other violations, including forced labour often associated with witch hunts and physical violence more generally.

The commission documents that sexual violence was committed in various places, including the State House of the Republic of The Gambia, the Residence of the former President Yahya A.J.J. in Kanilai, the farms of Kanilai village belonging to Yahya Jammeh, the premises of the NIA, at the State Central Prison Mile 11, at Fajara Army Barracks and in private homes and vehicles (ibid).

Women, men, and children are identified as victims of SGBV. The commission declares that men were SGBV victims in detention settings and during interrogations. Under the heading *G. SGBV by other Senior State Officials and Persons Holding Positions of Authority*, the final report documents men as victims of sexual violations under the sub-heading *G.6. SGBV Against Men In Detention and During Interrogations*. This section of the report is the only detailed title dedicated to reporting and documenting the sexual violence experienced by men under former President Jammeh's regime. According to the commission's evidence-based findings, male detainees were subjected to sexual violence, "including rape, forced nudity, mutilation of sexual organs, castration, and sexualised torture during interrogations and detentions" (TRRC, 2021a, p. 38).

Detailing the impact of sexual violence committed against male detainees, the final report documents the physical and psychological impacts as being long-term and not only affecting direct victims but impacting their families, with them highlighted as secondary victims of male detainee victimisation. The final report self-identifies the Gambia as a patriarchal society with the inclusion of gender expert insight stating,

"patriarchy is everything that surrounds power and position, and this is the society that exists in The Gambia. It is about the power relations, power dynamics, who has power over what and that power plays in different angles" (TRRC, 2021a, p. 13).

Within this context, the sexual assault of men is heightened, with the final report stating that,

"In a culture where the male sexual organ is referred to as one's *"manhood"* and the gendered role of men as providers and breadwinners defines social status, the sexual violence inflicted on men was clearly intended to damage the masculinity and/or virility of the victims" (TRRC, 2021, p. 38).

This is followed by testimony by Dr. Sheriff Ceesay, who treated men suffering from injuries as a consequence of sexual assault by explaining that injuries to the genitalia of male detainees prevented them from participating in sexual intercourse, leading to many men feeling like "it puts a big dent in his manhood[...]" and in the Gambian and Niani context, it is as if you have emasculated him." (TRRC, 2021a, p. 38).

The final report includes witness and victim testimony that corroborates the expert testimony and reports commentary (pp. 38-41).

On the matter of reporting sexual violence and opportunities for justice, victims of SGBV most often did not report the violations they experienced. The commission's findings identify the "cultural and social norms" to have encouraged the silence around the reporting of sexual violations. According to the final report under the heading "H. Findings," the commission states that,

“Gambia’s patriarchal society suffocated the rights of women and girls to their detriment and silenced the crimes they were subjected to. Sexual violence was not reported due to the stigma and shame that accompanies disclosure and the pressure to place family honour at the centre and above one’s own suffering. Access to justice was absent in a repressive regime for sexual violence committed by the Head of State and senior government officials” (TRRC, 2021a, p. 48).

To corroborate their statements on the impact of patriarchy and societal norms, the final report included an analysis of the intersections between gender inequality and the prevalence of sexual violence under the heading, D. *The Interconnection between Gender Inequality and Sexual Violence and Other Human Rights Violations in the Gambia* of volume 10 of the final report. According to the commission, a person's gender is “inextricably linked to other identifying characteristics or factors that affect their lives that can increase the vulnerability of individuals or groups to sexual violence. These may include ethnicity, profession, political or other opinions, health including HIV status, religion, culture, age, colour, illiteracy, socio-economic or matrimonial status, urban or rural location, or any other status, sexual orientation, identity or gender expression, being deprived of liberty” (TRRC, 2021a, p. 13).

5.3.4 Recommendations:

TC recommendations refer to the actions stakeholders should take to redress the abuses documented in the commission’s findings. They also suggest actions to fulfil the commission’s mandate: peace, justice, reconciliation, truth, and non-recurrence. This section details the three commissions' CRSV-related recommendations. The recommendations are understood in categories: Rehabilitation, Institutional reform, Educational reform and curriculum changes, Legal reform, Shifting social norms, and Satisfaction. Most of the recommendations but ‘satisfaction’ recommendations refers to measures aimed at acknowledging and addressing the suffering of victims, often involving identifying responsible institutions or actors and publicising their experiences.

Sierra Leone

The recommendations are broken down into Rehabilitation (5), Institutional reform (2), Educational reform and curriculum changes (2), Legal reform (5), Shifting social norms (3), and Satisfaction (2). The following details the SLTRC recommendations:

“The Commission recommends that the President, as the ‘Father of the Nation’ and as the Head of State, should acknowledge the harm suffered by women and girls during the conflict in Sierra Leone and offer an unequivocal apology to them on behalf of the government and preceding governments in Sierra Leone” (TRC, 2004b, p. 168).

“The Commission’s recommendations to address structural inequality encompass law reform, access to justice, the abolition of discriminatory customary law and practices, the building of institutional capacity and the establishment of educational programmes to

counter attitudes and norms which lead to the oppression of women. The Commission views education, health, economic empowerment and political participation as priority areas for the progressive development of women in Sierra Leone” (TRC, 2004b, p. 169).

Under the sub-heading *Women Affected by the Armed Conflict*, the commission states that “Every man and boy in Sierra Leone owes a duty to respect women and girls and to protect them from abuse at all times” (ibid).

“The Commission calls on communities to make special efforts to encourage acceptance of the survivors of rape and sexual violence as they reintegrate into society. The physical and emotional well-being of the women victims of rape and their children born as a result of rape should be protected” (ibid).

“The Commission recommends that a directory be established by the Ministry of Social Welfare and Gender Affairs in conjunction with UNIFEM, the World Health Organisation and other stakeholders, which should contain a list of donor agencies and service providers assisting women together with their contact details both in the provinces and Freetown. The emphasis should be on where women can obtain information and access assistance. A media campaign should accompany the launch of the directory. The Ministry of Social Welfare and Gender Affairs should work towards implementing this recommendation” (ibid).

Under the sub-heading *Domestic Violence*, “The Commission recommends that the Government work towards the enactment of specific legislation to address domestic violence. Such laws should facilitate the prosecution of offenders and empower women to access protection orders” (TRC, 2004b, p. 170). The commission further recommends that the Ministry of Social Welfare and Gender, in coordination with UNIFEM and the Gender Desk of the police, work towards the creation of an educational programme for the police, prosecutors and judicial officers, raising awareness of issues of gender, educating and training them in investigation and prosecution of gender-based crimes and sensitising them on how to deal properly with complainants (ibid).

Under the sub-heading *Sexual Violence*, the Commission recommends that “a directory be created, which includes all the information regarding the various skills programmes and the providers of such services. The release of such a directory should be accompanied by a media campaign, which will lead to more women learning of the programmes being offered” (ibid). The commission’s recommendations under this sub-heading also include the Commission recommends that “laws that link the prosecution of sexual offences to the moral character of a complainant should be repealed... “The Commission recommends that the government work towards the harmonisation of the national laws of Sierra Leone with the provisions contained in the Rome Statute of the International Criminal Court regarding the evidentiary burden, rules of procedure and evidence in respect of crimes of sexual violence” (TRC, 2004b, p. 171).

Under the sub-heading *Sexual Offences under Customary Law*, the commission recommended that

- (a) “The Commission recommends that the Government should launch a campaign to end the practice under the customary law of compelling women and girls who have been raped to enter into marriage with the offender. This is an imperative recommendation.
- (b) The Commission calls on community leaders to discourage the practice of accepting monetary compensation for the crimes of rape and sexual violence as an alternative to reporting the cases for criminal prosecution. Communities should be encouraged to pursue prosecutions for offenders of sex crimes.
- (c) The Commission recommends that the Ministry of Social Welfare and Gender Affairs, in conjunction with UNIFEM, should work towards a national campaign, together with other agencies, to raise awareness about the culture of silence that pervades the issue of rape and sexual violence and encourage the abolition of customary practices which impact negatively on the rights of women.
- (d) The Commission recommends that the Government work towards the harmonisation of the customary law with the common law and that to ensure laws dealing with the protection of women, particularly in regard to domestic violence and crimes of sexual violence, accord with international human rights standards” (TRC, 2004b, pp. 171-172).

Under the sub-heading on *Access to Justice*, the commission recommends that the Threah Bay University Legal Aid Clinic, LAWCLA and the Ba Council should focus on domestic and sexual violence against women (TRC, 2004b, p. 174). Under the sub-heading *Most Vulnerable*, the commission recommended that the government provide psychosocial support (PPS) and reproductive health services to women affected by conflict. Furthermore, the government must offer free services to those who experienced physical trauma, torture, and sexual violence (TRC, 2004b, p. 175). Also, under the heading *Reparations* sub-heading *Health*, the commission recommended that adult and child victims/survivors of CRSV should be eligible for free physical health care (TRC, 2004b, p. 194). Under the same title, the commission further recommends that adult victims of CRSV Adult victims of sexual violence should be eligible for health care based on the severity of their injury. Rehab) Child victims of sexual violence should be eligible for health care until 18 years of age unless their injury sustained requires care past the age of 18. A government or NGO doctor must assess all beneficiaries to determine their eligibility. (Rehab) The provision of free primary health care for dependent children and spouses should cease once the victims of sexual violence have fully recovered. The Commission recommends free testing (accompanied by counselling) for

HIV/ AIDs and other STIs for all victims of sexual violence and free treatment for those testing positive” (ibid).

Kenya

The TJRC final report recorded 22 findings directly addressing sexual violence and, in response, suggested eight recommendations. The commission suggested two satisfaction recommendations: (1) The President, within three months of the issuance of the final report, acknowledges and offer a public and unconditional apology for acts of sexual violence committed by state security agencies during security operations and other periods of generalized violence such as the 2007/2008 Post-Election Violence; (2) The Commission recommended that the British government apologise for sexual violence committed against women in Samburu and Laikipia by British soldiers (TJRC, 2013b, p. 36). Under the heading of Priority B: Collective Reparations and sub-heading of Recommendations on Public Apologies and Memorialisation, the commission recommended that State Security agencies, particularly the National Police Service, the National Defence Forces and the National Intelligence Service, apologise for committing gross human rights violations between 12 December 1963 and 28 February 2008, especially acts of extra-judicial killings, arbitrary and prolonged detention, torture and sexual violence (TJRC, 2013b, pp. 9 & 119).

The TJRC final report recommends one Criminal Prosecution with the prosecution of Nganda Nyenze, who was accused of executing and supervising the Kavamba Operation, which involved the rape and sexual violations of women (ibid). The TJRC final report recorded one Restitution recommendation referring to the Kenyan Government considering entering into negotiations with the British government to seek compensation for victims of sexual violence committed by British soldiers in Samburu and Laikipia. For Compensation recommendation, the commission suggested the provision of reparation for victims and survivors of sexual violence as per the Reparation Framework proposed by the commission.

For an institutional reform recommendation, the commission suggested establishing the Office of the Special Rapporteur on Sexual Violence as recommended by the Commission of Inquiry into Post-Election Violence. This was assumed to be done within 12 months of the final report's release. The legal, judicial and institutional reform recommendation involves/includes the National Police Service Commission formulating a new Code of Conduct and Ethics for the National Police Service in line with the Constitutional values and principles and spelling out disciplinary and accountability measures for failure to adhere thereto.

The Commission recommends the establishment of a gender violence recovery centre in every county. Such a centre shall serve as a one-stop centre for providing comprehensive services for victims and survivors of sexual violence, including medical and counselling services. Investigators trained in the investigation of sexual violence should also be permanently stationed in such a centre. Regarding this recommendation, the governments

may borrow good practices and lessons from South Africa's Thuthuzela care centres and the Nairobi Women's Hospital.

Under the heading *Women*, the commission recommends the Gender and Equality Commission steps up measures to raise awareness about harmful cultural practices that adversely affect women's enjoyment of human rights (TJRC, 2013b, p. 41).

The Gambia

In the tenth volume of the Gambian TRRC report titled *Sexual and Gender-Based Violence*, 19 specific recommendations are specified for victims who suffered SGBV during Jammeh's rule and 34 CRSV-related sub-recommendations for redressing sexual crimes. Restitution (8), rehabilitation (12), satisfaction (16), legal reform (3), judicial reform (15), criminal reform (11), institutional reform (26), and educational reforms (5) are identified under "other measures".

Five of the recommendations (broken down into eight sub-recommendations) are for the Criminal Prosecution of perpetrators, including Yahya Jammeh, Ousman Sonko, General Solo Bojang; Captain Saihou Jallow, Badgie, a PIU officer implicated for the sexual violations inflicted on Sainabou Camara; Foday Barry; Baba Saho; Kawsu Camara (Bombardier); Alagie Martin; Solo Bojang; and Sheikh Omar Jeng for their respective sexual crimes committed (TRRC, 2021a, p. 53). The Commission recommended that Yankuba Colley, Lang Tombong Tamba and Momodou Hydara are not prosecuted for their involvement in sexual violations as they had no direct control over the crimes they are accused of (ibid). They recommend that former Director General of Prisons David Colley, who is accused of sexual harassment and sexual exploitation of female prison officers in the Gambia Prison Services in 2007, be banned from taking up a government-appointed position for at least five years (TRRC, 2021a, pp. 30-32 & 53). There are no recommendations for violations committed by Daba Marena, Sainey Maneh and Manlafi Corr, as they are deceased.

The remainder of the recommendations (and sub-recommendations) related to addressing CRSV are split into restitution (8), rehabilitation (12), satisfaction (16), legal reform (3), judicial reform (15), criminal reform (11), institutional reform (26), and educational reforms (5) that are identified under "other measures". The report states that the Gambian government should take full responsibility for the recommendations and their implementation. This includes funding of the Child Protection Unit to enable the capacity building of staff and hired experts such as psychologists, social workers, and vehicles. Fuel should be allocated to enable the unit to embark on sensitisation tours to prevent SGBV crimes in the future. Key and strategic units of law enforcement agencies to ensure timely response and investigation of reported cases; and, where possible, key CSOs working in SV (TRRC, 2021a, pp. 53-54). Additionally, the Commission requests that the Government establishes a mechanism to implement a Victim Support Fund and make it mandatory for all institutions, including private and civil society, to put in place sexual abuse and harassment policies as required by the Women's Act 2010 and the National Women's Policy as well as enforce institutional policy

and laws of the land regardless of who is involved (ibid). These include laws that protect the rights of women, such as the Sexual Offences Act 2013, to ensure that violations that happened in the past do not recur.

Despite the Commission making the Government take primary responsibility for the recommendations, the Commission does suggest collaboration with relevant government institutions such as the Department of Social Welfare to provide resources and run facilities such as one-stop centres to receive and assist SGBV victims; the Security Sector to reform and demand the thorough education of law enforcement officials in dealing with SGBV cases; for police stations and their personnel to hold friendly spaces for persons that have suffered SGBV. Furthermore, it is expected that police stations take the initiative to build capacity through training, funding, SOPs, policies, and special diaries that need to be implemented to ensure the confidentiality of cases (TRRC, 2021a, p. 54). Additionally, it is recommended that the University of the Gambia and its relevant agencies do research on SGBV and establish a program in social work wherein students can become licensed clinical social workers as well as engender special focus on research, education, and training in building capacity and expanding support to communities that need assistance (ibid).

Regarding CSOs, the commission suggests that CSOs, in collaboration with the Government, should educate and sensitise all relevant government institutions and the broader Gambia nation about their rights and responsibilities and on SGBV through community outreach activities, civic education and women's empowerment initiatives (ibid).

The Commission recognised that reparations for SGBV victims/survivors must include "individual and collective measures including restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition" (TRRC, 2021b, p. 2; TRRC, 2021b, p. 141). However, the final report allocates no specific reparations to SGBV victims.

5.4. Encouraged silence

This section of the findings looks back to the intention of the three commissions through their mandates and their use of impartiality. Impartiality is a complex concept, assuming one is not partial or biased towards or against any particular side or party. It implies fairness and unbiased conduct. However, the truth-telling process often depicts actors according to the binary of victim and perpetrator. There is minimal capacity for the complex victim-perpetrator context because of the necessity, according to their mandates, to delineate recommendations to persons considered deserving. This section provides evidence of what the text of impartiality means and how this is achieved in reporting on CRSV.

5.4.1. The impartiality of the historical record of violations

Two of the three TC mandates established impartiality as a principle /standard of operations in investigating, documenting, and reporting on the committed violence. According to the Sierra Leonean Truth and Reconciliation Commission Act 2000 the objective of the SLTRC is

to “create an impartial historical record of violations and abuses of human rights and international humanitarian law related to the armed conflict in Sierra Leone, from the beginning of the Conflict in 1991 to the signing of the Lomé Peace Agreement; to address impunity, to respond to the needs of the victims, to promote healing and reconciliation and to prevent a repetition of the violations and abuses suffered” (TRC Act 2000, 2000, p. 1). The Gambian TRRC Act mandated the commission to “investigate and establish an impartial record of the nature, causes and extent of violations and abuses of human rights committed during the period July 1994 to January 2017 and to consider the granting of reparations to victims and for connected matters” (TRRC Act, 2017, p. 5).

The Kenyan TJRC, unlike its associate TCs, avoids impartiality, and instead, its primary objectives include,

“... to promote peace, justice, national unity, healing, and reconciliation among the people of Kenya by (a) establishing an accurate, complete and historical record of violation and abuses of human rights and economic rights inflicted on persons by the State, public institutions and holders of public office, both serving and retired, between 12th December 1963 and 28th February 2008...” (TJRC Bill, 2008, p. 9).

Instead of impartiality, the Kenyan TJRC Bill mandates the commission to establish an accurate, complete and historical record of violation(s), which implies impartiality through the desire for accuracy and complete record. The TJRC Bill further reiterates its objectives, which are summarised in a narrative below:

The goal for establishing the TJRC was to uncover the full extent, with the commission specifically referring this to be “establishing as complete a picture” and causes of these abuses, shedding light on events that included massacres, sexual violence, extrajudicial killings, and systemic corruption between December 12, 1963, and February 28, 2008, a period marked by profound injustice, a critical effort was undertaken to investigate and address the wide-ranging violations of human rights and economic crimes. This inquiry sought to identify those responsible for such heinous acts and hold them accountable.

The investigation extended beyond human rights violations to examine economic crimes, such as grand corruption and the exploitation of public resources, to determine the actions taken in response. A focus was also placed on the illegal acquisition of public land, with recommendations for repossession or resolution of such cases.

Equally important was the inquiry into the economic marginalisation of certain communities, seeking to determine its reality and suggest ways to address these inequities. The investigation also examined the causes of political violence surrounding elections and ethnic tensions, intending to prevent future violence and foster reconciliation between communities (TJRC Bill, 2008, pp. 9-12).

The commission further explored ways to provide redress for the victims of these violations, restore their dignity, and ensure they had the opportunity to share their experiences. This process included granting a platform for truth-telling to allow victims and perpetrators to contribute to a collective healing process. Perpetrators who fully disclosed their involvement in these violations were allowed conditional amnesty in exchange for cooperation. The commission compiled a comprehensive report detailing its findings and recommendations for preventing future human rights violations. It aimed to chart a moral vision for the country, focusing on healing, justice, and building a more just society for all Kenyans.

The responsibilities of the TJRC were not limited to its objectives but translated similarly to its functions. Those relevant to the research project are included:

“(b) investigate the context in which causes and circumstances under which the violations and abuses occurred and identify the individuals, public institutions, bodies, organizations, public office holders, the State, state actors, or person purporting to have acted on behalf of any public body responsible for or involved in the violations and abuses;

(c) identify and specify the victims of the violations and abuses and make appropriate recommendations for redress;

(f) identify a person who should be prosecuted for being responsible or involved in human rights and economic rights violations and abuses;

(h) investigate and provide redress in respect of crimes of a sexual nature against female victims;

(j) investigate any other matter that it considers requires investigation in order to promote and achieve national reconciliation;” (TJRC Bill, 2008, pp. 13-14).

The commission also stipulates the conditions for recommendations, stating,

“(k) make recommendations with regard to

(i) the policy that should be followed or measures that should be taken with regard to the granting of reparation to victims or the taking of other measures aimed at rehabilitating and restoring the human and civil dignity of victims;

(ii) prosecution of persons responsible for or involved in human rights and economic rights violations and abuses;

(l) make recommendations about creating institutions conducive to a stable and fair society and the institutional, administrative and legislative measures that should be taken or introduced to prevent the violation of human rights” (TJRC Bill, 2008, pp. 13-15).

5.5. Chapter Summary

The research study findings extensively explored how these three TCs investigated CRSV and how they interpreted their own findings. The chapter begins with the first theme detailing the theoretical and legal framework adopted by the different commissions that shaped the gendered norms that premised their mandate and later their investigative operations and findings. Alongside the international principles, both the TJRC and the TRRC recognised national laws about sexual violence and rape, GBV, domestic violence, and women and children's rights to shape how their respective commissions shaped their perspective of CRSV. The second theme looked at the interpretations of CRSV in the different commissions, each heading for each country case. The Sierra Leone TRC adopted a gender approach that prioritised the victimisation of women and children. Their mandate made special provisions for the investigation of CRSV, which resulted in chapters of the final report dedicating their findings and analysis on sexual violence of women and children. The Kenyan TJRC also prioritised women as victims of CRSV, but they also identified men as victims of sexual violence. Although inclusive, the TJRC's scope was limited in their interpretation of men's victimisation, with no theoretical framework to support their investigation and findings. This resulted in the findings primarily identifying and focusing on women's victimisation of sexual violence. Their recommendations primarily avoided gendering the CRSV-related recommendations, yet these findings were found in sections prioritising women's experiences. In the last case, the TRRC adopted a gender-neutral approach, focusing on the violations rather than the gender of the victims of the violence. The TRRC also adopted a theoretical and legal framework recognising sexuality and gender as factors for harm, meaning an individual could be vulnerable because of their sexual and gender identity. Their CRSV-related findings involved both women and men as victims of sexual violence under Jammeh's regime. The framing allowed the commission to theorise the different types of CRSV, focusing on the theory of power and domination of the perpetrator over the victim. The third and last theme looked at the intentions of the commission's mandate by focusing on impartiality. The SLTRC and TRRC mandates directed the commissions' investigations to be impartial and the TJRC, yet both their gender and sexuality framings distinctly shaped by the colonial sex/gender binary system which means it is inherently partial and is unable to impartial.

Chapter Six: Hetero-conformity and Compulsory Heterosexuality in African Truth Commissions.

6.1. Introduction

This chapter analyses the key findings, giving insight into the three TC's interpretation and knowledge about CRSV and gendered violence during conflict. Using a constructivist analysis strategy underpinned by the decolonial, feminist, and queer theoretical framework, this chapter will present an in-depth discussion about the text of the mandate and final report, exploring what the text says, does, and mean when developing knowledge about CRSV and gendered violence.

The chapter is divided into four parts. Part one discusses the contending boundaries of human rights, addressing the 'gender' gap in international, regional and local humanitarian principles. Part two discusses the dominant discourse of CRSV, presented as the "typical script", citing the prioritisation of cisgender and heterosexual narratives of CRSV. Part three discusses the implications of CRSV dominant narratives, analysing how this approach marginalises a spectrum of victims, particularly men and sexual and gender minorities'. Part four uses the psychological theory of "conspiracy of silence" previously associated with cisgender heterosexual female victims and cisgender heterosexual male perpetrators of sexual violence to assert that same-sex and non-cisgender experiences of sexual violence are systematically silenced in TCs.

6.2. Part one: Evolution of international norms and standards on the gendered perspective of conflict and its impact on local African contexts.

The first theme's findings focus on implementing international and regional norms in local conflict contexts. Here, we will examine the influence of these norms and how they shape gendered perspectives in selected African TCs and explore how TJ, more broadly, interprets and defines gendered experiences of conflict.

6.2.1. Standardisation of international and regional norms and principles

The research findings reveal that a shared collection of international and regional norms significantly influenced the three African TCs' gendered perspectives and interventions in addressing gendered crimes and CRSV. Instruments such as the 1981 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the 1994 Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT), the 1998 Beijing Declaration, the 1998 Rome Statute of the International Criminal Court on genocide, war crimes, and crimes against humanity, 2000 United Nations 1325 Resolution on Women, Peace, and Security (WPS), the 2003 African Charter on Human and Peoples' Rights (African Charter) on the Rights of Women in Africa (African Women's Protocol) also known as the Maputo Protocol, amongst other principles. These instruments have helped standardise a conventional knowledge of CRSV and other gendered violations.

According to Section 6(2) of the Sierra Leone Truth and Reconciliation Act, the commission was mandated to give special attention to “the subject of sexual violence” and employ “special procedures to address the needs of victims such as children, those who have suffered sexual abuse” (TRC Act, 2000, p. 5). Part III of the Act mandated the commission to give “special attention to the subject of sexual abuses and the experiences of children within the armed conflict” (TRC Act, 2000, p. 5). The commission was also directed to select its commissioners and committee members according to “gender representation” (TRC Act, 2000, p. 9), expecting to include both men and women staff members. These directives influenced the commission's operations, as evidenced by the adoption of “special hearings for women and girls who had been sexually violated” (TRC, 2004c, p. 89) that were “presided over and attended only by female Commissioners and staff” (ibid).

The Kenyan Truth, Justice and Reconciliation Bill 2008 adopted crimes against humanity and genocide in its mandate, supporting its scope of CRSV as a human rights violation. The commission identified CRSV as a primary investigative subject by categorising “rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity” (TJRC Bill, 2008, p. 5) as thematic areas. These thematic areas are repeated on page six regarding gross human rights violations: “rape or any other form of sexual violence” (TJRC Bill, 2008, p. 6) and page nine, “investigating gross human rights violations and violations of international human rights law” (TJRC Bill, 2008, p. 10), and the functions of the commission are established to “investigate and provide redress in respect of crimes of a sexual nature against female victims” (TJRC Bill, 2008, p. 14). These international principles also identified “gender” (TJRC Bill, 2008, pp. 5 & 7) as a category in which people can be targeted and persecuted.

The Kenyan TJRC Bill (2008, p. 31) authorised the commission to create special units and adopt specific measures, including women statement-takers, to address women's experiences as they were identified as vulnerable), which the commission operationalised by creating separate hearings for women only titled “Conversations with women” (TJRC, 2008b, p. 9), which were presided over by “female Commissioners and staff...” (ibid).

The Gambian Truth, Reconciliation, and Reparations Act 2017 included SGBV as a human rights violation or abuse. Similar to the two previous commissions, there was expected gender representation of its staff. The TRRC Act established a gender perspective that included “adopt[ing] a child and gender-sensitive approach in conducting its investigations in cases of children and women” (TRRC Act, 2017, p. 10). Alongside the gender perspective, the mandate expected special conditions for the testimony of SGBV victims and witnesses. This translated into the commission's operations as it adopted gender-sensitive measures, including gender ‘closed’ hearings for gender-sensitive hearings, gender units, SGBV experts, gender-sensitive training for staff, and SGBV Task Forces, amongst other measures, to capture gendered violence endured under Jammeh’s regime.

Despite the 17-year gap between the SLTRC and the TRRC, the interventions addressing CRSV are similar. Considering the different conflict contexts, periods, and violations addressed, no two conflicts or TCs can be the same. However, the repeated syntax and reference to international and regional norms across these TCs demonstrate the increasing universalisation, standardisation, and even localisation of accepted norms about gender and CRSV and how to address and document it.

Gissel (2022) elaborates on the standardisation of TJ concerning other authors describing TJ's contemporary function as a "template" (Subotic, 2012, p. 108), "toolkit" (Turner, 2017, p. 167), and "toolbox" (Sharp, 2018, p. 19) in countries having suffered with defined international human rights violations. Defining standards as "solutions for matching problems" (Gissel, 2022, p. 860). For example, all three commissions speak of special conditions for addressing CRSV, including closed and camera hearings and the expertise of staff working on CRSV, with both the SLTRC and TJRC identifying women as equipped staff members to deal with gender-related crimes and the TRRC identifying a need for training and expertise of SGBV. The mirroring text in the commissions assumes a practised and conventional knowledge of gendered and sexual violence in conflict, how it is conceptualised and how it should be addressed.

A significant finding is that the early commissions (SLTRC and TJRC) identify women as responsible for capacitating the CRSV data collection. This demonstrates that there is potential for change in TJ's conventional knowledge. The first commission's (SLTRC) preference for women is related to their assumptions (and later commission's findings) that women are exclusively targets of sexual violence. Considering the taboo and sensitive nature of this violation, the commission considered it appropriate to have same-sex individuals capacitate the data collection process. The TJRC adopted a similar convention that women were victims of sexual violence. Thus, the mandate directed their operations to look at sexual crimes experienced by female victims, affirming this conventional knowledge despite the later finding that men, too, are victims of sexual abuse. Alternatively, the latest commission (TRRC) demonstrates a measure of progression by adopting a gender-neutral approach and the 'SGBV'-prefix when addressing sexual abuse. The 'template', 'toolkit', and 'toolbox' of TJ are examined in the continued acknowledgement of the sensitivity of sexual violence in the type of interventions adopted by the commissions.

6.2.2. Localisation of international and regional norms

Localisation and *generification* are sub-processes and a desired outcome of the standardisation of TJ, demonstrating the transferability of TJ's norms, principles, and institutions into local contexts. Localisation is examined in the SLTRC operations, wherein the commission collaborated with the United Nations Fund for Women (UNIFEM) to "ensure that gender-based violence was properly accounted for during the commission's work" (TRC, 2004a, p. 141). UNIFEM mobilised local Sierra Leonean women, particularly those

living in rural areas, providing technical skills on gender mainstreaming and encouraging women to participate in the commission processes.

Localisation is further demonstrated in the SLTRC gendered recommendations. In allocating recommendations for *Women affected by the Armed Conflict, Domestic Violence, Sexual Offences under Customary Law, Political Participation and Access to Power, Skills training and Economic Empowerment, Education, and HIV/AIDS*, the commission recommends collaboration with UNIFEM to establish a directory of donor agencies and service providers assisting local women, the creation of an educational programme for the police, prosecutors and judicial officers raising awareness of issues of gender, “educating and training them in the investigation and prosecution of gender-based crimes and sensitising them on how to deal properly with complainants” (TRC, 2004a, pp. 170-171). The commission also recommends harmonising the national Sierra Leone legislature with “provisions contained in the Rome Statute of the International Criminal Court” (TRC, 2004a, p. 172) for rules of procedure related to crimes of sexual violence. The commission also recommends that Sierra Leone ratify the Maputo Protocol to include their standards of “Harmful Practices” (TRC, 2004a, p. 174) against women in national and customary laws.

TJ standardisation circulates an international yet particularistic notion of justice that follows the totalism demonstrated in coloniality. It is the assumption that these processes are correct, ‘normal’ models of how societies should perform and aspire to perform. Scholarly discussions about the evolving internationalisation of norms of transition position a political morality that standardises the concepts of transition, justice, reconciliation, and peace in the post-conflict dimension.

Significantly, the discipline and practice of TJ are decidedly reflexive because former colonial actors are leading knowledge producers of international humanitarian principles. Sierra Leone, Kenya, and The Gambia are former British colonies, wherein historical violence in each context has resulted from settler colonial occupation. In Kenya, in particular, colonial sexual violence was systematic and state-sanctioned against black African women, Mau-Mau and Kikuyu detainees (see Background chapter). Despite this, the mentioned international and regional norms and principles do not refer to colonial violence; instead, they speak to the contemporary when addressing the TJ principles of truth-telling, redress and repair, justice, and non-recurrence.

TJ then functions as a political tool (Newman, 2002) for regulation and standardisation. Coloniality is performed in TJ processes, particularly in the hierarchisation and privileging of knowledge producers, selection of time and violent events, and the post-conflict environment. As an instrument of TJ, TCs are influenced by colonially historical and geopolitical dynamics (Mignolo, 1999) in their conceptualisation of CRSV and gendered violence. Considering this, the principles of TJ of justice and accountability in hopes of accomplishing non-recurrence cannot be achieved because of the contention of inequality

between the oppressed and those who oppress according to the principles of knowledge production, wherein TCs and TJ are dominated by Western epistemology.

The next subheading details the ‘acceptance’ of universalised norms, the impact of standardising and localising international and regional norms and principles on gender interpretation, and how these influence interpretations of gender and gendered violence like CRSV in these three African TCs.

6.2.3. The implication of standardisation of TJ norms: The boundaries to gender

Critically, the study’s findings demonstrate that in the adopted gender perspectives and gender-responsive measures, there is a particular gendering of SGBV and gender that assumes gender to preferably mean women and girls and gendered violence to be interpreted as sexual violence. See below Table 2 for the principles gendered categorisation:

Table 2: *International and regional principles and conventions about sexual and gender-based violence and their gender categorisation*

	‘Gender-neutral’	Women	Girls	Men	Boys	Non-binary	Other ⁴
1979/81 United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)		X					
1994 The Office of the High Commissioner for Human Rights (OHCHR) Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT)*		X					
1995 Beijing Declaration		X					
1998 Rome Statute of the International Criminal Court: Crimes against humanity*, genocide*, and war crimes*	X	X	X	X	X		
2000 United Nations 1325 Resolution on Women, Peace and Security (WPS)		X	X			X	

⁴ ‘Other’ is inclusive of other sexual and gender variations, including transgender and two-spirit persons’, agender, and genderqueer or fluid that could have been mentioned in the commissions. The exploration was expansive to capture the varying language of gender.

African Charter on Human and Peoples' Rights (African Charter) on the Rights of Women in Africa (African Women's Protocol)		X	X				
2003 African Charter on the Rights of Women in Africa (Maputo Protocol)		X					
The Convention on the Rights of the Child (CRC)	X		X		X		
Optional Protocol to the Convention on the Rights of the Child on sale of children, child prostitution and child pornography	X						
International Conference on the Great Lakes Region (ICGLR) Protocol on the Prevention and of Sexual Violence against Women and Children		X	X	X ⁵ (defines gender as social relations between men and women)			
International Covenant on Civil and Political Rights (ICCPR)	X						
International Covenant on Economic and Cultural and Social Rights (ICESCR)	X						
The African Charter on the Rights and Welfare of the Child	X		X		X		
Universal Declaration of Human Rights recognising the right to life, liberty, and security (protect against sex discrimination)	X						
The Fourth Geneva Convention... characterising		X					

⁵ This defines gender as social relations between women and men.

rape as an attack on women's honour							
Hague Principles on Sexual Violence	X	X	X	X		X	
	8	10	7	3	3	2	0

Table 2 shows us that most of the international and regional principles and norms adopted by the three TCs singled out women when speaking about gender and identifying victims of gendered crimes. Admittedly, these measures are assumedly well-intentioned, considering evidence shows that women and girls are the primary victims of sexual violence, particularly rape, with both the SLTRC and TJRC reporting that women and girls were targeted in their respective conflicts.

Notwithstanding, TJ is a norm-driven practice (Tiemessen, 2011). The referral to international and regional norms and their implementation in the mandate shapes the extent of the imagination in thinking of who the conflict actors are, where the violence occurs, who is responsible for the crime, and what the expected redress is. Thus, the power of the commission to attain its objectives must be determined. Heliso (2020) argues that the mandate can either “paralyse or give life” (p. 19) to a TC. The hyper-fixation of women within gender discussions performs to de-gender men and boys and sexual and gender minorities.

De-gendering, referring to the process of dismantling the binaric gender social order, is a long-standing theory in decolonial feminist spaces. It is the theoretical, physical, and social rejection of the social construction of unequal contrasting and complementary social categories of ‘boys’, ‘girls’, ‘woman’ and ‘man’ (Lorber, 2000). Unlike the traditional de-gendering principles to dismantle these hierarchies, the hyper-fixation of women in TJ gender discourse sees women as gender beings and men as sexual beings, limited to the roles of the combatant and, in this discourse, perpetrators of sexual violence. Therefore, ‘doing gender’ is performed in the selective and hyper-fixation of women as victims of CRSV.

Also, across these principles and policy interventions, women and gender are interchangeably used. Hagen (2016, p. 318) argues that the “conceptual slippage” is evidence of deeming men, males, and masculinities unproblematic and unaffected by gender. This isolates and marginalises sexual and gender minorities who do not conform to cisgender norms and normative gender roles.

Equally, with the second highest result being gender-neutral gender categorisation, even in the attempt of inclusivity, there is a further de-gendering of men, and women in this case, that delimits the covering and theorisation of how sexuality and gender makes an individual vulnerable to CRSV. This conventional knowledge is harmful to sexual and gender minorities, and overall cisgender actors, who do not prescribe to the neatly presented categories of

gender, whose identity actively practices the 'undoing of gender' (Gerstel, 2007) in the rejection of the social categories of 'boys', 'girls', 'women' and 'men'.

The research findings report CEDAW, CAT, the Rome Statute principles on war crimes, genocide, crimes against humanity, and the Maputo Protocol as collectively accepted norms across the three commissions. Significantly, the premise of CEDAW is founded on the belief that sex is an impermissible distinction that inhibits access to justice and accountability (OHCHR, n.d.). The International Bill of Human Rights, Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights, and International Covenant on Civil and Political Rights, both of 1966, which translate the principles of the Declaration into legally binding form, all include 'sex' as an identity characteristic among the factors that result in discrimination when referring to the foundations motivating for the advocacy of women's rights and legal recognition (United Nations Women, n.d.).

Most international norms and standards grounds for gender protection reference sex as an identity marker for discrimination and violations. Making no distinctions between the two despite the significant difference between sex and gender identification. Sex refers to the biological characteristics of individuals assigned at birth, often by a medical professional, wherein the distinction is limited to the binaries of male and female. Comparatively, gender refers to more constructivist conventions relying on social, political, and even financial/economic factors that influence characteristics, roles, and relations. It is understood to include a wide spectrum of identities, including transgender and non-binary persons. Raju and Bruun's (2023) exploration of integrating gender perspectives into international humanitarian law (IHL) observes IHL's lack of distinction between sex and gender, further exacerbated by the lack of distinction between sex and women.

The wording of IHL rules follow a coloniality of gender that defines gender according to the two binary sexes of female and male, inherently relying on biological essentialism. The influence of international norms is examined in the SLTRC's operations wherein statement-giver forms only acknowledge the 'sex' category as an adequate category to interpret or streamline their gender data. The commission refers to their statement takers as 'he/she or his/hers,' demonstrating a privileging of heterosexuality by the sex markers and the assumption that those are the only two sexes and genders.

Raju and Bruun (2023) explain the consequences of this blind spot, claiming that gender-specific needs are distinct from sex-specific needs. This is specific for persons who identify outside the binary wherein their sexual and reproductive health needs differ significantly from their sex-specific needs. According to the research study, this bias is not specific to IHL but extends to the regional norms, standards and principles identified in the African TCs. Looking back at Table 2, CEDAW, founded in IHL, Maputo protocol (and more), all premise gender rights on the principles of non-discrimination on the grounds of sex. The Maputo protocol specifically states,

“Discrimination against women” means any distinction, exclusion or, restriction or any differential treatment based on sex and whose objectives or effects compromise or destroy the recognition, enjoyment or exercise by women, regardless of their marital status, of human rights and fundamental freedoms in all spheres of life” (Maputo Protocol, 2003, pp. 3-4).

In promotion of gender equality and non-discrimination, the Maputo Protocol further stipulates that,

“States Parties shall commit themselves to modify the social and cultural patterns of conduct of women and men through public education, information, education and communication strategies, to achieve the elimination of harmful cultural and traditional practices and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for women and men” (Maputo Protocol, 2003, pp. 2003).

These statements reflect how the terms of sex and gender refer to women and, in other contexts, girls too. The biological distinctions of sex are interpreted to be the foundation of the violence committed and experienced by women, inherently, not assuming that the differences of sex impact men’s or male experiences of conflict or violence. This is exemplified in the recurrent theme across the findings of African TC’s conflation of gender and women. This is not specific to the African TCs and is seen in many regional and international policy interventions and humanitarian principles; women and gender are interchangeable (Hagen, 2016).

Notably, the research study discusses Western influence through international norms and principles. Still, the concept of coloniality speaks explicitly to the ‘post-colonial’ environment and how local and regional, in this case, can produce global epistemological designs and be recipients of colonial thinking, norms, and realities (Mignolo, 1999; Quijano, 2000).

The Kenyan TJRC final report included the 2003 International Conference on the Great Lakes Region Protocol and the African Charter on Human and Peoples’ Rights on Women’s Rights in Africa. These regional principles influenced the commission’s interpretation of sexual violence by stipulating that sexual violence is the “harmful practices inclusive of all behaviour, attitudes and practices which negatively affect the fundamental rights of women and children” (TJRC, 2013b, p. 710). The commission also adopted that sexual violence was perpetrated against “women and children” and “women and girl children” (ibid). From the final report's interpretation of sexual violence, the requisite components of sexual violence are that women are non-violent victims of sexual violence. In the absence of men not mentioned as victims, it is assumed that they are the perpetrators.

These interpretations of gendered violence are problematic since they pigeonhole gendered violence during conflict, where women are not necessarily mainstreamed in peace processes and conflict resolution and instead are marginalised to specific themes of

violence. Also, the conflation of women and girls with gender demonstrates that the understanding of gender is deficient as it does not consider the diversity of non-binary, non-confirming genders that are evidenced to be generally more exposed to physical and emotional violence in both peacetime and conflict (Outright International, 2023; Tejero, 2023).

The implications of these decisions result in what Hagen (2016, p. 318) defines as “cisprivilege”, which orients policy interventions and discourse to address cisgender concerns exclusively, thus, maintaining a gender hierarchy that, in this case, privileges cisgender women according to patriarchal and heteronormative standards. Under these conditions, a gendered ‘other’ is established, and often, the violence they are exposed to is ‘justified’ because it operates against heterosexual norms (Hagen, 2016).

In the last two decades, academics in masculinity, queer, and feminist studies have critiqued TJ for upholding strict distinctions of sex, gender, intimate relations, and violence that narrow the investigation, findings and recommendations, with fears that this blind spot obscures what we know of conflict, violence, and transition; and what we are allowed to know about it (Ní Aoláin, 2012; Fobear, 2014; Hagen, 2016; Bueno-Hansen, 2018; Schulz et al., 2024). As practitioners and scholars of TJ, specifically focusing on CRSV and other forms of gendered violence, we need to be critical of the epistemological frameworks we draw from. Our perspectives on progress and development in gendered discourse need to be measured and critically investigated to understand and address the systems of unequal power.

Beyond the regional and international platforms, local legal interpretations of gender influenced the TCs, as observed by the SLTRC example. The mobilisation of “rural and urban women across all classes” (TRC, 2004c, p. 194) encouraged women's involvement in data collection on the types of violations experienced by women during the conflict. Demonstrating the significant role of local theorisation of gender, women's lobby groups pertinently distinguish gender according to binary sex distinctions of male and female, translating to men and women and masculinity and femininity.

Critically, the localisation of gender binarism further demonstrates the coloniality of power and gender theory. Quijano (2000) speaks directly to the contemporary influence of colonialism in formerly colonised societies. With Kenya, a former Anglo colony, the rigidity in gender and sexuality draws from the colonial practices of ‘civilisation’ in broader ideas of “white superiority, Christianity, colonial capitalism, colonial nation-building, and colonial citizenship” (Oginga, 2008, p. 1). The standardisation and localisation of these beliefs was a form of colonial control justified by the ideas of African primitivity. Therefore, the British colonial administration viewed themselves as ‘saviours’, saving the colonised from “uncontrolled sexual behaviour” (Oginga, 2008, p. 2). This follows along in the contemporary wherein these international, regional, and national gendered and gendering norms and principles are recipients of coloniality in that they perpetuate colonial racialised

and gendered inequality in the depictions of victims, perpetrators, and accepted scenarios of CRSV.

Importantly, it is difficult to imagine a world without the event of colonialism, so much of the theorisation is what if, relying on historical text that shows same-sex marriage traditions were observed in the Nandi tribe in the regions of the Great Rift Valley. Before colonialism, Oginga (2008, p. 3) says that no African archive related “gender as a binary in the way that their European colonisers did, nor did they correlate anatomy to gender identity.” Also, there is no archive demonstrating the persecution of LGBT persons because of their sexuality or laws prosecuting individuals for their sexual or gender identity and sexual activities. Therefore, the turn of homophobia and lack of tolerance is located from the event of colonialism in the African context.

As we continue to discuss the research findings, we need to critically think of TCs as instruments of knowledge on human rights violations, meant to highlight both the overt and covert violations and how we can include victims and perpetrators that are non-binary, transgender persons. We are not critical of gender in our discography about gendered violations, as our definitions and explanations are still defined by a coloniality of gender that hinders us from recognising and reporting on all violations and all perpetrators and victims. This leaves us with the assumption that CRSV is violence that involves heterosexual actors in heterosexual contexts with heterosexual outcomes. This theorisation will be explored further in the next heading, wherein I will speak about what the mandate and final report text say about CRSV.

6.3. Part two: The dominant discourse in CRSV

The second theme of the research findings primarily focuses on what the text of the mandate and final reports say about CRSV. The language in the mandate and final report text portrays CRSV as a heterosexual act of violence between cisgender and heterosexual individuals because of the assumed heterosexuality of the conflict actors.

6.3.1. ‘Typical scripts’: Accepted gender norms

Across the three African TC mandates and final reports, gender was categorised along the gender binary of male and female and man and woman with the SLTRC, including an undefined “other” category. The Gambia TRRC adopted a gender-neutral approach, but all witnesses and victims were cisgender men and women. The lack of clarity around the SLTRC undefined “other” and the continued use of binary pronouns such as she/he and his/hers across the three TCs suggest an unaddressed third gender, raising questions about what is being overlooked in both the TCs and African TJ more generally.

The contemporary narrative of sexual violence follows a “typical script” (Mortimer et al., 2019, p. 340) based on a binaric gender and sex framework, seeing only heterosexual cisgender men and women, depicting the man as an aggressor and the woman as passive.

This narrative inadequately captures experiences and claims of abuse by sexual and gender minorities.

Mortimer et al. (2019) identify rape myths, heteronormativity, forced heterosexuality, and cisgenderism as the theoretical foundations of wide interpretations, understandings, and documentation of sexual violence, marginalising queer experiences of sexual violence, including men and women who identify as heterosexual but have sexual and romantic relations with non-binary individuals, transgender persons' or individuals who also identify as heterosexual (straight).

The current typologies of conflict-related sexual violence further continue to perpetuate rape myths in the gendering of sexual violence and its reiterated prescription of actors of violence. These interpretations distort more comprehensive discussions of rape and sexual violence more broadly, but particularly in CRSV discourse where armed men are the perpetrators; therefore, an overly masculine and violent depiction of masculinity is portrayed as the only role of men in conflict while the victim is often a woman walking to get water, walking home, in their house, or other settings of extreme vulnerability (Mortimer et al., 2019). These narratives of male sexual dominance, with a focus on their physical strength and sexual organs and the passivity of female sexuality, normalise violent sexual interactions between cisgender actors.

The emphasis on the biology of sex, male and female, makes these roles 'natural', assumedly innate by the conditions of our biology. Of course, the extent to which heterosexuality is normative varies across different locations, cultures, communities, linguistic communities, and peoples. Despite this, the significance of these commissions is that all their contexts are formerly Anglo colonies where Sodomy laws governed and regulated sexual and romantic intimacy, bringing the private to the public domain, and these countries continue to dictate the conditions at present by uploading these norms.

Contrary to the 'typical script', scholarly contributions on gender and conflict have looked to identify diverse victims of sexual violence, with Schulz (2018, 2020, 2022) looking at men as victims of sexual violence, Kiss et al. (2020) looking at LGBTQ+ victims/survivors of sexual violence, and Papanikolaou (2024) looking at women as perpetrators of CRSV. Nevertheless, TCs have failed in their overt biases in conceptualising CRSV. The overt omission of men, boys, and sexual and gender minorities disqualifies their potential experiences of these violations.

Through the conceptuality of the coloniality of power that perceives a superiority, totalism, and ownership of the Other, establishing and affirming the significance and superiority of the *Self* is necessary to navigate our understandings of power and institutions of power in the present. Similarly, the coloniality of gender argues that the binaric assumptions of men and women are reliant on the immovable biological assumptions of males and females as a means to extrapolate labour and regiment resources. A significant feature of coloniality is the continued invention and re-invention of the Other, which in the typical scripts of sexual

violence is achieved as it perceives the accepted narratives of sexual violations, actors, contexts, and punishment. The next sub-heading highlights how the three TCs continue the 'typical script' in CRSV discourse.

6.3.1.a *'Typical script': Women as victims of CRSV*

The SLTRC is the oldest commission of the data group, which is reflected in the language used to describe CRSV. Cited in Volume 3B of the final report, the commission only refers to women and girls as victims of SGBV. The SLTRC cited that women and girls were deliberately targeted during the conflict, subjected to "rape, sexual abuse, and sexual slavery, trafficking, enslavement, abductions, amputations, forced pregnancy, forced labour and detentions" (TRC, 2004b, p. 169). The SLTRC's gender policy explicitly referenced sexual violence as women's accounts of conflict.

Critically, the SLTRC's gender policy concerning women was often accompanied by children's accounts of conflict, with special attention to the subject of sexual violence. The representation of women and girls and/or children as a collective vulnerable group category has since been criticised by a few scholars, recognising that this representation heightens women's vulnerability. Blideman (2019, p. 20) explains that the assumption in the use of 'women and girls/children' inherently makes women vulnerable as it infantilises their social, political, and economic roles. This reinforces gendered colonial stereotypes of women's inferiority, affecting women's treatment and vulnerability to sexual violence. It also perpetuates the domestication of women as caregivers, nurturers, and mothers by their association with children. Also, the intentional omission of men in these narratives assumes the responsibility of the child to be that of a woman.

The commitment to this representation in the post-conflict discourse reinforces the insecurity of women as it re-positions men, those presiding over peacekeeping efforts and those not identified as perpetrators, as the authority of security and decision-making, re-establishing the gender roles of men as public actors, re-domesticating women in the private home. The hypervisibility of women's victimhood in the post-conflict discourse, supported by CRSV discourse, perpetuates the perpetual victimhood of women in the post-conflict setting.

The colonial ownership of African Black women under the state's authority and their husbands, as referred to on pages 42-43 of the literature review, continues in the stilted post-conflict narratives of CRSV victims. Women in this context are being continuously seen to be 'saved', controlled, and protected even from themselves in accusations of promiscuity. Although the perpetrators are depicted to be African Black men, which too should be problematised, coloniality acknowledges that colonialism is perpetuated through the persistence of dominance. Thus, maintaining unequal power dynamics can manifest in repeated future offences, which inherently results in the inability to uphold the principle of TJ of non-recurrence.

Gqola (2004), when reflecting on the caricature of the crying Black woman during the South African TRC testimony, says that the suffering of the Black woman is convenient, a “familiar stereotype available to readers of her narrative” (p. 55) facilitating the regimes and systems of patriarchal, racialised, colonial power. The persistent imagery and literary architecture in the final report text iconographies’ African Black women’s experiences of conflict are solely specific to their physical sex, wherein their sex is being targeted. The “long-suffering trope” (Gqola, 2004, p. 54) controls African Black women’s experiences of conflict, particularly the gendered dimensions, as singular allowing for the maintenance of colonial rule.

The TJRC final report documented that women and girls were the primary victims of sexual violence. The final report finds that sexual violence against women was rampant during forceful evictions conducted by the state and/or its agents. The report evidences the finding by including insight into 30 statements from women who were raped in Kitui, Kenyan district, during an eviction referred to as the ‘Kavamba operation’ (TJRC, 2013c, p. 708). Perpetrators were state security agents, with state security-led interventions “the most important case of sexual violations...” with sexual violence used as a “weapon to terrorise, suppress, intimidate and humiliate communities” (TJRC, 2013c, p. 708).

Despite the TRRC adopting a gender-neutral approach, the reporting of the Gambian conflict is defined by two characters: one man against all his citizens, particularly Gambian women. The final report narrates that under former president Jammeh’s regime, many high-profile political actors, including himself, committed human rights violations, particularly SGBV. For example, the TRRC final report states that perpetrators are “senior government officials including senior security officials and government ministers” (TRRC, 2021a, p. 26) and victims are “women and girls [who are subjected] to a range of sexual violence including rape, sexual assault, sexual harassment and sexual exploitation, with impunity” (ibid). Under the heading “Overview of sexual and gender-based violence in the Gambia” in the final report, all the victims of SGBV were identified to be women, and men were perpetrators. The commission also identified men as victims of sexual violence, with men reporting sexual violence as a secondary violation to torture during detention (TRRC, 2021a, pp. 38-41). The Gambian TRRC final report reports on men as victims of sexual violence, which will be discussed later, but their portrayal of sexual violence follows a similar pattern to the TCs that come before it in that there are repeated gender and sexuality tropes that assume heteronormative superiority.

6.3.1.b. *Men as victims of sexual violence*

The Kenyan TJRC admits that “women and girls were believed to be the main, if not the only, victims of sexual violence”; however, “men and boys have also been targeted” (TJRC, 2013d, p. 32). This demonstrates a shift in the ‘typical’ narrative about CRSV, leading us to look beyond the sexual norms of men and women first identified in the SLTRC.

Despite acknowledging men as victims of CRSV too, the TJRC is vague and not as explicit as when reporting on women. In the third volume of the TJRC, women’s victimisation is

considered “rampant” (TJRC, 2013d, p. 32), with referral to locations and events concerning the colonial period, Shifta War, Bulla Karatasi/Garissa Gubai Massacre, Wagalla Massacre, Lotirir Massacre, and the ‘Kavamba operation’, with perpetrators identified to be colonial actors, British soldiers, state security agents, including the General Service Unit, Kenya Police, Kenya military, and rebel members. Comparatively, men’s accounts lack specificity in motive, events, perpetrators or victims. Importantly, the Kenyan TJRC recognises that stigma plays a significant role as it prohibits men from reporting their experiences. Resulting in, underreporting and under-investigation, which further results in a lack of statistical evidence (TJRC, 2013c, p. 708). With these conditions, men and their violations are reported in the final report but the lack of detail continues to silence their victimisation.

The Gambia reported similar findings. Volume 10 of the final report dedicated a section to record men’s sexual victimisation under the title *SGBV against Men in Detention and During Interrogations*. Here, men are detailed to be subjected to sexual violence, including “rape, forced nudity, mutilation of sexual organs, castration and sexualized torture during interrogations and detentions” (TRRC, 2021a, p. 38). Comparatively to the TJRC final report, male victims are given an event, context, perpetrator, and description of their violations. This demonstrates the comprehensive view of gender, gender roles, and gender norms adopted in the commission's theoretical and legal frameworks.

Contrary to this ‘advancement’, Baaz and Stern (2013) argue that men are only considered vulnerable because of the circumstances of conflict and not because they can be. This is supported by the over-representation of their vulnerability in detention centres, police holdings, and when sexual violence is documented as a secondary violence to the primary violence and crime of torture.

Couturier (2012) and Mortimer et al. (2019) describe rape myths as damaging to perceived masculinity as it limits masculinity to a predatory role, whether consensually or non-consensually. The paradigm of masculinity and what is understood as male sexuality inherently exists between the scale of masculinity and emasculation. Batch Samba Jallow, Gambian headteacher and survivor of sexual violence, testified to the TRRC commissioners that when the accused Baba Saho sexually assaulted him, the accused said:

“When we are ready with you, you will not be a man again. You are going to be a eunuch”. The witness told the Commission that Baba Saho then came with a rock and hit his penis with the rock. All 4 officers then applied electric shocks to his penis, nose, ears, lips, and toes.” (TRRC, 2021a, p. 38).

Batch Samba Jallow's testimony speaks of a common trend of rape myths that prioritise male physicality, focusing on both the strength of men to evade this violence as well as the penis as a defining physical feature of masculinity (Linstead & Maréchal, 2015; Waling & Power, 2022). The analysis offered by the TRRC reiterates a forced binary where men are characterised by their manhood or which the community/society finds acceptable. “In a culture where the male sexual organ is referred to as one’s ‘manhood’ and the gendered

role of men as providers and breadwinners defines social status, the sexual violence inflicted on men was clearly intended to damage the masculinity and/or virility of the victims” (TRRC, 2021a, p. 38).

The sexual assault of castration or an injury to the penis threatens the belief system that masculinity and men are identified by their physical appearance, particularly sexual organ. The hyper-focus on the male phallus (penis) signals the dominant heterosexual and cisgender script of the sex/gender binary system that perceives masculinity through both antagonistic social characteristics as well as biological characteristics that are meant to be evidential distinctions between cisgender men and cisgender women. By this standard, without this biological distinction, the gender binary is brought into question, which in a heteronormative patriarchal society, disrupts the social order that has justified women and sexual and gender minorities oppression.

A level of superiority and dominance that hinges on perceptions of male masculinity is maintained in the transitional setting, wherein there is little theorisation around the sexual victimisation of men beyond the detention and military setting. In both the TJRC and TRRC, men are depicted only in detention settings, establishing their sexual assault as an anomaly, abnormal, and fixed to the narrative of the masculine setting. The problem with these depictions is the maintenance of masculinity that is impenetrable. The consequence of this depiction is the continued taboo behaviours of male sexual victimisation, and continued violation of invisibilized victims.

6.3.1.c. *‘Typical script’: The ‘gender neutral’ victim of sexual violence*

The Gambian TRRC, the most recently completed African TC, adopted a gender-neutral perspective. The Gambian TRRC adopted a gender-neutral approach in its mandate and operations, using language like “victims” and “witnesses” instead of “women” and “men” to avoid gendering individuals. The commission also specifically focused on violations rather than the actors of violence by naming the special measures and units “SGBV incidents,” SGBV taskforce, and SGBV hearings. The TRRC highlighted that its operations were grounded in the principle of inclusivity, emphasising that “no group of victims should be excluded or misrepresented, as doing so could contribute to further re-victimisation” (TRRC, 2021a, p. 9).

Despite this commitment to inclusive language, the testimonies collected by the TRRC predominantly came from ‘witnesses’, ‘victims’, and ‘persons’ whose gender identities were aligned with traditional cisgender male and female roles. In particular, in instances of men’s testimonies about sexual violence, the commission referred to them through their roles as husbands, romantic partners to women, or as men within a heterosexual framework. This approach inadvertently reinforces heteronormative assumptions, sidelining the experiences of those whose identities and experiences do not conform to these traditional gender and sexual norms. Consequently, the TRRC’s framing risks overlooking or invalidating the

experiences of individuals whose encounters with sexual violence do not adhere to conventional gender expectations.

The privileging of gender neutrality in legalist processes, like the Gambian TRRC, has the potential to render sexual violence random and ahistorical, de-contextualising the relations between the perpetrator and victim where there needs to be formal recognition of male-on-female and male-on-male sexual abuse as separate but interrelated crimes (Couturier, 2012, p. 4). This disadvantages women, men, and sexually and gender-diverse persons as it evades the distinct influence of patriarchy, coloniality, heteronormativity, forced heterosexuality, and overall gendered power differentials on gender expression, and also how it contributes and sustains conflict (Schulz et al., 2024, p. 3).

Heteronormativity, specifically the features of cisgender and heterosexual norms, is persistently the hegemonic point of reference for the commissions' as well as the actors involved (victims, survivors, and witnesses) interpretation of CRSV. Hence, Dolan et al. (2020) argue that CRSV is already known in TJ, as there are requisite components that define what can be understood as CRSV and what cannot be considered sexual violence. This is an illustration of the coloniality of knowledge and gender that results in a hierarchy of violations, victims of sexual violence, and perpetrators of sexual violence.

The next heading elaborates on the consequences of normative narratives of the 'typical script' by detailing the impact of marginalising sexual and gender minorities' experiences in conflict discourse.

6.4. Part Three: The consequence of CRSV dominant discourse

The Gambian TRRC is the only African TC, to date, to explicitly mention sexual and gender minorities as victims of conflict and acknowledge the identity-specific harms that they face as a vulnerable group. In defining sexual violence, the commission adapted that "humiliating or mocking a person based on their perceived sexual orientation, gender identity, sexual performance, sexual reputation, sexual choices, sexual activity (or lack thereof), or sexual body parts" is a sexual offence (TRRC, 2021a, p. 4). The commission also included that the vulnerability of the affected person due to factors considered by the perpetrator to be strategic advantages, "such as the affected person's sex, sexual orientation, and gender identity," (TRRC, 2021a, p. 3) can heighten an individual's vulnerability to sexual abuse.

Beyond the three country cases, the Gambian TRRC is the only African TC that acknowledged sexual orientation and gender identity as factors of insecurity and vulnerability during the conflict. The 1998 South African Truth and Reconciliation Commission (TRC) final report findings did include violations experienced by South Africans gay conscripts who suffered abuse and trauma from forced 'aversion therapy' involving electric shocks intended to 'convert' the sexual orientation or 'deviant sexual thoughts,' including suspected homosexuality (TRC, 1998, p. 124; Kaplan, 2004). Despite these

testimonies, the TRC only provided a sentence in the final report on these violations, with no mention in the recommendations.

Notwithstanding the TRRC's inclusive definition of sexual violence, the commission failed to capture these gender-inclusive insights. Similar to the 'gender neutrality' error, the TRRC has the same epistemological gaps in their 'inclusive' sexual and gender perspectives by doubling down on heteronormative relations in the documentation of SGBV by only referencing cisgender men and women as victims and men as perpetrators.

In the commission's own words, the Gambian society is a "patriarchal society deeply rooted in male domination and superiority. Far too often, socio-cultural attitudes have perpetuated gender stereotypes, which create the impression that 'men are superior, and women are inferior' and a 'socialization process [that] has also led men and women to perceive men as leaders and women as supporters'" (TRRC, 2021a, p. 13). These comments are elaborated by TC witness gender expert Haddy Mboge Barrow, who states that "patriarchy is everything that surrounds power and position, and this is the society that exists in The Gambia. It is about power relations, power dynamics, who has power over what, and that power plays in different angles... in cases where women speak out, the man would be believed over her. Power dynamics play a critical role in sexual violence, and these power dynamics include financial power being used by the head of the family, who also makes the decision and further uses physical power. Both play important roles and most of the time, people who inflict sexual violence are holding both or at least one of these powers" (TRRC, 2021a, p. 13).

The above quotes hold truth, but it is limited as there is little theorisation of why men are sexually violated. Also, according to the commission's witness in her testimony, elucidating the conditions and motivations for SGBV, she assumed the victim to be a woman and a man to be a perpetrator. This rhetoric is repeated throughout the final report, including in the SLTRC and TJRC final reports.

This stereotype also harps on the rape myth that men penetrate and women are penetrated. For example, in the Gambian TRRC, Kaddy Camara, widow of Alagie Mamadi Sabally, testified on behalf of her late husband, stating that after he was sexually violated,

"He called his 4 (four) wives and begged for their forgiveness, saying, "the situation that I am currently in, I cannot be able to perform my manly functions as a husband. They have messed up with my organs, and now the reason why I am begging for your understanding and forgiveness because marriage is between man and woman; once you realized that you are no longer able to perform your duties as a husband as a man, it is only right that you inform your partners" (TRRC, 2021a, p. 40).

Kaddy Camara's testimony about her deceased husband's words provides insight into the Gambian society's gender roles and expectations around sexuality, sexual prowess, and sex. In her testimony, her husband affirmed a few social gender and sexual assumptions: (a). heterosexuality is the accepted norm by stating that "marriage is between man and

woman”, which also assumes the gender binary of cisgender people as the norm, which (b). rejects any non-binary persons and non-heterosexual sexual relations, delegitimising homosexuality, bisexuality, transgenderism, and non-binarism, and (c). men’s masculinity is dependent on their sexual performance, reiterating the trope that they are impenetrable and invulnerable.

The active selection of testimonies means that Gambian sexual and gender minorities' existence and the violence that they experience are not recognised, making redress or reparations inaccessible. Same-sex sexual and romantic relations, whether consensual or non-consensual, are treated as a violation in both peacetime and conflict. The intersecting systems of heteronormativity and heterosexuality underpinning the Gambian TRRC perpetuate homophobia, transphobia, and patriarchy in the commission’s inability to document sexual and gender minorities’ experiences of conflict. This upholds the colonial logic that perceives other sexualities as immoral, reinforcing the dichotomy of US vs Them.

Men are also impacted by social, political, and economic factors that make them vulnerable to sexual violence (Schulz & Touquet, 2020; Njoku, Akintayo & Mohammed, 2022). In documenting sex trafficking and sextortion, which refers to the coercion to extort sexual favours in transactions for resources, Njoku et al. (2022) elaborate on these conditions and the insecurity of men by detailing CRSV being innately a consequence of power. The circumstance in the Lake Chad basin, particularly in North-eastern Nigeria, involving long-running terrorist violence by Boko Haram and the Islamic State of West African Province (ISWAP) has resulted in a decline in economic institutions and foundations, including farming, trading, fishing, and pastoralism, which is the regions primary source of income particularly for men (Njoku et al., 2022, p. 79). These circumstances have resulted in high levels of unemployment, human displacement and homelessness, and food insecurity that has compellingly resulted in a rise in many engaging in transactional sex.

Despite the dominant weapon of war narrative in TJ, Njoku et al. (2022, p. 80), alongside Dolan et al. (2020), consider sexual satisfaction and power as emerging, albeit slowly, theories of CRSV. Both strategy and sexual pleasure can motivate sexual violence, yet none of the TCs considered these as motivations for sexual violence. This inherently limits the type of victims of sexual violence since all these societies accept and condone heteronormative relations, which would then bring into question beliefs of women and men, female and male, and the *Self* and the *Other*, disrupting the foundations of power that the authors of societal boundaries thrive off on.

Heteronormativity informs the misconceptions about sexual assault that follows a rape myth logic wherein the ‘typical script’ of rape involves the penile penetration of the vagina. With the assumptions of men as perpetrators and women as non-violent victims, other accounts that do not involve these cisgender characters and their biological make-up are considered ‘not real’. In incidences of sexual violence experienced by lesbian women and transgender people, Mortimer et al. (2020) document that their sexual violations were

discounted because of ambiguous anatomy that would not follow the typical script of penile/vaginal penetration because they were not cisgender.

This is problematic considering the increasing evidence of LGBTQ+ persons being explicitly targeted during conflict because of their sexual orientation and/or gender identity. During the Syrian civil war, both the government and the Islamic State of Iraq and Syria (ISIS), targeted Syrian LGBTQ+ individuals because of extremist beliefs that believe same-sex sexual activity and relationships are corrupting of the 'natural human order' with ISIS particularly stating that it is against God. Most of the violence perpetrated against Syrian LGBTQ individuals is sexual, involving forced nudity, forced incest, forcible penetration (rape), forced prostitution, and genital beatings (See Arnold, 2023). In other incidences, suspected homosexuality resulted in murder involving being pushed off rooftops and stoned to death by crowds.

In the 2022 Colombian Commission for the Clarification of Truth, Coexistence and Non-repetition, a sub-chapter, "The Truth is Rainbow", was dedicated to documenting patterns of armed violence against Colombian LGBTQ+ persons. It was reported that LGBTQ+ persons primarily experienced punitive rape and unwanted pregnancies of transgender persons during the armed conflict (Dehnen, 2024).

The selective ignorance and exclusion of LGBTQ+ survivors of sexual violence in these African TCs demonstrate a coercion of knowledge that distorts the narratives of CRSV. Beyond their TCs, in all of the African contexts, consensual sexual and romantic relations between same-sex and same-gender persons is criminalised, which further makes their experiences of violations inconceivable in both the conflict and post-conflict setting.

When violence is understood in specific and narrow ways, it affects broader understandings of which concerns become valid issues to be negotiated and mediated. The impact of this framing is further realised in all their recommendations, which relied on the skewed interpretation of CRSV. For the SLTRC, the findings identified that women and girls were deliberate targets of sexual violence and rape (TRC, 2004b, p. 168), thus, establishing that all recommendations would be directed towards women only. This was emphasised by the recommendation stating, "Every man and boy in Sierra Leone owes a duty to respect women and girls and to protect them from abuse at all times" (TRC, 2004b, p. 168). The Kenyan TJRC details their recommendations without direct gender bias; there is mention of women concerning the adverse effect of cultural practices on women's enjoyment of human rights, which this research study does not dispute.

In the final report of the TRRC, the commission recommended that "[the] government should establish proper and functioning safe spaces and shelters for victims of SGBV, especially female victims" (TRRC, 2021a, p. 54). "Government to make it mandatory for all institutions including private and civil society to put in place sexual abuse and harassment policies as required by the Women's Act 2010 and the National Women's Policy" (ibid). "The government should ensure and put in law systems and structures for the enforcement of

laws that protect the rights of women, such as the 2010 Women's Act 2010 and the Sexual Offences Act 2013, to ensure that the violations that happened in the past do not recur" (ibid). With no investigative measures oriented toward non-cisgender and same-sex accounts of sexual violence, there is no data on these sexual violence crimes, which translates to limited policy measures and recommendations or reparations of redress.

The reiterated accounts of the 'typical scripts' of CRSV in all the commissions demonstrate socialisation and regulation of the accepted forms of sexuality and gender. This encourages a continued taboo and silence of sexual violence for sexual and gender minorities and, more broadly, the overall theorisation of CRSV and gendered violence.

The next heading discusses the politics of TCs and how they can perform to silence CRSV and gender-related conflict issues further.

6.5. Part Four: Encouraged silence (conspiracy of silence): The impartiality of the historical record of violations.

In discussing the 'truth', Lawther (2017) leans on Marks and Chapman, arguing that by acknowledging the past, particularly from the perspective of the victim, TCs have the significant potential to "correct the failure to recognise victim's experiences, countering inaccurate and dishonest portrayals of their plight" (p. 4) which is often associated with the social structure that facilitated the violence and committing of human rights violations. Significantly, Lawther (2017) points to how TCs' emphasis on the victim and perpetrator privileges a particular perception of conflict actors, negating the reality of complex victimhood.

TCs are a phenomenon of the post-World War II humanitarian crisis and the shifting global interest in human rights. Although popular, TCs have been met with criticism, mainly because they promulgate contentious concepts, including 'truth' (Rotberg, 2000; Brahm, 2007; Kochanski, 2020), 'reconciliation' (Lerche III, 2000), 'justice' (Rotberg & Thompson, 2000), the issue of time and space in accounting for which violations are legalised (Aboueldahab, 2021; Martin, Nieto-Librero, Wiebelhaus-Brahm & Wright, 2022; Hansen, 2023), and the state's role in assembling of the post-conflict environment despite their potential involvement in committing human rights violations themselves. However, their continued use globally should demonstrate to us the significance of the institution and its potential in addressing human rights violations committed in whatever times, 'pre-conflict', 'conflict', 'post-conflict', and 'peacetime'.

The question of 'who' the victim and perpetrator are teases the tension of the political claims of belonging often observed in discussions of citizenship. The prioritisation of cisgender and heterosexual victims/survivors and perpetrators of sexual violence, as well as the state's interpretation of binaric gendered conflict actors in these TCs, shows a privileging of certain scenarios of violence. The implication of this narrative is its telling of what CRSV is, what is possible of CRSV, and who we can empathise with and protect against this type of

violence. Therefore, the impartiality of the ‘truth’ articulated in the mandates of the SLTRC and TRRC is not achieved and potentially never can be achieved in TJ institutions. Lawther (2017) argues that the rigidity in the conceptualisation of victimhood lends itself to ideals of what the victim can be and what violence can look like. The consequence is that those who do not fit the ideal of victimhood or conditions of victimhood are excluded and ignored during TC proceedings.

The absence of sexual and gender diverse persons in these texts and narratives of conflict subtly makes moral calculations, determining who is ‘good’ and ‘evil’ and who is deserving of justice, the ‘truth’, and redress. The findings of the research study demonstrate that the premise of the African TCs’ gender perspective is heteronormative, meaning the prioritisation of cisgender and heterosexual actors and the violence committed against them. These restrictions inhibit the acknowledgement and documentation of sexual and gender-based harms perpetrated against sexually and gender-diverse persons. Following Taiwo’s (1998) theorisation of exclusion forming part of the colonial logic, a form of coloniality is performed in the active exclusion of LGBTQ+ narratives in the mandate and final reports of the three TCs.

Across the three country case studies, Sierra Leone, Kenya, and the Gambia, same-sex sexual and romantic relationships are criminalised. The gender expression of transgender people is also criminalised. By the existing legislature standards in these countries, sexually and gender-diverse persons’ rights and realities are not recognised by the state and society. However, the incredible effort to prohibit these relations alludes to the presence of sexually and gender-diverse persons in these countries.

Considering these contexts, there is probable cause for the theorisation of the conspiracies of silence surrounding the experiences of sexual violence during a conflict experienced by sexually and gender-diverse persons. The recurring masculinities literature documents accounts of male victims of sexual violence, with evidence documenting that if sexual violence is pervasive during conflict, then men are victims of this violence, too (Sivakumaran, 2007; Tejeruate, 2023). This needs to be strengthened and expanded upon to include sexually and gender-diverse people. Studies record that lesbian, gay, bisexual, transgender, and intersex (LGBTI+) persons are vulnerable to physical and sexual violence; these forms of violations escalate in circumstances of conflict (Kiss et al., 2020; Tejero, 2023). Nevertheless, their experiences are not recognised in these TCs. Is it a question that in these contexts, the LGBTQ+ just do not exist and therefore, there are no incidences of violence to report on? Or is it the active silencing of these narratives by victims themselves out of fear and commissioners out of fear of social and political backlash as well as personal biases?

Speaking at the University of Cape Town, Yasmin Sooka labelled the lack of testimonies by victims and perpetrators of sexual violence during the South African TRC as the “conspiracy of silence”. Borrowing from feminist Cynthia Enloe’s (2014, 2017), Sooka’s comment

referred to the scarcity of testimonies that spoke of sexual assault, particularly rape, that was committed under the apartheid regime. In the two years that the South African TRC operated, they received 21,000 statements involving 38,000 accounts of human rights violations. Most statements reported violations against men; however, most statement takers were women, at 54.8 per cent. A total of 446 statements were coded as sexual abuse, yet only 140 cases explicitly mentioned rape (Kusafuka, 2009, p. 47).

The country's violent history of colonialism, apartheid, and the particular militarisation of these periods demonstrated significant structural violence as a mechanism of control (Bridger, 2023). In this period, sexual violence was racialised and classed, with poor Black African women particularly vulnerable to these violations. Their vulnerability was subject to many factors, including hyper-sexualisation, which saw the continual rape of Black women by white state men and the change of masculinities for Black men that sexually and financially controlled women, leading to heightened abuse (Bridger, 2023). Hence, the low cases of rape reported during the commission proceedings were considered an imbalance to the reality many knew about. This can be true also for the invisibility of sexual and gender minorities in conflict and gender discourse in these three African contexts.

The conspiracy of silence, a phrase coined by Sandra Butler (1978), is the specific social and political contexts where, subject to fear of political repercussion or social ostracism, a "conspiracy of silence" can occur. Butler (1978) defines the conspiracy as a consequence of a culture of silence. It is the knowledge that sexual violence is widespread, yet the victims do not want to speak about it; the perpetrator does not confess to committing the crime, while the rest of society pretends that it does not exist (Attah, 2016). The principles of the conspiracy of silence rely on a tacit agreement between the actors involved not to talk about the condition or matter, and a communal unspoken consensus conditions it. Also, conspiracies of silence presuppose mutual denial, whereby at least two or more people corroborate to avoid acknowledging something already known jointly. The silence is a consequence of matters considered culturally shameful, often referring to taboo subjects, including sex, sexual violence, sexuality, and homosexuality.

Wiebelhaus (2021) makes critical assertions about the political nature of the TC and how state leaders can use the very instrument meant to bring about reconciliation, justice, and rehabilitation for political legitimacy. Kochanski (2020, p. 116) remarks that TCs are part of state-building's broader ambitions by promoting reconciliation and developing normative goals. Lawther (2017, p. 8) also remarks that TCs' "simplification of victims' identities tends to fit the demands of the political landscape", particularly in national reconciliation projects. Considering the very hostility surrounding LGBTQ+ rights in all the mentioned African countries, arguably, TCs and their wielding of gender in determining gendered violence is a means of regulating and socialising gendered social norms.

Arguably, there is an effort of silence around the violations experienced by sexual and gender minorities. Many African leaders, including former president Jammeh, deceased

Zimbabwean president Robert Mugabe, and Ugandan president Yoweri Museveni, have argued that homosexuality is a threat to the family, Christianity and, more broadly, religion, and African nationalism. The colonial mission and the contemporary draw parallels as these tropes harp on coloniality of institutions, notably the 3Cs of colonialism: civilisation, colonialism, and capitalism, also known as the philosophy of the White Man's Burden, such as the nuclear family representing both civilisation and commerce, Christianity representing civilisation, and African nationalism as colonialism with all these leaders believing homosexuality to be inferior and themselves as slowing bringing the sexual and gender minorities to the light through this violent restrictive laws and omission from public life.

Similar to the SLTRC and Gambian TRRC, the Kenyan TJRC mandated commissioners to establish a complete picture of the conflict, stipulating that commissioners should investigate the causes, nature and extent of gross human rights and economic rights committed during the selected period between 12 December 1963 and 28 February 2008. Despite these intentions, the commission did not uphold these considerations, concerning the vulnerability of LGBTQ+ persons in these respective countries. During the Kenyan 2007-2008 electoral violence, Human Rights Watch recorded that at least six incidents between 2008 and 2015 LGBTQ+ persons were targeted in the coastal counties of Kilifi, Kwale, and Mombasa with threats of violence and incidents of mob violence. Also, between 2008 and 2012, HIV facilities were targeted, specifically those servicing men who have sex with men (MSM). Since then, Kenya has experienced anti-gay witch hunts, with particular incidences in February 2015 involving the reporting of suspected gay persons, house raids, and open discrimination that violates both human and economic rights.

During Jammeh's regime, on many occasions, LGBTQ+ persons' security was continuously threatened in public outbursts. Nabaneh (2022, p. 347) says that Jammeh's later politics involved "state-sponsored homophobia". In 2008, during his presidential tour in the town of Tallinding, Jammeh threatened to expel or kill anyone engaging in 'homosexual conduct'. In that same speech, he threatened to "cut off the head" of any individual caught for homosexual conduct, giving gays and lesbians 24 hours to leave the country (Thompson, 2015). The years following this speech saw an increase in targeted arrests and detention, with many reporting torture while in police custody (Reid, 2014). In 2012, a crackdown involving the arrest and detention of alleged LGBT persons, with 20 individuals arrested for engaging in 'unnatural acts' and 'conspiracy to commit a felony for 'cross-dressing' with men found in women's clothing (Nabaneh, 2022, p. 348). The signing of the criminal code in October 2014 further isolated LGBT persons in the Gambian society, with many citing it as being against God, anti-Gambian, and anti-African. Despite the TRRC mentioning groups targeted by Jammeh across the 16 volumes, there was no mention of the targeted violence against LGBTQ+ persons.

There is no reporting of violence or harassment of LGBTQ+ persons during the Sierra Leonean conflict to report on. While this is difficult to compare, it does highlight the silence

and the consequences of silence. The Kenyan TJRC iterated that stigma was a deterrent for male victims from disclosing their violations. Mortimer et al. (2019), Tillewein, Shokeen, Powers, Sánchez, sandals-Palmer & Desjarlais (2023), and Capaldi, Schatz & Kavenagh (2024) equally demonstrate that the barriers of a 'taboo', specifically, stigma, feeling embarrassed, fear of retaliation, and not being believed because of their sexual and gender identity prohibit many LGBTQ+ victims from reporting being violated.

Studies have shown that LGBT persons are more likely to be vulnerable to violence than non-LGBT persons, yet there is great underreporting. Muller & Meer (2018) reported that LGBT survivors of violence often do not report their concerns and experiences of victimisation because of safety concerns. This is specific to the reality of isolation brought on by stigma, which leaves many LGBTQ+ individuals without social support or social capital (resources, networks, and support systems) outside of the LGBTQ+ community who are collectively targeted. Also, in countries where LGBTQ+ persons are criminalised, many are fearful of being 'outed' and exposed to their sexual and gender identity in fear of experiencing further discrimination, violence, and, in some cases, death.

The omission of LGBTQ+ persons speak to what Lawther (2017, p. 9) iterates as the 'quality of voice', referring to the selectivity of which stories are told, which inherently compromises the 'truth' and ambitions of impartiality describe this as 'narrative inequality' and problems of *hearability*. This is when more 'uncomfortable' conflict actors are silenced because they challenge the legitimising narratives of privileged notions of innocence and determined victimhood and perpetratorhood. This concludes that the parameters of human rights and the right to 'truth', 'reconciliation', and 'justice' exclude sexual and gender minorities, demonstrating to us who is considered human, who has rights, and who has the right not to be violated. Thus, delegitimising a people, their abuse, and their entitlement to justice, accountability, and security.

6.6. Chapter Summary

The chapter extensively discussed the themes found in the research findings. The first theme, the *Evolution of international norms and standards on the gendered perspective of conflict and its impact on local African contexts*, details the standardisation and localisation processes of the TJ norms. Across the three commissions, international and regional norms played a big role in how the TCs conceptualised CRSV. Using the coloniality of power and coloniality of gender theory, the defined laws, particularly international gender principles, follow along a coloniality gender in the promotion of cisgender, heterosexual actors of conflict. The second theme, *The Dominant Discourse of CRSV*, addresses the impact of the theoretical and legal framework of gender and sexual violence, with all three commissions prioritising and privileging heterosexual and cisgender depictions of CRSV. Both the TJRC and TRRC account for men as victims of sexual violence, yet, in their iteration, neither commission had the fundamental theoretical frameworks to determine how gender and sexuality make men vulnerable to sexual violence. With the Gambia prioritising the

detention and torture setting, interpreting sexual violence as a secondary violation. The third theme, *The Consequences of the Dominant Discourse*, speaks to the effective erasure of non-binary, non-heteronormative narratives of CRSV. Because of the principles norms, alternative motivations, actors, and events of CRSV are unimagined, resulting in the dismissal of CRSV experienced by sexual and gender minorities. With the record of increasing violations globally and the increased targeting of LGBTQ+ persons in conflict, the lack of theorisation of CRSV threatens continued violence. The last theme, *Encouraged Silence (conspiracy of silence): the impartiality of the historical record of violations*, continues the discussion on the impact of the obscured heteronormative lens by examining the role of impartiality and its application throughout the TCs 'truth-telling' of CRSV. The theory of 'conspiracy of silence' is introduced to explain the potential political motivations for the active silencing of sexual and gender minorities' experiences of conflict and, more specifically, CRSV. Considering the social and political hostility towards sexual and gender minorities in each country case, their erasure in the processes of the TC is considered intentional.

Conclusion

7.1. Introduction

This concluding chapter synthesises the key findings of the research study to directly address the research questions. By orienting these findings with the initial research questions, I reaffirm the arguments in the preceding sections, weaving a cohesive narrative that clarifies the power dynamics in TC knowledge production about CRSV and other gendered violations during conflict in the African context. I will highlight the broader significance of the research, foregrounding its vital contribution to the discourse on the intersectionality of gender, sexuality, race, and conflict within formerly colonised contexts such as the African landscape. I will also engage in a candid discussion addressing the study's limitations. Finally, I will look at the research study implication and provide recommendations to guide future research looking at the intersection of gender, sexuality, and elements of TJ, fostering an ongoing dialogue in the pursuit of rethinking how we theorise conflict actors, power, gender, and sexual violence.

7.2. How do African truth commissions conceptualise conflict-related sexual violence, as illustrated by the 2004 Sierra Leone Truth and Reconciliation Commission, the 2013 Kenya Truth, Justice and Reconciliation Commission, and the 2021 Gambian Truth, Reconciliation and Reparations Commission?

The research report findings demonstrate that the different commissions primarily viewed sexual violence from a rape myth perspective, that sexual violence is penetrative by identifying women as victims and men as perpetrators. While both the Kenyan and Gambian commissions provided evidence that men were also victims of CRSV, as per Chapter Six, they both followed heteronormative descriptions and explanation of sexual violence that perpetuated the idea that men are impenetrable, and instead their victimisation is a consequence of conflict, and not a gender-based violation.

Drawing on Quijano's theory of *coloniality of power* and Lugones' *coloniality of gender*, the analysis shows that TCs are deeply embedded in colonial epistemologies and customs that invisibilise the violence experienced by sexual and gender minorities in each context. This study's findings demonstrate that these African TCs largely conceptualise CRSV through heteronormative and colonial frameworks that reproduce binary gender roles and normative assumptions about sexuality.

Chapter Two, Background, and Chapter Three, Literature Review, provided critical historical context, demonstrating that pre-colonial African societies often recognised diverse genders and sexualities, with no distinct binary model of male and female. These histories are overshadowed by the colonial imposition of a rigid sex/gender binary and the criminalisation of non-conforming identities through anti-sodomy laws, laws which are still enforced in Sierra Leone, Kenya, and The Gambia.

To avoid performing coloniality myself, one-size-fits-all does not apply and these findings should not be assumptive of all African pre-colonial sex/gender system. Significantly, archiving of diverse gender and sexuality identities, experiences, and realities remains a new and nuanced exploration in academia today. Therefore, there remains work towards discovery of pre-colonial African civilisation.

The inquiry demonstrates the continuities of coloniality through knowledge production and how TCs, and more broadly TJ, perform as a colonising instrument of 'civilisation', engaging in discussions of neo-coloniality and coloniality. A critical read of the colonial foundations of human rights, TJ, gender and knowledge inequality, theorised as epistemicide, provided us with a theoretical foundation for the further exploration of how coloniality informs the interpretations of CRSV.

The selection of three case studies allowed for the investigation of the CRSV phenomenon in multiple scenarios, moving from generalising to looking at specific examples and accounts of CRSV. The advantage of using a multiple case study approach is that the results do not rely on generalisability but specificity, which can give an in-depth perspective of how CRSV is interpreted in TCs and, more broadly, African TJ. A significant finding from this method showed us that the inclusion of CRSV and other gendered abuses in the TC mandates and operations does address the gender and sexual-specific harms and vulnerabilities associated with conflict. Instead, the CRSV-related and gendered perspectives operated off a 'typical script', prioritising cisgender and heterosexual accounts of violence, thus continuing to uphold gendered, sexuality, and racialised systems of oppression that marginalise some of the most vulnerable. This demonstrates a necessity to problematise the conceptual and theoretical framework of TC investigations and analysis, emphasising decolonising knowledge and theory-making in these processes.

Adopting a social constructivist analysis and engaging in critical reading of each case study, the research study demonstrated the functioning of coloniality in the emphasis on the gendered binaric model of conflict victims, as well as the active omission of sexual and gender minorities in the text investigating and documenting CRSV and gendered crimes. The enforcement of this gendered perspective perpetuates a gender norm through what is made visible, cisgender actors of CRSV and invisible, non-cisgender actors of CRSV in the text. The subtlety of the text demonstrates colonial control through knowledge and theory production, displaying that colonial violence is not just the physical presence of foreign power.

Taking account of the social context of the three country cases, sexual and gender minorities' sexual relations and identities are criminalised, making these countries a very hostile environment. Considering this, TCs perform as regulatory and standardising political intervention in these environments, rather than truth-seeking mechanisms, that perpetuate the continued marginalisation of non-conforming and non-binary gender and sexual identities. This is emphasised in the Gambian case study wherein, under Jammeh, sexual and

gender minorities were targeted, experiencing physical, financial, and emotional violence under the state. Nevertheless, the TRRC makes no mention of this group as victims of Jammeh's regime, like cisgender victims. Demonstrating forced narratives of heterosexuality through exclusion, omission, and avoidance.

The following sections address the sub-questions that complement the overarching inquiry and fulfil the research study aims and objectives.

7.2.1. How does the Sierra Leone, Kenyan, and The Gambian truth commission's define gender in their mandate and final reports?

Chapter Six, Part one: *Evolution of international norms and standards on the gendered perspectives* theme directly speaks to the first research sub-question on how African TCs conceptualise and define gender. It delves into the standardisation and localisation of international, regional and national gendered policy norms and their adoption across the three TCs. Through standardisation and localisation processes, conventional knowledge about gender and conflict is adopted within TJ, specifically African TJ. It assumes the interchangeability between sex and gender and women and gender in its policies, norms, and interventions. This perceives gender as biologically proven and within the binaric terms of female and male and roles of feminine and masculine. The SLTRC and the TJRC, when referring to gender, speak directly to women and women's victimisation. Here, women are assumed to be synonymous with gender. Thus, feminising the gender perspective and approach to exclusively interpreting women. Despite gender neutrality, the Gambian TRRC followed a binaric formulaic model that only spoke of cisgender women and men as victims of CRSV. Understanding the colonality of gender, gender neutralism is disingenuous as it maintains the hegemonic sex/gender model of male and female. This reinforces the othering of non-conforming and non-binary gender identities, resulting in forced heterosexuality wherein the gender norm of CRSV is presented as cisgender conflict actors.

There is a cis-privileging that, as long as we uphold this standard, will result in harm to sexual and gender minorities as well as cisgender, meaning when someone's gender corresponds with what is assigned at birth, experiences that do not fit the narrative, including same-gender and same-sex violations. This also demonstrates the historicity of colonised sexuality and gender, involving the colonial civilisation movement that perceived colonised social relations and lived experiences as barbaric. Therefore, the process of standardisation and localisation performs as TJ civilising models in conflict-affected societies that are primarily highlighted in the Global South.

7.2.2. How does the Sierra Leone, Kenyan, and The Gambian truth commission's define sexual violence and victimhood, and with what exclusions?

All three TCs, Sierra Leonean TRC, Kenyan TJRC, and the Gambian TRRC mandates, focused on sexual violence during their respective investigative period, which was followed through in

their operations, findings, and recommendations. The Kenyan TJRC went as far as to define sexual violence in their mandate to include rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilisation, or any other form of sexual violence of comparable gravity. The Gambian TRRC final report followed along by adopting a similar definition but included sexual orientation and sexual identity as variables of vulnerability. Despite the adaptation, there is no real reflection of this in their findings, with sexual violence portrayed as a violation between cisgender actors.

The conventional knowledge of CRSV adopted across these TCs details to us that there is a generalisability of how sexual violence is interpreted in TCs and, more broadly, TJ. Through this analysis, the rape myth of the feminised victim and violent, masculine actor continued throughout the depictions of CRSV, including the TRRC and TJRC that involved male victims of CRSV. Men's victimisation was limited to the detention centre, portraying their vulnerability and powerlessness to the setting of detention and not something experienced by men generally. Thus, upholding the unequal gender dynamics that perceive women as the lesser and weaker gender and sex.

Also, considering that these TCs operate in conditions that still uphold colonial legal interpretations of sex/gender, as demonstrated by the anti-sodomy laws, they operated within legacies that privilege 'recognisable' forms of violence—such as heterosexual rape and other sexual violence—while excluding violence experienced by queer, trans, and gender non-conforming individuals.

7.2.3. How do truth commissions' definitions of gendered violence reflect colonial and heteronormative power structures?

Chapter Three, under titles *Coloniality of Power and its Impact on Knowledge Production* and *Coloniality of Gender*, provides us with the tools for a decolonial critique of the modern sex/gender system. Drawing on both Quijano's theory of the *coloniality of power* and Lugones' concept of the *coloniality of gender*, gendered violence is not merely an interpersonal act but is situated within a broader system of epistemic and bodily control, where Western ways of knowing, *being*, and categorising dominate. This domination results in the naming and defining of what constitutes violence, who counts as a victim, and which forms of harm are recognised.

Chapter Six, Parts Three and Four, addresses the implications of the dominant 'typical script' discourse of CRSV and how the contemporary theorisation of CRSV marginalises sexual and gender minority actors of conflict. The process of knowledge and theory development in these TC circumstances depicts CRSV as a heteronormative crisis involving cisgender conflict actors in exclusively cisgender and heterosexual relationships. Using the coloniality of gender theoretical framework, this interpretation of CRSV and gender maintains a social and political hierarchy that perceives women as inferior, justifying sexual violence victimisation of women.

The coloniality of gender recognises the intersectionalism of gender as a system of oppression that sits alongside race, class, and sexuality. In these persistent narratives of gender and sexual violence, victims are racialised and feminised as perpetual victims of CRSV, even in the transitioning setting. The role of gender presents CRSV in African TCs and TJ as a singular experience, achieved singularly, with singular motivations.

The sub-question also addresses the research objective of the impact of coloniality on how African TCs interpret gender and CRSV. Chapter Two and Three provided context of pre-colonial sex/gender systems that was more accepting of plurality rather than the binary dependent on the biological essentialism. The research findings and results demonstrate the pattern of multiple systems of power, racial and gendered, and how this is repeated in interpreting coloniality. Through the text, there is a feminisation of victimhood that supports the colonial interpretation of gender wherein women are the weaker sex against men, who are the stronger sex. This is supported by the theories of rape myths, which demonstrate that the overreliance of women and girls in these narratives as victims further minimises their agency and develops a narrative norm of their victimhood.

Due to these conceptualisations, decolonial, anti-colonial, and post-colonial scholars and practitioners view these limited categories as the colonial mastering of its subjects. Through the exclusion of multiple narratives, we uphold the issue of *Totality*, whereby other narratives of CRSV are negated and excluded in favour of perpetuating an accepted belief or norm of sexual violence. Therefore, coloniality is performed in the maintenance of a regionalist perspective of knowledge production of CRSV that assumes systems of hierarchy in the reporting of violence, types of violations, and victims, which categorises who is deserving and not deserving of protections and rights.

7.3. Study implications

The study highlighted the many theoretical shortcomings in African TC's conceptualisation of gender, its impact on CRSV theorisation, and its particular exclusion of the lived realities and circumstances of sexual and gender minorities during the conflict. Demonstrating coloniality in the processes of TJ and its theorisation of conflict actors. This study's findings and analysis contribute to social, academic, and policy implications, which will be discussed in the following section:

7.3.1. Social implications

The discussion chapter highlighted the binaric gender model and the consequence of the marginalisation of sexual and gender minorities in African TCs. Also, the discussion highlighted the intolerance of sexual and gender minorities. For this reason, gender and sexuality-inclusive campaigns and informational and educational initiatives would serve to educate societies where high CRSV occurs and the possibilities of the impact of the intersectionality of sexuality and gender on one's vulnerability to CRSV. This is to encourage

social shift and social support for sexual and gender minorities' protection during conflict and the transition process.

7.3.2. Academic and Policy Implications.

The findings emphasise the impact of TJ norms and principles and its heteronormative coordination of the gender perspective adopted by the TCs. This stresses the need for the integration of anti-imperialist frameworks such as decolonial, feminist, queer, and transformative theory in TJ, peacebuilding, and post-conflict studies and methodologies. It also inspires critical methodological approaches that reject the marginalisation of Black African sexual and gender minorities from the TJ discourse.

The findings and discussion emphasised the influence of international, regional and local legal frameworks in the TCs adopting gender binaric assumptions in their gender perspective. For this reason, TCs need to adopt policies that consider the gendered and sexual needs of context-specific conflict actors. Also, policy needs clear distinctions between sex and gender to attend to the specific gender and sexual needs of conflict actors, inclusive of sexual and gender minorities.

7.4. Limitations

The research design relied on secondary data, TC mandates and final reports. Interviews with TC staff members, including commissioners, statement-takers, data collectors, and the team of writers of both the mandate and final reports, would enrich the research by capturing the perspectives of those involved in developing the scope of gender involved in documenting CRSV. Future research would benefit from the adaptation of interviews alongside the case study and critical reading method.

Also, the research study did not include recommendation implementations, limiting the measurement of the impact of the coloniality of gender in the three TCs' interpretation of CRSV. Considering that discourse develops from accepted societal norms, it is unclear whether a societal shift concerning gender and sexuality would influence the TCs' investigative parameters. Therefore, future research on norms and standards can investigate the post-TC period, how recommendations influence implementation, and whether changes in the social and political environment can enable change for future TCs.

7.5. Recommendations

The findings and discussion emphasise the limitations of the theoretical and legal framework of these African TCs, making it difficult for them to capacitate investigations, findings, and recommendations related to CRSV experienced by sexual and gender minorities. This research study calls for the integration of queer, decolonial, and feminist theoretical foundations that actively reject institutionalised white supremacy, capitalism, patriarchy, forced heterosexuality and heteronormativity. The discipline and practice of TJ need a refreshing departure from the construction of gender as the binary, identifying the

intersecting factors of gender and sexuality as variables of vulnerability in conflict and targeted CRSV. We need to destabilise the current typologies of gendered perspectives and measures, adopting a radical approach to our lens to demand representative investigations and documentation of violations of all victims of CRSV.

We need to destabilise any possibility of a singular authoritative truth about CRSV and gendered experiences of conflict. This also demands that we interrogate our own biases and the biases of the context we inhabit, forcing us to think outside the box to address non-binary, queer, and transgender concerns in a hostile climate such as those presented in the research study. Victim groups, educational institutions, and civil society must be mobilised to encourage societal shifts around gender and sexuality.

Reference list:

Aboueldahab, Noha. (2021). The politics of time, transition, and justice in transitional justice. *International Criminal Law Review*, 21(5), 809-816.

https://brill.com/view/journals/icla/21/5/article-p809_809.xml

Accord. (2024, April 25). The nexus between horizontal inequalities and violent conflicts: A case study of Kenya. <https://www.accord.org.za/conflict-trends/the-nexus-between-horizontal-inequalities-and-violent-conflicts-a-case-study-of-kenya/>

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

<https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WG/ProtocolontheRightsofWomen.pdf>

Alai, C. (December 17, 2019). Breaking cycles of violence: Gaps in prevention of and response to electoral-related sexual violence in Kenya. <https://phr.org/our-work/resources/breaking-cycles-of-violence-gaps-in-prevention-of-and-response-to-electoral-related-sexual-violence-in-kenya/>

All Survivors, (April, 2020). The health of male and LGBT survivors of conflict-related sexual violence. <https://allsurvivorsproject.org/wp-content/uploads/2022/04/The-Health-of-Male-and-LGBT-Survivors-of-Conflict-Related-Sexual-Violence.pdf>

Amnesty International. (March 19, 2009). The Gambia: Hundreds accused of 'witchcraft' and poisoned in government campaign. <https://www.amnesty.org/en/latest/press-release/2009/03/gambia-hundreds-accused-e2809cwitchcrafte2809d-and-poisoned-government-campaign-20/>

Amnesty International UK. (January 12, 2018). Gambia's latest anti-gay Bill. <https://www.amnesty.org.uk/gambia-anti-gay-bill>

Armstrong, E. A., Gleckman-Krut, M., & Johnson, L. (2018). Silence, power, and inequality: An intersectional approach to sexual violence. *Annual Review of Sociology*, 44(1), 99-122. <https://doi.org/10.1146/annurev-soc-073117-041410>

Arnold, J. T. (2023). *Still in the closet: LGBTQ people and the lack of protections in conflict zones*. [Master's thesis, University of Calgary, Calgary, Canada]. <https://ucalgary.scholaris.ca/server/api/core/bitstreams/e7c5e794-d395-40a4-ab83-e98f0156e6cd/content>

Arthur, P. (2009). How "transitions" reshaped human rights: a conceptual history of transitional justice. *Human Rights Quarterly*, 31(1), 321-367. <https://www.jstor.org/stable/20486755>

Asaala, E., & Dicker, N. (2013). Transitional justice in Kenya and the UN Special Rapporteur on Truth and Justice: Where to from here?. *African Human Rights Law Journal*, 13(2), 324-355. <https://www.ahrlii.up.ac.za/asaala-e-dicker-n>

International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), ASIA. (2023, May). *The impact of colonial legacies in the lives of LGBTI+ and other ancestral sexual and gender diverse persons*. <https://www.ohchr.org/sites/default/files/documents/cfi-subm/2308/subm-colonialism-sexual-orientation-cso-ilga-world-joint-submission-input-2.pdf>

Askin, K. D. (2003). *Prosecuting wartime rape and other gender-related crimes under international law: Extraordinary advances, enduring obstacles*. Berkeley Journal of International Law, 21(2), 288–349. <https://lawcat.berkeley.edu/record/1118667/files/fulltext.pdf>

Ahlberg, B. M., & Njoroge, K. M. (2013). 'Not men enough to rule!': politicization of ethnicities and forcible circumcision of Luo men during the postelection violence in Kenya. *Ethnicity & Health*, 18(5), 454-468. <https://doi.org/10.1080/13557858.2013.772326>

Avid. (2021). The three phases of the critical reading process. <https://avidopenaccess.org/wp-content/uploads/2021/02/The-Three-Phases-of-the-Critical-Reading-Process.pdf>

Baaz, M. E., & Stern, M. (2013). *Sexual violence as a weapon of war?: Perceptions, prescriptions, problems in the Congo and beyond*. Bloomsbury Publishing. <https://www.diva-portal.org/smash/get/diva2:1148245/FULLTEXT01.pdf>

Bakiner, O. (2014). Truth commission impact: An assessment of how commissions influence politics and society. *International Journal of Transitional Justice*, 8(1), 6-30. <https://doi.org/10.1093/ijtj/ijt025>

Balibar, É. (2016). Further Reflections on Exile: War and Translation. In R. Braidotti & P. Gilroy (Eds.), *Conflicting Humanities*, (211-227). Bloomsbury Academic. https://warwick.ac.uk/fac/arts/ren/medieval/stahuljak/readinggroup/balibar_war_and_translation.pdf

Ballantyne, N. (2019). Epistemic trespassing. *Mind*, 128(510), 367-395. <https://doi.org/10.1093/mind/fzx042>

Barry, A. M., & Yuill, C. (2012). Gender and health. In *Understanding the Sociology of Health*. (129-144). Sage.

Baumann, T. (2004). Defining ethnicity. *The SAA archaeological record*, 4(4), 12-14. <https://documents.saa.org/container/docs/default-source/doc-publications/tsar-articles-on-race/baumann2004a.pdf?sfvrsn=fb3bcc2a>

Bell, C., & O'Rourke, C. (2007). Does feminism need a theory of transitional justice? An introductory essay. *The International Journal of Transitional Justice*, 1(1), 23-44. <https://doi:10.1093/ijtj/ijm002>

- Bell, C., Campbell, C., & Aoláin, F. N. (2007). Transitional justice:(re) conceptualising the field. *International Journal of Law in Context*, 3(2), 81-88.
<https://doi.org/10.1017/S1744552307002017>
- Bell, C. (2009). Transitional justice, interdisciplinarity and the state of the 'field' or 'non-field'. *International Journal of Transitional Justice*, 3(1), 5-27.
<https://doi.org/10.1093/ijtj/ijn044>
- Ben-Josef Hirsch, M. (2014). Ideational change and the emergence of the international norm of truth and reconciliation commissions. *European Journal of International Relations*, 20(3), 810-833. <https://doi.org/10.1177/1354066113484344>
- Bentley, T. (2021). A line under the past: Performative temporal segregation in transitional justice. *Journal of Human Rights*, 20(5), 598-613.
<https://doi.org/10.1080/14754835.2021.1979388>
- Berewa, S.E. (2000). The Truth and Reconciliation Commission Act 2000.
<https://atjhub.csvr.org.za/wp-content/uploads/2021/08/Truth-and-Reconciliation-Commission-Act-of-2000.pdf>
- Bevernage, B. (2010). Writing the past out of the present: History and the politics of time in transitional justice, *History workshop journal*, 69(1), 111-131. Oxford University Press.
https://www.researchgate.net/publication/254947067_Writing_the_Past_Out_of_the_Present_History_and_the_Politics_of_Time_in_Transitional_Justice
- Bhogal, M. S., & Corbett, S. (2016). The influence of aggressiveness on rape-myth acceptance among university students. *Psychiatry, psychology and law*, 23(5), 709-715.
<https://psycnet.apa.org/doi/10.1080/13218719.2016.1142931>
- Blideman, A. (2019). *How is the concept of 'Women and children' represented by two humanitarian organisations?* [Master Thesis in Gender Studies, Umeå Centre for Gender Studies]. <https://www.diva-portal.org/smash/get/diva2:1341374/FULLTEXT01.pdf>
- Boateng, F. D., Youla Doumbia, N., Kooffreh, B., & Kwakye-Nuako, C. O. (2023). Relationship between date rape attitudes, rape myths and experiences with sexual violence among Ivorian college students. *Journal of school violence*, 22(2), 290-305.
<http://dx.doi.org/10.1080/15388220.2023.2180747>
- Bowleg, L. (2023). The white racial frame of public health discourses about racialized health differences and "disparities": what it reveals about power and how it thwarts health equity. *Frontiers in Public Health*, 11, 1187307.
<https://doi.org/10.3389/fpubh.2023.1187307>

- Brahm, E. (2007). Uncovering the truth: Examining truth commission success and impact. *International Studies Perspectives*, 8(1), 16-35.
<https://www.jstor.org/stable/44218484>
- Braun, V. & Clarke, V. (2013). *Successful qualitative research: A practical guide for beginners*. SAGE Publications.
- Brown, A., & Lavoie, A. (June 15, 2022). Rising rates of rape and sexual violence in conflict should be an alarm bell. <https://www.undp.org/blog/rising-rates-rape-and-sexual-violence-conflict-should-be-alarm-bell>
- Bueno-Hansen, P. (2018). The emerging LGBTI rights challenge to transitional justice in Latin America. *International Journal of Transitional Justice*, 12(1), 126-145.
<https://doi.org/10.1093/ijtj/ijx031>
- Bunting, A. (2012). Forced marriage in conflict situations: Researching and prosecuting old harms and new crimes. *Canadian Journal of Human Rights*, 1(1), 165-185.
https://download.ssrn.com/13/03/11/ssrn_id2231676_code2014716.pdf?response-content-disposition=inline&X-Amz-Security-Token=
- Burt, M. R. 1998. Rape myths. *Confronting rape and sexual assault*, 3, 129-144.
https://books.google.co.za/books?hl=en&lr=&id=VYj_woVgA3EC&oi=fnd&pg=PA129&dq=Burt,+M.+R.+1998.
- Butler, S. (1996). *Conspiracy of silence: The trauma of incest*. Volcano Press.
- Butler, J. (2002). *Gender trouble*. Routledge.
- Capaldi, M., Schatz, J., & Kavenagh, M. (2024). Child sexual abuse/exploitation and LGBTQI+ children: Context, links, vulnerabilities, gaps, challenges and priorities. *Child Protection and Practice*, 1, 100001. <https://doi.org/10.1016/j.chipro.2024.100001>
- Carvajalino, J., & Davidović, M. (2023). Escaping or reinforcing hierarchies? Norm relations in transitional justice. *International Studies Review*, 25(3), 1-27.
<http://dx.doi.org/10.1093/isr/viad022>
- Casanova, P. G. (1965). Internal colonialism and national development. *Studies in comparative international development*, 1, 27-37. <https://doi.org/10.1007/BF02800542>
- Chinkin, C. (1994). Rape and sexual abuse of women in international law. *European Journal of International Law*, 5(3), 326–341. <https://ejil.org/pdfs/5/1/1246.pdf>
- Chynoweth, S. K., Buscher, D., Martin, S., & Zwi, A. B. (2022). Characteristics and impacts of sexual violence against men and boys in conflict and displacement: a multicountry exploratory study. *Journal of interpersonal violence*, 3(7), 9-10.
<https://doi.org/10.1177/0886260520967132>

- Coombs, H. (2022). Case study research defined: Single or multiple. https://www.researchgate.net/profile/Hayden-Coombs-2/publication/364126131_Case_Study_Research_Defined_White_Paper/links/63ddd4c164fc86063815a31d/Case-Study-Research-Defined-White-Paper.pdf
- Coomaraswamy, R. (2015). *Preventing conflict, transforming justice, securing the peace: A global study on the implementation of United Nations Security Council Resolution 1325*. UN Women. https://www.un.org/peacebuilding/sites/www.un.org.peacebuilding/files/documents/globalstudywps_en_web.pdf
- Couturier, D. (2012). The rape of men: Eschewing myths of sexual violence in war. *On Politics*, 6(2), 1-1. <https://journals.uvic.ca/index.php/onpolitics/article/view/12770>
- Crawford, K. F. (2013). From spoils to weapons: framing wartime sexual violence. *Gender and Development*, 21(3), 505–517. <http://www.jstor.org/stable/24697273>
- Creswell, J. W., & Poth, C. N. (2016). *Qualitative inquiry and research design: Choosing among five approaches*. Sage publications.
- Darboe, M.K. (2022). “TRRC Final Report: Gambia Between Prosecutions and Amnesties.” JusticeInfo. <https://www.justiceinfo.net/en/86069-trrc-final-report-gambia-between-prosecutions-and-amnesties.html>
- Dehnen, E. (2024, March 21). What can the humanitarian community learn from the Colombian Truth Commission’s LGBTQ-subchapter”. <https://blogs.icrc.org/law-and-policy/2024/03/21/what-can-the-humanitarian-community-learn-from-the-colombian-truth-commission-s-lgbtq-subchapter/>
- Denov, M. S & Drumbl, M. A. (2020). The many harms of forced marriage: Insights for law from ethnography in northern Uganda. *Journal of International Criminal Justice*, 18(2), 349-372. <https://doi.org/10.1093/jici/mqaa007>
- Denscombe, M. (2025). Decolonial research methodology: An assessment of the challenge to established practice. *International Journal of Social Research Methodology*, 28(2), 231-240. <https://doi.org/10.1080/13645579.2024.2357558>
- Destrooper, T., & Evrard, E. (2025). The (Many) Afterlives of Transitional Justice: Practice-based Insights on Continuity, Impact and Evolving Justice Struggles. *International Journal of Transitional Justice*, 19(1), 151-171. <https://doi.org/10.1093/ijtj/ijae049>
- Dobkin, M. (1968). Colonialism and the legal status of women in francophonic Africa. In *The Colonial Epoch in Africa* (pp. 232–248). Routledge. <https://doi.org/10.3406/cea.1968.3134>
- Dolan, C., Baaz, M. E., & Stern, M. (2020). What is sexual about conflict-related sexual violence? Stories from men and women survivors. *International Affairs*, 96(5), 1151-1168. <https://doi.org/10.1093/ia/iiaa095>

- Duncan, J. (n.d.). Reading critically. <https://www.stetson.edu/other/writing-program/media/CRITICAL%20READING.pdf>
- Dussel, E. (1993). Eurocentrism and modernity (Introduction to the Frankfurt Lectures). *boundary 2*, 20(3), 65-76. <https://doi.org/10.2307/303341>
- Ellsberg, M., Murphy, M., Blackwell, A., Macrae, M., Reddy, D., Hollowell, C., ... & Contreras-Urbina, M. (2021). "If you are born a girl in this crisis, you are born a problem": Patterns and drivers of violence against women and girls in conflict-affected South Sudan. *Violence Against Women*, 27(15-16), 3030–3055. <https://psycnet.apa.org/doi/10.1177/1077801221996463>
- Enloe, C. (2014). *Bananas, beaches and bases: Making feminist sense of international politics*. University of California Press.
- Enloe, C. (2017). *The big push: Exposing and challenging the persistence of patriarchy*. University of California Press.
- Epprecht, M. (2009). Sexuality, Africa, History. *The American Historical Review*, 114(5), 1258-1272. https://www.researchgate.net/profile/Marc-Epprecht/publication/43346941_Sexuality_History_Africa/links/652fbd2824bbe32d9a4f2b92/Sexuality-History-Africa.pdf
- Federici, S. (2010). Women, witch-hunting and enclosures in Africa today. *Sozial. Geschichte Online*, 3, 10-27.
- Feyissa, T.K. (2021, December). Uganda Conflict Insights. Retrieved from <https://www.africaportal.org/publications/uganda-conflict-insights/>
- Fobear, K. (2014). Queering truth commissions. *Journal of Human Rights Practice*, 6(1), 51–68. <https://doi:10.1093/jhuman/hut004>
- Foucault, M. (1980). *Power/knowledge: Selected interviews and other writings, 1972-1977*. Vintage.
- Fregoso Bailón, R. O., & De Lissovoy, N. (2019). Against coloniality: Toward an epistemically insurgent curriculum. *Policy futures in education*, 17(3). <https://doi.org/10.1177/1478210318819206>
- Gani, J. K., & Marshall, J. (2022). The impact of colonialism on policy and knowledge production in International Relations. *International Affairs*, 98(1), 5–22. <https://doi.org/10.1093/ia/iiab226>
- Gissel, L. E. (2022). The standardisation of transitional justice. *European Journal of International Relations*, 28(4), 859-884. <https://doi.org/10.1177/13540661221120980>

Global Survivors Fund. (2023). Reparations for survivors of conflict-related sexual violence. https://www.globalsurvivorsfund.org/fileadmin/uploads/gsf/Documents/Resources/Country_Briefings/GSF_Country_Brief_Kenya_EN_June2023_WEB.pdf

Gomes da Costa Santos, G., & Waites, M. (2019). Comparative colonialisms for queer analysis: comparing British and Portuguese colonial legacies for same-sex sexualities and gender diversity in Africa—setting a transnational research agenda. *International Review of Sociology*, 29(2), 297-326. <https://doi.org/10.1080/03906701.2019.1641277>

Gorris, E.A.P. (2015). Invisible victims? Where are male victims of conflict-related sexual violence in international law and policy? *European Journal of Women's Studies*, 22(4), 412-427. <https://doi.org/10.1177/1350506815605345>

Gozdecka, D. (2018). 'Barbarians' and 'Radicals' against the Legitimate Community? Cultural Othering through Discourses on Legitimacy of Human Rights. *NoFo*, 15, 101-126. https://www.nofoundations.com/issues/NoFo15_GOZDECKA.pdf

Gready, P. (2010). *The era of transitional justice: The aftermath of the truth and reconciliation commission in South Africa and beyond*. Routledge. <https://doi.org/10.4324/9780203841938>

Greenberg, J.A. (2002). Definitional dilemmas: Male or female? Black or white? The law's failure to recognize intersexuals and multiracials. In *Gender nonconformity, race, and sexuality: Charting the connections*, ed. Toni Lester. Madison: University of Wisconsin Press.

Grosfoguel, R. (2007). The epistemic decolonial turn: Beyond political-economy paradigms. *Cultural studies*, 21(2-3), 211-223. <https://doi.org/10.1080/09502380601162514>

Gqola, P. D. (2004). ... as if this burden disguised as honour did not weigh heavily on her heart: black women, struggle iconography and nation in South African Literature. *Alternation*, 11(1), 44–70. https://journals.co.za/doi/pdf/10.10520/AJA10231757_685

Grant, A. (2021). *Think again: The power of knowing what you don't know*. Penguin.

Gyimah, A. (2008). Gender and transitional justice in West Africa: The cases of Ghana and Sierra Leone. *Conflict, Security & Development*, 65. <https://giwps.georgetown.edu/resource/gender-and-transitional-justice-in-west-africa-the-cases-of-ghana-and-sierra-leone/>

Hagen, J. J. (2016). Queering women, peace and security. *International Affairs*, 92(2), 313-332. <https://doi.org/10.1111/1468-2346.12551>

Hamber, B. (2016). There is a crack in everything: Problematising masculinities, peacebuilding, and transitional justice. *Human Rights Review*, 17(1), 9-34. <https://doi.org/10.1007/s12142-015-0377-z>

Hansen, T. O. (2023). The time and space of transitional justice. In *Research handbook on transitional justice* (pp. 9-25). Edward Elgar Publishing.

<https://doi.org/10.4337/9781802202519.00010>

Harris, D. J. (2014). *Sierra Leone: A political history*. Oxford University Press, USA.

Harris, D., & Jaw, S. M. (2024). A 'New Gambia'? Managing political crisis and change in an African small state. *Commonwealth & Comparative Politics*, 62(1), 45-64.

<https://doi.org/10.1080/14662043.2024.2308948>

Hayner, P.B. (1994). Fifteen Truth Commissions-- 1974 to 1994: A Comparative Study. *Human Rights Quarterly*. 16(4), 597- 655. <http://www.istor.org/stable/762562>

Hayner, P. B. (2000). Past truths, present dangers: The role of official truth seeking in conflict resolution and prevention. *CONFLICT RESOLUTION*.

<https://nap.nationalacademies.org/read/9897/chapter/10>

Heliso, T. E. (2020). Critical appraisal of the Ethiopian Reconciliation Commission: A comparative study. *Journal of Law and Conflict Resolution*, 11(1), 15-25.

<https://doi.org/10.5897/JLCR2020.0308>

Horvath, R. J. (1972). A definition of colonialism. *Current anthropology*, 13(1), 45-57.

<http://dx.doi.org/10.1086/201248>

Hossain, M., Zimmerman, C., & Watts, C. (2014). Preventing violence against women and girls in conflict. *The Lancet*, 383(9934), 2021-2022. [https://doi.org/10.1016/s0140-6736\(14\)60964-8](https://doi.org/10.1016/s0140-6736(14)60964-8)

Hutchinson, J. & Smith, D.A. (1996). Introduction. In *Ethnicity*, edited by J. Hutchinson and A. D. Smith, pp. 1–14. Oxford University Press, Oxford and New York.

Idoko, P., Ogbe, E., Jallow, O., & Ocheke, A. (2015). Burden of intimate partner violence in The Gambia-a cross sectional study of pregnant women. *Reproductive health*, 12, 1-6.

<https://doi.org/10.1186/s12978-015-0023-x>

Isilow, H. (2023). Chains of Colonialism. Western Powers in Africa vying for Control, Geopolitical Edge. *Anadolu Agency*, 27. <https://www.aa.com.tr/en/africa/-chains-of-colonialism-western-powers-in-africa-vying-for-control-geopolitical-edge/2956190>

Jago, M. (2018). *What truth is*. Oxford University Press.

Jamar, A. (2022). Accounting for which violent past? transitional justice, epistemic violence, and colonial durabilities in Burundi. *Critical African Studies*, 14(1), 73-95.

<https://doi.org/10.1080/21681392.2022.2039733>

Jaw, S. M., & Gassama, F. (May 30, 2023). Gambians reject men's use of physical force but see domestic violence as a private matter. *Afrobarometer Dispatch*, (646).

<https://www.afrobarometer.org/publication/ad646-gambians-reject-mens-use-of-physical-force-but-see-domestic-violence-as-a-private-matter/>

Jones, B. (2021). The performance and persistence of transitional justice and its ways of knowing atrocity, *Cooperation and Conflict*, 56(2), 163-180.

<https://doi.org/10.1177/0010836720965994>

Jones, B., & Lühe, U. (2021). Knowledge for peace: Transitional justice and the politics of knowledge in theory and practice. In *Knowledge for Peace* (pp. 1-19). Edward Elgar Publishing. <http://dx.doi.org/10.4337/9781789905359.00007>

Kaplan, R. M. (2004). Treatment of homosexuality during apartheid. *BMJ*, 329(7480), 1415-1416. <https://doi.org/10.1136/bmj.329.7480.1415>

Karua, M. (2008). The Truth, Justice and Reconciliation Commission Bill, 2008.

<https://atjhub.csvr.org.za/wp-content/uploads/2021/08/Truth-Justice-and-Reconciliation-Bill-of-2008.pdf>

Kiss, L., Quinlan-Davidson, M., Pasquero, L., Tejero, P. O., Hogg, C., Theis, J., ... & Hossain, M. (2020). Male and LGBT survivors of sexual violence in conflict situations: a realist review of health interventions in low-and middle-income countries. *Conflict and health*, 14(1), 11.

<https://doi.org/10.1186/s13031-020-0254-5>

Kochanski, A. (2020). Mandating truth: Patterns and trends in truth commission design. *Human Rights Review*, 21, 113-137. <https://10.1007/s12142-020-00586-x>

Kramer, S. (2019). The power of critical discourse analysis: Investigating female-perpetrated sex abuse victim discourses. *Transforming research methods in the social sciences: Case studies from South Africa*, 236-250. <https://www.jstor.org/stable/10.18772/22019032750.20>

Kurland, D. (2000). How the language really works: The fundamentals of critical reading and effective writing. http://www.criticalreading.com/critical_reading.htm

Kusnierkiewicz, A. (2019). The coloniality of gender and the politics of difference. *E-International relations*, 1-8. https://www.e-ir.info/2019/06/29/the-coloniality-of-gender-and-the-politics-of-difference/#google_vignette

Langer, J. (2017). Are Truth Commissions Just Hot-Air Balloons? A Reality Check on the Impact of Truth Commission Recommendations. *Desafíos*, 29(1), 177-210.

<http://orcid.org/0000-0002-0759-4660>

Lawther, C. (2017). Transitional justice and truth commissions. In *Research handbook on transitional justice* (pp. 342-357). Edward Elgar Publishing.

<https://doi.org/10.4337/9781781955314.00026>

- Lazar, M. M. (2007). Feminist critical discourse analysis: Articulating a feminist discourse praxis. *Critical discourse studies*, 4(2), 141-164.
<https://doi.org/10.1080/17405900701464816>
- Lee, P. H. (2022). Struggle for Recognition: Theorising Sexual/Gender Minorities as Rights-Holders in International Law. *Feminist Legal Studies*, 30(1), 73-95.
<https://link.springer.com/article/10.1007%2Fs10691-021-09483-1>
- Le, T. H., Bui, M. T., & Uddin, G. S. (2022). Economic and social impacts of conflict: A cross-country analysis. *Economic Modelling*, 115, 105980.
<http://dx.doi.org/10.1016/j.econmod.2022.105980><http://dx.doi.org/10.1016/j.econmod.2022.105980>
- Lerche III, C. O. (2000). Truth commissions and national reconciliation: some reflections on theory and practice. *Peace and Conflict Studies*, 7(1), 2-23.
<https://nsuworks.nova.edu/pes/vol7/iss1/1>
- Lewis, C., & Alldén, S. (2024). Delineating Perpetratorhood: On Race, Masculinities, and Fighting Impunity for Sexual Violence in DRC 1. In *Masculinities and Queer Perspectives in Transitional Justice*, P. Schulz, B. Hamber, H. Touquet, (pp. 181-207). Routledge.
<https://doi.org/10.4324/9781003519522-12>
- Li, C. S., & Wan, R. (2022). Critical reading in higher education: A systematic review. *Thinking Skills and Creativity*, 44, 101028. <http://dx.doi.org/10.1016/j.tsc.2022.101028>
- Linstead, S. A., & Maréchal, G. (2015). Re-reading masculine organization: Phallic, testicular and seminal metaphors. *Human Relations*, 68(9), 1461-1489.
<https://doi.org/10.1177/0018726714558146>
- Loizidou, E. (1999). The Trouble with Rape: Gender Matters and Legal Transformations'. *Feminist Legal Studies*, 7(1), 275-297.
<https://doi.org/10.1023/A:1009297603439>
- Lonsway, K. A., & Fitzgerald, L. F. (1994). Rape myths: In review. *Psychology of women quarterly*, 18(2), 133-164. <https://doi.org/10.1111/j.1471-6402.1994.tb00448.x>
- Lugones, M. (2007). Heterosexualism and the colonial/modern gender system. *Hypatia*, 22(1), 186-219. <http://www.jstor.org/stable/4640051>
- Lugones, M. (2016). The coloniality of gender. In L. De Souza Lima, E. Otero Quezada, & J. Roth (Eds.), *Feminisms in Movement*, 35-58.
<https://library.oapen.org/bitstream/handle/20.500.12657/87485/9783839461020.pdf?sequence=1>
- Lühe, U., & Jones, B. (2022). The Politics of Knowledge and an African Transitional Justice: Analysing Africa as a Constitutive Outside. In *Routledge Handbook of African Peacebuilding* (pp. 100-113). Routledge.

<https://www.taylorfrancis.com/chapters/edit/10.4324/9780429060038-10/politics-knowledge-african-transitional-justice-ulrike-l%C3%BChe-briony-jones>

MacKinnon, C. A. (2008). The ICTR's Legacy on Sexual Violence. *New Eng. J. Int'l & Comp. L.*, 14, 211. <https://asp.icc-cpi.int/sites/asp/files/NR/rdonlyres/AF3FA255-B1D9-4FA4-992F-56079A2DCC63/279736/ICCOTP20081027MacKinnon.pdf>

Madlingozi, T. (2010). On transitional justice entrepreneurs and the production of victims, *Journal of Human Rights Practice*, 2(2), 208-228. <https://doi.org/10.1093/jhuman/huq005>

Madlingozi, T. (2018). South Africa's first black lawyers, amaRespectables and the birth of evolutionary constitution—a review of Tembeka Ngcukaitobi's *The Land is Ours: South Africa's First Black Lawyers and the Birth of Constitutionalism*, *South African Journal on Human Rights*, 34(3), 517-529. <https://doi.org/10.1080/02587203.2018.1557371>

Maldonado-Torres, N. (2007). On the colonality of being: Contributions to the development of a concept. *Cultural studies*, 21(2-3), 240-270. <https://doi.org/10.1080/09502380601162548>

Maldonado-Torres, N. (2011). Thinking through the decolonial turn: Post-continental interventions in theory, philosophy, and critique—An introduction, *TRANSMODERNITY: Journal of Peripheral Cultural Production of the Luso-Hispanic World*, 1(2), 1-15. <https://doi.org/10.5070/T412011805>

Mama, A. (1995). Feminism or femocracy? State feminism and democratisation in Nigeria, *Africa Development/Afrique et Développement*, 20(1), 37-58. <http://www.jstor.org/stable/43657968>

Mama, A. (1997). Sheroes and Villains: Conceptualizing Colonial and Contemporary Violence against Women in Africa 1. In *Feminist genealogies, colonial legacies, democratic futures* (pp. 46-62). Routledge. https://www.academia.edu/2100391/Sheroes_and_villains_conceptualizing_colonial_and_contemporary_violence_against_women_in_Africa

Mama, A. (2001). Challenging subjects: Gender and power in African contexts. *African Sociological Review/Revue Africaine de Sociologie*, 5(2), 63-73. <https://doi.org/10.4314/asr.v5i2.23191>

Manderson, L. (1997). Colonial desires: Sexuality, race, and gender in British Malaya. *Journal of the History of Sexuality*, 7(3), 372-388. https://0-www-jstor-org.innopac.wits.ac.za/stable/pdf/4629634.pdf?refreqid=fastly-default%3A69071f173d9081123b6a9b08fd39a1fe&ab_segments=0%2Fbasic_search_gsv2%2Fcontrol&initiator=&acceptTC=1

- Marks, Z. (2014). Sexual violence in Sierra Leone's civil war: 'Virgination', rape, and marriage. *African Affairs*, 113(450), 67–87. <https://doi.org/10.1093/afraf/adt070>
- Martín, H. C., Wiebelhaus-Brahm, E., Nieto-Librero, A. B., & Wright, D. (2022). Explaining the timeliness of implementation of truth commission recommendations. *Journal of Peace Research*, 59(5), 710-726. <https://doi.org/10.1177/00223433211057011>
- McAuliffe, P. (2021). Transitional justice, institutions and temporality: Towards a dynamic understanding. *International Criminal Law Review*, 21(5), 817–847. <https://doi.org/10.1163/15718123-bja10060>
- McKay, S. (1998). The effects of armed conflict on girls and women. *Peace and Conflict*, 4(4), 381–392. https://psycnet.apa.org/doi/10.1207/s15327949pac0404_6
- Meger, S. (2016). War as feminized labour in the global political economy of neoimperialism. *Postcolonial Studies*, 19(4), 378–392. <http://dx.doi.org/10.1080/13688790.2016.1317389>
- Meiu, G. P. (2015). Colonialism and sexuality. *The international encyclopedia of human sexuality*, 1, 197-290. <https://www.georgepaulmeiu.info/wp-content/uploads/2022/08/Meiu-2015-Colonialism-and-Sexuality.pdf>
- Mendoza, B. (2015). Coloniality of gender and power. *The Oxford handbook of feminist theory*, 100-121. <https://doi.org/10.1093/oxfordhb/9780199328581.013.6>
- Mignolo, W. D. (1999). Coloniality at large: Knowledge at the late stage of the modern/colonial world system. *Journal of Iberian and Latin American Research*, 5(2), 1-10. <https://doi.org/10.1080/13260219.1999.10431794>
- Mignolo, W. D. (2007). Delinking: The rhetoric of modernity, the logic of coloniality and the grammar of de-coloniality. *Cultural studies*, 21(2-3), 449-514. <http://dx.doi.org/10.1080/09502380601162647>
- Mignolo, W. D. (2008). Preamble: The historical foundation of modernity/coloniality and the emergence of decolonial thinking. *A companion to Latin American literature and culture*, 12-52. <http://dx.doi.org/10.1002/9780470696446.cha>
- Mignolo, W. D., & Walsh, C. E. (2018). *On decoloniality: Concepts, analytics, praxis*. Duke University Press. <http://dx.doi.org/10.1017/S0022216X21000274>
- Migrants' Rights Network. (February 24, 2024). How Britain exported homophobia. <https://migrantsrights.org.uk/2023/02/24/homophobia-british-empire-export/>
- Miller, Z. (2021). Temporal governance: The times of transitional justice. *International Criminal Law Review*, 21(5), 848-877. https://www.academia.edu/53319425/Temporal_Governance_The_Times_of_Transitional_Justice

- Momodu, S. (2017). The Sierra Leone Civil War (1991-2002). <https://www.blackpast.org/global-african-history/sierra-leone-civil-war-1991-2002/>
- Moon, C. (2004). Prelapsarian state: Forgiveness and reconciliation in transitional justice. *International Journal for the Semiotics of Law*, 17(2), 185-197. <https://doi.org/10.1023/B:SELA.0000033621.10045.dd>
- Mortimer, S., Powell, A., & Sandy, L. (2019). 'Typical scripts' and their silences: Exploring myths about sexual violence and LGBTQ people from the perspectives of support workers. *Current Issues in Criminal Justice*, 31(3), 333-348. <https://doi.org/10.1080/10345329.2019.1639287>
- Muhula, R. (2009). Horizontal inequalities and ethno-regional politics in Kenya. *Kenya Studies Review*, 1(1), 85-105. <https://kessa.org/wp-content/uploads/2020/01/4.pdf>
- Murray, C., Calderón, C., & Bahamondes, J. (2023). Modern rape myths: justifying victim and perpetrator blame in sexual violence. *International journal of environmental research and public health*, 20(3), 1-10. <https://doi.org/10.3390/ijerph20031663>
- Nabaneh, S. (2022). Lawfare in the Gambia. In A. Jjuuk, S. Gloppen, A. Msosa, & F. Viljoen (Eds.), *Queer lawfare in Africa: Legal strategies in contexts of LGBTIQ+ criminalisation and politicisation*, 341-376. <https://www.sparkblue.org/system/files/2023-03/QUEER%20LAWFARE%20IN%20AFRICA.pdf>
- Newman, E. (2002). 'Transitional Justice': The Impact of Transnational Norms and the UN. *International Peacekeeping*, 9(2), 31-50. <https://doi.org/10.1080/714002726>
- Ní Aoláin, F. (2012). Advancing feminist positioning in the field of transitional justice. *International Journal of Transitional Justice*, 6(2), 205-228. <http://doi:10.1093/ijtj/ijj013>
- Ní Aoláin, F. (2012). Gendered under-enforcement in the transitional justice context. In *Gender in transitional justice* (pp. 59-87). London: Palgrave Macmillan UK. https://doi.org/10.1057/9780230348615_3
- Nikolopoulou, K. (2023). *What is Non-Probability sampling? Types & Examples*. Scribbr. <https://www.scribbr.com/methodology/non-probability-sampling/>
- Njoku, E. T., Akintayo, J., & Mohammed, I. (2022). Sex trafficking and sex-for-food/money: Terrorism and conflict-related sexual violence against men in the Lake Chad region. *Conflict, Security & Development*, 22(1), 79-95. <https://doi.org/10.1080/14678802.2022.2034369>
- Njoku, E. T., & Dery, I. (2021). Spiritual security: an explanatory framework for conflict-related sexual violence against men. *International Affairs*, 97(6), 1785-1803. <https://doi.org/10.1093/ia/iiaab175>

Nordås, R., & Cohen, D. K. (2021). Conflict-related sexual violence. *Annual Review of Political Science*, 24(1), 193-211. <https://doi.org/10.1146/annurev-polisci-041719-102620>

Nossiter, A. (May 20, 2009). Witch hunts and foul potions heighten fear of leader in Gambia. *The New York Times*.
<https://www.nytimes.com/2009/05/21/world/africa/21gambia.html>

Nyang, S. S. (1977). Ten Years of Gambia's Independence: A Political Analysis. *Présence africaine*, (4), 28-45. <https://www.africabib.org/rec.php?RID=192781936>

Odhiambo, A. (2016- February 15). "I just sit and wait to die" Reparations for survivors of Kenya's 2007-2008 post-election sexual violence.
<https://www.hrw.org/report/2016/02/15/i-just-sit-and-wait-die/reparations-survivors-kenyas-2007-2008-post-election>

Oginga, A. O. (2008). Report on colonialism and sexual orientation and gender identities in the Republic of Kenya. *Feminist Legal Studies*, 16(1).
<https://www.ohchr.org/sites/default/files/documents/cfi-subm/2308/subm-colonialism-sexual-orientation-oth-ochieng-oginga-input-1.pdf>

Olsson, M. R. (2010). Michel Foucault: discourse, power/knowledge, and the battle for truth. *Leckie, Gloria J*, 63-74. <http://dx.doi.org/10.5040/9798400634420.ch-006>

O'Rourke, C. (2013). *Gender politics in transitional justice*. Routledge.

Outright International. (2023). LGBTQ lives in conflict and crisis: A Queer Agenda for Peace, Security, and Accountability. https://outrightinternational.org/sites/default/files/2023-02/LGBTQLivesConflictCrisis_0.pdf

Oyewumi, O. (2004). Conceptualizing Gender: Eurocentric Foundations of Feminist Concepts and the Challenge of African Epistemologies. *African gender scholarship: Concepts, methodologies and paradigms*, 2(1), 1-8.
https://www.usherbrooke.ca/philosophie/fileadmin/sites/philosophie/espace-etudiant/Feminisme_et_philosophie/Oyewumi_2002_Conceptualizing_Gender_The_Eurocentric_Foundations_Of_Feminist_Concepts_And_The_Challenge_Of_African_Epistemologies.pdf

Papanikolaou, E. M. (2024). Women as perpetrators of sexual violence in armed conflict. Historical and legal aspects. [Master of Arts in Human Rights and Migration Studies thesis].
<https://dspace.lib.uom.gr/bitstream/2159/30511/1/PapanikolaouEvrydikiMariaMsc2024.pdf>

Patino, C. M., & Ferreira, J. C. (2018). Internal and external validity: Can you apply research study results to your patients? *Jornal brasileiro de pneumologia*, 44(03), 183-183.
<https://doi.org/10.1590/S1806-37562018000000164>

- Paulson, J., & Bellino, M. J. (2017). Truth commissions, education, and positive peace: An analysis of truth commission final reports (1980–2015). *Comparative Education*, 53(3), 351-378. <https://doi.org/10.1080/03050068.2017.1334428>
- Perfect, D. (2014). The Gambia's withdrawal from the Commonwealth. *The Round Table*, 103(3), 331-333. <http://dx.doi.org/10.1080/00358533.2014.918730>
- Phillips, R. (2005). Heterogeneous imperialism and the regulation of sexuality in British West Africa. *Journal of the History of Sexuality*, 14(3), 291-315.
[https://d1wqtxts1xzle7.cloudfront.net/106978386/sex.2006.002920231027-1-3pssj3-libre.pdf?1698444995=&response-content-disposition=inline%3B+filename%3DHeterogeneous Imperialism and the Regula.pdf](https://d1wqtxts1xzle7.cloudfront.net/106978386/sex.2006.002920231027-1-3pssj3-libre.pdf?1698444995=&response-content-disposition=inline%3B+filename%3DHeterogeneous+Imperialism+and+the+Regula.pdf)
- Pruitt, L. (2012). Looking back, moving forward: International approaches to addressing conflict-related sexual violence. *Journal of Women, Politics & Policy*, 33(4), 299-321. <https://doi.org/10.1080/1554477X.2012.722430>
- Quijano, A. (2000). Coloniality of power and Eurocentrism in Latin America. *International sociology*, 15(2), 215-232. <https://doi.org/10.1177/0268580900015002005>
- Quijano, A. (2024). *Aníbal Quijano: Foundational Essays on the Coloniality of Power*. Duke University Press. <https://doi.org/10.1215/9781478059356>
- Quintão, C., Andrade, P., & Almeida, F. (2020). How to improve the validity and reliability of a case study approach?. *Journal of Interdisciplinary Studies in Education*, 9(2), 264-275. <https://doi.org/10.32674/jise.v9i2.2026>
- Rabinow, P. (2011). Dewey and Foucault: What's the problem? *Foucault Studies*, 11-19. <https://doi.org/10.22439/fs.v0i11.3202>
- Raidoo, R. (2023). Politics of the poisoned belly: figurations of deviance and the modernity of homophobia in urban Sierra Leone. *GLQ*, 29(3), 387-413. <https://doi.org/10.1215/10642684-10437250>
- Raju, N., & Bruun, L. (2023). Integrating gender perspectives into International Humanitarian Law. *SIPRI Insights on Peace and Security*, (2023/08). <https://doi.org/10.55163/QILU7567>
- Rampton, B. (1995). Language crossing and the problematisation of ethnicity and socialisation. *Pragmatics. Quarterly Publication of the International Pragmatics Association*, 5(4), 485-513. <http://dx.doi.org/10.1075/prag.5.4.04ram>
- Ravishankar, A. (2020). Linguistic Imperialism: Colonial Violence through Language. *The Trinity Papers* 1-7. <https://www.jstor.org/stable/community.38593988>
- Read, R. (2019). Comparing conflict-related sexual violence: expertise, politics, and documentation. *Civil Wars*, 21(4), 468-488. <https://doi.org/10.1080/13698249.2019.1642613>

Reid, G. (December 8, 2014). Gay in Gambia: not a joke.

<https://www.hrw.org/news/2014/12/08/gay-gambia-not-joke>

Richardson, T. A. (2012). Disrupting the coloniality of being: Toward de-colonial ontologies in philosophy of education. *Studies in Philosophy and Education*, 31, 539-551.

<http://dx.doi.org/10.1007/s11217-011-9284-1>

Robinson, B. A. (2016). Heteronormativity and homonormativity. *The Wiley Blackwell encyclopedia of gender and sexuality studies*, 1-3.

<http://dx.doi.org/10.1002/9781118663219.wbegss013>

Rome Statute of the International Criminal Court. (1998). United Nations, Treaty Series, vol. 2187, p. 3. <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>

Rotberg, R. I. (2000). Truth commissions and the provision of truth, justice, and reconciliation. In *Truth v. justice: The morality of truth commissions*, 3.

<https://assets.press.princeton.edu/chapters/s6973.pdf>

Rotberg, R. I., & Thompson, D. (Eds.). (2000). *Truth v. Justice: The Morality of Truth Commissions: The Morality of Truth Commissions*. Princeton University Press.

Rumney, P., & Morgan-Taylor, M. (1997). Recognizing the male victim: Gender neutrality and the law of rape: Part one. *Anglo-American Law Review*, 26, 198.

https://www.researchgate.net/publication/342110782_Recognizing_the_male_victim_Gender_neutrality_and_the_law_of_rape_-_Part_One/references#fullTextFileContent

Rushton, B. (2006). Truth and reconciliation? The experience of truth commissions. *Australian Journal of International Affairs*, 60(1), 125-141.

<https://doi.org/10.1080/10357710500494614>

Russell, B. (1906, January). On the nature of truth. In *Proceedings of the Aristotelian society*, 7, 28-49, Oxford University Press on behalf of the *Aristotelian Society*, Wiley.

https://cooperative-individualism.org/russell-bertrand_on-the-nature-of-truth-1906-1907.pdf

Russell, B. (n.d.). "What Is Truth?" by Bertrand Russell.

Sarkin, J. (2018). Redesigning the Definition a Truth Commission, but Also Designing a Forward-Looking Non-Prescriptive Definition to Make Them Potentially More Successful. *Human Rights Review*, 1(19), 349-368.

<https://doi.org/10.1007/s12142-018-0509-3>

Said, E. W. (1977). Orientalism. *The Georgia Review*, 31(1), 162-206.

https://www.eaford.org/site/assets/files/1631/said_edward1977_orientalism.pdf

Salvioli, F. 2019. "Preliminary Observations from Official Visit to The Gambia by the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence, Fabian Salvioli from 20 to 27 November 2019." United Nations Office of the

High Commissioner for Human Rights. <https://www.ohchr.org/en/press-releases/2019/11/preliminary-observations-official-visit-gambia-special-rapporteur-promotion>

Samset, I. (2020). Review essay: Towards decolonial justice. *International Journal of Transitional Justice*, 14(1), 596–607. <https://doi.org/10.1093/ijtj/ijaa023>

Santos, B.d.S. (2015). *Epistemologies of the South: Justice against epistemicide*. Routledge.

Schulz, P. (2016). Transitional justice for male victims of conflict-related sexual and gender-based violence? *International Journal on Rule of Law, Transitional Justice and Human Rights*, 6(6), 39–50. <https://ssrn.com/abstract=2839320>

Schulz, P. (2018). Displacement from gendered personhood: sexual violence and masculinities in northern Uganda. *International Affairs*, 94(5), 1101–1119. <https://doi.org/10.1093/ia/iyy146>

Schulz, P. (2020). Towards inclusive gender in transitional justice: gaps, blind-spots and opportunities. *Journal of Intervention and Statebuilding*, 14(5), 691–710. <https://doi.org/10.1080/17502977.2019.1663984>

Schulz, P. (2020/2021). *Male survivors of wartime sexual violence: Perspectives from Northern Uganda*. University of California Press.

Schulz, P., & Touquet, H. (2020). Queering explanatory frameworks for wartime sexual violence against men. *International Affairs*, 96(5), 1169–1187. <http://dx.doi.org/10.1093/ia/iaa062>

Schulz, P., Hamber, B., & Touquet, H. (2024). *Masculinities and Queer Perspectives in Transitional Justice*, Routledge, London. <https://doi.org/10.4324/9781003519522>

Scully, P. (2009). Should we give up on the State? Feminist theory, African gender history and transitional justice. *African Journal on Conflict Resolution*, 9(2), 29–44. <https://doi.org/10.4314/ajcr.v9i2.52171>

Segato, R. (2024). *The war against women*. John Wiley & Sons.

Seidman, S. (2009). Critique of compulsory heterosexuality. *Sexuality Research & Social Policy*, 6, 18–28. <https://doi.org/10.1525/srsp.2009.6.1.18>

Sewell, W. (2021, June 3). Representations of violence: A study of Mau Mau memoirs and their value to the historian. *Leeds African Studies Bulletin*, 82. <https://lucas.leeds.ac.uk/article/representations-of-violence-a-study-of-mau-mau-memoirs-and-their-value-to-the-historian/>

Sharp, D. N. (2018). *Re-thinking transitional justice for the 21st century*. Cambridge University Press. <https://doi.org/10.1017/9781108609180>

Sherwood, J. A., Grosso, A., Decker, M. R., Peitzmeier, S., Papworth, E., Diouf, D., ... & Baral, S. (2015). Sexual violence against female sex workers in The Gambia: a cross-sectional examination of the associations between victimization and reproductive, sexual and mental health. *BMC Public Health*, 15, 1–10. <https://doi.org/10.1186/s12889-015-1583-y>

Sidebotham, E., Moffatt, J., & Jones, K. (2016). Sexual violence in conflict: a global epidemic. *The Obstetrician & Gynaecologist*, 18(4), 247–250. <https://doi.org/10.1111/tog.12314>

Sierra Leone Truth and Reconciliation Commission. (2000a). Witness to Truth: Report of the Sierra Leone Truth and Reconciliation Commission Volume One. <https://atjhub.csvr.org.za/wp-content/uploads/2021/08/TRC-Final-Report-Volume-1.pdf>

Sierra Leone Truth and Reconciliation Commission. (2000b). Witness to Truth: Report of the Sierra Leone Truth and Reconciliation Commission Volume Two. <https://atjhub.csvr.org.za/wp-content/uploads/2021/08/TRC-Final-Report-Volume-2.pdf>

Sierra Leone Truth and Reconciliation Commission. (2000c). Witness to Truth: Report of the Sierra Leone Truth and Reconciliation Commission Volume Three B. https://atjhub.csvr.org.za/wp-content/uploads/2021/08/TRC-Final-Report-Volume-3B_compressed.pdf

Sivakumaran, S. (2007). Sexual violence against men in armed conflict. *European journal of international law*, 18(2), 253-276. <https://doi:10.1093/ejil/chm013>

Stone, J. (January 14, 2015). The 7 worst things Gambia's president, Yahya Jammeh, has ever said about gay people. <https://www.independent.co.uk/news/world/africa/the-7-worst-things-gambia-s-president-yahya-jammeh-has-ever-said-about-gay-people-9977170.html>

Subotić, J. (2012). The transformation of international transitional justice advocacy. *International Journal of Transitional Justice*, 6(1), 106–125. <http://dx.doi.org/10.1093/ijtj/ijr036>

Sun, Y. (2022). Literary translation and communication. *Frontiers in Communication*, 7, 1073773. <http://dx.doi.org/10.3389/fcomm.2022.1073773>

Svärd, P. (2010). The international community and post-war reconciliation in Africa: A case study of the Sierra Leone Truth and Reconciliation Commission. *African Journal on Conflict Resolution*, 10(1), 35-62. <https://doi.org/10.4314/ajcr.v10i1.59306>

Swartz, E. (2009). Diversity: Gatekeeping knowledge and maintaining inequalities. *Review of Educational Research*, 79(2), 1044–1083. <https://doi.org/10.3102/0034654309332560>

- Taiwo, O. (1993). Colonialism and its aftermath: The crisis of knowledge production. *Callaloo*, 16(4), 891-908. <http://www.istor.org/stable/2932216>
- Tejero, P. O. (2023). Long overdue: Exploring sexual violence against LGBTI+ people in conflict. *Global Journal of Medicine & Public Health*, 1-21. https://www.gjmedph.com/Uploads/O3_Special_Issue_2023.pdf
- Ten Bensel, T., & Sample, L. L. (2017). Collective sexual violence in Bosnia and Sierra Leone: A comparative case study analysis. *International journal of offender therapy and comparative criminology*, 61(10), 1075-1098. <https://doi.org/10.1177/0306624X15609704>
- The Republic of the Gambia. (2017). Truth, Reconciliation, and Reparations Commission Act, 2017. <https://atjhub.csvr.org.za/wp-content/uploads/2021/08/Truth-Reconciliation-and-Reparations-Commission-Act-of-2017.pdf>
- The Family Protection Bill, 2023. (2023). [https://database.ilga.org/api/downloader/download/1/KE%20-%20LEG%20-%20Family%20Protection%20Bill%20\(2023\)%20-%20OR-OFF\(en\).pdf](https://database.ilga.org/api/downloader/download/1/KE%20-%20LEG%20-%20Family%20Protection%20Bill%20(2023)%20-%20OR-OFF(en).pdf)
- Thompson, F. (September 16, 2015). State of fear: Arbitrary arrests, torture, and killings. <https://www.hrw.org/report/2015/09/17/state-fear/arbitrary-arrests-torture-and-killings>
- Tiemessen, A. E. (2011). The international normative structure of transitional justice (Doctoral dissertation, University of British Columbia). <https://dx.doi.org/10.14288/1.0072039>
- Tillewein, H., Shokeen, N., Powers, P., Rijo Sánchez, A. J., Sandles-Palmer, S., & Desjarlais, K. (2023). Silencing the rainbow: Prevalence of LGBTQ+ students who do not report sexual violence. *International journal of environmental research and public health*, 20(3), 1-12. <https://doi.org/10.3390/ijerph20032020>
- Tolmie, A., Bowe, M., Clarke, V., Guest, D., & Stephens, R. (2024, June). REF Working Group Report on Definitions of Rigour in Research. British Psychological Society. <https://cms.bps.org.uk/sites/default/files/2024-07/REF%20Working%20Group%20Report%20on%20Definitions%20of%20Rigour%20in%20Research.pdf>
- Truth, Reconciliation and Reparations. (2021a). Report: Volume 10 Sexual and Gender-Based Violence. <https://atjhub.csvr.org.za/wp-content/uploads/2022/10/TRRC-Report-Vol-10-2021.pdf>
- Truth and Reconciliation Commission of South Africa (TRC). 1998. *Truth and Reconciliation Commission of South Africa Report, Vol. 4*. <http://atjhub.csvr.org.za/wp-content/uploads/2021/08/SA-TRC-Final-Report-Volume-4.pdf>

Truth, Justice and Reconciliation Commission. (2013a). Report of the Truth, Justice and Reconciliation Commission Volume One. <https://atjhub.csvr.org.za/wp-content/uploads/2021/08/Final-Report-TJRC-Report-Volume-1.pdf>

Truth, Justice and Reconciliation Commission. (2013b). Report of the Truth, Justice and Reconciliation Commission Volume Two A. <https://atjhub.csvr.org.za/wp-content/uploads/2021/08/Final-Report-TJRC-Report-Volume-2A.pdf>

Truth, Justice and Reconciliation Commission. (2013c). Report of the Truth, Justice and Reconciliation Commission Volume Two B. <https://atjhub.csvr.org.za/wp-content/uploads/2021/08/Final-Report-TJRC-Report-Volume-2B.pdf>

Truth, Justice and Reconciliation Commission. (2013d). Report of the Truth, Justice and Reconciliation Commission Volume Two C. <https://atjhub.csvr.org.za/wp-content/uploads/2021/08/Final-Report-TJRC-Report-Volume-2C.pdf>

Truth, Justice and Reconciliation Commission. (2013e). Report of the Truth, Justice and Reconciliation Commission Volume Three. <https://atjhub.csvr.org.za/wp-content/uploads/2021/08/Final-Report-TJRC-Report-Volume-3.pdf>

Truth, Justice and Reconciliation Commission. (2013f). Report of the Truth, Justice and Reconciliation Commission Volume Four. <https://atjhub.csvr.org.za/wp-content/uploads/2021/08/Final-Report-TJRC-Report-Volume-4.pdf>

Turkewitz, J. (2019, November 12). Women in Gambia describe torture after ex-president called them witches. New York Times. Retrieved September 1, 2020, from <https://www.nytimes.com/2019/11/12/world/africa/gambia-witch-hunt-testimony.html>

Turner, C. (2013). Deconstructing transitional justice. *Law and Critique*, 24(1), 193-209. <https://doi.org/10.1007/s10978-013-9119-z>

Turner, C. (2017). Transitional justice and critique. In C. Lawther, L. Moffet, & D. Jacobs (eds), *Research handbook on transitional justice* (pp. 52-73). Edward Elgar Publishing. <https://doi.org/10.4337/9781781955314.00010>

United Nations Regional Information Centre for Western Europe (UNRIC). (June 19, 2024). Women and girls are disproportionately affected by conflict-related sexual violence. June 16, 2024, <https://unric.org/en/women-and-girls-are-disproportionately-affected-by-conflict-related-sexual-violence/>

United Nations Human Rights Office of the High Commissioner. (n.d.). International Bill of Human Rights. <https://www.ohchr.org/en/what-are-human-rights/international-bill-human-rights>

United Nations Peacekeeping. (2024). Gender equality and women, peace and security resource package. https://peacekeeping.un.org/sites/default/files/gewps19_respack_v7_eng_digital.pdf

United Nations Security Council. (April 4, 2024). Conflict-related sexual violence: Report of the Secretary-General. <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2024/04/report/report-of-the-secretary-general-on-conflict-related-sexual-violence/202404-SG-annual-report-on-CRSV-EN.pdf>

United States Department of State. (2009). Background Note: The Gambia. <https://2001-2009.state.gov/r/pa/ei/bgn/5459.htm>

United States Institute of Peace. (2008, September). Transitional Justice: Information Handbook. Retrieved from: https://www.usip.org/sites/default/files/ROL/Transitional_justice_final.pdf

Van der Merwe, H., & Brinton Lykes, M. (2020). Racism and transitional justice. *International Journal of Transitional Justice*, 14(3), 415-422. <https://doi:10.1093/ijtj/ijab001>

Vehovar, V., Toepoel, V., & Steinmetz, S. (2016). Non-probability sampling. In C. Wolf, D. Joye, T. Smith, & Y.C. Fu (eds) *The Sage handbook of survey methods*, 1(2016), 329-345. <https://doi.org/10.4135/9781473957893.n22>

Waitt, G. 2010. Doing Foucauldian discourse analysis: Revealing social realities. *Qualitative Research Methods in Human Geography*, 217-240. <https://ro.uow.edu.au/scipapers/3936>

Weingart, P. (2006). Knowledge and inequality. In G. Therborn, L. Chauvel, M. Hout, A. L. Kalleberg, & M. Kivinen (Ed.). *Inequalities of the World. New Theoretical Frameworks, Multiple Empirical Approaches* (pp. 163-190). London, England: Verso.

Wood, E. J. (2014). Conflict-related sexual violence and the policy implications of recent research. *International Review of the Red Cross*, 96(894), 457-478. <https://doi:10.1017/S1816383115000077>

Wiebelhaus-Brahm, E. (2009). What is a truth commission and why does it matter?. *Peace and Conflict Review*, 3(2), 1-14. https://syriaaccountability.org/content/images/wordpress/UPEACE_Whats-a-Truth-Commission_2009_EN.pdf

Wiebelhaus-Brahm, E. (2010). Truth commissions. In *Routledge Handbook of International Criminal Law* (pp. 369-383). Routledge. <http://ndl.ethernet.edu.et/bitstream/123456789/53016/1/8.pdf.pdf>

Wiebelhaus-Brahm, E. (2020). Global transitional justice norms and the framing of truth commissions in the absence of transition. *Negotiation and Conflict Management Research*, 14(3), 170-186. <https://doi:10.1111/ncmr.12194>

Winston, C. (2021). Truth commissions as tactical concessions: the curious case of Idi Amin. *The International Journal of Human Rights*, 25(2), 251-273. <https://doi.org/10.1080/13642987.2020.1773439>

Yagi, I., Malette, J., Mwindo, T., & Maisha, B. (2022). Characteristics and impacts of conflict-related sexual violence against men in the DRC: A phenomenological research design. *Social Sciences*, 11(2), 34. <https://doi.org/10.3390/socsci11020034>

Yin, R. K. (2009). *Case study research: Design and methods* (Vol. 5). Sage.
<https://doi.org/10.33524/cjar.v14i1.73>

Appendix A: Ethics Clearance



DEVELOPMENT STUDIES AND SOCIOLOGY ETHICS COMMITTEE
CONSTITUTED UNDER THE UNIVERSITY HUMAN RESEARCH ETHICS COMMITTEE (NON-MEDICAL)

CLEARANCE CERTIFICATE

PROTOCOL NUMBER: SOCL-2023-06

PROJECT TITLE

The Gaps of Transitional Justice: A consideration of the linguistic framing of conflict-related sexual violence in transitional justice.

INVESTIGATOR

Sekhu, Lesego

SCHOOL/DEPARTMENT OF INVESTIGATOR

Sociology, School of Social Science

DATE CONSIDERED

26 July 2024

DECISION OF THE COMMITTEE

Approved unconditionally

RISK LEVEL

Minimal Risk

EXPIRY DATE

25 July 2024

ISSUE DATE OF CERTIFICATE

03 July 2023

CHAIRPERSON


(Professor Obvious Katsaura)

cc: Supervisor: Dr Christine Bischoff

DECLARATION OF INVESTIGATOR

To be completed in duplicate and ONE COPY returned to the Chairperson of the School/Department ethics committee.

I/we fully understand the conditions under which I am/we are authorized to carry out the abovementioned research and I/we guarantee to ensure compliance with these conditions. Should any departure be contemplated from the research procedure as approved, I/we undertake to submit an amendment of the protocol to the Committee.

Signature

_____/_____/_____
Date

PLEASE QUOTE THE PROTOCOL NUMBER ON ALL ENQUIRIES