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## **Transitional Justice without the Transitional State: Actoras de Cambio in Post-War Guatemala**

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**Transitional Justice without the Transitional State:**

***Actoras de Cambio in Post-War Guatemala***

Leiden University

BSc Political Science: International Relations and Organizations

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International Law and the Life and Death of States

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## **Abstract**

Transitional justice aims to address the aftermath of gross human rights violations and facilitate societal healing and recovery. Traditionally, transitional justice mechanisms have been state-centric, relying on the capacity and will of states for their implementation. In fragile states—characterized by weak authority, capacity, and legitimacy—this approach often leads to an "implementation gap," where policies are designed but not enacted. This study explores the extent to which civil society can fill this gap. Focusing on *Actoras de Cambio*, a civil society organization in post-war Guatemala, this research examines how civil society operates within this state-centric framework, evaluating its ability to fulfill the five pillars of transitional justice: truth-seeking, justice, reparation, memorialization, and guarantees of non-recurrence. The findings suggest that civil society can effectively address truth-seeking, memorialization, and psycho-social reparation, but faces limitations in delivering justice and guarantees of non-recurrence, areas requiring broader legal and structural reforms. These results underscore the importance of a synergistic approach between the state and civil society in transitional justice processes, particularly in fragile states. This research advocates for a more inclusive and holistic transitional justice framework, recognizing the critical role of civil society in fragile states and informing more tailored international responses to mass atrocities.

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## 1. Introduction

Transitional justice (TJ) refers to the mechanisms in place for addressing the aftermath of massive human rights (HR) abuses, with the aim of societal healing and recovery (Destrooper et al., 2023). Over the past fifty years, having been implemented in over 140 countries, it has become the leading framework for tackling the legacies of large-scale violence (Destrooper et al., 2023). Theoretically, TJ has long been deeply intertwined with the concept of the transitional state, where a power-sharing regime or a successor government takes the lead in the process of fostering societal reconstruction (Destrooper et al., 2023). As a result, many of the standardized mechanisms promoted in the field of TJ are centered around a state's implementation of such measures (Hamber & Lundy, 2020). This paradigm presumes that states must have the capacity and the will to implement the mechanisms of TJ; this is not always the case. In 2023, the Fund for Peace identified thirty so-called "failed states", characterized by little to no ability to defend national boundaries, police territory, deliver public services, ensure economic stability, and secure legitimacy (The Fund for Peace, 2023). This does not include the significantly larger number of states at risk of failure, or "fragile states", which constitute more than half of all currently recognized states (The Fund for Peace, 2023). With many state's abilities to provide even the most basic services to their citizens in question, the long-standing focus on the state as the primary TJ provider is challenged. Nonetheless, international law continues to conceptualize TJ in terms of the duties of the state towards its citizens, providing frameworks that are often ill-suited to the reality of statehood today.

In light of this, this study seeks to confront the "implementation gap" (hereinafter also referred to as the "TJ gap" or the "TJ impasse") that often arises in fragile states – where policies for societal reconstruction are designed but never enacted (Macdonald, 2019). More specifically, it examines the extent to which civil society (CS) can fill this gap. First, the theoretical basis for the research is formed, through a thorough literature review on the role of the state in TJ and the conceptualization of the core concepts employed. Then, one case is analyzed in depth, looking at how a CS organization (CSO) in post-war Guatemala addressed the failures of the Guatemalan state in implementing measures of TJ. By looking at how CS operates within a framework built around the duties of the state, a conclusion is drawn regarding the extent to which a TJ gap can be addressed by CS in a fragile state.

## 2. Literature review

Understanding TJ in fragile states requires, first and foremost, an analysis of the extent to which state involvement is a prerequisite to achieving TJ. This issue constitutes a debate in the academic literature, which tends to fall into one of three categories; a) State involvement is a prerequisite to achieving TJ, b) TJ is achieved from a local level, without the necessary involvement of the state and c) TJ requires a balance between state and local efforts, whereby one complements the other.

### 2.1. State involvement as a prerequisite to transitional justice

A significant body of literature argues that the state must play a leading role in the TJ process that cannot be neglected or delegated to other bodies. Fragile states in the process of transition tend to abdicate their responsibilities to non-state entities, which are then tasked with the provision of goods and services that ought to be provided by the state (Quinn, 2021). While the dangers of this transfer of responsibility have been masked by a growing romanticization of the “local” in TJ discourse, state abdication in TJ processes means that citizens’ needs are never appropriately met, and that the state can carry on with a potentially harmful and violent *modus operandi* without rendering account to its citizens (Quinn, 2021). Non-state and external actors that attempt to fill the gap become enablers of impunity, essentially “letting the state off the hook” (Kochanski & Quinn, 2021, p. 105). Additionally, local actors often lack the capacity and authority, either material or moral, to act independently of the political interests and power dynamics of the state (Kochanski, 2018). In Uganda, for example, CS was fundamentally constrained by the interests of the government, that feared facing accountability for the past crimes of its members (Quinn, 2018). In the case of the Truth and Reconciliation Commission in South Africa, Van Der Merwe et al. (1999) found that CS could play only a limited role on the TJ process, which instead was mainly driven by political negotiations between parties. The idea that state involvement is not a prerequisite to TJ tends to neglect the political sensitivity inherent to the process (Kochanski, 2018). Without a transitional state that is actively and positively involved in the TJ process, efforts to achieve TJ remain fundamentally hindered. It is important to note that the literature rarely argues that local and grassroots groups are unwarranted or undue agents in the TJ process. Rather, it argues that these efforts cannot pretend to adequately fill the TJ gap; this task remains fundamentally in the hands of the state.

For all its merits, there are a few caveats to note in this approach. This body of literature assumes the state as an absolute, and forgoes the possibility of achieving TJ in cases where statehood exists only in part, or not at all. It limits the potential paths ahead for fragile states in periods of transition to the reinforcement or reconstruction of their state structures. To date, attempts at state reconstruction have been based on a policy repertoire that is temporary, artificial, and inattentive to the root causes of the issue, leaving states subject to vicious cycles of failure and reconstruction (Krasner, 2004). It is also worth noting that statehood itself is a historically and culturally contingent phenomenon that, in many regions outside of the West, has not wholly taken root (Brooks, 2005). In many cases, there is little promise for the state to be able to connect with its citizens in the first place (a *sine qua non* of TJ); even less so in a state of fragility. Prioritizing top-down processes of justice leaves us with an irreparable justice impasse in fragile states, where the relationship between the states and its citizens is especially weak.

## *2.2. Transitional justice as achieved from a local level*

Against this line of criticism, much of the TJ literature in recent years has advocated for a bottom-up approach to dealing with the aftermath of mass atrocities, particularly in places where the social contract between the state and its citizens is weak. Destrooper et al. (2023) find that while TJ theory remains rooted in a select number of paradigmatic cases involving a transitional state, in practice, TJ increasingly takes place in what they call aparadigmatic contexts, characterized by civil-society-driven processes in response to state-led action that often proves negligent of or detached from the real experiences of the people. This body of literature argues that a significant portion of the TJ framework—encompassing truth-seeking, justice, reparation, memorialization, and guarantees of non-recurrence—can be attained without reliance on an overarching transitional state. In Zimbabwe, continuous bottom-up, non-legal, and customary redress mechanisms led by CS ensured truth-telling, compensation, and forgiveness, resulting in reconciliation (Benyera, 2014). In Ireland, as the state-led Good Friday Agreement failed to assess and meet the needs of the victims, a bottom-up truth-telling process made significant contributions to TJ (Lundy & McGovern, 2008). Spanish CS led initiatives to search for, exhume, and pay tribute to individuals who perished during the Spanish Civil War and the subsequent dictatorship (Rubin, 2014). State-led initiatives inevitably pursue a national political agenda, which need not always coincide with, and in some cases may even subordinate, the TJ needs of the population (Hamber & Wilson, 2002). This approach not only



contends that CS may be equipped to meet the standards of TJ; it argues that it may be better equipped than the state, providing a compelling way to address the justice impasse left by the previous approach. When the state fails in, or even gets in the way of providing TJ, CS can, and often does, step in as the primary TJ provider.

Two crucial points must be made regarding this approach. Firstly, it risks homogenizing and idealizing the concept of CS. CS must be understood within its specific historical and socio-political context, as a dynamic and multifaceted entity whose interests and goals are not always inherently moral (Jones & Adou Djané, 2018). CS can be deeply intertwined with political parties and agendas and may not represent the romanticized impartial actor that many scholars presume (Jones & Adou Djané, 2018). Secondly, as highlighted in the preceding section, CS-led TJ can fail to meet citizens' needs in a fair and equitable way (Quinn, 2021). Despite certain successes, it would be hard to argue in any generalizable manner that CS has the same resources and reach as the state.

Considering these critiques, Destrooper and Parmentier (2018) propose the concept of opportunity structures as essential criteria for nurturing a robust and efficient CS capable of effectively bridging the TJ implementation gap in fragile states. The way CS responds to the TJ needs of the population is intrinsically tied to the broader socio-political context in which it operates, shaping the possibilities and constraints for collective action (Destrooper & Parmentier, 2018). There must be openings for activism and advocacy - opportunity structures - for CS to effectively operate in a TJ context. The authors highlight the role of "elite allies" in providing resources, legitimacy, and visibility to grassroots groups, enhancing their capacity to influence decision-making processes and shape public discourse (Destrooper & Parmentier, 2018).

### *2.3. Transitional justice as a balance between state and local efforts*

Many scholars have approached TJ through an acknowledgement of the shortcomings of both prior approaches. State-led TJ risks being detached from victims, while CS-led TJ risks not having the resources and reach necessary to accomplish its goals. In response, Pietrzak (2018) presents the state and CS in the framework of their mutual influence. While CS requires a supportive regulatory framework from the state, it must maintain autonomy and independence to serve as a counterweight, monitor, and critic of state power (Pietrzak, 2018). CS not only ignites broader societal involvement in TJ endeavors (Brahm, 2007), but also serves as a pivotal link between implementing bodies and the general populace, offering invaluable local

perspectives and contextualizations (Roht-Arriaza, 2002). Moreover, CS can exert direct influence on the shaping and functioning of a range of state-led TJ mechanisms, such as truth commissions (Crocker, 2000), reparations programs (Roht-Arriaza 2002), prosecutions (Brahm, 2007), and institutional reform (De Greiff & Mayer-Rieckh, 2007). In this way, the literature presents CS and the state as walking hand-in-hand through the TJ process. CS not only fills in for the state where it lacks reach (i.e., investigating the intricate lived experiences of victims), but also exerts pressure on the state to fulfil its duties (i.e., prosecutions and institutional reforms). Even in contexts of state fragility, whereby the state is unable or unwilling to fulfil its TJ duties, CS need not and often does not confront the challenges of justice and reconciliation on its own. It can be more involved in certain sectors and phases than others, in which instead the state must assume the leading role. Backer (2003) argues that the involvement of CS in a TJ process depends on the demand for its involvement (due to, for example, a lack of control, expertise and initiative on behalf of the state) and its supply of resources (CS risks being under-developed, under-equipped, financially dependent and politicized). With an appropriate delegation of roles according to the relative competences of the state and CS, both can contribute to and stand to gain from the TJ process (Backer, 2003).

This inevitably begs the question of what an appropriate delegation of roles might look like. Interestingly, this has not yet been addressed in the literature. While, as this literature review has shown, there is extensive work discussing the strengths of the state in *opposition* to those of CS, as well as a body of literature that advocates for CS-state collaboration more generally, there has not yet been a dissection of the TJ framework according to the respective strengths of the state and CS. This study seeks to address this very issue, in the particularly pertinent context of a fragile state. It seeks to understand exactly what elements of TJ can be achieved by CS in a fragile state, and to which extent, in order to make a judgement about what the appropriate delegation of roles in a fragile TJ context. The core research question is thus as follows: In a fragile state, where state action is fundamentally limited, to what extent can CS address the TJ implementation gap?

This study hopes to guide a step forward from international law's long-standing and limiting focus on the state as the sole provider of justice, which has proven to be particularly ill-fitting to fragile states. By shifting the focus from a state-centric perspective to a more inclusive and holistic examination of TJ, this research offers insights that can inform more tailored and effective international responses to mass atrocities in fragile states. Furthermore, by critically evaluating the dominant paradigms and expanding the conceptual framework of TJ, this research significantly advances the academic discourse in the field.

## 2. Theoretical framework

To ensure a comprehensive understanding of the foundational concepts underpinning this research, this section is dedicated to the conceptualization and contextualization of three fundamental elements: the fragile state, civil society, and transitional justice.

### 3.1. *The fragile state*

The conceptualization of state fragility has taken various forms in both scholarship and practice. While initially, the focus was placed mainly on economic and political development, recently, the concept has evolved toward acknowledging the complexities and structural foundations of conflict and instability (Ferreira, 2023). The mainstream definition by the World Bank Group (WBG) currently characterizes fragile states by deep grievances, high levels of exclusion, lack of capacity, and limited provision of basic services (WBG, 2020). Fragile states show an inability or unwillingness to manage risks relating to social, economic, political, security, or environmental factors (WBG, 2020). While this definition includes both a lack of state capacity and will, it lacks a dimension of state legitimacy. Achieving TJ in fragile states is considerably challenged by a weak social contract and lack of trust between the state and its citizens, leading to disconnected and illegitimate state-led processes (Destrooper & Parmentier, 2018). Therefore, this study's conceptualization of state fragility must capture the legitimacy gap, which might be filled by CS groups more responsive to the population's needs.

In this light, Stewart and Brown (2009) characterize a fragile state by means of three factors; 1) authority failures, where it lacks the authority to protect (a significant part of) its citizens from violence erupting from, for example, war or criminality, 2) service failures, where it does not ensure that (a significant part of) its citizens have access to basic services such as education, sanitation or health and 3) legitimacy failures, where it maintains only limited support from the population. This conceptualization is comprehensive, multidimensional, and lays the groundwork for understanding when, why, and to what extent CS might be able to fill the TJ gap left by a fragile state. Throughout this study, this conceptualization will be employed to determine how CS operates within the threefold gap left by a fragile state.

### 3.2. *Civil society*

CS can broadly be defined as the public spheres, separate from the state and the economic market, that foster political participation, discursive interaction, and contestation (Gready & Robins, 2017). This includes a diverse range of actors with different, and at times

divergent, agendas and repertoires of action (Gready & Robins, 2017). Despite the growing recognition of the importance of CS participation in TJ, international frameworks, and particularly legal frameworks, tend to portray CS as more of a nice-to-have within the state-led TJ process, than an actor with much agency of its own (United Nations General Assembly [UNGA], 2023). A persistent focus on institutions, top-down state intervention and legal mechanisms often leaves official channels as the primary reference point, with CS seen as providing technical input or support to state-led processes (Gready & Robins, 2017). When looking at how CS operates in the absence of a competent state, however, it is not enough to conceptualize it in terms of its relation to said state, or the role it plays within state-led mechanisms.

Gready and Robins (2017) thus coin the term “new” civil society, as a conceptualization of CS that transgresses the boundaries of traditional frameworks and more fully captures the realities of societal change. New CS includes social movements, informal community groups, online activist networks, and other forms of decentralized and leaderless collectives that often employ innovative, transgressive, and grassroots approaches to advocacy and social change, and whose focus lies not only on influencing formal political structures, but also on creating alternative social realities and practices (Gready & Robins, 2017). These groups often aim to bring about change by altering public discourse, directly engaging communities, and challenging existing power structures through symbolic acts and practical demonstrations of alternative ways of living or governing (Gready & Robins, 2017). In TJ contexts, this conceptualization presents a more inclusive understanding of who participates in driving justice and reconciliation processes, placing grassroots actors and survivors' groups at the forefront of ensuring the legitimacy and effectiveness of TJ mechanisms. For the purposes of this study, in which the state lacks a significant degree of authority, capacity, and legitimacy, this conceptualization of CS will provide a holistic framework through which to understand the full extent of its capabilities in a TJ context.

### *3.3. Transitional Justice*

TJ is the dominant paradigm through which the legacies of large-scale violence, authoritarianism, or conflict are addressed, founded on the supposition that, to ensure a peaceful and just future, societies must come to terms with their past (Destrooper et al., 2023). Throughout the course of the 1990s and the 2000s, the field of TJ emerged out of post-authoritarian and post-conflict settings, with a focus on processes of legalization,

internationalization, and professionalization (Destrooper et al., 2023). Since 2004, the United Nations (UN) has defined TJ as “the full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation.” (UN Security Council, 2004). Five pillars uphold this definition: truth, justice, reparation, memorialization and guarantees of non-recurrence (UNGA, 2023). In 2023, the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence published a complete report on the minimal international legal standards underpinning the five pillars of TJ (UNGA, 2023). The Special Rapporteur analyzed all sources of international law, including treaties, the jurisprudence of international and regional tribunals, respected sources of soft law, and state practice, systematizing the standards set forth therein (UNGA, 2023). The report consolidates the rules and duties supporting each pillar of TJ and makes for a comprehensive legal guidebook for achieving justice and reconciliation. This study employs the UN’s legal conceptualization of TJ, to understand the extent to which the legal standards set forth by the Special Rapporteur can be met by CS actors even in the absence of a transitional state. The exact standards pertaining to this conceptualization will be used as a coding frame for this research, and as such, will be discussed further in the methodology section of this paper.

#### **4. Research design and methodology**

This research will conduct a single case study, examining the pivotal role of a significant CSO in the aftermath of the Guatemalan civil war. Before discussing the exact research methods that will be employed, the context of the case must be established to elucidate how it contributes to addressing the research question.

##### *4.1. Actoras de Cambio in post-war Guatemala*

From 1960 to 1996, Guatemala faced a violent civil war between the government and armed revolutionary movements, marked by the genocidal massacre of indigenous Maya civilians (Sanford, 2008). Indigenous women, as gendered bearers of culture, bore a particularly heavy burden (Duggan et al., 2008). Despite peace accords being signed in 1996, and the agreement to implement a number of TJ mechanisms, almost none of the measures outlined were implemented in practice (Kauffman, 2005). As military and business elites hindered the implementation of TJ measures, the military remained unreformed, violence against judges, prosecutors and journalists persisted, impunity was widespread, and official

reparations were not granted (Kauffman, 2005). The Commission for Historical Clarification (CEH), a truth-commission set up by the peace accords and coordinated by the UN, failed to adequately consider local context and gender-specific harm (Destrooper & Parmentier, 2018). *Colectiva Actoras de Cambio* (Collective of Agents of Change) (AdeC), a community-based CSO for indigenous survivors of sexual violence and war, emerged in 2003 out of the profound TJ gap that characterized the post-civil war climate in Guatemala.

AdeC, in response to the exclusionary and ill-fitting official report, conducted extensive investigations to produce *Tejidos que Lleva el Alma* (Tissues that Mend the Soul), a truth report on the civil war based on the lived experiences of indigenous Maya women. This report guided a multidimensional program involving psychosocial assistance and holistic support to survivors (AdeC, 2015). The program featured workshops on women's rights education and addressing internalized oppression to remodel discriminatory social structures (AdeC, 2015). Many women found AdeC's work more genuine and effective than the more remote state-led processes (Destrooper et al, 2023).

Aside from being widely renowned both on the ground and in the literature as a CSO of great importance in post-war Guatemala<sup>1</sup>, the choice to focus on AdeC relates to its embodiment of the “new” civil society conceptualized by Gready and Robins (2017)<sup>2</sup>. By working directly with affected communities, employing innovative tactics and strategies, and advocating for systemic change and justice beyond existing power structures, AdeC captures the full repertoire of action available to contemporary CS. The sole other comparable CSO in terms of its role in the TJ period in Guatemala was the Catholic Church, which also conducted its own truth-seeking process (Destrooper & Parmentier, 2018). However, the Catholic Church, with its substantial power, resources, and historical influence, is not representative of a typical CSO and thus not indicative of the broader CS landscape (Linde & Scaramuzzino, 2018). AdeC provides a more representative case for understanding the actions available to CS in fragile TJ contexts. Additionally, AdeC's focus on indigenous women, a historically marginalized group, attempts to fill the deepest gaps left by the state, offering insights into how TJ reaches those most often neglected by state actions (Grant, 2023). AdeC's achievements in TJ represent those possible even in extreme cases of state disengagement.

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<sup>1</sup> See, for example, Yoc Cosajay (2014), Destrooper (2014), Destrooper and Parmentier (2018), Destrooper et al. (2023), Evrard et al. (2021), Patterson-Markowitz et al. (2012), Fulchiron (2014), Fulchiron (2016), Fulchiron (2017).

<sup>2</sup> See section 3.2 of this paper.

#### 4.2. Methodology

The *Metodología de formación sanación con mujeres sobrevivientes de violencia sexual y de la guerra en Guatemala*<sup>3</sup>) systematizes in nine chapters the experiences gained throughout the projects of AdeC from 2006 to 2012 (a period marked by the particular maturity of the healing training processes employed) (AdeC, 2015). The report by AdeC provides a comprehensive depiction of the principles and methods that guided their work, the structure of their projects, and the testimonies of the partakers. The information contained in this report has been cross-referenced with scholarly literature on the work of AdeC to ensure reliability<sup>4</sup>.

This research will conduct a qualitative content analysis (QCA) of this report, as well as a select number of project outlines provided on the website of AdeC. These will be coded according to whether or not, and to what extent the projects carried out by the organization adhere to each international legal standard for TJ set forth by the report by Special Rapporteur. Based off of which legal standards were met by the programs implemented by AdeC, a conclusion can be reached regarding the extent to which CS can address the TJ gap in a fragile state. The coding frame, labeled Figure 1, is presented on the following page.

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<sup>3</sup> While the official document is available only in Spanish, AdeC very kindly provided me with an English translation to facilitate this research.

<sup>4</sup> See footnote 1.

Figure 1: Coding frame for TJ (UNGA, 2023)<sup>5</sup>

Category	Description	Indicators
Truth-seeking	The right of victims and their families to know the truth about past events concerning the perpetration of heinous crimes and about the circumstances and reasons that led, through massive or systematic violations, to the perpetration of those crimes.	<ul style="list-style-type: none"> <li>a) Effective, independent, and impartial investigations</li> <li>b) Truth commissions and commissions of inquiry</li> <li>c) Independence, impartiality, competence, and effectiveness of the commission</li> <li>d) Due process and special protection of persons</li> <li>e) Preservation and access by the public to historical archives</li> <li>f) Dissemination of commission reports</li> </ul>
Justice	The legal obligation to prosecute, try, and duly punish violations of HR and international humanitarian law while removing obstacles that would prevent the fulfilment of that obligation.	<ul style="list-style-type: none"> <li>(a) Safeguards against the abuse of rules of law and other obstacles to prosecution and criminal punishment</li> <li>(b) Mandatory, appropriate criminal sanctions</li> </ul>
Reparation	The implementation of measures of restitution, compensation, rehabilitation, and satisfaction that cover all injuries of the victims and are proportionate to the gravity of the violations and the harm suffered.	<ul style="list-style-type: none"> <li>(a) Elements of reparation: <ul style="list-style-type: none"> <li>a. Restitution</li> <li>b. Compensation</li> <li>c. Rehabilitation</li> <li>d. Satisfaction</li> </ul> </li> <li>(b) Domestic reparation programs</li> <li>(c) Gender perspective</li> <li>(d) Participation and information</li> </ul>
Memorialization	The preservation and transmission of memory concerning violations of HR to present and future generations, with a view to informing society, restoring the dignity of victims, promoting healing and reconciliation, and preventing the recurrence of violations.	<ul style="list-style-type: none"> <li>(a) Acknowledgement of the purpose and impact of memorialization</li> <li>(b) Public policies on memorialization (museums, plaques, documentaries, etc.)</li> </ul>
Guarantees of non-recurrence	The breaking of the structural causes of societal violence and systemic HR violations.	<ul style="list-style-type: none"> <li>(a) Reform or adoption of laws in accordance with international standards</li> <li>(b) Institutional reform and enforcement of rules of conduct to strengthen a culture of respect for HR</li> <li>(c) Inclusive, non-discriminatory participation of victims, and civilian oversight of public institutions</li> <li>(d) Lawful limitations to freedom of speech</li> </ul>

<sup>5</sup> For a more detailed coding frame including sub-indicators, see the appendix of this paper.



A few notes clarifying the suitability of this case and method to answer the research question are due. According to the German Institute of Development and Sustainability (IDOS), whose index of state fragility encompasses the dimensions of authority, capacity and legitimacy, Guatemala is classified as a fragile state throughout the time scope of this research (IDOS, n.d.). Alongside the clear TJ impasse delineated prior indicating the lack of meaningful state-led action, this renders it a suitable and representative context within which to understand the scope of TJ action by CS in a fragile state.

It is widely acknowledged that generalizability is a significant challenge in case study research. However, given the illustrative character of both the CSO (as opposed to, in this case, the Catholic Church) and the context within which it operates, it is argued for the results of this study to be considered relevant nonetheless. This research sets as its goal to be a solid starting point for theory-building, rather than generalizable hypothesis-testing. Taking this into consideration, case studies are the best-suited method for theory-building, due to their ability to provide an in-depth and comprehensive examination of specific contexts, uncovering nuances and complexities that broader studies might miss (Yin, 2009). Case studies offer rich contextual insights essential for understanding how and why certain phenomena occur, facilitating the development of new theories (Stake, 1995). By focusing on AdeC in post-war Guatemala, this study leverages these strengths to generate new insights into the role of CS in TJ in fragile contexts.

## 5. Results and analysis

“When you arrived, you invited us out of the darkness.”<sup>6</sup>

### 5.1. Truth-seeking

AdeC’s report on the civil war, *Tejidos que Lleva el Alma*, captured the reality of violence and suffering through the otherwise forsaken perspective of indigenous women. The report spans over four-hundred and fifty pages and fifteen chapters, recounting in impressive detail and depth the experiences of indigenous women during Guatemala's civil war. While the CEH (the official truth report on the civil war) did not include instruments to investigate the crime of sexual violence in war, *Tejidos que Lleva el Alma* found extensive information on the types of sexual violence that took place and how, as well as the how the deep-seated

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<sup>6</sup> Testimony of an anonymous Kaqchiquel focus group member, on AdeC

consequences of such violence manifested themselves in indigenous women (AdeC, 2015). This historical record is easily accessible to and disseminated amongst the public<sup>7</sup>. Additionally, as mandated in the legal framework, the investigation adhered to the standards of anonymity and security of those involved in the truth process, as well as that of psychological care to the victims (AdeC, 2015; Fulchiron et al., 2009). This process of research and reportage represented an effective, independent and impartial investigation. Where AdeC's work was more limited, in contrast, was in the processes relating to exhumation. While the organization provided the relatives of disappeared persons with tools and processes for healing, they did not take up the responsibility of searching for, exhuming, or identifying the disappeared (AdeC, 2015).

This is in line with Backer's (2003) theory of supply and demand<sup>8</sup>, whereby CS operates given a demand for action (in this case, the visible inaction of the state) and its supply of resources (budgetary, technological, administrative, etc.). For the process of investigation, there was high demand, given the insufficient focus of the CEH on the experiences of indigenous women, and high supply, since the resources necessary were relatively modest. In the process of exhumation, in contrast, the resources necessary (including, according to the Special Rapporteur, systems of genetic information and identification), exceeded the supply of AdeC. Nonetheless, with all other criteria having been met, it can be stated that the work of AdeC fulfilled a significant majority of the duties of official truth-seeking.

The notable success of the CS group in the truth-seeking process can be attributed to its inherent embeddedness within the marginalized community it served, which fostered a relationship of trust and mutual understanding and facilitated the effective gathering of honest testimonies and evidence. While the state was viewed as unreliable and oppressive by indigenous survivors, AdeC, as an organization by and for indigenous women, was able to create a dynamic of transparency and receptiveness, allowing for a more complete acknowledgement and documentation of the survivors' experiences (Destrooper & Parmentier, 2018). This finding stresses the importance of the role community-based CSOs play in truth-seeking, particularly for marginalized groups characterized by their disconnection from and distrust in the state.

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<sup>7</sup> See, for example, the *Instituto de Estudios sobre Desarrollo y Cooperación Internacional*, or the International Development Research Centre (IDRC) Digital Library.

<sup>8</sup> See section 2.3 of this paper.

## 5.2. *Justice*

The pillar of justice proved to be a more ambitious target for AdeC in the context of the widespread judicial impunity granted by the Guatemalan state. The organization conceptualized a "women's law" emphasizing the reconstruction of life and the restoration of joy and safety, drawing from the collective experiences of women (AdeC, 2020d). However, this law represented more of a moral framework than an attempt at the formal legal procedures stipulated by the UN. Safeguards against impunity were not adequately implemented, and justice in the formal legal sense could not be achieved through the work of the organization alone. Nonetheless, the organization sought to empower the participant women to hold the state accountable to international standards. For example, the standard regarding safeguards against the abuse of rules of law and other obstacles to prosecution and criminal punishment took the form of public denunciation of rape with the support of AdeC:

[The survivors] hoped that it would become known what had happened to them, that the State would recognize its responsibility and initiate actions that would contribute to their dignity and to the non-repetition of rape in any form. For them this meant justice (AdeC, 2015, p. 164).

In this sense, although AdeC was unable to implement justice measures fully and successfully, it played a vital role in advocacy and the legal empowerment of survivors. The pillar of justice thus represents a case in which, rather than filling the gap left by a fragile state (as was seen in the pillar of truth-seeking), CS can only exert pressure on the state to fulfill its duties<sup>9</sup>.

## 5.3. *Reparations*

The National Reparations Program focused primarily on financial compensation, without addressing the social stigmas related to sexual violence. This led to the revictimization of the survivors, who were accused of representing the sex workers of the state (AdeC, 2015). In this light, AdeC played a crucial role in addressing the gaps left by state-led reparation programs for survivors of sexual violence, developing initiatives more finely attuned to lived experiences reported through the truth-seeking process.

The legal framework for TJ sets out, as the first of four branches of reparations, the restitution of victims to their original situation. This includes liberty, HR, identity, family,

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<sup>9</sup> See section 2.3 of this paper.

citizenship, employment, residence and property. AdeC's efforts at restitution of identity, HR and liberty included workshops and discussions aimed at reframing oppressive narratives through feminist and indigenous lenses. For example:

Through the revaluation of the Mayan cosmovision and particularly of the Mayan calendar, the women reclaimed their ancestors, who are their roots. In this way, they vindicated themselves [...]. The experience of discrimination was transformed and reversed. Discrimination ceased to intimidate them, and they stopped experiencing it as a reinforcement of their inferiority. They validated themselves and legitimized their authority. [...]. Recognizing their Mayan origin [...] filled them with awe, pride, and self-worth. (AdeC, 2015, p. 89)

Through the work of AdeC, women rediscovered skills and capacities and strengthened their ethnic and cultural identity. In the words of Q'eqchi' survivor and participant, "Now I know who I am, where I have put or left my pains, my traumas. [...]. Now I realize that we have rights, that we are not helpless, that we are women who have been victims of so much suffering" (AdeC, 2015, p. 142). The organization also focused on the restitution of family, encouraging and supporting processes of reconnection and dialogue between mothers and children who had become estranged due to experiences of sexual violence and abuse (AdeC, 2015). Restitution of employment, instead, took the form of organized meetings for women to exchange products and sell their harvest (AdeC, 2015).

Rehabilitation, defined as addressing mental and physical harm of survivors, reconstructing lives and providing transformative opportunities, was the core of much of the work of AdeC. The organization implemented a diverse range of activities including breathing techniques, energy-based methods, introspection, visualization, and pain processing, as well as exercises aimed at physical recovery (AdeC, 2015). Women drew and wrote about the pain they suffered, and they were encouraged to recognize the strengths and resources that had allowed them to survive and move forward in the face of such suffering (AdeC, 2015).

However, the organization also faced important limitations in terms of reparations. Compensation was primarily moral rather than material, and satisfaction (symbolic acts such as public apologies or acknowledgements) was fundamentally in the hands of public officials. Restitution of citizenship, residence and property to the victims was also out of reach for AdeC.

As was seen under the branch of truth-seeking, in line with Backer's (2003) theory, the strengths of CS relate to its ability to connect and resonate with the more personal and intimate

needs of the people, while its weaknesses lie in the lack of effective control it has over key financial, administrative, and bureaucratic resources. For this reason, moral reparation, related to healing of the person, proved more attainable by AdeC than those related to material assets and broader social and economic rights. This analysis sheds light on one more crucial point: the perpetrator of the atrocities (in this case, and many others, the state) must partake in the TJ process. Satisfaction requires a form of acknowledgement and apology that cannot be mimicked by CS.

#### *5.4. Memorialization*

Central to the projects of AdeC is the idea that in order to weave new fabric of society, it is necessary to work on collective memory (AdeC, 2015). The organization seeks to transmit to present and future generations inclusive and comprehensive accounts of the past, in innovative and creative ways that aim to restore the dignity of victims, promote healing and reconciliation and prevent future occurrences of violence (AdeC, 2015).

Historical memory was constructed and developed through dialogue and discussion between different and times divergent groups of women (AdeC, 2015). Through trust and tolerance-building activities that underscored common agreement, the organization sought to create safe conditions for debate about the causes and consequences of past HR violations and the attribution of responsibility, representing different experiences of harm (AdeC, 2015). According to a mediator from the organization, "the pain that happened to you, happened to me [...]. We are not looking at whether she is Catholic, evangelical, from party x, but that there is a reason why we women are going to fight... whether she is a gringa, priest, nun, we are all involved" (AdeC, 2015, p. 114). Creating a space for mutual understanding as the first step to the construction of historical memory aligns in full with the standards set forth by the Special Rapporteur.

The organization also adhered to a notable number of the examples of policies on memorialization described in the UN report. AdeC organized four national festivals of memory, from 2008 to 2018, whereby women had the opportunity to contribute, through art, energy connection or spoken word, the memory of the causes and consequences of rape and war in their lives and the strength they have had to heal and transform their communities so that these crimes are not repeated (AdeC, 2020c). AdeC also directed and published eleven documentaries on the experiences of indigenous women during the civil war, published on YouTube and on their official website (AdeC, 2020a). Furthermore, the organization organized

and directed theatrical performances with the objective of creating a participatory artistic tool of memory that would facilitate the sensitive transmission of personal and collective histories to other generations and peoples (AdeC, 2020b). Perhaps most notably, AdeC developed a training program with primary and secondary school teachers and students to approach the history of the war, disarticulating the mentalities and social practices that uphold the structural causes of sexual violence (AdeC, 2012). Seven methodological guides were developed by the organization and disseminated amongst schools in the region, in order to guide an educational historical narrative that is holistic, accurate and inclusive (AdeC, 2015). Considering the emphasis placed by the legal framework for TJ on education policies for memorialization, the work of AdeC in this sector represents a significant step forward for TJ in Guatemala. Indeed, it can be concluded that the organization was largely successful in terms of memorialization.

The success of CS in terms of memorialization relates to a number of explanations. Firstly, as an entity separate from the state (the perpetrators of violence), the organization had little interest in altering historical narratives to, for instance, avoid blame or preserve reputation. This idea is in line with Hamber and Wilson's (2002) argument, on how, in TJ processes, the interests of the state, including its fear of facing accountability, often lead to a subordination of those of the people<sup>10</sup>. Secondly, as a community-based organization by and for indigenous women, direct victim involvement was inherent to the process of memorialization. The experiences memorialized were those of the very people responsible for memorialization, ensuring accuracy and comprehensiveness. In sum, AdeC was well equipped to ensure that the narratives and commemorations were both authentic and meaningful, truly reflecting the victims' needs and perspectives.

##### *5.5. Guarantees of non-recurrence*

Guarantees of non-recurrence, involving mainly questions of institutional reform, was largely out of reach for AdeC. The organization employed certain informal means to ensure non-recurrence, such as empowering the survivors to become agents of change within their communities. For instance, by fostering a willingness among survivors to share their stories and support others, the organization cultivated a network of mutual aid that extended beyond individual experiences. These networks functioned as an informal mechanism against the recurrence of violence:

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<sup>10</sup> See section 2.2 of this paper.

[The survivors] are now willing to talk about this story not only among themselves, but also with women in their communities. They accompany other survivors, even from other communities, and are promoting support networks to help them prevent and eradicate sexual violence. In many cases they have become women with recognized authority to mediate, accompany and propose solutions to problems of violence against women and in other cases. (AdeC, 2015, p. 149)

In this sense, the strength and confidence-building measures taken by AdeC contribute to broader patterns of education and support that helped reinforce a culture of respect for HR. Furthermore, for the organization, non-recurrence was deeply tied to memorialization:

From recovered memory, the creation of conditions of non-repetition is intended, including the strengthening of women's capacities to build and specify alternative justice mechanisms, which place strength, authority and autonomy in themselves for personal and collective reparation and dignity, and the need to be repaired by the State is questioned, which has historically shown its ineffectiveness to promote justice from this vision of women, on the contrary, repeatedly its action is revictimizing, exclusionary and late. (AdeC, 2020e, para. 2)

Here, non-repetition is guaranteed by placing emphasis on the survivors' ability to stand up for themselves and their needs, given an inactive and disengaged state. By making historical memory a dynamic part of community consciousness, AdeC seeks to ensure that the lessons of the past are integrated into the present, discouraging the repetition of violence (AdeC, 2015).

However, in terms of the concrete measures stated in the legal framework as guarantees of non-recurrence, only that relating to education ("education policies should help nurture dialogue, democratic citizenship and respect for human rights" (UNGA, 2023, p. 19)) was, at least to some extent, achieved by the CSO. The pedagogical guides developed and disseminated by AdeC across local primary and secondary schools set as a goal "dialogue, discussion and debate; it is not intended to generate homogenous thinking." (AdeC, 2012, p. 10). Fostering HR education and dialogue amidst younger generations is a key measure for non-recurrence (UNGA, 2023). However, with only this legal standard having been met, it is fair to say that AdeC was relatively unsuccessful at guaranteeing the non-recurrence of violence. Similarly to what was evidenced under the branch of justice, where CS lacks the effective executive, administrative, and judiciary control necessary to implement the legal standards, its role relates

more to exerting pressure on the state to fulfill its duties than directly filling the gap left by the state.

Additionally, guarantees of non-recurrence require a certain extent of reach or influence that a community-based organization such as AdeC might lack. While capacity-building and HR training for the victims is an important step to preventing future occurrences of violence, such work must extend to the broader population, including the perpetrators, in order to be a true guarantee (Thomas & Denton, 2002). Here, an exclusively community-focused approach poses clear limitations, and state-action, that applies more broadly to the entirety of the population, is necessary.

## **6. Conclusions and implications**

This research has identified two key ways in which CS can address a TJ impasse in fragile states. First, CS can step in as the principal TJ provider, directly filling the gaps left by the state. This was seen with regard to truth-seeking (excluding exhumation), memorialization, and psycho-social reparation. Here, community based CSOs can serve an instrumental role as the primary TJ provider, addressing the TJ impasse to a significant extent. Second, CS can address the TJ impasse by exerting pressure on the state to fulfill its duties through advocacy and the empowerment of survivors. This was seen with regard to justice and guarantees of non-recurrence, which required legal and structural action beyond the capacities of CS alone. Here, CS plays a supportive role, relying on the state as the primary TJ provider, and thereby addressing the TJ gap in a less direct manner. These findings are in line with the academic literature on the collaboration between state and local efforts in processes of TJ<sup>11</sup>, underscoring the need for synergy between governmental bodies and community-based organizations to achieve comprehensive TJ.

These findings are pressingly relevant to the policy repertoire for responding to mass atrocities in fragile states. The focus of the international community must be directed towards formal procedures of justice and institutional reform, in accordance with the standards set forth by the Special Rapporteur. Furthermore, the international community must incentivize and assist fragile states in processes of exhumation, the restitution of citizenship, residence and property and the provision of material compensation for victims. Pressure must also be placed on the state to engage in measures of satisfaction, such as acknowledgements of guilt and public apologies.

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<sup>11</sup> See section 2.3 of this paper.



Regarding truth-seeking, memorialization and psycho-social reparation, on the other hand, the international community must begin to recognize CS as a TJ provider in itself, rather than simply a supplementary component to state-led processes. In these fields, CS has revealed itself to be a highly competent actor with the tools to comprehend in intimate detail the lived experiences of victims, and, from there, to operate in close alignment with their needs. This is particularly true when it comes to community-oriented and place-based organizations, where victims themselves are given a platform to become agents of change. In these sectors, the international community must be responsible for providing such CSOs with what Destrooper and Parmentier (2018) call “elite allies”, granting them the resources and platforms necessary to maximize their potential.

A few limitations to the generalizability of these findings must be noted. Firstly, an active or “new” CS is not a given in all fragile states. Authoritarian states or states with a strong military presence may not leave room for CS to operate freely after mass atrocities. In such cases, the TJ gap may reveal itself to be deeper than this study would predict. Further research is recommended to understand the actors that are best suited to operate within such contexts. Secondly, QCA as a methodology is inherently subjective. In order to enhance the credibility and reproducibility of the findings, an inter-coder reliability test might be due to mitigate individual biases and strengthen the overall objectivity of the analysis. It is also worth reiterating that this study represents an attempt at theory-building, not at hypothesis-testing. In order to assess the generalizability of these results, larger N studies are recommended, examining whether similar patterns occur in other paradigmatic TJ contexts. This research sets the stage for an extended research journey, offering initial insights that can inform subsequent studies.

While it was not within the scope of this research to critique the legal framework for TJ itself, its conceptualization of justice was found to be rather narrow, purely judicial, and in misalignment with the expressed justice needs of indigenous women survivors (AdeC, 2015). A critical analysis with the aim of assessing the legal framework in relation to the real needs of the victims would be highly relevant to both theory and practice. Furthermore, this study directed its focus to the strategies employed throughout the TJ process, not on the *outcomes* of said process. Moving forward, a comparative analysis of the outcomes of a state-led CS-led TJ process would provide another pertinent lens through which to view the strengths and weaknesses of the actors involved.

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## Appendix: Codebook

Category	Indicators	Quote
Truth-seeking	<p><b>Effective, independent, and impartial investigations</b></p> <ul style="list-style-type: none"> <li>- Appropriate participation of victims</li> <li>- Includes judicial and non-judicial processes</li> <li>- Ex-officio (should not depend on the procedural initiative of the victims or of their next of kin, nor on their contributing evidence)</li> <li>- Plan to search for, exhume and identify victims               <ul style="list-style-type: none"> <li>○ the use of systems of genetic information</li> <li>○ the establishment of a web page for tracing those persons</li> <li>○ coordination among the relevant governmental and non-governmental authorities and institutions.</li> <li>○ the creation of specialized units to investigate cases of enforced disappearance.</li> <li>○ the elaboration of a protocol for the collection and</li> </ul> </li> </ul>	<p>“Other forms of sexual violence, typical of the State's counterinsurgency policy, established on the basis of women's testimonies and collected in the research <i>Tejidos que Lleva el Alma</i> and in the healing training workshops developed by AdeC, were the following:</p> <ul style="list-style-type: none"> <li>• Subjugation and sexual slavery in military detachments for months and years.</li> <li>• Girls who were taken out of schools to be raped.</li> <li>• Individual and mass sexual violations.</li> <li>• Multiple and continuous sexual violations of women illegally deprived of their liberty, in police or military detention centers, as a method of torture to obtain information.</li> <li>• Violations during the kidnapping of a family member.</li> <li>• Mutilation of the sexual organs of tortured and raped women.</li> <li>• Public exhibition of mutilated female bodies or with signs of rape or impalement, as a strategy of psychological torture to survivors of massacres.</li> <li>• Humiliating and degrading acts, such as forcing women to dance or parade naked in the streets. public and in front of the soldiers who, at the same moment, had killed the rest of his family.</li> <li>• Sexual slavery, holding them in captivity to do housework, in addition to continuous and systematic rape.</li> <li>• Forced pregnancies resulting in children resulting from rape.</li> <li>• Women who were forced to give their sons or daughters up for adoption or who had them taken away without their consent.</li> <li>• Forced joints.”</li> </ul> <p>“With the mutual learnings built between the AdeC Collective and the women survivors, serious consequences caused by this trauma were identified. We can point out the following:</p> <ul style="list-style-type: none"> <li>- Sexual violence remained a secret for more than 25 years, the vast majority of survivors did not talk about it with anyone.</li> <li>- Many mixed feelings. They feel that rape is a punishment for 'something they didn't do right' and feel that 'it was a sin they did', as if the crime involved their will. They feel as if they have</li> </ul>

	<p>identification of bodily remains,</p> <ul style="list-style-type: none"> <li>○ the creation of a psychosocial assistance programme for individuals who are found and their relatives</li> </ul> <p><b>truth commissions and commissions of inquiry</b></p> <ul style="list-style-type: none"> <li>- establish the facts surrounding heinous crimes on massive basis against societies</li> <li>- incorporates the views of the victims and survivors in the decision on how and if inquiry should be conducted</li> <li>- consideration of gender equality and CS representation</li> </ul> <p><b>independence, impartiality, competence, and effectiveness of the commission</b></p> <ul style="list-style-type: none"> <li>- non-judicial truth-seeking</li> <li>- Commission members should be selected in accordance with clear, public criteria, should have expertise in the field of human rights and humanitarian law, and should reflect adequate representation of groups in situations of vulnerability.</li> <li>- Commission members should have special guarantees</li> <li>- The reports and recommendations of commissions should</li> </ul>	<p>'committed a fault against the partner'. Survivors have lived through the rape with guilt and shame, bearing the full repercussions in their lives and in the lives of families and communities.</p> <ul style="list-style-type: none"> <li>- They feel as if they are dirty or soiled. There is a generalized feeling of being dirty, useless and worthless. Carrying with them patriarchal mandates that conceive of 'sexual surrender' to a husband or partner as good, and see virginity as a great value, survivors feel that all their value as women is lost. It affects the dignity of the survivor because she feels that her life has no value. They feel unworthy and sinful. They are ashamed of themselves.</li> <li>- The expropriation of the body is expressed in disinterest and in the belief that they have lost all value as persons, that they have lost their dignity. There is a profound loss of confidence and sense of well-being.</li> <li>- Rape took away women's power, leaving them in a situation where they believe they cannot defend themselves or get ahead in life, even though their own lives are evidence of their tenacity to face this and other adversities that have implied violations of their rights for themselves, their daughters and sons.</li> <li>- In most cases, they are subjected to violent partner relationships due to deep processes of devaluation and made more complex by rape.</li> <li>- Deep sadness similar to mourning or loss of spirit or fright, as the indigenous and popular tradition says.</li> <li>- Fear and a feeling of being tied down. They often lock themselves in and do not want to leave their homes.</li> <li>- Frequent nightmares. Constant recall of the rape event, accompanied by irritability. The memory of what happened "spins around in the head", in other cases she does not remember anything, she only has the discomfort."</li> <li>- Sometimes survivors feel the desire to die or kill themselves.</li> <li>- They are very afraid to start relating to other people, especially men.</li> <li>- She feels that she does not deserve anything and for that reason, many times, she allows abuse from other people, especially if they are men.</li> <li>- Pregnancies as a result of rape. Suffering along with the child the stigma of being a son or daughter as a result of rape.</li> </ul>
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	<p>be given due consideration to ensure effective implementation and expected outcomes, including legislative and other actions to combat impunity.</p> <ul style="list-style-type: none"> <li>- Society should take effective ownership of those recommendations, so as to prevent gaps in the narratives of the past that could be exploited by political actors.</li> </ul> <p><b>Due process and special protection of persons</b></p> <ul style="list-style-type: none"> <li>- Anonymity, security - basic principles of due process</li> <li>- Psychological care for victims</li> </ul> <p><b>Measures regarding historical archives: preservation and access by the public</b></p> <ul style="list-style-type: none"> <li>- Maintain a historical record accessible to the public</li> <li>- Freedom to seek and receive information</li> </ul> <p><b>Dissemination of commission reports</b></p>	<ul style="list-style-type: none"> <li>- Very often the cohabitants of rape survivors increase levels of violence of all kinds, including sexual violence as punishment.</li> <li>- Survivors of rape are often segregated, excluded or rejected. And the family, community and society do not provide or facilitate elements or resources to support them in coping with the consequences and effects of rape.</li> <li>- Victims and survivors were and continue to be stigmatized by their families, communities and society, blaming them for rape without making it visible that rape is a crime committed against women.</li> <li>- The pain that many of their sons and daughters witnessed the rape and have never addressed it with them.</li> <li>- As can be seen, through guilt and shame, women survivors were induced to endure and remain silent about the violence perpetrated against them. Guilt and shame are installed in the patriarchal culture, which is why they served as mechanisms to maintain their subjugation. And they are internalized social mechanisms that function as self-censorship and self-punishment to ensure that everyone fulfills the role that society has assigned to them. Women who stop feeling shame and guilt are labeled as 'bad, shameless, prostituted women'. Women blame themselves and each other when they break the patterns. Guilt and shame are central to sustaining patriarchy in women's bodies/lives, i.e., their oppression, and force women who break out of imposed roles to return to their subordinate place. In patriarchal societies, the mandates for women to be ashamed of themselves constitute a long chain:</li> <li>- Shame of: <ul style="list-style-type: none"> <li>o Being born female</li> <li>o Feeling less because you are a woman</li> <li>o Of being women, weak, emotional, irrational, irrational, non-thinking....</li> <li>o Of being indigenous women</li> <li>o Of their bodies, of their genitals, qualified as: ugly, dirty, stinking, provocative, sinful....</li> <li>o Speak, express ideas and opinions freely for fear of being labeled as foolish.</li> <li>o Of shouting, of laughing</li> <li>o To feel pleasure and sexuality</li> <li>o To walk the streets and talk freely with whomever he pleases</li> </ul> </li> </ul>
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		<p style="text-align: center;">○ Many others”</p> <p>“Overcoming and transforming guilt and shame, then, becomes an emancipatory challenge, since they are imbricated in the chains and mechanisms of subjugation and loss of women's power and value. In the research Tejidos que Lleva el Alma, there are related findings that we quote verbatim below: "An important finding of this research is that, paradoxically, the context of war increases the social suspicion of consent around women who were raped. Rape is seen as an exchange that women would have chosen in order to stay alive. The seriousness of the crime of rape as a strategy of mass destruction of women, and through them, of their communities and culture, is thus evaded. Rape is justified as a decision women's own, aimed at saving themselves. It is considered as a barter to be able to survive through the use of their bodies. This social argument obviously ignores the war context in which the rapes took place, and the number of women who were massacred after having been raped. The fact that they had no other choice is hidden. Thus, apart from the social blame for having "consented" to it, survivors of rape in wars have to bear the guilt of having survived in conditions that are considered morally sanctionable. Another important finding derived from the women's discourses is that these beliefs are not only "others" ideas about rape. They are reference schemes that are also shared by women who were raped, and are embedded in their worldview.”</p> <p>“The first experience of public denunciation was carried out by most of the participating women. They decided on their own to file a complaint with the National Reparations Program. They hoped that it would become known what had happened to them, that the State would recognize its responsibility and initiate actions that would contribute to their dignity and to the non-repetition of rape in any form. For them this meant justice. The response found in the PNR was one of obstacles, however, they spoke out when they were revictimized and demanded dignified treatment, a position that was supported by the AdeC team and by some and a few PNR workers. Another experience of public denunciation was carried out during the First Women and War Festival. I Survived, I am Here and I am Alive. This Festival was held in November 2008 in Huehuetenango. On that occasion, women survivors from Huehuetenango, Chimaltenango and Alta Verapaz/Izabal publicly denounced the rape to which they were subjected.”</p>
Justice	<b>Safeguards against the abuse of rules of law and</b>	“This strategy works through the processes and actions that really mean reparation and dignity for women survivors of

	<p><b>other obstacles to prosecution and criminal punishment</b></p> <ul style="list-style-type: none"> <li>- No statutory limitations to war crimes and crimes against humanity</li> <li>- No invoking the rule of non bis idem</li> <li>- No amnesty provisions</li> <li>- Pardons only in cases of terminal illness where death is imminent</li> <li>- Due obedience is not grounds for exemption of responsibility, but the superior bears responsibility for the subordinate's actions, if the superior had knowledge of, or acquiesced in, the subordinate's actions.</li> <li>- Special sanctions of a restorative nature, such as noncustodial sentences, cannot replace criminal sanctions and may violate a state's obligations if they are disproportionate to the gravity of the crime.</li> <li>- persons who committed serious crimes should not benefit from special protections such as the right to diplomatic asylum or the principle of non-extradition, except in cases where their life or physical or mental integrity could be in serious danger.</li> </ul> <p><b>Mandatory, appropriate criminal sanctions</b></p> <ul style="list-style-type: none"> <li>- sanctions in the form of a penalty pursuant to a</li> </ul>	<p>rape and other violence. In this sense, through women's networks at the community level, the containment, accompaniment and defense between women is intended, as well as public actions at the community, municipal and national level that allow survivors to affirm their truth and dignity. This proposal for justice is named by the women's law. In the words of Hermencia López, young mam, "women's law is above all a tribute to women whose lives, freedoms, dignities and bodies were brutally taken away by rape, wars and genocides; who, despite living in societies and cultures that impose cruel humiliation and silencing over these atrocities, have not allowed themselves to be annihilated. Because they have found in themselves and in their ancestors countless resources and immense powers that allowed them to value themselves as women, weave networks of support, mutual recognition and love with others, and began to denounce what they lived as unfair, breaking with the destiny of submission and slavery that had been designed for them. Because they chose love and solidarity over the hatred generated by the suffering experienced. Because they chose freedom over the same tiring drama of oppression. Because they bet on life over the death of their soul. Because I have been taught that together it is possible to rebuild life, safety on the skin and joy after having lived the horror. Because they have revealed to me the meaning of my existence. Because they are a message of hope and a song to life," as Amandine Fulchiron puts it."</p> <p>"Especially for Q'eqchi' women, justice meant jail or punishment for the guilty. direct or intellectual, especially for the governments of that time, between 1980 and 1983. For all of them, the meaning of justice was broader, for some it did not necessarily involve formal justice, but was related to measures that would improve their living conditions, expanding opportunities and access to education, health, better economic conditions, access to land, comprehensive redress and more. Justice meant that society should learn about rape and the need to break the silence about rape and all forms of sexual violence suffered. That society commit itself to ensure that there will never again be sexual violence, neither in war, nor in the continuity of the lives of women and of all people. All agreed to place emphasis on the State, governments and society to ensure that rape is not repeated, neither in war, nor in times of peace, nor in the life of any woman. Most of them agreed that the State should recognize its responsibility in sexual violence and rape, especially that it should declare sexual violence as a crime against humanity, as torture. That real measures be taken to</p>
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	<p>final judgment handed down under criminal law</p> <ul style="list-style-type: none"> <li>- dispensations or sentence remissions should be limited</li> </ul>	<p>eradicate rape, sexual violence and all forms of violence. That war and sexual violence would NEVER be repeated. For most of the women, full compensation was considered very important, and for this reason they were accompanied in the denunciation and demand for financial compensation, making efforts to avoid further re-victimization. Most of the 62 survivors were financially compensated. However, the compensation in the conditions in which it was given did not mean much progress in terms of the damage caused. It was taken as a minimal recognition by the State of its responsibility for what happened to them. Let the new generations know what happened to them so that it does not happen again. For the survivors it was fundamental to "sow justice" and one of the relevant aspects was to understand the relationship between racism and genocide, in order to completely deconstruct them in society. For them it was very difficult to understand "why did they treat us like animals, why did they treat us with so much hatred? Why did they treat us with so much hatred?" They stressed the need to have access to land, to recover their property lost and expropriated during the war. That their sons and daughters, especially those who were the result of rape, have access to land since they were not recognized by the families to inherit it."</p>
<p>Reparations</p>	<p><b>Elements of reparation</b></p> <ul style="list-style-type: none"> <li>- Restitution <ul style="list-style-type: none"> <li>o restoring victim to their original situation: liberty, human rights, identity, family, citizenship, employment, residence and property</li> </ul> </li> <li>- compensation: <ul style="list-style-type: none"> <li>o material and moral, proportional to loss</li> </ul> </li> <li>- rehabilitation <ul style="list-style-type: none"> <li>o address mental and physical harm, reconstruct lives and provide</li> </ul> </li> </ul>	<p>“We can say that we were able to generate the conditions for diverse personal and collective transformations, as well as create spaces centered on the women survivors. At present, as we will see below, we perceive very positive changes in the women survivors, aimed at empowering their lives and "their desire to live without violence and to do things they always dreamed of doing”</p> <p>“Through the revaluation of the Mayan cosmovision and particularly of the Mayan calendar, the women reclaimed their ancestors, who are their roots. In this way, they vindicated themselves, which contributed to their positioning through the valorization of themselves and their origins. The experience of discrimination was transformed and reversed. Discrimination ceased to intimidate them, and they stopped experiencing it as a reinforcement of their inferiority. They validated themselves and legitimized their authority. Discrimination was transformed into an ignorance, mistake and abuse of those who discriminate. Recognizing their Mayan origin linked to a great civilization that left them a cultural heritage such as the Mayan cosmovision, filled them with awe, pride and self-worth.”</p>

	<p>transformative opportunities</p> <ul style="list-style-type: none"> <li>- satisfaction <ul style="list-style-type: none"> <li>o symbolic actions to make sense of painful events of the past</li> </ul> </li> </ul> <p><b>Domestic reparation programs</b></p> <ul style="list-style-type: none"> <li>- national reparation programs that are comprehensive and include all five forms of reparation, underpinned by solid framework and adequate resource allocation</li> <li>- special measures for special needs of victims of sexual violence, refugees and IDPs</li> </ul> <p><b>gender perspective</b></p> <ul style="list-style-type: none"> <li>- account for persons subjected to structural or systemic discrimination, such as women, girls and lesbian, gay, bisexual, transgender and intersex persons, suffer differentiated and disproportionate effects on their rights.</li> <li>- violations should be assessed through a gender lens and measures having a differential impact between the sexes and in relation to lesbian, gay, bisexual, transgender and intersex persons should be identified.</li> <li>- Reparations should not reproduce patterns of gender discrimination.</li> </ul>	<p>“In the healing training process, the transformation of oppressions and the revaluation of the liberating aspects of the indigenous culture that reinforced their autonomy as women and as peoples were permanently sought. From these two aspects, the women rediscovered skills and capacities and strengthened their ethnic and cultural identity.”</p> <p>“By working on spirituality from the healing training, we sought to re-signify the body or what is the same, to re-signify women's lives, building freedom, joy, pleasure, self-esteem, pride in being a woman, contact and relationship with nature and with all that exists, as well as the vindication of the body as another expression of the spiritual. With this perspective we carry out activities of energetic integration, from the awakening of the body with movements, dances, exercises, massages and messages, motivating the meanings written in the previous paragraphs.”</p> <p>“The healing training was not conceived as traditional psychotherapy either. The healing training process was a trajectory of co-responsibility, from the political alliance, and of accompaniment in mutual awakening, in a spiral. In this way, healing was also built from our diversity, with creativity and innovation, based on the feminist experiences of Mayan and mestizo women, trained in a variety of scientific disciplines, in which alternative psychology was strong. Breathing techniques, energetic techniques, techniques of introspection, visualization and pain processing, techniques for the recovery of the body. Techniques to work with the body and sexuality”</p> <p>“At present, during the meetings, they sometimes exchange their products, taking advantage of the opportunity to get together and sell what they harvest. Another of the alternatives to face poverty consisted of finding new and varied sources of income, as well as their participation in peasant organizations. Some of them participate in productive projects offered by other organizations in their communities. For other women, the experiences in productive projects have not been beneficial according to what they expressed.”</p> <p>“The main reasons for energetic integration are: to recover life, to connect with the here and now, without denying the past but living in the present; to recover contact with the earth as our Mother, to connect with the integrality of what we are, to connect with self-love and love for others. Another reason, often implicit, consisted in the need to</p>
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	<ul style="list-style-type: none"> <li>- Measures should consider gender and its intersectionality; the complexity of the damage suffered; the potential stigmatizing effect of crimes and reparations; and the potential transformative effect of certain measures on the structure of gender exclusion.</li> <li>- Concerted efforts should be made to ensure that women and minority groups participate in public consultations.</li> </ul> <p><b>Participation and information</b></p> <ul style="list-style-type: none"> <li>- Victims and CS must be meaningfully involved in the reparation schemes</li> <li>- Effective outreach, information and access</li> </ul>	<p>recover the ancestral memory and with it the possibility of being in a different way, to have other referents for the construction of a new and better life, to break with linear thinking, with androcentrism, with patriarchal and racist relations.”</p> <p>“With the pains that surfaced, healing work was done, which consisted of the application of various techniques, depending on the situation, all with the aim of releasing the feelings. For example, we tried to identify in which chakra or part of the body the pain was felt and we stimulated breathing practices, especially concentrating on the exhalation to release the pain by blowing into the earth, into a candle or inflating a balloon, sending it to the earth for its transformation. Other times we encouraged drawing or writing about the sadness or pain and then burning or throwing it away, with exercises that included visualization and movement to leave it behind or somewhere else where it could be transformed into life.”</p> <p>“In each session they were motivated to recognize the strengths and resources that had allowed them to survive and move forward in the face of so much suffering and pain, however, it was quite some time later when they began to be surprised by their own qualities, to value them and vindicate them. By taking this step, the process of self-affirmation and healing of these qualities became evident.”</p> <p>“For many girls and young people from rural areas, study is a dream that they want to realize. In Guatemala, studying is a privilege and not a right as in other countries and for Mayan girls and young women this is a sentence of exclusion, poverty and sexual violence. To be part of this dream, we opened a line of action to contribute to the studies of the girls and young people who are part of this organization. This is how we have shaped the "Connect to my dream" scholarship program since 2013 and we have managed to make more girls and young people fulfill their dream every year.”</p> <p>“During the exercises some survivors resolved the anguish of the disappearance and not having been able to bury their dead by communicating with them during self-hypnosis or meditations. For example, a woman in one of these exercises expressed, "she told me (referring to her husband) that he is happy, that he is resting, that he is not suffering because we did not bury him.””</p>
Memorialization	<b>Purpose and impact of memorialization</b>	<p>“Historical memory was constructed by integrating personal histories with collective and ancestral histories. This process allowed us to learn that rape was an</p>

	<ul style="list-style-type: none"> <li>- Transmitting to present and future generations comprehensive accounts of the past</li> <li>- a view to informing society, restoring the dignity of victims, promoting healing and reconciliation, and preventing the recurrence of violations</li> <li>- create the conditions for a debate within society about the causes and consequences of past human rights violations and the attribution of responsibility, thus allowing society to live more peacefully with the legacy of past divisions without falling prey to a dangerous relativism</li> </ul> <p><b>Public policies on memorialization</b></p> <ul style="list-style-type: none"> <li>- measures relating to public spaces – parks, squares, memorials</li> <li>- artistic expression</li> <li>- significant dates</li> <li>- memory policies on formal and informal education</li> <li>- policies to dignify the memory of the victims (victim-centered) – voices of victims play the key role in the construction of memory</li> <li>- gender-perspective</li> <li>- effective consultation with all victims and affected actors</li> <li>- Memory policies should be able to represent</li> </ul>	<p>aggression committed mostly by soldiers, civilian self-defense patrols and military commissioners, as a counterinsurgency strategy and against Mayan women, as part of a genocidal, ethnocidal and feminicidal policy. It also allowed us to understand in depth, as far as possible, the racist origins of perverse hatreds and the indescribable and unspeakable viciousness in the situations of terror, pain and suffering caused. All of which cannot be described in words alone.”</p> <p>“Resignifying history and constructing historical memory from women's perspective also had the impact of beginning to break with the stigma of sexual violence that fell completely on women survivors, and that was also in their whole bodies, living and surviving it in many different ways, traditionally in silence. Women were stigmatized as "bad women who let themselves be raped by the army". In the communities they were named as "the women of the armies", and as the "bad women who take husbands". First the stigmatization itself was broken and, subsequently, the survivors had the strength to talk to their relatives, community and society, with the latter in public events held by Chuj, Mam, Q'eqchi' and Kaqchiquel survivors, especially in the framework of the Festivals of Memory.”</p> <p>“Despite the differences between the women's groups, the thematic axes were the same: violence and sexual violation, body and sexuality, justice and internalization of oppressions, historical memory, war traumas, ways to work on traumas, the resources we have to heal. We have divided the experience into two periods; the first, from 2005 to 2008 and the second, from 2009 to 2014. In the first period we worked with Chuj, Mam, Q'eqchi' and Kaqchiquel women survivors. In the second period we also worked with Ixil and Quiché women leaders. In 2009 we also began a training process with basic education teachers from Peten, Chimaltenango, Quiché and Huehuetenango.”</p> <p>“In order to weave the new fabric, it is necessary to work on collective memory. Hence the importance of addressing it and changing the bases of the dominant culture in our lives, in the lives of others and in society as a whole. It is not only a change of discourse: it is to change with the whole body the interpretation and experience of memory. This is the way in which working with memory can transform and create new referents that allow us to find a new meaning to what happened, outside the imposed guilt, from their own words and experiences.</p>
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	<p>different experiences of harm endured by victims, promote tolerance and mutual understanding among societal groups, and foster good collaboration with social actors</p> <ul style="list-style-type: none"> <li>- Memorialization processes should be based on accurate accounts of past violations, especially those established by truth commissions and national or international courts and the testimonies of victims.</li> <li>- should not incur in vengeful memorialization, the manipulation of memory for political gain, or the instrumentalization of past events to justify and incite new acts of violence.</li> <li>- the acts of ideologues and spreaders of hateful and discriminatory speech must be regulated, as recognized by international courts and mechanisms.</li> <li>- appropriate resources must be allocated to ensure that memorial sites are erected, well maintained, protected from vandalization and decay, and accessible to the public.</li> <li>- Archives relating to human rights violation should be accessible</li> </ul>	<p>“We developed a training program with high school teachers and students to approach the history of the war and to disarticulate the mentalities and social practices that support the sexual violation. Within this framework, 7 methodological guides were developed.”</p> <p>“This strategy refers to the recovery of Historical Memory from women and feminists who have historically proposed, built and co-created various ways to free themselves from sexual violence, and in particular from the recovery of sexual rape survivors during the war experienced in the country, since their voices and looks provide the possibility of rethinking Guatemala as a society where war and rape are never repeated, and where it is possible to build new relationships based on freedom, justice and respect for women, humanity and everything that exists. That is why the Collective and the survivors talk about memory from the strength, joy and celebration of life and the possibilities of reconstruction individually and collectively. From this recovered memory, the creation of conditions of non-repetition is intended, including the strengthening of women's capacities to build and specify alternative justice mechanisms, which place strength, authority and autonomy in themselves for personal and collective reparation and dignity, and the need to be repaired by the State is questioned, which has historically shown its ineffectiveness to promote justice from this vision of women, on the contrary, repeatedly its action is revictimizing, exclusionary and late.”</p> <p>“Stage laboratory for the healing of women under the direction of Paula Acevedo: In 2014, the proposed Scenic Laboratory "Fabrics that carries the Soul" was developed in Huehuetenango, as a theatrical research process based on physical, narrative and sound experimentation with women survivors of rape taking as a guide documents from the Collective Actors of Change such as the research "Fabrics that carries the Soul" and others. The objective was to create participatory with the surviving leaders an artistic tool of memory that would facilitate the sensitive transmission of their personal and collective history to other generations and peoples, which allowed the systematization and synthesis of the process that the participants have taken with the collective in terms of recognition, liberation and re-significance of their history as Mayan women. From this laboratory, two plays of the chuj and mam networks emerge that have been presented in different spaces, moving consciousness and transforming imaginary with their protagonism and symbolic richness. The third work was carried out in an</p>
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	<p><b>Jurisprudence and state practice</b></p> <ul style="list-style-type: none"> <li>- Museums</li> <li>- Documentaries</li> <li>- Memorials with high-ranking officials</li> <li>- Education of history of human rights violations</li> <li>- Renaming of public spaces</li> <li>- Plaques</li> <li>- Installations</li> <li>- Days</li> <li>- Guided tours</li> <li>- Names of buildings and public spaces</li> </ul> <p><b>Interrelations between memorialization and other pillars of TJ</b></p> <ul style="list-style-type: none"> <li>- Memory processes complement, but cannot replace, mechanisms for truth, justice, reparation and guarantees of non-recurrence.</li> <li>- Memory processes must comprehensively and accurately address the truth about past violations and cannot, under any circumstances, attempt to deny, relativize or manipulate the truth about violations that have been verified by truth commissions or legal proceedings.</li> <li>- Regarding justice, memory mechanisms should never serve as a pretext for granting de jure or de facto impunity to the perpetrators of gross violations of human rights or serious</li> </ul>	<p>alliance with Ixil and K'iche' women, who participated in a training-healing process. He invited to be part of a creation process, together with Paula Acevedo. Like the other two works, it has been presented in different places and festivals.”</p>
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	<p>violations of international humanitarian law.</p> <ul style="list-style-type: none"> <li>- judgments handed down by an international or hybrid criminal court are not in themselves sufficient to change perceptions within societies.</li> </ul>	
<p>Guarantees of non-recurrence</p>	<p><b>Reform or adoption of laws in accordance with international standards</b></p> <ul style="list-style-type: none"> <li>- Must codify serious human rights violations or take the measures necessary to ratify a specific convention.</li> </ul> <p><b>Institutional reform and enforcement of rules of conduct to strengthen a culture of respect for human rights</b></p> <ul style="list-style-type: none"> <li>- Situations in which certain groups receive the backing of the authorities while others are marginalized must be avoided, as this could reopen past wounds, intensify hatred and incite new acts of violence.</li> <li>- public officials and employees who are personally responsible for gross violations of human rights, in particular those involved in military, security, police, intelligence and judicial sectors, do not continue to serve in State institutions and are suspended from official duties during</li> </ul>	<p>“We developed a training program with high school teachers and students to approach the history of the war and to disarticulate the mentalities and social practices that support the sexual violation. Within this framework, 7 methodological guides were developed.”</p> <p>“They are now willing to talk about this story not only among themselves, but also with women in their communities. They accompany other survivors, even from other communities, and are promoting support networks to help them prevent and eradicate sexual violence. In many cases they have become women with recognized authority to mediate, accompany and propose solutions to problems of violence against women and in other cases. For the first time, women are proposing other forms of conflict resolution based on their needs and interests, which is a new learning experience for them and for the communities.”</p> <p>“The women are convinced of the need to know what happened to them in the war, because they do not want it to happen again, neither in their lives, nor in the lives of their daughters, granddaughters or any other woman. For many of the survivors, starting to talk to others has been very important, as a vindication so that it will not happen again and so that they understand how painful rape and war are. They want it to be a lesson for society and a mechanism of dignity for them. They also see it as a way for the government or governments to recognize their responsibility in everything they experienced. Breaking the silence was for all the women a great weight off their shoulders.”</p> <p>“The first experience of public denunciation was carried out by most of the participating women. They decided on their own to file a complaint with the National Reparations Program. They hoped that it would become known what had happened to them, that the State would recognize its responsibility and initiate actions that would 16 to</p>

	<p>the criminal or disciplinary proceedings.</p> <ul style="list-style-type: none"> <li>- reform of the justice, security and armed forces sectors by adopting fair and transparent vetting processes.</li> <li>- Education policies should help nurture dialogue, democratic citizenship and respect for human rights</li> <li>- adopt policies in the fields of culture and the media aimed at promoting mutual understanding, cultural diversity and coexistence.</li> </ul> <p><b>Inclusive, non-discriminatory participation of victims, and civilian oversight of public institutions</b></p> <ul style="list-style-type: none"> <li>- Institutional reforms aimed at preventing a recurrence of violations should be developed through a process of broad public consultations, including the participation of victims and other sectors of CS.</li> <li>- Such measures of institutional and personnel reform need to have a firm grounding in the views of the population and specifically of the victims, who should be actively involved in the related processes</li> </ul>	<p>contribute to their dignity and to the non-repetition of rape in any form. For them this meant justice. The response found in the PNR was one of obstacles, however, they spoke out when they were revictimized and demanded dignified treatment, a position that was supported by the AdeC team and by some and a few PNR workers. We have already said that the PNR compensated them economically for the rape without any public action to break the stigma, which caused a new period of re-victimization, because they were accused in many of their communities of "receiving money for something they sought" "for their asses" or "for being a woman of the armies". The atmosphere of criticism was reawakened. Although the women went through difficult times, they overcame and confronted it.”</p>
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	<ul style="list-style-type: none"> <li>- should establish effective institutions of civilian control, including legislative oversight bodies.</li> <li>- Civil complaint procedures should be established, and their effective operation assured.</li> <li>- It is necessary to undertake all other measures necessary to assure the independent, impartial and effective operation of courts in accordance with international standards, so that all civilian and military proceedings abide by the standards of due process, fairness and impartiality.</li> </ul> <p><b>Lawful limitations to freedom of speech</b></p> <ul style="list-style-type: none"> <li>- regulate the acts of ideologues and spreaders of hateful and discriminatory speech</li> <li>- work against and punish discriminatory speech</li> </ul>	
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