



**SPEAK AND BE HEARD:  
APWLD GUIDE TO WOMEN'S TRIBUNALS**

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<sup>1</sup> Grace Harbour works with the United Nations Mechanism for International Criminal Tribunals. This publication represents the views of APWLD contributing members and the author only.

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## FOREWORD

The idea of producing a Guide to a Women's Tribunal began when APWLD gave its support to the Women's Rehabilitation Center (WOREC)<sup>1</sup> in Nepal that mounted the Nepal Sexual Violence Tribunal in 2015.<sup>2</sup> By the close of the proceedings the National Human Rights Commissioner of Nepal pledged to begin its own investigations as the Tribunal succeeded in presenting sufficient evidence of wartime sexual violence.

This success prompted the Organising Committee of APWLD's Grounding the Global programme to initiate the writing of this Guide. Encouraging too was the fact that several members of APWLD have actively participated in women's and people's tribunals. We knew we had the knowledge base to use their experience to shape the Guide.

Grace Harbour was commissioned to conduct the research and interviews from November 2015 to February 2016. The draft publication went through the review of APWLD's governance body (Regional Council) in April 2016. During the discussion, Regional Council members raised several areas that could have been further developed in this publication. First, the Guide's discussion of issues related to the media could have included a media strategy aiming to counter negative press. Second, the guidance on ensuring adequate security would have benefited from examples of the security threats other women's tribunals have faced and how they were handled. Finally, the Guide could have discussed the possibility of incorporating a complaint mechanism for the witnesses and/or the survivors who had consented to participate in a Tribunal but were dissatisfied with the process.

Although these are valid points, we decided, in the interest of time, to go ahead and publish this Guide. APWLD hopes to continue working on women's tribunals where Regional Council members' suggestions will be addressed and explore other people's tribunals experiences in the future. For now, APWLD believes that this Guide will be a useful tool for the women's movement to raise the issues of women's human rights violations, to seek justice and reparation and to make women's voices heard.

*Ivy Josiah and Heisoo Shin*  
*Focal Points of Grounding the Global International Organising Committee*

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1 <http://www.worecnepal.org/>

2 See APWLD's press release: <http://apwld.org/womens-tribunal-in-nepal-hears-from-survivors-of-sexual-violence-in-armed-conflict/>

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### **Ivy N. Josiah (interviewed for this Guide on November 3, 2015)**

*Ivy N. Josiah is the former Executive Director of Women's Aid Organisation in Malaysia. A women's rights activist for over twenty years, she is also active in the civil and political rights movement in Malaysia, particularly in the electoral reform movement called "Bersih" or "Clean". Ms. Josiah played a leading role in mounting a People's Tribunal soon after Malaysia's 13<sup>th</sup> general election to uncover details of alleged electoral fraud. She presently sits on the Steering Committee of two international organisations, namely Asia Pacific Forum on Women Law and Development (APWLD) and Global Bersih. In addition, she is an Executive Committee member in two human rights organisations in Malaysia.*

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### **Beini Ye (interviewed for this Guide on November 19, 2015 and April 20, 2016)**

*A German-trained lawyer, from 2008 to 2014 Beini Ye worked as GIZ Civil Peace Service Advisor with Cambodian Defenders Project (CDP) to support victims of the Khmer Rouge regime. She supported CDP in holding three Women's Hearings in Cambodia for survivors of sexual violence committed by the Khmer Rouge: in December 2011, October 2012, and September 2013. The 2012 Women's Hearing included testimonies from survivors of conflict-related sexual violence from Nepal, Bangladesh and Timor Leste. From 2012 onwards, she has been representing victims of forced marriages at the Extraordinary Chambers in the Courts of Cambodia as international Civil Party Lawyer. She joined REDRESS in 2014 as Post-Conflict Legal Advisor with a focus on litigation and advocacy in the area of sexual violence in conflict.*

### **Cristina Palabay (interviewed for this Guide on November 29, 2015)**

*Cristina Palabay has been a political activist since her student days at the University of the Philippines. She was a founder and later the Secretary General of the Gabriela Women's Party. Ms. Palabay is currently the Secretary General of KARAPATAN or the Alliance for the Advancement of People's Rights-Philippines, a national alliance of human rights organisations, desks and individuals working for the promotion and*



*protection of human rights in the Philippines. Ms. Palabay is also a convener of several advocacy platforms focused on women's rights, human rights, and ending impunity. In addition, she is a member of the organising committee on international mechanisms of APWLD and a board member of Kapederasyon, an LGBT organisation in the Philippines. She was involved in organising the Asia Pacific Women's Tribunal on the World Trade Organisation held in Hong Kong on December 14-15, 2005; the International People's Tribunal on the Philippines in Manila, Philippines on August 19, 2005; and the Permanent People's Tribunal on the Philippines in The Hague, Netherlands on March 21-25, 2007. As Secretary General of KARAPATAN, Ms. Palabay led the complainants and the organising committee of the International People's Tribunal on the Philippines held in Washington D.C., US on July 16-18, 2015.*

**Dr. Renu Adhikari Rajbhandari (interviewed for this Guide on December 2, 2015)**

*Dr. Renu Adhikari Rajbhandari is the Founder and Chairperson of Women's Rehabilitation Centre (WOREC Nepal), as well as the Chairperson of the National Alliance of Women Human Rights Defenders (NAWHRD). A medical doctor and public health expert by training, she has been deeply involved in human rights and women's rights issues in Nepal for over twenty-five years. Dr. Rajbhandari leads WOREC's field-based Programming in the organisation's main Programme areas: Violence Against Women; Economic, Social and Cultural Rights; and Human Rights and Justice. She is also coordinating a national anti-rape campaign focusing on justice to survivors of sexual violence during conflict, in particular during the twelve years of violent political struggle in Nepal. Dr. Rajbhandari organised the Women's Tribunal on Sexual Violence on Women during Conflict in Kathmandu, Nepal on December 8, 2014. In addition, Dr. Rajbhandari has been an advisor for the Gender Based Violence Unit at the Office of the Prime Minister of Nepal, and was the first National Rapporteur against Trafficking. In July 2015, she was appointed as a member of the Board of Trustees of the UN Voluntary Fund on Contemporary Forms of Slavery.*

**Staša Zajović (interviewed for this Guide on December 9, 2015 and April 18, 2016)**

*Staša Zajović has been a feminist and anti-war activist in Belgrade, Serbia for over thirty years. She co-founded a number of organisations, including the SOS Hotline for Women and Children Victims of Violence, Belgrade Women's Lobby, Women's Parliament Belgrade, and the Civic Resistance Movement. In 1991 she co-founded Women in Black, Belgrade, and she has since organised numerous antiwar and feminist*

*demonstrations, campaigns, performances, peace marches and other Women in Black street actions against war, war crimes, sexism, nationalism, militarism, and fundamentalism. From 1993 to 1996 she worked with refugees in several refugee camps. She actively participates in numerous transnational, regional, and domestic networks advocating peace and antimilitarism, including the Women in Black Network Serbia's Women's Peace Network. Ms. Zajović was a principle organiser of "The Women's Court: a Feminist Approach to Justice", a women's tribunal convened in Sarajevo, Bosnia-Herzegovina, in May 2015. The Women's Court was the culmination of an initiative that she helped to launch late in 2010 comprising organisations from all former Yugoslavia successor states.*

**Dr. Heisoo Shin (interviewed for this Guide on December 22, 2015 and April 6, 2016)**

*Trained as a sociologist, Dr. Heisoo Shin has been working for forty years in the area of human rights, in particular women's human rights. During the 1990s, as the president of the Korea Women's Hotline, Dr. Shin led the legislation movements on sexual violence and domestic violence in Korea. At the same time, representing the Korean Council for the Women Drafted for Military Sexual Slavery by Japan, she raised the so-called 'comfort women' issue at the United Nations and other international fora, demanding Japan's state accountability and legal reparations. She was one of the key organisers of the Women's International War Crimes Tribunal for the Trial of Japan's Military Sexual Slavery held in Tokyo, Japan on December 8-12, 2000. Dr. Shin served as a member of the UN Committee on the Elimination of Discrimination against Women for 2001-2008, and was a commissioner of the National Human Rights Commission in Korea for 2005-2008. Currently, she is a visiting professor at the Graduate School of International Studies at Ewha Womans University in Seoul. She is the representative of the Korea Center for United Nations Human Rights Policy (KOCUN) and has been a member of the UN Committee on Economic, Social and Cultural Rights since 2011. Among other tribunals, Dr. Shin also functioned as a judge for the International Tribunal on Crimes against Women in Burma, held in March 2010 in New York, US, and for the Women's Hearing on Sexual Violence under the Khmer Rouge Regime in May 2011 in Phnom Penh, Cambodia.*

# Introduction

A women’s tribunal is a tribunal of conscience created by and for women to draw attention to critical issues affecting women. It is a space where women can speak out about injustices they have experienced, and be heard. Though not a formal judicial process, a women’s tribunal is a powerful tool for seeking the truth, acknowledging and condemning human rights violations, raising public awareness, fostering solidarity, challenging oppressive paradigms and advocating for change.

This Guide is a resource designed for women’s rights activists around the world seeking to engage with or establish women’s tribunals, whether as organisers, participants, supporters or observers. Although the original motivation for producing this Guide was to provide guidance to APWLD’s members—and many of the examples are thus drawn from the Asia Pacific region—the Guide has universal relevance. It begins in Section 1 by providing a brief history of women’s tribunals. Section 2 sets out the range of objectives that a women’s tribunal can fulfill, including its limitations. Section 3 then discusses the strategic decisions that must be made in order for the women’s tribunal to achieve its goals. Section 4 offers guidance for ensuring the dignity and safety of witnesses, and Section 5 explains the role of judges or jurors in women’s tribunals, including producing a verdict. Section 6 discusses the practical and logistical considerations involved in organising a women’s tribunal. Finally, Section 7 gives tips for building on the momentum after the women’s tribunal is over. Appendix A contains a brief description of each of the women’s tribunals discussed in this Guide. The remaining Appendices provide samples of materials useful for organising a women’s tribunal, which can be tailored to a particular tribunal’s needs.

For ease of reference, this Guide uses the term “women’s tribunal” rather than “women’s court” or “women’s hearing”. There is no strict definition for any of these terms, but some may perceive slightly different connotations. Tribunals may generally be considered more formal and court-like. Hearings may connote a less structured event.<sup>1</sup> The term “court” has been associated with the Courts of Women movement to allow “more space for testifying, healing of traumas and regeneration of relationships”, with less emphasis on legal frameworks.<sup>2</sup> The information in the Guide is intended to assist in organising women’s tribunals in all of their forms.

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1 Women Testify, p.6.  
2 Zajović, pp.25-26.



## Section 1:

### Origins of the women's tribunal

Women's tribunals have grown alongside the tradition of "people's tribunals", which dates back to 1967 when British philosopher Bertrand Russell first convened the Russell Tribunal to address atrocities committed during the U.S. military action in Vietnam.<sup>3</sup> The Russell Tribunal was organised in response to the absence of any official mechanism for adjudicating the horrific war crimes committed in Vietnam.<sup>4</sup> Following the Russell Tribunal, activists and civil society have used people's tribunals – in various forms adapted to meet the specific needs and goals at hand – to advocate for human rights in a variety of contexts around the globe.

The international women's movement was quick to seize upon the people's tribunal format to expose violations against women, "breaking the silence around the subordination of women in both private and public spheres".<sup>5</sup> The idea for an International Tribunal on Crimes against Women was sparked during an international feminist camp in 1974, loosely inspired by the Russell Tribunal.<sup>6</sup> Coordinating activities, including several local women's tribunals around the United States, culminated in the International Tribunal in Brussels, Belgium from March

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3 Terrell, p.115; Chinkin (2006), p.211; Women Testify, p.13.

4 Terrell, p.115.

5 Women Testify, p.13; Terrell, p.118.

6 Russell and Van de Ven, pp.7, 151-152.

4-8, 1976.<sup>7</sup> Over 2000 women from at least 40 countries participated in this Tribunal, decrying “all man-made forms of women’s oppression” as crimes:<sup>8</sup> from forced motherhood to the dual oppression of the patriarchal family and economy, and beyond.<sup>9</sup> This Tribunal focused on personal testimony, believing that “it is through sharing our personal experiences of oppression that we become politicised and motivated to struggle against that oppression and the societal conditions producing it”.<sup>10</sup>

Outside of the women’s movement, other people’s tribunal initiatives began to emerge. The Lelio Basso International Foundation for the Rights and Liberation of Peoples launched the Permanent Peoples’ Tribunal (PPT) in June 1979. The PPT has convened over 40 sessions on human rights abuses all around the world.<sup>11</sup> While the PPT is not a women’s tribunal *per se*, many of the topics it has addressed are vitally important for women. For example, from June 20-24, 2014, the Permanent Peoples’ Tribunal on Living Wages was held in Sri Lanka, India, Cambodia, and Indonesia to draw attention to the problems associated with “poverty pay in the garment sector”. This PPT featured testimony from workers, wage and labor law experts, brand representatives, and trade unions.<sup>12</sup>

14 Numerous other people’s tribunals have been organised by a variety of actors on an *ad hoc* basis to address a diverse range of violations.<sup>13</sup> APWLD member organisations have participated in several people’s tribunals, for example. On July 16-18, 2015, the International People’s Tribunal on Crimes of Philippines’ President Benigno Simeon Aquino II and the US government against the Filipino people was held in Washington, DC, USA.<sup>14</sup> In September 2013 the People’s Tribunal on Malaysia’s 13<sup>th</sup> General Elections was held in Kuala Lumpur, Malaysia.<sup>15</sup>

In particular, there has been a proliferation of women’s tribunals – people’s tribunals conducted from women’s perspective, focusing on issues affecting women. The first International Tribunal on Crimes against Women in 1976 opened with a message from Simone de Beauvoir:

“talk to one another, talk to the world, bring to light the shameful truths that half of humanity is trying

7 Russell and Van de Ven, pp.160, 201.

8 Russell and Van de Ven, pp.7, 9, 152.

9 See generally Russell and Van de Ven.

10 Russell and Van de Ven, pp.7, 152.

11 For a list of all PPT sessions and the resulting judgments, see <http://tribunalepermanentedeiopoli.fondazionebasso.it/category/sessioni-e-sentenze-it/#> (accessed December 30, 2015). See also Cuadrado-Quesada and Simm, p.22.

12 <http://www.cleanclothes.org/livingwage/permanent-peoples-tribunal-on-living-wages> (accessed May 5, 2016).

13 See Terrell, pp.117-118; Chinkin (2006), pp.211-212; Women Testify, p.13.

14 <http://internationalpeopletribunal.org/> (accessed December 30, 2015).

15 <http://www.bersih.org/report-of-the-peoples-tribunal-on-malaysias-13th-general-elections/> (accessed January 16, 2015).

to cover up. The Tribunal is in itself a feat. It heralds more to come. I salute this Tribunal as being the start of a radical decolonisation of women".<sup>16</sup>

These words proved prophetic. Some would argue that women's movements led the way in using the people's tribunal format to advance human rights.<sup>17</sup> Notably, the Courts of Women recognised that "despite their democratising tendencies, reliance on political and intellectual elites in Peoples' Tribunals will replicate the gendered power structures of states and fail to take adequate account of the concerns of Women".<sup>18</sup> Organised initially by the Asian Women's Human Rights Council, the Courts of Women thus launched a movement to "define a new space for women" through "public hearings in which the voices of the women are listened to".<sup>19</sup>

The first Court of Women was held in Lahore, Pakistan from December 29, 1992 to January 6, 1993, on the issue of violence against women. Since then, nearly 40 Courts of Women have been organised in conjunction with women's organisations throughout Asia, Australia and New Zealand, Africa, the Americas, and the Middle East.<sup>20</sup> The Courts of Women have addressed a wide range of issues, including human trafficking, indigenous rights, the violence of development and globalisation, and others.<sup>21</sup>

As another example, the Global Campaign for Women's Human Rights, spearheaded by the Center for Women's Global Leadership among others, convened a series of women's tribunals throughout the 1990s to insist on women's rights being recognised as human rights.<sup>22</sup> The first major tribunal was the Global Tribunal for Violations of Women's Human Rights, held in Vienna on June 15, 1993 to promote recognition of gender-based human rights violations at the World Conference on Human Rights that was taking place at the same time.<sup>23</sup> This was followed by women's rights hearings on reproductive health in Cairo in 1994 and on economic justice in Copenhagen in 1995.<sup>24</sup> The Global Campaign culminated with the Global Tribunal on Accountability for Women's Human Rights, planned to coincide with the World Conference on Women in Beijing on September 1, 1995.<sup>25</sup> The Beijing Tribunal was part of the advocacy influencing the Beijing Platform

16 Russell and Van de Ven, p.5.

17 Women Testify, p.14.

18 Chinkin (2006), p.212.

19 Courts of Women website.

20 Courts of Women website; Duhaček, pp.70-74 (the Courts of Women were also a key influence leading to the Sarajevo Women's Court); Chinkin (2006), pp.212-213.

21 Courts of Women website.

22 Without Reservation, pp.3-13.

23 Demanding Accountability, pp.4-13.

24 Cairo Testimonies; Copenhagen Testimonies; Without Reservation, pp.6-8.

25 Without Reservation, p.8.

for Action, which entailed broad expansion of government commitments to women.<sup>26</sup>

Perhaps the most well-known women's tribunal was the Women's International War Crimes Tribunal on Japan's Military Sexual Slavery. Held in Tokyo on December 8-12, 2000, this Tribunal sought accountability for those responsible for the Japanese military's systematic rape and sexual enslavement of women (the so-called "comfort women") in countries across the Asia Pacific region. Ten countries presented indictments before the Tokyo Tribunal, alleging that the international war crimes trials of Japanese officials at the end of World War II were incomplete because they failed to bring charges for these grave crimes against women.<sup>27</sup> Sixty-four survivors of sexual enslavement testified about their experiences.<sup>28</sup> In addition to finding Japanese Emperor Hirohito and others guilty and the state of Japan responsible for the charged crimes, the Tokyo Tribunal called for comprehensive reparations, and established a historical record to challenge Japan's official narrative.<sup>29</sup>

While it is not feasible to provide an exhaustive account of the myriad women's tribunals organised by women's organisations to date, this Guide to Women's Tribunals draws upon the experiences of a selection of several women's tribunals held around the world. This sampling was selected to reflect the diversity of possibilities, and includes international, regional, and local tribunals of varying sizes, adopting a variety of procedural approaches, and espousing an array of different objectives.

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26 Without Reservation, p.12.

27 Chinkin (2001), pp.335-336; Chinkin (2006), pp.203-205.

28 Chinkin (2001), p.339; Women Testify, p.15.

29 Chinkin (2001), p.340.



## Section 2:

### Why a women's tribunal?

Women's tribunals have gained international recognition for their potential to influence structural change and the realisation of women's human rights.<sup>30</sup> This Section discusses the possibilities for and limitations to what a women's tribunal can achieve and provides examples of the issues that women's tribunals have addressed.

#### A. **What a women's tribunal can achieve**

A women's tribunal can be a powerful advocacy tool to achieve any number of objectives. Some of the more common goals of women's tribunals are as follows:

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<sup>30</sup> E.g., UN Secretary-General's 2015 Report on Women and Peace and Security, para.59 (highlighting women's tribunals as a civil society mechanism for highlighting women's experiences when official processes were not sufficient); Global Study on SCR 1325, p.112 (recognising women's tribunals as "one key example of women's organisations leading and designing truth-seeking and accountability mechanisms to secure acknowledgement of women's concerns, and advocate for official action"); OHCHR/UN Women Report on Right to Land, p.58 (describing the a women's tribunal's efforts to achieve legal reform and social transformation); 2012 UN Women Transitional Justice Report, pp.15-16 (acknowledging several women's tribunals as truth-seeking mechanisms); Sexual Violence in Armed Conflict Report, pp.192-193 (discussing several women's tribunals' responses to sexual violence in armed conflict).

### *Create a space for women to speak and be heard*

One of the overarching goals of any women's tribunal is to create a safe space for women to speak out about injustices they have experienced, "to talk about these sufferings and tell people what they have gone through" and "let their anger and despair and frustration and pain out to the public".<sup>31</sup> By testifying at a women's tribunal, women's experiences are "not only...heard, but also legitimised".<sup>32</sup> A women's tribunal should strive to be inclusive, "to give a voice to *all whose voices have not yet been heard* and, if it were not for this court, would not be heard".<sup>33</sup> In so doing, the women's tribunal primarily focuses on the women who were victims and survivors of violations, acknowledging their experience instead of focusing on the perpetrators of abuse.<sup>34</sup>

After the Cambodia Women's Hearings, for example, the women who testified expressed that although they had been anxious to speak publicly about their experiences of sexual violence under the Khmer Rouge regime, the public acknowledgement, empathy and support of the audience and jury had a strong impact on them.<sup>35</sup>

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### *Empower women as agents of change*

Testifying about injustices they have experienced allows women to become agents in the struggle against injustice and violence. It allows them to challenge the dominant narrative, narrating and interpreting their own history instead of being victims of someone else's interpretation.<sup>36</sup> The women's tribunal is thus "a rejection of the *silencing of the crimes of violence*. ... [B]reaking the silence signifies the point of disruption and of *counter-hegemonic truth telling*".<sup>37</sup> By participating in the women's tribunal, women who have suffered human rights violations become "a part of the *politically articulated resistance to injustice*".<sup>38</sup>

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31 Interview with Heisoo Shin, one of the organisers of the Tokyo Tribunal, member of the jury panel at the 2011 Cambodia Women's Hearing, and one of the judges at the Burma Tribunal, December 22, 2015.

32 Kumar, p.308.

33 Duhaček, p.72.

34 Terrell, pp.136-137.

35 Interview with Beini Ye, organiser of the Cambodia Women's Hearings, November 19, 2015; Ye, pp.30-31.

36 Sarajevo Women's Court Decisions and Recommendations, p.1 ("You – women witnesses – are the leading subjects of the Women's Court. For too long, you have been invisible and denied the right to actively participate in truth telling, history making, and demanding and defining justice. In formal legal proceedings, you are treated as victims or as witnesses providing legal evidence, but in the Women's Court you decided to speak loudly and in your own way. ... Your voices and experiences can no longer be ignored. You have become a recognised part of history."); Zajović, pp.28, 64-65; Chinkin (2006), p.220.

37 Kumar, p.308 (emphasis in original).

38 Duhaček, p.77 (emphasis in original).

Women testifying before the Courts of Women, for example, are empowered by being able to define injustice according to their own experiences, to “describe ‘crime’ and ‘violence’ in their own terms” instead of having definitions imposed upon them.<sup>39</sup>

### *Provide an alternative form of justice when official channels fail*

Women's tribunals can be an effective response to frustration with the inability to achieve justice through official mechanisms at the national or international level.<sup>40</sup> The inability to achieve justice through official channels could arise from any number of factors, including corruption or lack of political will.<sup>41</sup> Oftentimes, the fear of social stigma, discrimination and marginalisation prevents women from bringing their grievances to official authorities.<sup>42</sup> Or, the official channels may be inherently oppressive for women, and responsible for perpetrating the very violations that a women's tribunal must address. Indeed, many women's tribunals focus particularly on “the forms of violence suffered by women for which *there are no legal remedies* at the local, national, or international level”.<sup>43</sup> Although women's tribunals do not have the authority to enforce criminal liability or state responsibility, they can deliver other forms of justice by publicly acknowledging harms committed, shifting blame away from the victim, promoting truth-telling and experience-sharing, and paving the way toward restoration, healing, and transformation.<sup>44</sup>

The Sarajevo Women's Court, for example, responded to a nearly universal “mistrust and disappointment in the institutional legal system at both the national and international level”,<sup>45</sup> and sought to achieve “a new kind of accountability” through restorative justice and institutional reforms where the formal channels had failed to deliver criminal sanctions.<sup>46</sup>

39 Dam and Chin, p.9.

40 Chinkin (2006), p.211;

41 See, e.g., Cuadrado-Quesada and Simm, p.23; Terrell, p.114.

42 E.g., Nepal Sexual Violence Tribunal Report, p.18.

43 Waller, p.248 (emphasis added).

44 Courts of Women website (The Courts of Women speak “of another notion of justice; of a jurisprudence, which bringing individual justice and reparation will also be transformatory for all. A jurisprudence that is able to contextualise and historicise the crimes; moving away from a justice of revenge, a retributive justice, to a justice seeking redress, even reparation; a justice with truth and reconciliation; a restorative justice, healing individuals and communities.”); Chinkin (2006), pp.219-220 (“Access to justice might have different meanings and what is clear is that women frequently fail to find justice through formal channels. ... This [the justice of people's tribunals] may be a limited form of justice but it should not be discounted”.); Ye, pp.30-32; Agostino and Lizarde, p.263 (describing how women's tribunals were finding ways toward “transformative justice”, beyond restorative justice).

45 Zajović, p.25.

46 Interview with Staša Zajović, organiser of the Sarajevo Women's Court, December 9, 2015; Zajović, p.25.

The Tokyo Tribunal was organised in 2000 to address a gaping hole in the official narrative of crimes committed by the Japanese during World War II. The international war crimes trials immediately following the war had omitted the Japanese military's crimes of sexual slavery through the system of "comfort women". Efforts by Japanese legislators to investigate the issue and provide reparations were repeatedly blocked by the government, which denied any official involvement in the system of sexual slavery.<sup>47</sup> Beginning in the early 1990s, individual survivors and women's groups made numerous failed attempts to seek justice through civil suits and criminal complaints in the Japanese courts.<sup>48</sup> In light of these repeated failures of official channels, both domestically and internationally, the Tokyo Tribunal was necessary to "correct the history" and demand accountability.<sup>49</sup>

### *Provide an advocacy platform for political and structural change*

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The testimonies given and decisions or recommendations rendered by a women's tribunal are politically relevant and can form a basis for advocating political and structural change. Women's tribunals challenge the status quo by uncovering the ways that women experience injustice. In many instances, women's tribunals are used to expose structural inequality and advocate for structures to be re-imagined in a way that protects rather than violates women's rights.<sup>50</sup> Women's tribunals can thus be used as a springboard to advocate for changes in legislation or policy, or for other remedies for the women aggrieved.<sup>51</sup>

By contrast, when women's tribunals *rely on* (instead of *challenging*) existing legal and human rights frameworks, their gendered interpretation of the law can be used to confront harmful and unjust ways that official legal and judicial mechanisms interpret and apply the same law.<sup>52</sup> Women's tribunals can also be used to further the development and expansion of international law, for instance by applying international law to non-

47 Terrell, p.122; Shin, pp.14-15.

48 Terrell, pp.121-122. In addition, several months before the Tokyo Tribunal, fifteen women who were former "comfort women" brought a civil lawsuit against Japan in the United States in the case of Hwang Geum Joo, et al. v .Japan. See generally Nefouse.

49 Interview with Heisoo Shin, one of the organisers of the Tokyo Tribunal, member of the jury panel at the 2011 Cambodia Women's Hearing, and one of the judges at the Burma Tribunal, December 22, 2015.

50 Courts of Women website (The Courts of Women "speak truth to the powerless, ... creating other reference points than that of the rule of law, returning ethics to politics. It invites us to the decolonisation of our structures, our minds and of our imaginations; subsumed cultures, subjugated peoples, silenced women reclaiming their political voice and in breaking the silence refusing the conditions by which power maintains its patriarchal control.").

51 Women Testify, p.11.

52 Terrell, pp.135-136. See also, e.g., Demanding Accountability, pp.10-12 (setting out key ways that the Vienna Tribunal sought to challenge the application of human rights regimes).

state actors.<sup>53</sup> Although a women's tribunal on its own is unlikely to achieve these lofty goals, when utilised as part of a wider advocacy effort a women's tribunal can be a powerful force for change.

Following the Burma Tribunal, for example, the organisers took the testimonies and the findings and recommendations of the judges “to high-level meetings with United Nations Secretary-General Ban Ki-moon and members of the Security Council” as part of their advocacy for a “free and democratic Burma”.<sup>54</sup>

As an additional example, the Feminist Task Force's women's tribunals on gender justice and climate change in 2011 were part of a larger advocacy effort to influence negotiations and policy decisions at the Conference of the Parties (COP17) to the United Nations Framework Convention on Climate Change held that year, and to influence the United Nations Conference on Sustainable Development (known as Rio+20), held the following June.<sup>55</sup> These tribunals contributed to campaigning for participating governments to adopt “an approach that goes beyond development and looks at social justice, including gender equality, human rights, and climate justice”.<sup>56</sup>

### *Establish a feminist mechanism for transitional justice, either on its own or in conjunction with other formal and informal processes*

Establishing a women's tribunal as a transitional justice mechanism can bring a much-needed feminist perspective to the process of rebuilding a society during post-conflict or transitional periods.<sup>57</sup> Transitional justice arrangements too often fail to incorporate women's perspectives, perpetuating pre-existing societal structures that marginalise or silence women rather than using the rebuilding period as an opportunity to structure a society where women's rights are fully realised.<sup>58</sup> Women's tribunals can expose the gendered nature of harms committed both during the conflict and in the post-conflict period.

53 Cuadrado-Quesada and Simm, p.23; Chinkin (2006), p.212.

54 Burma Tribunal Report, p.5; Sommerauer, pp.104-106.

55 Agostino and Lizarde, p.263.

56 Agostino and Lizarde, p.263.

57 See Reilly (2007), p.164 (noting that the Tokyo Tribunal “exemplifies transformative, bottom-up, feminist engagement that innovatively negotiates the nexus between formal and informal uses of the law, within a framework of transnational solidarity,” an “approach to dealing with the past that can inform gender analyses of formal and informal transitional justice mechanisms and the relation between the two”).

58 Duhaček, pp.88-89; 2012 UN Women Transitional Justice Report, p.3 (transitional justice for women must incorporate “transformative justice [which] seeks to address not just the consequences of violations committed during conflict but the social relationships that enabled these violations in the first place, and this includes the correction of unequal gendered power relations in society”); Reilly (2007), pp.158-159, 164-165.

For example, the Sarajevo Women's Court was expressly established as a feminist transitional justice mechanism, responding to the "invisibility of women's contributions to the processes of transitional justice" in the former Yugoslavia.<sup>59</sup> Women wanted to speak out to expose the "terrible gap" between the reconciliation model imposed by the international community and the political elites, on the one hand, and "the daily life, the normalcy, the factual state", on the other.<sup>60</sup> Through the process of preparing for the Women's Court, women from all sides of the conflict came together, overcoming the national and ethnic distinctions that were used as "an excuse to commit crimes" during the conflict. The tribunal organisers emphasised: "Now, we need to meet the other woman, to see and hear her".<sup>61</sup>

The Cambodia Women's Hearings were also organised as a feminist transitional justice instrument in Cambodia to complement the ECCC<sup>62</sup> and other transitional justice mechanisms in an attempt to address the four elements of transitional justice—truth, justice, reparation, and guarantees of non-recurrence.<sup>63</sup> Testimonies about the Khmer Rouge's sexual violence directly challenged the prevailing myth that the cadres did not commit such "moral offences", bringing to light a truth not uncovered by other transitional justice structures.<sup>64</sup>

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### *Raise public and institutional awareness*

Through public testimonies and issuing public decisions and recommendations, women's tribunals can reach a wide audience. Women's tribunals are therefore able to raise the profile of injustices against women, bringing awareness to the community, to the state, and to relevant institutions, stakeholders and decision-makers, both local and international.<sup>65</sup>

The 2013 Cambodia Women's Hearing was designed especially for raising awareness of the Khmer Rouge's sexual violence crimes among the new generation of Cambodians, creating "intergenerational dialogue between survivors of the Khmer Rouge and youth", and "initiat[ing] discussion about responses to past crimes

59 Zajović, p.12.

60 Interview with Staša Zajović, organiser of the Sarajevo Women's Court, December 9, 2015.

61 Zajović, p.15.

62 Extraordinary Chambers of the Courts in Cambodia (a hybrid domestic and international court with jurisdiction over the Khmer Rouge's conflict-related crimes).

63 Ye, pp.26-36.

64 Ye, pp.29-30.

65 Duhaček, pp.73-74; Women Testify, pp.10-11; Chinkin (2006), p.220 ("A Peoples' Tribunal and in particular a Women's Tribunal contributes to a body of knowledge that will help to question, transform and initiate alternative institutions and instruments that seek to address the violations of women's human rights at the regional, national and international level" (internal quotations omitted)).

and prevention of future violence against women”.<sup>66</sup> The jury panel was composed of Cambodian university students.<sup>67</sup> The students were moved by the testimonies they heard, and appealed to their fellow youth to actively pursue an end to gender-based violence.<sup>68</sup>

As a result of the 2007 Asia Pacific Court of Women, which highlighted the impact unequal property and inheritance rights had on women with HIV, projects were developed to educate judges in Nepal about these issues.<sup>69</sup>

### *Foster solidarity at every level*

Women's tribunals foster solidarity locally, regionally, nationally, and transnationally, within and across communities of women whose rights have been violated.<sup>70</sup> Bringing women together to share their experiences at the women's tribunal can bridge ethnicity, religion, class or caste, lifestyle, education, and generation.<sup>71</sup> Women's tribunals can thus be pivotal to building the women's movement and promoting women's leadership.<sup>72</sup>

The 2012 Cambodia Women's Hearing is a particularly compelling example of solidarity-building. This Hearing brought together women from four different countries in the Asia Pacific to share their experiences of sexual and gender-based violence during the conflicts in their respective countries, showing the common thread of their shared experience.<sup>73</sup> In addition, as part of the Programme, a message of solidarity was delivered from the women of Guatemala who had experienced similar injustices: “The women of Guatemala are with you, because what happens to one happens to all. We know you speak the truth, and we say no more shame, no more guilt for the victim”.<sup>74</sup>

The Asia Pacific Women's Tribunal against the World Trade Organisation was similar in that it highlighted the

66 2013 Cambodia Women's Hearing Report, p.1.

67 2013 Cambodia Women's Hearing Report, p.5.

68 Ye, pp.33-34; 2013 Cambodia Women's Hearing Report, pp.6, 22.

69 Tools for Change, p.58.

70 Courts of Women website (at various Courts of Women, solidarity and support across women and women's groups, nationally and internationally, was a common theme); Dam and Chin, p.6; 2012 Cambodia Women's Hearing Report, p.51 (the jury panel noted the importance of solidarity with women from minority groups who were particularly vulnerable to sexual and gender-based violence).

71 Zajović, p.17; Crosby and Lykes, p.469 (it was important to witnesses who testified before the Guatemala Tribunal to learn about fellow survivors from other regions of the country, and to have the solidarity and support of international activists who attended or participated as judges in the Tribunal).

72 Correspondence from Ivy Josiah, organiser of the People's Tribunal on Malaysia's 13<sup>th</sup> General Elections, January 29, 2016.

73 2012 Cambodia Women's Hearing Report, p.3.

74 2012 Cambodia Women's Hearing Report, p.7.

experiences of women from countries across the Asia Pacific region. Women testified about the diverse ways the WTO's neoliberal globalisation regimes and policies harmed their communities, engendering exploitation and violence against women. The Tribunal forged international solidarity and cooperation among women's movements across the region and contributed to the broader peoples' movement against the WTO, stalling negotiations among states for several years.<sup>75</sup>

### *Influence official channels of justice*

24 Women's tribunals are often used to gather evidence or otherwise advocate for authorities to take action through official channels to achieve justice and accountability. By presenting compelling evidence of wrongs that fall within an official court's jurisdiction—essentially trying the case that should be tried by the official court—the women's tribunal can push the official authorities to investigate and prosecute the case.<sup>76</sup> The testimonies and other evidence gathered for the women's tribunal can form the springboard for an official investigation or inquiry.<sup>77</sup>

For example, one of the key objectives of the Guatemala Tribunal was to “lay the groundwork for a paradigmatic case of sexual violence as a weapon of war to be presented for prosecution in the Guatemalan courts”.<sup>78</sup> As a result of this Tribunal, fifteen women decided to file a criminal complaint detailing the abuses they had suffered.<sup>79</sup> The case went to trial and on February 26, 2016 a groundbreaking verdict was rendered finding two former members of the military guilty of crimes of sexual violence, sexual slavery, and domestic slavery.<sup>80</sup>

Similarly, a goal of the Nepal Sexual Violence Tribunal was to present the National Human Rights Commission (NHRC) with sufficient evidence of wartime sexual violence to convince them to begin their own investigations and, eventually, prosecutions of these crimes. The NHRC pledged at the close of the proceedings that it would begin its investigation with the cases presented that day.<sup>81</sup>

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75 Interview with Cristina Palabay, one of the organisers of the 2005 Asia Pacific Women's Tribunal against the World Trade Organisation and several other people's tribunals, November 29, 2015.

76 Crosby and Lykes, p.458.

77 Cuadrado-Quesada and Simm, p.23; 2012 UN Women Transitional Justice Report, p.16. See also Terrell, p.144 (positing that civil society could use a women's tribunal as a means to gather and present information on abuses to the International Criminal Court in order to encourage the launch of a formal investigation).

78 Crosby and Lykes, p.458.

79 Trucchi. The Guatemala Human Rights Commission sets out a history of the legal case at <http://www.ghrc-usa.org/our-work/important-cases/sepur-zarco/> (accessed March 7, 2016).

80 Thomas-Davis.

81 Nepal Sexual Violence Tribunal Report, p.6.



After the Cambodia Women's Hearings, the evidence and results were provided to the investigating judges at the ECCC through sharing the report with the Court. Additionally, as some of the testifiers are participating as Civil Parties in the trial, their lawyers filed supplementary information to their victim statements. This was because one of the main goals of these hearings was to address the fact that the ECCC trials had insufficiently addressed the important issue of sexual violence committed against women by the Khmer Rouge outside of forced marriages.<sup>82</sup>

### *Document human rights violations*

A women's tribunal can serve to document violations of women's human rights. The record of the tribunal's proceedings, whether transcripts, video, or audio recordings, is a record of the abuses women suffered.<sup>83</sup> In addition, the evidence presented to the tribunal can be a basis for documenting human rights violations to submit to other mechanisms, such as formal court proceedings, special rapporteurs, or human rights treaty bodies.<sup>84</sup> Regardless of their form, documentation generated for and during the women's tribunal can "preserve the historical memory of peoples and communities".<sup>85</sup>

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### *Demand reparations for victims*

Since women's tribunals are civil society initiatives and not organs of the state, they generally do not have the capacity to provide financial redress to victims. However, the recommendations issued by the judges or juries at many women's tribunals commonly call upon states and other stakeholders to issue comprehensive reparations, both financial and symbolic.<sup>86</sup> In addition, it would be possible to establish—in conjunction with a women's tribunal—a fund based on voluntary donations from which unofficial 'reparations' to victims could be paid.<sup>87</sup>

82 Interview with Beini Ye, organiser of the Cambodia Women's Hearings, November 19, 2015.

83 Women Testify, p. 11; Chinkin (2006), p.220; Vienna Tribunal Testimonies, p.3.

84 Interview with Ivy Josiah, organiser of the People's Tribunal on Malaysia's 13<sup>th</sup> General Elections, November 3, 2015.

85 Cuadrado-Quesada and Simm, p.23; Ye, pp.29-30 (observing that the testimonies of the women at the Cambodia Women's Hearings "contribute to the historic record and demystify the taboo surrounding SGBV during the Khmer Rouge Regime, both of which are essential for an understanding and critical discussion of the past").

86 E.g., Tokyo Tribunal Report, pp.254-263; Nepal Sexual Violence Tribunal Report, pp.21-22; 2011 Cambodia Women's Hearing Report, pp.16-17; 2012 Cambodia Women's Hearing Report, pp.55, 58-60; 2013 Cambodia Women's Hearing Report, p.26; Courts of Women website (noting that the evidence presented at the Courts can be used to seek reparation and redress through national and international legal institutions).

87 Terrell, pp.141-142.

## B. Limitations of a woman's tribunal

Women's tribunals "do not have the authority or power of the state", but rather "seek to find new ways to speak truth to power".<sup>88</sup> A women's tribunal is not a formal legal process and it has no official power to issue legally binding decisions or enforce individual criminal or state responsibility for violations.<sup>89</sup> A women's tribunal can be used for advocacy, but cannot replace the state in "ensur[ing] sufficient structural change to fulfill the guarantee of non-recurrence".<sup>90</sup> For this reason, a women's tribunal cannot be "a substitute for official judicial processes", but is rather "an important and much needed supplement to them".<sup>91</sup> This is particularly true where, as discussed above, formal judicial processes have failed the women whose rights have been violated.

As civil society initiatives, women's tribunals are also limited in their reach. Their truth-telling processes extend only to those who participate, and thus do not reach vast numbers of survivors in comparison to state-sponsored Truth and Reconciliation Commissions, for example.<sup>92</sup> In addition, most women's tribunals do not have the financial resources to provide reparations for the women whose rights have been violated.<sup>93</sup>

26 While acknowledging and accepting these limitations is important, this has not discouraged the use of women's tribunals. If anything, these limitations highlight the need for advocacy measures, including women's tribunals, to compel official actors to fill the gaps.

## C. What topics can a women's tribunal address?

A women's tribunal can address *any issue* affecting women. In addition, a women's tribunal can be particularly effective in highlighting the unique ways that *a variety of issues intersect* to cause women harm. What follows is a discussion of a selection of the numerous topics that have been addressed by various women's tribunals, either on their own or in combination to demonstrate the confluence of harms women experience.

### *Violence against women*

Many women's tribunals have dealt with the universal problem of violence against women. Some tribunals, such as the Vienna Tribunal, took a global approach, featuring testimony from women across the world about

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88 Chinkin (2006), p.212.

89 Chinkin (2006), pp.217-218; Terrell, pp.132-135; Ye, p.36.

90 Ye, p.36.

91 Duhaček, pp.72-73; Terrell, pp.137-138; Courts of Women website; Sommermauer, p.68.

92 Ye, p.36.

93 Ye, p.36.

various forms of violence against women.<sup>94</sup>

Other women's tribunals focused on the specific ways gendered violence affected particular communities. The Arab Court of Women was held in June 1995, and heard women testify about experiencing such violence as genital mutilation, incest and domestic violence, and various forms of violence relating to marriage, divorce, and child custody.<sup>95</sup> This Court led to the establishment of the Permanent Arab Court, which has since held hearings and other activities to campaign for equality between men and women across the Middle East, notably in relation to marriage, divorce, inheritance, child custody, and alimony.<sup>96</sup>

As another example, the 2009 India Court of Women focused on dowry and related forms of violence against women.<sup>97</sup> In Kenya, the 1999 Africa Court of Women highlighted abduction, female genital mutilation, domestic violence, *trokosi*,<sup>98</sup> rape, sexual slavery, and widow rights, among other issues.<sup>99</sup>

Several women's tribunals have convened to address sexual violence committed during armed conflict. The Tokyo Tribunal held in 2000 condemned the Japanese military's sexual enslavement of the euphemistically called "comfort women" during the Second World War.<sup>100</sup> A series of three Women's Hearings were held in Cambodia from 2011 to 2013 regarding rape and other forms of gender-based violence committed against women during the Khmer Rouge's reign from 1975 to 1979.<sup>101</sup> In 2014, the Nepal Sexual Violence Tribunal heard evidence of the various sexual violence crimes committed against Nepali women by both government and Maoist forces during Nepal's 10-year civil war from 1996 to 2006.<sup>102</sup> These are only a few examples of women's tribunals addressing conflict-related sexual and gender-based violence.

## Poverty

Women's tribunals have addressed the complex and disproportionate ways that poverty affects women from several perspectives. The Feminist Task Force of the Global Call to Action Against Poverty (FTF-

94 Demanding Accountability, pp.13-14, 21-83;Vienna Tribunal Testimonies.

95 Helou; Courts of Women website.

96 Khater, pp.310, 315.

97 Courts of Women website.

98 *Trokosi* is a form of slavery in parts of west Africa, which involves girls being given away to a traditional priest as a form of payment or to atone for another family member's misdeeds. The priest takes full ownership over the girl, including maintaining absolute sexual control.

99 Courts of Women website.

100 See generally Chinkin (2001); Tokyo Tribunal Judgement.

101 See generally Ye; 2011 Cambodia Women's Hearing Report; 2012 Cambodia Women's Hearing Report; 2013 Cambodia Women's Hearing Report.

102 Nepal Sexual Violence Tribunal Report.

GCAP) organised a series of women's tribunals to examine these issues in 2007 and 2008.<sup>103</sup> These tribunals explored salient aspects of poverty affecting the different localities. The India Poverty Tribunal, for example, brought grassroots women leaders from across the nation together to discuss the experiences of women from marginalised groups “who face acute social and economic discrimination”.<sup>104</sup> The initiative aimed to put women's agenda front and centre in government policies, Programmes and budgets.<sup>105</sup>

The New York Poverty Tribunal, on the other hand, examined the economic insecurity of women living in poverty in New York City, one of the richest cities in the world.<sup>106</sup> Structured around the Millennium Development Goals, the Tribunal heard testimony from various women's groups about the factors contributing to women's impoverishment.<sup>107</sup>

### *War*

28 A number of women's tribunals have convened around the subject of war. At the 2001 World Court of Women against War, forty women from all around the world testified about their experiences with the numerous facets of violence stemming from war in all of its forms, including wars in times of peace.<sup>108</sup> The Court embraced a fluid concept of war, including armed conflict but also extending to “the invisible wars of poverty, wars of development, the wars against subsistence ... the war over resources”.<sup>109</sup> The Court also examined “the war against the Other”, which manifested in institutionalised violence through colonisation, apartheid and the caste system.<sup>110</sup> From their testimonies, “the interconnectedness of issues of poverty, lack of social security, peace building and post-war reconstruction emerged”.<sup>111</sup>

As another example, the Sarajevo Women's Court addressed five categories of violations, all demonstrating how the 1990s conflict around the breakup of the former Yugoslavia wreaked violence upon women in all former Yugoslav nations. The women's testimonies demonstrated how violations that began during war continued into the post-conflict peacetime.<sup>112</sup>

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103 New York Poverty Tribunal Report, p.1; FTF-GCAP Training Guide.

104 India Poverty Tribunal Report, p.5.

105 India Poverty Tribunal Report, p.5.

106 New York Poverty Tribunal Report, p.2.

107 New York Poverty Tribunal Report, p.2.

108 Courts of Women website.

109 Courts of Women website.

110 Courts of Women website.

111 Dam and Chin, p.8; Courts of Women website.

112 Sarajevo Women's Court Decisions and Recommendations, pp.1-4; Zajović, pp.45-63.

### *Climate change*

In 2011, the FTF-GCAP organised fifteen women's tribunals on gender and climate justice across Africa, Asia and Latin America to hear about women's lived experiences with problems related to climate change.<sup>113</sup> During each tribunal, women testified about the unique ways climate change combined with other factors to affect their lives and their communities. At the Nepal Climate Tribunal, for instance, women testified about how climate change had contributed to flooding from the glacial lakes, and how this flooding and other climate-related hazards put women at particular risk.<sup>114</sup> At the Pakistan Climate Tribunal, women's testimonies focused on the combined impact of climate change and poverty. These twin evils resulted in women losing sources of income from agricultural and other work, being displaced by flooding, facing greater exposure to sexual and other violence as a result of displacement, losing their shelter, and facing increased health concerns.<sup>115</sup>

### *Globalisation*

The Asia Pacific Women's Tribunal against the World Trade Organisation was organised by APWLD and Gabriela Philippines in 2005 to protest the WTO's global trade policies at the WTO ministerial meeting in Hong Kong. This Tribunal was the product of several years of advocacy, led by APWLD, "to document and analyze the impact of the neo-liberal agenda of globalisation and deregulation on the poor women of the Asia Pacific region".<sup>116</sup> At this Tribunal, women from across Asia described the ways that their ability to earn a livelihood was destroyed by WTO policies that facilitated landgrabbing, labor flexibilisation and institutionalisation of the labor export policy; enabled the privatisation of social services, including reproductive and maternal health services; and infringed on peoples' sovereignty and right to self-determination.<sup>117</sup> The panel of judges pronounced the WTO, the governments of the US, EU, and Japan, and their multinational corporations guilty of "killing the livelihood of many rural women, of intensifying hunger and poverty among rural women and their communities and subject[ing] rural women to different forms of violence including forced prostitution, out-migration and sex trafficking".<sup>118</sup>

113 Strengthening Voices.

114 Nepal Climate Tribunal Report.

115 Pakistan Climate Tribunal Report.

116 Interview with Cristina Palabay, one of the organisers of the 2005 Asia Pacific Women's Tribunal against the World Trade Organisation and several other people's tribunals, November 29, 2015.

117 Correspondence from Cristina Palabay, one of the organisers of the 2005 Asia Pacific Women's Tribunal against the World Trade Organisation and several other people's tribunals, January 28, 2016.

118 Familara.

## 30 Section 3: Strategic decisions when convening a women's tribunal

This Section highlights the strategic decisions that must be made when organising a women's tribunal and provides practical tips for reaching decisions that will Maximise the tribunal's impact.

### A. **Setting the objectives**

When organising a women's tribunal, the first strategic decisions revolve around setting the tribunal's objectives. This includes determining what the tribunal aims to achieve, the issues to be addressed, and how it fits into a broader advocacy or community building effort. The objectives set during the initial organising will inform subsequent strategic decision-making.<sup>119</sup> Some of the possible objectives are set out in Section 2.

### B. **Determining the nature of the preparatory process**

The process for organising the women's tribunal depends on its objectives. If using the entire preparatory process for community building and fostering solidarity is one of the tribunal's goals, take a feminist participatory approach to promote the open exchange of ideas regarding the tribunal's themes and procedures. The objectives of the women's tribunal are thus achieved as much during the process through which it is built

as through the final product.<sup>120</sup> Preparing for the women's tribunal in this way requires organisers to embrace flexibility and an open mind rather than a rigidly efficient schedule. Through various mobilising and awareness-raising activities, the key themes and procedures for the women's tribunal can be identified by "*listening* to women since it is their testimonies which are the heart of the court proceedings".<sup>121</sup> Preparatory events could include discussions or public debates, workshops, or other educational activities. Tribunal organisers may also use the arts—performances, films or documentaries, or art exhibitions—to draw community interest and involvement in developing the women's tribunal.<sup>122</sup>

Preparing for the Sarajevo Women's Court, for instance, involved years of community outreach across all six former Yugoslav nations to invite women to share their views and their varied experiences during the Yugoslav conflict.<sup>123</sup> Preparatory advocacy activities included training on public speaking, educational seminars and documentary screenings on many of the issues affecting women in the post-conflict period, public presentations about the Women's Court to inform communities and gather feedback on proposed themes, and feminist discussion circles where women were encouraged to share their stories and learn from each other. These feminist discussion circles later became the basis for the support provided to the Women's Court witnesses.<sup>124</sup> It was through these activities that the themes for the Women's Court were identified and the witnesses selected. Selecting and preparing women to testify took place through numerous "simulations" of the Women's Court held in different parts of former Yugoslav nations, during which women volunteered to testify, to be expert witnesses, or juries.<sup>125</sup> By bringing witnesses from different nations on all sides of the Yugoslav conflict together to develop and share their testimonies, the women formed a community based on solidarity beyond ethnic and national divisions.<sup>126</sup>

Preparatory activities were arranged to invite community involvement in the Pakistan Climate Tribunal as well, but on a smaller scale. Focus group discussions on the impact of climate change were held, posters and other material were distributed, and sessions were carried out in schools to engage girls in the process of the Tribunal.<sup>127</sup>

On the other hand, if the women's tribunal seeks to achieve its goals principally through the tribunal

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120 Zajović, p.16.  
121 Duhaček, p.71.  
122 Duhaček, p.72.  
123 Zajović, pp.18-20; Duhaček, pp.91-93.  
124 Zajović, pp.18-21.  
125 Zajović, pp.29-30, 37-38, 41.  
126 Zajović, pp.41-43.  
127 Pakistan Climate Tribunal Report.

proceedings themselves, decisions regarding the themes, procedures and format can be made by the main organisers and preparations can be more streamlined.

Regardless of the approach, organisers should meet regularly to make the strategic decisions identified in this Section, identify the preparatory tasks and set a (more or less flexible) schedule for completing them, and delegate responsibilities to staff and volunteers as necessary. In addition to the major strategic decisions identified in this Section, Section 6 sets out a number of practical and logistical considerations.

### C. **Gathering evidence to build the case**

Deciding what evidence to present at a women's tribunal depends very much on the tribunal's objectives. A women's tribunal can highlight several sub-themes in support of its overarching objectives. If the women's tribunal is to be organised into distinct cases based on sub-themes, it often makes sense for one person to be responsible for building each case, identifying all witnesses and other supporting evidence.<sup>128</sup> The following segment identifies the main types of evidence that can be presented and discusses why certain evidence might be selected and how to gather it.

- ***Direct witnesses testifying about their own experiences***

As a general rule, the primary evidence at any women's tribunal is the testimony of women who have experienced the harms that the tribunal was designed to address. These women are called direct (or firsthand) witnesses because their testimony recounts things that they experienced or observed directly. The key decisions to be made in identifying and selecting direct witnesses are discussed below.

#### *Establish guidelines*

The first step in selecting direct witnesses is to identify women who have experienced the kinds of violations that the tribunal is targeting. Agree in advance on guidelines for gathering information from potential witnesses to ensure that the witnesses selected to testify advance the tribunal's objectives. Guidelines ensure a standardised process for documenting potential witnesses' testimony, which is particularly important if witnesses are to be interviewed by numerous different people in different geographic regions.<sup>129</sup> If one of the tribunal's objectives is to produce documentation on human rights violations to submit to domestic or international authorities or

128 Women Testify, p.23; FTF-GCAP Training Guide.

129 Interview with Cristina Palabay, one of the organisers of the 2005 Asia Pacific Women's Tribunal against the World Trade Organisation and several other people's tribunals, November 29, 2015.



a UN treaty body, the guidelines should be appropriately stringent.<sup>130</sup> A human rights advisor can help to craft the guidelines.

The guidelines should include:

- Witness selection criteria. This is the criteria necessary to ensure that the tribunal presents evidence that is representative of the women whose rights have been undermined by the violation at issue. The witnesses ultimately selected to testify do not represent only themselves, but the lived experience of many women.<sup>131</sup> To this end, consider selecting witnesses of varying age, social status, race, ethnicity, religion, sexual orientation, nationality or geographic region, etc. Additionally, consider adopting criteria regarding the different aspects of harm the tribunal seeks to highlight. For example, if the tribunal aims to reflect the myriad gendered harms arising from a particular conflict, one criterion might be to select witnesses representing different sides of the conflict. Sometimes, organisers prioritise witnesses with public speaking skills or experience as activists or human rights defenders, since such witnesses may present better.<sup>132</sup> For other tribunals, such factors take a backseat to other criteria.<sup>133</sup>
- Information required from potential witnesses. The guidelines should set out the particular information that must be documented about each potential witness. Such information includes personal details such as the witness's name, date of birth, place of residence, and any other information relevant to the set criteria. The guidelines should also indicate any standard questions that should be answered in order to ensure that the tribunal's objectives are met.
- Accompanying documentation. The guidelines should indicate any additional documentation that should be requested from potential witnesses, such as relevant medical, police, or court records.

Once the guidelines are clear, organisers can begin the process of identifying suitable and willing witnesses. In

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130 Numerous manuals on documenting and reporting human rights violations are available online. One example is available at <https://www.huridocs.org/resource/handbook-on-fact-finding-and-documentation-of-human-rights-violations/> (accessed January 17, 2016).

131 Vienna Tribunal Testimonies, p.4 (“Whether they stood up as critics or victims of gender-based human rights abuse, all of the testifiers [at the Vienna Tribunal] also spoke for the hundreds of thousands of women around the world who could not be in Vienna, and for whom the testimonies served to symbolise their lived experiences”); Zajović, p.40 (although only a limited number of women testified at the Sarajevo Women's Court, it was important for the tribunal to reflect what happened to many more women); Crosby and Lykes, pp.456, 467 (quoting witnesses at the Guatemala Tribunal: “It may just be me speaking at this moment, but we are many, a majority in Guatemala, who were subjected to this type of constant violence” (p.456); “I am the spokesperson for many who are asking to be heard, so that what happened is known and investigated” (p.467)); Sommerauer, p.91 (quoting a witness at the Burma Tribunal: “I share with you a common story that in its commonness has, in time, become normal”).

132 Women Testify, p.22.

133 E.g., Courts of Women website.

many cases, particularly where the tribunal is to be held by organisations that are grassroots, community-based, or offer direct services to women, the organisers are already aware of and in contact with potential witnesses. In addition, reach out to collaborating organisations who may be able to identify potential candidates. Relying on collaborating organisations can be particularly important if the tribunal aims to present witnesses from different regions or countries. Otherwise (or in addition), potential witnesses can be identified through outreach activities in the community of women affected by the violations.

#### *Gather consent and information*

All potential witnesses must consent to their evidence being used for the women's tribunal. Informed consent is very important regardless of whether the witness will personally testify at the tribunal, or whether her evidence will be submitted through a written statement or an advocate witness. Consider asking witnesses to sign a consent form documenting their consent (see, for example, Appendix D). Ask potential witnesses to provide the information set out in the guidelines.

- 34 While the guidelines are important to ensure that key information is recorded, there is no set formula for documenting witness evidence. In the lead-up to the Sarajevo Women's Court, witnesses were given a written guide to assist them in setting out their evidence. Witnesses developed their testimonies together through a process of group discussion and editing, and mentors were also provided to guide individual witnesses in developing their testimony.<sup>134</sup>

#### *Decide whether and how to present the evidence*

Throughout the process of meeting with potential witnesses and discussing their evidence, decisions can be made regarding which witnesses to present, guided by the predetermined criteria.

The evidence of direct witnesses can be presented live or on pre-prepared videos or statements. A witness's testimony is usually most powerful when she presents live before the tribunal. If the witness is not able to travel to the tribunal, she could testify via video-conference.<sup>135</sup> Several free internet-based video-conferencing applications are available, including Skype and Google Hangout.

A video statement might suffice if a witness is unable to travel to the tribunal and video-conferencing technology is unreliable or unavailable. Written statements might be preferable as additional evidence if time

134 Zajović, pp.38-43.

135 Interview with Cristina Palabay, one of the organisers of the 2005 Asia Pacific Women's Tribunal against the World Trade Organisation and several other people's tribunals, November 29, 2015.

constraints do not permit the evidence of all suitable witnesses to be presented live or via video.

- *Advocate witnesses*

In addition to women telling their own stories, sometimes women's tribunals feature "advocate witnesses" who present evidence on behalf of others who have directly experienced abuses.<sup>136</sup> Advocate witnesses can present the stories of several women at the same time, contextualising their stories and describing how they reflect a pattern beyond the experiences of individual women. Advocate witnesses have often appeared at women's tribunals designed for large-scale international advocacy covering numerous themes in a short period of time.<sup>137</sup>

For example, the Beijing Tribunal, which was part of a lobbying effort aimed at the 1995 Beijing Platform for Action, relied largely on advocate witnesses rather than direct witnesses. One of the reasons for this was the inability to ensure that vulnerable survivors would receive the support they needed in Beijing.<sup>138</sup>

- *Expert witnesses*

Expert witnesses play a critical role in most women's tribunals because they paint a picture of the context in which the abuses described in the other testimonies took place. In addition, expert testimony can serve to balance the "drama" of direct witness testimony with "hard-hitting, evidence-based research."<sup>139</sup> The expert witnesses often testify first—before the direct or advocate witnesses.<sup>140</sup> Expert testimony can provide any background information or analysis necessary to fully appreciate the other witnesses' experiences; for example, the historical, political, social, economic, or legal context in which women's human rights were violated.

At the Asia Pacific Women's Tribunal against the World Trade Organisation, for example, in addition to direct and advocate witnesses, members of academia and lawyers testified as expert witnesses about the impact of the WTO's economic policies on poor women. The experts' testimonies featured statistical analysis of data, both qualitative and quantitative, which supported the personal experiences recounted by rural women from across the Asia Pacific region.<sup>141</sup>

136 Women Testify, p.21.

137 E.g., Vienna Tribunal Testimonies (many of the testimonies were given on behalf of other women).

138 Without Reservation, pp.9-10.

139 Interview with Ivy Josiah, organiser of the People's Tribunal on Malaysia's 13<sup>th</sup> General Elections, November 3, 2015.

140 See, e.g., Courts of Women website.

141 Interview with Cristina Palabay, one of the organisers of the 2005 Asia Pacific Women's Tribunal against the World Trade Organisation and several other people's tribunals, November 29, 2015.

- *Audiovisual evidence*

Where audio, video, or photographic evidence is available, this can greatly enhance a witness's testimony. With smartphones now used so widely, audio, video and photographic evidence is more readily available than ever, and can powerfully convey events as they unfolded. Bear in mind that this kind of evidence runs the risk of sensationalising a witness's testimony. It should be carefully evaluated to avoid this.<sup>142</sup>

- *Documentary evidence*

Since women's tribunals tend to focus on witness testimony, documentary evidence—which could be any writing on paper—does not always feature prominently. However, documentary evidence could be used strategically to complement witness testimony. For example, documents associated to the events about which a witness testifies—such as police or court reports or medical records—could be projected on a screen or provided in hard copy as further evidence.

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Sometimes documentary evidence is crucial to demonstrating the widespread or systematic nature of violations. Although only a small number representative witnesses may testify personally, documentation can show that the violations extend far beyond these individual witnesses. Such documents could include complaints or case files previously submitted to the police, judiciary, or international human rights treaty bodies or special rapporteurs, transcripts of hearings where relevant issues were addressed before legislative bodies or courts, news reports, etc.<sup>143</sup> This kind of documentary evidence can also establish the official authorities' responsibility for failing to exercise due diligence to prevent and punish the violations.

Documentary evidence featured prominently at the Tokyo Tribunal, supplementing the witnesses' testimonies. Voluminous documents were introduced from historical archives, including various military and local authorities' records, receipts, "financial accounts relating to soldiers' pay and deductions" for their use of the so-called "comfort women", along with "personal memoirs and diaries".<sup>144</sup> These documents were relied on to prove the case in much the same way they would have been in a trial before an official court.

- *Physical evidence*

Although rarely used during women's tribunals, physical evidence could include physical scars on a victim's body as well as such items as bandages from wounds, a rape kit, a gun or other object used as a weapon, or any

142 Women Testify, p.27.

143 Interview with Cristina Palabay, one of the organisers of the 2005 Asia Pacific Women's Tribunal against the World Trade Organisation and several other people's tribunals, November 29, 2015.

144 Chinkin (2006), p.214; Chinkin (2001), p.337.

other object relevant to a witness's story. This kind of evidence enhances a witness's testimony by helping the listener visualise what she experienced.

- *Alternative forms of evidence*

In addition to the types of evidence discussed above, which are all used to some degree in real courts, women's tribunals have the flexibility to present alternative forms of evidence. Women could provide their testimonies through music, dance or poetry, as done in various sessions of the Courts of Women.<sup>145</sup> These alternative forms of evidence can help to prevent victims from being re-traumatised.<sup>146</sup>

#### D. Structuring the proceedings

The form and format of women's tribunals can vary widely, depending on factors such as the topic, the political and social context, the vulnerability of the affected women and the desired outcomes. This very adaptability is one of the benefits of women's tribunals.<sup>147</sup> How any women's tribunal looks and feels should flow directly from the needs and goals of the women organising, involved in or otherwise affected by that particular women's tribunal.

On one end of the spectrum, a women's tribunal could be structured to closely resemble a formal judicial proceeding. If this is the desired structure, consider developing guiding documents such as a charter setting out the scope of the tribunal and the governing legal framework, rules of procedure and evidence to govern the proceedings, and an indictment containing the charges.

For example, the Tokyo Tribunal indicted specific individuals with criminal charges, followed strict rules of procedure and evidence, incorporated a defense case to the extent possible, and resulted in a thoroughly reasoned final verdict grounded in an identified legal framework.<sup>148</sup> Attached as Appendices A and B to the Tokyo Tribunal Judgement are its Charter (which includes the rules of procedure and evidence) and Indictment, which women's tribunal organisers can consult for inspiration in drafting their own guiding documents.

On the other end of the spectrum, a woman's tribunal could reject procedural constraints in favor of symbolism and story-telling. The Courts of Women embrace this model. While “[m]emory lapses, breakdowns of

145 Courts of Women website; Women Testify, p.42; Dam and Chin, p.7.

146 Dam and Chin, p.7.

147 Chinkin (2006), pp.211-212; Terrell, p.137.

148 Chinkin (2006), pp.215-216; Terrell, p.125; Interview with Heisoo Shin, one of the organisers of the Tokyo Tribunal, member of the jury panel at the 2011 Cambodia Women's Hearing, and one of the judges at the Burma Tribunal, December 22, 2015.

language, tears, witnesses testifying with their supporters by their sides, not to mention interludes of singing, dancing, and poetic visuals, would be seen as intrusions threatening the coherence of the central narrative in a regular court”, such displays of humanity are regularly used in the Courts of Women to challenge and expose structures of oppression.<sup>149</sup>

The 2007 Asia Pacific Court of Women, for example, opened with women blowing conch shells (a Sri Lankan ceremony traditionally performed by men), involved uninterrupted testimony told as personal narratives, featured poetic visuals, and concluded with a jury identifying crucial issues to be addressed by the state and civil society.<sup>150</sup> While the Tokyo Tribunal derived its legitimacy from its procedural safeguards, the 2007 Asia Pacific Court of Women Maximised its effectiveness by fostering an empowering space for women to speak freely.

The structure for the Vienna Tribunal and other tribunals organised as part of the Global Campaign for Women's Human Rights fell somewhere in between these two models: women delivered their pre-prepared testimonies in an open format, moderated by moderators with expertise on the topics being addressed. The judges delivered individual responses throughout the Tribunal, then issued a final collective statement at the close.<sup>151</sup>

When tailoring a women's tribunal to the particular context, the following circumstances weigh in favor of a more formal and court-like process:

- One of the objectives is to produce human rights documentation meeting certain requirements to submit for use in official investigations or prosecutions.<sup>152</sup>
- A rigorously reasoned judgment attributing responsibility under specific legal frameworks is desired (particularly if this judgment will be the only “official” judgment on the issue).<sup>153</sup>
- The success of the advocacy effort depends on the tribunal being perceived as procedurally fair and credible.<sup>154</sup>

The following factors weigh in favor of a less structured process:

- The tribunal aims to reconceptualise justice and challenge the legitimacy of the existing laws and official

149 Waller, pp.257-258; Dam and Chin, p.7.

150 Courts of Women website.

151 Demanding Accountability, pp.14-16; Women Testify, pp.7-8.

152 Women Testify, p.42.

153 Reilly (2007), pp.163-164.

154 E.g., Chinkin (2006), pp.215-216.

frameworks.<sup>155</sup>

- The primary objective is to give the witnesses space to share their experiences.
- There is a danger that requiring adherence to strict procedural constraints might risk re-traumatising witnesses.<sup>156</sup>

When planning for the Burma Tribunal the organisers discussed whether to adopt a formal courtlike format, following the model of the Tokyo Tribunal, or a more open format, following the model of the Vienna Tribunal. They considered several factors and decided on a hybrid approach that drew mainly on the Vienna Tribunal format. One of the reasons they opted not to impose strict legal requirements was to distinguish the Tribunal from “the mock trials continually taking place within Burma” that usurped the judicial process. The Tribunal organisers “wanted to be clear that the Tribunal [was] meant to complement and promote future International Criminal Court (ICC) prosecutions, not to replace or duplicate them”.<sup>157</sup>

### E. Timing to Maximise advocacy impact

Choosing the right moment for a women’s tribunal can open up significant advocacy opportunities. Scheduling the tribunal during the lead-up to an important or notable event or on a day with special significance will Maximise its impact.<sup>158</sup> Women’s tribunals are often organised as parallel events coinciding with significant global conferences, for example.<sup>159</sup>

The Nepal Sexual Violence Tribunal was scheduled during a pivotal time in the development of Nepal’s Truth and Reconciliation Commission (TRC) and new constitution. Both were on the forefront of national attention. As a result, the jury included specific recommendations aimed at influencing how the TRC would reflect women’s concerns.<sup>160</sup> The Nepal Sexual Violence Tribunal also fell during the 16 Days of Activism against Gender Violence.

The India Poverty Tribunal was held on October 17, 2007, the World Day for the Eradication of Poverty. The India Poverty Tribunal Report was rendered on International Woman’s Day the following year (March 8, 2008),

155 E.g., Waller, p.247.

156 Sommerauer, p.68.

157 Sommerauer, p.68.

158 Women Testify, p. 18.

159 Women Testify, pp.14-15; FTF-GCAP Training Guide.

160 Nepal Sexual Violence Tribunal Verdict, p.6.

reinforcing the key demands flowing from the Tribunal.<sup>161</sup>

Similarly, the Asia Pacific Women's Tribunal against the World Trade Organisation was held as a parallel event to the WTO Ministerial Conference in December 2005 in Hong Kong.<sup>162</sup>

## F. **Selecting the right people**

Beyond simply selecting witnesses, women's tribunal organisers should strategically approach their decisions regarding the other key participants and invitees. Having respected individuals playing prominent roles helps to establish the "moral authority" of the women's tribunal.<sup>163</sup> This segment discusses some of the considerations involved in selecting the right people.

- *Selecting the judges or jury panel*

Select the judges or jury strategically in order to promote the tribunal's objectives. The judges or jurors should typically have a background or expertise related to the issues the tribunal seeks to address.<sup>164</sup> Women's tribunals often have a mix of international and local experts as judges or jurors – international experts to draw greater international attention to the issues presented, and thus impose external pressure on domestic stakeholders; and local experts to underscore the local importance of the issues. Using well-known or high-profile judges or jurors can be particularly valuable in attracting attention to the tribunal and raising the profile of the issues addressed.<sup>165</sup>

For example, organisers of the 2011 Cambodia Women's Hearing intentionally selected a panel that included international judges for the purpose of drawing international attention. The hearing was covered in the Guardian shortly thereafter.<sup>166</sup>

- *Using advisors*

Legal, policy, or human rights advisors with expertise in areas that are important to the tribunal's objectives can assist the tribunal in a number of ways.<sup>167</sup>

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161 India Poverty Tribunal Report, pp.5-6.

162 Correspondence from Cristina Palabay, one of the organisers of the 2005 Asia Pacific Women's Tribunal against the World Trade Organisation and several other people's tribunals, January 28, 2016.

163 Chinkin (2006), p.216.

164 Interview with Ivy Josiah, organiser of the People's Tribunal on Malaysia's 13<sup>th</sup> General Elections, November 3, 2015.

165 Women Testify, pp.28-29.

166 Interview with Beini Ye, organiser of the Cambodia Women's Hearings, November 19, 2015; Hindstrom.

167 Women Testify, p.19.



If one of the tribunal's aims is to attribute individual or state responsibility under specific domestic and international legal frameworks, legal advisors can assist in identifying and explaining these frameworks. Legal and human rights advisors can further advise on the evidence selection to ensure that it reveals violations of relevant laws or human rights treaties.<sup>168</sup> Legal advisors can also assist in creating any procedural documents, such as an indictment or rules of procedure and evidence.

If the tribunal intends to produce documentation to submit to parallel court proceedings either domestically or internationally, or international human rights mechanisms, legal and human rights advisors with the requisite background should be consulted to ensure that the evidence adduced and documents produced contain the right information and meet any procedural requirements. Similarly, if one of the advocacy goals is to affect policy or legislation, legal and policy advisors can provide critical input.<sup>169</sup>

Legal advisors can also help to ensure that the tribunal proceedings do not have any unintended legal consequences. Local lawyers will be able to advise on whether there are any restrictions in domestic law to what may be presented as evidence at the tribunal. This could include, for example, advising on any implications that the evidence produced at the tribunal might have for ongoing or future investigations and prosecutions. This could also include advising on whether any laws would limit what could be said about alleged perpetrators or otherwise limit freedom of speech.

In addition to assisting the tribunal organisers, advisors can be made available to assist the judges or jury in assessing and evaluating the evidence in light of the identified frameworks.<sup>170</sup> The objectives of the women's tribunal will determine the propriety of tasking the same advisors with assisting both the organisers and the judges or jury.

During the Beijing Tribunal, for instance, an International Human Rights Advisory Group was set up to assist the organising committee with reviewing witness testimonies and frameworks for accountability. The same advisory group then helped the judges develop their recommendations at the close of the Tribunal.<sup>171</sup>

By contrast, one of the hallmarks of the Tokyo Tribunal was its strict adherence to formal rules of evidence and procedure. The judges had to be completely independent from the prosecution and the Tribunal organisers. In

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168 Interview with Ivy Josiah, organiser of the People's Tribunal on Malaysia's 13<sup>th</sup> General Elections, November 3, 2015.

169 Women Testify, p.19.

170 Interview with Ivy Josiah, organiser of the People's Tribunal on Malaysia's 13<sup>th</sup> General Elections, November 3, 2015; Women Testify, p.19.

171 Without Reservation, p.10.

these circumstances, the judges had their own team of legal advisors to assist them with their judgment.<sup>172</sup>

- *Including or excluding the defense perspective*

Women's tribunals do not have to present all sides of an issue or include a "defense" perspective. One of the most salient advantages of the women's tribunal format is the flexibility to be truly victim-oriented rather than perpetrator-oriented.<sup>173</sup> They can be structured for the benefit of the women testifying and the other women they represent, without being bound by the procedural constraints necessary to protect perpetrators' rights in real courts.<sup>174</sup> Since a defense case seeking to undermine the witnesses' testimonies would jeopardise goals related to victim empowerment and solidarity, most women's tribunals do not feature a defense case.

In preparing for the Cambodia Women's Hearings, there was discussion of whether both sides of the issue should be presented, as would be done at a truth and reconciliation commission. The organisers decided to take a victim-centered approach that excluded a defense case. The purpose was to create a safe and empowering space for victims to tell their stories and advocate for justice, not necessarily to present a neutral or objective truth.<sup>175</sup>

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On the other hand, incorporating a counter-perspective into a women's tribunal can help to alleviate criticism about the legitimacy of the conclusions and recommendations reached.<sup>176</sup> This could be done by inviting someone to present the defense arguments and any countervailing evidence. All aspects of the defense case presentation should be carefully weighed against the potential for harm to the witnesses and other victims. In particular, avoid "intimidating adversarial cross examination".<sup>177</sup>

In the interest of procedural fairness and legitimacy, the Tokyo Tribunal invited the Japanese government to defend itself against the allegations of systematic sexual slavery. When the government did not accept, the Tribunal organisers appointed a Japanese law firm to represent Japan's legal arguments at the Tribunal. In addition, the judges considered the reasoning of prior Japanese courts that denied Japan's responsibility for the crimes.<sup>178</sup>

- *Choosing moderators and/or prosecutors*

The proceedings of women's tribunals should be moderated by individuals who are familiar with the issues

172 Chinkin (2001), pp.337-338.

173 Interview with Staša Zajović, organiser of the Sarajevo Women's Court, December 9, 2015; Terrell, p.112.

174 Terrell, p.112.

175 Interview with Beini Ye, organiser of the Cambodia Women's Hearings, November 19, 2015; Ye, p.28.

176 See Chinkin (2006), p.217.

177 Terrell, p.137.

178 Terrell, p.127; Chinkin (2001), p.338; Chinkin (2006), p.217.

being addressed as well as the Tribunal's format and process. The moderator's role can vary, depending on the format of the proceedings. At some women's tribunals, the moderator's job is to introduce the topic of each session, introduce the witnesses, and make sure that the tribunal remains on schedule.<sup>179</sup> At other women's tribunals, the moderator may play a more active role in questioning the witnesses and presenting the evidence. If the audience is permitted to ask questions of the witnesses, the moderator can function as a filter, ensuring that the questions are appropriate before asking the witnesses to respond.<sup>180</sup> Consider selecting different moderators to cover different sessions of the tribunal.

Some women's tribunals have a prosecutor instead of or in addition to a moderator. Prosecutors should be lawyers with expertise in the area of law relevant to the tribunal. The prosecutor's role is to present the evidence as she would before an official court, asking the witnesses questions to guide their testimony and tendering exhibits into evidence.

At the Tokyo Tribunal, for instance, the lead international prosecutor was the legal advisor for gender related crimes in the office of the prosecutor at the International Criminal Tribunal for the Former Yugoslavia.

- *Selecting the audience*

Deciding who to invite to join the audience at a women's tribunal can also contribute to the tribunal's objectives. Consider whether to invite members of the witnesses' community, government authorities or others holding positions of power, international or local civil society, students, or other interested groups. Always weigh the advocacy benefits of inviting certain individuals against any potential harms. For example, if a primary goal is to influence changes in policy or legislation, key government officials or lawmakers should be invited to hear the testimonies at the tribunal. On the other hand, if the tribunal aims primarily to create a safe space for women to testify about sensitive issues, this might militate against inviting such officials. Similarly, if one of the goals is to raise public awareness of an issue, an open invitation could be issued within the relevant communities. However, if witnesses will be testifying about perpetrators who still live in their community, or about issues that carry social stigma, invitations should be more selective.

At the Guatemala Tribunal, the presence of state officials was important for the witnesses, but resulted in heightened expectations. Witnesses appreciated the presence of international representatives in the audience, considering this a display of solidarity. In addition, it was very important to witnesses that the judges were

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179 Women Testify, pp.42-43.

180 Interview with Beini Ye, organiser of the Cambodia Women's Hearings, November 19, 2015.

survivors and activists who worked with survivors.<sup>181</sup>

The organisers of the Sarajevo Women's Court decided with the witnesses to invite politicians and internationals, but “not allow them to speak publicly” because the Court was meant to be victim-centered, and the victims were “fed up with politicians who use their spaces”. The Court explained its conditions: the political and international elites could attend, but they had to cover their own expenses, they could not sit in the front, and they could not speak.<sup>182</sup>

### G. **Strategically choosing a location and venue**

Deciding where to hold the women's tribunal can also be used as an opportunity for advocacy. Therefore, when selecting the geographic location and venue, think beyond simply finding a space that can accommodate the right number of people and meet practical needs. The women's tribunal could be held, for example, in the capitol city where oppressive policies were devised, or in the town where violations occurred, or in a place of particular national or international significance.

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The Tokyo Tribunal was held in Tokyo, Japan to “symbolically represent” that this women's tribunal was a continuation of the war crimes trials held there in the wake of World War II, which had neglected to raise sexual slavery as a crime.<sup>183</sup> The judgment was delivered in The Hague, which was chosen because of its symbolic nature as the seat of international criminal tribunals.<sup>184</sup>

The organisers for the Sarajevo Women's Court also recognised the significance of where the Court would be held. They considered holding it in Belgrade, Serbia, the “belly of the beast”, to hold the regime in Serbia accountable for the crimes committed and put “pressure on the Serbian public to admit the crimes”. Ultimately, they chose Sarajevo, Bosnia-Herzegovina “based on the reality and symbolism of suffering”—the heart of the nation that suffered the most during the conflict as well as “the geographical center of the former Yugoslavia”.<sup>185</sup>

Potential venues could similarly include spaces of particular historical or political significance, official buildings, places visible or in close proximity to stakeholders, or scenes of protest. The women's tribunal proceedings could also include a field trip to the crime scene to contextualise the witnesses' testimony.<sup>186</sup>

181 Crosby and Lykes, p.469.

182 Interview with Staša Zajović, organiser of the Sarajevo Women's Court, December 9, 2015.

183 Chinkin (2006), p.215.

184 Correspondence from Heisoo Shin, one of the organisers of the Tokyo Tribunal, member of the jury panel at the 2011 Cambodia Women's Hearing, and one of the judges at the Burma Tribunal, January 28, 2016.

185 Zajović, p.29.

186 Interview with Heisoo Shin, one of the organisers of the Tokyo Tribunal, member of the jury panel at the 2011 Cambodia

The Nepal Sexual Violence Tribunal was held within the premises of the National Human Rights Commission (NHRC) as a strategy to influence the NHRC to fulfill its mandate to investigate conflict-related sexual violence crimes. Several of the jury's recommendations were directed at the NHRC.<sup>187</sup>

## H. Publicity and outreach

Considering that promoting solidarity and raising awareness are often primary goals of women's tribunals, publicity and outreach can be important components of organising a women's tribunal. The tribunal objectives will determine the target audience for promotional materials. It may be worth raising awareness among the target audience in the weeks or months before the tribunal will be convened. This can be done by distributing flyers or posters in target locations; circulating announcements via email, post, social media or mainstream media; and publicising the tribunal in relevant feminist and civil society networks.<sup>188</sup>

Depending on time and resources available, consider setting up a website containing all information related to the tribunal, background materials about the issues to be addressed, and—after the tribunal—any resulting verdict, report, press release, or other related publication.

Organisers of the Sarajevo Women's Court operate a website in both Serbian and English. In addition to publicising the Women's Court, the website contains links to related events to continue the momentum generated around the Women's Court.<sup>189</sup>

In addition to posting information and news stories about the Burma Tribunal on the websites of the sponsoring organisations before, during, and after the Tribunal, the organisers set up a Tribunal blog. The blog gave the public “a more inside view of the Tribunal proceedings”, posting the stories of Burmese women along with photos and videos. During the Tribunal, blog posts featured observations about the Tribunal proceedings and linked to a live feed for the public to watch in real time.<sup>190</sup> In addition, the organisers used a variety of social media platforms to disseminate information about the Tribunal, including Twitter, Facebook, and YouTube.<sup>191</sup>

Attracting “the right kind” of media attention to women's issues—which is “constructive, non-sensational and

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Women's Hearing, and one of the judges at the Burma Tribunal, December 22, 2015.

187 See Nepal Sexual Violence Tribunal Verdict, pp.5-6.

188 Women Testify, p.48.

189 Women's Court – Feminist Approach to Justice, <http://www.zenskisud.org/en/o-zenskom-sudu.html> (accessed December 26, 2015).

190 Sommerauer, pp.111-112.

191 Sommerauer, pp.121-129.

non-sexist” —can be challenging.<sup>192</sup> In addition, in some circumstances the perpetrators of the violations raised by the women’s tribunal control or have influence over the media.<sup>193</sup> With that in mind, the tribunal’s organisers should seek out only the kind and degree of media attention that would further the tribunal’s objectives. For example, if drawing international attention to human rights violations is a goal of the tribunal, tribunal organisers should develop a comprehensive media strategy.<sup>194</sup> On the other hand, if empowering a particularly vulnerable community of women is the tribunal’s primary goal, involving the media could be counter-productive.

To protect women who were testifying for the first time about sexual violence they had experienced at the hands of government and Maoist forces during the Nepalese civil war, no media were invited to the Nepal Sexual Violence Tribunal. Instead, the Tribunal organisers distributed a press release shortly after the proceedings.<sup>195</sup>

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The Tokyo Tribunal, on the other hand, garnered massive media attention because of the high international interest in the issue of the Japanese military’s sexual enslavement of “comfort women” during World War II. There was so much media attention that tribunal organisers held two press briefings every day, one in English and another Korean. The media were charged a fee for admission to the hearings to help cover the Tribunal’s costs.<sup>196</sup>

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192 Women Testify, p.44. For more information on media and public relations strategies for women’s tribunals, see Women Testify, pp.44-50.

193 Interview with Ivy Josiah, organiser of the People’s Tribunal on Malaysia’s 13<sup>th</sup> General Elections, November 3, 2015.

194 Women Testify, p.44.

195 Nepal Sexual Violence Tribunal Press Release.

196 Interview with Heisoo Shin, one of the organisers of the Tokyo Tribunal, member of the jury panel at the 2011 Cambodia Women’s Hearing, and one of the judges at the Burma Tribunal, December 22, 2015.

## Section 4: Ensuring the dignity and safety of witnesses

Providing women whose rights have been violated with a platform for speaking truth to power is an essential goal of any women's tribunal. To achieve this, the tribunal's organisers should do everything they can to enable the testifiers to provide their testimonies in a way that is empowering. Giving witnesses the support they need will ensure the best possible presentation of their evidence on the day of the tribunal.

### A. **Foster an inclusive and empowering environment**

To empower all witnesses giving evidence at a women's tribunal, it is important to foster an inclusive environment, erasing all hierarchies among the witnesses.<sup>197</sup> Witnesses and organisers alike sometimes hold preconceived notions about the "hierarchy of sufferings", whereby one woman's experience is viewed as less significant than another's.<sup>198</sup> Make every effort to foster empathy and solidarity among the women and to ensure that all participants are empowered.<sup>199</sup> Witnesses should not be made to feel as if they are defined by

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197 Waller, p.250 ("The ability of [the Courts of Women's] participants to respond with care and creativity to one another and to the forms of violence being brought to the Courts' attention depend upon how effectively the Courts themselves produce a social and perceptual commons that dissolves hierarchies of class, of belonging and unbelonging, of visibility and invisibility").

198 Zajović, p.35.

199 Zajović, pp.35-36, 40, 65; Dam and Chin, p.7; Waller, p.256 ("By not hierarchising some positions over others, the succession of

their experiences of abuse and violation: avoid “glorification of the victim”, and instead empower them as crucial players in the movement toward change.<sup>200</sup>

### B. Thorough preparation and informed consent

Make sure that witnesses understand what is expected of them, and thoroughly prepare them to deliver their testimony. The more a witness practices giving her evidence, the better prepared she will be. This has the twin advantages of boosting the witness’s confidence and maximising the amount of information she shares.<sup>201</sup>

Ideally, assign one person to practice each witness’s testimony with her in advance of the Tribunal. If possible, the same person should ask the questions during the Tribunal because her intimate understanding of the evidence will enable her to ask the right follow-up questions, and the previously developed rapport will put the witness at ease.<sup>202</sup> A practice session can also be organised to allow all testifiers to practice presenting their evidence in front of each other.<sup>203</sup>

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In preparing for the Cambodia Women’s Hearings, one person was responsible for helping the witnesses to prepare their testimony with them. Once the organisers identified who would testify, they prepared five questions that would be asked of each one during the hearing. Each witness practiced answering these questions and providing her evidence at least three different times.<sup>204</sup>

In addition to practicing their testimony, fully inform witnesses about what to expect on the day of the Tribunal. Explain to witnesses how the Tribunal will proceed, when they will be called upon to provide their testimony, how they will be questioned, whether they will need to pause for interpretation, whether they will need a microphone, where they will stand, and any other modalities. If possible, take the witnesses to the Tribunal venue in advance to help them feel comfortable with their surroundings.

### C. Protective measures

A women’s tribunal should be a safe space for women to testify without fear for their safety or that of their

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testimonies, analyses, and reflections offered listeners a sense of their interconnectedness with one another...[T]his relational analytic endows everyone with agency.”)

200 Interview with Renu Rajbhandari, organiser of the Nepal Sexual Violence Tribunal, December 2, 2015; Interview with Staša Zajović, organiser of the Sarajevo Women’s Court, December 9, 2015.

201 Interview with Beini Ye, organiser of the Cambodia Women’s Hearings, November 19, 2015.

202 Interview with Beini Ye, organiser of the Cambodia Women’s Hearings, November 19, 2015.

203 Women Testify, p.54.

204 Interview with Beini Ye, organiser of the Cambodia Women’s Hearings, November 19, 2015.



family, and without fear of stigmatisation or retaliation by society or the state.<sup>205</sup> Topics such as rape and sexual violence can be particularly sensitive, especially in societies where women who experience such violations are then shunned by their families and communities, suffering double victimisation. Furthermore, witnesses' safety and security may be at risk if they continue to live in the same communities as the perpetrators whose acts are the subject of their evidence. During the women's tribunal, protective measures can be put in place to ensure that the witnesses' wellbeing is not further jeopardised.<sup>206</sup> These measures can include: referring to the witness by a pseudonym instead of her real name, allowing the witness to testify from another room or from behind a partition to hide her identity, and—if the technical equipment is available—distorting her voice so it is not recognisable. In addition, organisers may want to consider whether to exclude certain populations from the audience, such as men, any alleged perpetrators or people from the perpetrators' group, or the media.

During the Nepal Sexual Violence Tribunal, all of the women testified from another room under pseudonym, and only their voices were broadcasted into the tribunal room.<sup>207</sup>

At the Guatemala Tribunal, all witnesses spoke from behind a curtain to hide their identities. This was necessary to ensure their safety in a country where impunity for gender-based violence was widespread and women survivors often lived in the same community as their assailants.<sup>208</sup>

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#### D. Sensitising the audience and judges or jury

Before the witnesses testify, consider educating the audience and judges or jury about being sensitive to the needs of the witnesses. This can be done through an announcement at the start of the women's tribunal that all reactions and questions must be respectful and refrain from blaming, discriminating against, or otherwise looking down on the witnesses. Everyone present at the tribunal must be supportive of the witnesses, no matter how shocking their testimonies might be.<sup>209</sup>

Although there were no rules of procedure and evidence at the Cambodia Women's Hearings, there was one rule for audience members: they must respect the witnesses. To communicate this rule, a psychologist briefed the audience at the outset to prepare everyone for the horrific testimonies they would hear and instruct them on how to react with support and respect. The psychologist repeated this instruction after the testimonies and

205 Zajović, p.31.

206 Interview with Heisoo Shin, one of the organisers of the Tokyo Tribunal, member of the jury panel at the 2011 Cambodia Women's Hearing, and one of the judges at the Burma Tribunal, December 22, 2015.

207 Personal observation of the author, who assisted the Nepal Sexual Violence Tribunal as a legal advisor.

208 Crosby and Lykes, pp.458-459.

209 Interview with Beini Ye, organiser of the Cambodia Women's Hearings, November 19, 2015.

before audience questioning.<sup>210</sup>

### **E. Availability of resources before and after the tribunal**

The very nature of a women’s tribunal entails difficult topics such as grave human rights violations that can be traumatic to talk about. Make every effort to prevent witnesses from being re-traumatised when testifying about horrific violations they experienced. Ensure that witnesses receive emotional and psychological support before, during, and after the tribunal. This can be achieved by making counsellors or social workers available to the witnesses, for example. Arranging for a support person who can provide moral support to each witness before and during their testimony is highly recommended.<sup>211</sup>

Recognising the traumatic nature of testimony about wartime sexual violence, the organisers of the Nepal Sexual Violence Tribunal ensured that the survivors they were working with had adequate psychological care and counseling through every phase of preparation for the tribunal, which continued after the tribunal concluded.<sup>212</sup>

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The 2012 Cambodia Women’s Hearing brought together women from four different countries. From each country, a support person from a local NGO accompanied the witnesses. Some of the witnesses had never before left their respective villages, and it would not have been possible for them to participate in the Hearing without support.<sup>213</sup>

The Sarajevo Women’s Court prioritised care for the witnesses—providing “a safe space for women”—as a primary goal. The organisers noted in particular that they had learned their lesson from the “experience of institutional justice” through the courts, where “nobody cared for women.”<sup>214</sup>

### **F. Collective statement of solidarity or demands**

It can be empowering for the witnesses to come together to issue a collective statement expressing their solidarity with each other and setting out their demands. Although some aspects of this statement may overlap with the verdict rendered by the judges or jury, the purpose is entirely different. Rather than adjudicating or assessing their evidence, the statement is meant to demonstrate the witnesses’ collective voice as agents of

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210 Interview with Beini Ye, organiser of the Cambodia Women’s Hearings, November 19, 2015.

211 Women Testify, p.24.

212 Interview with Renu Rajbhandari, organiser of the Nepal Sexual Violence Tribunal, December 2, 2015.

213 Interview with Beini Ye, organiser of the Cambodia Women’s Hearings, November 19, 2015.

214 Zajović, p.16.

change.

For example, the women involved in the India Poverty Tribunal issued a Women's Charter against Poverty in which they stated that they represented the "voices of women who are on the margins of society", that they had come together to speak out, "tak[ing] courage from each other to shed [their] historical burden". This Charter set out their demands.<sup>215</sup>

## Section 5: Role of the judges or jury panel

Although different women's tribunals have different names for them – whether judges, a jury panel, council of wise women and men, or something else – the essence of their role is the same: they listen to the evidence presented and, based on this evidence, present a verdict. Since the verdict encapsulates the tribunal's goals and is the primary output aside from the evidence, making sure the judges or jury are well prepared is very important.

### A. **Preparing to be a judge or juror**

Judges and jurors should never show up on the day of the Tribunal without any advance preparation. Although the degree of preparation required may vary depending on the nature of the women's tribunal, at the very least they should have done some background reading to familiarise themselves with the nature and history of the issues to be addressed.<sup>216</sup> This is especially important for international or other non-local judges and jurors.

The judges or jurors should also familiarise themselves with any rules of procedure and evidence that will apply to the tribunal's proceedings, to ensure that the tribunal runs smoothly. For example, if there are limitations on

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<sup>216</sup> Interview with Heisoo Shin, one of the organisers of the Tokyo Tribunal, member of the jury panel at the 2011 Cambodia Women's Hearing, and one of the judges at the Burma Tribunal, December 22, 2015.

the ways that judges or jurors can ask questions, they should know this beforehand.

During the Nepal Sexual Violence Tribunal, for example, there were no formal rules of procedure, but the jurors were thoroughly briefed in advance on the format for the testimony and any follow-up questions. The jurors were told that they would be permitted to ask questions at the conclusion of each testimony but should not interrupt the testimony. Their questions would be asked through an intermediary, who would convey them to the witnesses. Ensuring that they understood the process before the Tribunal started meant the proceedings unfolded efficiently, and all ten witnesses were able to complete their testimonies in a single day.<sup>217</sup>

If the judges or jury are expected to deliver their verdict on or shortly after the last day of the tribunal, they should begin to develop the verdict in advance.<sup>218</sup> Using a verdict template (for an example, see Appendix C), the judges or jury can already begin to prepare their statement and recommendations. As they listen to the evidence during the tribunal's proceedings, this pre-prepared document becomes a useful framework for organising their thoughts.

### B. Issuing the verdict

While the verdict can take different forms depending on the tribunal's format and objectives, it should take a feminist approach to ensuring accountability for the violations described in the evidence. In general, the verdict should include pronouncements on how the evidence demonstrates that specific actors have violated international human rights standards, international and domestic law, and treaty obligations. The verdict should address responsibility for perpetrating violations and for failing to protect the human rights that were violated.<sup>219</sup> The verdict should also make recommendations for remedial action to address the violations. Taking an expansive view of accountability, the recommendations can be directed toward any entities whose policies and Programmes relate to the issues raised in the evidence, including but not limited to states and state actors; the UN and any relevant UN agencies, commissions, human rights treaty bodies, rapporteurs, etc.; international financial institutions; multinational and/or domestic corporations; domestic and international civil society; the public, both local and international; the media; etc.

After the Tokyo Tribunal, the judges deliberated for a day before delivering a preliminary judgment.<sup>220</sup> The final verdict took the form of a full-fledged, 265-page judgment, which the judges rendered a year after the Tribunal

217 Personal observation of the author, who assisted the Nepal Sexual Violence Tribunal as a legal advisor.

218 Women Testify, pp.38-39; Interview with Beini Ye, organiser of the Cambodia Women's Hearings, November 19, 2015.

219 Women Testify, p.34.

220 Chinkin (2001), p.338.

concluded. Although the Tribunal was held in Tokyo, the judgment was delivered in The Hague. It named Emperor Hirohito and others as bearing individual criminal responsibility for the crimes, and found the nation of Japan to bear state responsibility as well.<sup>221</sup>

For the Nepal Sexual Violence Tribunal, the jury presented a preliminary verdict and recommendations orally after a brief deliberation at the conclusion of the evidence, but provided a full 6-page verdict two days later. The verdict concluded that the evidence presented indicated that during the conflict, numerous sexual violence crimes had been committed in violation of international and domestic law. The verdict made a variety of recommendations aimed at achieving accountability and reparations for past crimes and for changing laws and policies that continued to harm women.<sup>222</sup>

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221 Tokyo Tribunal Judgement.

222 Nepal Sexual Violence Tribunal Verdict.

## Section 6: Practical and logistical considerations

As with any advocacy event, organising a women's tribunal involves numerous practical and logistical considerations. Although every situation will have its own unique practical concerns, this Section sets out some common things to consider.<sup>223</sup>

### A. **Establishing an organising committee and ensuring adequate staffing**

One of the initial steps in organising a women's tribunal will be to establish an organising committee consisting of the individuals who will take primary responsibility for overseeing the process. The organising committee members should be dedicated to the cause and have experience working on the issues raised by the Tribunal.<sup>224</sup> The organising committee should generally include members of each organisation involved in putting on the tribunal. The key to successfully coordinating, particularly across multiple organisations, is to clearly define each person's role, and to ensure that communication remains open. The members of the organising committee will be responsible for delegating various aspects of the preparations to other staff and/or volunteers as necessary.

Tribunal organisers should plan the staffing for the day of the tribunal in advance to ensure that it functions

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223 For a sample task list for site planning for a women's tribunal, see Women Testify, Appendix 5.

224 Women Testify, p. 17.

smoothly. Designating one person as a coordinator to manage the process on the day of the tribunal can be crucial in ensuring that the presentation is seamless, efficient, and sticks to the schedule. The “day-of” coordinator will be responsible for making sure that speakers are on stage at the right time and will be the point person for handling any issues that may arise. All staff and volunteers should have clearly assigned responsibilities for the day of the event, which could include managing technical equipment, liaising with the media, taking minutes, registering or seating attendees, etc.<sup>225</sup>

## B. Securing funding

56 Securing funding for a women’s tribunal should be consistent with the tribunal’s strategy and goals. Where a women’s tribunal is part of a larger and longer-running advocacy project, securing a donor base for the entire project allows the organisers to draw from a larger pool of funds, which provides some flexibility.<sup>226</sup> When raising funds specifically for a women’s tribunal, recruiting from a wider base of like-minded individuals or non-traditional funding sources can serve the dual purpose of mobilising the public within the “framework of solidarity” and “preserving the integrity of the tribunal”.<sup>227</sup> Public fundraising efforts can double as publicity to garner interest in and raise the profile of the women’s tribunal.<sup>228</sup> Additional funding can come from charging admissions fees for the women’s tribunal audience.<sup>229</sup> This must be balanced against the potential for deterring community participation. Galvanising people who are committed to the tribunal’s goals and willing to assist with the tribunal on a voluntary basis can be crucial to keeping costs low.<sup>230</sup>

When seeking funding, start with organisations and individuals who have already demonstrated commitment to the issues the women’s tribunal will address. Women’s tribunals are often funded by donors with whom the tribunal organisers have a pre-existing relationship, developed in the context of related advocacy events and Programmes.<sup>231</sup> AWID has created a helpful online tool that organisers can use to identify a wide range of

225 Women Testify, pp.55-56.

226 Correspondence from Renu Rajbhandari, organiser of the Nepal Sexual Violence Tribunal, April 13, 2016; Interview with Beini Ye, organiser of the Cambodia Women’s Hearings, April 20, 2016; Interview with Staša Zajović, organiser of the Sarajevo Women’s Court, April 18, 2016.

227 Correspondence from Cristina Palabay, one of the organisers of the 2005 Asia Pacific Women’s Tribunal against the World Trade Organisation and several other people’s tribunals, April 16, 2016.

228 Interview with Heisoo Shin, one of the organisers of the Tokyo Tribunal, member of the jury panel at the 2011 Cambodia Women’s Hearing, and one of the judges at the Burma Tribunal, April 6, 2016.

229 Interview with Heisoo Shin, one of the organisers of the Tokyo Tribunal, member of the jury panel at the 2011 Cambodia Women’s Hearing, and one of the judges at the Burma Tribunal, April 6, 2016.

230 Interview with Staša Zajović, organiser of the Sarajevo Women’s Court, April 18, 2016; Correspondence from Ivy Josiah, organiser of the People’s Tribunal on Malaysia’s 13<sup>th</sup> General Elections, April 7, 2016.

231 Interview with Staša Zajović, organiser of the Sarajevo Women’s Court, April 18, 2016; Correspondence from Ivy Josiah,



funders that “support their priorities, populations or locations”, available here: <http://www.awid.org/fund-me>. For larger projects, the UN has established two trust funds that organisers could consider: the UN Trust Fund to End Violence against Women, and the UN Trust Fund for Gender Equality.<sup>232</sup> In addition, consider reaching out to foreign embassies for smaller grants.<sup>233</sup>

### C. Distributing materials to judges or jury members

To ensure that judges or jurors are prepared, provide them with materials in advance of the women’s tribunal.<sup>234</sup> These materials could include the basic legal framework to be applied (see Appendix B), a verdict template (see Appendix C), and background reading materials for those who may not be intimately familiar with the historical or cultural context of the issues that will be raised at the tribunal.

### D. Visas, travel and accommodation

Arrange transportation and lodging for non-local participants as needed. If any of the witnesses, judges/jurors, or other key participants are based outside of the country where the tribunal will be held, organisers should arrange for their visas and travel as early as possible. Time and again, the inability to secure visas has prevented women from attending women’s tribunals and related advocacy events.<sup>235</sup>

### E. Documenting the women’s tribunal

Documenting the tribunal proceedings is extremely important because whatever record is created will be crucial

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organiser of the People’s Tribunal on Malaysia’s 13<sup>th</sup> General Elections, April 7, 2016; Interview with Beini Ye, organiser of the Cambodia Women’s Hearings, April 20, 2016.

232 Information on applying for a grant from these trust funds can be found here: <http://www.unwomen.org/en/trust-funds/un-trust-fund-to-end-violence-against-women> (accessed May 5, 2016) <http://www.unwomen.org/en/trust-funds/fund-for-gender-equality> (accessed May 5, 2016)

233 Interview with Beini Ye, organiser of the Cambodia Women’s Hearings, April 20, 2016.

234 Interview with Ivy Josiah, organiser of the People’s Tribunal on Malaysia’s 13<sup>th</sup> General Elections, November 3, 2015; Interview with Heisoo Shin, one of the organisers of the Tokyo Tribunal, member of the jury panel at the 2011 Cambodia Women’s Hearing, and one of the judges at the Burma Tribunal, December 22, 2015.

235 Burma Tribunal Report, p.9 (US consular authorities rejected the applications of five women scheduled to testify); Sommerauer, p.70 (referring to “last-minute visa difficulties” that prevented several of the witnesses scheduled for the Burma Tribunal from traveling); Asia Pacific Women Reject Trade Talks (many activists from Nepal, Pakistan, Sri Lanka and others were unable to travel to Hong Kong for the women’s tribunal organised by APWLD to protest the WTO talks on December 13-18, 2005; others were held and interrogated by immigration officials in Hong Kong); Interview with Cristina Palabay, one of the organisers of the 2005 Asia Pacific Women’s Tribunal against the World Trade Organisation and several other people’s tribunals, November 29, 2015 (women’s rights activist and former parliamentarian Liza Maza, who was supposed to fly from the Philippines to testify at a people’s tribunal on the Philippines organised in the United States in July 2015, was prevented from boarding the plane).

for further advocacy once the tribunal has concluded. Tribunal organisers have several options to ensure an accurate record.

Audio-taping the event is likely to be the least costly means of verbatim recording. Bear in mind that the audio-taping must be high quality or it will be wasted, so test the equipment at the venue in advance.

Video-taping the tribunal is the most effective way to reach the widest possible audience. The impact of watching people testify, rather than simply hearing their voice or reading their words, can be exceptionally powerful. Video of the proceedings can be streamed live online for anyone, anywhere to watch the tribunal in real time. The videos can be made available online to allow for continuous access even after the tribunal concludes. Videos can also be used in further Programming that may be part of the tribunal's objectives, such as educational materials, a documentary, or a media segment or other TV Programme. The production quality of video-taping can vary widely. Although it can be costly, if video footage is important for ongoing advocacy efforts, the tribunal organisers should consider hiring a professional film crew.

- 58 Professional transcribers can be hired to transcribe the tribunal proceedings verbatim, which will make a full written transcript available within a day or two after the tribunal.<sup>236</sup> This can be particularly useful if there is time pressure to generate reports or submit materials from the tribunal to a parallel process before a court or a UN commission, etc. Combing through written transcripts for the relevant information is much easier than re-listening to audio recordings or re-watching video footage. This service can be costly and may not be available in all languages of the tribunal.

The least costly means of creating a written record is to assign someone to take minutes, with instructions that the notes be as close to verbatim as possible. If possible, a different person should be assigned to take minutes in each of the languages used during the proceedings to minimise the risk of the proceedings getting lost in translation.

Tribunal organisers may also want to arrange for a photographer to take high quality photographs that can be used for reports and for future advocacy activities.

## F. Interpretation

Arrange for interpreters if multiple languages, including sign language, will be used during the tribunal. Ideally, professional interpreters should be hired. This may incur additional costs, but it will ensure that the

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236 Interview with Ivy Josiah, organiser of the People's Tribunal on Malaysia's 13<sup>th</sup> General Elections, November 3, 2015.

presentations are interpreted accurately and efficiently. Interpretation can be exhausting, particularly for those who are not fully fluent in both languages, and this exhaustion is only compounded when the subjects being discussed are emotionally disturbing, as will often be the case at women's tribunals. Exhausted interpreters do not convey the most accurate translations. The accuracy of the interpretation is particularly important if the judges or jury are listening to the interpretation, and if the resulting report or documentation will be produced in the language of interpretation.

Interpretation can be either consecutive or simultaneous. Simultaneous interpretation will require a higher degree of technical coordination: interpreters should sit in a sound-proof booth so that they can interpret without disturbing the speaker, the interpreter will need a microphone, and anyone in the audience who is listening to the interpretation will need headsets. If the interpretation is to be captured by audio or video recording, this will require additional equipment.

In addition, if video-taped testimony is presented, translated subtitles are very helpful. Since they must be prepared in advance, subtitles avoid the potential for inaccuracy inherent in real-time interpretation.

At the Guatemala Tribunal, simultaneous interpretation was provided between Spanish, four Mayan languages, and English. The witnesses, who were largely rural women, appreciated that they were able to understand the entire proceedings in their own language.<sup>237</sup>

The 2012 Cambodia Women's Hearing involved witnesses from four different countries. The organisers arranged for an interpreter from each country to fly to Cambodia with the witnesses, and these interpreters provided interpretation during the Hearing.<sup>238</sup>

## G. Security

Assess whether security is a concern. If so, inform local law enforcement about the women's tribunal in advance and make any necessary arrangements to secure the venue. This could include hiring security personnel and, at a minimum, only allowing access to people identified on a pre-prepared list. Be sure to inform all tribunal participants in advance if they need to bring identification. If there is any risk that the police may arrest tribunal participants, ensure that lawyers are available on standby.<sup>239</sup>

237 Crosby and Lykes, p.469.

238 Interview with Beini Ye, organiser of the Cambodia Women's Hearings, November 19, 2015.

239 Interview with Ivy Josiah, organiser of the People's Tribunal on Malaysia's 13<sup>th</sup> General Elections, November 3, 2015.

H. *Arrangements for people with disabilities*

Make suitable arrangements if people with disabilities are participating in or attending the tribunal. For example, consider installing ramps and ensuring sufficient spacing between furniture to assist those with physical disabilities, and sign language interpretation for those with hearing impairment.

I. *Technical equipment*

Make arrangements for all technical equipment in advance and test it at the venue before the women's tribunal. Technical equipment includes microphones, speakers, headphones in the case of simultaneous interpretation, video recorders and projectors, computers, etc. In particular, be sure to test any equipment required to ensure that witness protective measures function properly. This could include, for example, enabling the witness testimony to be broadcast from another room and/or voice distortion. Make sure that there are plugs or extension cords accessible throughout the venue for any judges or jurors, media or audience members who may use computers for note-taking.

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J. *Furniture*

Necessary furniture for the women's tribunal could include tables, chairs, a stage and podium, trash cans, etc. In particular, arrangements should be made for any furniture needed for witness protective measures, such as a curtain to obscure witnesses' identity.

K. *Food and water*

Consider whether the tribunal needs to provide any meals or refreshments. Water should be made available, particularly for the speakers.

L. *Finishing touches*

Consider what additional details should be organised to bring life to the event. For example, the women's tribunal could have a welcome or sign-in table; name tags for witnesses, speakers, and attendees; Programmes or brochures; banners or displays; stationary and pens; flowers; artwork; etc.

## Section 7: Continuing the momentum after a women's tribunal

Build on the momentum generated by the women's tribunal to achieve the tribunal's advocacy goals. Already during initial preparations for the women's tribunal, organisers should set timelines and allocate resources for continued advocacy after the tribunal.<sup>240</sup> Once the tribunal concludes, provide the verdict and recommendations immediately to relevant authorities and stakeholders, particularly those to whom recommendations were addressed.<sup>241</sup> Also submit the verdict and recommendations to the relevant UN mechanisms, including special rapporteurs, independent experts, and human rights treaty bodies.<sup>242</sup> Press releases can be distributed immediately to raise awareness about the tribunal. Tribunal organisers can solicit statements of solidarity from relevant civil society and other groups. A quality report documenting the tribunal should be produced as soon as practicable.<sup>243</sup> Follow-up measures must be taken to hold stakeholders to any promises or pledges they made in the wake of the tribunal. Further advocacy activities should be planned to capitalize on the energy and attention generated during the women's tribunal.

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240 Interview with Ivy Josiah, organiser of the People's Tribunal on Malaysia's 13<sup>th</sup> General Elections, November 3, 2015.

241 Interview with Ivy Josiah, organiser of the People's Tribunal on Malaysia's 13<sup>th</sup> General Elections, November 3, 2015.

242 Terrell, pp.143-144.

243 See Women Testify, pp.58-59 for further suggestions about resources that can be produced to build on the testimonies given during a women's tribunal.

Organisers of the Burma Tribunal seized upon critical “advocacy moments” to Maximise the impact of follow-up advocacy efforts. For example, upon the release of the final Tribunal report, the organisers took the opportunity to send copies to UN Secretary-General Ban Ki Moon, the heads of ASEAN states, members of the UN Security Council, U.S. President Barack Obama, and other officials. They attached cover letters advocating for the judges’ recommendations. The letters were personalised for their recipients, following up on prior interactions.<sup>244</sup> Another advocacy moment was the release of a documentary about the Tribunal. The Tribunal organisers used this event to bring further awareness to the political and humanitarian crisis in the lead-up to national elections in Burma.<sup>245</sup>

62 Following the Nepal Sexual Violence Tribunal, the organisers used the jury’s recommendations to advocate for change through several channels. In addition to widely distributing the recommendations, the Tribunal organisers put together a follow-up event regarding women’s role in the peacebuilding process, where they reemphasised recommendations made to the National Human Rights Commission (NHRC) and Truth and Reconciliation Commission (TRC) committee. Although the TRC committee has not yet fully complied with the recommendations aimed at them,<sup>246</sup> they have consulted with Tribunal organisers on establishing a gender-sensitive interview procedure. Thanks to the continued advocacy efforts of the Tribunal organisers, the NHRC has already begun to make good on its pledge to investigate the cases presented at the Tribunal. The Tribunal organisers continue to push for full realisation of the jury’s recommendations.<sup>247</sup>

The organisers of the Asia Pacific Women’s Tribunal against the World Trade Organisation formally presented the Tribunal’s findings on the ways the WTO’s policies harmed poor women to the WTO and WTO ministers after the WTO ministerial meeting in 2005. Tribunal organisers then reiterated these findings at the next ministerial meeting. As part of a wider movement protesting the WTO’s policies, the Tribunal galvanised women from countries across the Asia Pacific region to speak out about their experiences. Although it may not be possible to conclusively attribute the subsequent stall in WTO negotiations to this movement, it certainly played a role in bringing international attention to these issues.<sup>248</sup>

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244 Sommerauer, pp.115-116.

245 Sommerauer, p.117.

246 See Nepal Sexual Violence Tribunal Verdict, p.6 (The jury recommended that the TRC not become a substitute for legal accountability for sexual violence crimes committed during conflict, and that it not be constituted without amending the law to comport with international standards.).

247 Interview with Renu Rajbhandari, organiser of the Nepal Sexual Violence Tribunal, December 2, 2015.

248 Interview with Cristina Palabay, one of the organisers of the 2005 Asia Pacific Women’s Tribunal against the World Trade Organisation and several other people’s tribunals, November 29, 2015.

## Appendices

### Appendix A: Women's tribunals discussed in this Guide (in chronological order)

1. *International Tribunal on Crimes against Women*, held on March 4-8, 1976, in Brussels, Belgium. The main objectives were to raise public consciousness about man-made forms of women's oppression, exposing these forms of oppression as crimes, and to build solidarity among women across the world. See Russell and Van de Ven.
2. *Global Tribunal on Violations of Women's Human Rights* ("Vienna Tribunal"), held on June 15, 1993, in Vienna, Austria. The main objective was to provide a global forum for women to protest the failures of existing human rights laws and mechanisms to ensure women's human rights. See *Demanding Accountability*; *Vienna Tribunal Testimonies*.
3. *Arab Court of Women* ("Arab Court of Women"), held on June 29-30, 1995, in Beirut, Lebanon, established in 1996 as the *Permanent Arab Court to Resist Violence Against Women* ("Permanent Arab Court"), which held hearings on March 15-17, 1998, in Beirut, Lebanon. The main objective of the two sets of hearings was to hear about Arab women's experiences of violence. The second set of hearings focused on violence in the context of marriage, divorce, custody, alimony, and inheritance. See Khater; *Courts of Women* website.
4. *Global Tribunal on Accountability for Women's Human Rights* ("Beijing Tribunal"), held on September 1, 1995, in Huairu, China (just outside Beijing). The main objective was to develop the women's human rights agenda, moving beyond awareness of violations of women's human rights to accountability for these violations. See *Without Reservation*.
5. *Mahakama Ya Wa Mama Wa Africa: Africa Court of Women* ("1999 Africa Court of Women"), held on June 24-26, 1999, in Nairobi, Kenya. The main objective was to hear testimony from women who had experienced diverse forms of violence against women from all over Africa. See *Courts of Women* website.
6. *Women's International War Crimes Tribunal on Japan's Military Sexual Slavery* ("Tokyo Tribunal"), held on December 8-12, 2000 in Tokyo, Japan. The main objective was to ascribe responsibility and advocate for accountability for the sexual violence perpetrated by the Japanese military during World War II through the systematic enslavement of "comfort women". See *Tokyo Tribunal Judgement*; Chinkin (2001).
7. *World Court of Women against War, for Peace* ("2001 World Court of Women against War"), held on March 8, 2001, in Cape Town, South Africa. The main objective was to provide women a platform for sharing



their experiences of the various kinds of violence inflicted by and related to war in all of its forms, including wars in times of peace. See Courts of Women website.

8. *Asia Pacific Women's Tribunal against the World Trade Organisation* ("Asia Pacific Women's Tribunal against the World Trade Organisation"), held on December 16, 2005, in Wanchai, Hong Kong. The main objective was to allow women from the Asia Pacific region to voice how they had been harmed and had their rights violated by the WTO's global trade regime. See Familara.
9. *Asia Pacific Court of Women on HIV, Inheritance and Property Rights* ("2007 Asia Pacific Court of Women"), held on August 18, 2007, in Colombo, Sri Lanka. The main objective was to expose the nexus between HIV and the inequalities in women's access to inheritance and property rights. See Courts of Women website.
10. *Women's Tribunal against Poverty* ("India Poverty Tribunal"), held on October 17, 2007 in New Delhi, India. The main objective was to assess what had benefited women living at the margins and what had been flawed about the policies implemented to address poverty in India. See India Poverty Tribunal Report.
11. *Daughters of Fire, the India Court of Women on Dowry and Related Forms of Violence* ("2009 India Court of Women"), held on July 28, 2009, in Bangalore, India. The main objectives were to bring visibility to the violence related to the practice of dowry, to explore how modern forms of dowry relate to other forms of domestic violence, and to reflect on available measures for redress. See Courts of Women website.
12. *International Tribunal on Crimes against Women of Burma* ("Burma Tribunal"), held on March 2, 2010 in New York, New York, USA. The main objective was to publicise the violations faced by the women of Burma and their families under the watch of the Burmese military regime, most notably sexual violence, civil and political violations, and social, economic and cultural violations including forced labour and forced displacement. See <http://womenofburma.org/international-tribunal-on-crimes-against-women-of-burma/> (accessed December 27, 2015).
13. *Tribunal of Conscience for Women Survivors of Sexual Violence during the Armed Conflict in Guatemala* ("Guatemala Tribunal"), held on March 4-5, 2010 in Guatemala City, Guatemala. The main objectives were to allow women to speak about sexual violence they had suffered during the 36-year war that ended in 1996, to raise awareness about this issue within their communities and the state, and to prepare the groundwork for a case of wartime sexual violence to be prosecuted in official courts. See Crosby and Lykes.
14. *Nepal Women's Tribunal on Gender and Climate Justice* ("Nepal Climate Tribunal"), held on October 16,



2011, in Dolakha District, Nepal. The main objectives were to hear from women at the grassroots level about the impacts of climate change, pressure the government to implement policies for gender justice and climate change, raise public awareness about climate change, and encourage women to address its impact through adaptation at the local level. This was held as part of the FTF-GCAP's campaign on gender and climate justice. See Nepal Climate Tribunal Report.

15. *Pakistan Tribunal: Humanitarian Organisation for Poverty Eradication and Environment* ("Pakistan Climate Tribunal"), held on October 17, 2011, in six districts of Balochistan and two districts of Sindh, Pakistan. The main objective was to bring the voices of women and traditionally excluded groups affected by climate change to the national and international level, with the goal of influencing negotiations at the COP17 and Rio+20. This was held as part of the FTF-GCAP's campaign on gender and climate justice. See Pakistan Climate Tribunal Report.
16. *2011 Women's Hearing on Sexual Violence under the Khmer Rouge Regime* ("2011 Cambodia Women's Hearing"), held on December 7-8, 2011, in Phnom Penh, Cambodia. The main objectives were to provide a platform for women to break the silence around their experiences of sexual violence during the Khmer Rouge regime and ensure that this violence was included in the historical account of the Khmer Rouge's atrocities. See 2011 Cambodia Women's Hearing Report; Ye.
1. *Asia-Pacific Regional Women's Hearing on Gender-Based Violence in Conflict* ("2012 Cambodia Women's Hearing"), held on October 10-11, 2012, in Phnom Penh, Cambodia. The main objective was to give women who had survived sexualised and gender-based violence during conflicts in the Asia Pacific region a forum to break the silence around, and demand justice for, violations against women in conflict. See 2012 Cambodia Women's Hearing Report; Ye.
2. *2013 Women's Hearing with the Young Generation on Gender-Based Violence during the Khmer Rouge Regime* ("2013 Cambodia Women's Hearing"), held on September 24, 2013, in Phnom Penh, Cambodia. The main objective of this hearing, in addition to providing a platform for women to speak about the sexual violence perpetrated by the Khmer Rouge, was to raise awareness of this violence among Cambodian youth, and to create an intergenerational dialogue between the survivors and the new generation. See 2013 Cambodia Women's Hearing Report; Ye.
3. *The Women's Tribunal on Sexual Violence against Women during Conflict* ("Nepal Sexual Violence Tribunal"), held on December 8, 2014, in Kathmandu, Nepal. The main objectives were to create a safe space for women who had survived sexual violence during Nepal's civil war to share their experiences and

demand justice, to provide recommendations to the government and other stakeholders, and to advocate a plan to achieve justice for the survivors of such violence. See Nepal Sexual Violence Tribunal Report; Nepal Sexual Violence Tribunal Press Release.

4. *Women's Court – Feminist Approach to Justice* (“Sarajevo Women’s Court”), held on May 7-10, 2015 in Sarajevo, Bosnia and Herzegovina. The main objectives were to provide a space for women to testify about injustices experienced during the Yugoslav conflict in the 1990s and continuing into peacetime, in the private and public sphere, and to testify about organised women’s resistance. See <http://www.zenskisud.org/en/o-zenskom-sudu.html> (accessed December 27, 2015).

## Appendix B: Sample legal framework to include in judge/jury packet

### *Basic Legal Frameworks Relevant to Crimes of Sexual Violence during Conflict<sup>249</sup>*

#### *1. War crimes*

Rape or sexual violence committed during armed conflict:

- o violence to life and person ... mutilation, cruel treatment and torture;
- o outrages upon personal dignity, in particular humiliating and degrading treatment

#### *2. Crimes against humanity*

In the context of a widespread or systematic attack on the civilian population:

- o Rape
- o Torture
- o Enslavement (sexual slavery)
- o Persecution
- o Other inhumane acts – such as enforced prostitution, forced pregnancy, enforced sterilisation, or any other form of sexual violence of comparable gravity

#### *3. Violation of Human Rights treaties [make note of the date that each treaty was ratified by the nation whose actions are the topic of the women's tribunal]*

- o CEDAW: prohibits discrimination against women in the substantive enjoyment of human rights in all areas, including gender-based violence
- o Convention of the Rights of the Child: prohibits
  - sexual exploitation or abuse of children under 18
  - torture
  - cruel, inhuman or degrading treatment
- o ICCPR: prohibits
  - slavery of any kind, including being held in servitude
  - torture

- cruel, inhuman or degrading treatment
- o Convention against Torture: prohibits torture and other cruel, inhuman and degrading treatment

#### *4. Domestic law*

- o Domestic laws regarding sexual violence and other violations

## Appendix C: Sample verdict template

### *Verdict Template Relevant to Crimes of Sexual Violence Committed during Conflict*<sup>250</sup>

#### I. PRELIMINARY REMARKS

- overview of proceedings
- acknowledgement of the survivor witnesses who testified

#### II. FINDINGS

- On contributing factors to sexual and gender-based violence during the conflict

##### For example:

- historically unequal power relations between men and women, leading to domination over and discrimination against women
- pre-existing culture of impunity for rape and sexual offences
- suspension of human/civil rights imposed by the government during the conflict
- environment of fear fostered by either side during the conflict
- perceptions by forces on either side that sexual violence could be used to convey a political point
- failure of commanders to prevent or punish sexual violence, perpetuating culture of impunity and effectively encouraging continued sexual violence
- lack of mechanisms for victims to report sexual violence or otherwise access justice
- social stigma deterring victims from reporting sexual violence
- victims' sense of duty or obligation to comply with sexual advances, for example in the context of forced

marriage

-fear that reporting would result in retaliation

- **On patterns and nature of sexual violence**

For example:

-Who were the victims? Urban or rural dwellers? People of any particular ethnicity, religion, class, political affiliation? Age group?

-Who were the perpetrators? What was their affiliation, their age, etc.?

-What was the context of the sexual violence? Did it occur in isolation or in conjunction with other types of violence?

70 -What kinds of sexually violent acts were perpetrated? What kinds of injuries resulted?

- **On crimes committed (legal characterisation of violent acts)**

The evidence presented by the survivors of sexual violence reveals that during the conflict, rape and other acts of sexual violence [*list the other kinds of acts*] were committed that were violations of the laws and customs of war, crimes against humanity, and violations of human rights treaties to which the state has been a party since before the conflict, including CEDAW, the Convention on the Rights of the Child, the ICCPR, and the Convention against Torture. These acts of sexual violence were also violations of domestic law, including [*specify the domestic law violations*].

[*Particularise the crimes.*]

- **On the impact on victims, families and communities**

For example:

-physical or psychological trauma or suffering

-social marginalisation or stigma

-infertility or reproductive injury

- family abandonment
- loss of employment, property or other financial impact
- resulting physical or emotional abuse from domestic partner
- continued abuse by perpetrators in post-conflict setting due to impunity and victims' fear of reporting or lack of access to justice
- vulnerability to trafficking or enforced prostitution
- vulnerability to addiction and substance abuse
  - On the demands of survivors (if applicable)
  - On accountability
    - o Factual conclusions

For example:

- Sexual violence was perpetrated by perpetrators at all levels within [*indicate specific forces*]
- Sexual violence was condoned, with no measures taken from leadership to prevent or punish
- The culture of impunity encouraged increased and repeated sexual violence
- None of the perpetrators described in the testimony appear to have been held accountable for their crimes
- Various factors precluded victims from accessing justice, including [*specify factors that were within the control of the state – police, prosecutors, military justice system, etc.*]

- o Legal conclusions

For example:

The state is in breach of its duty to ensure accountability for violations. This duty is articulated in several international instruments; for example:

*CEDAW, particularly General Recommendation No.30*

Imposes an obligation on countries to report on the implementation of their obligations of non-discrimination and substantive equality for women in the context of conflict. Includes comprehensive recommendations for meeting this obligation.

*Security Council Resolutions, particularly 1820, 1888 and 1960*

Builds international commitment to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity, and war crimes, including those relating to sexual and other violence against women and girls.

*UN Principles and Guidelines on the Right to a Remedy and Reparation for Victims*

Requires that reparations be provided for victims of serious violations of human rights, including sexual violence. Reparations could include: restitution, compensation, rehabilitation and guarantees of non-repetition.

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### III. RECOMMENDATIONS

For example:

*To the Government*

- action required to fulfill international commitments
- action required to fulfill obligations under international and domestic law
- action regarding specific policy or legislative reform

*[Could also include recommendations to civil society, the international community, United Nations treaty bodies, etc.]*

M.



## Appendix D: Sample witness consent form

### WITNESS INFORMATION:

Last name:

First name(s):

Date of birth:

Address:

Languages spoken:

### INTERVIEW DETAILS:

Interviewer:

Interpreter:

Names of all persons present during interview:

Dates of interview:

Languages used in interview:

### STATEMENT OF CONSENT:

I hereby confirm that I gave my statement voluntarily to [*name of interviewer taking statement*] and am aware that it could be used in the proceedings before the [*name of women's tribunal*] and that I could be asked to testify before the women's tribunal.

Date:

Signature:

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