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Centre for the Study of
Violence and Reconciliation

POLICY BRIEF: TRANSITIONAL JUSTICE AND THE INCLUSION OF LGBTQIA+ RIGHTS

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Centre for the Study of Violence and Reconciliation

The Centre for the Study of Violence and Reconciliation (CSVr) is an independent nongovernmental organisation established in South Africa in 1989. We are a multi-disciplinary institute that seeks to understand and prevent violence, heal its effects and build sustainable peace at community, national and regional levels. We do this through collaborating with, and learning from, the lived and diverse experiences of communities affected by violence and conflict. Through our research, interventions and advocacy we seek to enhance state accountability, promote gender equality and build social cohesion, integration and active citizenship. While primarily based in South Africa, we work across the African continent through collaborations with community, civil society, state and international partners.

Comparative Study of Transitional Justice in Africa

This publication is one of the outputs of the Comparative Study of Transitional Justice in Africa. The study presents a comparative analysis of 12 African countries where transitional justice mechanisms have been implemented. Mapping the range of processes in this field, the study pays particular attention to transitional justice mechanisms employed between 1990 and 2011 to deepen understandings of how these processes were developed, and the role of their respective contributions to the prevention or recurrence of war and repression. Specifically, the study examines the factors that shaped state policy decisions in framing the diverse set of responses to dealing with legacies of dictatorship, civil war, and mass human rights abuses, and assesses the consequences of these decisions for achieving sustainable peace and preventing future human rights abuses. <https://www.csvr.org.za/african-transitional-justice-comparative-study>

Acknowledgements

Special thanks to Mbalenhle Matandela, Nicci Carboni and Hugo van der Merwe for their inputs on previous versions of this policy brief and to Jasmina Brankovic for the final edit.

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Published January 2020

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Introduction

Transitional justice, as defined by the African Union Transitional Justice Policy (AUTJP), is a set of processes and mechanisms that aim to assist society in coming to terms with authoritarianism, past abuses and conflict. This is done by promoting accountability, peace, reconciliation and justice. The processes include judicial and non-judicial mechanisms such as criminal prosecutions, truth commissions (truth telling and seeking), institutional reforms and reparations.¹

The aim of transition is to shift from authoritarian and exclusive governance to a more inclusive and democratic system. Transitional justice seeks to recognise past abuses and traumas, and give rise to new societies that embrace diversity and include the rights of all individuals. The LGBTQIA+ community has been targeted historically and is in need of more focused consideration.

Over the last few years, there has been an increased visibility of the state of the lives of the LGBTQIA+ population throughout Africa. What has been uncovered is that LGBTQIA+ lives have been plagued by severe violence during conflict and post-conflict phases, and for the most part these experiences have gone unspoken and undocumented. As LGBTQIA+ rights organisations gain momentum in their fight for recognition, equality and safety on the continent, it begs the question: How do we include LGBTQIA+ rights in transitional justice?

This policy brief explores the challenges and opportunities of the inclusion of LGBTQIA+ rights in transitional justice processes using three country case studies: South Africa, Kenya and Uganda.

In order to address this gap in policy and practice, we first need to have a clear understanding of the meaning of gender and sexual orientation and why these constructs are so closely linked to conflict and violence.

LGBTQIA+: lesbian, gay, bisexual, transgender, queer, intersex, asexual and other gender non-conforming identities and sexualities

Lesbian: women attracted to women

Gay: men attracted to men

Bisexual: people attracted to men and women and other gender non-conforming identities

Transgender: a person whose gender does not correspond with their assigned sex at birth

Queer: people who do not identify as heterosexual

Intersex: a person whose sexual anatomy does not fit the 'typical' definition of female or male

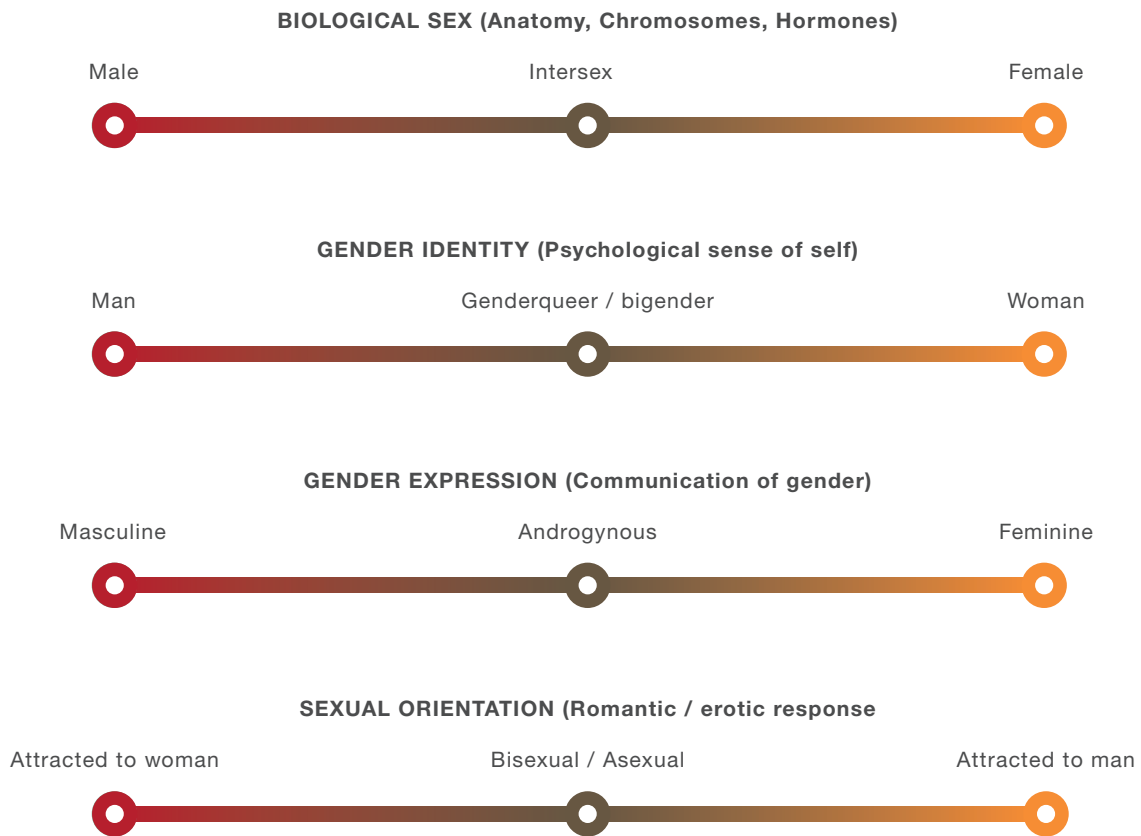
Asexual: people who do not have sexual attractions or desires towards anyone

+: other sexualities and gender identities not stated above

Reconstructing Gender and Sexual Orientation

Gender and biological sex are sometimes conflated but the two are different. The sex refers to the biological or anatomical features or representations of an individual—for example, male, female or intersex. The gender identity is an individual’s sense of self—how they perceive themselves. This encompasses all gender identities, such as cisgender, transgender, genderqueer and so on. Sexual orientation then refers to an individual’s attraction to others, such as homosexual, heterosexual, bisexual and so on. Gender as a concept in its simplest form refers to the socially constructed roles, behaviours and characteristics that are prescribed for men, women and other gender identities in any given society. Typically, society operates under the assumption that an individual will behave and exist in a particular way based on their sex.

Diagram 1. Sex and Gender



In pre-colonial Africa, this particular Western notion of gender did not exist. There was generally not a heavy pressure for people to conform to certain gendered roles. Femininity and masculinity were much more fluid.² Women and men existed as complementary to each other rather than in the Western hierarchical sense. Responsibilities and labour were often shared, not divided. It was common for

women to be seen doing what the West considers ‘men’s work,’ such as farming, and men to be seen doing ‘women’s work,’ such as working in the household or community.³ Women, just like men, held positions of power in spiritual and political institutions. This changed when the ‘civilising mission’ brought and enforced the Western ideologies of the gender binary, where men were perceived as superior to women and women were confined to the household.

Gender also refers to a system of power that exists within society. This system of power operates by using the separation of gender into opposites (the binary) to reinforce a hierarchy of male superiority and female inferiority by prescribing specific characteristics (such as, for example, the subservience of women) to which people should adhere.⁴ This creates and augments patterns of inequality and violence among the ‘sexes.’ The gender binary is directly linked to heteronormativity, where there is an unwritten belief that everyone is born or exists as heterosexual until proven otherwise.⁵

Gender binary: the categorisation of gender into two separate, opposite groups of feminine and masculine (woman and man)

Heteronormativity: the normalisation of heterosexuality that is related to family values and structures defined by patriarchy

Also: the treatment of heterosexuality as normal and other sexualities as abnormal

Successfully performing the gender binary requires that a woman should be attracted to a man and a man should be attracted to a woman only, and that each should behave in a specific way that is feminine or masculine. This continues to normalise heterosexuality, which in turn marginalises LGBTQIA+ individuals who fall outside of this performance, thereby putting them at risk of violence. The gender binary is performed according to social norms that are prescribed to an individual in accordance with their biological sex (for example, acting ‘like a man’ because one is assigned male). Even though there are biological differences between the sexes, these are often exaggerated for the sole purpose of justifying oppressive and damaging gender norms which negatively impact on those who transgress them, particularly women and LGBTQIA+ individuals.

In today’s society, the understanding of gender has expanded. Girls and boys are seen to acquire gender over time through implicit and overt socialisation. There is an acknowledgement of gender as way beyond the binary, and transgender identities reflect the inadequacies of this dichotomy. Gender is now understood as more than just man and woman. It refers to individuals who exist on a spectrum instead of on opposite ends. Understanding gender this way allows for the acknowledgement of every person’s human rights.

Heteronormativity and the gender binary influence how gender relations unfold by anchoring these prescribed behaviours in fixed opposites. They also affect the lives of LGBTQIA+ persons. These components make it such that LGBTQIA+ people are unable to exist freely and become subjected to violence as they do not conform to heteronormative standards.

Gendered Dynamics of Conflict and Violence

Sexual and gender-based violence (SGBV) refers to violent crimes committed against someone because of their gender and/or sexual identity. SGBV within conflict cannot be seen as an isolated occurrence; it is rather a continuation of pre-existing issues within society. SGBV exists in peacetime, conflict and transition. Due to an essentialist defining of gender, women and men are assigned different roles and assumed behaviours in society, which affect how gender relations evolve in conflict. SGBV impacts on the LGBTQIA+ population deeply. It often goes undocumented because of gender essentialism and the erasure of LGBTQIA+ voices.

Gender essentialism: the idea that gender differences are innate rather than socially constructed

Gender non-conforming: a person who does not conform to traditional gender roles and norms

Traditional gendered roles influence the way men, women and gender non-conforming individuals act. Fulfilling gender roles and adhering to gender norms is the foundation upon which heteronormativity sits. When a country is in crisis, there is a collapse in the socio-cultural system which leads to a disillusionment and separation from gender identity. When there is a breakdown in societal norms due to conflict, there is a shift in the power dynamic within gender. This struggle to uphold traditional gender roles often leads to insecure gender identities, which then leads to suppressed anger and frustration. This anger, coupled with the impunity to commit crime during times of conflict, makes SGBV inescapable.

Currently, homosexuality is criminalised in 32 countries in Africa,⁶ with the death penalty applicable in theory in at least three. The level of implementation of these laws differs, as some exist but are not necessarily utilised. This is the case with Mozambique, where homosexuality was only decriminalised in 2015 but the colonial-era anti-gay law was not enforced.⁷ Great strides have been made in recent years on the continent by countries such as Angola and Botswana, which both decriminalised homosexuality in 2019. The African Commission for Human and Peoples’ Rights has also signalled a more inclusive approach to the acknowledgement of different sexual orientations and gender identities in its General Comment No. 4 on the right to redress.

General Comment No. 4: “Any person regardless of their gender may be a victim of sexual and gender-based violence. There is wide prevalence of sexual and gender-based violence perpetrated against women and girls. Acts of sexual violence against men and boys, persons with psychosocial disabilities, and lesbian, gay, bisexual, transgender and intersex persons are of equal concern, and must also be adequately and effectively addressed by State Parties”⁸

Masculinity, and in particular toxic and hegemonic masculinity, functions in such a way that it promotes aggression and dominance over marginalised groups such as women and LGBTQIA+ groups or others who do not adhere to typical gender and societal norms. During conflict this state of being is heightened and, because there is little consequence for crimes committed, the threat and incidence of SGBV increases.

These gender dynamics severely impact on transitional and traditional justice mechanisms and processes. The patriarchal system still operates outside of times of conflict and ensures that hegemonic masculinity prevails, further marginalising vulnerable groups and putting them at risk. For example, women are often silenced in truth-seeking and truth-telling processes, including in peacetime. They might be excluded from criminal justice proceedings and the importance of their healing and rehabilitation overlooked and ignored. In the case of the LGBTQIA+ population, due to anti-gay laws and oppressive patriarchal norms their voices are often excluded. These gender dynamics also make it difficult for male victims of sexual violence to come forward for fear of stigmatisation and ostracisation and the legal repercussions of their assumed sexuality.

Hegemonic masculinity: the notion that there is a specific form of masculinity that is superior to expressions of femininity or other forms of masculinity. It controls what behaviours are given power and rationalises the subjugation of marginalised groups. Hegemonic features of a culture serve the ascendancy of the ruling elite and legitimise their dominance. There are also hegemonic depictions of heterosexuality, which shows how constructs of gender and sexuality intersect and mutually constitute themselves

Dealing with LGBTQIA+ Issues in Transitional Justice

Transitional justice puts in place initiatives that aim to restore victims' dignity, encourage reform and pave the way for long-term political and socio-economic change in the aftermath of human rights violations. However, depending on the structure of these mechanisms and the actors involved in these processes, transitional justice has the potential to further discriminate against and marginalise LGBTQIA+ voices when their rights are not explicitly addressed. Transitional justice processes often exclude gender and sexual minorities. This failure to acknowledge the abuses done to this group, along with the lack of promotion of accountability, deepens their exclusion. The inclusion of the LGBTQIA+ agenda in transitional justice can be part of a transformative and diverse process that seriously considers the rights and dignities of all people.

Colonial Legacies and Present Circumstances of Africa’s Homophobia

It is assumed that anything outside of heteronormativity and the gender binary is un-African and goes against culture and tradition. Historical records demonstrate, however, that homophobia and gender binarism are a colonial import. Topics related to sexuality were not kept secret from young people in pre-colonial and early colonial African societies. Instead, African communities perceived sexuality as central to human experience. Westernised notions of childhood sexual innocence were considered inapt.⁹

Queering transitional justice: discussing queerness or ‘queering’ discourse in transitional justice offers a reimagining of equality that caters to all people

A brief review of the experience of South Africa, Kenya and Uganda illustrates this history and its legacy. Each of these countries has a rich pre-colonial history of queerness, homosexuality and gender non-conformity that was eventually criminalised during the ‘civilising mission.’ This came in the form of regulations called ‘unnatural offences’ laws.

South Africa

Many Southern African tribes had specific names for different sexual acts or behaviours pertaining to homosexuality. The Khoi in South Africa, for example, recognised the term Koetsire as a man who has sex with a man. Among the Bantus, there were boy-wives who would dress up as ‘women,’ perform household duties and engage in intercrural sex with their husbands.¹⁰ There is also a wealth of evidence of overt homosexual activity in Bushmen paintings.¹¹

Anti-gay laws in South Africa were first introduced through the Immorality Act of 1957, though the condemnation of ‘unnatural acts’ commenced long before. The Immorality Act, also known as the Men at a Party Act, prohibited sexual activity between men. The law did not mention homosexual females or gender non-conforming individuals. During apartheid, human rights abuses towards the LGBTQIA+ community were prevalent. Gay men, particularly black gay men, were frequently persecuted.¹² One of the most infamous violations against the LGBTQIA+ community in the country was the aVersion Project, through which LGBTQIA+ or suspected homosexual soldiers faced various abuses such as chemical castrations, electric shock treatment and even forced gender reassignment surgeries.

In 1996 the new constitution of South Africa was implemented. It made discriminating against someone because of their sexual orientation illegal. In 2006 South Africa became the first country in Africa to legalise same-sex marriage, allowing the LGBTQIA+ population the same marital rights as heterosexual couples.

Although South Africa had a transition to democracy, violence is still a serious issue within the society. In 2015, the United Nations Office on Drugs and Crime found that South Africa had the fifth highest murder rate in the world, with a death toll comparable to that of war zones. This affects the LGBTQIA+

community disproportionately. Four in 10 LGBTQIA+ South Africans knows someone who was murdered because of their sexual orientation.¹³

The gendered dynamics of violence with regard to LGBTQIA+ persons in South Africa is based on discriminatory behaviours and attitudes, the idea that homosexuality is un-African, and the perception that these individuals are taking up ‘untraditional’ gender roles. Toxic and hegemonic masculinity ensures that power and dominance over marginalised groups—in this case LGBTQIA+ persons—takes place through various forms of violence. Corrective rape is used as a weapon of both hate and war. It is a rampant reality for black lesbians in particular and for masculine-presenting women because of the double stigma of being lesbian and masculine. Conversion camps and conversion therapy still threaten young LGBTQIA+ lives and all LGBTQIA+ individuals face the threat of physical violence daily.

During its years of operation, the Truth and Reconciliation Commission (TRC) heard evidence of the human rights violations committed against homosexuals and suspected homosexuals in the South African Defence Force during apartheid. Dr Aubrey Levin and 23 other doctors were warned that they would be named and summoned, although that did not materialise. Instead, what came out of the TRC hearings was a 116-page research report that sought to magnify the voices of victims and survivors.¹⁴ This might not have been the retributive justice that some sought, but it offered an outlet for those who were violated to find a different way to heal.

Kenya

Among the Meru and the Kikuyu in Kenya, religious leaders called Mugawe frequently wore women’s clothing and hairstyles and would sometimes marry men.¹⁵ Similarly, Maasai men would dress as women during initiation ceremonies. Within the Kamba tribe, a married woman was allowed to take on a wife if she was barren as a way to promote fertility.¹⁶ Although the husband would impregnate the second woman, she would be married to the first wife.

The penal code in Kenya was introduced by the colonial administration in 1930. Under this code, there were two petitions that affected male homosexuals. The first was Section 162 (a) and (c), in which ‘unnatural offences’ encompassed anal intercourse and carried a sentence of up to 14 years’ imprisonment. Section 165 included the lesser charge of ‘indecent practices between males’ and carried a sentence of up to five years in prison. Many of the colonial laws on homosexuality paid specific attention to men. They were ambiguous on the status of homosexual females and gender non-conforming individuals.

Same-sex activity in Kenya is banned and criminalised to this day. This makes it difficult to collect or access statistical data or information on the state of the lives and experience of LGBTQIA+ people in the country. Between 2008 and 2015 at least six incidents of LGBTQIA+ people being targeted and attacked in mob violence were reported.¹⁷ LGBTQIA+ individuals are frequently vilified by religious leaders and law enforcement officials in the media. This makes it a struggle to seek or find any legal recourse when such violence occurs.

As in South Africa, the gendered dynamics of violence against LGBTQIA+ individuals are based on misconceptions and discriminatory behaviours and attitudes. Much of the violence is perpetrated by men against queer and gay men who do not meet heteronormative standards. Queer and lesbian women also face violence but because queer women's experiences have been, for the most part, written out of history, they are often invisible in society. Their experiences are usually silenced or ignored entirely. Transgender and intersex individuals face even higher rates of violence as their existence directly challenges the very basis of gender essentialist discourse.

As of May 2019, Sections 162 and 165 are still in effect. Same-sex marriage was banned in 2010. The 2010 constitution does not explicitly protect LGBTQIA+ persons and this poses many issues for the group. LGBTQIA+ persons experience not only physical and sexual violence within the country but also several forms of inequality due to discrimination. Facing discrimination within areas such as health care, housing and job opportunities means that LGBTQIA+ persons also run the risk of living in poverty, becoming homelessness and living with deadly diseases.

However, Kenya is slowly making headway in terms of acknowledging the existence of the LGBTQIA+ population and their rights. There have been several instances where transgender rights have been viewed positively within the court system, specifically with regard to changing names in legal documents, though this does not speak to the issue of legally changing one's gender. Kenya is also the first African nation to gather data on its intersex citizens in the national census.¹⁸

The Truth, Justice and Reconciliation Commission (TJRC) in Kenya was committed to making SGBV during the 2007–2008 election violence a key focus, as well as ensuring that women's experiences were heard. Great effort was made to recommend healing and reparations for women who were severely affected by the violence. As a result of multiple factors such as corruption and limited funding, however, the commission struggled to secure meaningful participation for women. Although the TJRC is considered to have been gender sensitive, there was no recourse for LGBTQIA+ individuals and no explicit agenda for their participation within the process.

Uganda

In the pre-colonial Langi tribe of Uganda, individuals who were born intersex were recognised as third gender and given the name Mudoko Dako. Men who dressed up as women in the Teso tribe were also considered third gender. Famously, in the kingdom of Buganda, King Kabaka Mwanga II was openly gay and had multiple lovers.¹⁹

Anti-gay laws were implemented in the 19th century by the British colonial administration and later consolidated in three parts of the Penal Code Act of 1950. Section 145 dealt with 'unnatural offences' (anal intercourse), which carried a sentence of up to life in prison. Section 146 dealt with the 'attempt to commit unnatural offences,' which carried a sentence of up to seven years in prison and lastly, Section 148 on 'indecent practices' also carried a sentence of up to seven years in prison.

In 2014 the anti-homosexuality act was adopted in Uganda; however it only lasted for six months. This act had serious implications on the lives of LGBTQIA+ Ugandans, LGBTQIA+ individuals who intended to visit the country, allies and any civil society organisations or companies affiliated with LGBTQIA+ rights. Although the act was repealed in August 2014, it gave rise to severe violence towards the LGBTQIA+ population, with an estimated increase of between 750% to 1900% in homophobic attacks.²⁰ LGBTQIA+ individuals found themselves facing intimidation, job loss, limited access to health care, physical and sexual violence, unwarranted arrests and forced migration to neighbouring Kenya and Rwanda.

The common practice of outing LGBTQIA+ individuals in the media perpetuates further violence and discrimination.²¹ During times of unrest in Uganda, there have been numerous human rights violations and restrictions on civil liberties. There has been a ban on LGBTQIA+-led organisations in the country²² and for some time, LGBTQIA+ workshops were raided and organisers unlawfully detained.²³ The narrative that surrounds what gender is and, in particular, what manhood is in Uganda has ensured that, again, those who deviate from gender norms are in constant danger.

The issue of gender and gendered experiences was not adequately addressed by the Commission of Inquiry on violations committed against civilians under the dictatorship of Idi Amin in 1971–1979 and subsequently the Milton Obote dictatorship in 1980–1985. Women’s rights were rarely considered, which was made evident when women in the country petitioned the government to include a women’s rights advocate in the commission. In 2019, Uganda became the first African country to adopt its own National Transitional Justice Policy. While it emphasised that transitional justice processes would include a gender agenda and address the needs of vulnerable persons, these categories are not defined in a way that directly includes an LGBTQIA+ agenda.

The Case of Colombia:

Opportunities for the Inclusion of LGBTQIA+ Rights in Transitional Justice

Colombia underwent over half a century of civil war in which LGBTQIA+ persons suffered severe human rights violations. Threats of physical and sexual violence and social extermination plagued the lives of LGBTQIA+ individuals during the conflict. For this reason, efforts were made to include their voices in truth-telling and truth-seeking processes in the country.

Colombia is a leading example of how LGBTQIA+ rights can be integrated into transitional justice. In February and March 2015, Colombia was the first country to include LGBTQIA+ activists in peace talks as part of the agenda of ‘victims of the armed conflict.’²⁴ The aim of this initiative was to implement a truth commission that explicitly includes LGBTQIA+ rights in all of its processes. LGBTQIA+ persons and organisations in Colombia had, over the past 50 years, documented all aspects of violence against sexual and gender minorities,²⁵ and this was an opportunity for them to discuss their findings and find a way forward for inclusion.

The 1991 constitution allowed for inclusive language to be used. This meant that LGBTQIA+ rights groups could use it to increase the visibility of LGBTQIA+ individuals and organisations and allowed them to declare their rights as citizens. Colombia has also ensured that LGBTQIA+ individuals are considered in terms of holistic reparations, healing and assistance through its 2011 Victims and Land Restitution Law. Particularly focusing on conflict, Colombia has included LGBTQIA+ identities in its victim registry in the Victims' Unit.

Although the process has not been a smooth one, as there has been some opposition and backtracking from political actors, Colombia is a prime example for tangible attempts at change within transitional justice. Colombia has shown that LGBTQIA+ rights can be acknowledged and incorporated in different areas of a transitional justice process. It proves that the inclusion of LGBTQIA+ voices does not overshadow or threaten the voices of other marginalised groups, but rather can be done in a way that benefits all citizens.

The African Union Transitional Justice Policy and the Inclusion of LGBTQIA+ Rights

The AUTJP does not go as far as to directly recognise LGBTQIA+ rights, which would allow for the validation of the community's experiences and ensure that their rights are not overlooked. It can be argued, however, that LGBTQIA+ rights are implicitly included in the way the policy frames the needs of marginalised and vulnerable groups.

Context Specific

Para. 19: "The conception of TJ advanced in this policy seeks to address African concerns on violent conflicts and impunity through a holistic policy that considers the particular context and cultural nuances of affected societies, as well as the gender, generational, ethnocultural, socio-economic and development dimensions of both peace and justice"

The AUTJP states that context-specific transitional justice regarding the nature of violence and conflict and the situation of women, children and marginalised groups in vulnerable states should be applied to each affected country. This is particularly important to consider as in each country discussed above, the local conceptualisation and conditions of the LGBTQIA+ community vary.

The level of acceptance of LGBTQIA+ individuals and what is meant by LGBTQIA+ experiences are never the same. All three countries described above have experienced high levels of violence towards the LGBTQIA+ population, but the way this violence manifests has varied and the countries are at different stages of transition. A context-specific transitional justice process allows for different elements in each country to be addressed without taking a one-size-fits-all approach.

Inclusion

Para. 94: “Political and institutional reform should ensure respect for the dignity of all members of society based on their inclusion and effective participation in decision-making processes”

As the case of Colombia shows, including LGBTQIA+ voices in all stages of transitional justice processes is important and beneficial. It ensures that all individuals within society are afforded their rights. Inclusion of LGBTQIA+ voices and diversifying transitional justice in Africa will help societies unlearn the stereotyping and stigmatisation of the LGBTQIA+ community and ensure a safe transition for the community with proper consideration of their rights.

Sexual and Gender-based Violence

Para. 39: “Given the gendered dimension of violence, criminal investigations and national and local processes for truth and reconciliation should give particular attention to sexual and gender-based violence as well as to patterns of gender inequality in the society that enable gender-based violence”

As suggested by the AUTJP, attention should be paid to SGBV through special hearings in truth commissions and the inclusion of marginalised groups in peace processes. These elements can also apply to the LGBTQIA+ community. It is necessary for their involvement during these processes as it allows for visibility and acknowledgement and encourages healing.

The AUTJP suggests the collection and preservation of evidence for existing crimes, including SGBV. This should also include SGBV committed against the LGBTQIA+ population. The LGBTQIA+ community has existed throughout history, and it has been erased for almost as long. There has also been an erasure of the crimes and in particular sexual crimes committed against LGBTQIA+ individuals. The case of Colombia and the aVersion Project in South Africa show that the collection and dissemination of such information pertaining to the LGBTQIA+ community is doable and can be effective. Such efforts solidify the presence of the LGBTQIA+ community in society and history and humanise their experiences.

Recommendations

1. Transitions should be imagined as inclusive of the transformation of gender norms, as this aids in the unlearning of harmful stereotypes throughout society and allows for a more diverse implementation of initiatives, campaigns and policies regarding the LGBTQIA+ community.
2. Transitional justice processes should contextualise LGBTQIA+ experiences within history to better validate the existence of the community. A historical context when discussing LGBTQIA+ experiences and lives is imperative for the changing of perceptions towards the community. Emphasising the pre-colonial existence of the LGBTQIA+ community legitimises their place in society.
3. The African Union's framing of family and traditional roles needs to be critically considered, as it can be misinterpreted as allowing states to apply gender binary thinking and essentialism, which in turn exclude the LGBTQIA+ community.
4. There needs to be explicit inclusion of LGBTQIA+ rights in all transitional justice processes. This will allow the LGBTQIA+ community a safe space to discuss their experiences without fear of persecution, ostracisation and violence. This will also allow for the LGBTQIA+ community to seek legal recourse and holistic healing.
5. Civil society should launch awareness campaigns and implement initiatives that engage with and highlight the types of violence committed against the LGBTQIA+ community and the lasting effects this violence has on them. This will illustrate the importance of including LGBTQIA+ voices in transitional justice processes.
6. In situations where a transitional justice process did not address LGBTQIA+ abuses or concerns, increased funding is needed for civil society to engage in the investigation and documentation of human rights abuses faced by the LGBTQIA+ community. This will bring to light the intensity and scope of the violence the community faces and allow for more thorough measures and initiatives to take place.
7. LGBTQIA+ sensitivity training should be compulsory in all transitional justice processes. This will equip all the relevant actors with the necessary skills and tools to incorporate LGBTQIA+ rights into different processes and to support individuals within the community who seek assistance.
8. There needs to be inclusion of LGBTQIA+ victim-focused organisations within transitional justice processes. This will hold accountable the various transitional justice mechanisms in upholding a victim-centred approach.
9. There should be an introduction of reparations programmes that explicitly include the LGBTQIA+ population and recognise the different needs of the group, as they often suffer socio-economic inequalities due to the violence they face. This will ensure they are not further marginalised.
10. States should criminalise hate crimes that target LGBTQIA+ individuals to ensure the safety and protection of their rights.

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