

FROM FEAR TO FREEDOM: THE INCLUSION AND RIGHTS OF FEMALE VICTIMS OF CONFLICT IN PEACE NEGOTIATIONS AND AGREEMENTS

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After more than 50 years of internal conflict, a young, Western Colombian woman reflected on the nature of freedom as her country was finally on the brink of peace.¹ Yolanda Perea Mosquera recalled riding through the Colombian countryside on her horse as a child, an experience that she now perceives as embodying freedom.² In contrast to that freedom, Mosquera has also faced complete terror as a result of Colombia's civil war.³ When she was just an 11-year old girl, a masked guerilla fighter broke into Mosquera's home and raped her.⁴ Shortly after, Mosquera suffered from a miscarriage, not knowing she had even been pregnant.⁵ Mosquera's mother then reported the assault of her daughter, which resulted in retribution against her.⁶ Mosquera was called a liar, and guerilla fighters came to her home.⁷ In her last words to her daughter, Mosquera's mother instructed her to take care of her brothers.⁸ Then, the guerilla fighters shot her.⁹

Mosquera yearned for revenge, like many victims of Colombia's war.¹⁰ She pondered and plotted ways to get that revenge on her abusers, but she eventually realized that she could not go through with them.¹¹ Instead, Mosquera and others like her are left to hope that the government will acknowledge the crimes against them and implement some level of justice.¹² Although the likelihood of punishment and justice for the specific crime committed against Mosquera is slim, an encounter

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1. Jasmine Garsd, *Colombian war victims struggle to find justice*, PRI (Nov. 4, 2016), <https://www.pri.org/stories/2016-11-04/colombian-war-victims-struggle-find-justice-while-girl-only-wanted-revenge> [<https://perma.cc/TEG3-SJVL>].

2. *Id.*

3. *Id.*

4. *Id.*

5. *Id.*

6. *Id.*

7. *Id.*

8. *Id.*

9. *Id.*

10. *Id.*

11. *Id.*

12. *Id.*

with a former rebel fighter helped her to reach internal peace.¹³ After the man confessed his former role as a rebel fighter in her town, she told him not to worry and said they needed to move on.¹⁴ When he left, Mosquera said, "And that's when I got it. Life takes a lot of turns. And each moment puts us in the right place to get rid of our hatred."¹⁵

Mosquera's story is an example of both the harms that women in conflict-ridden societies may suffer – the death of loved ones, having to take on unexpected household leadership roles, internal displacement – and the path to societal and internal peace. As Mosquera acknowledged, the government may, and should, play a role in bringing justice to victims, but it is important to recognize the limitations of the government's ability in any society to achieve justice and peace of mind for every victim. However, government organizations at national and international levels have recognized the need to address the rights of victims, including women specifically, when resolving internal conflicts after lengthy periods of civil war.¹⁶

The experience of women during conflicts typically transforms their home lives, as men are usually engaged in battle or imprisoned. Women may become the sole caregivers of their children, change their occupations, be displaced from their residences, be victims of violence themselves, and suffer from mental and emotional trauma.¹⁷ Given the unique experiences of women in civil conflicts, tailoring subsequent peace agreements and domestic law to address not only the practical matters, but also accounting for the specific harms faced by female victims of conflict, has become part of rebuilding societies after war.¹⁸

Colombia is one example of this movement toward specific inclusion of victim's rights in peace accords. Building upon peace agreements reached decades prior in South Africa and Northern Ireland, Colombia's peace accord specifically includes provisions to help victims of the civil war, particularly women like Mosquera.¹⁹

13. *Id.*

14. *Id.*

15. *Id.*

16. S.C. Res. 1325, U.N. Doc S/RES/1325 (Oct. 31, 2000). *See also* Gimena Sanches-Garzoli, *Women are Key to Making Peace Last in War-Torn Colombia*, WOLA (Jan. 19, 2016), <https://www.wola.org/analysis/women-are-key-to-making-peace-last-in-war-torn-colombia/> [<https://perma.cc/VS6N-SHJB>].

17. *Women and the Conflict*, WOMEN'S RESOURCE DEVELOPMENT AGENCY (Jan. 14, 2010), <http://cain.ulst.ac.uk/issues/women/docs/mclaughlin08womenconflict.pdf> [<https://perma.cc/2FB6-2BCX>].

18. MIRIAM ANDERSON, *WINDOWS OF OPPORTUNITY* 1 (2016).

19. Garsd, *supra* note 1. *See also* *Colombia's peace deal drew inspiration from Northern Ireland – country's president*, THE IRISH TIMES (Dec. 10, 2016), <https://www.irishtimes.com/news/world/colombia-s-peace-deal-drew-inspiration-from-northern-ireland-country-s-president-1.2901322> [<https://perma.cc/USK9-L28L>] [*hereinafter* *Colombia's peace deal inspiration*].

Recognizing the evolution of such peace accords begs the question: how can future peace agreements and subsequent domestic laws be structured to help victims of civil war recover, especially women? Following an analysis of the conflicts, peace processes, and post-war measures implemented to bring justice to victims in South Africa, Northern Ireland, and Colombia, this Note argues for measures taken by governmental and non-governmental organizations before and after the end of civil conflicts which reflect both the ideals set out in international law, the importance of domestic law for the enforcement of such ideals, and the needs of local women in these war-torn countries. The opportunity for change that exists when establishing a new, post-war government means that such humanitarian principles can transcend political, cultural, and social norms.

In Part I, this Note provides an overview of international law on victim's rights and the inclusion of women in the peacemaking process. Part II focuses on case studies of the conflicts and peace agreements reached in South Africa, Northern Ireland, and Colombia, discussing how they built upon each other and contain similarities, despite the differences in the conflicts and countries themselves. Part III is a comparative analysis of those countries, specifically focusing on the role women played in the resolution of the respective conflicts and the elements of the various peace accords most important to female victims of conflict. Finally, Part IV recommends increasing the development of local women's groups, enacting guarantees of human rights, especially social and economic rights, and increasing access to justice for women.

I. INTERNATIONAL LAW & VICTIM'S RIGHTS

International law may be defined as the "body of principles and rules commonly observed by the members of the international community in their dealings with one another and their nationals."²⁰ So, while peace negotiations within a single country attempting to end its civil conflict may seem to have little to do with international law at first glance, in fact, international law does have a role to play. The principles of international law may be observed by a country in its dealings with its own nationals and may influence the development of peace agreements.²¹

Human rights law at the international level is a relatively new phenomenon.²² Such international agreements first came into effect with a nineteenth century international treaty to abolish slavery, a human rights abuse committed at the global level.²³ Failed attempts to enact a human rights system followed World War I and were finally realized after World War II in the wake of the atrocities

20. WILLIAM L. TUNG, *INTERNATIONAL LAW IN AN ORGANIZING WORLD* 1 (1968).

21. *Id.*

22. *International Human Rights Law: A Short History*, UN CHRONICLE (Jan. 2009), <https://unchronicle.un.org/article/international-human-rights-law-short-history> [<https://perma.cc/R2B3-DYFY>].

23. *Id.*

committed by the regime of Adolf Hitler.²⁴ Prior to recognition at the international level, three generations of human rights were recognized after the French and American Revolutions.²⁵ The first generation calls for civil and political rights, the second for socio-economic rights, and the third for collective rights.²⁶ The delineation of human rights into these three categories can be seen in the international law adopted in the mid-twentieth century.

One key piece of international law on human rights is the 1948 Universal Declaration of Human Rights (UDHR), which recognized the inherent dignity, equality, and inalienable rights of all human beings.²⁷ Though non-binding, it laid out a set of principles “enunciated by most of the peoples of the world.”²⁸ Having such ideals set and widely agreed upon at an international level makes it harder for one country to openly deny such basic human rights to its own citizens and serves as a “political stimulant, an educator, and a former of conscience” while also being the “mine from which other conventions as well as national constitutions protecting these rights have been and are being quarried.”²⁹ The UDHR is therefore like a cornerstone in international law and around the globe for establishing the fundamental rights and freedoms owed to all people.

The discussion of women’s and victim’s rights takes place in this context of human rights, as the UDHR acknowledges that regardless of sex, all people have universal rights that cannot be lost.³⁰ International law and organizations are meant to encourage fundamental freedoms for all peoples, and, as Mosquera’s story shows, the experience of freedom is the antidote to the fear suffered by those whose human rights have been trampled on.³¹ The rights of women and victims of conflict are fundamentally human rights, and as countries develop peace accords, they may reflect the three principles of inherent dignity, equality, and inalienable rights set out in international law.³²

Following the adoption of the UDHR, discussions commenced about how to go beyond its non-binding proclamation to develop an international treaty.³³ After much debate and discussion, the United Nations General Assembly passed two covenants in 1966 – the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights

24. *Id.*

25. *Id.*

26. *Id.*

27. G.A. Res. 217 A (III), U.N. Doc A/RES/3/217A (Dec. 10, 1948).

28. J.E.S. FAWCETT, *THE LAW OF NATIONS* 156 (1968).

29. *Id.*

30. ANDERSON, *supra* note 18, at 21.

31. TUNG, *supra* note 20. *See also* Garsd, *supra* note 1.

32. ANDERSON, *supra* note 18, at 26-30.

33. Christian Tomuschat, *International Covenant on Civil and Political Rights*, UNITED NATIONS AUDIOVISUAL LIBRARY OF INTERNATIONAL LAW 1 (2008), http://legal.un.org/avl/pdf/ha/iccpr/iccpr_e.pdf [https://perma.cc/X4GS-J4NV].

(ICESCR).³⁴ Both have since been ratified by more than 150 countries.³⁵ The ICCPR encompasses the so-called first generation human rights, including the rights of self-determination, equality and political participation, prohibitions on discrimination, and bans on torture and inhumane treatment.³⁶ The ICCPR, like the UDHR, has influenced the development of constitutions around the world by promoting the inclusion and protection of fundamental rights.³⁷

The ICESCR includes some of the same language as the ICCPR, but the ICESCR includes provisions that relate more to the second-generation type rights promoting the livelihood of persons.³⁸ For example, the ICESCR speaks to the right to work and working conditions, social security, education, and health.³⁹ It also specifically recognizes the right “to the widest possible protection and assistance for the family, especially mothers, children and young persons.”⁴⁰

Furthermore, international law has gone beyond discussing human rights more broadly to address victim’s rights specifically. This includes steps to define who victims are and what they may be owed. The *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, adopted in November 1985, broadly defines victims of crime as “persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.”⁴¹

Victims also include individuals who have suffered an abuse of power that is not yet criminal in their nation but does violate international human rights norms.⁴² Someone may be a victim regardless of whether the person who committed a crime against them is “identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim.”⁴³ Furthermore, the resolution calls for (1) access to justice and fair treatment, (2) restitution, (3) compensation, and (4) assistance for victims, including “material, medical, psychological and social assistance through governmental, voluntary, community-based and indigenous means.”⁴⁴ As countries develop peace accords, similar reparations for victims may be included

34. *Id.* at 1-2.

35. *Id.* at 2.

36. *Id.*

37. *Id.*

38. *International Covenant on Economic, Social and Cultural Rights*, UNITED NATIONS AUDIOVISUAL LIBRARY OF INTERNATIONAL LAW, <http://legal.un.org/avl/ha/icescr/icescr.html> [<https://perma.cc/C97Y-3QKX>].

39. *Id.*

40. *Id.*

41. *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, G.A. Res. 40/34, Annex, ¶ 1, U.N. Doc A/RES/40/34 (Nov. 29, 1985) [hereinafter G.A. Res. 40/34].

42. *Id.* ¶ 25.

43. *Id.* ¶ 2.

44. *Id.* ¶ 21.

as they look to these international standards for guidance.

While the broader context of human rights sets the stage for the inclusion of women's rights in peace agreements, specific discussions of women's involvement in the peace process and their association with the concept of peace itself has existed for millennia.⁴⁵ In relatively recent history, for example, women called for the end of World War I and representation in the negotiations that ended the war.⁴⁶ While the demands of women were not met in 1915, the involvement of women internationally in peace processes and the inclusion of rights specific to women in peace agreements has since increased.⁴⁷ Peace accords signed across the globe have taken into account the specific demands of women in a fairly consistent way, which reflects the influence of international law and norms and how they may serve as a genesis for these types of provisions, as opposed to merely local practices or conceptions of human rights which may differ across countries, regions, and continents.⁴⁸

In 1979, the United Nations adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).⁴⁹ In short, CEDAW addresses discrimination against women in regard to both fundamental, human rights and other political, economic, or social rights, reflecting the dual approaches of the ICCPR and ICESCR.⁵⁰

Women's involvement in the peace process was also addressed specifically in *United Nations Security Council Resolution 1325*, adopted by the United Nations Security Council on October 31, 2000.⁵¹ This resolution acknowledges that women and children "account for the vast majority of those adversely affected by armed conflict" and reaffirms the importance of including women in the peace-building process.⁵² It also calls for specific action by urging member states to increase representation of women in decision-making at all levels and encourages the United Nations itself as an organization to increase the number of women involved in its various operations.⁵³ The resolution calls for states involved in armed conflict to respect international law "applicable to the rights and protection of women and girls," to "take special measures to protect women and girls from gender-based violence," and to "consider the different needs of

45. ANDERSON, *supra* note 18, at 11 (noting that a Greek play in the 5th century B.C. associated women with seeking peace while their husbands fought a war).

46. *Id.* at 1 ("In 1915, women from over 30 countries met in The Hague to express opposition to World War I and propose ways to end it. The delegates called for women to be present at any international peace conference held . . . These demands were left unmet.").

47. *Id.* ("In fact, from 1975 to 2011, about 40% of all conflicts that result in peace agreements produce at least one accord that includes references to women.").

48. *Id.* at 2.

49. Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, ¶ 1, U.N. Doc A/RES/34/180 (Dec. 18, 1979) [hereinafter G.A. Res. 34/180].

50. *Id.*

51. S.C. Res. 1325, *supra* note 16, ¶ 5.

52. *Id.* ¶ 21.

53. *Id.*

female and male ex-combatants” when going through the process of disarmament.⁵⁴

Some research has been done to evaluate the scope of the inclusion of women in contemporary peace accords. One researcher found that of 195 peace agreements signed between 1975 and 2011, twenty-eight percent specifically reference women.⁵⁵ These agreements may consider the rights of women specifically related to the conflict, in the transition period following the conflict, or in the long term.⁵⁶ The latter two categories involve ensuring equal treatment of women and provide for the involvement of women in transitional and long-term governing.⁵⁷

This Note considers the inclusion of those types of provisions, but focuses more on the first category, which takes into account the immediate issues caused by the conflict, including “sexual violence, demobilization, humanitarian assistance, and reconstruction.”⁵⁸ The first category also includes, for example, the development of programs that cite the vulnerability of women in order to prioritize them for certain government-sponsored assistance related to their experiences during the war.⁵⁹ These types of provisions within agreements address the specific ways conflicts impact women as victims, and, as such, the discussion of women’s rights and victim’s rights go hand in hand in this context.

The norms and principles of international law on the subjects of human rights, victim’s rights, and women’s rights influence and are reflected by peace accords on the national level. This is true for the peace agreements in South Africa, Northern Ireland, and Colombia, and the specific experiences of these three countries are the topic of the next part of this Note.

II. CASE STUDIES

The following case studies examine the conflicts, peace processes, inclusion of women, and the resulting provisions on victim’s rights in three countries: South Africa, Northern Ireland, and Colombia. While other countries have gone through peace processes and signed peace accords that could also be looked at, the peace processes of these three countries are closely linked.⁶⁰ Choosing them for case studies shows how Northern Ireland borrowed ideas from South Africa, whose peace accord was the first of the three to be signed, and then how Colombia subsequently looked to both South Africa and Northern Ireland when

54. *Id.* ¶ 23-24.

55. ANDERSON, *supra* note 18, at 13-14.

56. *Id.* at 14.

57. *Id.* at 16.

58. *Id.* at 15.

59. *Id.*

60. ANDERSON, *supra* note 18, at 55 (“As both the cases of Northern Ireland and Burundi will show, women in both of those countries sought to replicate the practices found in southern states such as Guatemala and South Africa.”). *See also Colombia’s peace deal drew inspiration, supra* note 19.

resolving its civil conflict.⁶¹ Furthermore, examining how victim's rights and women's involvement in the peace process played out in three different countries, times, and continents will highlight the similarities that exist among their peace accords and related laws at a national level and point to the aforementioned influence of international law in such agreements.⁶² The case studies begin with South Africa because its experience was a basis for the subsequent two agreements that are the subject of case studies here – Northern Ireland and Colombia.⁶³

A. South African Case Study

“When I walked out of prison, that was my mission, to liberate the oppressed and the oppressor both The truth is that we are not yet free For to be free is not merely to cast off one's chains, but to live in a way that respects and enhances the freedom of others.”

– Nelson Mandela⁶⁴

i. History of the Conflict

The history of South Africa's civil conflict that lasted for most of the second half of the twentieth century can be marked as beginning in 1948, after an election which saw the pro-segregation Nationalist Party rise to power.⁶⁵ However, race-based policies such as segregation and other racial conflicts existed in South Africa long before 1948.⁶⁶ Colonial power struggles in the late eighteenth century between the Dutch and British governments set the stage for the divisive and racial tensions among black South Africans and several different groups of white colonists that would mark the rest of South Africa's history.⁶⁷ Battles over the country's scarce resources, particularly diamonds, led to local ordinances that placed burdensome living restrictions on blacks in order to appease the lower-class white miners who were competing with them to extract diamonds.⁶⁸ While all miners were likely guilty of smuggling diamonds for their own benefit, black miners were forced to live in restricted areas and submit to body searches, cementing their social status as inherently lower than that of their white counterparts and creating a system meant to keep them from gaining wealth

61. ANDERSON, *supra* note 18, at 55. *See also Colombia's peace deal drew inspiration, supra* note 19.

62. ANDERSON, *supra* note 18, at 26-30.

63. *Colombia's peace deal inspiration, supra* note 60.

64. NELSON MANDELA, *THE AUTOBIOGRAPHY OF NELSON MANDELA: LONG WALK TO FREEDOM* 624-25 (2008).

65. *National Party (NP)*, SOUTH AFRICAN HISTORY ONLINE (<http://www.sahistory.org.za/topic/national-party-np>). [<https://perma.cc/CFJ6-UDBA>].

66. LAUREL CORONA, *SOUTH AFRICA* 35, 41-42, 50 (2000).

67. *Id.* at 35, 37.

68. *Id.* at 41-42.

or freedom.⁶⁹

Thus, the race-based policies implemented by the Nationalist Party in the mid-twentieth century were not novel in the history of South Africa.⁷⁰ Apartheid, a system of classification and segregation, had existed in some form since the 1800s.⁷¹ Apartheid institutionalized racism in South Africa in a way that impacted nearly every area of life. It determined where people lived, what jobs they could have, access to health care, and the means by which individuals could use public facilities.⁷² Blacks were systematically denied the opportunity to have “professional” careers as teachers, doctors, or lawyers, and instead relegated to menial and hard labor.⁷³ Those employed outside of urban areas often saw their homes bulldozed, and they were relocated to “homelands,” a practice which predated this Apartheid era as these homelands were originally established in 1913 to force blacks to live in separate areas from whites.⁷⁴ During the 1970s, three million black people were resettled in these black homelands, which “were more like prisons from which blacks could not escape and outside of which they had no liberty at all.”⁷⁵ Blacks who were able to secure urban jobs were “corralled into townships,” and a system was developed to control the movement of black South Africans, requiring them to possess passes in order to be in a designated white area of town.⁷⁶

The oppressive system of Apartheid was kept in place by violence, and it was in one of these black, urban townships that the violence of Apartheid was brought to international attention.⁷⁷ In 1970, the township of Soweto was a point of pride for the local government of Johannesburg, South Africa.⁷⁸ Touted as a fix to the evils of a former slum, the local government called it “one of the world’s greatest slum clearance schemes of the post-war era.”⁷⁹ However, any benefits of the urban development that may have existed in Soweto were lost due to overcrowding, corruption, unemployment, and other social ills.⁸⁰ As a younger generation of black South Africans saw civil rights efforts take hold in other

69. *Id.* at 42.

70. *South Africa profile – Timeline*, BBC NEWS, <http://www.bbc.com/news/world-africa-14094918> [<https://perma.cc/BQ2Q-J2HD>].

71. CORONA, *supra* note 66, at 41-42. *See also South Africa profile – Timeline*, *supra* note 70.

72. Michelle Faul, *What Life was Like in South Africa During Apartheid*, BUSINESS INSIDER (Dec. 9, 2013), <http://www.businessinsider.com/what-life-was-like-in-south-africa-during-apartheid-2013-12>. [<https://perma.cc/WNN8-TKSJ>].

73. *Id.*

74. *Id.* *See also* CORONA, *supra* note 66, at 50-51.

75. *South Africa profile – Timeline*, *supra* note 70. *See also* CORONA, *supra* note 66, at 51.

76. Faul, *supra* note 72. *See also* CORONA, *supra* note 66, at 53.

77. Faul, *supra* note 72. *See also* K.C. TESSENDORF, *ALONG THE ROAD TO SOWETO: A RACIAL HISTORY OF SOUTH AFRICA 1* (1989).

78. TESSENDORF, *supra* note 77, at 169, 170.

79. *Id.* at 169.

80. *Id.* at 170-71.

countries, including the United States, they developed “attitudes of black consciousness” that their parents’ generation had lacked.⁸¹ In the mid-1970s, this collective awareness of their ability to influence awareness coupled with an angering policy change, which forced schools to conduct class not only in English, but in Afrikaans, were the catalysts to action for the few thousand students in Soweto.⁸²

On Wednesday, June 16, 1976, thousands of students gathered for a peaceful protest in Soweto.⁸³ As police confronted the protestors, a deadly battle ensued.⁸⁴ The students threw stones at the police, and the police responded by hurling tear-gas, then swinging clubs, and finally, firing shots.⁸⁵ The chaos spread as thugs set buildings on fire and attacked whites in Soweto.⁸⁶ Over the course of three to four days, 176 people were killed, 174 of them black.⁸⁷ Over the next few years, similar uprisings took place in communities across South Africa, causing thousands to be injured and hundreds killed.⁸⁸ What happened in Soweto in 1976 was a tragic event in South African history, but it was also an important event in the global context of South Africa’s civil conflict.⁸⁹ The images of this violence played across the world, changing the perception of Apartheid.⁹⁰

ii. Peace in South Africa

Today, Nelson Mandela is an international figure associated with the power of freedom and forgiveness in relation to his leadership during and following the Apartheid era in South Africa. However, in 1964, Mandela was sentenced to life in prison after being found guilty of conspiracy to overthrow the government by violence.⁹¹ Mandela, then a member of the African National Congress, had advocated for the rights of minorities who were oppressed under the Apartheid

81. *Id.* at 171.

82. *Id.* at 172 (“In 1976, the government began enforcing a policy that black education be given in Afrikaans in addition to English. Students were sensitive to the language of Afrikaans because it had been used against them by those enforcing apartheid.”).

83. *Id.* See also *The 1976 Soweto Uprising in South Africa*, THE HUFFINGTON POST, https://www.huffingtonpost.com/adst/the-1976-soweto-uprising_b_8416954.html [<https://perma.cc/EWH3-KE76>].

84. TESSENDORF, *supra* note 77, at 172.

85. *Id.* at 173.

86. *Id.*

87. *Id.*

88. *Id.* at 175.

89. Faul, *supra* note 72.

90. *Id.*

91. *South Africa profile – Timeline*, *supra* note 70. See also Leon Marshall, *Nelson Mandela and the Power of Forgiveness*, NATIONAL GEOGRAPHIC (Dec. 6, 2013), <https://voices.nationalgeographic.org/2013/12/06/nelson-mandela-and-the-power-of-forgiveness/> [<https://perma.cc/S5HQ-AM56>].

system.⁹² Nearly 30 years later, a leadership change in South Africa led to Mandela finally being released from prison and desegregation in South Africa.⁹³ This change was also influenced by the end of the Cold War, which inhibited the ability of the South African government to “rely upon its anticommunism as a counterbalance to its miserable human-rights record.”⁹⁴

The process to peace began in the early 1990s with peace talks initiated by South Africa’s business community.⁹⁵ The first peace talks were held in private, outside of public scrutiny.⁹⁶ In May 1991, political, church, and community leaders came together for a Peace Summit.⁹⁷ The result of these peace negotiations was an agreement called the National Peace Accord (NPA), which addressed victim’s rights through two primary means.⁹⁸ First, it included socio-economic reconstruction and development as part of the agreement, and second, it created a Commission of Inquiry tasked with preventing public violence and intimidation.⁹⁹ Mandela was an important leader throughout this process in South Africa’s story and remains an important figure across the world as other countries have looked to his wisdom when engaging in peace talks.¹⁰⁰ Mandela’s belief “in the redemptive power of forgiveness” has become a foundational principle for individuals and countries seeking to move on from decades of civil strife.¹⁰¹

iii. South Africa – Women’s Involvement

Upon his release from prison, Mandela acknowledged the unique plight of South African women caused by Apartheid, saying, “I pay tribute to the mothers and wives and sisters of our nation. You are the rock-hard foundation of our struggle. Apartheid has inflicted more pain on you than on anyone else.”¹⁰² South

92. *South Africa profile – Timeline*, *supra* note 70. See also Marshall, *supra* note 91.

93. *South Africa profile – Timeline*, *supra* note 70.

94. Jelani Cobb, *Mandela and the Politics of Forgiveness*, THE NEW YORKER (Dec. 6, 2013), <https://www.newyorker.com/news/news-desk/mandela-and-the-politics-of-forgiveness> [https://perma.cc/GPY4-TV8F].

95. Vanessa Thorpe, *How Secret Talks Killed Off Apartheid*, THE GUARDIAN (Aug. 16, 2008), <https://www.theguardian.com/world/2008/aug/17/southafrica.television> [https://perma.cc/HA6W-HJLU].

96. Michael Young, *The South African Talks: A Template for Peace*, HUFFINGTON POST, http://www.huffingtonpost.com/michael-young/the-south-african-talks-a_b_327316.html [https://perma.cc/2WRV-KLYN].

97. Chris Spies, *Owning the process, Public participation in peacemaking*, CONCILIATION RESOURCES (2002), <http://www.c-r.org/accord/public-participation/south-africa-s-national-peace-accord-its-structures-and-functions> [https://perma.cc/AUP6-UDZK].

98. *Id.*

99. NATIONAL PEACE ACCORD (Sept. 14, 1991), <http://www.incore.ulst.ac.uk/services/cds/agreements/pdf/sa4.pdf>.

100. ANDERSON, *supra* note 18, at 89-90.

101. Cobb, *supra* note 94.

102. Nelson Mandela, *Speech on Release from Prison* (Feb. 11, 1990).

African women felt the impact of Apartheid at home. Women remained behind as men left to sell their skilled labor on farms, in mines, and in factories, resulting in lost property and a lack of family stability.¹⁰³ Furthermore, traditional social structures in South Africa that had given status to both men and women were not recognized by the new legal system, leading to women being oppressed due to both their race and their sex.¹⁰⁴ Women in South Africa were denied first and second generation human rights, including the rights related to child rearing, living with their husbands, and determining the scope and location of their work.¹⁰⁵

The involvement and recognition of women in South Africa can be seen more prominently in the development of its constitution than in the peace accord itself. For example, there was a conscious effort to use the terms “men and women” when drafting the constitution instead of “everyone.”¹⁰⁶ This inclusive approach to drafting such a document was used as a model by Northern Ireland just a few years later.¹⁰⁷ South Africa’s new government also reflected this desire to include women; women were elected to twenty-four percent of the seats in South Africa’s legislative body, compared to the 2.8 percent of members of parliament that were women during the Apartheid era.¹⁰⁸ Prior to the 1994 elections, the African National Congress and over 100 women’s organizations in South Africa adopted a charter declaring the rights of women.¹⁰⁹ South Africa also established an Office on the Status of Women and created a National Commission on Gender Equality to fulfill its commitment to the equality of women.¹¹⁰

South African women were also involved in the Truth and Reconciliation Commission (TRC).¹¹¹ A study on women’s involvement with the TRC in South Africa found that women’s involvement made the process more inclusive and lead to the participation of more women as witnesses.¹¹² The majority of the testimony submitted to the TRC came from women, sixty percent of whom were black.¹¹³ Women also participated by serving on commissions and as administrative staff for the TRC and through membership in non-governmental

103. *Women Play a Leading Role*, SOUTH AFRICA HISTORY ONLINE, <http://www.sahistory.org.za/archive/women-play-leading-role> [https://perma.cc/GM2B-CS9T].

104. *Id.*

105. *Id.*

106. ANDERSON, *supra* note 18, at 125.

107. *Id.*

108. Pumla Gobodo-Madikizela, *Women’s Contributions to South Africa’s Truth and Reconciliation Commission*, WOMEN WAGING PEACE POLICY COMMISSION 1-4 (Feb. 2005), https://www.inclusivesecurity.org/wp-content/uploads/2012/08/11_women_s_contributions_to_south_africa_s_truth_and_reconciliation_commission.pdf [https://perma.cc/KZZ6-2L5X].

109. *Id.* at 7.

110. *Id.*

111. *Id.*

112. *Id.*

113. *Id.* at 14.

and community based organizations.¹¹⁴ Women's involvement also leads to a more "victim-friendly process" by including mechanisms that eased the trauma of testifying and creating separate structures for women to testify especially painful crimes, including sexual violence.¹¹⁵ Creating a safe space for women to shed light on the harms suffered under Apartheid was critical for ensuring the success of the TRC in establishing truth and bringing healing to South Africa.

B. Northern Ireland Case Study

*"But at the end of the day, as with all free people, your future is for you to decide. Your destiny is for you to determine. Only you can decide between division and unity, between hard lives and high hopes, only you can create a lasting peace. It takes courage to let go of familiar divisions. It takes faith to walk down a new road. But when we see the bright gaze of these children, we know the risk is worth the reward."*¹¹⁶
 – President Bill Clinton, speaking in Belfast

i. History of the Conflict

While Apartheid in South Africa was based on deep-rooted, longstanding racial divisions, Northern Ireland's civil conflict was rooted in territorial disagreements.¹¹⁷ Similar to the situation in South Africa, Northern Ireland's conflict grew out of rifts driven by colonialism.¹¹⁸ From the twelfth to sixteenth centuries, English rulers made efforts to expand their territory into Ireland, often met by Irish resistance.¹¹⁹ These imperial struggles took on a religious tone as the English, protestant rulers persecuted the Catholic population in Ireland.¹²⁰ During the reign of Elizabeth I, persecution of Irish Catholics increased, followed by massacres of Catholics during the administration of Oliver Cromwell, and then victory secured over Catholic forces by King William II in 1691.¹²¹ British occupation of Ireland lead to discrimination of Catholics, including "laws that prevented them from bearing arms, holding public office and restraining their rights to an education."¹²² Tension and resentment continued into the twentieth

114. Gobodo-Madikizela, *supra* note 108.

115. *Id.* at 24.

116. Bill Clinton, *Proud Traditions Coming Together*, CNN (Nov. 30, 1995), http://edition.cnn.com/WORLD/9511/clinton_ireland/transcript.html [<https://perma.cc/9T7M-HFAF>].

117. *The Troubles*, BBC, <http://www.bbc.co.uk/history/troubles> [<https://perma.cc/K3CZ-N4PR>].

118. Tim Ito & Aileen Yoo, *Ireland's Troubled History*, WASH. POST (Apr. 1999), <http://www.washingtonpost.com/wp-srv/inatl/longterm/nireland/overview.htm> [<https://perma.cc/W227-PS24>].

119. *Id.*

120. *Id.*

121. *Id.*

122. *Id.*

century, ultimately resulting in the island of Ireland being partitioned in the 1920s.¹²³ The six counties of Northern Ireland remained with Britain, while the southern 26 counties eventually became the Republic of Ireland in 1949.¹²⁴

A period of relative peace in the 1950s and 1960s came to an end in 1968.¹²⁵ The country's Catholic minority wanted Northern Ireland to become part of Ireland, while the Protestant majority wanted to continue as part of the United Kingdom.¹²⁶ On October 5, 1968, a group representing the country's Catholic minority marched in Londonderry to protest the government's lack of action to address discrimination against Catholics, marking the beginning of "The Troubles."¹²⁷

A paramilitary group arose, known as the Provisional Irish Republican Army (IRA).¹²⁸ This group committed various atrocities, including murder and kidnapping.¹²⁹ One account details the murder of fifteen people who were then buried in secret graves by the IRA, some still undiscovered.¹³⁰ One of the fifteen victims was Jean McConville, the mother of ten children who was also a widow.¹³¹ She was dragged from her home as her children watched, and the government responded by publicly saying she was "in hiding."¹³² Her body was found in 2003.¹³³

There were several significant moments during the conflict, especially in the early 1970s. Internment was introduced in 1971, resulting in many Irish families losing their husbands and fathers at home.¹³⁴ One internee noted that he was the "chief breadwinner" and his time in internment had a "huge impact" on his family.¹³⁵ The government picked up and imprisoned people without holding trials first.¹³⁶ They subjected prisoners to treatment including "white noise, sleep deprivation, wall-standing, beating and the deprivation of food and drink."¹³⁷ From 1971 to 1975, over 1,900 people were interned.¹³⁸

123. *Id.*

124. Ito & Yoo, *supra* note 188.

125. *Id.*

126. *The Troubles*, *supra* note 117.

127. *Id.*

128. *Id.*

129. Greg McKeivitt, *The Disappeared: Hidden story of Northern Ireland Troubles*, BBC (Nov. 4, 2013), <http://www.bbc.com/news/uk-northern-ireland-24765480> [<https://perma.cc/WWB4-X8ZR>].

130. *Id.*

131. *Id.*

132. *Id.*

133. *Id.*

134. *The Troubles*, *supra* note 117.

135. Chris Page, *NI Internment remembered 40 years on*, BBC (Aug. 9, 2011), <http://www.bbc.com/news/uk-northern-ireland-14458270> [<https://perma.cc/X2FS-X8LV>].

136. *Id.*

137. *Id.*

138. *Id.*

In January 1972, paratroopers opened fire on a crowd that had gathered for a civil rights march to protest internment.¹³⁹ On what became known as “Bloody Sunday,” thirteen people died and more than a dozen others were wounded.¹⁴⁰ Bloody Sunday was the Soweto Uprising moment for Northern Ireland, as the violence shined a spotlight seen around the globe on the country’s conflict.¹⁴¹ Following this, the British government imposed direct rule in March 1972.¹⁴² The British government also subsequently absolved its troops of wrongdoing in the incident. The IRA retaliated by exploding 20 bombs in Belfast that killed both civilians and British soldiers.¹⁴³

ii. Peace in Northern Ireland

Several attempts to reach peace failed prior to negotiating a successful peace agreement in the late 1990s. In 1973, the Sunningdale Agreement attempted to restore self-government in the country, but by 1974, direct rule was imposed again.¹⁴⁴ Over ten years later, the Anglo-Irish Agreement was proposed, which would have kept Northern Ireland as part of the United Kingdom while allowing Ireland to have an advisory role in the country’s affairs.¹⁴⁵ The negotiations that eventually led to peace began in 1996.¹⁴⁶ On April 10, 1998, the Belfast or “Good Friday” agreement was reached, and it passed by referendum in May 1998.¹⁴⁷ Northern Ireland held elections to its new parliament assembly in June 1998.¹⁴⁸

The incorporation of victim’s rights specifically into the Good Friday agreement was fairly expansive. First, it includes several provisions related to human rights, such as the rights of free political thought, freedom of religion, freedom to choose one’s place of residence, the right to equal opportunity in all social and economic activity, regardless of class, creed, disability, gender or ethnicity, and the right of women to full and equal political participation.¹⁴⁹ Pursuant to the Good Friday Agreement, the European Convention on Human Rights would also be incorporated into the law of Northern Ireland, and they would establish a Northern Ireland Human Rights Commission.¹⁵⁰

139. *Bloody Sunday*, BBC, http://www.bbc.co.uk/history/bloody_sunday [<https://perma.cc/3X6C-TTWH>]; *Bloody Sunday in Northern Ireland*, HISTORY, <http://www.history.com/this-day-in-history/bloody-sunday-in-northern-ireland> [<https://perma.cc/RF7G-HAGC>].

140. *Bloody Sunday*, *supra* note 139.

141. *Bloody Sunday in Northern Ireland*, *supra* note 139.

142. *The Troubles*, *supra* note 117.

143. *Bloody Sunday in Northern Ireland*, *supra* note 139.

144. *The Troubles*, *supra* note 117.

145. *Id.*

146. *Id.*

147. *Good Friday Agreement*, BBC, http://www.bbc.co.uk/history/events/good_friday_agreement [<https://perma.cc/D37D-52DU>].

148. *Id.*

149. Belfast Agreement, Eng.-Ir., Apr. 10, 1998 [hereinafter Belfast Agreement].

150. *Id.*

The Good Friday agreement went beyond addressing human rights broadly to also include provisions on reconciliation and victims of violence.¹⁵¹ It set up the Northern Ireland Victim's Commission and ensured financial support for victims, including reconciliation assistance.¹⁵² The agreement further spoke to the transitional and long-term aspects of including women in the political process by promising to "pursue broad policies . . . for promoting social inclusion, including in particular community development and the advancement of women in public life."¹⁵³

iii. Northern Ireland – Women's Involvement

Similar to the women in South Africa, women in Northern Ireland felt the impact of the Troubles at home. Men were imprisoned, so women's responsibilities at home increased.¹⁵⁴ Catholic families were the targets of arson, so they faced internal displacement and a shortage of basic necessities.¹⁵⁵ Women also had fears related to raising their children.¹⁵⁶ In particular, they were afraid that their children would be harmed or that their children would eventually become actively engaged in the conflict.¹⁵⁷

Women were impacted on an emotional level, suffering from depression, anger, and anxiety.¹⁵⁸ Sharing stories of how the Troubles harmed them, one woman said, "They were dark days, very dark. Some people say to forget about the past but they have not got a clue about the heartache that is out there within the families who lost their loved ones, some of whom were tortured before they were brutally murdered, and most of these murders go unsolved to this day."¹⁵⁹ One woman refrained from sharing her story directly because of the lasting shame her experience caused her – she had been tied to a lamppost, tarred, and feathered.¹⁶⁰

While individual stories are powerful, women in Northern Ireland organized to share their collective experiences and seek involvement in the peace process through the Northern Ireland Women's Coalition (NIWC).¹⁶¹ The NIWC was

151. *Id.*

152. *Id.*

153. *Id.*

154. *Women and the Conflict*, *supra* note 17, at 4.

155. Derry Video Productions, *Daughters of the Troubles: Belfast Stories*, VIMEO (1996), <https://vimeo.com/107080655>; *See also Women and the Conflict*, *supra* note 17, at 4.

156. *Women and the Conflict*, *supra* note 17, at 21.

157. *Id.* at 20.

158. *Id.* at 4.

159. Donna Deeney, *Women scarred by Northern Ireland Troubles tell anguished stories*, BELFAST TELEGRAPH (March 3, 2017), <https://www.belfasttelegraph.co.uk/news/northern-ireland/women-scarred-by-northern-ireland-troubles-tell-anguished-stories-35497452.html> [<https://perma.cc/8D9G-ZCGM>].

160. *Id.*

161. Kate Fearon, *Northern Ireland Women's Coalition*, ACCORD, <http://www.c->

formed as the peace talks began in the 1990s as women were not included as candidates for the political parties that existed at the time.¹⁶² The NIWC was a cross-section of women from all political viewpoints, representing both unionists, those who wanted to remain part of the United Kingdom, and nationalists, who wanted to become part of Ireland, and advocating equality, human rights, and inclusion.¹⁶³ In the vote to elect parties to the negotiations, the NIWC finished ninth and earned two seats in the negotiations.¹⁶⁴ At all times during the negotiations, both unionist and nationalist women were represented at the table through the NIWC.¹⁶⁵ The NIWC chose to focus on the procedural aspects of the negotiations and encouraging cooperation.¹⁶⁶ The NIWC played a key role in promoting the Good Friday Agreement, reaching out to its various constituencies.¹⁶⁷ The mentality of these women leaders ties back to South Africa, as one woman explained that they learned from Nelson Mandela that you have to put your hands up and hands out.¹⁶⁸ They also advocated for following Mandela's admonition to "make peace with your enemies," and ensure the talks took place in a climate of peace.¹⁶⁹ In a 2002 speech in Belfast, Tony Blair acknowledged what the NIWC brought to the table during peace negotiations when he said, "And then there were others like the Women's Coalition - decent, intelligent people that you often wished had power in the same proportion as their sense."¹⁷⁰

The involvement of the NIWC can be seen in the process and product of Northern Ireland's peace accord. The NIWC made victim's rights and reconciliation a priority for discussion at the peace talks and during the referendum.¹⁷¹ They advocated that victim's rights be clearly recognized in the agreement.¹⁷² While the Good Friday Agreement does not include a significant number of specific recognitions of women, the agreement does address the needs of women in a post-conflict society through speaking to human rights

r.org/downloads/Accord%2013_16Northern%20Ireland%20women's%20coalition_2002_ENG.pdf [https://perma.cc/95A4-ZTFG].

162. *Id.*

163. *Id.*

164. *Id.*

165. *Id.*

166. *Id.*

167. *Id.* at 81.

168. TedX Talks, *Women in politics and peace-building*, YOUTUBE (Dec. 22, 2013), <https://www.youtube.com/watch?v=sFvMQLX27g4>.

169. ANDERSON, *supra* note 18 at 89-90.

170. Tony Blair, *Speech in Belfast*, THE GUARDIAN (Oct. 17, 2002), <https://www.theguardian.com/politics/2002/oct/17/northernireland.devolution> [https://perma.cc/SFR7-VZY5].

171. Fearon, *supra* note 161.

172. Sally J. Kenney, *Waving Goodbye to the Dinosaurs? Women, Electoral Politics, and Peace in Northern Ireland*, CENTER ON WOMEN AND POLICY (2005), http://archive.hhh.umn.edu/centers/wpp/women-centered_nonprofits/case_studies/wavinggoodbyetothedinosaurswomenelectoralpoliticsandpeaceinnorthernireland.html [https://perma.cc/8JAV-98NV].

generally.¹⁷³ As previously discussed, the inclusion of victim's and women's rights in peace accords reflects international norms, and this can be especially true when the advocacy groups involved have ties to international networks.¹⁷⁴ In Northern Ireland, the NIWC was connected to transnational groups using similar language in documents about women's rights.¹⁷⁵ The NIWC also sought to frame its demands in a way that made them relatable to a broad spectrum of individuals and groups, so couching them in the context of human rights was part of their strategy to ensure inclusion of women's rights.¹⁷⁶

C. Colombia Case Study

“That is the great paradox I have found: while many who have not suffered the conflict in their own flesh are reluctant to accept peace, the victims are the ones who are most willing to forgive, to reconcile, and to face the future with a heart free of hate.”

– Juan Manuel Santos, President of Colombia, Nobel Lecture¹⁷⁷

i. History of the Conflict

As with the conflicts in South Africa and Northern Ireland, the source of Colombia's conflict can be traced back to colonization.¹⁷⁸ One scholar explained that these areas were settled by marginalized, isolated groups and lacked ties to state institutions.¹⁷⁹ This created an organizational void for other groups including elite landowners, narco-drug traffickers, guerillas, and paramilitaries to fill.¹⁸⁰ In the 1950s, these “independent republics” were forcefully integrated into the Colombian state, causing a decade of political violence known as *La Violencia*.¹⁸¹

Following the end of *La Violencia*, civil conflict arose again in the 1960s

173. ANDERSON, *supra* note 18, at 77-78.

174. *Id.* at 78.

175. *Id.* at 94.

176. *Id.*

177. Juan Manuel Santos, *Peace in Colombia: From Impossible to the Possible*, NOBEL PRIZE AND LAUREATES (Dec. 10, 2016), https://www.nobelprize.org/nobel_prizes/peace/laureates/2016/santos-lecture_en.html [<https://perma.cc/5RPQ-HUBM>].

178. Joel Gillin, *Understanding the causes of Colombia's conflict: Weak, corrupt state institutions*, COLOMBIA REPORTS (Jan. 13, 2015), <https://colombiareports.com/understanding-colombias-conflict-weak-corrupt-state-institutions/> [<https://perma.cc/4P29-P8DH>].

179. *Id.*

180. *Id.*

181. Claire Felter and Danielle Renwick, *Colombia's Civil Conflict*, COUNCIL ON FOREIGN RELATIONS (Jan. 11, 2017), <https://www.cfr.org/background/colombias-civil-conflict> [<https://perma.cc/59VU-Y388>]. See also Chris Kraul, *The Battles Began in 1964: Here's a Look at Colombia's War with the FARC Rebels*, L.A. TIMES (Aug. 30, 2016), <http://www.latimes.com/world/mexico-americas/la-fg-colombia-farc-explainer-snap-story.html> [<https://perma.cc/E78K-JDL8>]; Gillin, *supra* note 178.

when guerilla fighters took up arms against the government.¹⁸² These groups were upset after not being included in an agreement that ended *La Violencia*.¹⁸³ These guerilla groups included the Revolutionary Armed Forces of Colombia (FARC), comprised of militant communists and peasant groups, operating in the rural, marginalized areas of the country, and the National Liberation Army (ELN), made up of students, Catholics, and left-wing intellectuals.¹⁸⁴ In the 1980s, paramilitary groups of landowners linked to Colombia's military also became involved.¹⁸⁵ The guerilla groups took up arms with an aim of redistributing land to the poor, and their ties to rural farming communities enabled them to take control of these areas where "rule of law was weak or nonexistent."¹⁸⁶ Colombia's civil conflict then pitted the "peasants" against the "moneyed elites."¹⁸⁷

Throughout the duration of the conflict, FARC and ELN committed kidnappings, assassinations, and hijackings.¹⁸⁸ From 1970 to 2010, FARC and ELN kidnapped over 25,000 people and killed 10,000 people.¹⁸⁹ The civil conflict resulted in 220,000 deaths, and 5.7 million people were displaced.¹⁹⁰ In addition to the human toll of the conflict, it also fueled the drug trade in Colombia.¹⁹¹ Profits from the production and sale of drugs, specifically cocaine, were a major source of cash for the FARC, ELN, and other criminal groups.¹⁹² The fights between the guerilla and paramilitary groups over resources for drug trafficking led to increased violence during the conflict.¹⁹³ In the mid-2000s, Colombia supplied nearly 90 percent of the cocaine in the world.¹⁹⁴

ii. Peace in Colombia

Colombia's path to peace began in 2012, when the administration of President Santos began talks with the FARC.¹⁹⁵ Foreign governments, including Cuba and Norway, actively participated in the talks as "guarantors."¹⁹⁶ Santos, a

182. Felter, *supra* note 181. See also Kraul, *supra* note 181.

183. *Id.*

184. Felter, *supra* note 181. See also Gillin, *supra* note 178.

185. Felter, *supra* note 181.

186. Kraul, *supra* note 181.

187. *Id.*

188. Felter, *supra* note 181.

189. *Id.*

190. *Id.*

191. John Otis, *The FARC and Colombia's Illegal Drug Trade*, WILSON CENTER (Nov. 2014), https://www.wilsoncenter.org/sites/default/files/Otis_FARCDrugTrade2014.pdf [<https://perma.cc/7K9L-7LHL>].

192. *Id.*

193. *Id.*

194. *Id.*

195. Felter, *supra* note 181.

196. Juan Forero, *Colombia's President Juan Manuel Santos says talk with rebels will start next month*, WASH. POST (Sept. 4, 2012), https://www.washingtonpost.com/world/the_

former journalist, long had an interest in studying peace processes.¹⁹⁷ In particular, he had studied what happened in South Africa and Mandela's role in creating the country's path to peace.¹⁹⁸

Even in the early stages of the negotiations, Santos communicated that the rights of victims should be a priority.¹⁹⁹ Speaking about the crimes committed by both sides he said, "All Colombians have the right to know who was responsible."²⁰⁰ One of the five principles of negotiations was transitional justice and reparations, further placing victim's rights as a priority in creating a peace agreement.²⁰¹ A ceasefire was agreed to in mid-2016, and a peace treaty was signed in September 2016.²⁰² However, the public rejected this first agreement via referendum.²⁰³ This rejection was a sign that while Colombians wanted peace, they also wanted to ensure that those who had committed crimes, particularly rebels, were not treated too leniently.²⁰⁴ In December 2016, a revised peace accord was approved that included more specific provisions for the punishment of former FARC members and funding for reparations by the FARC.²⁰⁵

Colombia's Peace Accord is fairly comprehensive in its treatment and acknowledgment of victim's rights. It includes a section about the victims of the conflict creating a "Comprehensive System for Truth, Justice, Reparation and Non-Repetition"²⁰⁶ Colombia sought to realize victim's rights via judicial and extra-judicial mechanisms.²⁰⁷ This included the "Truth, Coexistence and Non-Repetition Commission" which was charged with clarifying what happened and promoting the recognition of victims.²⁰⁸ A special unit was created to search for missing persons.²⁰⁹ The agreement also included a "Special Jurisdiction for Peace" which would "investigate, prosecute and sanction crimes committed in the

americas/colombias-president-juan-manuel-santos-says-talks-with-rebels-will-start-next-month/2012/09/04/18b41272-f6c5-11e1-8253-3f495ae70650_story.html?utm_term=.3a1874f2a40a [https://perma.cc/RS8J-PLY4].

197. Santos, *the politician who prepared for ending a way*, REOS PARTNERS (Sept. 30, 2016), <https://reospartners.com/santos-politician-prepared-ending-war/> [https://perma.cc/Z27E-YJP5].

198. *Id.*

199. Forero, *supra* note 196.

200. *Id.*

201. Felter, *supra* note 181.

202. *Id.*

203. *Id.*

204. *Id.*

205. *Id.*

206. *Summary of Colombia's Agreement to End Conflict and Build Peace*, PRESIDENCIA DE LA REPUBLICA (2016), <http://www.altocomisionadoparalapaz.gov.co/herramientas/Documents/summary-of-colombias-peace-agreement.pdf> [https://perma.cc/AF4K-2HVH] [hereinafter *Colombia's Agreement*].

207. *Id.*

208. *Id.*

209. *Id.*

context of and due to the armed conflict.”²¹⁰ This was bolstered by strengthening the Comprehensive Victim Reparation Programme which was already in existence.²¹¹ Finally, the agreement included an affirmation of human rights generally both by the government and the FARC, echoing the recognition of human rights in South Africa and Northern Ireland.²¹²

iii. Colombia – Women’s Involvement

Like in South Africa and Northern Ireland, the impact of Colombia’s conflict on women hit them at home and in deeply personal ways. The crimes committed against women in Colombia included “displacement, sexual violence, rape, forced labor, forced prostitution, forced abortions, and enslavement.”²¹³ Women became widows as men were killed in battle or by guerilla or paramilitary groups.²¹⁴ They also were left to care for men who were severely injured when not killed by these attacks.²¹⁵ Women were the subject of death threats, and they had to protect their children from being recruited by militant groups.²¹⁶

Internal displacement is another significant issue faced by women in Colombia. Women and children made up seventy-eight percent of the country’s population that had been internally displaced.²¹⁷ A rural ethnic group in Colombia in particular, the Afro-Colombians, suffered from the loss of their land, leading to displacement.²¹⁸ Afro-Colombians and indigenous groups inhabited land desired by armed groups for cultivating profitable crops, including cocaine.²¹⁹

Women in Colombia were guaranteed a part in the country’s peace process.²²⁰ Prior to the peace negotiations, the rights of women in Colombia were already broadly recognized, further enabling their involvement during peace talks.²²¹

210. *Id.*

211. *Id.*

212. *Id.*

213. Virginia M. Bouvier, *Gender and the Role of Women in Colombia’s Peace Process*, UN WOMEN (March 4, 2016), <http://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2017/women-colombia-peace-process-en.pdf?la=en&vs=17> [<https://perma.cc/B4BF-RDJX>].

214. *Id.*

215. *Id.*

216. *Id.*

217. *Id.*

218. *Id.*

219. Erin Mooney, *The Human Rights Situation in Colombia: Afro-Colombians and Indigenous People*, BROOKINGS (June 8, 2005), <https://www.brookings.edu/testimonies/the-human-rights-situation-in-colombia-afro-colombians-and-indigenous-people/> [<https://perma.cc/JS9V-AWEU>].

220. Bouvier, *supra* note 213.

221. *Id.* (“The 1991 Constitution and subsequent legislation and judicial findings recognize women’s rights, penalize violence against women and gender-based violence, guarantee women’s political participation and leadership roles in peacemaking and peace-building, provide equal access

While women were involved in the peace process, they were not always directly or proportionally represented at the negotiating table.²²² However, women participated in other ways during the peace process. Of the peace monitoring committees established in the country, women made up just over thirteen percent of them.²²³ Women also participated in conferences, working groups, and research related to the peace talks.²²⁴

The Peace Accord specifically included elements that were important to female victims of the conflict. These elements include improving land access for women and the investigation of sexual crimes against women during the conflict.²²⁵ Beyond the peace accord, the Victims and Land Restitution Law “establishes preferential treatment for women seeking restitution.”²²⁶

The conflicts in South Africa, Northern Ireland, and Colombia reflect the shared experiences of women as victims of civil wars, regardless of historical, cultural, or geographic factors. Because of this commonality and the ties of local women’s advocacy groups to international groups, an opportunity exists to both tailor the inclusion of victim’s rights in future peace agreements to the circumstances of the countries involved, while ensuring that the specific needs of women are part of the discussion.

III. ANALYSIS

Having briefly considered the history, peace processes, and role of women in reaching peace in South Africa, Northern Ireland, and Colombia, what can be learned from the experiences of these three countries?

In order to understand what exactly can be gleaned from the path to peace in each of these countries, analyzing the similarities and differences among them in a few key areas will help further demonstrate the implications for international and domestic law prior to and following civil conflict. This analysis will consider the following factors:

1. What was the basis of the conflict?
2. What domestic laws enacted prior, during, or after the conflict, including the peace accord itself, helped establish the rights of women related to the conflict, in the transition period following the conflict, or in the long-term?²²⁷
3. In addition, what systems of transitional justice, if any, were established

to State resources for women, and guarantee women’s relief and recovery from the conflict.”)

222. *Id.*

223. *Activists: Put Women at Center of Colombia Peace Deal to Ensure Lasting Peace*, VOA (June 21, 2017), <https://www.voanews.com/a/put-women-at-center-of-colombia-peace-deal-to-ensure-lasting-peace/3910490.html> [<https://perma.cc/JB9J-ZZGY>].

224. Bouvier, *supra* note 213.

225. *Activists: Put Women at Center of Colombia Peace Deal to Ensure Lasting Peace*, *supra* note 223.

226. Bouvier, *supra* note 213.

227. ANDERSON, *supra* note 18, at 14.

to help victims of the conflict?

4. How do the above laws reflect the principles set out in international law, particularly with regard to fundamental human rights?
5. What was the level of involvement of women domestically and with international women's groups?

These factors are not exhaustive, and are not intended to create a framework for a quantitative analysis of peace accords. Rather, they are set out to examine the qualitative impact of international and domestic law in furthering the fundamental human rights of women victims of conflict in South Africa, Northern Ireland, and Colombia, and to consider how effective provisions may be applied to the resolution of future conflict.

A. Conflict Basis

While the basis of the conflict does not impact any provisions that may or may not be included in a model peace accord, the differing experiences of South Africa, Northern Ireland, and Colombia tend to show the reason for the conflict does not directly bear on the inclusion of women's or victim's rights in a peace accord. South Africa's conflict was based on racial division; Northern Ireland's conflict was rooted in territorial disagreement and religious ties; Colombia's conflict was initiated because of class warfare. While the inclusion of humanitarian rights is not guaranteed after any conflict, these countries demonstrate that whether war is based on race, land, wealth, or potentially some other item that divides people, a country can create a path to justice for its victims.

B. Domestic Laws & Peace Accords

The rights of women victims of conflict may be addressed in peace accords themselves, as well as in other domestic laws enacted before, during, or after periods of conflict. Comparing domestic measures in South Africa, Northern Ireland, and Colombia will shed light on the variety of ways to include certain human rights assurances, as well as highlight the specific rights guaranteed. These laws may relate to the rights of women specifically related to the conflict, in the transition period from war to peace, or in the long-term.²²⁸

Rights related to the conflict typically consist of immediate issues caused by the conflict such as "sexual violence, demobilization, humanitarian assistance, and reconstruction."²²⁹ These are the harms women suffer as they are physically hurt, forced to move, or lack resources as a result of the country's civil war.

As previously discussed, South Africa's peace accord itself did not include much in the way of addressing victim's rights. However, other legal instruments and infrastructure were used in South Africa to bring justice and reparations to victims of Apartheid. In 1995, South Africa's government passed the Promotion of National Unity and Reconciliation Act, which spoke to the need to address

228. *Id.*

229. *Id.* at 15.

human rights violations that took place under Apartheid.²³⁰ The Act also addressed the reparation and rehabilitation of victims.²³¹ While it was not prescriptive about reparations, it did establish a right for certain victims of the conflict, those who had experienced a gross violation of human rights, to receive reparation.²³² However, limitations were put on which victims could receive reparations by narrowly defining “gross violation of human rights” in recognition of the reality that victimization in South Africa was widespread and difficult to prove in many cases.²³³ The reconciliation committee created by the Act did define five categories of reparation, which mirror those in later documents adopted by Northern Ireland and Colombia.²³⁴ The categories were (1) redress, (2) restitution, (3) rehabilitation, (4) restoration of dignity, and (5) reassurance of non-repetition.²³⁵ South Africa then used legislative means to create domestic policies to attempt to address the human rights violations of Apartheid, rather than including those policies as part of its peace agreement.

In contrast to South Africa, Northern Ireland did address reparations for victims in its peace accord. The Good Friday agreement contains specific provisions for victims of the conflict, with an emphasis on programs at the local level to reach those in need.²³⁶ It also speaks to funding for programs, which would need to be implemented by further legislative action.²³⁷ The relevant provision reads:

The provision of services that are supportive and sensitive to the needs of victims will also be a critical element and that support will need to be channeled through both statutory and community-based voluntary organisations facilitating locally-based self help and support networks. This will require the allocation of sufficient resources, including statutory funding as necessary, to meet the needs of victims and to provide for community-based support programmes.²³⁸

In 2002, Northern Ireland’s government made good on this promise with the

230. PROMOTION OF NATIONAL UNITY AND RECONCILIATION ACT, 34 of 1995.

231. *Id.*

232. Lovell Fernandez, *Reparations policy in South Africa for victims of apartheid*, LAW, DEMOCRACY & DEVELOPMENT (1999), <http://www.saflii.org/za/journals/LDD/1999/13.pdf> [<https://perma.cc/FB76-6UBK>].

233. Fernandez, *supra* note 232. See also Christopher J. Colvin, *Overview of Reparations Program in South Africa*, THE HANDBOOK OF REPARATIONS (2006), <http://www.oxfordscholarship.com/view/10.1093/0199291926.001.0001/acprof-9780199291922-chapter-6> [<https://perma.cc/9D2V-DB6B>].

234. Fernandez, *supra* note 232.

235. *Id.*

236. *Reparations: Northern Ireland Good Friday Agreement*, UNIVERSITY OF NOTRE DAME, <https://peaceaccords.nd.edu/provision/reparations-northern-ireland-good-friday-agreement> [<https://perma.cc/WV3P-9X2T>].

237. *Id.*

238. Belfast Agreement, *supra* note 149.

“Reshape, Rebuild, Achieve” plan.²³⁹ This plan was aimed at providing help and services to victims of the Troubles, providing £3 million for “recognition, access and information, health, education and learning, housing and the development of business skills.”²⁴⁰

Northern Ireland also established a commission for victims, called The Northern Ireland Victim’s Commission. This commission was tasked with evaluating how the tens of thousands of victims of the Troubles should be remembered, ultimately recommending compensation and an official ombudsman to assist victims with their complaints.²⁴¹

Colombia’s acknowledgment of victims is the most specific, both in its peace accord and domestic law. In Colombia’s peace deal, the FARC pledged to compensate victims by forfeiting their assets.²⁴² The peace accord included an entire section on victims of the conflict.²⁴³ Colombia’s peace accord in this area touched on reconciliation, reparations, and non-repetition, mirroring several of the strategies that South Africa’s reconciliation committee had recommended.²⁴⁴ Colombia also established a “Comprehensive Victim Reparation Programme” specifically targeted at administering reparations to groups collectively affected by the conflict.²⁴⁵ Colombia’s peace accord sought to strengthen these already existing efforts.²⁴⁶ The phases of the program included: identifying subjects of collective reparation; enrolling institutions and communities; assessing the damages of the conflict; preparing a comprehensive collection reparation plan; and implementing that plan “in accordance with measures established and the responsibilities of national or territorial bodies.”²⁴⁷

C. Transitional Justice

In addition to addressing the immediate harms caused by conflicts, countries may also engage in transitional justice. Transitional justice at its core deals with

239. Suzanne Breen, *3m strategy aims to help victims of Troubles*, IRISH TIMES (Apr. 12, 2002), <https://www.irishtimes.com/news/3m-strategy-aims-to-help-victims-of-troubles-1.1084800> [<https://perma.cc/5H5E-H23R>].

240. *Id.*

241. *Reparations*, *supra* note 236.

242. *Colombia’s FARC rebels say will forfeit assets for victim reparations*, REUTERS (Oct. 1, 2016), <https://www.reuters.com/article/us-colombia-peace/colombias-farc-rebels-say-will-forfeit-assets-for-victim-reparations-idUSKCN1213N0> [<https://perma.cc/NGF3-8U9Q>] [*hereinafter* *Colombia’s FARC rebels*].

243. *Colombia’s Agreement*, *supra* note 206.

244. *Id.* See also Fernandez, *supra* note 232.

245. *Collective reparation in Colombia: when everyone suffers from the ravages of war*, THE WORLD BANK (July 26, 2016), <http://www.worldbank.org/en/news/feature/2016/07/26/collective-reparation-colombia> [<https://perma.cc/CQ75-G62K>] [*hereinafter* *Collective reparation*].

246. *Colombia’s Agreement*, *supra* note 206.

247. *Collective reparation*, *supra* note 245.

redressing harms suffered by victims.²⁴⁸ Transitional justice may be defined as “the ways countries emerging from periods of conflict and repression address large scale or systematic human rights violations so numerous and so serious that the normal justice system will not be able to provide an adequate response.”²⁴⁹

South Africa, Northern Ireland, and Colombia all carried out transitional justice with their respective truth commissions and efforts to elicit the truth behind tragic events during the conflict. The second chapter of South Africa’s Promotion of National Unity and Reconciliation Act established the Truth and Reconciliation Commission (TRC).²⁵⁰ The TRC was a venue for those who had committed crimes of violence to admit their transgressions and receive amnesty for their acts.²⁵¹ The TRC served a few different purposes, including giving answers to grieving mothers whose children and families were lost or torn apart because of Apartheid.²⁵² Northern Ireland, however, did not establish a truth commission like South Africa, but they did make a formal inquiry into Bloody Sunday, which gave thousands of people the opportunity to testify about the tragic events of that day and to learn the truth behind them.²⁵³ Colombia followed the path of South Africa in creating a Truth Commission to “investigate the victimization of civilians” during the conflict.²⁵⁴ The Truth Commission in Colombia’s aim was to get those who violated the human rights of fellow Colombians to admit and accept responsibility for their actions.²⁵⁵ In addition to the Truth Commission, the Colombian peace accord established a transitional justice system to carry out criminal investigations.²⁵⁶ This system of transitional justice was focused on “restorative justice,” which is intended to meet victim’s needs, and differed from the traditional punitive justice systems used in other Latin and North American countries.²⁵⁷ Criminals who directly participated in the armed conflict that cooperated with the system could receive alternative sanctions, such as community service, or be ordered to provide reparations to

248. *What is Transitional Justice?* ICTJ, <https://www.ictj.org/about/transitional-justice> [<https://perma.cc/7S5N-LWL4>].

249. *Transitional Justice*, *supra* note 248.

250. PROMOTION OF NATIONAL UNITY AND RECONCILIATION ACT, 34 of 1995.

251. *South Africa’s Truth and Reconciliation Commission*, THE HUFFINGTON POST, https://www.huffingtonpost.com/adst/south-africas-truth-and-r_b_8581506.html [<https://perma.cc/56D6-5QNK>].

252. *Id.*

253. *The Bloody Sunday Inquiry*, BBC, http://www.bbc.co.uk/history/events/saville_inquiry_into_bloody_sunday [<https://perma.cc/7CUS-J6DB>].

254. Adriaan Alesma, *Colombia creates historic Truth Commission*, COLOMBIA REPORTS (Apr. 5, 2017), <https://colombiareports.com/colombia-creates-historic-truth-commission/> [<https://perma.cc/X3T7-HXHA>].

255. *Id.*

256. *Id.*

257. Atticus Ballesteros, *Everything you need to know about Colombia’s transitional justice system*, COLOMBIA REPORTS (Sept. 25, 2017), <https://colombiareports.com/everything-need-know-colombias-transitional-justice-system/> [<https://perma.cc/RD8F-2PP7>].

victims.²⁵⁸

In addition to addressing the immediate harms caused by the conflict and seeking justice for its victims, post-civil war countries may use the opportunity afforded to create new governing legislation and structures to protect the fundamental rights of its citizens. In South Africa, this was done in the country's constitution.²⁵⁹ South Africa's constitution, adopted in 1996, states that the country is founded on values including "human dignity" and "non-sexism."²⁶⁰ Its bill of rights enshrines the country's commitment to "dignity, equality, and freedom" and prohibits discrimination based on gender.²⁶¹ In Northern Ireland, the NIWC drew from this example in South Africa and demanded that women be explicitly referenced in the peace agreement.²⁶² During the negotiations, the NIWC said, "When South Africans sat down to design their new constitution, their first commitment was not just to achieving equality between people of all races but also men and women."²⁶³ This acknowledgment was followed by a request for a commitment to "equal access for women as well as men to any new structures" in Northern Ireland.²⁶⁴ Women's rights in Northern Ireland were ultimately included in the Good Friday agreement in the context of human rights.²⁶⁵ Colombia's peace accord also includes specific references to women and participation in the democratic process.²⁶⁶

Through peace accords themselves and other domestic lawmaking processes, countries recovering from civil conflicts may address, protect, and enhance the rights of victims of war, specifically women.

D. International Law

Having analyzed the ways in which South Africa, Northern Ireland, and Colombia used domestic mechanisms to address the immediate, transitional, and long-term rights of victims of their respective civil conflicts, the next area to evaluate is how those national-level laws and policies reflect the principles set out in international law, particularly with regard to fundamental human rights. Through various resolutions and conventions, international law recognizes: (1) the inherent dignity, equality, and inalienable rights of all human beings;²⁶⁷ (2) the need to redress harms suffered by victims of civil war through systematic justice and material compensation;²⁶⁸ (3) that women should not be discriminated

258. *Id.*

259. CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, Act 108 of 1996.

260. *Id.*

261. *Id.*

262. ANDERSON, *supra* note 18, at 89.

263. *Id.*

264. *Id.*

265. *Id.* at 93.

266. *Colombia's Agreement*, *supra* note 206.

267. G.A. Res. 217 A (III), at 71 (Dec. 10, 1948).

268. G.A. Res. 40/34, *supra* note 41.

against with regard to fundamental, human, or other rights;²⁶⁹ and (4) that women are adversely affected by armed conflict and should be involved in the peace-building process afterwards.²⁷⁰ The laws and policies implemented in South Africa, Northern Ireland, and Colombia all reflect these principles of international law.

i. Fundamental Human Rights

As discussed in the previous section, each of these countries through their peace accords or other means sought to affirm the fundamental human rights of all citizens and reflect human rights as laid out in the UDHR.²⁷¹ South Africa's constitution says that the state is founded on "human dignity, the achievement of equality and the advancement of human rights and freedoms."²⁷² The constitution also says that all of South Africa's citizens are "equally entitled to the rights, privileges and benefits of citizenship" and affirms that "democratic values of human dignity, equality and freedom."²⁷³ The Bill of Rights affirms human dignity, freedom and security of persons, and second generation human rights such as housing and education.²⁷⁴

Section six of the Good Friday Agreement begins with an affirmation of human rights.²⁷⁵ The rights included similarly reflect the standards set in international law by the UDHR, including the right to free political thought, the right to choose one's place of residence, and the right to equal social and economic opportunity.²⁷⁶

The foundation for human rights protections in Colombia was laid by its constitution that went into effect in 1991 and was heavily influenced by international law.²⁷⁷ Article 93 of the constitution states that ratified treaties that "recognize human rights and prohibit their limitation in states of emergency have domestic priority."²⁷⁸ Despite the violations of human rights that took place in the decades following the adoption of this new constitution, the protections enshrined in it did place a check on the power of the government and "removed from the government the dubious distinction of being a primary cause of human rights violations."²⁷⁹ Colombia's constitution also includes protections for human rights,

269. G.A. Res. 34/180, *supra* note 49.

270. S.C. Res. 1325, *supra* note 16.

271. G.A. Res. 217, *supra* note 267. *See also* CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, Act 108 of 1996; ANDERSON, *supra* note 18, at 89; *Colombia's Agreement*, *supra* note 206.

272. CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, Act 108 of 1996.

273. *Id.*

274. *Id.*

275. Belfast Agreement, *supra* note 149.

276. *Id.*

277. Donald T. Fox, Gustavo Gallon-Giraldo, and Anne Stetson, *Lessons of the Colombian Constitutional Reform of 1991 in FRAMING THE STATE IN TIMES OF TRANSITION* 467 (2013).

278. COLOMBIA'S CONSTITUTION OF 1991.

279. Fox, *supra* note 277, at 478.

both classic fundamental human rights and the social and economic rights.²⁸⁰ While these principles were well-established through the country's constitutional law, the peace accord itself did not include these types of human rights affirmations, but it did provide specific commitments to the victims of the conflict that suffered human rights abuses.²⁸¹

ii. Restitution and Justice for Victims

The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power called for “justice and assistance for victims of crime and victims of abuse of power.”²⁸² Reflective of this international goal, each of these countries established programs to provide for the needs of victims of the conflicts, including needs served by the justice system and the material needs of victims.

In South Africa, this took the form of socio-economic reconstruction and development included in the NPA and the various commissions established to bring light to the abuses suffered under Apartheid and prevent further violence from occurring.²⁸³ The Reconstruction and Development Programme (RDP) was finalized in 1994 with the aim of mobilization South Africa's people and resources “toward final eradication of apartheid and the building of a democratic, non-racial and non-sexist future.”²⁸⁴ Northern Ireland provided for the needs of victims through the Northern Ireland Victims Commission and the “Reshape, Rebuild, Achieve” plan.²⁸⁵ Colombia set up a comprehensive system for truth, justice, reparation and non-repetition through its peace accord.²⁸⁶ Colombian law also established the “Comprehensive Victim Reparation Programme” to reparations to groups harmed by the conflict.²⁸⁷

iii. Non-discrimination of Women

CEDAW is the international standard on eliminating discrimination against women by measures including, incorporating the equality of men and women in legal systems.²⁸⁸ South Africa's constitution promotes equality of all citizens and specifically states that “the state may not unfairly discriminate directly or indirectly against anyone on one or more grounds” which includes sex and

280. *Id.* at 477.

281. *Colombia's Agreement*, *supra* note 206.

282. G.A. Res. 40/34, *supra* note 41. *See also* PROMOTION OF NATIONAL UNITY AND RECONCILIATION ACT, 34 of 1995; Breen, *supra* note 239; *Colombia's FARC rebels*, *supra* note 242; *Collective reparation*, *supra* note 245.

283. NATIONAL PEACE ACCORD, *supra* note 99.

284. *The Reconstruction and Development Programme*, NELSON MANDELA CENTRE OF MEMORY, <https://www.nelsonmandela.org/omalley/index.php/site/q/03lv02039/04lv02103/05lv02120/06lv02126.htm> [<https://perma.cc/G7BH-CXJB>].

285. Breen, *supra* note 239. *See also* Belfast Agreement, *supra* note 149.

286. *Colombia's Agreement*, *supra* note 206.

287. *Collective reparation*, *supra* note 245.

288. G.A. Res. 34/180, *supra* note 49.

gender.²⁸⁹ This protection extends not to just discrimination by the state, but by any person.²⁹⁰ The Good Friday Agreement in Northern Ireland affirmed the right to equal social and economic activity, regardless of gender.²⁹¹ Article 13 of Colombia's constitution provides for equality of rights, freedoms, and opportunities without "discrimination on account of gender."²⁹²

iv. Inclusion of Women

International law encourages the participation and inclusion of women in the peacemaking process through UN Security Council Resolution 1325.²⁹³ Women were directly involved in the peacemaking processes in both Northern Ireland and Colombia.²⁹⁴ This involvement of women reflects the admonition of international law to include women peace talks to encourage the incorporation of policies that deal with their specific needs after conflicts end.²⁹⁵ In South Africa, women were involved more so after the peace agreement was reached. South African women were part of the newly elected government, through women's organization and as part of the TRC.²⁹⁶

E. Women's Domestic & International Connections

Recognizing that a combination of domestic mechanisms and international law have shaped the policies and processes in South Africa, Northern Ireland, and Colombia with regard to victim's rights, the final area for assessment is the involvement of women both domestically and with international women's groups that may have influenced the domestic and international connections in peace accords and related laws.

The NIWC in particular was connected to transnational women's groups and looked to the efforts of women's groups in other countries when advocating for women's inclusion in the Northern Ireland peace talks.²⁹⁷ The issues the NIWC advocated on during the peace process were already being discussed prior to the peace talks themselves, which helped the group establish a platform quickly.²⁹⁸ The NIWC looked to international documents and the experiences of women's

289. CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, Act 108 of 1996.

290. *Id.*

291. Belfast Agreement, *supra* note 149.

292. COLOMBIA'S CONSTITUTION OF 1991.

293. Francoise Nduwimana, *United Nations Security Council Resolution 1325 (2000) on Women, Peace and Security*, UNITED NATIONS, http://www.un.org/womenwatch/osagi/cdrom/documents/Background_Paper_Africa.pdf [<https://perma.cc/LW7R-8HAN>].

294. S.C. Res. 1325, *supra* note 16. *See also What is Transitional Justice*, *supra* note 248; Sanches-Garzoli, *supra* note 16.

295. S.C. Res. 1325, *supra* note 16. *See also What is Transitional Justice*, *supra* note 248; Sanches-Garzoli, *supra* note 16.

296. Gobodo-Madikizela, *supra* note 108.

297. ANDERSON, *supra* note 18, at 92-93.

298. *Id.* at 92.

groups in other countries, including South Africa, when deciding what language to advocate for in the Good Friday Agreement.²⁹⁹ This also informed how they decided to incorporate women's rights in the peace accord.³⁰⁰ Because women involved in the NIWC were connected to transnational networks, they knew how women in these other countries had advocated for their rights during peace talks and understood that one mechanism for inclusion was in the broader context of human rights.³⁰¹

Colombia's peace talks represent a successful implementation of UNSCR 1325 which mandated the "full, equal participation of women at peace talks."³⁰² Several women's groups came together in Colombia to form the 1325 Working Group, specifically recognizing the call of international law to include women in the process.³⁰³ As the peace talks were going on, Colombia had at least 16 national women's networks already established, which aided in securing the participation of women in civil society.³⁰⁴ However, the inclusion of women in Colombia's peace process did not come easily.³⁰⁵ Women were excluded from the process in the beginning.³⁰⁶ After 450 women's organization came together and demanded that President Santos uphold his promise to include women, a gender subcommittee was launched to incorporate women's needs in the peace accord.³⁰⁷ In addition to advocating for their participation in negotiating a resolution to the conflict in Colombia, more than sixty percent of victims who traveled to Cuba as part of an effort to understand the victimization of Colombia's civilians were women.³⁰⁸ Organized efforts by women's groups in Northern Ireland and Colombia, and their connection to international networks, served to increase the involvement of women in peace talks and the subsequent recognition of their fundamental rights in peace agreements.

IV. RECOMMENDATION

The inclusion of victim's rights and women's rights in the human rights context is then evident in both international law and domestic laws in South Africa, Northern Ireland, and Colombia, but what does this really mean for women like Mosquera? How does the fact that international law declares the importance of inclusion and equality of women generally and as victims of conflict provide a remedy for individual women in these countries?

299. *Id.* at 93.

300. *Id.* at 94.

301. *Id.*

302. Sanches-Garzoli, *supra* note 16.

303. *Peace Talks in Colombia Sideline Women*, PEACE WOMEN, <http://www.peacewomen.org/e-news/article/peace-talks-colombia-sideline-women> [https://perma.cc/ZF6K-NW3C].

304. Sanches-Garzoli, *supra* note 16.

305. *Id.*

306. *Id.*

307. *Id.*

308. *Id.*

Mosquera's realization that ultimately, only she could choose forgiveness and peace for herself answers this question in part. Despite the progress made in affirming the value and dignity of human beings and making efforts to redress harms suffered during civil conflicts, more can be done. International law provides a framework and the peace processes and domestic laws in these three countries provide examples of how countries can legislate protections and include recognition of victim's during peace negotiations; however, these protections must be enforced and should provide for the practical needs of women after conflict. In countries experiencing internal conflict, the following steps should be taken to protect the fundamental human rights of women who are victims of that conflict:

1. International organizations should promote or work with existing women's groups at the local level to provide women with a platform and voice in eventual peace negotiations.
2. Protections for women should include not just affirmations of their equality and right to non-discrimination, but should also account for secondary and tertiary human rights that provide for their practical needs post-conflict.
3. Countries should take care to develop systems of justice that are accessible to women during and after the conflict.

A. Promoting Women's Organizations

In Colombia and Northern Ireland in particular, women's organizations played a large role in advocating for women to be part of the peace process. Similarly, women's groups in South Africa were important in increasing women's political participation in the new government. These local women's groups had ties to the international community, which also helped provide education and training in line with the international norms on human rights and the inclusion of women in the political sphere and peace process.

These examples show the benefit of organization and training, prior to the end of conflicts. Given more time to prepare, it may be more likely that women are able to become part of the conversation in either working toward peace or setting up institutions in their respective countries that will provide for their unique needs. Groups at the local level provide a means for women like Mosquera, who may not have the means to advocate for themselves individually, to come together and work collectively to raise awareness of the harms they suffered. These groups also serve as a vehicle for international organizations to provide support directly to women that they may not receive from their governments.

B. Expanding Human Rights Protections

South Africa, Northern Ireland, and Colombia all provided some form of material reparations for victims of their respective conflicts. However, obstacles still exist to achieving enforcement of these measures and tailoring them to make sure the needs of women are in fact met. For example, Colombia's Victims' Law of 2011 dealt with land restitution and recognized that women had some right to

land by allocating land titles jointly to men and women.³⁰⁹ However, the distinct uses of land by men and women were not initially recognized because men's cattle farming was prioritized over the traditional agricultural farming conducted by women.³¹⁰ Steps should also be taken to not only affirm women's social and economic rights, but to help women in these countries realize the promises of economic freedom. Funding for education and training should be part of measures taken to help restore independence to women rebuilding their lives.

C. Accessible Systems of Justice

Finally, in countries resolving civil conflict, efforts should be made to make the justice systems more accessible to women. This may be done in a variety of ways including training more female lawyers to advocate for female victims in war-torn countries and providing legal aid to help women pursue legal claims.

While it may be difficult to develop systems to allow crimes against women to be reported during civil conflict, and have their claims acted upon, the international community, through its systems and involvement in women's organizations, should develop a means to monitor and address those claims to the maximum extent possible. After a conflict has lasted decades, the international community, realizing justice is extremely difficult and evidence may be scarce to support convictions, should step in to provide support and material aid to women who are left without an adequate means to pursue legal claims in their own justice systems.

V. CONCLUSION

As women have suffered through civil conflicts, international and domestic laws provide an opportunity to afford them long-overdue justice and compensation for the harms suffered. These efforts could be better served by encouraging the development of local women's organizations, expanding human rights protections and enforcement, and developing systems of justice that are accessible to women.

309. Sanne Weber, *Are reparations transforming Colombian women's lives?* LONDON SCHOOL OF ECONOMICS AND POLITICAL SCIENCE (Dec. 15, 2017), <http://blogs.lse.ac.uk/latamcaribbean/2017/12/15/are-reparations-transforming-colombian-womens-lives-the-gendered-dynamics-of-the-victims-law/> [https://perma.cc/TR37-89TS].

310. *Id.*