

Mapping UNSW Impact Global Development

Primary SDG	PEACE, JUSTICE AND STRONG INSTITUTIONS
Broad theme	Compensating for and preventing sexual violence
Research	Examining the potential and limits of courts and tribunals around the world to provide reparations to sexual violence victims in post-conflict settings
Impact region	Global
Faculty	Law
School/Institute	Law
Academics	Professor Louise Chappell, Professor Andrea Durbach, Professor Sarah Williams
Project partners	ARC Discovery grant - \$377,000 over three to five years, Handa Centre (USA), Women's Initiative for Gender Justice (The Hague)
Related SDGs	5: Gender Equality 10: Reduced Inequalities

Elevator pitch

By examining the effectiveness of courts and similar bodies in compensating for and preventing sexual violence post-conflict, Louise, Andrea and Sarah have determined that unless reparations transform the conditions that enabled the violence, these courts and similar bodies are limited in their effectiveness.

The Challenge: Are courts and tribunals helping or harming sexual violence victims?

Sexual violence in post-conflict settings is experienced by women disproportionately. The physical, psychological and social impact of sexual violence can be devastating and long-term, preventing many victims from becoming socially engaged and economically productive citizens. Many may be ostracised from their community and excluded from possible employment, they might be incapable of caring for children (borne from rape, for example), or they might be forced into marriage, often with the perpetrators of the violence.

International justice advocates have identified reparations as a tool to 'transform' the conditions underlying the violence and to prevent its recurrence. The International Criminal Court, tribunals and truth commissions have been designing and implementing reparation frameworks. But how do they provide compensation to victims and ensure it addresses the underlying causes of sexual violence? Typically compensation can come in the form of apologies, medical and psychological assistance, or financial compensation. While these forms are important, can we look to courts and tribunals to transform the structural conditions that enabled the violence?

UNSW's solution: Examine different reparations frameworks around the world

Louise, Andrea and Sarah were part of a team that researched different court and tribunal models around the world that are dealing with sexual violence and providing some form of reparation to victims. This included the International Criminal Court in the Hague (Louise), the Truth and Reconciliation Commission in South Africa (Andrea), and the Extraordinary Chambers in the Courts of Cambodia (Sarah). They investigated conditions

that resulted in sexual violence during and post conflict, and they analysed the reparations frameworks that sought to address the violence.

Their comparative research concluded that courts, tribunals and national commissions are often limited in their understanding of the long-term needs of victims of sexual violence and their communities. These frameworks are also limited in their capacity to transform structural conditions to prevent sexual violence post conflict. They found that some reparations can exacerbate rather than mitigate community tensions, and that victims may have to wait too long for compensation.

The Impact: Current framework needs reworking for more sensitive and comprehensive solutions

The researchers concluded that courts and tribunals need to adopt a more comprehensive approach to reparations. An approach should be expeditious and deliver more sensitive and meaningful compensation to victims, include counselling and rehabilitation, and be directed at the problems that gave rise to the conflict.

This research promotes discussion around how courts and tribunals can achieve just and equitable outcomes for victims among academics, civil society organisations, policy makers and court officials. It also promotes the idea that states and agencies, not courts and tribunals, are better placed to provide meaningful reparation to victims and mitigate sexual violence post conflict.

Researchers

Louise Chappell is a Professor of Politics in the School of Social Sciences and a former Australian Research Council Future Fellow. She is Director of the Australian Human Rights Institute (UNSW) and published the book *Gender Justice at the International Criminal Court: legacies and legitimacy* (2016). Louise's research interests are in the areas of women's rights; gender, politics and institutions; and comparative federalism and public policy.

Andrea Durbach is Professor of Law and former Director of the Australian Human Rights Centre. Prior to joining UNSW Law in 2004, she was Director of the Public Interest Advocacy Centre where she led a project on reparations for the Stolen Generations. Andrea was Deputy Sex Discrimination Commissioner (2011-2012), consultant to the Defence Force Abuse Response Taskforce (2012-2013) and is co-author of *On Safe Ground*, a good practice guide on managing and preventing sexual violence in university settings.

Sarah Williams is a Professor at UNSW Law. She was the Dorset Fellow in Public International Law at the British Institute of International and Comparative Law (from 2008 - 2010), and a Senior Legal Researcher at the UK Foreign and Commonwealth Office (from 2006 - 2007). Sarah has acted as a consultant to the European Commission, the British Red Cross, the International Federation of the Red Cross and the British Institute of International and Comparative Law.

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