



# International Peace Support Training Centre Nairobi, Kenya

## Gender Participation in Transformative Justice: A Case of Bungoma and Trans Nzoia Counties



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*“Integrating Gender into Peace Support Operations in East Africa.”*



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## Foreword

International Peace Support Training Centre (IPSTC) is a regional Center of Excellence for Peace Support Operations (PSO) training in Eastern Africa. It trains for various clients including the Government of Kenya, African Standby Force (ASF) and United Nations peacekeepers. It is a research and training institution focusing on capacity building at the strategic, operational and tactical levels within the framework of the African Peace and Security Architecture (APSA). IPSTC addresses the complexities of contemporary United Nations (UN) and African Union (AU) integrated PSO through analysis of the multi-dimensional nature of these operations. The research conducted covers a broad spectrum ranging from conflict prevention, conflict management to postconflict reconstruction.

The Centre has made considerable contributions in training and research on peace support issues in Eastern Africa through design of training curriculum, field research and publication of *Occasional Papers and Issue Briefs*. The Occasional Papers are field based research products produced annually, while the Issues Briefs are secondary sources based products produced quarterly.

IPSTC presents one of the occasional papers produced this year titled: *Gender Participation in Transformative Justice: A Case of Bungoma and Transzgoia Counties*. The study provide current narrative and statistical account of the status of women participation in transitional justice and peacebuilding in the two counties. The study paints a picture of determined women who are out to participate equally with men to bring about peaceful co-existence in the region amidst significant challenges. The study has identified the gaps and provided recommendations to key actors for raising the level of women participation in transformative justice in the target counties.

This study has generated information necessary for policy and strategy development at the international, regional, national and county levels while at the same time informing PSO training content. The research and publication of this Occasional Paper has been made possible by the support of the Embassy of Japan in Kenya through UN Women-Kenya.

**Brigadier P.M Nderitu**  
**Director, IPSTC**

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I wish to express my gratitude to Major Nina Helga Omanyo (Research Assistant) for her assistance in the field research. The researcher Mr. Joseph Kioi Mbugua however take responsibility for any shortcomings in the study.

## List of Abbreviations

AU	African Union
CEC	Chief Executive Committee
CIDP	County Integrated Development Programme (CIDP)
CIPEV	Commission of Inquiry into Post Election Violence
CRSV	Conflict Related Sexual Violence
CSO	Civil Society Organizations
DPC	District Peace Committee
FGD	Focus Group Discussions
EWS	Early Warning System
GoK	Government of Kenya
ICC	International Criminal Court
IDP	Internally Displaced Persons
IGA	Income Generating Activities
KDF	Kenya Defence Forces
KHRC	Kenya Human Rights Commission
KII	Key Informant Interview
KNCR	Kenya National Commission for Human Rights
KNDR	Kenya National Dialogue and Reconciliation
KNAP	Kenya National Action Plan
MYWO	Maendeleo Ya Wanawake Organization
PEV	Post-Election Violence
RJF	Restorative Justice Fund

SACCO	Savings and Credit Cooperative Societies
SDG	Sustainable Development Goals
SGBV	Sex and Gender Based Violence
SLDF	Sabaot Land Defence Forces
SPSS	Statistical Package for Social Sciences
TJRC	Truth Justice and Reconciliation Commission
UN	United Nations
UNSCR	United Nations Security Council Resolution

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# Definition of Key Terms and Concepts

## Gender Participation

Means men and women taking up equal spaces in transitional justice and peacebuilding and promoting gender equality in decision-making processes at community, county and national levels.

## Peacebuilding

Peacebuilding refers to a wide spectrum of strategies, measures and activities that address structural, behavioural and attitudinal causes of previous conflict. In this study it includes national and county government, Civil Society Organizations (CSOs) legal, policy, institutional and programmatic initiatives that have been employed to bring peace in the two counties.

## Transformative Justice

Transformative justice refers to a comprehensive and inclusive process that aims to address accountability for past human rights abuses and inter-communal conflicts in order to achieve reconciliation, justice, victim's healing and government accountability. In this study it also means the process through which excluded groups such as women, put in place strategies and measures to seek equality and achieve collective social justice and peace in a given socio-economic, geographical and political context.

## Transitional Justice

Transitional justice in this study refers to the way men and women seek to settle with past effects of violent conflicts such as human rights violations. It includes various mechanisms that the national and county government, CSOs and women have employed to move towards a state of gender equity and sustainable peace. It includes reconciliation, justice, reparations, victims healing and government accountability.

## Abstract

This study brings out factors that inform the level of gender participation in transitional justice and peacebuilding in Bungoma and Trans Nzoia counties. Anchored on the background of the Mt. Elgon conflict; the study explores gender participation in transformative justice given the current socio-political, socio-economic and human rights context. The study uses mixed research methods where a survey questionnaire is used to collect quantitative data while Key Informants Interviews, In-depth Interviews and Focused Group Discussions (FGD) brings out qualitative data. Data analysis was

done using content analysis and Statistical Package for Social Sciences (SPSS) that generated chi square values and Pearson correlation scores for measuring significance of variables.

The study demonstrate that women are making strides to improve justice and peace in collaboration with national and county government, CSO and community structures amidst contextual challenges. The study has provided gap analysis using six pillars and indicated priority response areas for different actors.

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# CHAPTER ONE: Introduction

## 1.1 Background of the Study

Since the end of the Cold War, there has been more international concern on how developing countries that experienced internal conflicts can regain stability, consolidate democracy and nation building (Kriesberg, 2007; Lambourne, 2014). Countries have used varied transitional justice (TJ) models for accountability ranging from negotiated end of Apartheid and truth seeking process in South Africa (1994), TJ in Sierra Leone, International War Tribunal and *Gacaca* in Rwanda, mediated peace in Burundi, Sudan and South Sudan, Judicial and Truth commissions, among others.

Across many parts of the world women meaningful participation in peacebuilding and political processes is hindered by significant cultural, institutional and structural hurdles. This situation is worse in countries and regions undergoing conflicts. Gender dimensions have been noted to affect the status of peace and security and calls have been made to raise the level of women participation in peace and security (UNSCR 1325; Lanegran, 2015; GoK, 2016; Applebaum & Mauby, 2016).

Many conflict generating factors continue to prevent women from meeting their human security needs and equal participation in post conflict peacebuilding (PB) and TJ (Applebaum & Mauby, 2016; O'Rourke, 2013). Though participation of different groups and gender may be provided for in mandates of truth and justice commissions, it is often not practically ensured. This is a significant drawback since participation raises perceptions of justice and dignity among the victims of past atrocities (Guthrey, 2010). The goals of TJ and PB cannot be achieved where women participation is absent, low or hindered (O'Rourke, 2013).

The Beijing Platform of Action adopted in 1995 recognized the role of active participation of women and incorporation of women at all levels of decision-making and equality in peace making and development (GoK, 2016; Applebaum & Mauby, 2016). Most TJ conceptual frameworks include reconciliation, justice (criminal, historical and social), reparations, victims healing and government accountability (Lambourne, 2014).

Peacebuilding refers to strategies and measures, both short and long term meant to ensure security, political, economic and social justice. A whole of society approach is required through institutional reforms, education and media to reshape past discourse towards sustainable peace (Fisher, 2011: 419). The nature of strategies used depend on the context such as inter-communal relationships and attitudes, governance structures, institutions, social roles, norms, rules, code and development trajectory (Fischer, 2011). Other measures that address structural, behavioural and attitudinal cause of

the previous conflict are necessary for societal reformation (Lederach, 2005). Gender participation looks at factors that hinder equal participation of men and women and strategies of improving gender equity.

Historical injustices have not been addressed in Kenya where successive national governments are blamed for human rights violations of citizens and lack of political will to seek redress (GoK, 2013). TJ in the country has not been achieved and remains a threat to sustainable peace in the country (Kariuki, Pascal, Teunissen, Movlazadeh, 2015; Owuor, 2016). The Kenya National Dialogue and Reconciliation (KNDR) process of 2008 and the new constitution of 2010 provided a conducive environment for human rights violations accountability and gender equality, inclusion and participation (GoK, 2016; Lanegran, 2015; Owuor, 2016).

Women suffered immense human rights abuse during the 2007/8 post-election violence (PEV) (KNCHR, 2008). Many initiatives were started by the government and CSO to bring peace to the country and to improve participation of women in PB and TJ in the country at large (GoK, 2016).

## **1.2 Bungoma County Profile**

Bungoma County borders Uganda to the northwest, Trans-Nzoia County to the north east, Kakamega County to the east and south east and Busia to the west and southwest. Bungoma County especially the Mt. Elgon region has witnessed long periods of political violence since 1992. From 2003 to 2008 there were land based conflicts in Mt. Elgon that brought immense suffering to communities. Inter clan conflict in Mt. Elgon involve the Bok, Kony, Dorobo/Ogiek, Bongomek and Somek. It took the intervention of the government through deployment of a Kenya Defence Forces (KDF) contingent in 2008 to bring the mayhem ushered by the Sabaot Land Defence Forces (SLDF) to an end (KNCHR, 2008).

Historical injustice in Mount Elgon and Trans Nzoia remains a key issue that informs conflict today. New conflicts have been piling on previously unresolved issues. The human rights violations of the 1991/2 and the post electoral violence (PEV) of 2007/8 were not properly addressed and there has not been any meaningful access to justice for victims (GoK, 2013).

The Sabaot community claim they were moved out of Trans Nzoia by the colonial government and resettled in Mt. Elgon. No compensation was made for loss of previous land (KNCHR, 2008). In the early 1970s the government made plans to resettle the Ndorobo from Chepkitale forest in Chebyuk area of Mt. Elgon. This noble plan was politicized, infiltrated by corruption and generally not well implemented. Subsequent plans for resettlement in Chebyuk II & III have been the major cause of violence in the region (KNCHR, 2008). Settlement and issuing of title deeds was delayed and a proper mechanism for degazettement and land registration was not put in place and remains a major impediment to peace. The current conflict pits mainly two clans of the Sabaot - Soy and Ndorobo (KNCHR, 2008; Mung'ou, 2018).

### 1.3 Trans Nzoia County Profile

Trans Nzoia County is located in northwestern Kenya and borders Republic of Uganda to the west, West Pokot County to the east, Bungoma and Kakamega counties to the south, Elgeyo Marakwet and Uasin Gishu to the southeast. It is said to be the most cosmopolitan ‘rural’ county (County Government of Trans Nzoia, 2013).

Trans Nzoia as a neighbour to Bungoma has also experienced political violence and in particular in 1992, 1997 and 2007/8. Conflicts in Bungoma (mostly Mt. Elgon) have had a direct bearing on Trans Nzoia in terms of displacements and spill-over effects. Trans Nzoia was part of the Kenya White Highlands occupied by British colonial settlers. After independence different communities settled on the land and like other parts of the country there were no attempts to return land to the pre-colonial owning communities.

### 1.4 Statement of the Problem

Exclusion of women in TJ and PB means their potential is not adequately harnessed and their suffering is not specifically recognized and addressed (O’Rourke, 2013). Lack of transformative justice make women in conflict affected areas continue to suffer the impact of conflict especially, human rights violations, Sexual and Gender based Violence (SGBV) and Conflict Related Sexual Violence (CRSV) while missing opportunities to participate in decision making processes (Lanegran, 2014; O’Rourke, 2013). Impact of past injustice in Mount Elgon and Trans Nzoia where conflicts have been piling on previous unresolved issues remains a key issue that informs conflict today. There has not been access to justice for victims and women have borne significant impact of the conflict (GoK, 2013; Mung’ou, 2018).

### 1.5 Main Research Question

What is the level of gender participation in transformative justice in Bungoma and Trans Nzoia County?

### 1.6 Specific Research Questions

- a) In what ways are men and women included or excluded in transformative justice?
- b) What are the similarities and differences of gender participation in transformative justice between the two Counties?
- c) What factors determine gender participation in transitional justice and peacebuilding?

## **1.7 Main Research Objective**

To assess the level of gender participation in transformative justice in Bungoma and Trans Nzoia Counties.

## **1.8 Specific Research Objectives**

- d) To assess ways in which women and men are included or excluded in transformative justice
- e) To compare and contrast gender participation in transformative justice between the two Counties
- f) To examine factors that determine gender participation in transitional justice and peacebuilding

## **1.9 Justification**

This research endeavors to enhance advocacy for the implementation of KNAP 2016-2018, inform better strategies to raise the level of women participation and enable evidence based programming and curriculum development on Women, Peace and Security. Further, the study adds academic value to empirical application of transformative justice in micro-case studies.

## **1.10 Scope of the Study**

The study covered Bungoma especially the Mt. Elgon and surrounding regions and Trans Nzoia County. The study examined a number of parameters of assessing gender participation and provide group narratives and specific county responses.



# CHAPTER TWO: Literature Review

## 2.1 Introduction

This section cover review of the global, regional and national TJ and PB literature that has a bearing on gender participation in the counties under study. The section highlights what has been done, methods of investigation applied, lessons learned and gaps in terms of available knowledge on the subject.

In comparing Sierra Leone and Timor Leste, Guthrey (2010) observes that lack of independent and capable rule of law institutions in conflict ridden societies militate against access to justice. New institutions and culture are required to give confidence to victims that the past will not recur and past human rights abuses will be addressed (Guthrey, 2010). Kriesberg (2007) notes that both national and international actors often come with divergent perception of how the process should be rolled out which, can often hamper progress. Laplante (2014) observes that timing and sequencing is critical since societies may not be ready for retributive processes preferred by international community and which, can derail reconciliation. Beyond reparations there is a need to address economic inequality and grievances of the poor and marginalized in order to prevent relapse of conflict.

## 2.2 Global Gender Transformative Justice Framework

The UNSCR, 1325 of 2000 places gender as a central consideration in global peace and security realm. It recognizes women contribution to conflict prevention, peacekeeping and peacebuilding while noting that these contributions have been undervalued and underutilized. The resolution calls for women's equal and full participation as active agents in peace and security decision-making and processes. Subsequent UNSCR, 1820, 1888, 1889, 1960, 2106, 2122 and 2242 addresses specific aspects, reinforce, reiterates and compliments provisions of SCR 1325. Kenya is among the 46 UN members that have adopted the resolution (GoK, 2016).

The SCR, 1325 marked the first specific global commitment to the representation, protection and participation of women in peace and security. The UN Sustainable Development Goals (SDG) in goal 5 and 16 on promotion of inclusive and peaceful societies also speaks to women participation in peace and security agenda. The UN implemented a number of TJ frameworks in the 1990s. In former Yugoslavia, International Tribunal for Conflict in Yugoslavia (ICTY) and in Rwanda International Tribunal for the Conflict in Rwanda (ICTR) were established and achieved mixed results. The UN adoption of a Guidance Note on Reparations for Conflict-related

Sexual Violence (2014) was a significant step in gender sensitive reparations however; implementation remains a challenge (Applebaum & Mauby, 2016; Minow, 2008).

African Union (AU) treaties and protocols recognize the full participation of women as well as equality in Africa's development. The protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) further emphasize the need for active participation of women in peace, security and other development aspects (AU, 2003). It identifies women rights to peace, inclusion in peace processes and protection from violence during situations of conflict. However, implementation of the protocol and subsequent change in the status of women is still far from being realized (Applebaum & Mauby, 2016).

### **2.3 Transformative Justice in Kenya**

There has never been formal TJ process put in place to address human rights violations of colonial authorities after independence in 1963. Colonial era related historical injustice continue to inform current conflicts (Kariuki et al., 2015; Owuor, 2016). Women were hardly present during the Lancaster Negotiations for Kenya's independence with only one colonial government appointed woman present, Priscilla Abwao, whose voice was hardly noticeable (Owuor, 2016:11). Of recent, cases brought by the Kenya Human Rights Commission (KHRC), the British government responded with out of Court settlements where some victims have received piece-meal compensation (Owuor, 2016). The entry of a new coalition government in 2002 created favourable climate for establishing TJ processes with the post-election violence of 2007/8 adding further impetus. The KNDR, created a number of accountability and truth seeking mechanisms and reforms to deal with Kenya's past political violence (KNDR, 2008).

In the Bill of Rights, the supreme law of the land provides for the promotion and protection of fundamental rights and freedoms including security of person and property from inhuman or degrading treatment. Article 27 (8) of the constitution provides for legislative and other measures to ensure there is not more than two-thirds gender representation in elective or appointive positions. Kenya's Vision 2030 Second Medium Term Plan (2013-2017) incorporated a gender transformation agenda for women participation (GoK, 2016).

### **2.4 The Truth Justice and Reconciliation Commission**

The Kenya TJRC was established in 2008 to investigate human rights violations since independence. The TJRC report of 2013 covers violations of the rights of special groups such as women, children and minorities and it also covers ethnic tensions and reconciliation. The commission also held thematic discussions with key women organizations, provided civic education and worked with local CSOs to mobilize women (GoK, 2013:9-14).

For the Mt. Elgon region the report established that the conflict and emergence of SLDF was occasioned by government's failure to address past historical injustices and divisive local politics. The report also claims that government security agencies sent to Mt. Elgon to respond to SLDF in 2008 committed human rights violations. It recommended prosecutions, reparations, psychosocial support; accountability for deaths, disappearances and memorialization of victims. It further recommends acknowledgment and apology to women who suffered in conflict, raising awareness on negative cultural practices, enactment of relevant laws to protect women against SGBV, increasing maternal health services and equitable representation of women in all land dispute tribunals (GoK, 2013). However, categories of data on specific suffering of women were not presented nor recommendations made to address human rights guarantees for women (Ndung'u, 2014).

The report has not been formally adopted by parliament as a document to inform government policy (Lanegran, 2014). The government created reparation fund named Restorative Justice Fund (RJF) in 2015 to address needs of the 2007/8 PEV especially women. Nevertheless, piece-meal government led reparations may not address root causes of injustice (Applebaum & Mauby, 2016).

## **2.5 Committee to Investigate Post Election Violence (CIPEV)**

The CIPEV formed in 2008 provided the first genuine attempt at addressing political violence in Kenya. Its mandate was to investigate the causes and nature of the post-election violence. It concluded that the Kenyan judiciary was not capable of managing cases arising from such politicized violence (Sriram, 2015; Hansen, 2011). Therefore, it provided options for establishing a local tribunal or sending names of key suspects to the International Criminal Court (ICC). A local tribunal failed to pass through parliament due to political differences and interests among key actors (Sriram, 2015).

The handing over of the Kenyan case to the ICC by Kofi Annan, head of the KNDR team with names of key political actors marked a watershed in Kenya's road to transitional justice (Sriram, 2015). Divisive domestic politics towards ICC based on political calculations did not provide a conducive environment to gather reliable evidence and subsequently all the cases had collapsed by the end of 2013 (Sriram, 2015). Subsequently, impunity for political violence remains a key aspect of Kenya's political culture.

## **2.6 Gender Participation in Peacebuilding and Transitional Justice in Kenya**

So far, women full participation in peace and security in the country has been hindered by gender discrimination enshrined in the old constitution, laws, policies and practices

and some cultural practices (GoK, 2016:10; Owuor, 2016). However, despite these socio-economic and political challenges women have made significant strides in many sectors such as the movement for human rights and democratization in the 1990s and PB and TJ (Owuor, 2016; Applebaum & Mauby, 2016; Juma, 2000). The women networks have achieved many legal and institutional changes overtime.

After the 2007/8 PEV, women established a CSO based coalition, Women Consultative Group (WCG) that made recommendations to the KNDR process (Meredith & Njoki, 2011; Chang, Bhatia & Turkington, 2016). Women participated in other coalitions and CSOs that have continually lobbied for the adoption of the TJRC report and implementation of the RJF (Applebaum & Mauby, 2016). However, most rural and urban uneducated women remain trapped in discriminatory cultural traditions (Shackel & Fiske, 2016).

Gender specific laws and policies have been enacted to end violence against women and enhance their participation in PB and TJ (GoK, 2016). The constitution of Kenya (2010) recognizes gender equity as a key right to all women and men, boys and girls. Vision 2030 singles out gender as a key pillar in socio-economic development. Sessional Paper No. 2 of 2006 outlines strategic direction on gender, equality and development. Some ministries have established gender policies and gender units (GoK, 2016). The National Policy on Peacebuilding and Conflict Management (2014) places gender at the core of PB. The National Gender and Development Policy, National Policy for the Prevention of and Response to Gender-based Violence (2014) set out mechanisms for protection, participation and promotion of women in peace and security. Implementation of these laws on the ground is however a major challenge (Wamai, 2013).

The Kenya National Action Plan (KNAP) on UNSCR 1325 is anchored on four pillars: prevention; protection; participation; relief and recovery. It attempts to address the structural socio-economic and political pillars of women exclusion. It provides a system of accountability among implementing partners to enable monitoring and measuring progress. However, implementation of the plan is hampered by political and administrative issues (Wamai, 2013; Applebaum & Mauby, 2016). KNAP calls for implementation of multiple strategies for promoting women and a reparations fund for victims of SGBV in conflict situations but it does not mention implementation of the RJF or reparations recommended by the TJRC (Lanegran, 2014).

## 2.7 Empirical Review

Mung'ou (2018) looks at the *Role of Non-State Actors in Enhancing Peacebuilding among Women in Mount Elgon Region*. This qualitative research assesses activities of CSOs to improve the role of women in PB. The study notes that various women CSOs are implementing projects in Mt. Elgon but their reliance on donor funds hinders sustainability. Though

the study covers healing, reconciliation and PB it does not analyse them as mutually reinforcing strategies. The research also leaves out many crucial actors. This research fills gaps identified in the Mung'ou's study.

Osodo, Kibirige & Mung'ou (2014) examines the *Role of State, Non State Actors and Information, Communication Technologies (ICT) in Peacebuilding in Mt. Elgon Region*. They found out that Radio, Mobile phones and social media platforms have a great potential to contribute to PB in Mt. Elgon. However, only 20% of this tool is being utilized at present. Though the focus of this aspect was narrow, it adds value to this study.

## **2.8 Theoretical Framework**

### **2.8.1. Gender Inclusion Theory**

The gender inclusion theory holds that TJ is a male dominated social construct in the liberal democratic paradigm where women are excluded from forums that decide the nature and design of TJ mechanisms. The theory proposes that women should make TJ serve their empowerment rather than construct an alternative feminist concept (O'Rourke, 2013; Bell & O'Rourke, 2007).

Incorporating gender perspectives in TJ can provide disaggregated analysis of the impact of conflict and remedial measures. Women inclusion will harness their potential and indicate recognition of their specific suffering (O'Rourke, 2013).

### **2.8.2. Transformative Justice Theory**

Transformative justice is a holistic process that aims to address human rights violations, accountability and inter-communal discord that occur during conflicts in order to achieve reconciliation, justice, victim healing and government accountability (Guthrey, 2010; Nocella II, 2011). Transformative justice as a social justice philosophy for peace, challenge all forms of domination and discrimination within society (Nocella II, 2011).

Peacebuilding encompasses a wide spectrum of structural, institutional and societal mechanisms to prevent, manage and transform conflicts (Lederach, 2005). TJ serves as one of the cogs of the PB wheel. TJ should be driven by PB perspectives that lead to coming to terms with the past as well as deriving a clear path towards reconciliation (Lambourne, 2014; Laplante, 2014).

The concept of 'transition' denotes short term measures while PB demands long-term and wholesome societal transformation. Other than legal aspects, there are

accompanying social, political and economic structures and relationship transformations in the process (Lederach, 2005). In post conflict situations, women have utilized new political dispensations to advocate for social transformation that change gender relations beyond limited TJ accountability goals (O'Rourke, 2013). Given Kenya's bumpy track record in the ICC and other local judicial processes, this perspective can provide a more comprehensive analytical lens.

### 2.8.3 Conceptual Framework

#### Figure I. Transformative Justice Analytical Lens

Guiding concepts discerned from literature are adopted into this framework. A number of variables are analysed to reveal the level of women participation in transformative justice in Bungoma and Trans Nzoia counties.



*Source: Author's adaptation of concepts from reviewed literature*

## **CHAPTER THREE: Methodology**

### **3.1 Introduction**

This chapter describes the research design and its rationale, delineates study population, sample size and sampling technique and criteria for selecting respondents. It describes data collection tools, process and analysis and ethical considerations.

### **3.2 Research Design**

Mixed methods were used from research design, data collection, analysis and interpretation. Mixed methods refers to integrating both quantitative and qualitative research in a single study. Mixed methods offer an opportunity to cross tabulate themes and participants demographics (Creswell & Plano, 2011). They also produce a fuller account of the research problem and increase reliability of findings and offer multiple perspectives to enable more detailed understanding of the problem (Andrew & Halcomb, 2012).

### **3.3 Research Site**

The research was carried out in Bungoma and Trans Nzoia Counties. These regions were selected because they have borne the impact of the Mt. Elgon conflict and they border each other. Women have been part of the conflict and have borne the brunt of conflict and participated in rebuilding and recovery efforts. The Sub counties that were covered were Endebess, Saboti, Kiminini and Cherangany in Trans Nzoia and Cheptais, Kopsiro, Mt. Elgon, Kimilili and Sirisia in Bungoma County.

### **3.4 Study Population**

The study included both men and women participating in various activities. Cultural context especially in Mt. Elgon was considered critical as perceptions of men in micro-cultural rural domain are critical indicators of women status (Mung'ou, 2018). The population included national and county government officers, county peace committees, CSOs, Women groups, Faith Based Organizations (FBOs), elders and victims of the conflict such as widows. The population was further determined using Krejcie & Morgan (1970) model described below.

## 3.5 Data Sampling Techniques and Procedure

Purposive sampling was used for the qualitative method targeting men and women working in TJ and peacebuilding fields. Key informants were selected based on their level of leadership and participation in transformative justice; in-depth interviews respondents were selected based on their working experience with communities. Members of focused group discussions were selected based on their direct participation in transformative justice and victimhood in the conflict.

Random sampling was employed for the survey questionnaire. Given the population of both counties, the population that bore the impact of the conflict was estimated to be more than 75,000. Using a table for determining needed size (S) of a randomly chosen size from a finite population (N), a sample of 384 was derived from a representative table as designed by Krejcie & Morgan (1970). The authors maintain that this approach can be used to sample any defined population.

### 3.5.1 Response Rate

Out of 384, 30 Key informant interviews and 15 in-depth interviews were conducted. The returned quantitative questionnaires were 279 providing a response rate of (72%). Sample size distribution for Sub counties was based on estimated level of contact with and spillover effects of the Mt. Elgon conflict.

## 3.6 Data Collection Tools

A structured questionnaire was employed to collect quantitative data. The questionnaire was divided into different sections testing specific variables. The tool had closed multiple choice questions measured on a Likert scale ranging from 1-5.

For the qualitative data collection, the tool used was an interview guide for KIIs and, In-Depth Interview and discussion guide for FGDs. FGDs were comprised of 6-12 participants. Each KII took approximately 35 minutes while FGDs took 45 minutes. Secondary data was derived from literature and official documents.



### **3.7 Data Analysis**

Qualitative data was thematically coded in order to establish themes for systematic framing, interpretation and comparison. Quantitative data was entered into Statistical Package for Social Sciences (SPSS) and analyzed. The two results were compared and contrasted providing both statistical results and qualitative back-ups. Data analysis and presentation was done using descriptive statistics; percentages, frequency tabulation, bar graphs and direct quotations from respondents.

### **3.8 Validity and Reliability**

The two research methods employed provided triangulation that enhanced reliability. The variables under study were also subjected to SPSS analysis where reliability was determined using P-value scores for Chi Square and Pearson correlation values. Chi square values were all about 0.05, which is the recommended value for data validity.

### **3.9 Limitations and Delimitation of the Study**

The two counties are quite expansive and covering them adequately for two weeks was a challenge. However, respondents from the rural areas were mobilized and assembled at key towns where interviews were conducted. Some of the respondents expressed misgivings with research that had no follow up and tangible results for the community but, in this case, they were assured of continued engagements through training and workshops.

### **3.10 Ethical Considerations**

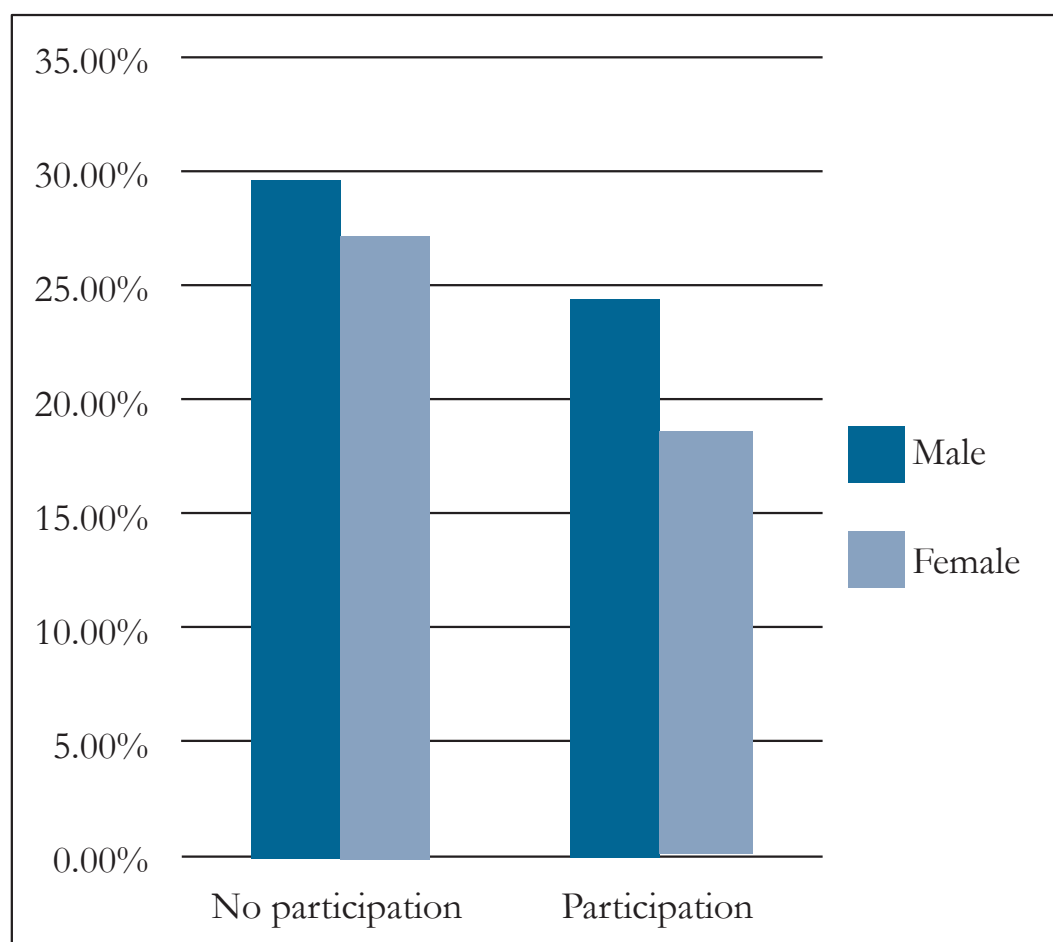
Moral and ethical standards were observed as per international standards and the International Peace Support Training Center (IPSTC) house style stipulations. A research permit was acquired from the National Council for Science and Technology. Potential respondents were contacted in advance to seek their consent to participate in the study. The researcher explained the purpose of the research, the sponsors, the work of IPSTC and how the study would be used and the expected benefits to the community. Respondents were also assured of their confidentiality.

## CHAPTER FOUR: Research Findings

This chapter presents quantitative and qualitative findings. It presents indicators of gender participation and the role of key actors and institutions in determining the level of their participation. The impact of the confluence of different factors and their impact on gender participation is also analysed.

### 4.1 Objective 1 – Inclusion or Exclusion of Women Participation in TJ and PB

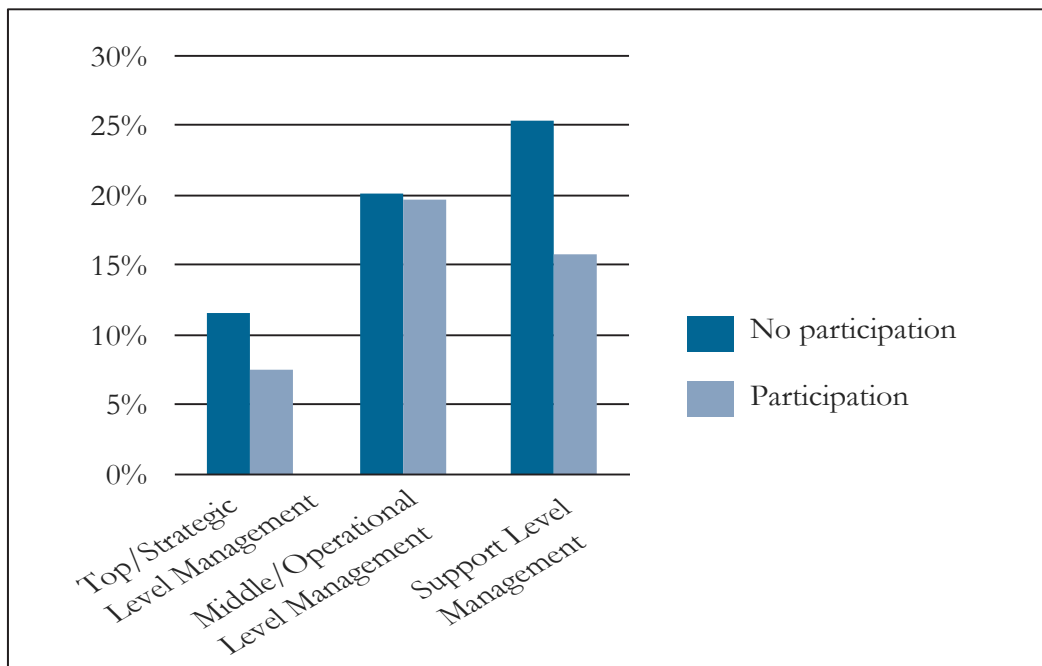
Figure II. Gender



As the data indicates Gender is a determinant of women participation.

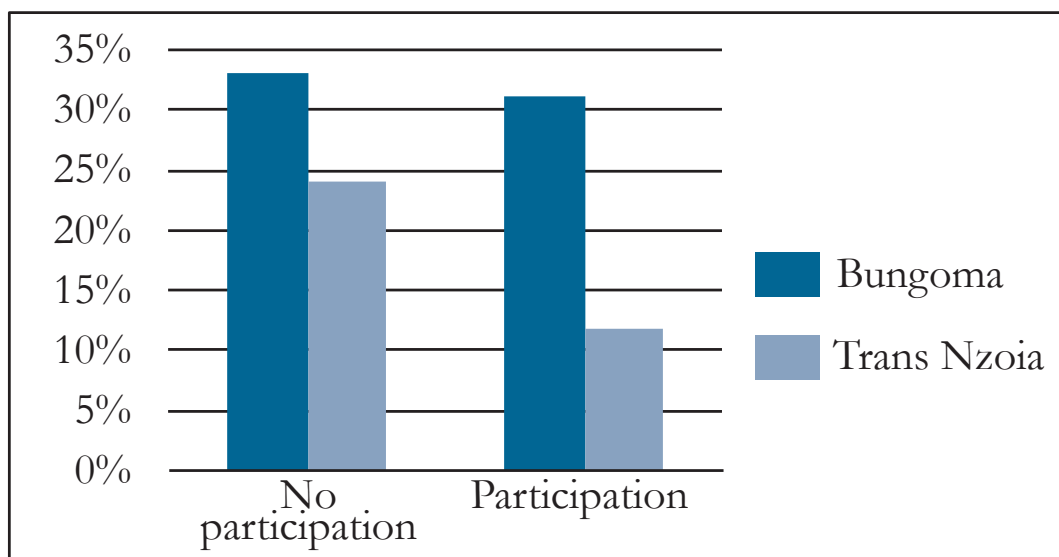
### Figure III. Participation by Management Level

Position within an organization is a determinant of women participation; the middle and support levels management have a higher score.



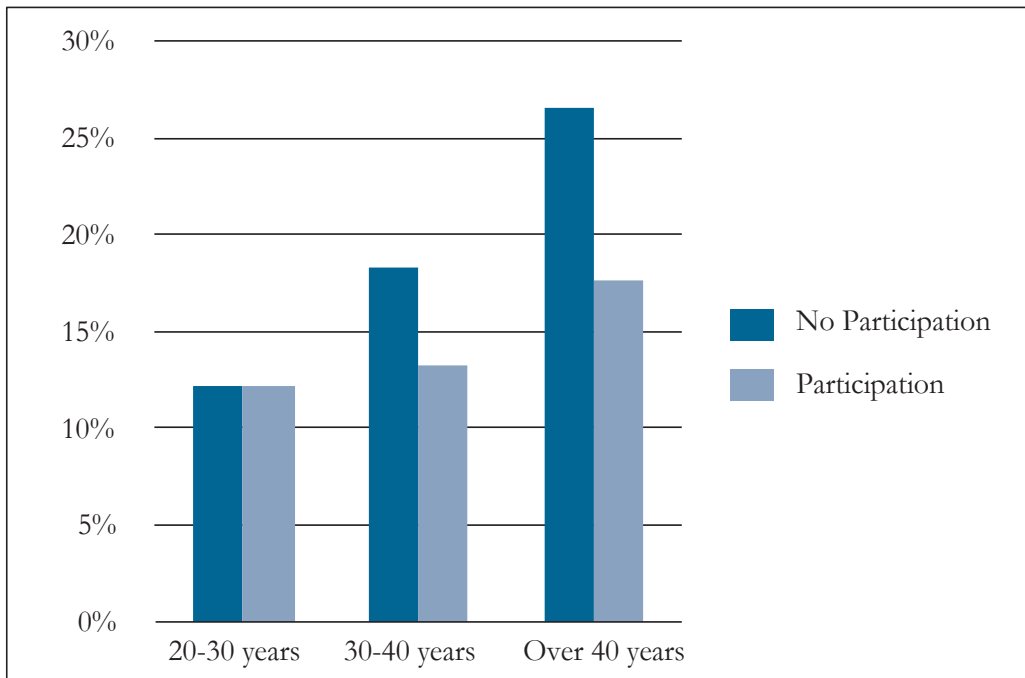
### Table IV. Participation by County

County is a determinant of women participation. Bungoma registers higher participation than Trans Nzoia.

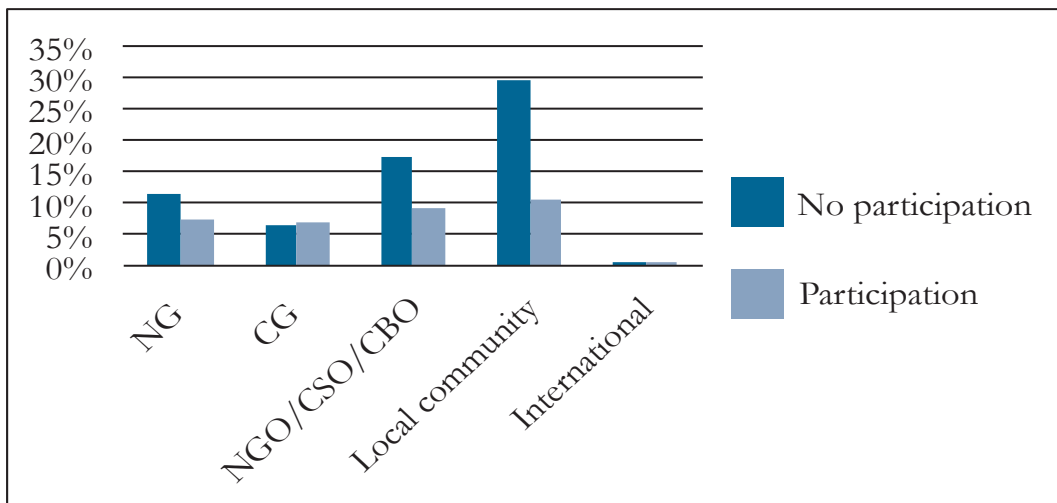


## Figure V. Participation by Age

There is a higher participation among middle aged and older men and women. Age is a determinant of women participation since, as expected, in rural communities, older people are entrusted with responsibilities of PB and TJ.



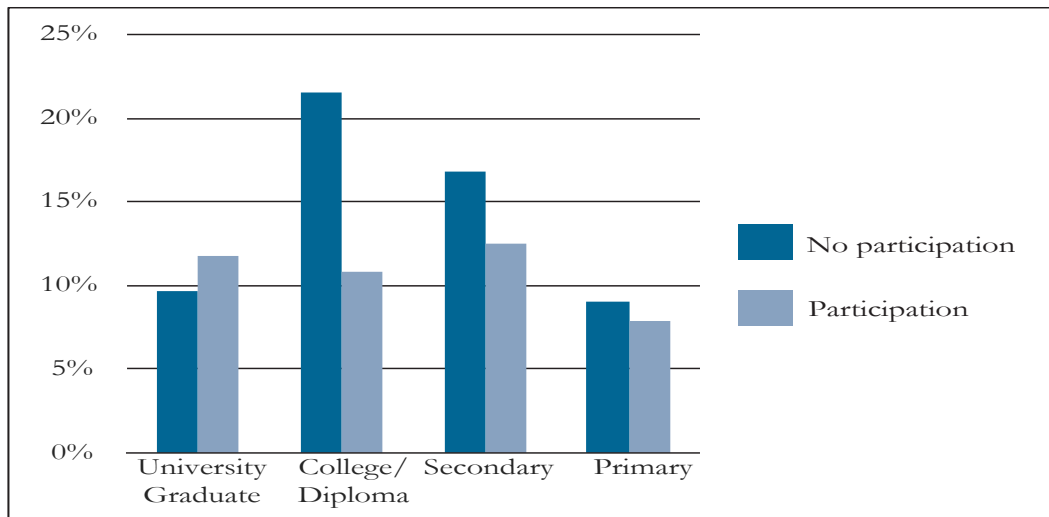
## Figure VI. Participation by Type of Organizations



**NB:** Local Community refers to Elders, Women/Youth Leaders/opinion leaders who may not belong to any formal organization.

CSOs and local community register higher level of participation meaning organization is a determinant of women participation.

**Table VII. Participation by Education Level**



Education is a determinant of women participation. There was more participation of Secondary school level graduates but it is also indicative that literacy rate in the Mt. Elgon region is low.

The findings indicate that county, type of organization, age, management level, and gender are key determinant of participation while education level and age are less significant. Therefore we find that Bungoma county performs better, CSOs and the local community participate more than other actors. These findings provide clear gaps to be addressed and areas that can yield better results for gender participation.

#### **4.2 Obj. 2: Gauging Participation in Both Counties through Six Pillars**

This section presents assessment of specific variables clustered under six pillars for gauging women participation in TJ and PB.

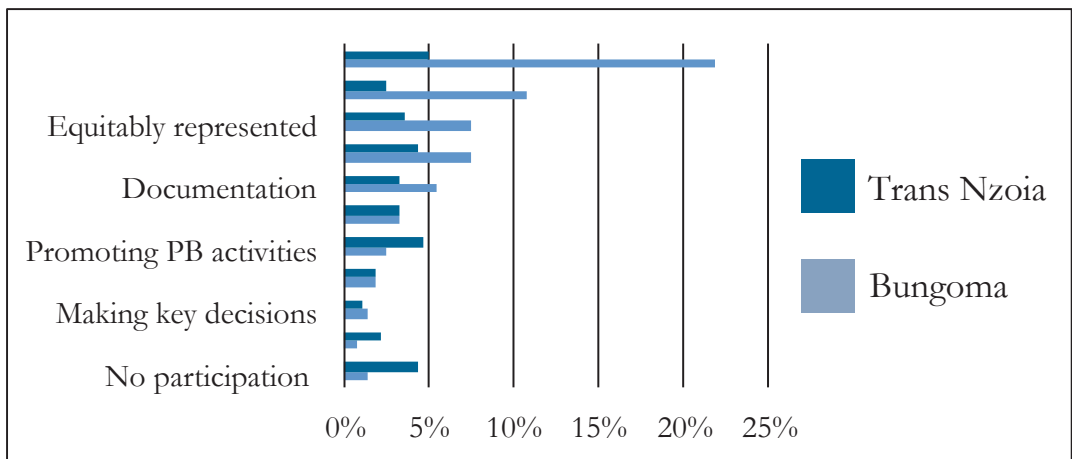
**Table 1. Pillars**

No.	Indicators
1.	Role of Women in Transitional Justice and Peacebuilding Processes
2.	Transitional Justice and Peacebuilding Legislative Frameworks
3.	Capacity Analysis of Women Participation in TJ and PB
4.	Transitional Justice and Peacebuilding Mechanisms
5.	Justice and Human Rights Monitoring
6.	Truth, Reconciliation and Recovery

### 4.2.1 Pillar 1. Role of Women in Transitional Justice and Peacebuilding

**Fig. VIII. Women in TJ & PB**

This category measured combined cross tabulation of results from variables listed below. There is low participation in making key decisions, providing psycho-social support to victims of SGBV, monitoring and reporting of SGBV but high in drafting county legislative and policy framework.



### 4.2.3 Transitional Justice

The qualitative findings indicate that there is good understanding of TJ processes among CSOs as they interpreted the concept to mean;

*Restoring people back or in better conditions after conflict, includes resettlement of IDPs and finding alternative livelihoods engagement'. FGD, 18 July 2018, Trans Nzoia.*

The respondents also demonstrated good understanding of the conflict dynamics in the region and the role of women.

*More than 1000 people were killed and about 300 women were rendered widows during SLDF uprising and many more disappeared. There were random arrest and torture by security forces. These widows cannot access reparations since they have no death certificates of their husbands'. KII, 17 August 2018, Trans Nzoia.*

*'SGBV especially rape of women, young girls, killing and abduction cases in Cheptais have not been well documented. Most SGBV cases are not reported and are often addressed through traditional methods. Female Genital Mutilation (FGM) is practiced underground with some girls being taken across the border to Uganda to undergo the process', KII, 25 July 2018, Bungoma.*

The Mt. Elgon conflict is complex and transitional justice has been a mirage.

*Political class has been part of the Mt. Elgon conflict. Bungoma region has not accessed money for reparation because the process of allocation has not been transparent with unfair allocation to Counties and sub counties. KII, 24 August 2018, Bungoma.*

#### **4.2.4 Peacebuilding**

The respondents understood peacebuilding as;

*'People living in and enjoying diverse freedoms, accessing justice, reduction of violence, promotion of mental health and economic development. It is dependent on effectiveness of the judiciary, security sector, conflict resolution and management mechanisms. It also means inclusive governance and leadership'. KII, 18 July 2018, Transnzoia.*

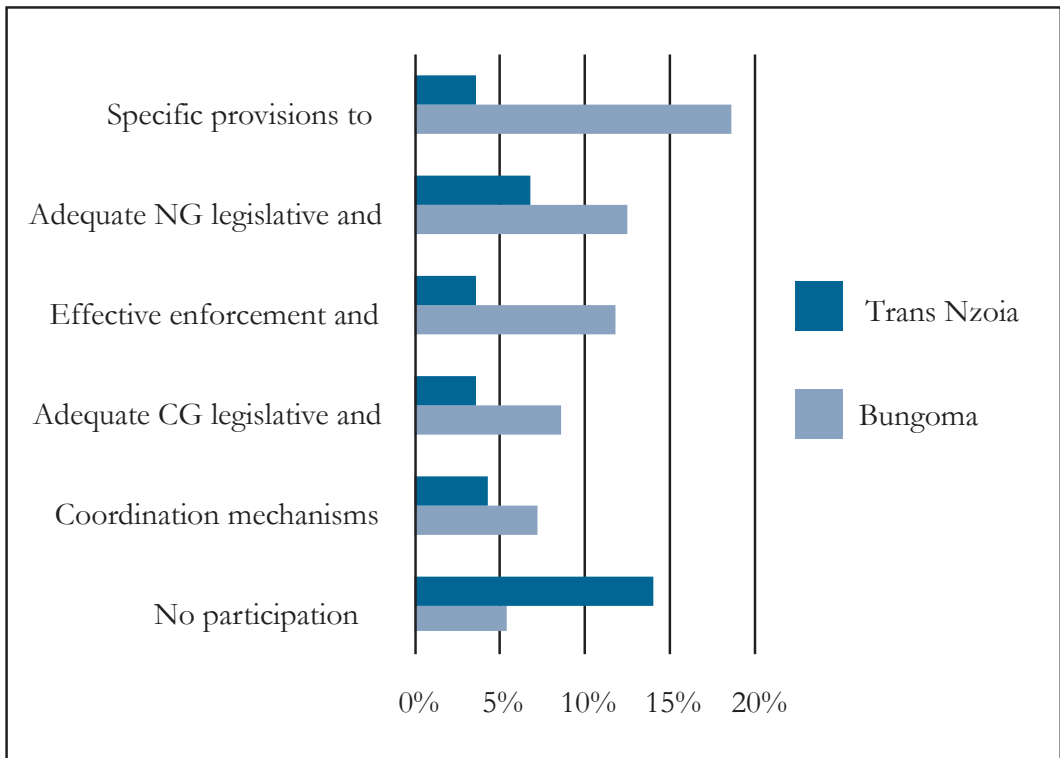
The respondents registered their participation in peacebuilding processes and the value of such engagements.

*'Mabanga peace agreement brought peace after communities agreed to share power during the 2013 general elections using locally negotiated ethnic proportional representation formulae. There have been attempts to resolve land conflict by elders with women participation' KII, 18 July 2018, Trans Nzoia.*

#### **4.2.5 Pillar 2. Participation of Women in National and County Legislative Frameworks**

This category measured combined cross tabulation of results from the specific variables listed below.

**Fig. IX. Legal and Policy Frameworks**



There are useful national government legislations and policies however; there are still major gaps in implementation and gender equity.

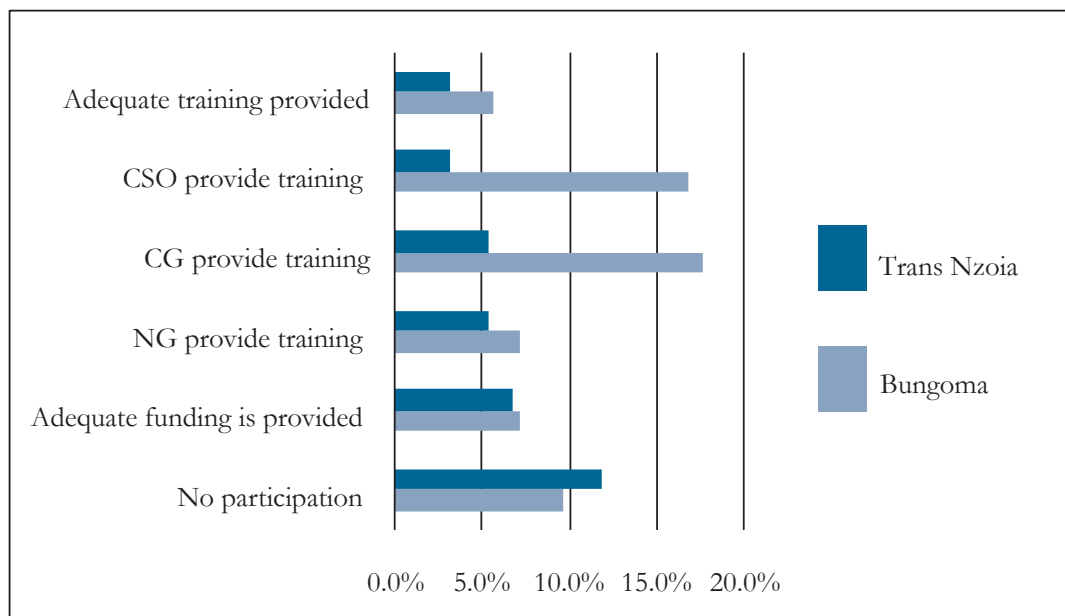
*The KNAP of UNSCR 1325 completed in 2016 provides a road map for strengthening women participation. It's also supported by the Gender Policy and the national policy on peacebuilding and conflict management. The constitution of Kenya 2010, the two thirds gender rule are all supportive frameworks for women participation'. KII, 17 July 2018, Transnzoia.*

#### **4.2.6.Pillar 3. Level of Women Participation based on Capacity, Knowledge and Resources**

This category measured combined cross tabulation of results of women participation from the specific variables listed below.



**Figure X. Capacity Analysis Gender in TJ and PB**



Capacity of women is a major determinant of participation.

Some CSOs have well trained peacebuilding and transitional justice experts.

*‘CSOs have trained women at the Mennonite University, Tangaza University and other colleges. We build capacity of women to act as role models and improve understanding of peace and justice’. FGD, 18 August 2018, Transnzoia.*

The CSOs engage in promoting intercommunal dialogue, mediation, developing in-house Information Technology (ICT) mobile based applications for Early Warning and Early Response (EWER). They also train DPC and strengthen self help groups in peacebuilding. The CSOs supported cross border peace dialogue in Chepkube (Bungoma). Community negotiated peace agreements (Mabanga I & II) were achieved.

*‘CSOs such as the Kenya Red Cross Society (KRCS), PeaceNet, International Organization for Migration (IOM), Catholic Justice and Peace Commission (CJPC), Free Pentecostal Fellowship of Kenya (FPFK), Maendeleo ya Wanawake Organization (MYWO), Churches and other FBOs are active in promoting peacebuilding, training DPC and lobbying for compensation of Internally Displaced Persons (IDPs)’. FGD, 24 July 2018, Bungoma.*

Some CSOs have structures, such as departments of gender, for promoting women issues.

*‘Catholic Women Association promotes community peacebuilding, dialogue, counseling. ‘Mount Elgon Women Group for Peace’ is active in peacebuilding. The FBOs provides Income Generating Activities (IGA) such as table banking. FGD, 19 July 2018, Transnzoia; KII, 26 July 2018, Bungoma.*

CSOs address water conflict in cheptais through encouraging dialogue and formation of a water cooperative society.

*‘CSOs support women networking through exchange visits (Saving Internal and Lending Community - SILC), within sub counties of Saboti and Cheranganyi. FGD, 19 July 2018, Trans Nzoia.*

A number of CSOs have conducted training on UNSCR 1325 in both counties. This has created a pool of women with some level of capacity. The CSOs collaborate with national and county government through county administration and the NSC.

*‘CSOs have partnered with key agencies such as: ‘Uraia, UNDP, USAID, CJPC, ACORD and ACT Kenya, for financial and technical support. Lobbied for inclusion of peacebuilding in the County Integrated Development Plan (CIDP)’. KII, 25 August 2018, Bungoma.*

Economic support through ensuring agricultural food security and nutrition. Promoting environmental conservation, climate change, adaptation, mitigation and afforestation.

*‘Household economic strengthening through linking women to financial institutions and funds such as UWEZO. Helping women to start IGA such as: ‘Sweat potatoes processing plant’, Poultry and provision of funds. More than 60% of clients are women. KII, 24 July 2018, Bungoma.*

CSOs conduct surveys and identify hot spots for quick response and disseminates information through advocacy, civic education and local radio.

*‘CSOs partnered with Forum Syd on analysing devolution and its implications on peacebuilding’. In-depth Interview, 25 July 2018.*

Monitoring and Evaluation is done by women groups, elders’ councils, clan leaders and community advisory committees. The tools for assessment used are site visits, budget committees, cross border committees and significant change stories.

Counties established women groups; for example, Bungoma created the *Bungoma County Women Network* to share issues of concern. Elaborate community outreach program that involve women in peacebuilding especially to monitor and observe elections.

*‘County government of Bungoma has documented widows whose husbands were killed by SLDF. Targetting 500 women as a pilot assistance project. Provide psychosocial space for venting and healing and assist women to transcend trauma from previous conflicts’. KII, 23 July 2018, Bungoma.*

Both counties have put in place various strategies and measures for promoting women participation.

*'A Peacebuilding program supported by the national government and UKAID has introduced local peace makers to lessons learned in Latin America. A pilot program has been implemented in Cheptais for the last one year (2017/8) through national and county government cooperation'. KII, 25 July 2018, Bungoma*

*'The county government collaborated with the National Cohesion and Integration Commission (NCIC) to implement peace projects and is making efforts to preserve heritage sites. Promoting agricultural based industries and youth socio-economic empowerment, public participation in county governance and formation of cultural groups/ council of elders'. KII, 18 July, Trans Nzoia.*

The Bungoma County government is linking PB and TJ to food security since Mt. Elgon is a bread basket. The government promotes public participation in key policies, laws and budgeting. It partners with churches to mainstream peace issues. It also promotes formation of women Savings and Credit Cooperative Societies (SACCOs). The county procurement rules have a 30% provision reserved for women, youth and people with disabilities.

*'County has established Kimilili Resource Center for Mt. Elgon IDPs and has created a women empowerment fund. The Governor has successfully negotiated with County Revenue Authority (CRA) for provision of equalization fund in conflict areas of Mt. Elgon region. CIDP has incorporated peacebuilding'. KII, 24 July 2018, Bungoma.*

Counties promote sharing of resources such as water.

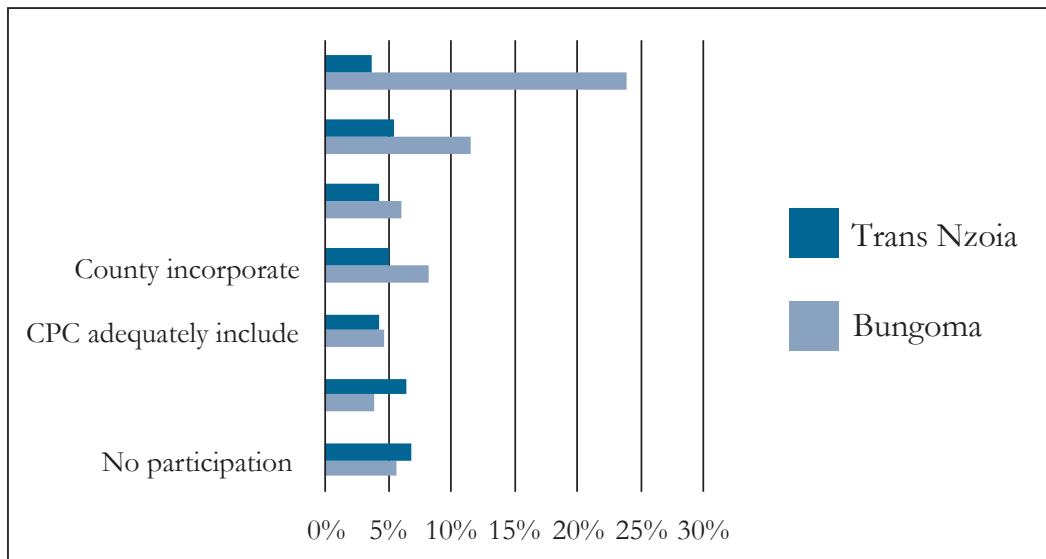
#### **4.2.7. Pillar 4. Level of Participation based on TJ and PB Mechanism**

This category measured combined cross tabulation of results of women participation from specific variables. There is more participation in alternative disputes resolution mechanisms; community values and beliefs support participation. Counties include traditional TJ and PB mechanisms.

Capacities of women to participate in political processes and PB structures are being built. Women are also trained in PB and TJ and encouraged to build partnership with women leaders.

Some CSOs are women led at the board and secretariat levels. An FBO established a special school for girls in Chebyuk, Mt. Elgon in 2016. CSOs hold seminars for women and youth, provide family planning and support education and land justice as well as create awareness on women rights.

**Figure XI. Women Participation in TJ and PB Mechanism**



There is civic education to enhance women contribution in drafting new legislations. CSOs in Bungoma have networks to promote their activities. Promoting public participation is done through the sensitization and formation of new CBOs. This is done through chiefs/administrators, political leaders forums and participation in County budget making processes.

Support is provided for capacity building of traditional mechanisms.

*‘Trained peace elders were facilitated to establish a County Council of Elders in 2006. Five council of elders were established and they have demonstrated capacity in early warning. However, they are male dominated’. ‘CSO are lobbying for inclusion of more women in such councils’. FGD, 19 August 2018, Transnzoia and KII, 25 August 2018, Bungoma.*

The CSOs are also promoting cultural festivals such as sports for peace (traditional sports), dance, songs, drama and other performances in collaboration with both the national and county governments.

*‘National government and NCIC supported facilitation of elders for peace. Public sensitization through social media and local radio stations such as West FM and Nyota FM. Encourages participation of women in DPC in line with legal requirements. KII, 17 July 2018, Trans Nzoia.*

County Commissioners hold meetings with Members of Parliament (MPs) and other politicians across the political divide to foster peace. Peace education is provided to teachers, education officers and students. The formation of peace clubs in schools and establishment of role-model schools is also done.

DPCs have been established up to locational Level to promote dialogue, negotiation, peacebuilding and to act as linkage with the local communities. Inter county dialogue for boundary conflict resolutions is promoted. The *Nyumba Kumi* Initiative and Chiefs play a key role in sensitization and EWER.

*‘DPCs act as peace monitors and early warning providers. There are eight women out of 15 members in the DPC. Some women chair DPCs at sub county level’.* KII, 17 July 2018, Transzoia and KII, 23 July 2018, Bungoma.

Traditional PB Mechanisms are supported by promoting establishment of traditional elders councils and peace centers in collaboration with county governments. Land dispute resolution initiatives are supported.

Inter ethnic dialogues and reconciliation, for exmple between the Sabaot/Luhya and Sabaot clans, are facilitated. Inter ethnic schools, Cross border Committees (Uganda/Kenya), Nyumba Kumi clusters and Village Elders networks have been established. There is also active promotion of Inter agency collaboration between the county government and CSOs.

The county government is collaborating with the Council of elders to promote intercommunal cohesion at the grassroots level.

*‘Conflict mappping of Bungoma county has been done. Addressing negative ethnicity through Mabanga peace process. Dialogue, negotiation and mediation being promoted and has facilitated council of elders peacebuilding activities. Observe Article 10 of the constitution on inclusivity’.* KII, 24 July 2018, Bungoma.

Bungoma county has elaborate and proactive measures to promote women participation compared to Trans Nzoia.

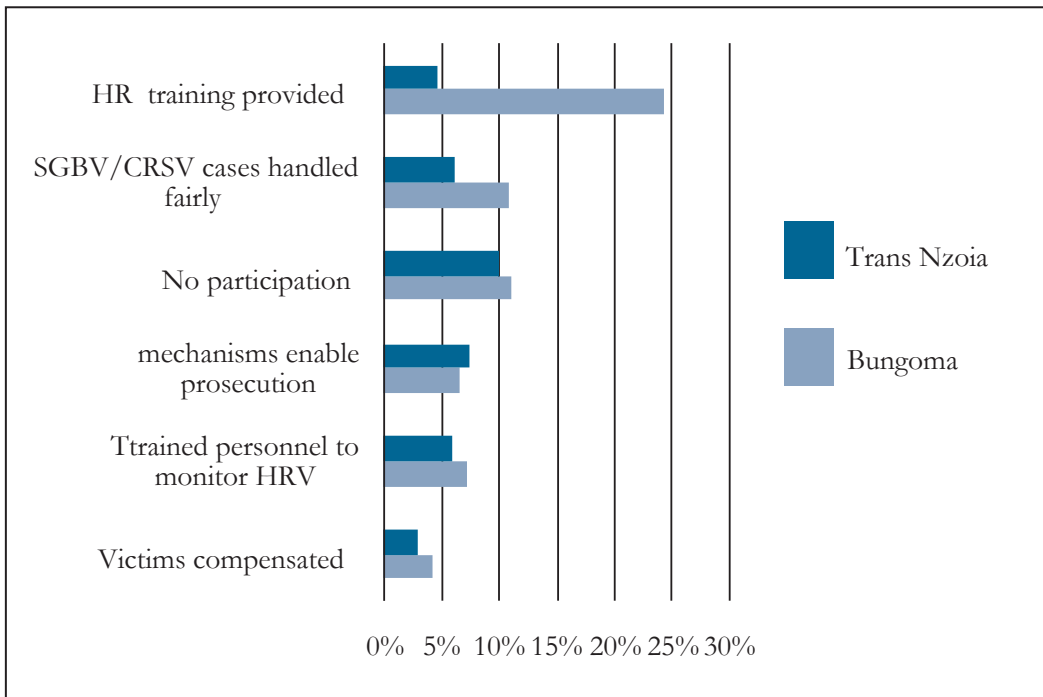
*‘Women are now in strategic leadership positions where 40% of the Chief Executive Committee (CEC) members are women. There is a 30% representation of women in County Assembly. Women are also increasing their competitiveness through education and performance’.* KII, 26 July 2018, Bungoma.

*‘Gender Technical Working Groups established in nine sub counties, meet quarterly, research on disaggregated data and report to the county committee.* KII, 23 July 2018, Bungoma.

#### **4.2.8. Pillar 5. Women Participation in Justice and Human Rights Monitoring**

This category measured combined cross tabulation of results of women participation from the specific variables listed below. Of these variables, provision of training is the highest.

**Figure. XII. Justice and Human Rights Monitoring**



CSOs mobilized women in Mt. Elgon to present their views to the TJRC and to understand other available avenues for redress. Additionally, the CSOs plan and sensitize politicians on peace and reconciliation processes. Some CSOs provide medical care and legal aide to victims. They also lobby for rehabilitation, access to medicare and trauma counseling services for GBV/CRSV victims. They also provide psychosocial support for the Mt. Elgon victims.

*‘CSOs facilitated the demobilization and reintegration of the SLDF. Established route security managers to prevent boda boda associated crimes. They also supported de-oathing of warriors, cleansing and provision of psychosocial restoration’. FGD, 19 July 2018, Trans Nzoia.*

*‘KNCHR provide legal assistance on SGBV, document and keep records of cases. Support orphans and vulnerable children and widows and rejoins separated families’. FGD, 17 July 2018, Trans Nzoia.*

KNCHR investigates conflict between citizens and security officers. It engages in public interest litigation where the state organs violates rights of citizens. KNCHR also supports reconciliation, mediation and conflict prevention. as well as documentation of human rights violations for state action. KNCHR assists victims to lobby for compensation.

*‘There is an ongoing KNCHR case against KDF contingent that was sent in Mt. Elgon to deal with SLDF militia, where they are seeking government compensation to pay widows of killed militia’, KII, 19 July 2018, Trans Nzoia.*

Opinion leaders are trained on being the first responders to conflict and on how to record cases especially on SGBV and report to police or take the victims to hospital. Law enforcement agencies are trained on human rights issues. There is a follow up mechanism for trained personnel.

The national government protects women against SGBV through the establishment of gender units in police stations. Police officers are trained in handling SGBV cases and Kenya’s premier police training college, Kiganjo, offers training in peacebuilding.

*‘Women and communities were empowered to make recommendations during the formulation of the Sexual Offences Act. Some women have been appointed chiefs and assistant chiefs. There are two female MCAs and significant number of women in the DPC’. FGD, 19 July 2018, Trans Nzoia.*

The Kenya Police Reserve (KPR) are being well equipped, trained on rule of law and to provide early warning intelligence and offer combined response together with the police.

Enhancing Security Measures.

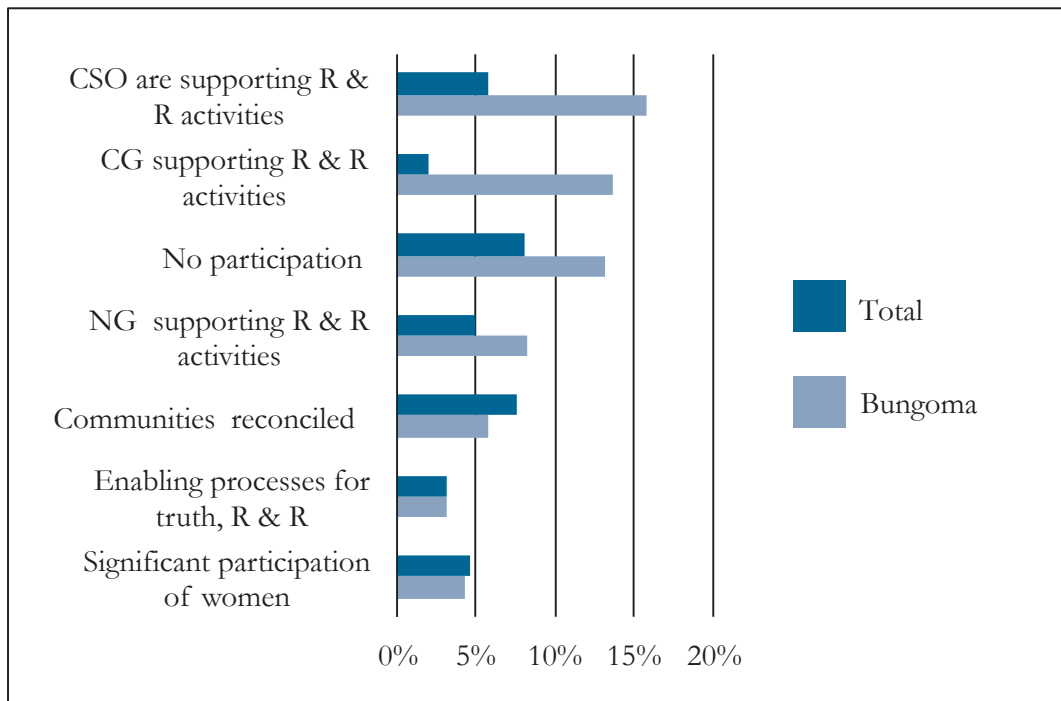
*‘Increased security installations, police/GSU camps especially in Cheptais, Mt. Elgon and Endebess. Building capacity of EWS, warn, arrest and prosecute and rehabilitate inciters and cattle rustlers. 14 of the recent gang in Cheptais have been arrested while three are still at large’. KII, 25 July 2018, Bungoma*

Police investigate and prosecute criminal cases or refer the culprits to counselling providers.

#### **4.2.9 Pillar 6. Level of Women Participation in Truth, Reconciliation and Recovery**

This category measured combined cross tabulation of results of women participation from the specific variables listed below. CSOs and county governments support for reconciliation and recovery ranked very highly.

**Figure XIII. Truth, Recociliation and Recovery**



The CSOs lobbied the national and county government on behalf of victims for redress and implementation of previous reports on historical injustices. The national government resettled IDPs through *Operation Rudi Nyumbani*. About 10,000 people were settled in Saboti and 50,000 in Bonde areas of Trans Nzoia. The national government gathers intelligence and establishes local led land committees for vetting of genuine land owners.

### 4.3 Factors Hindering Women Participation

Women are not adequately facilitated to participate in TJ and PB due to factors identified below.

#### 4.3.1 Socio-cultural Factors

There are cultural barriers that hinder women participation.

*‘Mt. Elgon communities negative cultural practices such as early marriages, ignorance, cattle rustling, high level of illiteracy, high drop out rates for both boys and girls, barriers to women acquisition of land. Women are prevented from vying for certain political posts’.* KII, Bungoma, 23 July 2018, Bungoma.

Women can’t report SGBV cases for fear of stigmatization. Traditional systems are facing challenges since they are not well defined and elders are not respected.



*Dorobo elders are more respected than Soy. Laibons bless warriors going to raid or fight. Traditional seers differences escalates conflict between clans. Parents don't cooperate in GBV investigations'. FGD, 25 July 2018, Bungoma.*

The respondents recognize that it is not easy to change long held socio-cultural constructs and are employing appropriate remedial strategies. Women feel vulnerable and fear involvement in TJ and PB.

*There is unwillingness to reveal security information in Mt. Elgon for fear of revenge. There is only one woman in a council of 40 elders'. FGD, 18 July 2018, Transzoia; In-depth Interview, 24 July 2018, Bungoma.*

Women also lack resources, skills and education. In addition, women are disinherited when their husbands die since culture deny them land ownership rights. The slow response of security agents to conflict issues also hinders women participation.

*Women deserve their rightful share in community affairs; for example, they are not adequately incorporated in national and county government administration', FGD, 19 July 2018, Transzoia.*

SGBV victims, especially those in the villages, have limited access to justice. There are many cases of SGBV and widows who were not compensated and cannot therefore take their children to school for lack of school fees.

*There are displaced widows in Chebyuk with no permanent shelters and are vulnerable socially and economically, traumatized and have no source of livelihoods'. FGD, 25 July 2018, Cheptais, Bungoma.*

Young people do not take wise counsel from elders.

*Unemployment render youth vulnerable to manipulation and demotivate parents to educate children. Intergenerational succession is conflict prone and there are illicit brews/drugs and substance abuse (DSA-Guber) from Uganda'. FGD, 25 July 2018, Bungoma.*

Though there are peace committees they are not well funded. CSOs are not well coordinated and they come with preconceived ideas/pre-set projects. Additionally, there is weak coordination between the national and county government. There are no role models/schools for girls, boys to inspire the youth. The communities have not felt or seen the impact of CSOs work.

### **4.3.2 Socio-economic Factors**

There are still people living in the forest in Mt. Elgon. Poor infrastructure hinders interactions and development. Farmers practice traditional subsistence economy that bring low returns.

*‘Root causes of conflict have not been addressed. No clear demarcation of sub county boundaries bringing problems of responsibilities in terms of infrastructure development’.* FGD, 16 July 2018, Transzoia.

*‘Though peace building was incorporated in the CIDP, there is no action plan for implementation’.* KII, 24 July 2018, Bungoma.

Poor government allocation of land has contributed to conflict in Mt. Elgon.

*‘Non demarcation of land in some areas hinder justice. Slow land adjudication – Chebyuk – only Phase 1 is degazetted and there is disagreement on the future of Phase 2 & 3 which might lead to further conflict. Communities expect free land from the government. Grabbing of land by some brokers and government officers. Many people have ballot numbers for same plots of land in Mt. Elgon. Displaced children in schools/churches with no records or parents’ death certificates hindering them from accessing inheritance.* FGD & KII, 25 July 2018, Bungoma.

### 4.3.3 Socio-Political Factors

Local political leadership interests may not be favourable to peace. There is alleged discrimination based on ethnic/political identity.

*‘Electoral violence is used to pre-determine electoral outcomes. Media sensationalism of the Mt. Elgon conflict is negative. National laws, policies on gender are not well applied on the ground. National government does not access the real issues in Mt. Elgon conflict since truth is brokered by local selfish politicians. Homegrown solutions to the Mt. Elgon conflict are not given a chance’.* FGD, 25 July Bungoma

Lack of strategic planning for PB and TJ. There is no peace plan in both counties and the national peace policy has not been ratified by parliament.

*‘Historical injustices not yet addressed. Security actors still inclined towards security mentality as opposed to peacebuilding. No support for peacebuilding from the county government. Poor reporting of security information/incidents.* FGD, 18 July 2018, Trans Nzoia.

To date, IDPs, some from the 1992 skirmishes, have not been resettled. Deaths and poor response to security issues has been attributed to the proliferation of illegal Small Arms and Light Weapons (SALW) from Uganda/South Sudan.

*‘Impunity by perpetrators and revenge cases are rife. There is no follow up of decisions made and justice is delayed. The courts easily grant bail/ bonds to suspects’.* FGD, 18 July 2018, Trans Nzoia and FGD, 25 July 2018, Bungoma.

Limited access to justice. Recourse to cultural informal justice system hinder effective justice delivery.

*'Patriarchal traditions where leaders, parents don't appreciate formal justice systems, resort to local compensation and refuse to cooperate with law enforcement agencies during prosecutions', FGD, 25 July 2018, Bungoma.*

Discrimination and socio-economic status may determine access to justice.

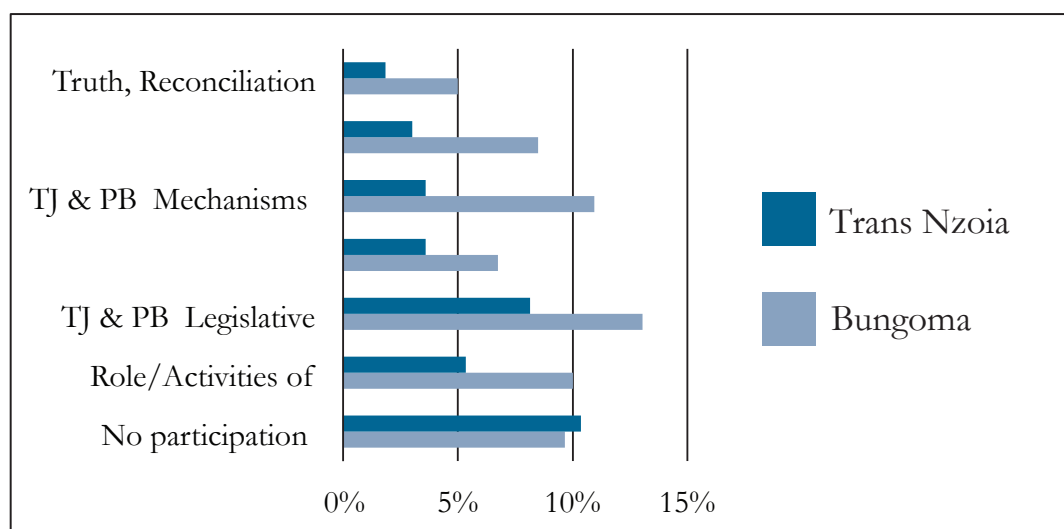
*'Selective compensation of IDPs by the government. Discrimination during recruitment such as chiefs, security services, National Youth Service (NYS)'. FGD, 17 July 2018, Trans Nzoia.*

*'Chiefs/Assistant chiefs, police involved in corruption to defeat justice especially in SGBV cases. Cases are easily dismissed for lack of adequate evidence. Confidentiality in reporting SGBV and conflict issues for peace workers sometimes is not observed'. FGD, 25 July 2018, Bungoma.*

Donor dependency. CSOs implement short term programmes that are not sustainable. Most programs do not address psycho-social recovery that require long term approaches.

*'Inadequate contribution by the national and county government. Multiplication of actors in one place such as Mt. Elgon. Ineffective coordination since each program is tied to donor plans and interests. In addressing FGM, CSOs use wrong strategies focusing on children in schools instead of parents'. FGD, 25 July 2018, Bungoma.*

**Figure XIV. Total Transformative Justice Outcome**



High participation was registered in legislations, role of women, mechanism while the lowest was reconciliation and recovery followed by justice and human rights which, corroborates the qualitative findings. This result is supported by chi square values and pearson scores as indicated below.

**Table 2: Factors that Influence Participation**

The table below indicates chi square value and pearson correlation scores to enable determination of factors that were most influential. Factors marked with two stars indicate their greater significance in determining gender participation.

<b>Gender participation in transformative justice Correlations</b>		
<b>N= 279</b>	<b>Sig. P Value (Chi Square)</b>	<b>Pearson Correlation</b>
<i>County</i>	.011	-.151*
Gender	.460	(0.04)
Management level	.553	(0.04)
Age	.194	(0.08)
Category of organization	.072	(0.11)
Education level	.641	(0.03)
<b>Role of Women in TJ and PB</b>		
<i>Making key decisions</i>	.001	.209**
<i>Providing advisory services</i>	.001	.269**
<i>Implementing TJ activities</i>	.001	.250**
<i>Providing psycho-social support</i>	.001	.210**
<i>Documentation</i>	.001	.311**
<i>Promoting PB activities</i>	.001	.198**
<i>Participating in CSO &amp; CBO activities</i>	.000	.233**
<i>Monitoring and reporting of SGBV/CRSV</i>	.018	.141*
<i>Development of County legislative framework and policies</i>	.001	.236**
<b>TJ and Peacebuilding Legislative Frameworks</b>		
<i>Adequate CG legislative and policy framework</i>	.004	.171**
<i>Effective enforcement and dissemination of TJ laws</i>	.001	.201**
<i>There are specific provisions to promote gender equity</i>	.001	.204**
<b>Capacity of Women Participation in TJ and PB</b>		
<i>Training (including women) is carried out at least once a year</i>	.001	.262**
<i>CSO provides training to women</i>	.001	.331**
<i>CG provide training</i>	.001	.232**
<i>NG provide training</i>	.001	.301**
<i>Total score Capacity Analysis of Women Participation in TJ and PB</i>	.001	.348**
<b>TJ &amp; PB Mechanisms</b>		

<b>Gender participation in transformative justice Correlations</b>		
<b>N= 279</b>	<b>Sig. P Value (Chi Square)</b>	<b>Pearson Correlation</b>
<i>County</i>	.011	-.151*
<i>The Council of Elders and other cultural mechanism support women</i>	.001	.195**
<i>There are alternative disputes resolution (ADR) mechanisms that support women</i>	.001	.283**
<i>CSO are sensitive to local community values and beliefs</i>	.001	.336**
<i>County incorporate traditional mechanisms</i>	.001	.295**
<b>Justice and Human Rights Monitoring</b>		
<i>Proper mechanisms to enable police/judiciary prosecute and monitor human rights violations (HRV), SGBV/CRSV</i>	.003	.177**
<i>Past SGBV/CRSV cases were handled fairly</i>	.016	.145*
<i>Total score Justice and Human Rights Monitoring</i>	.027	.133*
<b>Truth, Reconciliation and Recovery</b>		
<i>There was significant participation of women in the past TJRC</i>	.001	.280**
<i>Processes to enable truth telling, reconciliation and reparation</i>	.001	.345**
<i>CSO are supporting R &amp; R activities</i>	.001	.222**
<i>CG is supporting R &amp; R activities</i>	.013	.148*
<i>Psychosocial support is provided to victims of SGBV/CRSV</i>	.001	.191**
<b>Truth, Reconciliation and Recovery</b>		
<i>Role of Women in TJ and PB Processes</i>	.001	.320**
<i>TJ and PB Legislative Frameworks</i>	.001	.208**
<i>TJ and PB Mechanisms</i>	.001	.258**
<i>Justice and Human Rights Monitoring</i>	.001	.326**
<i>Capacity Analysis of Women Participation in TJ and PB</i>	.001	.300**
<i>Truth and Reconciliation</i>	.001	.300**
<i>Total score outcome Participation of women in transformative justice</i>	.001	.871**
*. Correlation is significant at the 0.05 level (2-tailed).		
**. Correlation is significant at the 0.01 level (2-tailed).		

#### 4.3.4 Discussion of Findings

The research established that women are more active in PB & TJ since the devolved governments were established creating women representatives, office of First Ladies and peace forums. There is relative but deceptive calm/negative peace in both counties. No effective healing and reconciliation though there is some spirit of tolerance and some IDPs have returned to their land.

Currently there is peaceful intercommunal relations and low crime rate. The Mabanga peace process contributed to some unity however, all the set goals have not been achieved. Intercommunal marriages are promoting cohesion. Various actors are contributing to PB and reconciliation. Women are increasingly getting involved in PB especially in elections and land related conflicts than in the past.

Some clans allow women/widows to own land. Women still require support in training and civic education. Enhanced involvement of politicians in PB & TJ could be valuable since politics is at the center of most conflicts. Early attention to conflict symptoms could save lives and property. Raising level of strategic information gathering could enable the government to respond appropriately and timely. Addressing structural causes of conflict on a long term basis could be more effective.

Cultural inhibitions should be subordinate to the supreme law. Courts should administer stiff sentences for SGBV offenders to act as a deterrence. Addressing cultural factors and outlawed practices through multifaceted strategies such as sensitization of parents, community and traditional circumcisers against SGBV/FGM is important. Increasing representation of women in Elders Councils and DPCs would give them more limelight. Sensitization of men about the value of women in peacebuilding can change cultural attitudes. Mentoring women by women who have excelled in society can also enhance participation.

UNSCR 1325 NAP should be included in the CIDP to act as a guiding tool for women participation. Resettlement of IDPs who are still in camps is critical.

Enhancing alternative IGAs should be prioritized by both the national and county governments. Enhancing education and health would address some of the problems identified. Improving infrastructure can act as a multiplier factor in all sectors. Efficient registration of land and issuing of title deeds, dealing with land related corruption can reduce disputes and conflict. Counties could actively support peace through monitoring, facilitation and building capacity of CoE with a workplan and budget.

*‘Money set aside for the DPC should be directly channelled to them by the NSC rather than being part of the County Commissioner’s kitty’.* FGD, 18 July 2018, Transnzoia.

Enhancing inter county and cross border and strategic conflict analysis and response systems by all actors. Strategic inclusion of village leaders and Nyumba Kumi through capacity building and training can enhance their responsiveness towards gender participation in TJ and PB.

Media should provide conflict sensitive reporting. Joint media/communication strategy on peacebuilding is required in order to build rather than undermine current local capacity. Memorialization of those killed or disappeared during conflict can be a bridge to building new relationships and envisioning a new future. Providing a curriculum for civic education can assist in raising awareness on the constitution and national values alongside rebuilding the moral and social fabric to enable communities to be transparent and address conflict issues constructively.

Hidden structural causes of conflict have not been addressed. The residents of Mt. Elgon region have been extremely traumatized and no healing has taken place. Joint community, SLDF/militias/youth, police dialogue and negotiations can be used to reduce tensions, loss of lives and property.

## **5. Summary, Conclusion and Recommendations**

### **5.1 Summary**

The study has indicated the level of gender participation in TJ and PB in both counties. Chapter one has provided the conceptual, historical, socio-cultural and geographic context. Chapter two analysed the theoretical paradigms informing transformative justice while chapter three provides the guiding tools of inquiry. Chapter four has clearly indicated the level of gender participation through quantitative and qualitative data.

Various related factors clustered into six levels used to determine level of participation provides a wholistic view and forms a basis of practical and policy recommendations. The significance of variables and the strength of their correlations indicate areas of intervention that can change level of gender participation.

### **5.2 Conclusions**

The study indicates that the level of gender participation in TJ and PB and transformative justice is low and there are a number of factors that are either conducive or not conducive to raising the level of women participation. Women in both counties register significant attempts to raise their level of participation but there is more room for improvement. Women participation in legislations, activities and mechanism in TJ and PB are significant variables in both counties. The systems in place both legal, institutional and traditional is a key determinant of the level of participation. The county government of Bungoma appears to be more proactive towards the empowerment of women.

As noted there are various factors that are hindering women participation such as corruption in administration of justice especially in land and SGBV cases. The Mt. Elgon conflict and perceptions of historical injustices seems to affect women participation in both counties. Finding lasting solution to the conflict and implementation of transitional justice and key peacebuilding aspects identified in the study can raise the level of women participation.

### 5.3 Recommendations

**Table 3. Policy and Practice**

No.	Action	Responsibility
	Formalization and implementation of the national peace policy to streamline peacebuilding across counties  Implementation of the KNAP on UNSCR 1325	National government  National and County government
	Establish a Special Commission to investigate the issue of land and conflict in Mt. Elgon	National and county government
	Enhance Women Capacity in TJ and PB through Training and Civic Education  Devote a percentage of resources for capacity building of women in collaboration with other partners	National and county government, CSO, IPSTC  County government
	Council of Elders could be properly established in order to be more inclusive and gender sensitive  Establishment of functional peace secretariats in the counties can mainstream TJ and PB within CIDP	County government and national government, CSO  County government, CSO
	Initiate Programs for enhancing Women Capacity in Transformative Justice	National/County government/CSO/IPSTC/UN-Women

#### Further Research

1. Gender analysis of the impact of conflict and injustice
2. Analysis of the Mt. Elgon Conflict and current Peacebuilding Strategies



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