

# Women's Rights in Transitional Justice: The Impact of Gender Policies on Procedural Law

*Los derechos de las mujeres en la justicia  
transicional: los impactos de las políticas de género  
en el derecho procesal*

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## 1. INTRODUCTION

Transitional societies are those that have taken steps towards transition after a period of severe human rights violations. Given the widespread commission of human rights violations in the pre-transitional period, implementing transitional justice in these societies has been one of the main challenges. Various mechanisms are employed by these societies to implement justice, known as transitional justice mechanisms, depending on the timing of their use. Among the mechanisms that have recently gained attention for implementing transitional justice are traditional justice mechanisms.

An interesting point to note is that traditional justice mechanisms in transitional societies can no longer remain confined to their traditional forms and need to change to adapt to the evolving needs of transitional societies. Modernizing traditional mechanisms to address international crimes in a transitional society is a necessity, as these mechanisms were not originally designed to address such crimes. However, in some cases, the reforms have been significant enough to change the approach of traditional mechanisms.

## 2. CONCEPT OF TRANSITIONAL JUSTICE

Transitional justice is a response to systematic and widespread human rights violations. It is a specific type of justice that arises in transitioning societies after a period of widespread abuse of human rights. Some governments themselves adopt the necessity of achieving transitional justice and the methods of achieving it. Transitional justice includes judicial and non-judicial measures aimed at redressing human rights violations by a regime after its collapse. These measures «include criminal prosecutions, truth commissions, compensation programs, and various reforms to the functioning of institutions whose structural deficiencies have allowed human rights abuses to occur». Transitional justice is used at a point in the political transition from violence and repression to social stability (or sometimes years later) and is rooted in the society's desire to rebuild social trust, repair dysfunctional judicial and political systems, and build a democratic system. The core value of transitional justice is the concept of justice, which is not necessarily synonymous with criminal justice. This concept, alongside political transformation and non-violent regime change, is key to a peaceful, stable, democratic future without the reproduction of past authoritarianism<sup>1</sup>.

Transitional justice has recently garnered more attention from academics and policymakers than ever before. It has also promoted and encouraged discourse in political and legal realms, especially in societies transitioning to democracy. During periods of political transformation, from authoritarian regimes, dictatorships, or civil strife to democracy, transitional justice often provides opportunities for these societies to address past human rights violations, collective traumas, or other forms of harm and facilitate a smoother transition to a more democratic and peaceful future.

Transitional justice, also known as justice in transition or transitional justice, is a relatively new concept in legal literature. In its most optimistic view, the emergence and genesis of transitional justice can be traced back to the Nuremberg trials at the end of World War II. However, most scholars do not consider its existence to be more than two decades old. Transitional justice, as a scientific concept, emerged with the

1. SOBHANI, M. 2016: «Evaluation of Traditional Justice Mechanisms in Transitional Societies». *Criminal Law Research Quarterly*, 2016, 4(15): 43-49.

collapse of apartheid in South Africa and quickly expanded into various fields and global platforms, including Rwanda, Yugoslavia, and Sierra Leone. Transitional justice is a comprehensive process that occurs in war-torn countries, newly liberated societies (post-war societies), or countries engulfed in internal turmoil where the rule of law has been suspended (societies in crisis). By addressing all aspects of war crimes and human rights violations, transitional justice provides these societies with an opportunity to transition from conflict, widespread human rights abuses, and the prevalence of violent crimes to the rule of law, social justice, and sustainable peace.

In recent years, a significant body of literature has been produced on the concept of transitional justice, with numerous works — mostly in English — published in this field. However, the meaning of transitional justice is not entirely clear, and different interpretations and understandings have been created in the minds of legal scholars. Perhaps the roots of these semantic differences can be found in the combination of two heterogeneous concepts in one phrase. Transitional justice is a combination of two different concepts: justice and transitional. On the one hand, the term justice, which embodies one of the greatest ethical values of humanity, represents a universal normative goal that humans have always sought to achieve. On the other hand, the term transitional denotes a specific situation, a momentary and limited one that lacks durability and universality. Therefore, the second term conditions and limits the first term in a significant way. However, the specifics of this constraint are not entirely clear. Is transitional justice the same as ordinary justice that remains unfulfilled due to societal upheaval resulting from genocide or other ethnic conflicts? Or is transitional justice a different kind of justice that differs fundamentally from justice in non-transitional moments?

In the first sense, the focus is on achieving the usual goals of justice, and practical solutions and difficulties arising from the conditions prevailing in transitional societies will be considered. In the second sense, a special justice is redefined, and theorists rethink their understanding of justice versus social violence. The concept of transitional justice can be interpreted in two different ways. In one interpretation, transitional justice is the same as ordinary justice applied in special circumstances. The term ordinary justice refers to the application of normal justice rules: the arrest of suspects; proving their guilt before a competent court and during a fair trial; and then, punishing them according to existing laws and regulations. In this approach, the existence of peace depends on the application of justice to past crimes committed, and the execution of punishments is necessary to restore balance to the moral order of society. Inherent legal and procedural safeguards for suspects are also crucial, and criminal justice guarantees for suspects are prerequisites for transitional justice. The portrayal of transitional justice as ordinary justice requires the fundamental rules of justice to be applied in all circumstances and situations — including sensitive moments after genocide, war, and ethnic conflicts. The transitional period is very sensitive and decisive. A shaky political and judicial system, the incompetence and illegitimacy of former authorities, and the lack of managerial and judicial experience of new forces are among the characteristics of this period. A sudden change in the political and judicial system is practically impossible, and therefore,

predicting a specific process is inevitable. In this process, punishing perpetrators of government violence, addressing the situation of victims of these crimes, amending primary laws, and changing administrative and judicial structures are of particular importance. Thus, what matters in this view is choosing an effective policy, employing appropriate implementation methods, and overcoming practical difficulties.

In another interpretation, transitional justice is a type of special justice that arises when replacing established rules of justice with new ones, and it is justified based on the ethical rupture that occurs in crises. What matters is the possibility of reconsidering fundamental principles of justice. Are the fundamental principles of justice universal and immutable at all times and in all places? Or have the fundamental principles of justice been regulated within the framework of societies enjoying ethical, social, and economic order, and since transitional societies have lost the foundations and prerequisites for the implementation of these principles, do they need new principles? In this approach, transitional justice focuses on rebuilding fractured societies, societies that have deteriorated morally and legally to the extent that reconsidering the fundamental principles of justice is justified. In this view, the inherent problems within a fractured society are much more than mere practical considerations that make achieving peace difficult. This perspective of transitional justice opens up space for the presentation of new rules required and appropriate to the demands of the time and defines a special justice — with an emphasis on criminal procedural regulations. Normal justice has provided a comprehensive set of procedural safeguards for suspects. Guarantees such as the right to counsel, the right to silence, and the right to confront witnesses are the essence of a fair trial, and without these legal protections, the impartiality of the criminal justice system is compromised. However, the mentioned procedural safeguards, after experiencing extreme social violence, are perceived as overly burdensome or even unjustified and are suspended. For example, prosecutors of criminal justice in Rwanda initially attempted to conduct a regular trial. However, this effort was quickly abandoned after the imprisonment of tens of thousands of detainees. Prosecutors of criminal justice did not have the human and financial resources needed to conduct a fair trial. As a result, local Gacaca courts took over and operated well below traditional criminal trial standards. Some critics consider this unfair. But proponents of this approach believe that victims must feel justice is being served to them to restore lost moral balance, even if a fair trial is sidelined in favor of their interests. This is where the fundamental principles of justice are reconsidered, and fair treatment of victims plays a key role in international criminal justice<sup>2</sup>.

There is a fundamental distinction between the two models mentioned. Transitional justice as a special justice focuses on collective accountability for crimes and collective

2. ALIPOUR, Parvin; ZAHEDI, Mohammad Javad, MALEKI, Amir & JAVADI-YEGANEH, Mohammad Reza. 2017: «Discourse Analysis of Gender Equality in the Sixth 5-year Plan for Economic, Cultural and Social Development of Islamic Republic of Iran». *Social Studies and Research in Iran*, 2017, 6(2): 203-229.

harms suffered by victims. International crimes usually involve one group committing offenses against another, and therefore, require a distinct approach. In contrast, transitional justice, as ordinary justice, is less concerned with collective and group actions. What matters is ensuring and guaranteeing fair trial standards. Despite this distinction, it cannot be ignored that what happens in transitional societies encompasses elements of both models. Transitional justice incorporates a combination of criminal, reparative, and societal actions. Transitional justice seeks to combat impunity and strengthen accountability for international crimes, recognize victims, and strive for peace and reconciliation through judicial and non-judicial mechanisms such as:

- a) Truth-seeking: Truth commissions and reconciliation commissions collect oral histories, document events, compile lists of conflict victims, identify the burial sites of mass graves, and specify the details of crimes committed, identifying perpetrators. In addition to this, recording the historical record of human rights violations is a form of public acknowledgment of the atrocities that have occurred and recognition of the suffering of victims.
- b) Criminal accountability: Criminal accountability both satisfies the victims and limits future human rights abuses. Criminal prosecutions are conducted through domestic or international institutions and adhere to the principles of fair trial. The participation of victims in the trial process is also of paramount importance.
- c) Reparations: Compensating the victims repairs the detrimental effects of international crimes. Financial support and symbolic actions help restore victims' previous status. Reparations may include financial compensation, meeting basic needs, providing counseling, medical and social services, facilitating local integration and resettlement of refugees, improving the safety and security of resettled refugees, providing tools and business opportunities, rebuilding sustainable livelihoods, and even issuing formal apologies from the perpetrators.
- d) Institutional reform: Reform programs are implemented in all government and civil society organizations. These plans purify all administrative, security, and political institutions and combat corruption within the armed forces or police. Numerous reform actions are necessary to restore public trust in these institutions, increase the public services of these organizations, improve their protective roles, and prevent future violations<sup>3</sup>.

### 3. GENDER POLICY

Gender policy in women's rights refers to a set of actions and measures aimed at influencing the status and rights of women and men, as well as patterns of relationships

3. FALLAHI, B. 2017: «Investigating gender mainstreaming in the policy-making process». *Public Policy*, 2017, 3(2): 237-257.

between the two genders at various levels of social and political life. The background of gender policy is very long and dates back to the earliest social order formulations, but in the modern sense, especially where it appears in the form of «gender policy-making» by governments and governmental institutions, it has roots in the ideas of thinkers such as John Locke, Mary Wollstonecraft, and John Stuart Mill, as well as in the experiences and consequences of the American and French revolutions. In the past couple of centuries, gender policy has gained more importance and dynamism. This has been due to the emergence and impact of new ideas and modern government resulting from the active involvement of women in public spheres and their efforts to change patterns, regulations, and gender-related norms<sup>4</sup>.

#### 4. DEVELOPMENT OF WOMEN'S RIGHTS IN TRANSITIONAL JUSTICE

Women's participation in achieving political and economic development is essential. Because women's status in societies is deeply influenced by the conditions and levels of development in countries, the more developed countries are, the narrower the gap between the development of women and men becomes. Therefore, improving the status of women is among the essential requirements for improving development indicators in any society. In other words, without considering the conditions of women, achieving development will not be feasible for any country. Additionally, the realities in many societies indicate that despite declarations, statements, and the establishment of various institutions and organizations, women suffer from issues and problems arising from economic and cultural poverty. One of the influential indicators of women's political and economic participation is their education and empowerment. The more planning and investment are made in the education and skills development of women, the more direct and indirect effects it will have on the economic and political participation of countries<sup>5</sup>.

Unlike economic development criteria that are quantifiable and can be evaluated and measured within statistical frameworks using precise calculations such as Gross Domestic Product (GDP), per capita income, changes in purchasing power, employment rates, etc., the level of political development cannot be precisely measured due to the qualitative nature of its elements. For example, determining the level of societal acceptance or the institutionalization of political legitimacy in a society and understanding

4. KESHAVARZ, Kh. 2022: «A Critical Review on the Book Feminist Thought: A More Comprehensive Introduction». *Critical Research of Humanities Texts and Programs*, 2022, 22(1): 313-333.

5. HOSSEINI Akbarnejad, H. 2022: «Analytical-critical study of gender mainstreaming in the practice of international institutions». *Women's Strategic Studies*, 2022, 24(95): 31-61.

the extent of political development from it can be difficult. The significant issue is the existence of relatively numerous variables and complex relationships among these variables, making it challenging to recognize the causal relationships between them. For instance, political legitimacy itself increases the level of participation in society, while political and social participation, in turn, contributes to political development and legitimacy<sup>6</sup>.

One of the indicators of political development is political participation, and since women constitute half of the human resources of any society, their role in political participation is crucial. The level of political participation significantly affects the legitimacy of the governing system. The higher the level of healthy and informed political participation, the higher the legitimacy. Political participation encompasses various forms such as voting, membership in political parties, candidacy in elections, etc. The political culture prevailing in society also influences political participation. Political culture refers to the attitudes of individuals in society towards the political system and ruling elites.

Political participation can be examined in two quantitative and qualitative ways; the quantitative aspect includes the percentage of female voter turnout in each country, and the qualitative aspect includes the level of political awareness among women. Robert Dahl and his colleagues have shown that education is one of the important factors influencing political participation. It can be said that as the level of education of individuals increases, both the quantitative and qualitative aspects of their political participation increase. Education indirectly also affects the elevation of individuals' social status and political effectiveness in their political participation.

## 4.1. Economic Development

According to many experts, human capital is one of the main sources of development, which includes the collective thoughts, beliefs, cultures, knowledge, skills, and power of all individuals, regardless of gender. Women are not only half of this development resource but have been nurturers and guides of both halves of this resource since ancient times, and whether willingly or unwillingly, they play a fundamental role in shaping the human dimensions of development, which can appear either positively or negatively. Many scholars, including Professor Harrison, believe that in economic development, capital and material resources play a secondary role, while human resources play the primary role because these human resources constitute a society that ultimately determines the essence and depth of economic and social development. According to Harrison, human resources form the ultimate wealth of nations. He writes: «Material and natural resources, as well as capital, are considered passive factors of production, while humans are active producers; because it is humans who

6. QAWAM, Abdul Ali. 1382: *Challenges of political development*. Tehran: Qoms Publishing.

create technology, extract natural resources, establish social, economic, and political organizations, and achieve development»<sup>7</sup>.

## 4.2. The Role of Women's Education in Development

With the growing industrial and post-industrial development of the world, and with the end of the International Decade for Women (1976-1985), a section called «Women in Development» was established in the United Nations Development Program in 1987. In a report on the United Nations Human Development Index indicators in 1993, women's participation rates in various sectors, including the desired development indicators, were highlighted. One important reason for focusing on women in development is the low literacy rate among men, which is the result of inadequate investment in women's education in the past.

Indicators of women's education include:

Literacy rate (low literacy rate among women in developing countries)

Enrollment in primary schools (low enrollment rate of girls compared to boys)

Years of schooling and dropout rates

Underinvestment in women's education can lead to a reduction in the potential benefits of educating men. This shortfall also imposes heavy costs due to loss of potential productivity, income, and quality of life improvement. However, women's education in developing countries still lags far behind men, and this disparity has had undesirable effects on the personal and national welfare of these countries<sup>8</sup>.

The overall impact of women's education on development indicators can be divided into direct and indirect effects. Education has a direct relationship with social welfare. Women's education affects child mortality rates. An educated mother provides more pre-and postnatal care and has a greater inclination to use healthcare services, leading to a direct increase in child survival rates. Additionally, women's education increases children's survival rates indirectly because educated women have higher productivity in the labor market and consequently earn more income, which improves the family's living standards<sup>9</sup>. access to education is gender-biased in developing countries worldwide. Women are indeed disproportionately present at all levels of education.

There is ample evidence supporting the belief that the more educated and literate women are, the faster and more sustainable their participation in education and training

7. PAKNIA, M. 2010: «Liberalism and radical liberal feminism: in the century». *Social Psychological Studies of Women*, Alzahra University, 1382, 8(2): 107-123.

8. HILL, M. A. & KING, E. M. 1993: «Women's education in developing countries: An overview». In *Women's education in developing countries: Barriers, benefits and policies*, 1-50, 17.

9. HILL, M. A. & KING, E. M. 1993: «Women's education in developing countries: An overview». *Women's education in developing countries: Barriers, benefits and policies*, 1-50, 30.



will be, yielding better outcomes. Women's education is defensible based on the principles of human rights, but cost-effectiveness in choosing a strategy for universal basic education is also justifiable. Education is one of the key indicators of sustainable development and one of the most important factors that can highlight gender inequality in society. Contrary to the notion that gender inequality in education only harms women, it should be noted that in the long run, this can be detrimental to the entire education system and even economic growth, ultimately leading to the failure to achieve sustainable development. Shortcomings in investing in women's education can lead to a reduction in the potential benefits of education for men. Additionally, this shortfall imposes heavy costs due to the loss of productivity, income, and improvement in quality of life.

### 4.3. The Role of Women in the Reconstruction and Development of Societies after Conflicts

The important role of women in the reconstruction and development of societies after conflicts can be examined from two perspectives: First, during times of war when men are killed, missing, or taken as prisoners, the burden of livelihood, security, and the well-being of the family falls on women's shoulders, and many of the wartime hardships become their responsibility, which were previously handled by men. Therefore, when women find themselves in such circumstances, they strive to preserve the community and the family. Thus, it is not surprising to say that women are driving forces for peace and from the outset strive to establish order and reconstruct conditions. However, it should be noted that women's participation in war and peace has been largely overlooked. While women not only play an important role in maintaining war-torn societies, but their effective participation is essential in the peace process and post-conflict reconstruction.

Throughout history, women have played a key role in maintaining order and normalizing conditions; therefore, they cannot be sidelined or ignored. In post-war conditions, women, whether individually or collectively, perhaps more than government officials or international aid, contribute to mediation, revitalization, local economic development, and social network reconstruction. It should also be noted that due to women's inclination towards peacebuilding and economic, social, and other forms of reconstruction, a return to pre-war gender gaps where women were overlooked is not feasible. Instead, confidence should be placed in the developed skills of women, and attention should be paid to providing technical and technological training and supporting women's employment in major reconstruction efforts. Therefore, support for girls' educational levels is essential. When conflict in a region is intense and traditional government services and support are insufficient, international and grassroots organizations focus on caring for affected areas, in which women play a special role due to their inherent attitudes and abilities. In such circumstances, women's spirits and abilities are particularly manifested in providing psychological and social support to orphaned children, the sick, and

elderly affected individuals, and these responsibilities in challenging conditions contribute to the enhancement of women's skills and abilities. So much so that it can be said that women are an essential and indispensable part of any reconstruction and socio-economic development<sup>10</sup>.

From another perspective, women play a fundamental role in post-war reconstruction and development; because they constitute half or more of the population in many countries; therefore, their participation in creating peace, sustainable development, and country reconstruction is essential. For example, in Africa (South Africa), women have played a significant role in post-war reconstruction, and in all countries on this continent, including Rwanda, Mozambique, Burundi, etc., women have contributed extensively to the reconstruction of their countries and have taken significant steps in this regard. With a general reference, it must be said that women have played an important role in political, economic, social, and other developments, in this section, we will focus on social reconstruction and development, which includes health and education.

#### 4.4. Social Reconstruction

The social services sector is one of the areas that suffers greatly during wars. The reason for this can also be found in the allocation of budgets related to this issue to military matters. Social reconstruction and development are complex processes that encompass many of the foundations of any society or nation: social identity, roles, relationships, institutions, and social welfare. In general, women have a significant emphasis on revitalizing and developing the social services sector after war and have initiatives to improve existing facilities. After the war, women strive to address the destructive problems of health care, education, and training, and with the cooperation of other social agencies, they endeavor to overcome post-war psychological and social disorders. Many analysts and observers of armed conflicts have stated that social services have been severely affected by wars, and their capacity has been reduced in such conflicts; therefore, the presence of women is essential for the revival of this sector of society<sup>11</sup>.

### 5. WOMEN'S RIGHTS IN LEGAL PROCEDURES

One of the important functions of the procedure in contemporary public law is the protection of the fundamental rights and freedoms of individuals, which has

10. CAHN, N.; HAYNES, D. F. & NI AOLAÍN, F. D. 2010: «Returning home: Women in post-conflict societies». *University of Baltimore Law Review*, Forthcoming, GWU Legal Studies Research Paper, 2010, (500): 10-14.

11. SORENSEN, B. 1999: «Women and Post-Conflict Reconstruction: Issues and Sources». *Social Change*, 1999, 29(3-4).

fundamentally highlighted the procedural nature of contemporary public law in this area. In addition, the protection of the rights and freedoms of citizens is one of the most important duties and powers of these institutions. An example of this can be seen in Article 66 of the French Constitution. This principle states that the judiciary is the «guardian of the freedom of the individual»<sup>12</sup>. In addition, numerous international documents have emphasized and stated gender equality, which is the main objective and requires programs and necessary changes and skills in the attitudes and behaviors of men and women. The Convention on the Elimination of All Forms of Discrimination Against Women and the Beijing Declaration are two key documents on gender equality<sup>13</sup>. In these documents, instead of defining equality, discrimination is defined, and emphasis is placed on the invalidation of criteria such as marriage and motherhood to create unequal situations between women and men. They have ingeniously avoided accepting the cognitive existence of this meaning, that specific situations of women are the basis of differentiation, and have not considered it as a criterion of inequality. Gender discrimination in Article 1 of the Convention on the Elimination of All Forms of Discrimination Against Women means any distinction, exclusion, or restriction based on gender that nullifies the recognition of women's human rights, fundamental freedoms, and equality and enjoyment of all rights and freedoms, regardless of marital status. Women's discrimination in all fields, including political, economic, social, cultural, civil, and other fields, has a detrimental effect or its goal is to eliminate this situation. UNICEF defines gender equality as women and men, girls and boys, having equal conditions, behaviors, and opportunities to realize their full potential, human rights, and their status, and to contribute to (and benefit from) economic, social, cultural, and political development; therefore, gender equality values the similarities and differences between men and women and the roles they play. On this basis, women and men are equal partners in the household, community, and society. Equality does not mean that men and women become the same, but rather, the rights, responsibilities, and opportunities of women and men are not dependent on being male or female. The UN Women's Development Fund states that gender equality, as an international commitment of states, means ending discrimination against women and men, firstly in the legal system and secondly in other normative systems, through the legal system. This means that rights should not only eliminate unfair laws but also end non-legal inequalities produced and reproduced in families, market, education, etc. The International Development Agenda Today, «gender justice» is employed alongside gender equality in legal and non-legal documents at both national and international levels by proponents who belong to different or conflicting intellectual paradigms. This alone indicates the complex dimensions of this concept, which is more than just a political debate and each interpretation has

12. BOZORGI, M. 2023: «Investigating the Role of Culture in Legal Practices in Spain». *AIS: Ars Iuris Salmanticensis*, 2023, 11(1): 101-116.

13. ALASVAND, F. 2018: «Gender justice as an interpretable and indeterminate concept». *Jurisprudential Studies of Women and Family Law*, 2018, 1(1): 59-78.

different prerequisites and requirements. In one interpretation, gender justice is a strategy centered on «gender» to achieve equality between men and women and eliminate gender stereotypes and create equality among genders. Therefore, when advocates of gender justice from both spectrums that use this concept today, probably do not have a common understanding of it, they do not speak about a common principle. In international discourse, gender justice, which included positive discrimination in favor of women, sought to create a situation beyond equality temporarily so that women could truly achieve equality<sup>14</sup>. UNICEF considers gender justice to consist of special temporary actions to compensate for historical or systemic biases that address different but fair behavior and positively compensate for the damage caused by gender roles or gender differences. Justice ensures that women and men, girls and boys, not only have equal opportunities at the starting point but also at the finishing line. From this organization's perspective, fair and just behavior considers the different needs of women and men, cultural barriers, and discrimination (past) against specific groups. In recent governmental and international institutional approaches, the term mainstreaming is not always used. Relevant programs and actions may seek to integrate or incorporate gender equality issues into development processes and procedures and development outcomes, which requires action to transform gender-related issues as an integral part of development policy and practice or increase attention to the gender equality approach. Gender mainstreaming strategy may be implicit rather than explicit in some cases, for example, through reference to gender-sensitive planning and policymaking. Gender mainstreaming is a strategy focused on achieving gender equality, which should be employed by relevant policy areas and sectors. This strategy requires explicit attention to both women and men and different gender identities and ensures that they can participate in, influence, and benefit from political processes and development performance. Thus, the United Nations Women's Agency has placed individuals with gender identities, including LGBTQ+ individuals, among the target groups and beneficiaries.

## 6. CONCLUSION

In this study, a set of gender justice-based policy tools has been obtained. Planners' attention to both genders is the basis of gender justice-based policy-making. This requires addressing the situation and position of both women and men in society. Gender justice does not focus solely on men or women. Justice will not be achieved by women prevailing over men or vice versa. Balance is achievable when both genders are represented in social spaces based on interests, preferences, productivity, and effectiveness and play roles. Attention to the situation of men and their inclusion

14. ALASVAND, F. 2018: «Gender justice as an interpretable and indeterminate concept». *Jurisprudential Studies of Women and Family Law*, 2018, 1(1): 59-78.

in gender justice-based policymaking, along with gender sensitivity, ensures greater justice for women as well. Gender injustice has become a public issue and should be addressed in the agenda of public policy. Gender mainstreaming is an international strategy for achieving gender equality that has been of interest at national, regional, and international levels in recent years, with liberal feminist teachings (and in some areas such as sexual and reproductive rights, and radical feminism) serving as its theoretical backbone. With more than two decades of practical experience, in many countries, various serious criticisms of different aspects of gender mainstreaming have been raised, and its practical outcomes have not been evaluated in favor of women in some areas. Gender mainstreaming is a strategy focused on achieving gender equality and encompasses social, political, cultural, and economic prerequisites that should be employed by relevant policy sectors and domains\* From the perspective of international institutions, the concept of gender is intertwined with cultural and religious values and social norms, and interpretations of it will vary in different societies. With the expansion of the concept of gender at the international level, gender mainstreaming has also undergone significant theoretical and practical developments, such that after the prohibition of discrimination against women and the acceptance of positive discrimination in favor of women as a fully established legal concept, gender mainstreaming projects focused more rigorously on sexual minorities and terms such as «sexual orientation», «gender identity», and «transgender» were explicitly stated in international documents and practices. The vision outlined in gender mainstreaming is one in which women and men have equal rights and opportunities in all personal, familial, and social matters, even though in some matters related to women's inherent characteristics and specific inclinations, such as supporting maternal roles, a different perspective should be taken towards women. On this basis, distinct rights and opportunities should also be defined for them, including in policymaking, the concept of balancing family and employment roles, which entails defining distinct rights and opportunities for women, so that this important and fate-determining issue of motherhood, which is necessary for the stability and sustainability of human societies, is realized appropriately and desirably. Some European writers believe that gender mainstreaming conflicts with human rights in this regard and leads to changes and derogation of gender roles (especially motherhood) because gender mainstreaming is based on feminist teachings that propose fundamental changes in social and cultural norms and lack a cultural-indigenous perspective, merely seeking to promote women's rights through the negation of family and family roles such as motherhood and spousal roles, a vision that is rejected and unpleasant to many women in various parts of the world.