

**THE 'TRANSFORMATIVE' IN REPARATIONS:
WOMEN, NATION AND VICTIMHOOD IN
CROATIA**

Josipa Šarić

Submitted in fulfilment of the requirements for the degree of
Doctor of Philosophy in Socio-Legal Studies

Kent Law School, University of Kent

October 2018

Word Count: 83,711

ABSTRACT

This thesis interrogates the assumption that women's inclusion in the design of reparations increases their potential to transform structural gender inequality. In recent years, the call for increasing 'women's participation' in the design and implementation of reparations for victims of conflict-related sexual violence has gained substantial traction in both scholarship and policy. While existing research has focused on the structural obstacles that place limitations on women's participation in reparation processes, little has been said about how women's participation may limit the transformative potential of reparations. Drawing on a wide range of qualitative data, ranging from interviews to social media content, this case study takes a socio-legal approach to examine the role of a Croatian right-wing, non-feminist women's group in the process of drafting and adopting a reparation law for victims of conflict-related sexual violence and considers how this group's involvement has impacted the reparation law's potential to transform structural gender inequality in Croatia. The thesis shows that the women's group acquired influence that directed the course of the legislative process and the outcome of the law due to its particular discourse, strategic actions, calculated compromises and the socio-political context at the time. Furthermore, the thesis argues that the women's group's influence facilitated the reparation law's alignment to a particular nationalist discourse which, due to the inextricable link between gender and nationalism, places limitations on the law's potential to transform structural gender inequality in Croatia. Finally, it presents three important points to consider when conducting an evaluation of the law's implementation and embarking on the design of future transformative reparation initiatives in nationalist contexts. First, that the inclusion of women and victims may not necessarily lead to developing reparations that aim to transform structural gender inequality. Second, that a reparation law exclusively aimed at victims of conflict-related sexual violence designed in a context saturated with nationalism may reinforce gender inequality. And third, that the involvement of international bodies in the design and implementation of reparations in nationalist contexts may be used by local grassroots movements to put pressure on the state in unforeseen ways that do not challenge structural gender inequality.

TABLE OF CONTENTS

Abstract	2
List of Abbreviations	7
Acknowledgements.....	8
Introduction	10
1. The motivation for the research	10
2. A brief overview of the concept of transformative reparations.....	13
3. Summary of the Croatian context.....	17
4. Methodological journey	22
5. Overview of the argument and outline of the thesis.....	35
Chapter 1: ‘Transformative Reparations’ for Conflict-Related Sexual Violence	40
1. Introduction	40
2. Transitional justice and its need for a transformative approach	44
3. Gender justice, women’s participation and transformative change	52
4. Conceptualising conflict-related sexual violence.....	60
5. Victim reparations and the ‘transformative potential’	64
I. Conceptualising victim reparations in transitional justice	65
II. The ‘political’ in reparation programmes in transitional justice.....	68
III. Defining the ‘transformative’ in reparation programmes	71
6. Conclusion	78
Chapter 2: Croatian Nationalism and the Importance of the Collective Victimhood Narrative	80
1. Introduction	80

2.	Tracing Croatia's claim to historical statehood.....	83
I.	Nationalism as a discourse: The Constitution of the Republic of Croatia.....	83
II.	The awakening of the Croatian nation: an ethnic nationalism?	86
III.	The rupture in the claim to historical statehood: The Kingdom of Yugoslavia....	90
3.	Establishing a victimhood narrative in Croatian nationalism	91
I.	Nationalism and history: facts or myths?	91
II.	Setting the scene: The Independent State of Croatia	93
4.	Transformation of Croatian nationalist discourse	99
5.	Croatian nationalist discourse and gender	105
6.	Conclusion	108

Chapter 3: Where are the Right-Wing and Nationalist Women? Women on Issues of War, Sexual Violence and Nationalism..... 110

1.	Introduction	110
2.	Conceptualising women's movements and right-wing women's agency	112
3.	The positioning of feminist, non-feminist, right-wing and nationalist women's groups.....	118
4.	Women's movement in former Yugoslavia and Croatia.....	120
I.	Women in the Yugoslav Partisan struggle and Yugoslav feminism	120
II.	The Yugoslav feminist divide	125
5.	International feminist dilemma: gender or ethnicity?	129
6.	Wall of Love and the Association of Women of the Homeland War.....	135
7.	Conclusion	139

Chapter 4: The Legislative Process: Inclusion of Women and Nationalism 141

1.	Introduction	141
2.	The socio-political context	142

I.	The Association of Women in the Homeland War.....	145
II.	UN Resolutions on women, peace and security and National Action Plans..	148
III.	The rise of the Croatian <i>branitelji</i>	151
3.	Drafting a law for the rights of victims of wartime sexual violence	154
I.	Background to the legislation.....	154
II.	Draft Proposal of the Law on Rights of Victims of Sexual Violence in the Homeland War	158
III.	The Alliance between the Association of Women in the Homeland War and Croatian feminists	164
4.	Adopting the <i>Law on the Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War</i>	168
I.	The first act: The roundtable in Vukovar.....	168
II.	The second act: Šatoraši in Savska street	170
III.	The third act: Parliament adopts the <i>Reparation Law</i>	175
5.	Conclusion.....	180

Chapter 5: The Politics of Representation: How the Association of Women in the Homeland War constructed the ‘Nation’s Ideal Victim’	182
1. Introduction	182
2. Women’s participation, agency and victimhood	183
3. The construction of the ‘nation’s ideal victim’	185
I. The nation’s ideal victim is female	186
II. The nation’s ideal victim is innocent.....	190
III. The nation’s ideal victim was violated by the Serb aggressor	192
IV. The nation’s ideal victim contributed to the independence of Croatia	193
V. The nation’s ideal victim is empowered, but financially vulnerable.....	200
4. The three forms of victimhood: silent, sacrificial and compensable.....	203

I. Silent victimhood.....	203
II. Sacrificial victimhood.....	206
III. Compensable victimhood.....	208
5. Conclusion	211
Chapter 6: The Association of Women in the Homeland War’s role in promoting and limiting the <i>Reparation Law’s</i> transformative potential	212
1. Introduction	212
2. ‘Modest’ transformations of structural gender inequality: the legislative process and its transformative potential	213
3. The challenge of Croatian nationalism: the <i>Reparation Law</i> and its transformative potential	226
4. Points to consider for scholarship and policy	237
5. Conclusion	240
Conclusion.....	242
Appendix 1: Consent Form in Croatian	258
Appendix 2: Initial Interview Guide in Croatian.....	259
Bibliography	261

LIST OF ABBREVIATIONS

AFŽ	Antifašistički Front Žena (Anti-Fascist Women's Front)
BIH	Bosna i Hercegovina (Bosnia and Herzegovina)
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CRSV	Conflict-Related Sexual Violence
EU	European Union
HDZ	Hrvatska Demokratska Zajednica (Croatian Democratic Union)
ICC	International Criminal Court
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
MP	Member of Parliament
NDH	Nezavisna Država Hrvatska (Independent State of Croatia)
UN	United Nations
UNDP	United Nations Development Programme
UNGA	United Nations General Assembly
UNSCR	United Nations Security Council Resolution
SDP	Socialdemokratska Partija (Social Democratic Party)
WPS	Women, Peace, and Security (agenda of the UN Security Council)

ACKNOWLEDGEMENTS

Completing this research would not have been possible without the support, kindness, and encouragement of many people.

I would like to begin by thanking my supervisors. I am grateful to Dr Emily Haslam for her invaluable guidance from day one. Her support, understanding and patience helped build my confidence as a researcher, and her insightful feedback pushed me to think more critically. I am also thankful to Dr Sara Kendall for her kind words, attentive feedback and thoughtful conversations, which came at critical moments in my journey. I want to express my gratitude to Prof Donatella Alessandrini, Prof Judy Fudge and Prof Didi Herman for their thoughtful and encouraging feedback during the reviews.

I am thankful to Kent Law School for the opportunity to grow professionally and intellectually as part of a community of critical legal scholars. I am grateful to the Centre for Critical International Law for enriching my intellectual journey with knowledgeable speakers and engaging workshops. Also, many thanks to the lovely people in the postgraduate office, especially Lynn Osborne and Karen Finch who were always so helpful.

Very special thanks to the inspiring individuals who participated in this research. Thank you for finding the time in your busy schedules to share your thoughts and experiences with me.

Special thanks to my 'roomies' Priya and Katia for believing in me and being there for me: laughing with me, crying with me, and always having Pringles and wine at hand. A huge thank you to my fellow PhD friends whom I had the pleasure of meeting and sharing this journey with: Thank you Aravinda, Jasper, Mark, Silvana, Josephine, Laura and Michalis. Thanks also to Serena, Nayeli and Arturo for their wisdom. Thank you, Luca, for all those lovely and thoughtful conversations in the kitchen.

I must express my thanks to the YMCA Walthamstow gym instructors who made me laugh and taught me how to push harder when it mattered the most. Thank you to the staff at Wynwood Art District Café for providing my grumpy self with coffee at random times of the day. I am grateful to the William Morris Gallery for having a quiet corner

perfect for writing. Finally, thanks to the communities at both Our Lady and St George's and St Mary's in Walthamstow for providing spaces where I could experience peace and tranquillity.

Loving thanks to my friends all around the world. Thank you, Danijela, for always finding the perfect way to cheer me up and keep me going. Thank you, Bassant, for kicking me when I needed to be kicked and for nourishing me with brunches, talks and walks. Thank you, Ivana D and Jelena, for enduring my grumpiness and cheering me on. Thank you, Eva, for remembering every big deadline and encouraging me to try new things. Thank you, Anna, for inspiring me and finding the time to see me. Thank you, Ivana S, for always thinking of me and keeping me in your prayers. Thank you, Luiza, Eleonora, Narelle, Marija P and Jorge for the serendipitous moments.

I owe a great deal of thanks to my parents Zrinka and Josip. Thank you for the prayers, support and encouragement, and for always believing in me regardless of our different standpoints on Croatia. Thank you to my aunt and godmother Nada for always keeping me in her prayers. Thank you to my aunt Zora, for her prayers and thoughtful emails and text messages.

I would also like to express my thanks to my lovely sisters: Ana-Marija, Jelena, Ivana, Katarina and Victoria. Thank you for taking turns to be there for me throughout this journey. Thank you for grounding me with all the drama and for always expressing your different perspectives. I have learned and continue to learn so much from you.

Finally, I would like to express my deepest gratitude to my life partner, Miguel. Were it not for our stimulating conversations on all aspects of life, politics and society; I may not have had the courage to challenge myself and embark on this journey. I am grateful for your intellectual rigour that has pushed me to sharpen my thinking. Thank you for always providing the perfect balance of emotional and intellectual support. I dedicate this thesis to you.

INTRODUCTION

'Sunčica was only eight months old when she was taken prisoner, along with her mother, in occupied Vukovar.

Her mother was held in an apartment and used as a sexual slave. Sunčica didn't know what her mother was being forced to do, and cried because she needed her. Serbian soldiers, whose enjoyment in their crimes was disturbed by her cries, threw their heavy military jackets over her to muffle the sound. Miraculously, Sunčica was not smothered under the heavy gear, and survived the eight month long imprisonment. Twenty years later, Sunčica is a grown girl and knows what was done to her and her mother. Sunčica is strong, she survived the occupier's jackets, as well as the crime of silence and suppression still being committed against her and her mother today.

Croatia is interwoven with the strength of countless Sunčicas'.¹

1. The motivation for the research

In the autumn of 2011, while working at the Croatian Ministry of Justice, a briefing on a book promotion landed on my desk. At closer inspection, I discovered that the book was titled *Sunčica* and that the Association of Women in the Homeland War² had recently held a book promotion in Zagreb with the aim of raising awareness about silenced wartime rape and sexual violence in Croatia. Immediately intrigued, I conducted a quick internet search for more information about the event and the book. A couple of days later, I was in possession of an electronic version of the *Sunčica*, and soon after I became a member of the Sunčica Facebook Group. I decided to follow the Association's campaign to stay informed on the topic. A few years later I embarked on this doctoral study inspired by the briefing that landed on my desk that one day.

The motivation for this project started with an interest in the *Sunčica* story and its role in the awareness-raising campaign led by the Association of Women in the Homeland War. Later on, my motivation came from a desire to understand why a somewhat newly formed right-wing, non-feminist women's group was leading the campaign for victim reparations, and not one of Croatia's long-standing and recognised feminist women's

¹ Marija Slišković (ed), *Sunčica/Sunny* (Hrvatsko društvo logoraša srpskih koncentracijskih logora 2011).

² Throughout this thesis I will use the 'Association of Women in the Homeland War' and the 'Association' interchangeably.

groups. Established in 2006, the Association of Women in the Homeland War spent the period between 2011 and 2013 campaigning for public and governmental support for its cause; to establish a legal status for Croatia's victims of wartime sexual violence. Although Marija Slišković, its founder and then president, mainly represented the Association, it was also supported by the work of its attorney and victim activists.³ Its initial aim was to break the silence surrounding the wartime rape and sexual violence in Croatia and provide victims with appropriate reparations. Although campaigning for a cause that is generally promoted by feminist activists, the Association placed the rapes and sexual violence in a nationalist narrative, emphasising the perpetrator as the 'Serb aggressor'. Moreover, it regularly used words such as 'sacrifice' and 'greater purpose' when attempting to rationalise the harm that was caused and place it within the context of the Homeland War.

The use of nationalist discourse when speaking about the rape of 'our' women is not a new phenomenon. Scholars have explored the ways nationalism leads to women becoming targets of rape merely because of their membership in a particular national or ethnic group.⁴ The war that took place on the territory of former Yugoslavia was one example of how women were systematically raped due to their group membership.⁵ Nevertheless, observing how the Association used nationalist language when speaking about the right to reparations for victims of wartime rape and sexual violence triggered my interest because I was intrigued to see how its participation may affect the law-making process. Feminist studies of international criminal law have long debated the issue that is presented when attempting to make wartime rape visible as a matter of political and legal importance. They have pointed to the ways the intersection of ethnicity and gender increases the visibility of rape, but obstructs discussions of violence against women in general.⁶ I was interested to see whether similar problems would translate to the context of claiming rights for victims of wartime sexual violence.

³ In this thesis, I consider the Association of Women in the Homeland War through its institutional capacity. In this sense, the lawyer and victims activists acted in the capacity of the Association.

⁴ V Spike Peterson, 'Sexing Political Identities/Nationalism as Heterosexism' (1999) 1 *International Feminist Journal of Politics* 35.

⁵ Alexandra Stiglmayer, *Mass Rape: The War Against Women in Bosnia-Herzegovina* (U of Nebraska Press 1994).

⁶ Cynthia Enloe, *Maneuvers* (University of California Press 2000); Doris E Buss, 'The Curious Visibility of Wartime Rape: Gender and Ethnicity in International Criminal Law' (2007) 25 *Windsor Yearbook of Access to Justice* 3.

I also wanted to understand what role feminist women's organisations played in this developing story about Croatia's victim reparations. Namely, feminist organisations have been active in Croatia since the 1980s and 1990s in terms of helping and assisting victims of wartime sexual violence as well as providing long-term support to victims of domestic abuse. Based on my knowledge of the important role international feminist groups played in the legal recognition of rape and sexual violence as an international crime,⁷ I assumed that feminist women's groups would be involved in the push for a legal remedy for victims of wartime sexual violence in Croatia as well. Yet, initial media coverage of the Association's campaign did not show the presence of other Croatian feminist organisations. I wanted to understand the positionality of feminist women's organisations in regards to the Association's campaign and what role they played in the reparation process.

Guided by these initial questions, this research evolved with the changing social, legal and political landscape in Croatia. Based on observations made of the unfolding events, it became more evident to me that the story of *Croatia's Law on the Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War* was impossible to tell without an understanding of who Sunčica is and what she symbolizes for the Association. More importantly, excluding Sunčica from the narrative would be an indirect exclusion of the victims who were active in campaigning for their right to reparation. As shown in the introductory excerpt from the book of testimonies, Sunčica is a young woman who was only eight months old when she, along with her mother, was held captive during the occupation of Vukovar, Croatia in 1991. Although Sunčica is not directly a victim of wartime sexual violence, she is chosen by a group of women to embody the victimhood of those who survived wartime sexual violence in Croatia. For this reason, the introductory account of Sunčica's first few months of life is not only a story about Sunčica. It is also a symbol of how a particular group of women and victims understand their victimhood and struggle for recognition. As in Sunčica's story, their story demonstrates innocence and miraculous survival, as

⁷ R Copelon, 'Gendered War Crimes: Reconceptualising Rape in Time of War' in Julie Stone Peters and Andrea Wolper (eds), *Women's rights, human rights: international feminist perspectives* (Routledge 1995); Karen Engle, 'Feminism and Its (Dis)Contents: Criminalizing Wartime Rape in Bosnia and Herzegovina' (2005) 99 *The American Journal of International Law* 778; Janet Halley, 'Rape at Rome: Feminist Interventions in the Criminalization of Sex-Related Violence in Positive International Criminal Law' (2008) 30 *Michigan Journal of International Law* 1.

well as a strength that endures the silencing of their victimisation. However, overall, their story uncovers a particular meaning of Croatian victimhood, which is key to understanding the complexity surrounding the law's transformative potential.

This thesis focuses on the Association of Women in the Homeland War, which I refer to as a right-wing, non-feminist women's group, and its participation in the Croatian reparation process. It analyses the Association's role in the formalisation of rights for victims of wartime sexual violence by considering the actions it took and the language it used to claim the victims' right to reparation as well as the context within which the legislative process took place. Specifically, the thesis is guided by the question: 'What does right-wing women's participation mean for the potential of Croatia's reparation law to transform structural gender inequality in Croatia?'

This thesis aims to contribute to feminist scholarship on transitional justice, specifically contributing to knowledge about women's participation in transitional justice processes. It does this by drawing on insights from literature on nationalism and feminist approaches to transitional justice, on a broader set of literature in the fields of international criminal law and victimology that relates to sexual violence, victimhood, agency and women's participation, and on observations that emerged from fieldwork that was conducted in Zagreb, Croatia. The research aims to uncover some of the complexities that arise when a right-wing, non-feminist women's group uses nationalist discourse in a nationalist context to push for reparations for victims of conflict-related sexual violence, and to consider how the implications of its involvement may impact the reparation law's potential to transform structural gender inequality in Croatia.

2. A brief overview of the concept of transformative reparations

In 2005, the *UN Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* established the right to reparations and identified five different forms of reparation: restitution, compensation, rehabilitation, satisfaction, and guarantees of nonrepetition.⁸ 'Guarantee of non-

⁸ UNGA Res 60/147 'Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law' (16 December 2005) UN Doc A/RES/60/147.

repetition’, one of the core principles of the guidelines, has been identified as central ‘to the “transformative” potential of reparations for victims of sexual violence crime given its focus on preventative measures and addressing the more structural impediments to eliminating violence against women’.⁹

Following the adoption of the *Basic Principles*, critical scholarship on gender and reparations began to emerge demonstrating the limitations of the existing reparative measures and the need for a ‘transformative’ approach. In her study of various transitional justice contexts and women in them, Rubio-Marin highlights how reparation programmes which were meant to redress victims affected by mass violence were unable to recognise the different type of victimisations women had faced.¹⁰ Consequently, the claim for reparations to become more ‘transformative’ emerged. In this sense, transformative reparations would go beyond redressing the immediate harm victims had suffered and also aim to address the structural gender inequality that led to the sexual violence in the first place.¹¹

In addition to academic developments, a transnational coalition of women’s civil society organisations developed the *Nairobi Declaration on Women’s and Girl’s Rights to a Remedy and Reparation* in 2007¹² in response to the *Basic Principle’s* lack of ‘attention to gender issues and to the specific situations of women and girls’.¹³ The aim of the *Nairobi Declaration* was to promote a gendered approach to the implementation of the *Basic Principles*. One of the key points it makes is that restitution alone is not enough, because ‘the origins of violations of women’s and girls’ human rights predate the conflict situation’. For this reason, ‘reparation must drive post-conflict transformation of socio-cultural injustices, and political and structural inequalities that shape the lives of women

⁹ Rashida Manjoo, ‘Introduction: Reflections on the Concept and Implementation of Transformative Reparations’ (2017) 21 *The International Journal of Human Rights* 1193.

¹⁰ Ruth Rubio-Marin, ‘The Gender of Reparations: Setting the Agenda’ in Ruth Rubio-Marin (ed), *What Happened to the Women? Gender and Reparations for Human Rights Violations* (The Social Science Research Council 2006).

¹¹ Ruth Rubio-Marin (ed), *The Gender of Reparations : Unsettling Sexual Hierarchies While Redressing Human Rights Violations* (Cambridge University Press 2009).

¹² ‘Nairobi Declaration on Women and Girls’ Right to a Remedy and Reparation’ <https://www.fidh.org/IMG/pdf/NAIROBI_DECLARATIONeng.pdf> accessed 15 September 2015 (declaration issued at the International Meeting on Women’s and Girls’ Right to a Remedy and Reparation, Nairobi, Kenya, 19–21 March 2007).

¹³ Fionnuala Ni Aolain, Catherine O’Rourke and Aisling Swaine, ‘Transforming Reparations for Conflict-Related Sexual Violence: Principles and Practice’ (2015) 28 *Harvard Human Rights Journal* 97, 123.

and girls'.¹⁴ In addition, it highlights the importance of women's participation and calls for it to become central to the reparation process.¹⁵ It notes how 'without the participation of women and girls from different ethnicities, class, locations, and so on, reparative initiatives are more likely to reflect men's experiences of violence as well as their concerns, priorities and needs regarding redress, thus sidelining the unique experiences and needs of women survivors'.¹⁶

The 2010 report by Rashida Manjoo, the Special Rapporteur on Violence against Women, Its Causes and Consequences, draws on these efforts and emphasises the need for transformative reparations to 'subvert instead of reinforce pre-existing patterns of cross-cutting structural subordination, gender hierarchies, systemic marginalization and structural inequalities that may be at the root cause of the violence that women experience before, during and after the conflict'.¹⁷ Echoing the *Nairobi Declaration*, it emphasises the importance of women's participation by stating that 'such participation is important for women and society in general to draw links between past and present forms of violence and seize the opportunity provided by reparations discussions to press for more structural reforms'.¹⁸ Following these important developments and the increasing UN attention given to conflict-related sexual violence, the *UN Guidance Note of the Secretary-General on Reparations for Conflict-Related Sexual Violence* was launched in 2014 reaffirming that 'reparations should strive to be transformative, including in design, implementation and impact'.¹⁹ It stressed the need for the design of reparations to be 'guided by their potential to be transformative', which is possible through meaningful participation and consultation of women and victims.²⁰

Currently, two approaches to conceptualising 'transformative' reparations exist in both scholarship and policy with the aim of providing guidance on how to affect the transformative potential of reparations. On the one hand, literature has labelled

¹⁴ 'Nairobi Declaration on Women and Girls' Right to a Remedy and Reparation' (n 12).

¹⁵ Valerie Couillard, 'The Nairobi Declaration: Redefining Reparation for Women Victims of Sexual Violence,' *International Journal of Transitional Justice* 1(3) (2007): 450

¹⁶ Manjoo (n 9) 1195; 'Nairobi Declaration on Women and Girls' Right to a Remedy and Reparation' (n 12).

¹⁷ Rashida Manjoo, 'Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences' (2010) UN Doc A/HRC/14/22 para 24.

¹⁸ *ibid* 29.

¹⁹ Office of the United Nations High Commissioner for Human Rights (OHCHR) and UN Women, 'Guidance Note of the Secretary-General: Reparations for Conflict-Related Sexual Violence' (2014) 2, Section A, para 4.

²⁰ *ibid* 9.

transformative reparations as ‘modest projects of transformation’,²¹ which aim for the transformative objective by being ‘sensitive, flexible, and encapsulate[ing] gender-appropriate approaches.’²² With such an approach transformative reparations would address the immediate harm caused by conflict-related sexual violence but would also pay attention to the ‘broader social and economic context in which the harm was occasioned’.²³ Essentially, the ‘modest’ approach provides reparations with the potential to ‘subvert prevailing discriminatory norms’.²⁴ It is also the basic requirement of reparations ‘as part of a human rights framework premised on *nondiscrimination* on the basis of gender and socially weighted differences’.²⁵

On the other hand, initiatives such as the *Nairobi Declaration* have advocated for reparations to embrace a broader agenda aimed at social transformation by ‘remodelling society with a view to eliminate the pre-existing structural inequalities that have led to or encourage violence against women’.²⁶ Criticised on the grounds of ‘practical realism and political feasibility’, Urban Walker has additionally pointed out how the ‘transformative’ agenda ‘threatens to bypass or displace reparative justice as a distinct and distinctly victim-centered ideal in favour of a different kind of justice agenda’.²⁷ Essentially, it risks taking away the focus from individual victims ‘whose status as bearers of rights and subjects of justice depends crucially on their standing to claim accountability and repair for violations to their individual persons.’²⁸

For the purposes of this thesis, ‘transformative reparations’ for conflict-related sexual violence are considered reparations that address harm both on the individual and collective level. The individual level refers to reparations addressing the immediate harms victims have suffered as a result of conflict-related sexual violence. The collective

²¹ Catherine O’Rourke and Aisling Swaine, ‘Gender, Violence and Reparations in Northern Ireland: A Story yet to Be Told’ (2017) 21 *The International Journal of Human Rights* 1302, 1305; Rubio-Marin, *The Gender of Reparations : Unsettling Sexual Hierarchies While Redressing Human Rights Violations* (n 11).

²² Ni Aolain, O’Rourke and Swaine (n 13) 110.

²³ *ibid.*

²⁴ Rubio-Marin, *The Gender of Reparations : Unsettling Sexual Hierarchies While Redressing Human Rights Violations* (n 11) 66.

²⁵ Margaret Urban Walker, ‘Transformative Reparations? A Critical Look at a Current Trend in Thinking about Gender-Just Reparations’ (2016) 10 *International Journal of Transitional Justice* 108, 109.

²⁶ Valérie Couillard, ‘The Nairobi Declaration: Redefining Reparation for Women Victims of Sexual Violence’ (2007) 1 *International Journal of Transitional Justice* 444, 450.

²⁷ Urban Walker (n 25) 110; Lars Waldorf, ‘Anticipating the Past: Transitional Justice and Socio-Economic Wrongs’ (2012) 21 *Social & Legal Studies*.

²⁸ Urban Walker (n 25) 110.

level points to reparations' potential to challenge pre-existing gender hierarchies and structural gender inequalities, which is referred to in this thesis as the potential to transform structural gender inequality in a given society.

3. Summary of the Croatian context

The story of Croatia's *Law on the Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War* is based in present-day Croatia. However, it regularly refers to the past, particularly the period of the 1990s. The past plays a vital role in present-day Croatia, especially concerning discussion on truth and justice. For this reason, I must clarify three terms that have cast the main roles in Croatia's past: the Homeland War, *branitelji* and victims. These three terms frame the story of Croatia's reparation law.

Generally known as the Croatian War of Independence, the armed conflict that took place on Croatian territory from 1991 to 1995 is referred to as the 'Homeland War' in Croatia. Following Croatia's declaration of independence from the Socialist Federal Republic of Yugoslavia in June 1991 and the establishment of the so-called Republika Srpska Krajina (RSK), a Serb controlled separatist region of Krajina, the attack of the Yugoslav People's Army (Jugoslavenska Narodna Armija or the JNA) on Croatian territory is considered the start of the Homeland War. The armed conflict was fought by JNA and Serb forces on one side and the Croatian army and police forces on the other, but also included special units associated with Belgrade and Zagreb.

The war consisted of heavy bombardment of towns and cities and extensive property destruction, which included the 'JNA siege and levelling of Vukovar and the shelling of Dubrovnik and other Dalmatian cities'.²⁹ The town of Vukovar is often cited as the symbol of ultimate Croatian suffering during the Homeland War. Being an ethnically mixed town in the eastern Slavonia area of Croatia, tensions steadily increased in 1991 with clashes erupting in May 1991. The JNA intervention significantly escalated the conflict leading to a three-month siege 'during which the town was relentlessly pounded

²⁹ Lavinia Stan (ed), 'Croatia', *Encyclopedia of Transitional Justice, Volume 2* (Cambridge University Press 2013) 120 </core/books/encyclopedia-of-transitional-justice/3B29452FCC780067A352DFBE6CC4C2CB> accessed 17 November 2017; Iavor Rangelov, *Nationalism and the Rule of Law : Lessons from the Balkans and Beyond* (Cambridge University Press 2014) 142–143.

and reduced to an eerie and razed wasteland'.³⁰ The defenders who were defending the town were greatly outnumbered and eventually conceded defeat on 18 November 1991. About 600 defenders were killed in Vukovar, and when the town was sieged, many who survived were detained in Serb camps in both Vukovar and Serbia for periods of three days to nine months. However, the worst massacre took place two days after the fall of Vukovar. About 264 defenders and civilians were taken from the local hospital to Ovčara, an isolated farm located five kilometres south-east of Vukovar, and shot. Based on current numbers, only 200 bodies have been located, with 64 victims still missing. The town was integrated after the war in 1995, but 'local Serbs and Croats remain deeply divided in their memories of the wartime years'.³¹

Although mass atrocities and serious human rights violations were committed by the JNA, RSK forces and the Serbian special units, campaigns of ethnic cleansing³² were pursued on all sides of the conflict. Croatia is still coming to terms with the abuse attributed to its armed and police forces. By the end of 1991, one-third of the territory of Croatia was controlled by the JNA and Serb forces. With the purpose of regaining Serb-held areas, Croatian forces had conducted several special operations. The Croatian army regained control of most RSK controlled areas in Operation Storm, which was a military operation that peaked in August 1995 and is celebrated annually in Croatia on the 5th of August. Although the military operation regained occupied territory, it also resulted in the fleeing and displacement of about 150,000 to 200,000 Serb civilians from Krajina and included intimidation, killing, plunder and destruction of property of the local Serb population. The Croatian public and the Serb minority in the country still remain divided in their memories of Operation Storm.

Not surprisingly, the Yugoslav wars are interpreted differently in the separate ex-Yugoslav states. In Croatia, the Declaration of the Homeland War serves as a legal reference for the official understanding of the Croatian War of Independence. Having entered into power in October 2000, the Declaration begins by emphasising that 'with their victory in the Homeland War (1991 – 1995) the Croatian nation and citizens have

³⁰ Janine Natalya Clark, 'Giving Peace a Chance: Croatia's Branitelji and the Imperative of Reintegration' (2013) 65 *Europe-Asia Studies* 1931, 1931.

³¹ Rangelov (n 29) 142.

³² Ethnic cleansing is a strategy for establishing control over territory through the expulsion and displacement of civilian populations.

confirmed their determination and readiness for the establishment and preservation of the Republic of Croatia as an independent, sovereign and democratic state'.³³ Although its purpose is to 'stop the radical politicisation of the Homeland War and the worrisome polarisation of Croatian society, which can have far-reaching consequences', the Declaration was essentially drafted to clarify how the Homeland War should be understood in Croatia and legally binds all legislation to this understanding. Emphasising that Serbia, Montenegro and the Yugoslav National Army (JNA) along with armed groups from the local Serbian population executed armed aggression on the Republic of Croatia, it stipulates that the 'Republic of Croatia led a just and legitimate, defensive and liberating war, and not a war of aggression or conquest. It defended its territory from Greater-Serbian aggression within its internationally recognised borders'.

In this thesis 'Homeland War' will be used to refer to the armed conflict that took place in Croatia from 1991 to 1995. Although this was the name that the Tuđmanist narrative of the 1990s insisted on using to refer to the war, since then most layers of Croatian society, politics and media have also adopted it.³⁴ More importantly, this is how all the sources throughout this research refer to the conflict. I use this term in light of its widespread use, yet it does not signify my own political leaning in any way.

Defenders played a significant role in the Homeland War. Usually referred to as ex-combatants in transitional justice literature, Croatian war veterans from the Homeland War are called *branitelji*, the plural for the Croatian word *branitelj*, meaning 'defender'. This is how they are still referred to even though the armed conflict in Croatia ended more than 20 years ago. Based on numbers from May 2017, the diverse and heterogeneous *branitelji* population comes to 505, 694 war veterans.³⁵ Since the Homeland War, they have organised into many veterans' associations that cater to specific war veterans' needs.³⁶ The largest veteran's association in Croatia is the *Udruga hrvatskih vojnih invalida Domovinskog rata* (the Association of Croatian Military Invalids

³³ Deklaracija o Domovinskom ratu, NN 102/2000 (17.10.2000); text translated by the author.

³⁴ Dejan Jović, 'Croatia after Tuđman: The ICTY and Issues of Transitional Justice' (13-27) 116 Chaillot Paper 2
<<https://dspace.stir.ac.uk/bitstream/1893/1993/2/Jovic%2c%20Chaillot%20Paper%20116%2c%20June%202009%2c%20as%20published%5b1%5d.pdf>> accessed 5 November 2017.

³⁵ Ministarstvo hrvatskih branitelja, Nacrt prijedloga novog Zakona o hrvatskim braniteljima iz Domovinskog rata i članovima njihovih obitelji 2017.

³⁶ Clark (n 30) 1931.

of the Homeland War), commonly known as the HVIDR, which assists disabled veterans. There is also the *Hrvatsko društvo logoraša srpskih koncentracijskih logora* (HDLSKL or Croatian Association of Camp Inmates of Serbian Concentration Camps), which helps veterans who had been held in Serb-run camps in Vukovar or in Serbia.³⁷

Evident from the Croatian term used to refer to the war veterans, the *branitelji* identity is a 'war-time identity of defence'. However, since the war, it has also become a distinguished identity. The *branitelji* are praised as being the brave individuals who responded to the call to defend the newly established Croatian state, and for this reason, they are continuously described as brave, heroic and dedicated to the cause. However, most importantly, the *branitelji* embody this identity themselves. For example, every year during the commemoration of the fall of Vukovar on the 18th of November, thousands of people make their way from the local hospital to the memorial centre. Leading this 'Memory Column' are the *branitelji* in rank-and-file walking dressed in their 'combat fatigues and carrying the flags of their various veteran's associations'.³⁸

In the Croatian political context, any form of challenge towards this distinguished identity becomes problematic. In the 1990s, the Croatian judiciary took the position that war crimes could not be committed in a defensive war. Essentially, *branitelji* could not be war criminals, because they were defending the country. This led to the members of the Croatian army and police being granted immunity from prosecution for war crime offences. Although this position was changed under the Račan government in the 2000s, the understanding that *branitelji* could not have committed war crimes has remained within the *branitelji* population.³⁹ Prosecutions of *branitelji* either at a local court or the International Criminal Tribunal for the Former Yugoslavia have always 'been recast as an attack on the legitimacy of the Homeland War and the Croatian state itself'.⁴⁰

However, it is not just the *branitelji* population that enforces this distinguished identity. The Croatian government, and in particular, the policies of the centre-right Croatian Democratic Union government have ensured that this identity is not challenged, and as

³⁷ *ibid* 1936.

³⁸ *ibid* 1940.

³⁹ Rangelov (n 29) 232.

⁴⁰ Victor Peskin and Mieczysław P Boduszyński, 'International Justice and Domestic Politics: Post-Tudjman Croatia and the International Criminal Tribunal for the Former Yugoslavia' (2003) 55 *Europe-Asia Studies* 1117; Rangelov (n 29) 151.

some suggest, this has hindered the *branitelji*'s further reintegration into Croatian society. Since the war, *branitelji* have been offered significant financial support by the state. This was the main approach to dealing with the war veteran population. This approach is referred to as 'reinsertion' and is intended to last at most a year. However, in Croatia, it has become a permanent approach to supporting the *branitelji* population.⁴¹ To put this in perspective, the payment of pensions that *branitelji* receive is significantly higher than the Croatian average pension. In 2009, the average pension was 2166 kuna, which is approximately 227 GBP. The average military pension was 3525 kuna, while the *branitelji* pension stood at 5861 kunas.⁴²

Although the pension the *branitelji* receive depends on the level of disability and the length of combat service, in 2010 it was estimated that 10,000 of the registered *branitelji* were not genuine war veterans.⁴³ Many gained their status by bribing doctors or members of commissions for disability pensions. In an effort to begin reviewing the system, in 2012 the centre-left government published the War Veteran Register online. In addition to the register, a proper review of the system is also necessary. However, the reality is that the current state of affairs in relation to the *branitelji* population serves the Croatian politicians. The war veterans are a powerful constituency for the Croatian Democratic Union's vote, and properly reviewing the system in order to lessen the drain on the public purse would shake the current state of affairs. For the purposes of this thesis, I will refer to the Croatian war veterans as *branitelji*, who are mostly men and mostly symbolise male involvement in the Homeland War. Although I could use the term 'defender', I have chosen to stay true to the local language with this word, because I believe it best reflects the population in context.

Similarly, this thesis will also use the term 'victim' as opposed to 'survivor' when addressing individuals who have suffered from rape or sexual violence. Although the Croatian language has a word for victim ('žrtva') and survivor ('preživjeli'), the dominant term used in Croatia, in both public discourse and policy discourse, to label individuals who have suffered from abuse or harm is 'victim'. This is particularly the case when speaking about abuse and harm suffered during the Homeland War. Moreover, the

⁴¹ Clark (n 30) 1936.

⁴² *ibid* 1937.

⁴³ *ibid* 1935.

'victim' is used in the reparation process as well as in the final legislation, and so it would be unhelpful and confusing to introduce a new term.

However, I use the term 'victim' while aware of the cautionary arguments made by opponents of the term, who suggest that using such a label risks oversimplifying and politicising the experience. The 'victim' label originated in the 1970s as a response to the lack of attention to domestic violence against women. In order to stress the seriousness of the violence, the 'victim' label was emphasised in order to invoke emotions of pity and sympathy from the public. Of course, this meant that battered women were then cast as 'the simple object of abuse without response whatever that response may be'.⁴⁴ Negative traits such as 'stigmatised' and 'passive' were attributed to the label of the victim and became entrenched in the public perception of the victim. Essentially, 'victims' were seen as unable to overcome their suffering and were therefore viewed as weak, helpless and damaged. In response to this negative perception attributed to the label 'victim', 'survivor' emerged within feminist discourse as an alternative identity that would draw out more positive traits. Emphasising attributes such as agency and initiative, the label 'survivor' symbolised a rejection of the ascribed passivity that came with victimisation and suffering and instead emphasised strength and resistance. Although 'survivor' is deemed a more inclusive term that demonstrates agency and power and is, therefore, a more appropriate term to use when talking about agency and survival, this thesis reclaims the term 'victim' and uses it to authentically reflect the individuals involved in the Croatian reparation process.

4. Methodological journey

Broadly understood, this research is a qualitative case study of transitional justice in Croatia.⁴⁵ In this thesis, I take a feminist approach to qualitative research with the purpose of addressing the gap in knowledge about the participation of right-wing, non-feminist women's groups in transitional justice processes, particularly in Croatia. In conducting this research, I have relied on a set of principles that guide feminist approaches to qualitative research. These principles include 'a spirit of critique; a challenge to claims of objectivity in research; consciousness of gender as a force that

⁴⁴ K Barry, *Female Sexual Slavery* (New York University Press 1979) 46.

⁴⁵ Broadly defined, a case study is an intensive analysis of a case and is focused on the complexity of the case in question. See Alan Bryman, *Social Research Methods* (4 edition, OUP Oxford 2012) 66.

organises social life and thought; ethical and equitable research practices; and an action orientation focused on personal, institutional, theoretical, and social transformation.⁴⁶ My topic relates to the feminist goals of creating new knowledge about the role of women in society, critiquing assumptions and increasing the visibility of groups that have been marginalised. In this sense, my choice to study the role of a right-wing women's groups is not based on ideological grounds, but on the fact that feminist literature tends to neglect these women either because they disagree with their ideological perspective or because they are unable to acknowledge their agency.

Located within the field of interdisciplinary approaches to studying the law, this inquiry of the legislative process that led to the adoption of Croatia's *Law on the Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War* and its potential to transform structural gender inequality is also driven by a socio-legal approach. This approach considers that the 'analysis of law is directly linked to the analysis of the social situation to which the law applies, and should be put into the perspective of that situation by seeing the part the law plays in the creation, maintenance and/or change of the situation'.⁴⁷ With this in mind, the analysis of context plays a central role in this research because this thesis is essentially exploring how the social and political interact with the legal and what implications the legal may have on the social and political. In this sense, I applied sociological methods to the study of the law by conducting interviews and analysing parliamentary debates, documents, newspaper articles as well as made personal observations in the field. Moreover, as is the case in transitional justice scholarship, the law can be studied as a mechanism that regulates the rights of individuals, but it can also be investigated as a tool that enforces certain truths or accounts of the past. In this sense, this research pays close attention to the ways the law is used to reinforce 'truths' of the past.

In order to gain a better understanding of who the right-wing, non-feminist women's group was and how it represented victims in the legislative process, I relied on narrative analysis. A simplified understanding of narrative analysis is that it looks at the ways in

⁴⁶ Judith A Cook and Mary Margaret Fonow, *Beyond Methodology Feminist Scholarship as Lived Research* (1991); Lucy E Bailey, 'Feminist Research' in Stephen D Lapan and others (eds), *Qualitative Research: An Introduction to Methods and Designs* (John Wiley & Sons, Incorporated 2011).

⁴⁷ David N Schiff, 'Socio-Legal Theory: Social Structure and Law' (1976) 39 *Modern Law Review* 287, 287.

which people make and use stories to interpret the world.⁴⁸ In this sense, narratives that people tell are considered ‘social products produced by people within the context of social, historical and cultural locations.’ My analysis of how the women’s group spoke about victimhood was used to further interrogate how its participation in the given context increased its political influence within the Ministerial Working Group that was tasked to draft the legislation.

Grounded in my fieldwork conducted in Zagreb and Vukovar, Croatia and my close reading and analysis of primary and secondary sources, this study began with an observation made about the social world and then developed into an inquiry about a Croatian women’s group and its role in the creation of Croatia’s *Reparation Law*. In the spirit of feminist qualitative research, this thesis does not aim to capture the truth about the reparation process in Croatia but merely provides an interpretation of the social world in question. Instead, the knowledge that is produced through this thesis is best understood as ‘situated knowledge’.⁴⁹ Studying other people who have their own viewpoints means that there is no neutral truth to this topic. In fact, my account of Croatian victimhood, Croatian nationalism, the Association of Women in the Homeland War and the reparation process reflects my own situated understanding and particular interest in the subjects. Claiming that my interpretation of this particular topic is the only truth would mean that I am denying the ‘diversity of viewpoints and experiences of other people’ who have been involved in producing this research.⁵⁰ If anything, my purpose with presenting this perspective of this story is to shed some light on the importance of paying attention to the role of right-wing women’s groups in Croatian society, and specifically in the Croatian reparation process.

At the onset of my study, the design and drafting phase of Croatia’s reparation law was just beginning. In the fall of 2013, when I had embarked on my research endeavour, the Association of Women in the Homeland War had just joined an important partnership with the Ministry of Veterans’ Affairs, the Office of the United Nations Development

⁴⁸ Steph Lawler, ‘Narrative in Social Research’ in Tim May (ed), *Qualitative Research in Action* (SAGE Publications Ltd 2002) 242.

⁴⁹ Donna Haraway, ‘Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective’ (1988) 14 *Feminist Studies* 575.

⁵⁰ Margaret Wetherell, Stephanie Taylor and Simeon J Yates, *Discourse as Data: A Guide for Analysis* (SAGE 2001) 12.

Programme in Croatia and the Swiss Embassy of Zagreb with the purpose of securing financial resources to begin addressing the needs of victims. The amount of material related to Croatian victims of wartime sexual violence and the newly commenced reparation process was growing by the day. The challenge throughout this research was to recognise what material qualified as data.

Since this study focuses on the Croatian reparation process for victims of wartime sexual violence, I divided the reparation process into two important phases: 1) the awareness-raising campaign phase that took place from 2011 to 2013 and 2) the design and drafting phase that took place from 2014 to 2015. Initially, I started selecting documents and potential participants that best represented these two critical phases of the reparation process. I selected a number of documents that were related to the topic of Croatian victims of wartime rape and sexual violence from various credible sources. The selected documents included publications by the Association of Women in the Homeland War, the Center for Women Victims of War – Rosa, the Croatian Ministry of Veterans' Affairs and the Office of the United Nations Development Programme in Croatia. I also collected relevant newspaper articles from leading Croatian newspapers in order to piece the timeline together, and relevant blog entries on the Association's online blog 'Sunčica' in order to identify events the Association deemed important. In addition to published documents, I collected data from events that took place throughout these two phases. Events included roundtable discussions, conferences, and concerts that were directly related to the topic of Croatian victims of wartime sexual violence in Croatia. Data included video recordings of the events, documents that contained key lessons and summaries of the events and personal field notes taken during the events I had attended.

Following a thematic analysis of the data I initially selected, I identified preliminary themes that appeared throughout the two phases of the reparation process. Using these themes, I created a preliminary interview guide with which I conducted pilot interviews in October 2015 with the aim of testing the themes. I interviewed 2 female members of the Ministerial Working Group responsible for designing and drafting the reparation law: Višnja Mišin, a former war journalist and lawyer who assists the Association of Women in the Homeland War with legal advice, and Marijana Senjak, a psychologist-psychotherapist with years of experience working with survivors of war rape and sexual

violence in both Bosnia-Herzegovina and Croatia, who is also one of the founders of *Medica Zenica*. I also had my first meeting with a very knowledgeable, helpful and kind female government official from the Ministry of Veterans' Affairs.

It was only following my pilot interviews and initial meeting with the Ministry of Veterans' Affairs that I decided to focus my study on the role of the Association of Women in the Homeland War in the reparation process. With this in mind, I returned to my initial data selection and this time divided it into two new categories. The first category consisted of data that was used to explore the socio-political context within which the reparation process was happening. This category included data such as newspaper articles, draft legislation, parliamentary discussions and institutional documents. The second category of data was directly related to the Association of Women in the Homeland War, which included personal field notes, online or newspaper publications of interviews or accounts of the Association's activities, published blog entries from the Association's blog 'Sunčica', the book of testimonies and the later produced documentary film also titled 'Sunčica'.

With the purpose of gaining a better understanding of the Association's role in the reparation process and also its understanding of victimhood, I analysed the Association's discourse from 2011 to 2015. I began with a thematic analysis and identified three overarching themes in the Association's discourse: silencing, sacrifice, and compensation. Although the themes were present throughout the reparation process, they were each dominant at different times within the select period. Silencing was dominant during the Association's campaigning period, sacrifice was mostly present during the end of the campaigning period and the initial drafting period, and compensation became the major theme of the final period immediately before Parliament adopted the legislation. Based on these three themes and their corresponding periods throughout the reparation process, I focused on seven documents and events in my analysis of the Association's discourse. The selected data consisted of the book of testimonies '*Sunčica*', the Association's online blog '*Sunčica*', a roundtable that took place in Vukovar in April 2012, an awareness-raising classical music concert '*Mi smo uz vas*', a documentary film also titled '*Sunčica*', a roundtable that took place in Zagreb in April 2014 and a regional conference that took place in Zagreb in May 2014.

Although I had enough data to begin my analysis of the Association's discourse and role in the reparation process, I wanted to ensure that I had included different perspectives. I redrafted my interview guide to include the newly identified themes and returned to Zagreb, Croatia in April 2015 to conduct an additional 5 elite interviews with members of the Ministerial Working Group. I also conducted an interview with the government official with whom I had at this point established a good rapport over several email exchanges. I interviewed Bojan Glavašević, former Assistant Minister of Veterans' Affairs; Nela Pamuković, co-founder of Centre for Women War Victims; Rada Borić, feminist linguist and activist and currently director of Centre for Women's Studies in Zagreb; Milena Čalić Jelić, legal advisor at the NGO Documenta; Jasmina Papa, UNDP; and finally Marija Slišković, president of the Association of Women in the Homeland War. One potential interviewee declined my invitation for an interview on the grounds that she was no longer able to assist on the topic. Another potential interviewee did not respond to my emails. My sample of participants represents a 'specimen perspective', which means the selection was not meant to represent a population as a whole. Instead, the selection was meant to represent a particular group of individuals directly involved in the drafting process of the legislation.

While conducting my research, I applied ethical research practices. Prior to conducting my pilot interviews and my follow-up interviews, I carefully considered the Socio Legal Studies Association's Statement of Principles of Ethical Research Practice and obtained ethical approval from the Kent Law School Research Ethics Advisory Group. I reflected on whether my research would pose any risk to the participants. Although I did not anticipate any risks in interviewing activists, lawyers, government officials, academics and victim activists, I did consider that the topic of sexual violence in the Homeland War could lead to a politically charged conversation. In this sense, I made sure to navigate my interviews in a way that would allow participants to go off-record at any point in time.

I also considered the way I would deal with issues relating to confidentiality during the project and in data analysis. I made sure to store all my data in a secure location, ensured that the data was encrypted and removed any personal references to the files so that they could not be linked to an individual. However, having considered that I would conduct elite interviews with most of my participants, I decided that I would keep these

interviews 'on the record' and only apply anonymity if requested by the participant. I informed each participant of this approach in the Information Sheet I provided prior to my interview with them. In the case of victim activists, I decided to use a pseudonym; however, in the end, I did not conduct any interviews with victim activists due to ethical concerns I had in the field.

I arranged all my interviews over email and phone. Prior to each interview, participants were given an Information Sheet which provided background about myself the interviewer, the research study and how I would conduct the interviews and use the data afterwards. Participants were also provided with a consent form to sign. In the consent form, participants were given the opportunity to agree with five statements. As evident in Appendix 1, the statements related to the participants understanding the information provided in the Information Sheet; understanding that they were allowed to ask any questions about the project; understanding that they could stop the interview and withdraw from the interview at any point in time as well as request for the recording or notes to be destroyed; agreeing to be recorded; and agreeing for quotations attributed to the participant to be used in publications, reports, web pages, and other research outputs. They would be given the opportunity to see and revise any quotations before they would be used in publications. As stated in my Information Sheet, if quotes would be used for publication purposes, participants would be contacted through email. Finally, participants would be emailed the results of my research once my thesis has been completed.

Interviews were conducted in person as semi-structured elite interviews. Even though I planned to follow an interview guide, at times the interviews turned into relaxed conversations between the participants and myself. The purpose was to allow the participants to express what they deemed most important in the reparation process. We spoke about how the participants became involved in this area of law and what they thought were some key moments in the reparation process. I inquired about the disagreements over the type of compensation, their views on the controversy over the definition of the perpetrator and the overall purpose of the law. I also asked them to

share any concerns they may have had regarding the final version of the law. The interviews took approximately one hour to complete.⁵¹

As regards to the use of data collected through interviews, it became clear during my research that the interviews were a useful method for confirming the themes and findings I had identified through my documentary analysis. In my thesis, I do not attribute my findings solely to the data collected through the interviews. Moreover, when I use direct quotes from participants, which I rarely do, it is mostly to illustrate agreement amongst several participants or to illustrate how a particular participant reflected on a theme I had focused on in my analysis. Throughout my thesis I have been careful not to use the voice of my participants in a way that may misrepresent them, particularly considering the power dynamic that was present in the interview process.

The interviews that I conducted were mostly with policy-makers and feminist activists. Although I had initially intended to interview victims about their role in the process of advocating and drafting the reparation law, in the end, I chose not to for ethical reasons. Namely, as a member of the public 'Sunčica' Facebook Group, I reached out to two women who had already provided public testimonies at conferences and to the media through private messaging on the social media platform. These women were also very active in the group by regularly updating the members about the developments in the legislative process as well as any fundraising that was taking place. I chose to send them a short private message through Facebook because I wanted to ask them directly whether they wanted to participate, instead of contacting them through the President, which may have given them less room to reject my request. Previous to my messages, I had spoken on the phone to the President of the Association in order to arrange an interview, and I was sure they would be in contact to confirm my motivations.

Shortly afterwards, I spoke to one of the women over the phone. Although she insisted that she was 'just a victim' and that I should instead interview the president of the Association of Women in the Homeland War, she nevertheless invited me to attend one of the Sunčica Foundation's regular weekly meetings in their meeting hours in Vukovar, Croatia. However, she seemed quite reluctant to participate in an interview. This reluctance signalled to me that perhaps a one-on-one interaction would not be

⁵¹ The initial interview guide is provided in Appendix 2.

comfortable for her or any other members of the Sunčica Foundation. For this reason, I decided against interviewing victim activists.

In the spirit of conducting qualitative research that included participating in conferences in order to experience and observe interactions between different women activists and government officials, I also attended a meeting at the Sunčica Foundation. As I was invited to attend a regular meeting of the members of the Sunčica foundation who were all most probably victims of wartime sexual violence, I decided in advance that I would not be conducting interviews because I did not have enough time to properly inform potential participants. Also, this decision was based on my inability to know who would be present at the meeting, their level of vulnerability, as well as reflection on the power imbalance regarding me the researcher who had been invited by the most vocal member without properly briefing the entire membership of the Sunčica Foundation. With this in mind, I visited Vukovar and attended the Sunčica Foundation meeting as an observer. Upon arrival, I introduced myself to all the members that were present at the meeting, explained what my research was about and that I was attending their meeting as an observer.

The meeting took place on a Friday, as their usual meetings take place Tuesdays and Fridays, and lasted two hours. Since the Foundation does not have a formal membership, I will refer to the ten individuals who were present at the meeting as victims of wartime sexual violence. Of the ten individuals, nine were female, and one was male. The majority remained silent throughout the meeting, except for three women, who were also the most publicly active on the issue with the Association. During this meeting a priest and his postgraduate student from the Theology University in Đakovo, Croatia were also present. We engaged in conversations about the issue of silencing, the empowerment that comes from speaking up about victimisation, the positive impact of faith and religion in recovery and issues regarding reconciliation (differences between Serbs and Croats). Although I did not take notes during the meeting in order to fully participate in the meeting and conversations, I took detailed field notes after the meeting was over. These notes were used to inform my understanding of the role victims played in the reparations process and their understanding of justice and empowerment and whether both were achieved. I do not use any data that I obtained through this observation in my thesis.

At the start of my work on this research, a distance existed between myself, the researcher, and the research itself. However, this distance slowly diminished as the research process developed. The more I immersed myself into the details of this thesis, the easier it became to forget my own blind spots. It became essential to regularly step back from the details in order to reflect on the way my own role as the researcher impacted this thesis. I draw this approach to reflexivity from Haraway's idea of feminist objectivity, which is understood as a partial perspective. Following this approach, the aim of this research is to open up the uniqueness of this case to the world, rather than to seek closure on it. Knowledge production that follows this tradition is always placed within a context, whether socioeconomic, historical or cultural. The knowledge presented with this research, therefore, reflects the socio-political context of present-day Croatia: a democratic state that has spent the past two decades recovering from armed conflict and is now facing the challenges of its newly acquired European Union membership. As the context of my research focus is ever-changing, I cannot claim to have conducted this research with pure objectivity. Instead, I acknowledge that I have had the privilege of a partial perspective, which is limited and situated within the particular context that this research took place in. And for this reason, the knowledge produced is richer in content precisely because it takes into consideration the details of this environment that was investigated.

One aspect of my partial perspective is my personal background. I belong to a 'returnee' Croatian family from Canada, in other words, a Croatian family that moved back to Croatia, my parents' homeland, from Canada in 1999. It was my parents' dream to eventually return to Croatia, and they had achieved it a few years after the war had ended. Living in Canada, I was brought up with a strong sense of Croatian identity and taught about the significance of the Homeland War. Although my present understanding of national identity and the Homeland War diverges from my parents' view, it was due to my personal background that I was able to recognise the nationalist characteristics exhibited by the Association of Women in the Homeland War. And this is why I was even more intrigued by the fact that the Association was leading the campaign for victim reparations and not a Croatian feminist organisation. However, my Croatian Canadian background that has given me bilingual knowledge of both Croatian and English has also impaired me in some way. Inevitably, I may have biased views on Croatian national

identity, national politics, and the Homeland War. Although living abroad in countries like Austria, Switzerland and the United Kingdom has helped me recognise my bias and reflect upon it, I think it is important to acknowledge that bias still exists.

Apart from inherited bias, my background as a Croatian Canadian returnee had also granted me an insider status, which was very helpful when I spoke to individuals who are passionate about their national identity and role in the Homeland War. The participants were very friendly towards me, possibly because they assumed that I could relate to their appreciation of Croatian identity. This welcoming approach was evident in the way some participants spoke to me about their views on Croatian identity and the Homeland War. They came across as very comfortable in speaking about these topics. However, they did not go into great detail when explaining the meaning of specific events or their use of specific terms, even when prompted to. Instead, they would use the phrase, 'well you know', as if to remind me that I know what things really mean. I believe this was because participants assumed that I shared similar views to them and therefore understood the implied meanings. This assumption could be because I introduced myself as a Croat from a Croatian Canadian background in order to explain my funny accent in Croatian. However, it is not uncommon for individuals to quickly jump to the assumption that all Croatian Canadians have strong feelings towards Croatian identity and the need to protect and cherish it.⁵² Even though my insider status meant I was 'spared' some important and relevant details, it was very beneficial for my research because I was able to quickly establish rapport with some of my participants and quickly cover complex and sensitive topics.

As any identity is complex, so is the identity of the researcher. It was interesting to observe that the participants who were very passionate about Croatian identity and politics chose not to focus on my background as a researcher from Kent Law School or my experience of working in the Croatian Ministry of Justice. In contrast, when interviewing prominent Croatian feminist activists and academics, my identity as a feminist researcher from Kent Law School took the forefront. In a way, it seemed to me that I was also granted insider status with this group of participants because of my

⁵² Croatian Canadians are generally viewed as having very nationalist views on Croatian politics and history. For more see: Winland, Daphne N., *We Are Now a Nation: Croats Between 'Home and Homeland'*. University of Toronto Press, 2007.

interest in feminist studies of the law and the Balkans. Inevitably, I was once again 'spared' the details and was able to establish quick, friendly and welcoming rapport. I had the same experience when interviewing government officials from the Ministry of Veterans' Affairs, which I can attribute to my experience of the Croatian public sector, in particular, my experience of working on an EU funded project with individuals from the Ministry of Veterans' Affairs. As explored, my personal background had some impact on the research process and its results. On the one hand, I was able to quickly engage in very informative interviews. On the other hand, it became challenging to gain a deeper understanding of certain issues and meanings.

Prior to conducting my pilot interviews, I made sure to contact a gatekeeper and provide general information on my research and what I was hoping to do with my interviews. The gatekeeper I approached was a government official from the Ministry of Veterans' Affairs who was closely acquainted with the process of drafting the new legislation. Having expressed my desire to interview key individuals who were involved in the drafting process, I was provided with names and emails of individuals that would be open to participating. It was helpful that the government official informed members of the Ministerial Working Group about my research and call for participants. I would like to believe that my established rapport with the government official and assistance I received in contacting potential interviewees provided the participants with confidence in responding to my emails and agreeing to conduct the interviews. In addition to the gatekeeper approach, I also asked participants to recommend anyone they thought would be interesting to talk to. This 'snowball' sampling approach was also helpful in contacting and recruiting participants.

It is also important to reflect on the setting and timing of interviews that were conducted. Although conducting interviews in a place the participants recommended themselves helped the interview transition into a relaxed conversation between two people, the timing of the interviews was an unfortunate coincidence. I discovered that two other researchers had conducted interviews on slightly different topics with most of the participants I was interviewing only days before my scheduled interviews. On the one hand, this was a positive coincidence because the participants had prior experience with the process and were more relaxed when I asked questions that were a bit more sensitive. On the other hand, the fact that they had just conducted interviews on a

similar topic with other researchers meant that some of their answers appeared scripted. Once I became aware of my timing, it became a challenge to break the barrier of the seemingly scripted response.

Finally, I would like to acknowledge the role of language and translation in this research. As mentioned earlier, the legislation, the interviews and the discourse that were studied are all in the original Croatian language. This thesis, including the analysis of the data, is in English. Although being bilingual in Croatian and English greatly facilitated my ability to navigate the language divide, I find it is still important to acknowledge that conducting research in a different language has its issues and challenges. One issue that was always present in my mind when translating original Croatian text into English was whether I was accurately representing what the author wanted to say. Although I worked for a couple of years as a translator and was quite confident with my translating abilities, I nevertheless consulted former colleagues when I was in any doubt.

The challenge that I most often encountered was related to the meaning and interpretation of certain terms. For example, when speaking about victims in English, the word 'victim' is generally interpreted as an individual who was harmed or suffered in some way or form. However, when speaking about victims in Croatian and within the Croatian context, the word 'žrtva' is immediately political. It means more than just an individual that has been harmed or has suffered in some way or form. In Croatian, and especially when speaking about the Homeland War, 'žrtva' can also mean sacrifice, specifically the sacrifice made or the price to pay for freedom. Another example is the term 'transitional justice'. Although transitional justice is not apolitical, the term itself can be used in an apolitical way. However, the Croatian term 'tranzicijska pravda' means more than just transitional justice. It implies challenging the Homeland War narrative, which states that Croatia was defending itself against aggression from enemy forces. Furthermore, this narrative insists the defending army could not have possibly committed war crimes, because it was acting out of self-defence. Navigating the use of different terms in both English and Croatian and being aware of how this may come across in the interview context was definitely a challenge.

5. Overview of the argument and outline of the thesis

With the aim of contributing to knowledge on women's participation in transitional justice processes, this thesis interrogates the assumption that women's inclusion in the design of reparation programmes increases the likelihood of a transformative process and a transformative outcome. It conducts a case study analysis of the role of a Croatian right-wing, non-feminist women's group in the process of drafting and adopting Croatia's *Law on the Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War*, and considers how the implications of its involvement may impact the law's potential to transform structural gender inequality in Croatian society. The thesis sets out to answer the question: 'What does right-wing women's participation mean for the potential of Croatia's reparation law to transform structural gender inequality in Croatia?'

This research demonstrates that the use of nationalist discourse within a nationalist context complicates both women's participation in reparations processes and the potential of reparations to transform structural gender inequality in a society, specifically in Croatian society. It looks at how the Association initiated the legislative process at a particular point in time with the publication of the Sunčica testimony book and this way gained the attention of the President of the Republic of Croatia at the time, feminist women's groups, the UNDP and the Ministry of Veterans' Affairs. Moreover, it interrogates how the Association's use of discourse that both promoted women's empowerment and was compatible with the dominant nationalist discourse at the time provided it with influence that feminist women's groups did not enjoy in the Croatian context but also led to it securing an alliance with these same groups. Finally, through its strategic actions aimed at securing legislation that would be meaningful for victims and would reinforce the official narrative of the Homeland War, this research argues that the Association increased its political influence, thus impacting the course of the legislative process and swaying the final outcome of the *Reparation Law*. As a result of its influence, the law is aligned to a particular nationalist discourse.

The law's alignment to a particular nationalist discourse is problematic because it legitimises nationalist discourse through the law, thereby reinforcing gender hierarchies in Croatian society that are produced through this particular nationalist discourse. The

thesis demonstrates this alignment by showing how the process of defining legal victimhood status led to the reinforcement of the state's official narrative of the Homeland War, which ultimately led to the *Reparation Law* legitimising nationalist discourse. It identifies three actions that led to this alignment: constant reference to the 'Serbian perpetrator', the legitimisation of a victimhood hierarchy and the last minute amendments to the law's title.

As a result, the thesis argues that the inextricable link between gender and nationalism in Croatia limits the *Reparation Law's* potential to transform structural gender inequality in Croatia in three ways. First, it risks legitimising gendered nationalism in Croatia; second, it risks setting a bad example for future legislation; finally, and most importantly, it risks limiting the law's potential to guarantee non-repetition because it reinforces the idea that sexual violence is the worst form of violence against women and marginalises the everyday violence against women that takes place in Croatia.

The contribution of this thesis is threefold. Firstly, it contributes to contemporary debates about the need to increase women's participation in transitional justice processes, particularly in drafting and implementing reparations for conflict-related sexual violence. I contend that dismissing right-wing women's involvement in reparation processes risks generating an incomplete image of women's impact on the transformative potential of reparations for conflict-related sexual violence. Secondly, I highlight the importance of investigating the complex ways that right-wing women's groups may influence the transformative potential of reparations processes, in order to widen the understanding of their involvement on issues relating to violence against women. Thirdly, I offer an original analysis of the process that led to the adoption of Croatia's reparation law for victims of conflict-related sexual violence, for which there is little examination of how women's participation, particularly right-wing women's participation, influenced the law's nationalist connotations and consequently limited its transformative potential.

The thesis proceeds as follows. Chapter 1 examines the meaning of transformative reparations by focusing on three elements central to this research: transformation, women's participation and reparations. The first part of the chapter discusses why transitional justice is increasingly embracing a transformative approach. It considers the

notion of transformative justice in relation to transition by highlighting its call for the inclusion of grassroots groups and victims groups in order to move away from top-down approaches to justice and better address the structural inequalities. Then, the chapter turns to interrogate the notion of participation, specifically 'women's participation'. It identifies how 'women's participation' has become a central theme in feminist scholarship in transitional justice and in UN policies on transitional justice and peace-building. Supporting the view that increasing 'women's participation' in transitional justice processes is an ambiguous objective that is based on instrumentalist arguments and assumptions, the chapter identifies a need to interrogate the assumption that women's participation increases the likelihood of transformative processes and outcomes. As reparations have been identified as one of the more capable mechanisms for pursuing transformative justice, the final part of the chapter discusses the recent literature and policy developments on transformative reparations. It concludes by demonstrating the need for more knowledge about how women's participation in reparation processes limits the transformative potential of reparations.

Chapter 2 explores contemporary Croatian nationalism in its historical context. It shows how contemporary Croatian nationalist discourse is closely intertwined with the concept of victimhood and how it informs gender relations in Croatian society. As a result, nationalism is inevitably present in discussions about victims of the Homeland War in Croatia and inextricably linked with gender. Chapter 3 identifies the lack of feminist scholarly engagement with right-wing and nationalism women's movements, which is particularly evident in feminist scholarship on women's organising in Croatia regarding issues of nationalism, rape and war. It argues that this omission is due to an assumption that right-wing women and nationalist women do not exercise political agency when mobilising for nationalist causes. This assumption rests on the idea that it is not possible to claim both a gender and ethnic identity. In order to address this gap in the literature, the chapter provides a historical overview of the interests and motivations of both feminist women's groups and non-feminist right-wing women's groups in Croatia. It does this by charting the emergence of both feminist and non-feminist women's groups and exploring their positioning in relation to issues of war, sexual violence and nationalism. It concludes by highlighting the need for more knowledge on right-wing women's groups in Croatia.

The next three chapters of the thesis are based on empirical research that focuses specifically on events taking place in Croatia between the years of 2011 and 2015. Chapter 4 shows how the socio-political context, calculated compromises and strategic actions helped the Association of Women in the Homeland War acquire political influence and consequently sway the direction of the *Reparation Law*. The first part explores the international and national socio-political context, specifically looking at the events preceding the publishing of the testimony book “Sunčica” and the events that took place during the establishment of the Working Group. First, it describes the emergence of the Association as a civil society organisation. Then, it considers the significance of the introduction and implementation of the United Nation’s Security Council Resolution 1325 in Croatia. Finally, it illustrates the power of war veterans, known as *branitelji*, at that point in time. The second part of the chapter focuses on the drafting process of the *Reparation Law* and the controversies that surrounded it. It provides a brief background to the legislation and then analyses the initial draft of the *Reparation Law* paying close attention to the role of the Association and the influence of nationalist discourse. The third section analyses the events that took place during the process of adopting the final draft of the *Reparation Law*. It shows how the events at a Roundtable in Vukovar led to war veteran protests in front of the Ministry of Veterans’ Affairs. It concludes by explaining how those events and the actions of the Association influenced the course of the 2nd parliamentary reading of the law, its adoption and its final amendments. The chapter argues that by acquiring enough political influence, the Association of Women in the Homeland War swayed the direction of the legislation so that it became a tool for reinforcing the official narrative of the Homeland War.

As the thesis focuses on the participation of the Association of Women in the Homeland War in the drafting process of the reparation law, Chapter 5 explores how the Association campaigned for the rights of victims of wartime sexual violence. Drawing upon victimhood theory provided by Christie and later elaborated by van Wijk in order to test its application to international crimes,⁵³ the chapter analyses the discourse that the Association of Women in the Homeland War used in its representation of victimhood

⁵³ J van Wijk, ‘Who Is the ‘little Old Lady’ of International Crimes? Nils Christie’s Concept of the Ideal Victim Reinterpreted’ (2013) 19 *International review of victimology*. 159.

from 2011 to 2015. By choosing this particular period, the chapter explores the Association's discourse during its campaigning for public and governmental awareness of the issue of victims' rights but also its discourse during the period the Ministerial Working Group was designing and drafting the legislation. The data it draws upon includes publications, speeches, presentations, films, blog and Facebook entries as well as public events and conferences. The chapter argues that the Association was representing victimhood in a particular way. Essentially, through its discourse, it was constructing the 'nation's ideal victim', which I argue has the following features: female, innocent, violated by the Serb aggressor, contributing to the independence of Croatia and empowered, yet still vulnerable. The chapter demonstrates how the 'nation's ideal victim' takes the form of a silenced, sacrificial and compensable victim at different stages of the reparation process for the purpose of evoking public support and applying pressure on the Ministry of Veterans' Affairs.

Building on the arguments presented in the previous two chapters, Chapter 6 illustrates how the participation of the Association of Women in the Homeland War, which represented victims of wartime sexual violence in a particular way, has significant implications for the legislation's potential to transform structural gender inequality in Croatian society. It argues that the actions of the right-wing, non-feminist women's group that conforms to the dominant nationalist discourse of the socio-political context to some extent influenced the process through which the legislation was realised from its inception to its adoption. Consequently, the *Reparation Law* is aligned to a particular nationalist discourse that severely limits the potential that this process and the resulting law have for the transformation of structural gender inequality in Croatian society. It demonstrates this alignment by showing how the process of defining legal victimhood status led to the reinforcement of the state's official narrative of the Homeland War, which ultimately led to the *Reparation Law* legitimising nationalist discourse. It identified three actions that led to this alignment: continuous reference to the 'Serbian perpetrator', the legitimisation of a victimhood hierarchy and the last minute amendments to the law's title. The chapter concludes with three points that should be kept in mind when evaluating the legislation's implementation and embarking on the design of future reparation programmes or laws.

CHAPTER 1

'TRANSFORMATIVE REPARATIONS' FOR CONFLICT-RELATED SEXUAL VIOLENCE

1. Introduction

On 10 June 2014, the actress and United Nations special envoy Angelina Jolie opened a four-day global summit on the topic of ending sexual violence during war. In her opening address, which she gave alongside her co-host, then British Foreign Secretary William Hague, she said that 'there is no disgrace in being a survivor of sexual violence – the shame is on the aggressor'.⁵⁴ The public clapped and cheered in response to her call for more prosecutions of conflict-related sexual violence.⁵⁵ A year later the United Nations General Assembly adopted a resolution that declared June 19 as the annual 'International Day for the Elimination of Sexual Violence in Conflict'.⁵⁶ These events not only reached general news media sources, but they were also promoted by the general public through social media, demonstrating how visible conflict-related sexual violence has become.

The Global Summit and the International Day for the Elimination of Sexual Violence in Conflict build upon essential developments of the past three decades. The statutes of the International Criminal Tribunal for the Former Yugoslavia (ICTY),⁵⁷ the International Criminal Tribunal for Rwanda (ICTR),⁵⁸ and the subsequent Rome Statute of the International Criminal Court (ICC) codified crimes of sexual and gender nature.⁵⁹ The international criminal tribunals prosecuted several cases involving sexualised violence leading to some ground-breaking judgements.⁶⁰ Moreover, the United Nations Security

⁵⁴ 'Sexual Violence in War: Jolie Opens Summit in London' *BBC News* (10 June 2014) <<https://www.bbc.co.uk/news/world-europe-27769132>> accessed 26 February 2017.

⁵⁵ Foreign and Commonwealth Office, *Summit Report: The Global Summit to End Sexual Violence in Conflict* (2014).

⁵⁶ UNGA Res 69/293 'International Day for the Elimination of Sexual Violence in Conflict' (19 June 2015) UN Doc A/RES/69/293.

⁵⁷ UNSC Res 827 'Statute of the International Tribunal for the Former Yugoslavia' (25 May 1993) UN Doc S/RES/827.

⁵⁸ UNSC Res 955 'Statute of the International Tribunal for Rwanda' (8 November 1994) UN Doc S/RES/955.

⁵⁹ Rome Statute of the International Criminal Court (17 July 1998) UN Doc A/CONF.183/9 of 17 July 1998, entered into force 1 July 2002.

⁶⁰ *Prosecutor v Tadić, ICTY-1999-IT-94-1-A (15 July 1999)*; *Prosecutor v Delalić et al, (Appeals Chamber Judgement) ICTY-2001-IT-96-21-A (Čelebići case)*; *Prosecutor v Furundžija, (Judgment) ICTY-2000-IT-95-*

Council had adopted four women, peace and security resolutions explicitly focused on conflict-related sexual violence.⁶¹ Since 2000, the United Nations Security Council holds an annual open debate on the topic of women, peace and security. Moreover, in 2013 the G8 adopted the 'Declaration on Preventing Sexual Violence in Conflict' sponsored by the UK Foreign and Commonwealth Office.⁶² One of the results of these rapid developments on the issue of conflict-related sexual violence is the increasing promotion of a transformative approach to justice, which would make transitional justice and reparations more gender-just.

Although one of the main aims of the 2014 Global Summit was to launch a new international protocol for documenting and investigating sexual violence in conflict,⁶³ it also provided a platform from which the head of UN Women, Phumzile Mlambo-Ngcuka, presented a new set of guidance notes on reparations.⁶⁴ Mlambo-Ngcuka explained that women who have experienced sexual violence in conflict needed help to get their lives back on track. Although men also experience sexual violence during conflict, more than 70% of reported cases relate to women and girls.⁶⁵ She highlighted the fact that the impact of the conflict and violence is felt on women physically, emotionally and economically, and yet they often miss out on compensation. Although Jolie had emphasised an urgent need for increased prosecutions as a response to sexual violence, Mlambo-Ngcuka explained that 'once the perpetrator is behind bars, a woman's life is not healed at that point. The tragedy continues in her. The stigma she lives with, and her economic well-being, are significantly compromised [...]'.⁶⁶ Mlambo-Ngcuka's reference to the continuous effect conflict-related sexual violence has on women's lives points to a need to address the structural violence that leads to the harm. It also

17/1-T (July 2000); *Prosecutor v Kunarac et al, (Appeals Chamber Judgement) ICTY-2002-IT-96-23-T/1-T (12 June 2002)*; *Prosecutor v Akayesu, (Judgement) ICTR-96-4-T (2 September 1998)*.

⁶¹ UNSC Res 1820 (19 June 2008) UN Doc S/RES/1820; UNSC Res 1888 (30 September 2009) UN Doc S/RES/1888; UNSC Res 1960 (16 December 2010) UN Doc S/RES/1960; UNSC Res 2106 (24 June 2013) UN Doc S/RES/2106.

⁶² Foreign and Commonwealth Office, *Declaration on Preventing Sexual Violence in Conflict* (2013).

⁶³ Foreign and Commonwealth Office (n 55).

⁶⁴ Liz Ford, 'Sexual Violence in War: Women Must Get Reparations, Says Head of UN Women' *The Guardian* (11 June 2014) <<https://www.theguardian.com/global-development/2014/jun/11/ending-sexual-violence-conflict-summit-reparations-un-women-mlambo-ngcuka>> accessed 26 February 2017; 'Press Release: Turning the Tide on Sexual Violence in Conflict, New UN Guidance on Reparations Launched' (*UN Women*) <<http://www.unwomen.org/news/stories/2014/6/new-un-guidance-on-reparations-launched>> accessed 26 February 2017.

⁶⁵ Ford (n 64).

⁶⁶ *ibid.*

highlights how structural violence allows for other forms of harm to continue even when a society has transitioned to peace. Reparations that are transformative have the potential to address harms caused by structural violence and to empower women.

A regional launch and conference in Jahorina, Bosnia-Herzegovina in June 2016, organised by UN Women, the office of the International Organisation for Migration (IOM), and the Office of The High Commissioner on Human Rights (OHCHR), followed the global launch of the United Nations Guidance Note of the Secretary-General on Reparations for Conflict-Related Sexual Violence in London.⁶⁷ The conference provided a platform for ‘some seventy civil society representatives, government authorities, experts from international organisations and individual advocates and survivors to discuss the success of their reparation programmes, setbacks and good practices’.⁶⁸ The launch and conference were particularly crucial for participants from Croatia, where the new reparation law for victims of wartime sexual violence had entered into force in 2015.

Increased visibility of conflict-related sexual violence has translated into the promotion of transformative reparations for victims, which is not only present in academic scholarship but also in policy-making. Policy and scholarship are slowly moving away from the claim that reparations as a mechanism of transitional justice should solely compensate victims for the harms that they had suffered. Instead, as set out in the 2014 UN Guidance Note, reparations should also ‘strive to be transformative, including in design, implementation and impact’.⁶⁹ Though some guidance is provided on the meaning of ‘transformative reparations’, there is limited direction on how reparations can produce transformative change. Recently, there is a call for an increase in women’s participation in order to ensure a more transformative approach is included in the design of reparations. However, the assumption that women’s participation will increase the transformative potential of reparations requires further interrogation.

⁶⁷ ‘Civil Society Calls for Wartime Sexual Violence Survivors Participation in Reparations and Justice’ (*UN Women*, 20 June 2016) <<http://eca.unwomen.org//news/stories/2016/06/civil-society-calls-for-wartime-sexual-violence-survivors-participation-in-reparations-and-justice>> accessed 5 September 2018.

⁶⁸ Sabine Freizer, ‘Reparations after Conflict Related Sexual Violence’ (2016) 27 *Security and Human Rights* 14, 3.

⁶⁹ Office of the United Nations High Commissioner for Human Rights (OHCHR) and UN Women (n 19) 2.

This chapter positions this thesis in relation to feminist scholarship on women's participation in transitional justice processes. It conceptualises 'transformative reparations' by exploring three elements central to this thesis: transformative justice, women's participation and reparations for conflict-related sexual violence. It calls for an interrogation of the assumption that women's participation in the design of reparation programmes increases the likelihood of a transformative process and transformative outcome. It argues that an interrogation of the assumption should consider how women's participation may challenge transformative justice, specifically transformative reparations. It emphasises how this direction of study should not be seen as a way to decrease the number of women at the decision-making table, but instead as a way to gain a better understanding of the interests and motivations of all women invested in repairing the harms that victims of conflict-related sexual violence have suffered. Moreover, it claims that by taking such an approach to the study of women's participation in transformative reparations it is possible to shed light on how nationalism can be used to promote the need for reparations, but also how it can place limitations on the transformative potential of reparations.

The first part of the chapter conducts a review of the field of transitional justice and points to the increasing turn towards transformative justice. Identifying how transformative justice relates to feminist approaches to transitional justice, the second part of the chapter examines claims for increasing women's participation in transitional justice processes, one of the central themes in feminist scholarship on transitional justice and UN policies on transitional justice and peacebuilding. It examines the claims for women's participation, particularly highlighting the problem of assuming that all women have the same interests. Showing how these claims connect to literature and policy on transformative reparations, the third part of the chapter provides an overview of the emergence of victim reparations and the recent literature encouraging their transformative potential. Finally, it concludes by calling for more knowledge about women's participation in reparation processes, particularly a better understanding of the motivations and interests of women who do not ideologically align with the central tenets of the UN women, peace and security agenda.

2. Transitional justice and its need for a transformative approach

Identifying the emergence of transitional justice is a tricky endeavour, mostly because it is not entirely clear what is meant by transitional justice. Nevertheless, transitional justice, as practice and scholarship refer to it today, began with the responses to fallen military dictatorships in Latin America in the 1980s. With the disintegration of the Soviet Union, political transitions began to take place in Eastern Europe, Africa and Central America, followed by the rise of nation-building. Described as a period of 'democratisation and political fragmentation', the post-Cold War era also resembled the 'triumph of liberalism'.⁷⁰ In other words, it was a period when the 'liberal-democratic ideal' that favoured liberty over equality became the prevailing norm.⁷¹ Since the Western-dominated international community assumed that marketisation and democratisation were the sources of peace, it is not a coincidence that transitioning states chose approaches to justice that favoured liberty over equality. As it was important for states that were rejecting communism in favour of liberal democracies to be labelled 'democratic' and 'tolerant' by the international community,⁷² they favoured certain approaches to addressing the widespread abuses that took place before or during the transitions more than others.

Certain conditions influenced the approaches that were taken by states to address the widespread abuses. One condition was the 'global decline of the radical Left' that took place at a time when the ideological shift in favour of human rights was taking place.⁷³ This decline started in the 1970s when the 'radical Left' turned from fighting for desirable models of socialist states towards supporting a universal framework of human rights. In regards to Europe, the turn towards the human rights framework meant that advocacy focused on supporting Eastern European dissidents, which happened to be most supported by ex-communists who wanted to correct their past political errors. Defending the rights of individuals became the only logical response to the widespread abuses that had taken place on the part of states. Another condition that influenced the initial formation of approaches to justice at this time was the shift in the meaning of the

⁷⁰ Ruti G Teitel, 'Transitional Justice Genealogy' (2003) 16 Harv.Hum.Rts.J. 69.

⁷¹ Rama Mani, *Beyond Retribution: Seeking Justice in the Shadows of War* (Polity Press 2007).

⁷² Paige Arthur, 'How "Transitions" Reshaped Human Rights: A Conceptual History of Transitional Justice' (2009) 31 Human Rights Quarterly 321.

⁷³ *ibid* 338.

term 'transition'. Initially used by Marxists to discuss the socioeconomic changes a society would need to undertake throughout a period on its way to embracing communism, 'analysts in the 1970s and 1980s recast it in terms of political reform, rather than social transformation'.⁷⁴ As a result, transitioning states shifted their focus from socioeconomic transformation to legal-institutional reform.

As a term, transitional justice was initially used in the mid-1990s and was 'consolidated as an apparent 'field' sometime after 2000'.⁷⁵ Generally, it is understood as a 'field' of both practice and academic knowledge that focuses on dealing with past atrocities, yet it has varying definitions. Following the general notion, Teitel first defined transitional justice as 'the conception of justice associated with periods of political change, characterised by legal responses to confront the wrongdoings of repressive predecessor regimes'.⁷⁶ However, scholars have questioned the meaning of the term 'transition'. Some have considered Teitel's definition problematic because 'in practice 'transition' may cover many decades, and may last longer for some issues than for others'.⁷⁷

Roht-Arriaza finds that Teitel's definition does not clearly state what the state is 'transitioning' to. Also exploring the ambiguity of the term 'transition', Arthur suggests that 'transition' was and should be understood as 'transition to democracy', thus ultimately shaping the way the political change was viewed at the time when this type of approach to justice emerged.⁷⁸ The idea of 'transition to democracy' would explain why measures such as trials, truth commissions, reparations and reforms of institutions were recognised as legitimate justice initiatives during periods of political change, as opposed to distributive justice measures.

As the initial definition was considered too narrow in scope, Roht-Arriaza attempts to widen it by defining transitional justice as a 'set of practices, mechanisms and concerns that arise following a period of conflict, civil strife or repressions, and that are aimed directly at confronting and dealing with past violations of human rights and

⁷⁴ *ibid.*

⁷⁵ Christine Bell, 'Transitional Justice, Interdisciplinarity and the State of the "Field" or "Non-Field"' (2009) 3 *International Journal of Transitional Justice* 5, 6.

⁷⁶ Teitel (n 70).

⁷⁷ Naomi Roht-Arriaza, 'The New Landscape of Transitional Justice' in Naomi Roht-Arriaza and Javier Mariezcurrena (eds), *Transitional Justice in the Twenty-First Century: Beyond Truth Versus Justice* (Cambridge University Press 2006).

⁷⁸ Arthur (n 72).

humanitarian law'.⁷⁹ While this definition steps away from the ambiguity of the term 'transition', it nevertheless is still quite narrow because it excludes references to other important aspects such as 'memorialisation, police and court reform or tackling distributional inequities'.⁸⁰ Even though Roht-Arriaza recognises that such a narrow view of transitional justice risks excluding economic, social and cultural rights and marginalising women she nevertheless justifies her approach by saying that broadening the field risks it becoming meaningless.⁸¹

Mani argues that addressing human right violations is just one feature of post-conflict justice and that alone it cannot ensure redress or provide foundations for lasting peace.⁸² She calls for a reparative, holistic approach to justice in post-conflict societies, which would consist of three interdependent and mutually reinforcing dimensions: legal justice that focuses on restoring the rule of law; rectificatory justice that looks to rectify human rights violations; and distributive justice that looks to redress inequalities.⁸³ Although Mani provides a 'multi-dimensional justice framework' that can 'address continuous injustices embedded in the causes, symptoms and consequences of conflict', she does not refer to gender explicitly in her framework.⁸⁴

By contrast, in identifying transitional justice as a 'discourse and practice imbued with power', Nagy recognises the importance of gender. She suggests that a 'narrow, legalistic focus on gross violations of civil and political rights overlooks the ways in which structural violence and gender inequality inform subjective experiences of political conflict, injustice and their consequences'.⁸⁵ For this reason, she argues against a 'one-size-fits-all' solution to transitional justice and calls for a broader approach that would respond to issues such as gender, power and structural violence and this way address the issue of legitimacy that face globalised transitional justice.⁸⁶

⁷⁹ Roht-Arriaza (n 77) 2.

⁸⁰ Rosemary Nagy, 'Transitional Justice as Global Project: Critical Reflections' in Ruth Buchanan and Peer Zumbansen (eds), *Law in Transition: Human Rights, Development and Transitional Justice* (Hart Publishing 2014).

⁸¹ Roht-Arriaza (n 77) 3–6.

⁸² Mani (n 71).

⁸³ *ibid* 3–23.

⁸⁴ Mani (n 71).

⁸⁵ Rosemary Nagy, 'Transitional Justice as Global Project: Critical Reflections' (2008) 29 *Third World Quarterly* 275, 287.

⁸⁶ *ibid*.

Legitimacy is a serious concern for the field of transitional justice. As the liberal project took a predominantly legalist and top-down approach to justice, it did not ensure the space or utilise the appropriate measures to allow all voices in the process to be heard.⁸⁷ In response to this top-down approach to justice, a ‘from below’ perspective emerged within transitional justice scholarship with the aim of providing a new vantage point. This perspective focuses on studying how transition is happening in the communities and organisation that were directly affected by violent conflict. Also rejecting the ‘one-size-fits-all’ approach, its primary aim is to provide an enriched, ‘bottom-up’ understanding of transitional justice by going beyond ‘a narrow, ‘legalistic’ perspective and encompass[ing] a community-based, ‘thicker’ version of transitional processes – particularly through a greater consideration of the socio-economic dimensions of dealing with the past’.⁸⁸ This approach allows for more profound insights into the relationships and interactions between local communities and institutions coming from above.⁸⁹ These insights are particularly important when addressing women’s experiences in conflict and post-conflict environments.

Interestingly, the ‘from below’ transitional justice perspective resonates with feminist critiques of transitional justice that highlights the importance of including gender into the discussion of transitional justice. For women, the end of conflict does not necessarily mean a society had achieved peace. Instead, violence against women takes place whether there is conflict or not, thus requiring a re-evaluation of what justice and peace mean for women.⁹⁰ Johan Galtung’s ideas of negative and positive peace are useful for this discussion. According to Galtung, positive peace implies the removal of structural violence. Structural violence is defined as a form of violence that is embedded in the social structure of societies and is causing harm to people by not allowing them to meet their basic needs.⁹¹ In other words, types of structural violence can be defined as ‘*structural*’ because they are embedded in the political and economic organisation of our

⁸⁷ Kieran McEvoy, ‘Beyond Legalism: Towards a Thicker Understanding of Transitional Justice’ (2007) 34 *Journal of Law and Society* 411.

⁸⁸ Frank Haldemann and Rachelle Kouassi, ‘Transitional Justice Without Economic, Social, and Cultural Rights?’, *Economic, Social, and Cultural Rights in International Law* (Oxford University Press 2014) 501.

⁸⁹ Kieran McEvoy and Lorna McGregor (eds), *Transitional Justice from below Grassroots Activism and the Struggle for Change* (Hart Pub 2008).

⁹⁰ Aisling Swaine, *Conflict-Related Violence against Women: Transforming Transition* (2018); Catherine O’Rourke, *Gender Politics in Transitional Justice* (Routledge 2013).

⁹¹ Johan Galtung, ‘Violence, Peace, and Peace Research’ (1969) 6 *Journal of Peace Research* 167.

social world' and '*violent* because they cause injury to people'.⁹² For example, 'social inequalities are at the heart of structural violence. Racism of one form or another, gender inequality, and above all brute poverty [...]'.⁹³ Aspects of culture exemplified by religion or ideology can also be used to justify direct or structural violence.⁹⁴ In this sense, nationalism also has the potential of perpetuating structural violence and women tend to be the most vulnerable victims to such violence particularly in conflict.

One way of challenging structural violence is by addressing the issue of socioeconomic rights. Until recently, transitional justice has placed too much emphasis on the importance of civil-political rights at the expense of economic, social and cultural rights. Such a focus is particularly problematic when it comes to violence against women because violence is an obstacle for the realisation of women's rights to basic needs such as security, housing, health, food, education and participation. Poverty and violence become 'cycles that fuel and perpetuate one another',⁹⁵ making it difficult to address one without also addressing the other. The issue is, however, that transitional justice in its limited form is not equipped to appropriately address gross violations of economic, social and cultural rights associated with conflict because the mechanisms available in the transitional justice 'toolkit' are predominantly legalistic and corrective.⁹⁶

Nevertheless, there is one justice mechanism that has the potential to go beyond legalistic and corrective approaches to justice. Reparations have been identified to have the greatest potential for socioeconomic impact, by offering both corrective and distributive justice.⁹⁷ They are able to address both the harms suffered and the structures that underpin these harms; therefore, by contextualising the victimisation, they have the potential of transforming the victims' circumstances.⁹⁸ In other words,

⁹² Paul E Farmer and others, 'Structural Violence and Clinical Medicine' (2006) 3 PLOS Medicine 1686. Emphasis in original.

⁹³ Paul Farmer, 'An Anthropology of Structural Violence' (2004) 45 Current Anthropology 317, 317.

⁹⁴ Johan Galtung, 'Cultural Violence' (1990) 27 Journal of Peace Research 291.

⁹⁵ Christine Chinkin, 'Gender and Economic, Social, and Cultural Rights' in Eibe Riedel, Gilles Giacca and Christophe Golay (eds), *Economic, Social, and Cultural Rights in International Law* (Oxford University Press 2014) 144.

⁹⁶ Louise Arbour, 'Economic and Social Justice for Societies in Transition' (2007) 40 International Law and Politics 28, 1–27; Waldorf (n 27) 179.

⁹⁷ Rodrigo Uprimny Yepes, 'Transformative Reparations of Massive Gross Human Rights Violations: Between Corrective and Distributive Justice' (2009) 27 Netherlands Quarterly of Human Rights 625–647.

⁹⁸ Paul Gready and Simon Robins, 'From Transitional to Transformative Justice: A New Agenda for Practice' (2014) 8 International Journal of Transitional Justice 347.

reparations have the potential of promoting justice that is transformative. This conceptualisation of transformative reparations is similar to feminist conceptualisations of reparations, which I will address in more detail later on in this chapter.

However, what does it mean to promote justice that is transformative? Attempts have been made to define and promote the idea of transformative justice within transitional justice scholarship and practise.⁹⁹ By exploring its meaning from the perspectives of peacebuilding¹⁰⁰, reconciliation¹⁰¹ and restorative justice,¹⁰² Gready and Robins suggest that it is possible to conceptualise the idea of transformation in relation to transitional justice as justice that goes beyond the 'transition'. They identify it as transformative change that 'emphasises local agency and resources, the prioritisation of process rather than preconceived outcomes and the challenging of unequal and intersecting power relationships and structures of exclusion at both the local and the global level.'¹⁰³ In this sense, the transformative approach is not attempting to replace transitional justice, but is looking to 'radically reform its politics, locus and priorities'. It points to a shift in focus 'from the legal to the social and political, and from the state and institutions to communities and everyday concerns.'¹⁰⁴

Regarding this shift in focus, transitional justice can become more transformative if it places greater emphasis on participation and process. Emphasising participation means increasing the inclusion of grassroots groups and victims groups in transitional justice processes, but in a way that is substantive and not instrumental in order to provide a sense of empowerment.¹⁰⁵ In this sense, for participation to be transformative a focus on process is imperative. This is particularly possible with reparations, which 'usually evolve over time, from below, as a result of civil society and victim/survivor mobilisation

⁹⁹ *ibid* 350.

¹⁰⁰ Wendy Lambourne, 'Transformative Justice, Reconciliation and Peacebuilding' in Susanne Buckley-Zistel and others (eds), *Transitional Justice Theories* (Routledge 2014).

¹⁰¹ Erin Daly, 'Transformative Justice: Charting a Path to Reconciliation' (2002) 12 *Int'l Legal Perspectives* 83.

¹⁰² Anna Eriksson, 'A Bottom-Up Approach to Transformative Justice in Northern Ireland' (2009) 3 *International Journal of Transitional Justice* 301.

¹⁰³ Gready and Robins (n 98) 340.

¹⁰⁴ *ibid*.

¹⁰⁵ *ibid* 358.

and in the face of official opposition'. According to Gready and Robins, the potential for transformation is in the process, which lies in the possibility of participation.

Apart from participation and process, transformative justice also emphasises challenging 'unequal and intersecting power relationships and structures of exclusion'. In this sense, challenging violence against women can also be located within the transformative justice agenda. By recognising that violence against women is structural, 'as something that is formative of social relations, and hence of social, economic and political configurations of power in any given society',¹⁰⁶ it is possible to see this problem as more than just an individual's problem. In this sense, promoting justice that is transformative also means challenging 'structures and institutional inequalities that allow violence against women to persist'.¹⁰⁷

In her introduction to the edited volume titled 'What Happened to the Women? Gender and Reparations for Human Rights Violations', Rubio-Marin poses questions that reflect the motivation behind the promotion of a transformative approach to justice for women in transitional justice:

'What happens to the voices of these women once they find their day in court or a truth commission, and what happens to the women who speak and to the truncated lives that they talk about? More importantly, what happens to the thousands of others who will never have a chance to access a court or a truth commission and whose lives have nevertheless been equally disrupted by violent conflict or years of political repression?'¹⁰⁸

In the collected accounts of women's experiences in conflict, the edited volume explores the 'manifold ways in which women are victimised under authoritarian regimes and during violent conflict'.¹⁰⁹ It becomes apparent across the different contextual explorations of gender and reparation policies in Guatemala, Peru, Rwanda, Sierra Leone, South Africa, and Timor-Leste that 'even when women are subject to the same

¹⁰⁶ J Boesten and P Wilding, 'Transformative Gender Justice: Setting an Agenda' (2015) 51 *Women's Studies International Forum* 75, 76.

¹⁰⁷ Boesten and Wilding (n 106).

¹⁰⁸ Rubio-Marin, 'The Gender of Reparations: Setting the Agenda' (n 10) 21.

¹⁰⁹ *ibid.*

violations as men, their pre-existing socioeconomic and legal status, as well as the cultural meaning around the construction of the male and the female in patriarchal societies' point to the difference in harms for men and women.¹¹⁰ Since the harms experienced by women are different, Rubio-Marin argues that reparation programmes should consider gender dimensions as they are conceptualised, designed, and implemented. By making reparations as well as transitional justice more gender just, the chances of achieving a sustainable peace that is more than the absence of armed conflict are higher. In other words, by placing gender relations at the centre of transitional justice, there is a potential for transforming gender inequalities and harms and ultimately the lives of women. One way of making reparations more just and legitimate is by incorporating the views of victims and marginalised groups, which are mostly women. Increasing women's participation in the design and implementation of reparations has the potential to provide women with 'a sense of recognition both as victims and as valuable agents of political and social transformation'.¹¹¹

Feminist debates on transitional justice and its transformative approach are reflecting the shift that has taken place on the ground in regards to women and transitional justice, and this has in some way translated to the policy level. As mentioned in the introduction, the 'Guidance Note of the United Nations Secretary-General: Reparations for conflict-related sexual violence' was launched in 2014 as a tool to 'provide policy and operational guidance for United Nations engagement in the area of reparations for victims of conflict-related sexual violence'.¹¹² It focuses on sexual violence because it aims to promote approaches to reparations that are 'tailored to the consequences, sensitivity and stigmas attached to these harms in societies globally, and to the specific needs of sexual and gender-based violence survivors'. Echoing what was stressed in academic scholarship, the Guidance Note acknowledges that 'pre-existing patterns of violence and discrimination can increase the vulnerability to conflict-related sexual violence' and that this disproportionately affects women and girls.¹¹³ Consequently, it calls for reparations to 'strive to be transformative, including in design, implementation and impact',¹¹⁴

¹¹⁰ *ibid* 22.

¹¹¹ Ruth Rubio-Marín and Pablo de Greiff, 'Women and Reparations' (2007) 1 *International Journal of Transitional Justice* 318, 324.

¹¹² Office of the United Nations High Commissioner for Human Rights (OHCHR) and UN Women (n 19).

¹¹³ *ibid* 3.

¹¹⁴ *ibid* 8.

which means to have a changing effect on inequalities as opposed to reinforcing structural conditions that may have led to the perpetration of sexual violence.¹¹⁵

However, the Guidance Note only so slightly sheds light on what type of action could be deemed transformative. For example, it lists ‘women-centred economic compensation’ and ‘access to productive resources or credit’ as ways that women may be empowered thus demonstrating transformative change in their lives and their society.¹¹⁶ Briefly addressing guarantees of non-repetition, the Guidance Note states that only structural and institutional reform can lead to transformative change. This, of course, would depend on the context and political will. Finally, it turns to the process of obtaining reparations and connects this to transformation. With this point, it moves beyond its focus on transformation as an outcome and more towards transformation as a process. It suggests that a more inclusive process of designing and implementing reparation programmes has the potential to provide victims of conflict-related sexual violence with space to ‘assume a proactive role in obtaining reparations’.¹¹⁷ The process of participation is empowering for victims, especially women victims of conflict-sexual violence. Thus, it has the potential for ‘unsettling patriarchal and sexual hierarchies and customs’ and effecting transformation.¹¹⁸ It is this idea of transformation through participation that is significant for this research because it shows how international policy, informed by feminist engagements with transitional justice, links women’s participation to the transformative potential of reparations.

The next section examines the theme of ‘women’s participation’ in transitional justice and how it relates to the concept of transformative change. It also considers issues that may arise with the assumption that women’s inclusion in the design of reparations may increase their potential for transformation.

3. Gender justice, women’s participation and transformative change

As explained earlier, a gender approach to transitional justice implies placing gender at the centre of an analysis of transitional justice and taking into consideration ‘the

¹¹⁵ *ibid* 1.

¹¹⁶ *ibid* 9.

¹¹⁷ *ibid*.

¹¹⁸ *ibid*.

different, gendered lives of women and men and the role of society and its institutions in constructing, perpetuating, and masking gender differences and privileges'.¹¹⁹ Scholars have explored truth recovery processes for women¹²⁰, gendered aspects of peacebuilding¹²¹, and the impact of accountability mechanisms on sexual violence experienced by women.¹²² As demonstrated earlier, there have also been substantial developments in scholarship on the inclusion of women's experiences in transitional justice.

Considered a general departure point for exploring issues relating to women, gender and transitional justice, Bell and O'Rourke's article titled 'Does Feminism Need a Theory of Transitional Justice? An Introductory essay' poses a critical three-part question that resonates with the earlier mentioned questions raised by Rubio-Marin: 'where are women, where is gender, and where is feminism in transitional justice'.¹²³ Highlighting the visible exclusions of women from transitional justice, particularly from forums that deal with the nature and design of transitional justice mechanisms such as reparation programmes, the authors take a look at the deeper conceptual exclusions of women in transitional justice projects. They do this by exploring how the projects could be rearranged 'to better accommodate women's diverse experiences of conflict, human rights violations and post-conflict demands for justice'.¹²⁴ However, what is most significant with this work is their examination of the feminist critique of transitional justice. By highlighting growing feminist unease with transitional justice discourse, they argue that this uneasiness stems from a difficulty to construct a feminist understanding of justice that is 'transitional'.

¹¹⁹ Martha Fineman and Estelle Zinsstag, 'Introduction: Feminist Perspectives on Transitional Justice' in Estelle Zinsstag and Martha Fineman (eds), *Feminist perspectives on transitional justice: From International and Criminal to Alternative Forms of Justice* (Intersentia 2013) 2.

¹²⁰ Fionnuala Ni Aolain and Catherine Turner, 'Gender, Truth and Transition' (2007) 16 *UCLA Women's Law Journal* 229.

¹²¹ Christine Bell, 'Women and the Problems of Peace Agreements: Strategies for Change in Women, Peacemaking and Constitutions' in Radhika Coomaraswamy (ed), *Women, Peace-making and Constitutions* (Women Unlimited 2005).

¹²² Christine Chinkin and Kate Paradine, 'Vision and Reality: Democracy and Citizenship of Women in the Dayton Peace Accords' (2001) 26 *Yale Journal of International Law*.

¹²³ Christine Bell and Catherine O'Rourke, 'Does Feminism Need a Theory of Transitional Justice? An Introductory Essay' (2007) 1 *International Journal of Transitional Justice* 23

¹²⁴ *ibid.*

The problem stems from the dilemma over the relationship between accountability and the political needs of transition and its significant impact on women. For example, the processes that design transitional justice mechanisms tend to be exclusionary of women because the negotiators and decision-makers are predominantly male.¹²⁵ Since many transitional justice mechanisms are an outcome of careful peace negotiations, the extent of accountability for women is usually compromised. Although dominant feminist analyses will point to the male-dominated negotiating tables as the issue, Bell and O'Rourke argue that the problem is complicated. In times of negotiating peace-settlements, issues of 'discrimination, domination and improvement of physical, social and legal security, particularly with regard to gender' are not a priority.¹²⁶ For example, reparations programmes, important transitional justice mechanisms for redressing harms suffered especially by women, are usually placed last on the transitional justice to-do list. Similarly, states also disregard wartime sexual violence. Consequently, as highlighted earlier in this chapter, women's basic socioeconomic rights are not being addressed, which risks further perpetuating the cycle of violence against women.

Nonetheless, women's demands for accountability have persisted, and this is primarily because civilian women suffer disproportionately during war. Insistence on accountability for the crime of sexual violence in conflict was one of the doorways through which transitional justice included gender.¹²⁷ The recognition is mostly due to the 1990s western feminist movements that predominantly focused on the need to end impunity for violence against women. The reason for their mobilisation was to uncover the widespread and systematic presence of wartime sexual violence. Efforts made in this area have had positive impacts on increasing the visibility of wartime sexual violence, particularly in international criminal law. However, scholars have pointed to the unintended consequences of the raised visibility. Henry points to a fixation on wartime sexual violence, which inevitably side-lines the more profound implications of gender.¹²⁸ Moreover, in her impressive study on conflict-related violence against women, Swaine highlights how academic and policy focus on sexual violence as the most severe harm

¹²⁵ *ibid* 24.

¹²⁶ *ibid* 25.

¹²⁷ *ibid* 26; Catherine Turner, 'Transitional Justice and Critique' in Cheryl Lawther, Dov Jacobs and Luke Moffett (eds), *Research Handbook on Transitional Justice* (Edward Elgar Publishing 2016).

¹²⁸ Nicola Henry, 'The Fixation on Wartime Rape: Feminist Critique and International Criminal Law' [2013] *Social & Legal Studies*.

women experience renders other harms invisible, particularly those that take place after states have transitioned to peace.¹²⁹ The problem of hypervisibility leads to the question of whether increased participation of women in the transitional justice process and at all levels of decision-making within the process has any real effect on women's lives.

The notable United Nation's Security Council Resolution 1325¹³⁰ on Women, Peace and Security ('WPS') puts a great emphasis on women's participation as part of its WPS agenda. However, as O'Rourke rightly highlights, it is important to understand what is being advocated by the promotion of women's participation in peace and security issues.¹³¹ Bringing to attention what Judith Squires identifies as 'the new politics of gender equality', O'Rourke suggests viewing the emphasis on women's participation within this broader phenomenon. Squires describes 'the new politics of gender equality' as a shift from informal women's organising to a more state-oriented approach that engages with states and institutions.¹³² In other words, instead of being against the system, the 'new' feminist approach engages with institutions of power in order to foster change. Moreover, 'the new politics of gender equality' also abandons the idea that achieving equal political participation of women requires social and political change. Instead, it suggests that increased political participation of women is a means to achieving women's equality.¹³³

The pursuit of gender equality is generally the reason for increased feminist demands for women's participation, but as O'Rourke rightly points out, there are other related feminist arguments. Pointing to Anne Phillips study of democracy and representation, the arguments for the promotion of women's participation can be understood as the "role model" argument, the "justice" argument, the "different agenda" argument and the "larger dream" argument.¹³⁴ For this thesis, I will only focus on two of the mentioned arguments, the 'justice' argument and the 'different agenda' argument. Numbers and fairness build the 'justice' argument. Essentially, it argues that it is unjust

¹²⁹ Swaine (n 90).

¹³⁰ UNSC Res 1325 (31 October 2000) UN Doc S/RES/1325.

¹³¹ Catherine O'Rourke, "'Walk[Ing] the Halls of Power'?" Understanding Women's Participation in International Peace and Security' (2014) 15 *Melbourne Journal of International Law* 128, 3.

¹³² Judith Squires, *The New Politics of Gender Equality* (Palgrave 2007) 20.

¹³³ O'Rourke, "'Walk[Ing] the Halls of Power'?" (n 131) 5.

¹³⁴ *ibid* 4; Anne Phillips, *The Politics Of Presence: Political Representation of Gender Race and Ethnicity* (Oxford University Press, USA 1998).

to exclude women from decision-making because they make up at least half of the populations affected by issues of peace and security.¹³⁵ This argument does not hold much ground, because the problem with exclusion is the exclusion of women's lived experiences.

The 'different agenda' argument, however, is based on more concrete reasoning. It develops from the understanding that women have gender-specific experiences of war, and for this reason they must be included in political decision-making to represent these gender-specific needs, which may not be addressed otherwise.¹³⁶ In other words, by including women a 'different agenda' would emerge that would reflect gender equality. In other words, by changing the actors involved in the designing of transitional justice mechanisms, the produced outcomes would provide better solutions for women.¹³⁷ The 'different agenda' argument provides ground for the pursuit of a 'transformative' approach to justice, otherwise referred to as transformative gender justice. However, this is complicated in local contexts where there exist strong ideological differences amongst women.

It is interesting to note that this transnational feminist demand for women's participation had somewhat emerged from feminist engagement with the differences among women. While issues of diverging positions amongst women's groups continue to be prevalent, there seems to be an overall agreement amongst them that women should be included in design processes for transitional justice mechanisms, as is reflected in Resolution 1325 and its call for an increase of women at 'all decision-making levels'.¹³⁸ Resolution 1325 is important because it has identified the absence of women and the interests they represent in decision-making contexts as problematic. It insists that its member states should increase representation of women at all decision-making levels related to conflict resolution and peace management. Moreover, it bases its claim on the argument that 'women play an important role in "the prevention and resolution

¹³⁵ O'Rourke, "'Walk[ing] the Halls of Power"?' (n 131) 4; Phillips (n 134) 57–83.

¹³⁶ Bell and O'Rourke (n 123) 30.

¹³⁷ *ibid* 31.

¹³⁸ UNSC Res 1325 (31 October 2000) UN Doc S/RES/1325 (n 130).

of conflict and in peace-making” and that “women and children constitute the vast majority of those affected by armed conflict”¹³⁹.

However, even though the call for women’s participation is widely supported by both scholarship and international policy, in contexts of deeply divided societies with embedded differences amongst women’s groups, setting a common women’s agenda becomes very difficult. For example, this was present in the 1990s during the break-up of Yugoslavia when women’s groups had divided interests in regards to nationalism and national identity. Similar fragmentation happened with Chilean women’s movement during transition, demonstrating how changes in state formation influence once unified social movements. Feminists divided into two separate groups: government appeasing and autonomous feminists. Also, motherist human rights groups separated from other women’s movements due to their exclusive focus on human rights violations of the past.¹⁴⁰ Different perspectives on the nature of war, conflict or human rights violations are created based on different experiences of the violence; therefore different ideas will emerge on how to resolve post-conflict issues.¹⁴¹ The existence of different perspective points to one of the problems with Resolution 1325’s women, peace and security agenda.

As O’Rourke points out, the problem with ‘the participation focus in the WPS agenda is that through the erroneous interpretation and application of feminist arguments for participation, the WPS Resolutions prioritise the advancement of a presumed set of ‘women’s interests’ in peace and security decision-making’.¹⁴² Feminist political theory of women’s participation and representation is useful for explaining this problem. It presents two different approaches to participation: descriptive and substantive representation.¹⁴³ Descriptive representation is essentially about ensuring the physical presence of women in the decision-making arena. According to the ‘new politics of gender equality’ this would be implemented through the use of gender quotas. For

¹³⁹ Fionnuala Ni Aolain, ‘Political Violence and Gender in Times of Transition’ (2006) 15 *Columbia Journal of Gender and the Law* 829; Fionnuala Ní Aoláin and Eilish Rooney, ‘Underenforcement and Intersectionality: Gendered Aspects of Transition for Women’ (2007) 1 *International Journal of Transitional Justice* 338, 349–350.

¹⁴⁰ O’Rourke, *Gender Politics in Transitional Justice* (n 90) 157–158.

¹⁴¹ Bell and O’Rourke (n 123) 31.

¹⁴² O’Rourke, “‘Walk[Ing] the Halls of Power’?” (n 131) 9.

¹⁴³ Hanna F Pitkin, *The Concept of Representation* (University of California Press 1967) 114–115.

example, the implementation of Resolution 1325 in Burundi resulted in the use of quotas to secure 30 per cent representation of women in national representative bodies. However, issues regarding women's absorption into mainstream political parties that had very little interest in gender equality quickly undermined the representation of women.¹⁴⁴ In contrast, substantive representation is about how women included in decision-making can represent ideas and interests that are specific to women. Representation, of course, begs the question of 'what' interest is being represented and by 'which' women.

The challenge is to understand what is at stake in the conceptualisation of women's participation in transitional contexts and what the implications are for transformative justice. Insistence on women's inclusion at all 'decision-making levels' is problematic because it attaches an expectation to women's participation. The expectation is that women's inclusion will bring about substantive change in how negotiations and peace-processes are developed, thus leading to the assumption that the presence of any women will simultaneously address the gender gap and positively impact outcomes set out by UN normative guidelines. As Rooney and Ni Aolain have highlighted, this type of approach risks essentialising the 'woman' who is absent and uncritically assuming that she can build peace and reconciliation. Complex questions concerning which women should be present and whether any woman can properly 'represent' women's interests are often left unanswered.¹⁴⁵

The outlined problems with women's participation are easily translatable to the context of designing reparations programmes. In fact, more problems may arise with women's participation in designing reparations for victims of wartime sexual violence because of the way participating women conceptualise sexual violence. Women may come to the table with a common goal as policy-makers, activists and victims; however, they may also have different perspectives and experiences which will produce different interests. Although it is essential that reparations processes involve women victims in order to ensure they have included their views, the question of representation remains

¹⁴⁴ Niamh Reilly, 'Seeking Gender Justice in Post-Conflict Transitions: Towards a Transformative Women's Human Rights Approach' (2007) 3 *International Journal of Law in Context* 155.

¹⁴⁵ Ní Aoláin and Rooney (n 139) 350; Fionnuala Ni Aolain, 'Gendered Under-Enforcement in the Transitional Justice Context' in S Buckley-Zistel and R Stanley (eds), *Gender in Transitional Justice* (Palgrave Macmillan 2012).

problematic. Do all women victims of sexual violence perceive their victimhood in the same way? Does it matter if they do not? Which women victims are best capable of representing women victims' experiences and needs? What happens if the women victims are not on the same ideological page as women policy-makers or women activists? Mostly, there is a risk of falling into a conceptual trap by assuming that all women victims of sexual violence perceive their victimhood in the same way and that it overlaps with the way that policy-makers and activists understand victimhood. Representation becomes particularly problematic in contexts where nationalist constructions of gender and victimhood intersect and are faced with a transformative gender justice agenda. In order to understand how these intersections affect the transformative potential, more knowledge is needed on women's participation in transitional justice processes.

In summary, placing gender at the centre of transitional justice means recognising that the gendered lives of women and men result in different disadvantages and privileges. For women in transitional justice contexts, these gendered differences mean that the continuation of harms persist even when armed conflict is over. The structural harms can lead to poverty or discrimination depending on how society defines gender. As pointed out earlier in this chapter, the transitional justice 'toolkit' has limited solutions to addressing the issues that women face. However, if transitional justice embraces a transformative approach, it has the potential to promote change that can help solve some of the structural inequalities that directly affect women's lives. One approach to promoting transformative change is by increasing women's participation in transitional justice processes. However, as this section has demonstrated, it is problematic to assume that women's inclusion in transitional justice processes will promote transformative change. For this reason, this thesis interrogates this assumption by conducting a Croatian case study of women's participation in a transitional justice process, and this way furthers this field of knowledge.

In order to explore how women's participation may affect reparations for victims of conflict-related sexual violence, the following two sections of the chapter focus on the conceptualisation of conflict-related sexual violence and how this conceptualisation informs the transformative potential of reparations for conflict-related sexual violence.

4. Conceptualising conflict-related sexual violence

Earlier in this chapter, I mentioned that reparations were considered a transitional justice mechanism with the most potential of addressing both harms suffered by victims and the structures that led to the harms in the first place. In other words, reparations have the potential to promote transformative change in conflict-affected lives and societies. One way of pursuing transformative change within a transitional justice process is by placing gender at the centre, whereby transforming gender inequalities would fundamentally transform gender relations and society as a whole. Although the WPS agenda has been promoting the idea of justice through transformation for some time now, the launch of the UN Guidance Note of the Secretary-General on Reparations for Conflict-Related Sexual Violence has provided the grounds for a more focused approach to examining the connection between transformation and gender. However, the exclusive focus on conflict-related sexual violence risks making other gender-specific harms that take place in conflict and post-conflict invisible. Nevertheless, the increased awareness of the widespread presence of conflict-related sexual violence signifies important progress for women, global society.

Unlike more than a decade ago, the visibility of sexual violence against women in conflict has increased in international law and policy. The mobilisation of 122 states that led to the endorsement of the ‘historic’ Declaration of Commitment to End Sexual Violence in Conflict speaks to this increased visibility.¹⁴⁶ In a way, the Declaration symbolises a triumph for tireless feminist advocacy and engagement with the issue. In the last two decades, knowledge of conflict-related sexual violence has dramatically expanded. Scholars have pointed to the ways that sexual violence varies across different conflicts and the ways it also varies in its form. As important decisions of the International Criminal Tribunal of the Former Yugoslavia and the International Criminal Tribunal for Rwanda have established, sexual violence can be used in a widespread and systematic way, which means a deliberate use of rape as a means of attacking a particular civilian population. The widespread and systematic sexual violence that took place in the

¹⁴⁶ Office of the Special Representative of the Secretary-General for Sexual Violence in Conflict, ‘Press Release: 122 Countries Endorse Historic “Declaration of Commitment to End Sexual Violence in Conflict”’ (2 October 2014) <<https://www.un.org/sexualviolenceinconflict/press-release/122-countries-endorse-historic-declaration-of-commitment-to-end-sexual-violence-in-conflict/>> accessed 5 September 2018.

conflicts in the former Yugoslavia and Rwanda during the 1990s led to decisions in international criminal law that established sexual violence as a war crime, crime against humanity and a component of genocide.¹⁴⁷ The Rome Statute of the International Criminal Court provided that rape, sexual slavery, enforced prostitution, forced pregnancy and enforced sterilisation can amount to crimes against humanity.¹⁴⁸ Scholars have also uncovered the ways sexual violence affects men and boys.¹⁴⁹

Nevertheless, there is a general understanding that women and girls are targeted disproportionately by this type of violence.¹⁵⁰ For this reason, research has focused on explaining why sexual violence is used in conflict.¹⁵¹ Initially, sexual violence, or rape in war, was seen as an 'unfortunate by-product of war'.¹⁵² This logic developed from a belief that since men enacted war and were biologically driven by heterosexual needs, they would also rape during war. Essentially, this theory, which most scholars and policy-makers consider incorrect, rests on the assumption that 'wartime rape is a result of the heterosexual desires of men, resulting from their biological make-up'.¹⁵³ However, this is not the only argument that exists within 'sexual urge' discourse.¹⁵⁴ The 'substitution' argument follows the reasoning that because soldiers do not have access to women in 'normal' ways, sex takes place in the military contexts as a type of substitute. In other words, if men are kept from having sexual intercourse in a socially acceptable way, for

¹⁴⁷ *Prosecutor v Furundžija, (Judgment) ICTY-2000-IT-95-17/1-T (July 2000)* (n 60); *Prosecutor v Kunarac et al, (Judgement) ICTY-2002-IT-96-23-T/1-T (12 June 2002)*; *Prosecutor v Akayesu, (Judgement) ICTR-96-4-T (2 September 1998)* (n 60).

¹⁴⁸ Rome Statute of the International Criminal Court (17 July 1998) UN Doc A/CONF.183/9 of 17 July 1998, entered into force 1 July 2002.

¹⁴⁹ R Charli Carpenter, 'Recognizing Gender-Based Violence Against Civilian Men and Boys in Conflict Situations' (2006) 37 *Security Dialogue* 83.

¹⁵⁰ 'Women Suffer Disproportionately during and after War, Security Council Told during Day-Long Debate on Women, Peace and Security' (*United Nations*, 29 October 2003) <<https://www.un.org/press/en/2003/sc7908.doc.htm>> accessed 13 September 2015.

¹⁵¹ Elisabeth Jean Wood, 'Variation in Sexual Violence during War' (2006) 34 *Politics & Society* 307; Kathryn Farr, 'Extreme War Rape in Today's Civil-War-Torn States: A Contextual and Comparative Analysis' (2009) 26 *Gender Issues* 1; Sara Meger, 'Rape of the Congo: Understanding Sexual Violence in the Conflict in the Democratic Republic of Congo' (2010) 28 *Journal of Contemporary African Studies* 119; Dara Kay Cohen and Ragnhild Nordas, 'Sexual Violence by Militias in African Conflicts: Not a Question of "Delegation" by States' (2012) 1 *CSCW Policy Brief*; Dara Kay Cohen, 'Explaining Rape during Civil War: Cross-National Evidence (1980–2009)' (2013) 107 *American Political Science Review* 461.

¹⁵² Catherine N Niarchos, 'Women, War, and Rape: Challenges Facing the International Tribunal for the Former Yugoslavia' (1995) 17 *Human Rights Quarterly* 649, 651.

¹⁵³ Maria Eriksson Baaz and Maria Stern, *Sexual Violence as a Weapon of War? Perceptions, Prescriptions, Problems in the Congo and Beyond* (Zed Books 2013) 17.

¹⁵⁴ *ibid* 18; Elisabeth Jean Wood, 'Armed Groups and Sexual Violence: When Is Wartime Rape Rare?' (2009) 37 *Politics & Society* 131, 135.

example with their wives, girlfriends or prostitutes, then they will 'substitute' sex by force for 'normal' sex out of sheer necessity'.¹⁵⁵

Unfortunately, this is not an outdated belief. From the research conducted in the DRC, Eriksson Baaz and Stern have found that military personnel describe rape in war as a regular occurrence, almost as an unavoidable consequence and even as a possible result of boredom.¹⁵⁶ Nevertheless, even though some military personnel still maintain this position, the 'sexual urge/substitution theory' is not supported by official discourse or academic arguments.¹⁵⁷ Academics studying the occurrence of sexual violence in war deem the above theory as an essentialist theory and overly negative towards men. Instead, they underscore how men and boys, as well as women and girls, learn to be 'masculine' and violent.¹⁵⁸ As a result of feminist research on the relations between gender, militarisation and war, scholarship has moved towards a gender theory of sexual violence in war. According to the gender theory, rape in war is a tool of humiliation and intimidation. In other words, it is a developed strategy of war. The theory rests on the understanding that gender is learned and that militarisation has ideal types of masculinity and femininity.

According to the ideal types of masculinity and femininity, men usually take on the role of 'heterosexual masculine citizen-soldiers', and by contrast, women are stereotypically cast as in need of protection, peaceful and 'life-giving'. Eriksson Baaz and Stern explain how this line of reasoning produces masculinity that supports 'violence, order, masculine-coded obedience and domination', all of which is celebrated in the military.¹⁵⁹ Therefore, when the military trains soldiers, they are trained with methods that emphasise masculine traits and identify any deviance from this norm as feminine, inferior or threatening. According to this logic, violence in the form of rape can be symbolically understood as punishing and humiliating 'subversive' women for threatening national security and identity, especially if they are challenging predefined ideas of femininity and masculinity.¹⁶⁰ However, since women are cast as biological,

¹⁵⁵ Eriksson Baaz and Stern (n 153) 18; Elisabeth Jean Wood, 'Conflict-Related Sexual Violence and the Policy Implications of Recent Research' (2014) 96 *International Review of the Red Cross* 457, 461.

¹⁵⁶ Eriksson Baaz and Stern (n 153).

¹⁵⁷ *ibid* 19.

¹⁵⁸ Cynthia H Enloe, *Globalization and Militarism: Feminists Make the Link* (Rowman & Littlefield 2007).

¹⁵⁹ Eriksson Baaz and Stern (n 153) 20.

¹⁶⁰ *ibid* 20–21.

cultural and social reproducers of national identity, rape of 'enemy' women can be understood as 'destroying the very fabric of society'.¹⁶¹ Moreover, if a particular society or culture bases ideal femininity on ideas of chastity and virginity, this ideal adds on to the effectiveness of rape as a tool of humiliation and destruction. As a result, the particular society or culture will perceive raped women as unworthy. Finally, conflict-related sexual violence, especially rape, can be seen as a way to humiliate and torture enemy men, because it deems them inadequate to protect 'their' women/nation/homeland.¹⁶²

However, some academics have also pointed to the idea that conflict-related sexual violence is part of a 'continuum of violence'. The continuum theory states that conflict-related sexual violence is necessarily part of a continuum of violence in general or sexual violence in particular. In other words, the same gender relations that lead to sexual violence in peacetime will also drive this type of violence during war. According to this theory, the only difference between sexual violence in peace and war is the degree. However, as Wood points out, several findings show that the relationship between pre-war sexual violence and conflict-related sexual violence varies in regards to forms of sexual violence as well as across settings.¹⁶³ The uncovered differences lead to the conclusion that the continuum theory cannot provide an exclusive explanation for the existence of conflict-related sexual violence and its disproportionate targeting of women and girls.

Nevertheless, Davies and True turn to the issue of structural gender inequality and how it informs the existence of conflict-related sexual violence. By conceptualizing widespread and systematic sexual and gender-based violence as an act of political violence, they argue that it is produced as a result of 'discriminatory societal norms around gender, including discriminatory family codes that entrench men's domination over women and children; severe restrictions on women's civil liberties and access to resources and entitlements; institutionalised bias toward sons, boys and men; and

¹⁶¹ Eriksson Baaz and Stern (n 153); Enloe, *Maneuvers* (n 6); Maria Stern and Malin Nystrand, 'Gender and Armed Conflict' (Sida 2006); Nira Yuval-Davis, *Gender and Nation* (SAGE Publications 1997).

¹⁶² Yuval-Davis (n 161); Nira Yuval-Davis, 'Nationalist Projects and Gender Relations' (2003) 40 *Narodna umjetnost : hrvatski časopis za etnologiju i folkloristiku* 9.

¹⁶³ Wood, 'Conflict-Related Sexual Violence and the Policy Implications of Recent Research' (n 155) 464–465.

normalised, everyday violations of women's physical and bodily integrity.'¹⁶⁴ Essentially, by applying a gender perspective to the conceptualisation of conflict-related sexual violence, it is possible to see how this type of violence disproportionately affects women and girls. It also provides the basis for developing approaches to the prevention of conflict-related sexual violence. It is precisely this type of conceptualisation of conflict-related sexual violence that is at the core of the transformative justice agenda, which also informs the UN guidelines on reparations for victims of conflict-related sexual violence.

5. Victim reparations and the 'transformative potential'

In contrast to criminal prosecutions, truth commissions and institutional reform, reparations are the only mechanism of transitional justice that directly addresses the needs of victims. They are used to provide symbolic healing as well as redress during the transitional process.¹⁶⁵ The best approach to understanding reparations is by distinguishing between reparations as used in international law and reparations as used in reparation programmes.¹⁶⁶ Under international law, reparations refer to measures adopted to address the harms that victims suffered due to breaches of state responsibility.¹⁶⁷ They can take several forms such as restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition. Reparations as programmes or policies used in transitional justice refer to reparations designed to deliver benefits to victims after conflict directly.¹⁶⁸ It is this second meaning of reparations that I will refer to throughout this thesis. Although related, these two contexts 'involve different choices and motivations in a conceptualisation of victim reparations', which I will now explain in more detail.¹⁶⁹

¹⁶⁴ Sara E Davies and Jacqui True, 'Reframing Conflict-Related Sexual and Gender-Based Violence: Bringing Gender Analysis Back In' (2015) 46 *Security Dialogue* 495, 507.

¹⁶⁵ Luke Moffett, 'Transitional Justice and Reparations: Remediating the Past?' in Cheryl Lawther, Luke Moffett and Dov Jacobs (eds), *Research Handbook on Transitional Justice* (Edward Elgar Publishing 2016).

¹⁶⁶ Pablo de Greiff, 'Justice and Reparations' in Pablo de Greiff (ed), *The Handbook of Reparations* (Oxford University Press 2006) 451–477; Jemima García-Godos, 'Victim Reparations in Transitional Justice—What Is at Stake and Why' (2008) 26 *Nordic Journal of Human Rights* 111, 120.

¹⁶⁷ UNGA Res 60/147 'Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law' (16 December 2005) UN Doc A/RES/60/147 (n 8).

¹⁶⁸ de Greiff (n 166) 451–477.

¹⁶⁹ García-Godos (n 166) 111–130; de Greiff (n 166) 451–477.

I. Conceptualising victim reparations in transitional justice

Initially, reparations took the form of monetary compensation, which defeated parties in war owed the victorious nations. Following the Second World War, in addition to paying reparations to the victors, compensation was also given to survivors of Nazi persecutions, which is now considered the most 'comprehensive reparations effort implemented in modern history'.¹⁷⁰ This shift in reparations payments changed the concept of reparations entirely because it introduced a movement where abusing states were obliged to pay reparations to civilian victims of their state and other states.¹⁷¹ In addition to the Holocaust literature that can be considered as historical background to the contemporary study of reparations, literature in historical injustices¹⁷² provides interesting philosophical and historical questions in regards to nations acknowledging their gross historical wrongdoings.¹⁷³ However, for the purposes of this thesis, I will limit myself to victim reparations in transitional contexts from authoritarian regimes and armed conflict. I will focus on victims who have been the subject of human rights violations under international human rights law as well as international humanitarian law.

In international law, the United Nation's General Assembly approved the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* in 2005 and established the juridical definition of victim reparations.¹⁷⁴ Based on the 'obligation to respect, ensure respect for and implement international human rights law and international humanitarian law', the *Basic Principles* elaborates on what a victim's right to remedy entails and further defines the form of remedy for 'gross violations of international human rights law and serious violations of international humanitarian law'.

¹⁷⁰ García-Godos (n 166) 119.

¹⁷¹ Ruti G Teitel, *Transitional Justice* (Oxford University Press 2000) 121–123.

¹⁷² Reparations based on historical injustices stem from African-American reparations claims for the enslavement of black peoples prior to the American Civil War, as well as Australian aborigines claims.

¹⁷³ García-Godos (n 166) 119.

¹⁷⁴ UNGA Res 60/147 'Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law' (16 December 2005) UN Doc A/RES/60/147 (n 8).

According to the *Basic Principles*, the right to remedy consists of two essential features: ‘the procedural right to justice, and the substantive right to redress for injury suffered due to act(s) in violation of rights contained in national or international law’.¹⁷⁵ Essentially, it provides that a State is obliged by domestic law and international legal obligations to ensure that there are systems in place that will provide victims with adequate access to justice. Furthermore, it requires that the State ‘provide reparation to victims for acts or omissions which can be attributed to the State’ and amount to gross violations of international human rights law or serious violations of international humanitarian law. Moreover, it stipulates that under international law, the victim has the right to ‘equal and effective access to justice’, ‘adequate, effective and prompt reparation for harm suffered’, and ‘access to relevant information concerning violations and reparation mechanisms’.¹⁷⁶

According to its conceptualisation of reparations, the *Basic Principles* provides that reparations should be ‘proportional to the gravity of the violations and the harm suffered’.¹⁷⁷ Based on this principle of proportionality, it should also provide ‘full and effective reparation’ which could be in the forms of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.¹⁷⁸ The breadth observed in the juridical definition of reparations is explained by its specific aim, which in a judicial setting, is tied to the achievement of justice for individuals. Essentially, justice is achieved through the trial of isolated cases, and for this reason, a broad understanding of reparations is necessary in order to adapt the definition to any individual case and include as many cases as possible.¹⁷⁹

As seen above, the juridical definition of reparations provided by the *Basic Principles* makes a distinction between the different forms of reparations. Restitution, compensation and rehabilitation are particularly interesting, as they contribute to the clarification of the field of victim reparations and also contribute to the design of specific measures in the context of reparation programmes.¹⁸⁰ For example, restitution refers to

¹⁷⁵ García-Godos (n 166) 115.

¹⁷⁶ UNGA Res 60/147 ‘Basic Principles’ (n 114) VII, 11, a-c.

¹⁷⁷ *ibid* IX, 15.

¹⁷⁸ *ibid* IX, 19-23.

¹⁷⁹ García-Godos (n 166); de Greiff (n 166).

¹⁸⁰ García-Godos (n 166) 115.

measures that aim to restore the victim's situation before the violation, which could take place in the form of restoring rights such as citizenship and liberty, or even the rights to a job or benefits. Compensation is a measure that seeks to 'make up for the harms suffered through the quantification of harms'.¹⁸¹ In this case, harm is not understood as an economic harm, but a physical and mental injury, even a moral injury. Finally, rehabilitation refers to measures that provide social, medical and psychological care, as well as legal services.¹⁸² As reparations programmes aim to do justice to victims directly and are narrower by definition, it is quite common for the programmes to include elements of restitution, compensation and rehabilitation, and to exclude truth-telling, criminal justice or institutional reform.

In contrast to the juridical understanding of reparations, the operational definition as provided by reparations programmes is usually narrow in scope. A narrow definition of reparations is necessary because reparations programmes are not designed for massive coverage, but for a 'specific target group (the victims) and a specific type of crimes/human rights violations'.¹⁸³ So for example, in Chile following the human rights abuses of General Augusto Pinochet, the National Corporation for Reparations and Reconciliation recommended reparations specifically for victims of Pinochet's dictatorial regime in the period of 1973-1990. As seen in this case, the reparations programme was aimed to cover all the victims who suffered human rights violations exclusively under Pinochet's regime.

Understanding reparations in their operational sense also requires making a distinction between individual or collective reparations, and between material or symbolic reparations. For example, personal letters of apology and rehabilitation are considered individual symbolic reparations measures. While days of commemoration, setting up museums and memorials and public apologies are examples of collective symbolic reparations measures. On the other end, and usually a more familiar form, are material reparations. These can take the form of individual payments and service packages that may include health care, housing and education.¹⁸⁴ As reparation programmes are

¹⁸¹ de Greiff (n 166) 453.

¹⁸² *ibid.*

¹⁸³ García-Godos (n 166) 121.

¹⁸⁴ de Greiff (n 166) 453, 468–69.

usually designed to respond to a specific context, it is common for programmes to include those forms of reparations most appropriate for the context and victims in question.

As with anything, there are advantages and disadvantages to a narrow conceptualisation of reparations. For one, it limits the responsibility of those in charge of designing the programmes but also risks that the programmes become entirely unrelated to the other justice measures being implemented in the post-conflict context. Regardless, I would agree with De Greiff that a narrow conceptualisation of reparations is the best approach to ensure a direct benefit to victims.

II. The ‘political’ in reparation programmes in transitional justice

Victim reparations as a transitional justice mechanism are very important for ensuring victims’ rights. Although the different forms of reparations, both in their juridical and operational sense, aim to address the harms done to victims and recognise the responsibility for the wrongdoing, they do not exist in a vacuum. By acknowledging that reparation programmes exist within a political context, it is possible to see how they contribute to the reconstitution of a new political community or see them as part of a political project.¹⁸⁵ In her examination of the core issues of victim reparations, Garcia Godos states that ‘the way victim reparations are conceptualised in a given society has important implications for the interpretation and construction of the past’.¹⁸⁶ She argues that the best way to understand the complex dimensions of victim reparations is by approaching them as a social process that begins with the interpretation of the past and then continues to a re-interpretation of the past. In this sense, if reparations are thought about, as De Greiff suggests, in relation to a broader political agenda, connections can be seen between victim reparations and nation-state building and historical (re)construction.¹⁸⁷

So, for example, the first step in the process of establishing a reparation programme requires the state to decide whether it is ‘for or against’ victim reparations. In a post-conflict context, victim reparations are seen as an integral part of the transitional justice

¹⁸⁵ *ibid* 455; García-Godos (n 166) 126.

¹⁸⁶ García-Godos (n 166) 113.

¹⁸⁷ de Greiff (n 166) 454–455.

process. However, it is common for governments to address reparations as a final item on their transitional justice list, thus delaying their design and implementation as much as possible. Nevertheless, it comes down to the issue of whether the government in question wants to acknowledge the existence of crimes that have been committed in the past and whether it acknowledges the existence of people who have been harmed and are entitled to state-provided reparations.¹⁸⁸ Deciding whether to acknowledge the existence of crimes and victims is not an easy decision, because it involves committing to a 'comprehensive and sensitive process of reparations which usually creates high expectations among the population (particularly among victim groups and potential beneficiaries)'.¹⁸⁹ In this sense, the decision is political, because the government's initiation of a reparation programme may significantly affect its support from the people. However, showing the political will to develop a reparation programme and respond to victim's needs can also produce popular support in favour of the government and enforce its legitimacy.

Nevertheless, it is the definition of the victim and the understanding of victimhood that lies at the core of victim reparations. The way victim reparations are conceptualised impacts the reinterpretation of the past. How a government defines a victim plays a significant role in the process of historical construction. As Moffett points out, the '[a]cknowledgment of victims' suffering can be framed around the government's narrative of the past.'¹⁹⁰ Traditionally, transitional justice and human rights discourses have always used the categories of perpetrator and victim. In other words, violations were described by those who had been harmed and those who had inflicted the harm. So in that sense, victims were defined by the type of violations inflicted upon them. However, recently, scholars studying victimhood in the context of transitional justice are going beyond these legal categories. Instead, they are focusing their attention on the hierarchy of victimhood based on the identified 'innocence' of a victim.¹⁹¹ Essentially, the hierarchy of victimhood distinguishes 'good' victims and 'bad' victims, which is

¹⁸⁸ García-Godos (n 166) 122.

¹⁸⁹ *ibid.*

¹⁹⁰ Moffett (n 165) 382.

¹⁹¹ Kieran McEvoy and Kirsten McConnachie, 'Victimology in Transitional Justice: Victimhood, Innocence and Hierarchy' (2012) 9 *European journal of criminology*. 527, 527.

usually made according to subjective views of how 'justifiable' the suffering was upon each of the victims and what victims' attitudes are towards dealing with the past.¹⁹²

For example, in Northern Ireland, some pro-Unionist victims' groups argue that only victims who are 'innocent' can be seen as true victims. In this case, innocence implies that the victims have a certain 'correct' perspective on the IRA's campaign of violence and prosecutions the only appropriate way of dealing with the past. In contrast to this perspective, other victims' groups that advocate for a truth process are considered 'best naïve, or at worst, IRA front organisations'.¹⁹³ Similar findings were made in Argentina amongst the Las Abuelas victims' group. In their view, security force members killed by guerrillas are not considered victims, because 'pro-junta individuals and groups were not 'innocent' or deserving of the title 'victim' and that their support for amnesties [...] was entirely self-serving'.¹⁹⁴ As demonstrated, this intersection between innocence and blame can create difficulties when designing victim reparations. On the one hand, if a government defines victims based on a constructed idea of 'innocence', it risks excluding a great number of victims. On the other hand, reaching a compromise with various victims' groups regarding an acceptable definition of a victim is a task almost impossible. For this reason, the definition of the victim in a reparation programme is political and will inevitably generate implications for the process of historical (re)construction and nation-building.

In addition to a government's political will and the conceptualisation of victim and victimhood, reparation programs are also political in regards to their aims. Reparation programmes are ultimately designed with the aim of redressing the needs of victims, but their aims also extend to include truth and justice. Necessary conditions for achieving both truth and justice in a post-conflict society require, as set out by De Greiff, recognition, civic trust and solidarity.¹⁹⁵ Recognition refers to recognising individuals as citizens, but also victims. Civic trust involves sharing a normative commitment and

¹⁹² *ibid* 532; Tshepo Madlingozi, 'Good Victims, Bad Victims: Apartheid's Beneficiaries, Victims and the Struggle for Social Justice' in W Le Roux and K Van Marle (eds), *Law, Memory and the Legacy of Apartheid* (Pretoria University Press 2007).

¹⁹³ McEvoy and McConnachie (n 191) 532; Patricia Lundy, 'Commissioning the Past in Northern Ireland' (2010) LX Review of International Affairs 101.

¹⁹⁴ McEvoy and McConnachie (n 191) 532–533.

¹⁹⁵ de Greiff (n 166) 454–456.

solidarity concerns the ability to ‘empathise with the situation of others’.¹⁹⁶ As García-Godos notices, reparation programmes ultimately become a way of achieving the aims of a just state, which is essentially the sense that all citizens are equal participants in a political project.¹⁹⁷ Therefore, the implication is that regardless of their perceived innocence or gender, victims must be granted their rights in order to achieve the goal of setting up a just and democratic state.

However, are all citizens equal participants in a political project? More importantly, are all victims treated equally by reparation programmes? Feminist scholars argue that this is impossible without a gender justice approach to reparations. Viewing gender justice as non-discrimination, feminist scholars have unveiled structural discrimination and exclusions based on gender within reparation programmes, particularly when it relates to victims of conflict-related sexual violence. In order to bring an end to deeply embedded structural discrimination based on gender, an increasing amount of scholars and policymakers are calling for reparation programmes to embrace a transformative dimension. However, to add a transformative agenda to reparations further complicates the role of reparation programmes. As demonstrated, reparation programmes as a transitional justice mechanism are inherently political and how the political is connected to meanings of gender and victimhood will depend on local contexts. Although pursuing transformation through reparation programmes presents an opportunity to effect lasting change in societies, the political component of reparations as a transitional justice mechanism presents a challenge that cannot be overlooked, thus requiring more in-depth consideration.

III. Defining the ‘transformative’ in reparation programmes

In their comprehensive review of international and domestic practices regarding reparation programmes for conflict-related sexual violence, Aolain, O’Rourke and Swaine argue that paying close attention to the ‘gendered conceptualization of remedy reveals one of the primary fault lines of dominant human rights approaches to remedy and reparations: there is an underlying presumption that remedies are a neutral legal space, unfettered by the complexities of gender and other intersectional identities’.¹⁹⁸

¹⁹⁶ *ibid* 462–466.

¹⁹⁷ García-Godos (n 166).

¹⁹⁸ Ni Aolain, O’Rourke and Swaine (n 13) 103.

However, as both practice and research have shown, complexities of gender and intersectional identities seep into remedy and reparations, and there is an increasing demand to address these complexities.

Following the approval of the *Basic Principles* in 2005, critical scholarship on gender and reparations emerged pointing to the lack of 'attention to gender issues and to the specific situations of women and girls'.¹⁹⁹ This exclusion, of course, is not new in international law-making. Feminist engagement with international criminal law had already highlighted the ways gender and women's experiences were excluded or silenced in international criminal trials and had called for a more gender-just approach to international criminal law. Consequently, this critique of international law translated to feminist engagement with transitional justice as well as with victim reparations.

In her study of various transitional justice contexts and women in them, Rubio-Marin highlights how reparation programmes which were meant to redress victims affected by mass violence were unable to recognise the different types of harms women had suffered.²⁰⁰ Consequently, the claim for reparations to become more 'transformative' emerged. In this sense, reparations would have the potential 'to subvert, instead of reinforce, pre-existing structural gender inequalities and thereby to contribute, however, minimally, to the consolidation of more inclusive democratic regimes'.²⁰¹ In other words, reparations would have a modest transformative potential to go beyond redressing the immediate harm victims had suffered and also aim to address the structural gender inequality that led to the sexual violence in the first place.²⁰² In this sense, I would suggest that reparations would have the potential for transformation on the individual level (addressing the immediate harms victims had suffered) and on the collective level (addressing the structural gender inequality that perpetuates violence against women), thus contributing to the establishment of an inclusive democratic state.

Other scholars have embraced Rubio-Marin's definition of transformative reparations. Duggan and Abusharaf conceptualise reparations as a long-term, multidimensional

¹⁹⁹ *ibid* 123.

²⁰⁰ Rubio-Marin, 'The Gender of Reparations: Setting the Agenda' (n 10).

²⁰¹ Rubio-Marin, *The Gender of Reparations: Unsettling Sexual Hierarchies While Redressing Human Rights Violations* (n 11).

²⁰² *ibid*.

process and suggest that it can provide an opportunity to review a government's commitment to the citizens' rights of women, thus emphasising the importance of structural change.²⁰³ Due to the specific nature of harm caused by sexual violence, they argue that reparation programmes provide an opportunity to break the silence and to 'redefine the social norms that have fostered sexual violence'.²⁰⁴ Significantly, both Rubio-Marin and Duggan and Abusharaf recognise the risk of broadening the scope of reparations under the transformative agenda. Rubio-Marin reminds that 'the program should never neglect that its most important immediate goal is to help victims cope with the effects of violence in their present lives'.²⁰⁵ Similarly, Duggan and Abusharaf highlight the importance of recognising that reparation programmes alone cannot build active citizenship, lasting democracy, and sustainable human development.²⁰⁶

In addition to academic developments, a transnational coalition of women's civil society organisations developed the *Nairobi Declaration on Women's and Girl's Rights to a Remedy and Reparation* in 2007. The aim was to promote a gendered approach to the implementation of the *Basic Principles*. One of the key points the *Nairobi Declaration* makes is that restitution alone is not enough, because 'the origins of violations of women's and girls' human rights predate the conflict situation'.²⁰⁷ For this reason, it argues that 'reparation must drive post-conflict transformation of socio-cultural injustices, and political and structural inequalities that shape the lives of women and girls'.²⁰⁸ The transformative scope advocated by this initiative is broader than the one proposed by initial scholarship.

In her analysis of the *Nairobi Declaration*, Couillard ambitiously endorses this perspective on transformative reparations that implies 'remodelling society with a view to eliminate the pre-existing structural inequalities that have led to or encouraged violence against women'.²⁰⁹ She praises the 'innovative and inspiring contribution' made by the *Nairobi Declaration* in its redefinition of reparations for victims of sexual

²⁰³ Colleen Duggan and Adila M Abusharaf, 'Reparation of Sexual Violence in Democratic Transitions', *The Handbook of Reparations* (Oxford University Press 2006).

²⁰⁴ *ibid* 635–636.

²⁰⁵ Rubio-Marin, *The Gender of Reparations: Unsettling Sexual Hierarchies While Redressing Human Rights Violations* (n 11).

²⁰⁶ Duggan and Abusharaf (n 203).

²⁰⁷ 'Nairobi Declaration on Women and Girls' Right to a Remedy and Reparation' (n 12).

²⁰⁸ *ibid*.

²⁰⁹ Couillard (n 26) 450.

violence.²¹⁰ Couillard argues that it goes beyond the *Basic Principles*, because it requires reparation programmes to pursue ‘the transformation of society as a whole’, and because it calls for women’s participation to become central to the reparation process.²¹¹ Similarly, the 2014 UN Guidance Note on reparations for conflict-related sexual violence builds on this understanding of transformative reparations but states that ‘reparations have the potential to be transformative and to assist in overcoming structures of inequality and discrimination’.²¹²

Essentially, two approaches to conceptualizing ‘transformative’ reparations have emerged in both scholarship and policy with the aim of providing guidance on how to affect the transformative potential of reparations. On the one hand, literature has labelled transformative reparations as ‘modest projects of transformation’,²¹³ which aim for the transformative objective by being ‘sensitive, flexible, and encapsulate[ing] gender-appropriate approaches.’²¹⁴ With such an approach transformative reparations would address the immediate harm caused by conflict-related sexual violence but would also pay attention to the ‘broader social and economic context in which the harm was occasioned’.²¹⁵ The ‘modest’ approach provides reparations with the potential to ‘subvert prevailing discriminatory norms’.²¹⁶ It is also the basic requirement of reparations ‘as part of a human rights framework premised on *nondiscrimination* on the basis of gender and socially weighted differences’.²¹⁷

On the other hand, initiatives such as the *Nairobi Declaration* have advocated for reparations to embrace a broader agenda aimed at social transformation by ‘remodelling society with a view to eliminate the pre-existing structural inequalities that have led to or encourage violence against women’.²¹⁸ Criticised on the grounds of ‘practical realism and political feasibility’, Urban Walker has additionally pointed out

²¹⁰ Couillard (n 26).

²¹¹ *ibid* 450.

²¹² Office of the United Nations High Commissioner for Human Rights (OHCHR) and UN Women 'Guidance Note' (n 16).

²¹³ O’Rourke and Swaine (n 21) 1305; Rubio-Marin, *The Gender of Reparations: Unsettling Sexual Hierarchies While Redressing Human Rights Violations* (n 11).

²¹⁴ Ni Aolain, O’Rourke and Swaine (n 13) 110.

²¹⁵ *ibid*.

²¹⁶ Rubio-Marin, *The Gender of Reparations: Unsettling Sexual Hierarchies While Redressing Human Rights Violations* (n 11) 66.

²¹⁷ Urban Walker (n 25) 109.

²¹⁸ Couillard (n 26) 450.

how this ‘transformative’ agenda ‘threatens to bypass or displace reparative justice as a distinct and distinctly victim-centered ideal in favour of a different kind of justice agenda’.²¹⁹ Essentially, it risks taking away the focus from individual victims ‘whose status as bearers of rights and subjects of justice depends crucially on their standing to claim accountability and repair for violations to their individual persons.’²²⁰

Urban Walker makes an important point. Victims were not always seen at the centre of transitional justice. In the early days of transitional justice, when it was just developing as a field, the emphasis was put on peace-building and re-establishing the rule of law. The focus was on rebuilding societies, nations and states, not on the individual victims that suffered during the human rights violations. Only recently, in the mid-2000s, has transitional justice experienced a turn towards victims both in practice and academic inquiry.²²¹ The turn was possible due to one specific transitional justice mechanism, victim reparations. With the approval of the *Basic Principles* in December 2005, victims’ rights were finally articulated in international policy.

More importantly, post-conflict governments rarely make an effort to embark on designing reparation programmes, and when they do, many fail to deliver the promises they make to victims. As the UN special rapporteur on the promotion of truth, justice, reparation and guarantees of non-occurrence had said in his 2014 report on reparations, ‘this implementation gap is of scandalous proportions’.²²² In this sense, it is best to keep a modest approach to transformation on the collective level instead of over-ambitiously promoting social transformation through reparations, which may have severe implications for the implementation of local reparation programmes.

Although both scholarship and policy literature had extensively engaged in highlighting the need for transformative reparations for conflict-related sexual violence, little had been done to set out how reparations can actually produce transformation. More recently, a link between women’s participation and transformation has been emerging

²¹⁹ Urban Walker (n 25) 110; Waldorf (n 27).

²²⁰ Urban Walker (n 25) 110.

²²¹ Jemima García-Godos, ‘Victims in Focus’ (2016) 10 *International Journal of Transitional Justice* 350, 350–358.

²²² Pablo De Greiff and UN. Human Rights Council. Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence (eds), *Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence*, Pablo de Greiff (UN 22).

in scholarship and international policy on transformative reparations. In her 2010 Report, Rashida Manjoo states that the importance of women's participation in reparations discussions and processes 'cannot be overestimated'.²²³ She explains how without the participation of women from different contexts, 'initiatives are more likely to reflect men's experience of violence and their concerns, priorities and needs regarding redress'. UN Global Study also presented this reasoning, stressing the importance of ensuring that 'women are consulted and able to actively participate in reparation processes'. Apart from policy, recent scholarship on transformative reparations has also highlighted the need for more participation.

Recent studies on transformative reparations for victims of conflict-related sexual violence have mostly considered the different approaches to the design and implementation of reparations sanctioned by domestic courts, truth and reconciliation commissions and women's hearings in different contexts.²²⁴ Having evaluated their capacity to guarantee non-repetition of sexual violence against women, most of these studies emphasise the importance of including the voices of victims, particularly women victims, in order to produce an effective and appropriate design and implementation of reparations.

This emphasis on the participation of women and victims in the process of drafting reparations resonates with the aims of transformative justice as conceptualised by transitional justice scholars and discussed earlier in this chapter. In this sense, it provides a sense of optimism because it implies that a more inclusive approach to justice can lead to transformation of structural inequalities that may have instigated violence in the first place. However, emphasis on women's participation in reparation processes raises

²²³ Manjoo (n 17) para 29.

²²⁴ Sarah Williams and Emma Palmer, 'Transformative Reparations for Women and Girls at the Extraordinary Chambers in the Courts of Cambodia' (2016) 10 *International Journal of Transitional Justice* 311; Andrea Durbach and Lucy Geddes, "'To Shape Our Own Lives and Our Own World": Exploring Women's Hearings as Reparative Mechanisms for Victims of Sexual Violence Post-Conflict' (2017) 21 *The International Journal of Human Rights* 1261; Sarah Williams and Jasmine Opdam, 'The Unrealised Potential for Transformative Reparations for Sexual and Gender-Based Violence in Sierra Leone' (2017) 21 *The International Journal of Human Rights* 1281; Louise Chappell, 'The Gender Injustice Cascade: "Transformative" Reparations for Victims of Sexual and Gender-Based Crimes in the Lubanga Case at the International Criminal Court' (2017) 21 *The International Journal of Human Rights* 1223.

similar problems to what feminist scholarship on transitional justice has highlighted in regards to the WPS agenda, which is mostly driving this emphasis.

The problems relate to the WPS agenda prioritising ‘the advancement of a presumed set of “women’s interests”’,²²⁵ which, as was discussed earlier in this chapter can lead to the assumption that all women victims of sexual violence perceive their victimhood in the same way and that this perception overlaps with the way that policy-makers and activists understand victimhood. In other words, calling for an increase of women’s participation based on the idea that there is a universal understanding of ‘women’s interests’ poses a serious risk of assuming that all participating women in the design of reparations for victims of conflict-related sexual violence believe that violence against women is a result of structural gender inequality. It also assumes that all women believe that the best way to guarantee non-repetition is to design and implement reparations that will challenge structural gender inequality in a society.

More importantly, there is a risk of assuming that women that are calling for reparations for conflict-related sexual violence are only claiming a gender identity. As was observed in feminist debates in the 1990s regarding sexual violence and nationalism, women can consciously claim both a gender and ethnic identity, and this informs the way they perceive and make sense of wartime sexual violence. It is only logical that this perception would translate into the way just reparations are perceived as well. Therefore, when calling for more participation of women in the design and implementation of transformative reparations for conflict-related sexual violence, it is essential to consider how inclusive participation of women may produce obstacles for transformative justice. The obstacles should not be seen as a way to justify why women’s participation is not necessary; instead, it presents an opportunity to consider alternate approaches to transformative justice that still include the participation and investment of women, including those that do not ideologically agree with the core tenets of the WPS agenda.

²²⁵ O’Rourke, ““Walk[Ing] the Halls of Power”?” (n 131) 9.

6. Conclusion

Placing gender at the centre of transitional justice means recognising that the gendered lives of women and men result in different disadvantages and privileges. For women in transitional justice contexts, these gendered differences mean that the continuation of harms persist even when armed conflict is over. The structural harms can lead to poverty or discrimination depending on how gender is constructed in societies. As pointed out in this chapter, with the transitional justice 'toolkit' limited to address issues such as gender inequality, a transformative approach to justice is needed. It has the potential to promote change that can help to solve some of the structural inequalities that directly affect women's lives. More specifically, it is envisaged to have the potential to challenge structural gender inequality.

Victim reparations, a transitional justice mechanism that is usually neglected by transitional governments, has been identified as the most able mechanism to promote transformative change on both the individual and collective level. Similar conclusions have been made by feminist scholars who have critiqued the lack of consideration for the gender dimension of victim reparations, especially reparations for victims of conflict-related sexual violence. Their call for 'transformative reparations' rests on the claim that reparations for victims of conflict-related sexual violence should address the immediate harms of victims as well as strive to guarantee non-repetition, which can only be achieved by challenging the structural gender inequality that leads to violence against women in the first place.

Both transitional justice scholars promoting a transformative justice agenda and feminist scholars engaging with transitional justice processes have identified participation of marginalised groups, in this case, women and victims, as key for achieving transformative justice. It is claimed that participation will guarantee that the voices of the marginalised are included in the design and implementation of reparations; therefore, ensuring reparations have a transformative potential. However, issues exist with the way participation is envisaged, particularly by the UN's women, peace and security agenda that drives the claims for increasing women's and victims' participation. Assuming that all participants have the same interests is problematic.

For this reason, more knowledge is needed about how participation may challenge transformative justice. This direction of study should not be seen as a way to decrease the number of women at the decision-making table, but instead to gain a better understanding of the interests and motivations of all women invested in repairing the harms that victims of conflict-related sexual violence have suffered. Also, taking such an approach to the study of women's participation in transformative justice can highlight some of the political complexities that may be present in the processes. In particular, it can shed light on how nationalism can be used to promote the need for reparations, but also to limit the transformative potential of reparations. The following chapter takes up the task of examining the particularity of Croatian nationalism in order to analyse the role of nationalism in the process of developing transformative reparations in Croatia.

CHAPTER 2

CROATIAN NATIONALISM AND THE IMPORTANCE OF THE COLLECTIVE VICTIMHOOD NARRATIVE

1. Introduction

‘Slobodan Praljak is not a war criminal! I reject your judgment with contempt,’ declared Slobodan Praljak in Croatian, moments after judges at the International Criminal Tribunal for the Former Yugoslavia upheld his 20-year sentence for war crimes and crimes against humanity.²²⁶ As the judges were telling him to sit down, he pulled out a small bottle and swallowed the contents, stating, ‘I have taken poison’.²²⁷ Praljak, a Bosnian Croat war criminal convicted for crimes committed during the Bosnian War, later died in a Dutch hospital and his death was ruled a suicide.

Praljak’s staged suicide on 29 November 2017 took place during the tribunal’s final session²²⁸ during which the judges confirmed the ruling against Praljak and five other defendants.²²⁹ The Appeals Chamber upheld convictions which included rape, inhuman treatment (sexual assault), extensive appropriation of property not justified by military necessity, and plunder of public or private property. It also affirmed the Trial Chamber’s conclusion that the accused were participants in a joint criminal enterprise in 1993, which was ‘aimed at creating a Croatian entity in Bosnia and Herzegovina that would facilitate the reunification of the Croatian people, through ethnic cleansing of the Muslim population’.²³⁰

Although the case extensively examined and later upheld the ruling of Croatia’s role in occupying and ethnically cleansing territory that former Croatian President Tuđman

²²⁶ Marlise Simons, ‘Croatian War Criminal Dies After Swallowing Poison in Court - The New York Times’ *The New York Times* (29 November 2017) <<https://www.nytimes.com/2017/11/29/world/europe/bosnian-war-croatia.html>> accessed 11 September 2018.

²²⁷ *ibid.*

²²⁸ The International Criminal Tribunal for the former Yugoslavia formally closed its doors on 31 December 2017 following two decades of work during which it had indicted 161 persons for serious violations of humanitarian law committed on the territory of the former Yugoslavia between 1991 and 2001.

²²⁹ *Prosecutor v Prlić et al, (Appeals Chamber Judgement) ICTY-2017-IT-04-74-A (29 November 2017).*

²³⁰ ‘The ICTY Renders Its Final Judgement in the Prlić et Al. Appeal Case’ (*United Nations - International Criminal Tribunal for the Former Yugoslavia*, 29 November 2017) <<http://www.icty.org/en/press/the-icty-renders-its-final-judgement-in-the-prli%C4%87-et-al-appeal-case>> accessed 11 September 2018.

claimed was historically Croatian, media reports throughout the former Yugoslav republic mainly focused on Praljak's suicide, framing him as a hero. Croatia's leading daily newspapers, *Jutarnji list* and *Večernji list*, printed front pages with photographs of Praljak drinking the poison with headlines including statements such as 'he could not live with such a verdict' and quotations of his last words. Although the reactions of the Croatian public were divided, messages posted on social media revealed extensive support for Praljak's heroic and ultimate resistance to a tribunal that was portraying Croatia as an aggressor in the war. Catholic churches held masses in several cities throughout Croatia and Herzegovina, and vigils were held with candles, Croatian flags and banners with the words 'Praljak is a hero' on several city squares. The Croatian President Kolinda Grabar-Kitarović responded to the events in The Hague by proclaiming that 'Croatia is not an aggressor' and that 'Croatia did not attack anybody.' She also described Praljak as 'a man that would rather take his life than live convicted of deeds he did not commit.' Similarly, Croatia's Prime Minister, Andrej Plenković, denounced the ruling stating that Praljak's act 'mostly speaks about a deep moral injustice towards six Croats from Bosnia and the Croatian people'.²³¹

The event of Praljak's suicide and the subsequent reactions of the Croatian government and Croatian public clearly illustrate the nature of Croatian nationalism: it rests on a claim to historical statehood that continuously relies on a victimhood narrative with a male defender at the centre. Confronted with the final ruling in the case of *Prosecutor v. Prlić et al.*, which demonstrated how Croatian involvement in the Bosnian war was not of a defensive nature, the accused, the Croatian government, and the Croatian public perceived the judgment as an attack on the Croatian nation. The use of language such as 'moral injustice', 'hero', 'aggressor' and 'attack' emphasise how controversial events of the Homeland War (and Bosnian War) were and still are perceived as

²³¹ 'PM: Praljak's Act Speaks of Deep Moral Injustice towards Bosnian Croats' (*Government of the Republic of Croatia*, 29 November 2017) <<https://vlada.gov.hr/news/pm-praljak-s-act-speaks-of-deep-moral-injustice-towards-bosnian-croats/22949>> accessed 11 September 2018; Selma Milovanovic, 'Slobodan Praljak: War Criminal or Croatian Hero?' *Al Jazeera News* (30 November 2017) <<https://www.aljazeera.com/news/2017/11/slobodan-praljak-war-criminal-croatian-hero-171130181546531.html>> accessed 11 September 2018; Sven Milekić, 'Croatia Expresses Shock at Hague Tribunal Suicide' *Balkan Insight* (30 November 2017) <<http://www.balkaninsight.com/en/article/croatia-expresses-shock-at-hague-tribunal-suicide-11-30-2017>> accessed 11 September 2018; Andrew MacDowall, 'Slobodan Praljak's Suicide Reopens Old Wounds in Bosnia' *The Guardian* (2 December 2017) <<https://www.theguardian.com/world/2017/dec/02/slobodan-praljak-suicide-reopens-old-wounds-bosnia>> accessed 11 September 2018.

justifiable, defensive, military actions in the name of the claim to historical statehood. In response to this perceived attack on the Croatian nation, the reactions to the ruling are expressed by rejecting the judgment through means that will continue reproducing the victimhood narrative, thus upholding this form of Croatian nationalism. For the accused, the disagreement with the judgement is expressed with an act of so-called self-sacrifice for the nation. The government expressed its disagreement by challenging the ruling in official statements printed in the media. Finally, the Croatian public continues to reproduce the victimhood narrative by reinforcing an image of the tribunal as a 'hater of Croats' in the stories told over coffee.

The purpose of this chapter is to historically contextualise Croatian nationalism in order to illustrate how nationalist ideas of collective victimhood and gender, which have developed through time, have been mobilised in present-day Croatia.

The chapter is organised into four parts. The first part establishes Croatia's claim to historical statehood as set out in the Constitution of the Republic of Croatia. It begins by placing Croatian nationalism within a historical context and explains how the influence of nationalist movements in the 19th century, what Miroslav Hroch identifies as the awakening of the national consciousness, establish the idea of the Croatian nation on the basis of historical statehood. It examines how the claim to historical statehood was strengthened and adapted through the events of the Illyrian movement, the emergence of the Croatian language, and also the cooperation with Serbs for the purpose of independence from the Austro-Hungarian Empire. The subsequent independence ultimately led to the establishment of the First Yugoslavia, The Kingdom of Serbs, Croats and Slovenes. The second part of the chapter engages with the emergence of the collective victimhood narrative, which later plays a crucial role in constructing contemporary Croatian nationalist discourse. It examines Croatian nationalism at the end of the First World War, particularly the establishment of the Independent State of Croatia (NDH) and the crimes of Jasenovac and Bleiburg. It shows how these crimes and their silencing by Communist Yugoslavia facilitated the emergence of the collective victimhood narrative in the 1990s. The third part of the chapter explores the transformation of Croatian nationalist discourse during the Tuđman era in the 1990s. It argues that, with his rhetoric, Tuđman constructed a particular collective victimhood narrative to strengthen the historic claim to statehood with which he transformed

Croatian nationalist discourse. Finally, the chapter concludes with an examination of how contemporary Croatian nationalism informs the way gender roles are defined in the newly independent state of Croatia.

2. Tracing Croatia's claim to historical statehood

I. Nationalism as a discourse: The Constitution of the Republic of Croatia

A universal definition or theory of nationalism does not exist, and in fact, cannot be provided for the study of social phenomena.²³² It is essential to keep this in mind when attempting to conceptualise nationalism because nationalism as a changeable phenomenon takes various forms depending on historical, social and political contexts.²³³ As Craig Calhoun has concluded:

Nationalism is too diverse to allow a single theory to explain it all. Much of the contents and specific orientation of various nationalisms is determined by historically distinct cultural traditions, the creative actions of leaders, and contingent situations within the international world order.²³⁴

Nevertheless, many scholars have attempted to theorise the concept of nationalism, consequently developing a number of approaches to understanding what nationalism is and how it came to be. Presenting a comprehensive overview of the theories and their limitations is a project in itself. I will instead address central areas of debate, especially those that provide context to the concept of Croatian nationalism. In essence, nationalism can narrowly be conceived as favouritism towards one's own nation through sentiments, social movements, or even state policies. Generally, it is referred to as an approach to constructing identities, especially political identities that are based on claims on culture, language, territory, history and/or race.²³⁵

²³² Sami Zubaida, 'Theories of Nationalism' in G Littlejohn and others (eds), *Power and the State* (Croom Helm).

²³³ Umut Ozkirimli, *Theories of Nationalism: A Critical Introduction* (Macmillan 2000).

²³⁴ Craig J Calhoun, *Nationalism* (U of Minnesota Press 1997) 123.

²³⁵ Craig Calhoun (ed), 'Nationalism', *Dictionary of the Social Sciences* (Oxford University Press 2002) <<http://www.oxfordreference.com/view/10.1093/acref/9780195123715.001.0001/acref-9780195123715-e-1141>> accessed 11 September 2015.

My approach to nationalism aligns with those scholars who conceptualise it as a form of discourse that cannot be defined under a simple heading of 'nationalism'.²³⁶ Conceptualising nationalism as a form of discourse means understanding it as 'a particular way of seeing and interpreting the world, a frame of reference that helps [people] make sense of and structure the reality that surrounds [them]'.²³⁷ Similar to other identity discourses, it divides the world into 'us' and 'them' and conceals the existence of diverse thinking and opinions that may exist within the nation by presenting a specific construction of the nation as the 'natural and authentic version'.²³⁸ In this sense, nationalism can be seen as a discourse that legitimises the state, but also a discourse that can be legitimised through the law.

I also align my approach to nationalism with those scholars who consider the location of women and gender in nationalist discourse.²³⁹ Feminist scholars have theorised how in nationalism 'gender relations play crucial roles, constructing notions of femininity and masculinity, naturalise power relations and reproduce biologically, culturally and symbolically national collectivities'. Essentially, nationalist discourse produces a gender hierarchy that is normalised through the different roles women and men are given within society. Women are generally depicted as the biological and cultural reproducers of the nation, while nationalist discourse assigns men the role of protectors of the nation.²⁴⁰ More importantly, these gendered notions of what it means to be female and male may translate into state policies. In this sense, I pay attention to how nationalism as a discourse informs the gender roles of a society and how the law may be used to legitimise nationalist discourse and the gender roles it prescribes.

The Constitution of the Republic of Croatia, which was adopted on 22 December 1990, places at its core the historical account of Croatia's right to statehood. Croatia's claim to historical statehood is traced back to 'the formation of Croatian principalities in the seventh century', 'the independent medieval state of Croatia founded in the ninth

²³⁶ Calhoun (n 234); Alan Finlayson, 'Ideology, Discourse and Nationalism' (1998) 3 *Journal of Political Ideologies* 99; Ronald G Suny, 'History' in AJ Motyl (ed), *Encyclopedia of Nationalism*, vol 1 (Academic Press 2001); Umut Ozkirimli, *Contemporary Debates on Nationalism: A Critical Engagement* (Palgrave Macmillan 2005).

²³⁷ Ozkirimli (n 236) 30.

²³⁸ *ibid* 164.

²³⁹ Yuval-Davis (n 161); Peterson (n 4).

²⁴⁰ Flora Anthias and Nira Yuval-Davis, *Woman-Nation-State* (Palgrave Macmillan 1989).

century' and 'the Kingdom of Croats established in the tenth century'.²⁴¹ It stipulates that the historical right manifested itself in the protection of the 'subjectivity of the Croatian state in the Croatian-Hungarian union', as well as in the conclusions of the Croatian Sabor²⁴² of 1848 'regarding the integrity of the Triune Kingdom of Croatia under the power of the Ban, on the basis of the historical statal and natural right of the Croatian nation'.²⁴³ Mainly, the claim to historical statehood rests on the belief that the Croatian nation had enjoyed continuous statehood since the time of the medieval kingdom, despite the unions with Hungary in 1102 and with the Habsburgs in 1527, and therefore should continue to exercise its political independence and right to an independent state.²⁴⁴ However, the history that this claim interprets neglects to mention the discontinuity that took place during the period of the First Yugoslavia, which I will go into more detail in the following section.

The claim's reference to historical continuity resembles what Anderson views as the nation 'moving calendrically' through time, by which time suggests the continuity of the nation even during contested moments of its history.²⁴⁵ This means that the Constitution's use of time not only demonstrates how long the Croatian nation had enjoyed continual statehood but also confirms the existence of the nation throughout history. Although the nation is understood to be a sociological construct of the modern world that appears as a product of modern processes such as capitalism, industrialism, urbanisation and secularism, the role history plays in the process of its political and cultural construction is significant.²⁴⁶ As seen in Renan's famous essay 'What is a Nation?', history is located at the centre of the nationalist project, because nationalist discourse requires a careful interpretation of history.²⁴⁷ For this reason, it is not unusual

²⁴¹ Ustav Republike Hrvatske (pročišćeni tekst, Narodne novine, br. 85/2010).

²⁴² Croatia's highest representative body at the time.

²⁴³ Ustav Republike Hrvatske (pročišćeni tekst, Narodne novine, br. 85/2010).

²⁴⁴ Alex J Bellamy, *The Formation of Croatian National Identity: A Centuries-Old Dream* (Manchester University Press 2003) 57; Mark Biondich, 'Chapter 2. "We Were Defending the State": Nationalism, Myth, and Memory in Twentieth-Century Croatia' in John Lampe and Mark Mazower (eds), *Ideologies and National Identities: The Case of Twentieth-Century Southeastern Europe* (Central European University Press 2006) para 4 <<http://books.openedition.org/ceup/2420>> accessed 11 September 2018.

²⁴⁵ Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (Verso 1991).

²⁴⁶ David McCrone, *The Sociology of Nationalism: Tomorrow's Ancestors* (Psychology Press 1998) 44; Ozkirimli (n 233) 85–86.

²⁴⁷ Ernest Renan, 'What Is a Nation?' in Geoff Eley and Ronald Grigor Suny (eds), *Becoming National: A Reader* (First Edition edition, OUP USA 1996).

that the Constitution of the Republic of Croatia legitimises the Croatian nation-state through a carefully interpreted claim to continual statehood, which is essentially an articulation of Croatian nationalism.

II. The awakening of the Croatian nation: an ethnic nationalism?

When addressing nationalism in the context of the Balkans, it is not unusual for it to be connected to the atrocities that took place following the breakup of former Yugoslavia in the early 1990s. Scholars have written extensively about how nationalism leads to hatred, violence and wars, basing their theories on the argument that there exist ‘good’, peaceful, Western nationalisms and ‘bad’, violent, Eastern nationalisms.²⁴⁸ The idea of Western and Eastern nationalisms first emerged and was explored in detail by Hans Kohn in 1944.²⁴⁹ In contrast to the ‘good’ Western nationalism, which arose as a ‘state-reinforcing’ movement as seen in France and England, the ‘bad’ Eastern nationalism of Eastern Europe was understood as a ‘state-subverting’ movement. Eastern nationalism received the label of ‘state-subverting’ because the nationalist movements that took place in Eastern Europe were happening in a space where existing states and ethnic identity rarely coincided.²⁵⁰ As the movements defined the nation based on ethnic identity, they were attempting to redraw territorial lines according to ethnicity. While Western ‘civic’ nationalism’s membership is of political nature, Eastern ‘ethnic’ nationalism views membership based on customs, norms and values.²⁵¹ Some truth can be found in this distinction of Western and Eastern nationalisms, but the theory itself is problematic for several reasons. First, it is very western-centric and uncritical of the ‘civic’ nationalism of the West.²⁵² Second, it is used to provide a distorted interpretation of the breakdown of Former Yugoslavia based on a so-called *theory of ethnic hatreds*.²⁵³

²⁴⁸ Louis Leo Snyder, *Varieties of Nationalism: A Comparative Study* (Dryden Press 1976); Elie Kedourie, *Nationalism* (4 edition, Wiley-Blackwell 1993); Liah Greenfeld, *Nationalism: Five Roads to Modernity* (New Ed edition, Harvard University Press 1993).

²⁴⁹ Hans Kohn, *The Idea of Nationalism: A Study in Its Origins and Background* (Transaction Publishers 2005).

²⁵⁰ Michael Mann, ‘A Political Theory of Nationalism and Its Excesses’ in Sukumar Periwal (ed), *Notions of Nationalism* (Central European University Press 1995).

²⁵¹ Kohn (n 249).

²⁵² Bernard Yack, ‘The Myth of the Civic Nation’ (1996) 10 *Critical Review* 193, 196.

²⁵³ Josip Zupanov, Dusko Sekulic and Zeljka Sporer, ‘A Breakdown of the Civil Order: The Balkan Bloodbath’ (1996) 9 *International Journal of Politics, Culture, and Society* 401, 401–422.

Although some may argue that Croatian nationalism is and has always been a type of ethnic nationalism, I follow the thinking of those scholars who argue that the ethnic component to Croatian nationalism is a recent development.²⁵⁴ In fact, before contemporary Croatian nationalism's turn to xenophobic tendencies in the 1990s, Croatian nationalism based itself on a claim to statehood. This claim was articulated in the first half of the nineteenth century to protect Croatian political rights within the Austrian-Hungarian Empire from the increased spreading of magyrisation.²⁵⁵ It remained at the core of the nationalist movement throughout the nineteenth century until the establishment of the Kingdom of Serbs, Croats and Slovenes in 1918, which symbolises a rupture²⁵⁶ in this narrative and will be addressed in more detail later in the chapter.

The evolution of nationalism in Central Europe began with the emerging nobility gradually accepting modern changes while still securing economic interests and social positioning. This meant that although the 'nation' was not recognised as a political community, it was endorsed as a linguistic-cultural community. As the Habsburg Monarchy failed to construct a unifying 'Austrian' nation, the nobility engaged in constructing a national identity based on traditions leading to the creation of separate cultural spaces. Standard languages were polished based on vernaculars, which meant that cultural-linguistic identity was placed at the core of national movements, and later at the core of the nation-state.²⁵⁷ The first stage of modern Croatian nationalism was marked by divided Croatian space both culturally and linguistically. For example, there existed two versions of the Croatian language, kajkavski and štokavski.²⁵⁸ The languages were used by different classes within the Croatian territory, which had at the time developed their own sense of ethnic and non-political identity. Essentially, the concept of a 'Croatian nation' was constructed differently in each class and each region.²⁵⁹ The cultural and linguistic disunity, as well as the class division and the realisation that Croats

²⁵⁴ Other scholars have also argued that it was 19th century Croatian nationalism defined the nation according to political terms. See Davorka Matic, 'Is Nationalism Really That Bad? The Case of Croatia' in Sabrina P Ramet and Davorka Matic (eds), *Democratic Transition in Croatia: Value Transformation, Education, and Media* (Texas A&M University Press 2007).

²⁵⁵ Bellamy (n 244) 37–42; Matic (n 254) 335.

²⁵⁶ Bellamy (n 244) 47.

²⁵⁷ McCrone (n 246) 80–82; Nikša Stančić, 'Hrvatski narodni preporod - ciljevi i ostvarenja' (2009) X *Cris : časopis Povijesnog društva Križevci* 6, 8.

²⁵⁸ Latin remained the official language, and German and Italian were also used. Bellamy (n 244) 43–44.

²⁵⁹ Stančić (n 257).

were numerically inferior to the other Habsburg dominant nations, created momentum for generating a Croatian vision of a unified South-Slav identity. Emerging as a 'nation of social elites', other layers of society were integrated throughout the 19th and 20th centuries, particularly through the Starčevićist school, the Strossmayerist school and later the Peasants Party of brothers Radić.²⁶⁰ This unification based itself on the concept of Croatia's historical state rights which was built on 'the still existing institutions embodying Croatia's political autonomy, and it formed the foundation upon which the idea of the "Croatian political nation" was built'.²⁶¹

As was common with many national movements at the time, the aim was to 'awaken the nation' by winning over as many supporters for the national cause.²⁶² This was actualised with the Illyrian movement; today referred to as the Croatian National Revival, which aimed to unify all South Slavs (Croats, Slovenes and Serbs). It consisted of two competing national programs in Croatia; one represented by Ante Starčević and the other by Josip Juraj Strossmayer. Regardless of whether the schools of thought were of a South Slav or purely Croat orientation, both national movements placed the Croatian claim to statehood at the core of their programme.²⁶³

On the one hand, Starčević's program and his Party of Rights (the party's name signifies his very confined orientation to the right to a state) claimed that the Croatian Kingdom had de jure been an independent entity. It argued that the Croats had constantly been negotiating for their independence within all unions and that it was time to establish their right to be free of hegemony. His definition of Great Croatia (this reference to borders is significant and will resonate in Tuđman's construction of the Croatian nation) included the territories of present-day Croatia, Bosnia-Herzegovina, and Slovenia, claiming for a political nation, thus Croats are all people residing in Great Croatia (either Catholic, Muslim, or Orthodox Christian religion). Interestingly, he identified the Serbs as Orthodox 'Croats' thus refraining from recognising their political identity.²⁶⁴

²⁶⁰ *ibid* 8–11.

²⁶¹ Matic (n 254) 335.

²⁶² McCrone (n 246) 80–82.

²⁶³ *ibid*; Biondich (n 244) para 5.

²⁶⁴ Biondich (n 244) para 5.

On the other hand, Josip Juraj Strossmayer's National Party supported a cultural Yugoslavism, which aimed at uniting all South Slavs culturally and linguistically. Even though the Strossmayerist School recognised the ethnic distinctiveness of the Serbs in Croatia, unlike the Starčevićist school, it also refused to recognise the Serbs as a 'political nation'. As Biondich explains, recognising their political existence would mean opening the door to separate Serb rights or even demands to territorial autonomy within Croatia.²⁶⁵ This, of course, would be problematic for the claim to national unity and right to statehood.

Apart from the leading schools of thought, the work of Stjepan Radić, the founder and leader of the Croatian Peasant Party, also shaped Croatian nationalism. The nationalism that Radić promoted was 'liberal, democratic, and concerned with individual social and political rights'.²⁶⁶ For example, Radić envisaged the nation as a modern political community and not an ethnic community. He did not use religion or descent in determining membership. Moreover, the national question was closely linked to the social question, which he argued could be resolved only with the guarantee of civil rights and freedoms. Radić described this ideology as 'democratic nationalism' and aimed for Croatia to have a 'recognised political unit within a reformed Austro-Hungarian state'.²⁶⁷ However, the First World War forcefully changed the direction that Croatian nationalism.

While it can be argued that the initial stage of modern Croatian nationalism could be characterised as ethnic nationalism, where the nation is defined in terms of ethnicity, such an argument is rather simplistic. The Illyrian movement created a standardised language and Croatian Latin script, which created the basis for contemporary Croatian literature and culture. Moreover, these cultural and linguistic developments contributed to the formation of the Croatian nation. However, and more importantly, the Illyrian movement focused its political programme exclusively on independence and territorial integrity within the Habsburg Monarchy, which the programme that Stjepan Radić promoted further pursued.²⁶⁸ For this reason, some scholars argue that ethnicity did not

²⁶⁵ *ibid* 6.

²⁶⁶ Matic (n 254) 338.

²⁶⁷ *ibid* 340.

²⁶⁸ Stančić, 2008, 8

play a role in the early stages of Croatian nationalism.²⁶⁹ Ethnicity became an issue only later when a break in the narrative of historical continuity of independent statehood took place with the establishment of the Kingdom of Serbs, Croats and Slovenes, otherwise known as the First Yugoslavia.

III. The rupture in the claim to historical statehood: The Kingdom of Yugoslavia

The dissolution of the Habsburg Empire at the end of the First World War placed the Croatian elite in a very difficult situation. As explored by Bellamy in his account of the formation of the Croatian historical statehood narrative, the Croatian elite was faced with three options: 'remain inside Austria, declare national unification and independence in a revived Triune Kingdom, or enter into a union with the Serbs and Slovenes'.²⁷⁰ The Croatian elite that also consisted of a large number of Serbs chose the third option without properly consulting the will of the people or the Sabor. A special committee took the decision. Due to the lack of representative decision-making and the newly formed union's refusal to affirm Croatia's historic statehood, the establishment of the Kingdom of Serbs, Croats and Slovenes in 1918 can be considered discontinuation in the historical statehood narrative.²⁷¹

Following the assassination of Stjepan Radić and his nephew Pavle Radić in the parliament, known as the Narodna skupština, a major political crisis took place. The crisis escalated with the dissolution of the parliament and the establishment of a dictatorship in 1929 by King Aleksander. Banning political parties, imprisoning party leaders and censoring the press, the King renamed the union to 'The Kingdom of Yugoslavia'. Furthermore, he abolished the constituent entities and established regional Banovine, removed the name Croatia from official use, and split the territory of Croatia into two establishing Dalmatia as its own entity. As a result of this political crisis, Croatian politics took a radical approach producing fascist and communist movements, and ethnicity emerged as a significant feature in Croatian nationalism.²⁷²

²⁶⁹ Matic (n 254) 335–340.

²⁷⁰ Bellamy (n 244) 46.

²⁷¹ *ibid.*

²⁷² *ibid* 49–50; Matic (n 254) 340.

Even though the events that led to the establishment of the Kingdom of Yugoslavia and the events that took place during that period in history demonstrate the break in continuity of the historical statehood narrative,²⁷³ the Croatian constitution makes up for this discontinuation with a careful reinterpretation of the past. The constitution claims that the continuity of statehood manifested itself:

in the fact that the Croatian Parliament never ratified the decision made by the National Council of the State of Slovenes, Croats and Serbs to unite with Serbia and Montenegro in the Kingdom of Serbs, Croats and Slovenes (1 December 1918), subsequently proclaimed the Kingdom of Yugoslavia (3 October 1929); in the establishment of the Banate of Croatia in 1939, which restored Croatian state autonomy within the Kingdom of Yugoslavia.²⁷⁴

As seen above, it suggests disapproval with the establishment of the Kingdom of Serbs, Croats and Slovenes. In this sense, the historical statehood narrative, as represented in the Croatian constitution, portrays the Kingdom as a forced union, thus revealing the initial sparks of the victimhood narrative.

3. Establishing a victimhood narrative in Croatian nationalism

I. Nationalism and history: facts or myths?

It is not uncommon to find a careful interpretation of history at the centre of nationalist discourse.²⁷⁵ In other words, collective remembering and collective forgetting must take place in order to utilise history for legitimisation of the nation. Taking another look at the Constitution of the Republic of Croatia, it is evident that ‘historical facts’ were used to account for the contested moments in the linear movement towards Croatia’s self-determination; such as the regime of the Independent State of Croatia.²⁷⁶ The Constitution provides a politically acceptable interpretation of the fascist period, claiming that the right to statehood manifested itself:

²⁷³ Bellamy (n 244) 47.

²⁷⁴ Ustav Republike Hrvatske (pročišćeni tekst, Narodne novine, br. 85/2010).

²⁷⁵ McCrone (n 246) 44–63.

²⁷⁶ *ibid* 50–51.

in the establishment of the foundations of state sovereignty during the course of the Second World War, as expressed in the decision of the Territorial Antifascist Council of the National Liberation of Croatia (1943) in opposition to proclamation of the Independent State of Croatia (1941), and then in the Constitution of the People's Republic of Croatia (1947) and in all subsequent constitutions of the Socialist Republic of Croatia (1963-1990), at the historic turning-point characterized by the rejection of the communist system and changes in the international order in Europe, in the first democratic elections (1990), the Croatian nation reaffirmed, by its freely expressed will, its millennial statehood.²⁷⁷

This excerpt from the Croatian Constitution demonstrates how history can be used for the purpose of national interests. As McCrone explains, history is not used to provide an accurate account of the past; instead it is called upon for legitimation. He calls this 'myth-history', by which 'it sets out to celebrate identity and associated values, and to describe and explain the world in which such identity and values are experienced'.²⁷⁸ McCrone refers to Marx, who argues that traditions are invented at that point in time when change is happening in order to summon the past as a justification for moving forward in a new direction; history is used in order to justify the direction a nationalist discourse takes.²⁷⁹ The use of history to justify a particular nationalist narrative will be evident in the following section when examining the events of the Second World War and how they disappear and reappear from collective memory in the years that follow.

When looking at Croatian nationalism, there is no doubt that the past provides an authoritative source of legitimacy for the existence of the nation and its claim to statehood. However, this narrative of continuous statehood has ruptures, as seen in the establishment of the Kingdom of Yugoslavia. In order to explain the ruptures and strengthen the claim to continual statehood, another significant interpretation of the past was necessary. This interpretation happened with the emergence of the collective

²⁷⁷ Ustav Republike Hrvatske (pročišćeni tekst, Narodne novine, br. 85/2010).

²⁷⁸ McCrone (n 246) 51.

²⁷⁹ *ibid* 51–52.

victimhood narrative. Although some may claim that the victimhood narrative first came to light in the 1990s with Tuđman's revisionist history, it can be argued that it existed in the national consciousness throughout Communist Yugoslavia as a result of the policy of silencing the atrocities of Jasenovac and Bleiburg. In the following section, I demonstrate how a careful interpretation of past events produces a collective victimhood narrative, which in addition to the claim to historical statehood becomes central to contemporary Croatian nationalist discourse.

II. Setting the scene: The Independent State of Croatia

Following the German invasion of the Kingdom of Yugoslavia, almost overnight, power slipped from Yugoslavia into the hands of the Ustaša movement. The Independent State of Croatia (hereafter, NDH, *Nezavisna Država Hrvatska*) was proclaimed on 10 April 1941, and the notorious slogan 'Bog i Hrvati – Za Dom Spremní' (God and Croats – Ready for the Homeland) was proclaimed on Zagreb Radio, inviting all to swear allegiance to the newly independent state.²⁸⁰ In essence, the state was an 'Italo-German condominium and [a] brutal ad hoc creation'.²⁸¹ Ante Pavelić, the leader of the newly independent state, demonstrated with his first acts that this was to be a state fashioned according to Nazi Germany. With absolutely no pretence at democratic governing, Pavelić governed exclusively through decrees of which one prescribed the death penalty for a number of offences against 'the honour and interests of the Croatian nation'.²⁸² Later decrees forbade marriage between Jews and Croats, compelled conversion of non-Catholics to Catholicism and ordered the establishment of detention centres for all 'political and racial undesirables'. Historians still contest the roles of the Catholic Church and Croatian Archbishop of Zagreb, Alojzije Stepinac, in supporting the regime and later resisting against it.²⁸³

Of course, the new state had to re-establish its national frontiers. As the central Ustaša policy was to unite all 'historic' lands of Croatia into one state, it meant expanding its regime over Slavonia, Dalmatia and Bosnia. Although the state borders included Slavonia and Bosnia, NDH encountered a dispute with its Italian sponsor over Dalmatia.

²⁸⁰ Marcus Tanner, *Croatia: A Nation Forged in War; Third Edition* (3rd ed. edition, Yale University Press 2010) 141–143.

²⁸¹ Biondich (n 244) para 17.

²⁸² Tanner (n 280) 144.

²⁸³ *ibid* 144–145.

Influenced by Hitler's observation that Croats made up barely one-half of NDH's population, Pavelić embarked on a campaign of persecution of Jews, gypsies and Serbs. However, he engaged in a 'wooing' of Bosnian Muslims, based on the belief of the Starčevićist school that Bosnian Muslims were actually ethnically Croat, thus demonstrating the biconfessional nature of the NDH.²⁸⁴

Although NDH was not a significant military power, its army consisted of two groups: the Ustaša proper as the elite and the home guard (hereinafter: *domobrani*). While greatly underexplored in the literature on the NDH and Ustaša regime, the little that is known shows that the *domobrani* made up a large portion of the NDH army, with troops ranging from 110 000 to 130 000.²⁸⁵ The significance of the *domobrani* to the victimhood narrative rests on the popular speculation that large numbers of its members were forced to conscribe days after the establishment of the NDH. The story explains that if they refused to join the army, they would be identified as traitors of the NDH and sent to centres for the 'undesirables'. Consequently, if the *domobrani* were not voluntarily collaborating with the fascist regime but were conscribed by force, their executions in Bleiburg after the victory of the Partisans symbolise a sacrifice in the name of Croatian statehood. I address this sacrifice further when I examine the massacres of Jasenovac and Bleiburg.

i. Ustaša, Četnik and Partisan movements

Towards the end of the regime, the NDH was extremely vulnerable to both external pressures from Axis powers and internal pressures from the Ustaša and Četnik conflict and the national liberation struggle led by the Communist Partisans. On the one hand, external pressures were based on the hopelessness of the international position of the state, since it was created under the patronage of the Axis powers and was viewed as part of Hitler's war machine. Only twelve countries recognised the NDH, all were members of the Nazi-Fascist coalition, and only eight established diplomatic relations with it. The Allied powers recognised the royal Yugoslav government in exile in London as the official state and victim of Nazi-Fascist aggression. Consequently, as Nazi Germany and Fascist Italy nudged towards their defeat, it was already understood that Yugoslavia

²⁸⁴ Ivo Goldstein, *Croatia: A History* (McGill-Queen's University Press 1999); Tanner (n 280).

²⁸⁵ Tanner (n 280) 153.

would regain its full state sovereignty. The only uncertainty that remained was the type of government that would be in power in post-war Yugoslavia and what Croatia's position would be within it. On the other hand, the internal pressures consisted of the ethnic war fought between the Ustaša and Četniks and the liberation war led by the Communist Partisans, which become significant in constructing the Croatian collective victimhood narrative. These pressures considerably weakened the NDH, which had already begun to lose followers from the working-class and the intelligentsia to the Communists.²⁸⁶

The ethnic war, as Goldstein calls it, was a front of resistance against the Ustaša regime but entirely different from the Partisan liberation struggle.²⁸⁷ It is impossible to explain the conflict between the Ustaša and Četniks without referring to Serbia, where the movement originated. The Četniks, named after bands that fought against Ottoman rule, were under the command of Draža Mihajlović supporting the reestablishment of royalist Yugoslavia.²⁸⁸ However, they are represented as both collaborators and heroes depending on whether it is a Croatian or Serbian historical account. Based on MacDonald's review of Croatian historians' representation of Četniks, the basic argument rests on the assumption that the Četnik involvement in the Second World War was to continue the expansion of Greater Serbia.²⁸⁹ A similar reading by Cohen describes the Četnik movement like the Nazi movement, believing that all Serbs must live in one large, and ethnically pure, Serbian state.²⁹⁰ Other arguments stressed the enormous size of the movement in comparison to the 'small Ustaša membership'; held that the Četniks formulated a genocidal plan against Croats before the establishment of Ustaša death-camps; and assumed that they openly collaborated with Italians and Germans to exterminate Croats on NDH territory.²⁹¹ Essentially, the Croatian narrative of the Ustaša and Četnik conflict is based on the right to defend oneself against the 'other', thus constructing the identity of the Croatian Ustaša victim that had no choice but to fight the genocidal Serb Četnik. There is absolutely no doubt that Četniks had committed

²⁸⁶ Goldstein (n 284) 139–140; Tanner (n 280) 166–167.

²⁸⁷ Goldstein (n 284) 144–146.

²⁸⁸ Tanner (n 280) 157.

²⁸⁹ David Bruce MacDonald, *Balkan Holocausts?: Serbian and Croatian Victim Centred Propaganda and the War in Yugoslavia* (Manchester University Press 2003) 140–141.

²⁹⁰ Philip Cohen, *The World War II and Contemporary Chetniks: Their Historico-Political Continuity and Implications for Stability in the Balkans* (CERES 1997).

²⁹¹ MacDonald (n 289) 140–143.

atrocious crimes during their resistance against the Ustaša, but the use of the conflict in constructing collective victimhood is crucial for Croatian nationalist discourse, especially in light of the revival of the Četnik and Ustaša symbols and rhetoric in the 1990s Homeland War. 'Četnik' became synonymous to 'Serb'.

The other form of armed resistance against the Ustaša regime and foreign occupation was the national liberation struggle, primarily led by Communist Partisans. They were mostly supported by the Serbian population in central Croatia and other parts of NDH, but also by Croatian communists and Croatian democratic and anti-fascist patriots. The original nature of the resistance was exclusively anti-fascist and patriotic with the hopes of creating a Yugoslavia with six equal federal republics; there was no connotation of a socialist revolution.²⁹² However, certain interpretations of the Partisan movement contribute significantly to the collective victimhood narrative, because they show that both the Serbian nation and the Croatian nation had initiated anti-fascist resistance, and therefore were on the winning side.²⁹³ This is important for the narrative because it proves that Croats (as well as Serbs) did not willingly collaborate with the Nazis, but were 'innocent' victims of fascism.

Consequently, Partisan membership is continuously debated in regards to the ethnic ratio. Both Serb and Croat historians try to argue that their respective ethnic group was a majority within the movement and had founded Tito's Yugoslavia; only to be later betrayed when they were 'discriminated' against in the Socialist Federative Republic of Yugoslavia.²⁹⁴ There are plenty of arguments to explain and advance either Serb or Croat involvement in the Partisan resistance. A relatively unbiased explanation argues that the Serbs accounted for the majority in the Partisan movement mainly in reaction to the Ustaša regime, while the Croats joined the anti-fascist struggle because of personal beliefs and a desire to preserve a state through a war of liberation.²⁹⁵ Ironically, Croatian involvement in the Partisan movement does not fit the narrative Tuđman attempts to push for later on because the idea of Croatian Partisans fighting for Yugoslavia does not fit well with the Croatian historical statehood narrative. However, it does provide

²⁹² Goldstein (n 284) 145.

²⁹³ MacDonald (n 289) 151.

²⁹⁴ *ibid.*

²⁹⁵ *ibid* 152.

material to downplay the number of Croats collaborating with the Ustaša, thus further strengthening the collective victimhood narrative.

ii. Jasenovac and Bleiburg: Identifying victims and perpetrators

Two of the most contested events in Croatian history took place during the Second World War, and are both primarily interpreted for narrative purposes as reactions to either 'Serbophobia' or 'Greater Serbia'. By examining what MacDonald calls the 'persecution myths', insight is gained into how history was revised to cast both Serb-Communists and Croat-Ustašas as victims and perpetrators.²⁹⁶ There is no doubt that the executions and massacres took place in the Ustaša-run death-camp at Jasenovac and in Bleiburg (Austria) by Communist Partisans. However, the disputes surrounding the true events of Jasenovac and Bleiburg are fixated on the number of total victims. The focus on the numbers exists for the sole purpose of rehabilitating Croatia's own actions and emphasising its victimhood.

Although there were several such centres or camps during the NDH regime, as mentioned, the most notorious of the regime was Jasenovac, which was set up in 1941 in a quiet village south of Zagreb on the border between Croatia and Bosnia. Even though it housed several Croat political prisoners, Jasenovac becomes central to the debate on Croatian nationalism because of its role as an extermination camp for Serbs, Jews and Roma. The number of those executed at Jasenovac during the NDH regime is highly contested, varying from 50,000 to 600,000, although there is little consensus on the total number of dead or what percentage of the victims were Serbs.²⁹⁷ MacDonald argues that the extreme range in estimates resulted in the confusion between the number of dead at Jasenovac and the total number of Serbs killed in Yugoslavia as a whole.²⁹⁸

Also, the Yugoslav Communists' manipulation of the numbers at the International Reparations Commission in 1946 without any documentation to prove the numbers did not help. Apparently, the Yugoslav Communists invention of 1.7 million victims was a way of gaining the maximum amount of war reparations from the Germans.²⁹⁹ However,

²⁹⁶ *ibid* 160.

²⁹⁷ *ibid* 161; Tanner (n 280) 157.

²⁹⁸ MacDonald (n 289) 161.

²⁹⁹ *ibid*.

this financial and symbolic motive is important because the myth of the vast amount of dead legitimised the Communist Partisans 'anti-Fascist liberation' and cast them as martyrs to Fascism. Nationalism was portrayed as evil, related to death-camps and extermination, thus proving that a peaceful future would be found in a multiethnic Communist society.³⁰⁰ Interestingly, Tuđman's highly condemned historical revisionism reduced the number of victims and the importance of Jasenovac in order to gain the émigrés' approval. Finally, as MacDonald explains, the current figure taken as possibly accurate has 83 000 Serbs killed at Jasenovac, although it cannot be taken conclusively, because any estimate 'requires a great deal of trust in the researcher, and in his or her motives'.³⁰¹ Essentially, Jasenovac represents an anomaly in the collective victimhood narrative, because it identifies Croats as perpetrators of 'genocide'.

Since Jasenovac symbolised ultimate Serbian victimisation, the Bleiburg massacre was proof of Croatian victimhood. As the NDH caved along with Germany, many *domobrani* left their ranks to join the Partisans, who were gaining more and more ground through the territory of Croatia. Once the Partisans had reached Zagreb, NDH leaders, *domobrani*, Ustaša and civilians out of fear of retaliation fled through Slovenia in the hopes of reaching Austria and surrendering to the British. However, at the request of the Yugoslav army, the British handed back the soldiers and civilians at Bleiburg while knowing that their safety was not guaranteed. Many were killed on the spot, while others were taken on death marches, called *Križni put* (The Way of the Cross), to various parts of Yugoslavia, and those who could not keep up were killed instantly. Some managed to survive after 1000 km of walking. Again, there is a dispute regarding the numbers, but the current estimate of victims ranged from 45,000 – 55,000 former *domobrani* and Ustaša who were killed in Bleiburg and on the *Križni put*.³⁰² Unfortunately, the truth of the number of victims in Bleiburg will never be known because the communist regime suppressed the information. However, the main problem for Croats was that compared to the horrors of Jasenovac, the massacre at Bleiburg was considered non-existent.³⁰³

³⁰⁰ *ibid* 161–162.

³⁰¹ *ibid* 162.

³⁰² Goldstein (n 284) 155.

³⁰³ MacDonald (n 289) 171.

Essentially, Bleiburg became significant enough to symbolise the whole of Croatia. It provided the lesson, that Serbs were Serbs, and would continue to hate Croats no matter what ideology they followed. It also reinforced Croats as victims, part of a Serb plan to gain control of the second Yugoslavia. It also served as a vindication, an attempt in rehabilitating the Ustaša, who ended up being transformed from perpetrators to innocent victims. Based on these interpretations of the events, the Ustaša were not killed by the Partisans as collaborators, but as Croatian patriots that wanted an independent homeland. As for the emerging division amongst Croat Partisans and Croat Ustaša and how this influences the interpretation of the massacre, MacDonald explains: 'the logical conundrum can be simply explained by the fact that Croatian historians were attempting to cover all bases. They want to be victims of a 'holocaust', the leader in anti-Fascist resistance, the founders of the SFRY, and conscientious objectors to the NDH regime'.³⁰⁴ Overall, Bleiburg became the Croatian *žrtva* (sacrifice) for the purpose of statehood, which continues to be a theme that resonates in current day accounts of the Homeland War.

4. Transformation of Croatian nationalist discourse

It can be argued that had Communist Yugoslavia addressed the human rights violations of the Second World War; the 1990s Croatian Homeland War would not have happened. Alternatively, at the very least, perhaps Bleiburg would not have become a symbol of Croatian victimhood. Instead, the communist state enforced an ideology of 'brotherhood and unity' as a response to the atrocities that took place and as a result, silenced the crimes until the debate finally exploded years later.

Following the end of the Second World War, the victory of the Communist Partisans led to the establishment of Communist Yugoslavia³⁰⁵, a socialist state governed by the League of Communists of Yugoslavia, which faced its demise after the death of its long-time president Josip Broz Tito in 1980.³⁰⁶ Generally, Communist Yugoslavia was

³⁰⁴ *ibid* 177.

³⁰⁵ In 1946 with the adoption of the first constitution it was called the Federated People's Republic of Yugoslavia (FNRY). In 1963, a new constitution was adopted which led to further development of self-management and socioeconomic decentralization, leading to the change of name to Socialist Federated Republic of Yugoslavia (SFRY).

³⁰⁶ It consisted of six socialist republics: Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia and Slovenia. And also included two autonomous provinces within Serbia, which were Kosovo and

considered the freest country in Eastern Europe at the time; it was open to the West, allowed the freedom to travel and work abroad, and had a high standard of living before the crisis years. However, it was governed by Tito's dictatorial rule, and over the years became 'burdened by overcentralisation, massive foreign debt, and a powerful secret police force that cracked down on any internal dissent'.³⁰⁷

In the aftermath of the Second World War, Tito's regime was faced with a divided memory about the atrocities that took place. In order to unify the population, the regime provided an 'official' version of WWII that was based on the ideology of 'brotherhood and unity'. Although this ideology is generally thought to be about forgetting the controversial events of the Second World War, Djokic explains that it actually applied a so-called 'fragmented memory' approach.³⁰⁸ The war was interpreted as a war in which all the nations of Yugoslavia, including the Croats, fought a heroic war against fascism. It was proclaimed a war of liberation against the occupiers and domestic collaborators and seen as a socialist revolution. The atrocities were blamed on anti-communists from all nations, which included the Croatian Ustaša and the Serb Četniks. The new regime made no distinction between the two groups because it considered them both opponents of the communist state. Tito and the Communist Party of Yugoslavia were proclaimed the winners and saviours of the Yugoslav nations; they were considered to be the sole resistance movement that liberated and re-united the country and its citizens.

As for Croatian collaboration, the 'official' version of the war stated that only a small criminal minority collaborated with the NDH regime. Tito reinforced this by suppressing any discussions or competing memories. For example, at the start of his regime show trials took place, the most famous being of the Croatian Archbishop of Zagreb, Alojzije Stepinac, convicting him of collaboration with the Ustaša and sentencing him to 16 years in prison. Anyone else suspected of collaboration either with the Ustaša or Četnik groups

Vojvodina. The capital of this communist state, which split ties with Stalin and became one of the founding members of the Non-Aligned Movement, was in Belgrade, Serbia.

³⁰⁷ MacDonald (n 289) 184.

³⁰⁸ Dejan Djokić, 'The Second World War II: Discourses of Reconciliation in Serbia and Croatia in the Late 1980s and Early 1990s' (2002) 4 *Journal of Southern Europe and the Balkans* 127, 132. Djokić uses the concept 'fragmented memory' as introduced by Wolfgang Hoepken Wolfgang Hoepken, 'War, Memory, and Education in a Fragmented Society: The Case of Yugoslavia' (1998) 13 *East European Politics and Societies* 190. Refers to only one dimension of the war existing in official memory.

were imprisoned or executed.³⁰⁹ Even the national movements that were so active in the years leading to WWII died down. As Bellamy explains, the Croatian national movements did not attempt to legitimise Communist Yugoslavia in terms of the claim to historical statehood. Instead, Communist Yugoslavia was seen as an imposition on the Croatian nation.³¹⁰ Discussions about national identity did not take place in the public domain during the years of the communist regime.

In contrast to Tito's 'official' version of the Second World War, the Croat political emigration that lived outside of Yugoslavia produced another memory of the war. In these circles, the ideology of the prewar political right was acceptable because of its opposition to communism. Biondich explains how with time, the memory the émigré had cultivated incorporated wartime myths that were used to explain the 'Croatian' defeat and the victory of the so-called 'Great Serbian Communist movement' at the end of the Second World War.³¹¹ In the eyes of the émigré, Communist Yugoslavia became synonymous to Greater Serbia, and the Ustaša defeat was viewed as a Croatian defeat in an attempt for self-determination. In the narrative of the Croat political emigration, the war that Tito identified as a liberation war was in fact 'a war waged by Great Serbian ideology, whether in its Communist or royalist form, against the Croat nation and its newly independent state'.³¹²

The interpretation of the Croat émigré viewed the acts undertaken by the Ustaša government as 'a legitimate self-defence against the [Serb] enemy', who were attempting to destroy the Croatian nation.³¹³ As Biondich explains, the independent state run by the Ustaša regime was understood as a legitimation of the Croatian nation, and for this reason, all actions taken by the regime were in its right to defend the existence of the state. For the Croat political émigré, the atrocities of the Second World War provided evidence of the Croatian nation's collective victimhood at the hands of the Serbs. The attack on the NDH from the side of the Partisans (understood to be only Serbs) was an attack on the Croatian nation's historic right to statehood, and the NDH's

³⁰⁹ Bellamy (n 244) 54.

³¹⁰ *ibid.*

³¹¹ Biondich (n 244) para 26.

³¹² *ibid.* 27.

³¹³ *ibid.*

defeat was evidence of the Croatian nation's collective victimhood during its fight for independence.³¹⁴

This narrative is problematic and collides with the narrative provided by Tito's regime which supported an ideology of 'brotherhood and unity'. As Rangelov points out, the lack of credible judicial process or fact-finding inquiry by Communist Yugoslavia, the forced reproduction of the official version of the war, and the accumulation of abuse coming from Tito's regime set the scene for a disaster. Once the taboo on discussing the crimes of the Ustaša and Partisans in the public domain started to fade, the debate about the mass atrocities 'spiralled out of control'.³¹⁵ When the ideology of 'brotherhood and unity' began to fall apart, initial criticism focused on the communist regime and its state repression. Then, in the late 1980s and early 1990s, the mass atrocity debate moved from the federal level and to the individual republics, where it shifted from the issue of state repression to different national interpretations of the past abuses. The debate over the past abuses turned so explosive that it was described as a 'verbal civil war'.³¹⁶

The communist regime's approach to dealing with the mass atrocities of WWII only deepened the divided memory of the events. Following the unravelling of the regime after Tito's death, the struggle over the competing narratives about the atrocities that took place in Jasenovac and Bleiburg intensified. This was especially the case after the first President of Croatia, Franjo Tuđman, came to power following his Croatian Democratic Union's (HDZ) victory in the first multi-party election in Croatia in May 1990. A former partisan and communist general of the JNA, Tuđman was expelled from the Communist Party because of his nationalistic views, which mostly focused on the victims of the Jasenovac camp. He had an issue with the official number of victims provided by the communist regime. As a historian, he began revising that part of history, reducing the overall number substantially, 'and even suggesting that similar numbers of Serbs and Croats had found their death in the camp'.³¹⁷

³¹⁴ *ibid* 28.

³¹⁵ Rangelov (n 29) 137.

³¹⁶ Djokić (n 308) 131; Rangelov (n 29) 138.

³¹⁷ Rangelov (n 29) 139.

However, Tuđman's main concern was the existing national division, and for this reason, he embarked on a campaign of uniting all Croats with the assistance of revised history. Tuđman repeatedly called for a 'national reconciliation' between first-generation descendants of the Ustaša and Partisan supporters. He pursued the unification of the Croatian population by questioning the number of victims of the Jasenovac camp, adopting the émigré's narrative of Greater Serbia, rehabilitating the NDH and using the atrocity that took place at Bleiburg and the crimes of the communist regime as evidence of Croat suffering at the hands of the Serb 'other'.³¹⁸

As Croatian nationalism at the time was based on the historic claim to statehood, Tuđman argued that all Croats, regardless of what side they found themselves on, shared the same dream of independent statehood. However, there was disagreement about the type of state that should be established. Arguing that proper 'transition from a communist system to independent and democratic statehood' could only be achieved through national unity, Tuđman placed the claim to historical statehood at the centre of his revisionist history.³¹⁹ In his interpretation of the continual claim to statehood, he unified 'the illyrianist ideas of Gaj and Strossmayer with the socialist-federalist ideology of Radić, the nationalism of Starčević and the fascism of Pavelić'.³²⁰ In each movement, he saw a desire for Croatian statehood. Although Tuđman's approach to the reconciliation of all Croats was focused on the collective desire for independent statehood, he also needed a narrative that would unite Croats in Croatia with Croats living abroad who had ties with the Ustaša and viewed the communist regime as a 'Greater Serbian movement'. For this reason, he increasingly spoke of the collective suffering of the Croatian nation.

In the moments of history when the claim to historical statehood showed ruptures, the suffering and struggle of the Croats at the hands of the Serb 'other' provide the necessary legitimisation of the nation. In order to provide evidence of the collective suffering of the Croatian nation, Tuđman began by distinguishing Serbs from Croats, such as highlighting how cultured Croats were. For example, he exiled contemporary folk music from Croatian media because of its 'low cultural quality', but also because of

³¹⁸ Biondich (n 244) para 37; Bellamy (n 244) 67.

³¹⁹ Djokić (n 308) 136.

³²⁰ Bellamy (n 244) 68.

the belief that the songs belonged to Serbian cultural identity.³²¹ However, most significantly, Tuđman presented accounts of oppression of Croats by the Serbs. Borrowing the narrative from the émigré, he considered the Kingdom of Serbs, Croats and Slovenes of 1918 to be a forced merger of the two nations that had completely separate histories since the east-west schism of AD 395. He argued that the schism produced two nations with a similar language but with very different national consciousness, cultural make-up and religious traditions. In addition, Croatia was considered to be at the heart of Europe, politically and geographically, whereas Serbs were considered to be Balkan. This identification of being either European or Balkan is present in Croatian national discourse even today.³²²

However, the crimes that took place in Jasenovac were central to Tuđman's interpretation of collective suffering. First, he argued that the Serbs exaggerated the scale of the Ustaša genocide in the Second World War.³²³ As Djokic explains, Tuđman indirectly implied that the horrors of the NDH were not unusual, because 'throughout history there have always been attempts at a "final solution" for foreign and undesirable racial-ethnic or religious groups through expulsion, extermination, and conversion to the "true religion"'.³²⁴ Second, he insisted that most Croats who fought for the NDH or the Partisans were not indoctrinated communists or fascists. They were fighting for Croatia and its right to statehood. For this reason, he argued that a continued division among Croats was pointless. Finally, he changed the names of streets, places and institutions to remove any resemblance to Tito and communism.³²⁵ This massive re-constructing and challenging of facts and history created schisms in society that are still present today.

With his rhetoric, Tuđman constructed a collective victimhood narrative to strengthen the historic claim to statehood with which he transformed Croatian nationalist discourse. As a result, in the early 1990s and following the Homeland War, issues of sovereignty and mass atrocity were closely intertwined and used to explain Serbian aggression against Croatia. The Croatian struggle against Serbian aggression became the

³²¹ *ibid.*

³²² *ibid* 68–69.

³²³ *ibid* 70.

³²⁴ Djokić (n 308) 42.

³²⁵ Bellamy (n 244) 70.

framework for interpreting war crimes. Moreover, the memory of wartime suffering was placed at the core of contemporary Croatian nationalist discourse. Following the siege of the town of Vukovar during the Homeland War, the memory of Croatian victimhood in Bleiburg was replaced by a new memory of Croatian victimhood in Vukovar. Vukovar became, and still is, the symbol of Croatian suffering and its struggle for independent statehood. This narrative of the Homeland War was enforced in October 2000, when the Croatian Parliament passed the Declaration of the Homeland War, which establishes the official narrative of the Homeland War and that has been supported by each successive government and president when defining or discussing the events of the war in the 1990s.³²⁶

As with the construction of all narratives, there is a risk of excluding certain voices and identities. The collective victimhood narrative was no different. In order to strengthen the collective suffering of the Croatian nation at the hands of the aggressive Serbs, it had to suppress minority narratives. This meant that the voices and identities of the Serbian minority living in Croatia were silenced, which only became a more significant problem following the Homeland War. Moreover, the transformation of Croatian nationalist discourse also had significant effects on the production of gender roles in peacetime Croatian society.

5. Croatian nationalist discourse and gender

After the demise of Communist Yugoslavia, the place of women in society began to change. The raging war and the discourses that fuelled it imposed a gendered nationalism. Both Croatian politicians and media continuously portrayed women as violated victims, but also as suffering mothers. As the Croatian society slowly transitioned from the war, women's role in society became increasingly important. There was an increasing emphasis on motherhood as a reproductive device through which the biological survival of the nation was guaranteed. Part of Tuđman's nation-building agenda focused on motherhood by promoting it as a prestigious vocation for women.

³²⁶ Vjeran Pavlakovic, 'Fullfilling the Thousand-Year-Old Dream: Strategies of Symbolic Nation-Building in Croatia' in Pål Kolstø (ed), *Strategies of Symbolic Nation-building in South Eastern Europe* (1 edition, Routledge 2014) 38–39.

As briefly mentioned, the imagery of motherhood emerged during the Homeland War, when suffering mothers who lost their sons for the nation became the ultimate symbol of the relationship between women and the nation. In contrast to the role of women, the Homeland War narrative that emerged during the Tuđman era produced men as national war heroes by continuously emphasising their courageous fight for the creation and defence of the Croatian state as the ultimate sacrifice. While women were presented as helpless refugees, suffering mothers and victims of enemy soldiers, men were presented as the masculine heroes who would save women from the horrors of the war. Although this imagery was useful during the Homeland War, as it promoted strength and hope through the combination of 'military competence, patriotic devotion and macho zeal', during the transition into peacetime new imagery was needed.³²⁷

High numbers of male military casualties and the impact of mental and physical consequences of the war on those men that returned to their homes and families demanded a new gender narrative. As a result, men were hailed as the nation's heroes in their role as *branitelji* and 'rewarded' with war veteran policies that essentially hindered their reintegration into society. Women were urged to step up and populate the nation in their role as mothers. As Bijelić points out, the Tuđman era had a major ideological impact on women's lives. The desire to create a 'new Croatian women' affected not only the nationalist understanding of the role of women, but also the political power women's groups and women activists had acquired during the Yugoslav era. For example, women's participation in parliament decreased considerably from 18% in the socialist parliament to 4% in the first post-communist parliament. Although several different factors could have influenced this decline in numbers, it still demonstrates a change in gender roles.³²⁸

However, the most striking example of Tuđman's gender regressive approach to the nation-building project was when his HDZ government established a 'Ministry of Renewal', which was tasked to renew the traditional Croatian family. In 1994, the HDZ drafted a document that was 'notorious for demographic engineering and a crude

³²⁷ Biljana Bijelić, 'Women on the Edge of Gender Equality' in Sabrina P Ramet and Davorka Matic (eds), *Democratic Transition in Croatia: Value Transformation, Education, and Media* (Texas A&M University Press 2007) 277.

³²⁸ *ibid.*

manifestation of the bonding of women's social roles to the family and raising children'.³²⁹ As Bijelić points out, it also demonstrated the legal bonding of the state to conservative pro-life policies, which remain linked in present-day politics and consequently affect the way the right-wing in Croatia challenges any gender progressive policy-making.³³⁰ The document, titled 'the National Program for Demographic Renewal', promoted the increase of the national birth rate and the distribution of the population. The document promoted the profession of the mother-caregiver by promising mothers of four or more children with a monthly salary and social benefits including pension. Although at a glance such benefits seem to empower, these changes were recommended at a time when the new democratic state was generally reducing social benefits and accentuating individual responsibility. Institutional responsibility for the employed, unemployed and retired, which was mostly made up of women, were all being significantly reduced.³³¹

Although the 1990s brought on a conservative backlash against women's rights, the proposed changes did not go unchallenged. BaBe, one of the most vocal feminist women's human rights groups in Croatia, challenged the National Program for Demographic Renewal. It argued that the proposed changes in promoting women as mothers were producing unequal gender roles because the legal benefits and rights of parent caregivers must be equal for men and women. Their point was that in the long-term benefits promoting motherhood would discriminate against women because they essentially encouraged women to stay at home and away from public life and work. In 2001, amendments to the Labour Act changed the wording of the profession of mother-caregiver to caregiver parent.³³²

Although the controversial document was publicised and promoted extensively, the proposed benefits were never realised. The aim was entirely a rhetorical aim to promote an agenda that pursues the respect for life from conception to natural death, as well as the respect for woman, marriage and the family.³³³ It instrumentalised woman to construct new gender roles, which have been entrenched in contemporary nationalist

³²⁹ *ibid* 282.

³³⁰ *ibid* 282–283.

³³¹ Bijelić (n 327).

³³² *ibid* 287–288.

³³³ Bijelić (n 327).

discourse and continue to inform the way Croatian society understands gendered victimhood.

6. Conclusion

Nationalism is best understood as a form of discourse that presents a particular way of seeing and interpreting the world. As a discourse, nationalism changes through time as well as prescribes gender relations in a given society. It can be used to legitimise a state, or it can be legitimised through the law. Nationalism's fluidity and its legitimising power are particularly evident in this historical overview of the development of Croatian nationalist discourse. Though it begins with a historic claim to statehood, Croatian nationalism changes through history in a way that it becomes closely interwoven with the concept of victimhood.

This inextricable link between Croatian nationalism and victimhood emerges as a result of the Croatian collective victimhood narrative, which is based on the claim that the Croat nation is the ultimate victim of Serb aggression. As a result of Franjo Tuđman's political utilisation of the collective victimhood narrative, it becomes a central and driving force within contemporary Croatian nationalism. Initially based on the memory of Bleiburg 'sacrifices' during the 1940s, the collective victimhood narrative was restored by Tuđman for the purpose of strengthening the historical claim to statehood. It is now based on the memory of the siege of Vukovar, which has become a symbol of Croatian suffering and its struggle for independent statehood, and further legitimised with the Declaration of the Homeland War passed by the Croatian Parliament in 2000. The Declaration of the Homeland War provides an official interpretation of the war, which states that Croatia 'led a just and legitimate, defensive and liberating war, and not a war of aggression or conquest. It defended its territory from Greater-Serbian aggression within its internationally recognised borders'.³³⁴ Consequently, the Croatian struggle against Serbian aggression has become the framework for interpreting war crimes, and the memory of wartime suffering is placed at the core of contemporary Croatian nationalist discourse, leading to Croatian nationalist discourse becoming closely intertwined with the concept of victimhood.

³³⁴ Deklaracija o Domovinskom ratu, NN 102/2000 (17.10.2000); text translated by the author.

One of the problems with this particular Croatian nationalist discourse is the way it has constructed notions of femininity and masculinity. It celebrates men as national heroes in the role of *branitelji* and promotes women as mothers who populate and care for the nation. Though its constructions of men and women are not inherently wrong, the problem is that these notions translate into policies, which then generate gendered hierarchies amongst the citizens of the Croatian state. As was seen in the early 1990s, two particular policy developments demonstrated the emergence of this nationalist driven gendered hierarchy.

The state quickly offered significant financial support to the *branitelji* population, which was mostly made up of men and resembled the 'male defender of the nation.' It also developed plans to pursue a pronatalist policy in order to encourage women to give birth to more children. Both policies were driven by particular notions of gender roles in society but also had the potential to reinforce these particular gendered roles in Croatian society. Consequently, the policies of the 1990s have firmly entrenched particular gendered roles in Croatian society, which, as a result, inform the way victimhood is understood in Croatia.

The remnants of the Homeland War and the early 1990s policies are still present in present-day Croatian society. Though feminist women's groups have done and are still doing a significant amount of work in resisting gender inequality that is produced as a result of this particular Croatian nationalist discourse, there is not much knowledge about the location of right-wing and nationalist women's groups in discussions about gender inequality in Croatia. The war and the divisions it created amongst women's groups in Croatia point to their existence and activism, but it is not entirely clear what happens to these groups following the war and the initial years of the independent state of Croatia. However, their emergence in the years that paved the way to the adoption of Croatia's *Law on the Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War* points to the necessity to study their motivations and interests.

CHAPTER 3

WHERE ARE THE RIGHT-WING AND NATIONALIST WOMEN? WOMEN ON ISSUES OF WAR, SEXUAL VIOLENCE AND NATIONALISM

1. Introduction

Mainstream literature on nationalism neglected to consider women and gender in its analysis. Consequently, in the 1980s and 1990s, feminist scholars challenged this omission by considering the location of women and gender in nationalism and the nation.³³⁵ Some feminist scholars focused on theorising about the gender dimensions of 'the nation'. Recognising that women and men are constructed differently by nationalist discourse, this strand of feminist scholarship on nationalism highlighted the different ways women and men are incorporated into nationalist projects depending on particular gendered constructions of masculinity and femininity.³³⁶ Men are commonly portrayed as a 'progressive agent of national modernity', while women are represented as 'the authentic body of national tradition'.³³⁷ Although generally disregarded in accounts of nation-building, when women are included they are commonly used for their reproductive and symbolic roles.³³⁸ Women serve as biological reproducers of the nation in their role of mothers and are also transmitters and producers of cultural narratives through the act of raising children. They become symbols of the nation in political discourse for the purpose of constructing and reproducing the boundaries between ethnic and national groups. They also become active participants in nationalist movements.³³⁹

Other feminist scholars investigated the location of women in nationalist movements. Most of this work focused on developing countries and their responses to colonialism and imperialism.³⁴⁰ It highlighted the ways that women pushed for equality in the

³³⁵ Anthias and Yuval-Davis (n 240); Cynthia Enloe, *Bananas, Beaches and Bases: Making Feminist Sense of International Relations* (University of California Press 1989); Sylvia Walby, 'Woman and Nation' (1992) 33 *International Journal of Comparative Sociology* 81; Yuval-Davis (n 161); Peterson (n 4); Cynthia Cockburn, *The Space Between Us: Negotiating Gender and National Identities in Conflict* (Zed Books 1998).

³³⁶ A McClintock, "'No Longer in a Future Heaven": Nationalism, Gender and Race' in G Eley and RG Suny (eds) (Oxford University Press 1996) 260.

³³⁷ *ibid* 263.

³³⁸ Ozkirimli (n 236) 56–57; Yuval-Davis (n 161).

³³⁹ Anthias and Yuval-Davis (n 240) 7.

³⁴⁰ Kumari Jayawardena, *Feminism and Nationalism in the Third World* (Zed Books 1986).

political, cultural, and economic spheres as part of their role in the nationalist movements. It also showed how after the successful revolutions, women were expected to return to the private sphere.³⁴¹ Consequently, the majority of scholarship on gendered nationalism demonstrates the negative effects nationalism has on women and argues that women do not benefit from participating in nationalist movements.³⁴² However, some authors have considered whether feminism and nationalism are 'necessarily in opposition'.³⁴³ Looking at women's groups that self-declare as feminists while supporting nationalist projects, scholarship has shown how women organising in national movements leads to feminist values being inserted in the movements.³⁴⁴ Consequently, it has been argued that the 'key to productive feminist research is to identify factors that empower women to self-organise, open up space in national projects and insert women-friendly values'.³⁴⁵

However, focusing only on nationalist women's groups that self-identify as feminist is a limited approach to studying women in nationalist movements because it excludes nationalist women's groups that do not self-identify as feminists.³⁴⁶ There is a general Western feminist blindness towards women's participation in movements that are characterised as hegemonic. One reason for this is Western feminism's struggle to explain the political agency of women that consciously and voluntarily join or initiate movements that can be characterised as supportive of ideologies that subordinate women's social roles. There is little Western feminist scholarship on women's participation in right-wing or nationalist movements. The first and most valuable contributions were by Koontz on German women's engagement in Nazism and by Cock on women in the South African Defence Force.³⁴⁷ Yet it took more than a decade for

³⁴¹ Joyce P Kaufman and Kristen P Williams, 'Nationalism, Citizenship, and Gender', *Oxford Research Encyclopedia of International Studies* (2017)

<<http://internationalstudies.oxfordre.com/view/10.1093/acrefore/9780190846626.001.0001/acrefore-9780190846626-e-58>> accessed 18 September 2018.

³⁴² Yuval-Davis (n 161).

³⁴³ Cockburn (n 335).

³⁴⁴ Jill Vickers, 'Bringing Nations in: Some Methodological and Conceptual Issues in Connecting Feminisms with Nationhood and Nationalisms' (2006) 8 *International Feminist Journal of Politics* 84.

³⁴⁵ *ibid* 103.

³⁴⁶ Lois West (ed), *Feminist Nationalism* (1 edition, Routledge 1997).

³⁴⁷ Claudia Koonz, *Mothers in the Fatherland: Women, the Family and Nazi Politics* (St Martin's Press 1987); Jacklyn Cock, *Women and War in South Africa* (Pilgrim Press, The/United Church Press 1991).

more research on women, gender and right-wing politics to emerge.³⁴⁸ This feminist scholarly omission is even more prominent in studies on women's movements in the former Yugoslavia. This area almost completely ignores non-feminist women's groups and right-wing women's groups. Consequently, their motivations and interests, as well as their locations and roles in histories on women's mobilisation in Croatia, are left unexplored.

Addressing this gap in existing scholarly literature, this chapter aims to trigger a conversation within feminist scholarship on the importance of analysing right-wing and nationalist women's groups and their motivations and interests. In addition, it provides an overview of the interests and motivations of both feminist women's groups and non-feminist right-wing women's groups, thus offering a more inclusive account of women's movements in Croatia immediately after the Homeland War. The chapter tells the story of the women's movement in Croatia by looking at its birth in Communist Yugoslavia and its divisions during the Homeland war. It does this by charting the emergence of both feminist and non-feminist women's groups and exploring their positioning in relation to issues of war, sexual violence and nationalism. In order to contextualise the debates that emerged amongst Yugoslav feminists, the chapter also compares Yugoslav feminist positioning with international feminist positioning in regards to issues of gender and ethnicity. Essentially, the chapter explains why it is vital to study right-wing and nationalist women's groups and highlights important themes of the past that reappear in the case study of this thesis.

2. Conceptualising women's movements and right-wing women's agency

Women's movements are important because they have promoted significant political change throughout history, which has had significant effects on the lives of women. However, there is no scholarly consensus on a definition of what constitutes women's movement. In her analysis of women's movements, Maxine Molyneux provides a comprehensive overview of the historical emergence and different conceptualisations

³⁴⁸ Paola Bacchetta and Margaret Power, *Right-Wing Women: From Conservatives to Extremists Around the World* (Psychology Press 2002); Kevin Passmore, *Women, Gender, and Fascism in Europe, 1919-45* (Manchester University Press 2003).

of women's movements.³⁴⁹ She points to two contrasting views of what constitutes a women's movement. One view considers a women's movement clearly identifiable with 'a leadership, a membership, a broader following, and a political programme', such as the female suffrage movements.³⁵⁰ The other view qualifies 'more diffuse forms of political activity' as a movement', which can take the form of decentred political action that has extensive participation and overall significance but without central coordination or an agreed agenda.³⁵¹ According to Moyneux, women's movements 'often take this more diffuse and decentred form'.³⁵²

Essentially, a movement is a 'social or political phenomenon of some significance' which has numerical strength and can affect some sort of change, either along the terms of legal, social or political change.³⁵³ Women's movements are generally made up of a majority of women, which generally advance 'women's gender interests'. Alvarez insists on women's movements being distinctively autonomous from control of other social groups such as trade unions, women's branches of political parties and other civil organisations that are not pursuing the advancement of women's gender-specific concerns.³⁵⁴ This is emphasised by Wieringa who identifies women's movements as movements with a commitment to 'diminishing gender subordination'.³⁵⁵ However, as highlighted by Moyneux, the above attributes assigned to women's movements demonstrate what she calls a 'kind' of women's movement.

Although some women's movements have been dedicated to promoting the advancement of women's gender interests, Moyneux points out that they are not the only kind of women's movements. In fact, other forms of female mobilisation that are not 'autonomous and expressive of women's gender interests' make up a large proportion of female solidarity.³⁵⁶ As Moyneux highlights, 'women have been an active, if not always an acknowledged, force in most of the political upheavals associated with

³⁴⁹ Maxine Molyneux, 'Analysing Women's Movements' (1998) 29 *Development and Change* 219.

³⁵⁰ *ibid* 223.

³⁵¹ *ibid*.

³⁵² *ibid* 223–224.

³⁵³ Sonia E Alvarez, *Engendering Democracy in Brazil: Women's Movements in Transition Politics* (Princeton University Press 1990) 23.

³⁵⁴ Alvarez (n 353).

³⁵⁵ Saskia Wieringa, *Subversive Women: Women's Movements in Africa, Asia, Latin America, and the Caribbean* (Zed 1995) 7.

³⁵⁶ Molyneux (n 349) 225.

modernity, as members of trade unions, political parties, reform and revolutionary organisations and nationalist movements'.³⁵⁷ The vast amount of historical and cross-cultural studies of women's movements has shown the 'range and diversity of the forms of solidarity women engage in'.³⁵⁸

Nevertheless, feminist scholarship has dismissed some forms of female collective action because they did not satisfy the feminist criteria relating to institutional autonomy and women's gender interests, which is particularly the case with right-wing women's movement. As Moyneux points out, it is important to evaluate these movements' political significance and 'what they signify for their participants'.³⁵⁹ She suggests that the use of the term 'collective action' is more appropriate when referring to women's movements as it can mean 'solidarity in pursuit of common goals' and this way steer away from any potential exclusions.³⁶⁰ In this thesis, I use the term women's movement broadly and along the terms of a collective action. This would mean that it includes all the different forms of women's mobilisation, including female collective action that is not in pursuit of advancing women's gender interests.

Institutional autonomy and women's gender interests, the core definitional criteria of women's movements used by feminist scholarship, are generally noted as the reasons for the exclusion of right-wing women's mobilisation. As a result, there is not enough knowledge about the agency of right-wing women's movements. However, the exclusion of right-wing mobilisation of women from feminist scholarly work can also be attributed to feminist scholars' disagreement with the ideological roots of right-wing women's movements. Studying women's mobilisation involves exploring the meaning of agency, broadly understood as the political and moral autonomy of the subject, which is an important area of feminist theory. However, when studying women's agency in the right-wing, some have suggested that the feminist understanding of agency is inadequate. This is particularly the case when considering women's agency in nationalist movements, which Western feminist scholarship has generally conceived as

³⁵⁷ *ibid.*

³⁵⁸ *ibid* 220.

³⁵⁹ *ibid* 225.

³⁶⁰ *ibid.*

incompatible. Although this gap in scholarship has been slightly addressed over the years, it still requires more feminist scholarly engagement.

In order to study right-wing women's movements, a reconceptualisation of the meaning of women's agency is needed. Feminist scholarship has to come to terms with the possibility that right-wing women's movements can also 'represent conscious, independent action or choice'. This also means coming to terms with the fact that large numbers of right-wing women's movements are engaged in activities that are at least similar in form to feminist ones, such as interventions in domestic abuse situations or addressing medical needs for women and the poor. To make matters even more uncomfortable, at times feminist women's movements and right-wing women's movements may actually find themselves on the same side in terms of methods. A good example is the embracing of motherhood found on both sides, which is used by some feminists who conceive it as a source of female power.

For the purposes of this thesis and for the purpose of exploring right-wing women's groups' positioning on issues of war, sexual violence and nationalism, I do not limit my understanding of agency to only resistance to relations of domination. Instead, I also use Mahmood's view of agency as the 'capacity for action that historically specific relations of subordination enable and create'. Mahmood argues that agency must be understood in the context of the discourse and structures of subordination that create the context for the enactment of this agency.³⁶¹ Consequently, when discussing right-wing women's groups and their political participation, I consider their agency within the context of nationalism and explore how this discursive structure enables these women to become politically active. Moreover, when engaging with material that illustrates links between religion, nationalism and women I employ an open-minded approach, which will not simplify the representations of women as a mere indication of patriarchy. Instead, an open-minded approach will examine how the link between religion and nationalism provides a sense of empowerment for these women.

One of the possible consequences of employing a limited feminist conceptualisation of women's agency is the potential for providing incomplete accounts of women's

³⁶¹ Saba Mahmood, 'Feminist Theory, Embodiment, and the Docile Agent: Some Reflections on the Egyptian Islamic Revival' (2001) 16 *Cultural Anthropology* 202, 212.

movements at times of war and state formation. This is particularly evident in feminist scholarship on women's movements during the disintegration of Yugoslavia and the formation of the state of Croatia. The absence of feminist accounts of women's participation in nationalist movements is attributed to a feminist assumption that women's agency was incompatible with nationalism and for this reason did not warrant scholarly attention.³⁶²

During the disintegration of Yugoslavia, a particular conceptualisation of women's agency in terms of ethnicity/nationality and gender informed the prevailing feminist narrative of women's participation in the war. Žarkov quotes a Croatian feminist who at the time said: 'It is impossible to merge nation and gender – they are different understandings of human nature and human essence. It is therefore impossible to be equally of one's nation and one's gender'.³⁶³ This account of the incompatibility of an ethnic/national identity with a gender identity perfectly illustrates the dominant feminist approach to women's agency at the time of the Yugoslav disintegration. It also, unsurprisingly, supports Yuval-Davies' claim that Western feminists usually consider feminism incompatible with nationalism.³⁶⁴ Due to their persistent resistance to the nationalist and patriarchal structures of the time, the standpoint of Yugoslav feminists who self-identified as antinationalist became the dominant feminist position on issues of nationalism and sexual violence. According to this standpoint, all women in the war were victims of all men, regardless of their ethnicity/nationality. In the context of the overwhelming accounts of sexual violence taking place during the disintegration of Yugoslavia, the victimhood approach taken by antinationalist feminists considered sexual violence as a gender issue and not an ethnic/nationalist issue.

However, as Žarkov explains, the position that antinationalist feminists took had consequences. Their assumption defines the woman as the 'ultimate metaphor of victimhood and, paradoxically, adopts the dominant patriarchal notions of gender – with

³⁶² Dubravka Žarkov, *The Body of War: Media, Ethnicity, and Gender in the Break-up of Yugoslavia* (duke University press 2007) 213.

³⁶³ Žarkov (n 362).

³⁶⁴ Yuval-Davis (n 161) The term 'Western feminists' refers to the conceptualisation used by Yuval-Davis to portray the way in which feminists from the 'first world' would construct women from the 'third world' as oppressed by barbaric customs without considering the social and economic contexts in which they existed. As the Balkans were not considered part of the 'West', this same 'Western gaze' can be seen in feminist literature addressing female victimhood and sexual violence in the Balkans during the disintegration of Yugoslavia.

aggressive masculinity and violable femininity – even when wanting to subvert it'.³⁶⁵ The antinationalist feminist view of a woman as a metaphor of victimhood had important implications for women's agency because it meant that during the war all women were viewed through a lens of victimisation.³⁶⁶ Therefore, even feminists identified as 'nationalist' were considered victims of nationalist rhetoric and were regularly described as 'manipulated' and 'trapped' and as a result incapable of exercising any agency. As Žarkov explains, the agency of 'nationalist' feminists was 'discounted as riding on the wave of a borrowed nationalist agency'.³⁶⁷ Essentially, the dismissal of 'nationalist' feminists' agency is a result of a limited conceptualisation of women's agency that dominated the antinationalist feminist narrative of women's participation in the disintegration of Yugoslavia. In addition, the dismissal of 'nationalist' feminist also led to the dismissal of all other women who had mobilised during and after the war, particularly right-wing women's groups.

In addition to dismissing 'nationalist' feminists' agency, the feminist emphasis on women's victimisation had other consequences as well. Raped women were immediately perceived as innocent victims. As Helms explored, the characterisation of women as innocent victims meant that women were portrayed as peaceful agents who with international support were able to rebuild the society that the men ruined with violent war.³⁶⁸ This division of peace and war along gender lines resulted in the 'crude annihilation of women's agency,' argues Žarkov.³⁶⁹ In other words, it assumes that women had nothing to do with the decisions that made the war possible and yet are entirely responsible for how the society will recover after the war. Essentially, women were not active citizens responsible for their social and political lives in the moments leading to the war, but only after the war had taken place.

Spasić observed how the antinationalist feminist understanding of agency created a divide amongst women. Agency was assigned to some women, while other women were just passive objects. This meant that antinationalist feminist women perceived

³⁶⁵ Žarkov (n 362) 215.

³⁶⁶ *ibid.*

³⁶⁷ Žarkov (n 362).

³⁶⁸ Elissa Helms, *Innocence and Victimhood - Gender, Nation, and Women's Activism in Postwar Bosnia-Herzegovina* (University of Wisconsin Press 2013).

³⁶⁹ Žarkov (n 362) 215.

themselves as agents with power to transform society and they perceived women victims of wartime sexual violence as innocent and powerless objects requiring representation.³⁷⁰ The activism that antinationalist feminists portrayed was deemed to be the authentic expression of all women's interests, which apparently included the interests of women who were innocent victims or refugees and ignorant and manipulated women as in the case of 'nationalist' feminists. It is questionable whether antinationalist feminists could have accurately represented all women's interests with such a standpoint on women's agency. For this reason, I argue that one of the consequences of a limited feminist understanding of women's agency is an incomplete feminist account of women's movements in the disintegration of Yugoslavia, and more specifically of women's movements during and after the Homeland War.

3. The positioning of feminist, non-feminist, right-wing and nationalist women's groups

In her analysis of Belgrade and Zagreb feminists' positioning on the 1990s war, Miškowska Kajevska scrutinises the classification and naming used in scholarship on Yugoslav feminism.³⁷¹ She looks particularly at the dichotomy that exists between antinationalist and nationalist feminists, recognising that the lack of discussion around the meaning and origins of the various names used to designate a positioning of a feminist group leaves readers wondering about terminological choices.³⁷² Her research confirms that feminists who self-identified as antinationalist and feminist assigned the 'nationalist' label to other feminists who 'had a stronger attachment to the respectively Serb and Croat ethnic collective and/or the state in which they lived: Serbia and Croatia, respectively'.³⁷³ The 'nationalist' label was used to undermine the feminist identity because it drew from the Western feminist assumption that found feminism incompatible with nationalism.³⁷⁴

³⁷⁰ Ivana Spasić, 'Woman-Victim and Woman-Citizen: Some Thoughts on the "Feminist" Discourse on War' in S Slapšak (ed), *War Discourse, Women's Discourse: Essays and Case-Studies from Yugoslavia and Russia* (Topos and ISH 2000).

³⁷¹ A Miškowska Kajevska, 'Taking a Stand in Times of Violent Societal Changes: Belgrade and Zagreb Feminists' Positionings on the (Post-)Yugoslav Wars and Each Other (1991-2000)' (Unpublished PhD, University of Amsterdam 2014).

³⁷² *ibid* 60–63.

³⁷³ *ibid* 9.

³⁷⁴ For more detail on debate see: Cockburn (n 335).

Informed by Miškovska Kajevska's findings on the naming of feminists, I have carefully considered the approach I have taken in this thesis. I use the term "women's group" because it refers to organised groups made up of women that in one way or another are engaged in furthering women's interests and needs. The interests represented can include ending violence against women, advancing women's reproductive rights or collecting women's testimonies of wartime experiences. However, I use different descriptors that are based on self-identification and relationship to the state when speaking about the positioning of the different women's groups. The main distinction I make is between feminist women's groups and non-feminist women's groups, which is based on self-description of the members of the group. Although they may use similar methods or support similar causes, if they do not self-identify as a feminist women's group, I have labelled them as a non-feminist women's groups.³⁷⁵

The second layer of distinction relates to the women's groups' relationship to the state. In her examination of Serbian and Croatian nationalist feminists, Miškovska Kajevska points out that although the term 'nationalist' is the predominant term, in scholarship it is used synonymously with the term 'patriotic'.³⁷⁶ For example, the term 'patriotic' is used by Benderly and Batinić, who suggest that it refers to the Croatian feminists who were critical of nationalism in general but did not explicitly criticise the nationalism of their own states.³⁷⁷ However, I find it important to emphasise that patriotism is quite an elusive term. In some instances, it can be defined as 'blind' where it resembles uncritical loyalty to one's own country regardless of the consequences. And, in other instances, it can take the form of 'constructive' patriotism conceived as national attachment in balance with the respect of human rights.³⁷⁸ The interchangeable use of 'patriotic' and 'nationalist' especially in relation to feminist or women's activists in the context of former Yugoslavia risks further confusion regarding the positioning of the groups. Furthermore, considering that Miškovska Kajevska's focus on nationalist feminists was regularly understood by fellow Western feminists as a focus on 'fascist, religious

³⁷⁵ In Croatia, feminist women's groups are very explicit about their feminist orientation, which is usually explicitly expressed in their statutes as part of the aims of their organisation.

³⁷⁶ Miškovska Kajevska (n 371).

³⁷⁷ Jill Benderly, 'Rape, Feminism, and Nationalism in the War in Yugoslav Successor States' [1997] *Feminist nationalism* 59, 66–70; Jelena Batinić, 'Feminism, Nationalism, and War: The 'Yugoslav Case' in Feminist Texts' (2001) 3 *Journal of International Women's Studies* 1, 3–4.

³⁷⁸ Fathali Moghaddam (ed), 'Patriotism', *The SAGE Encyclopedia of Political Behavior* (SAGE Publications 2017) <<https://ebookcentral.proquest.com/lib/kentuk/detail.action?docID=4871978>>.

fundamentalist or right-wing women', it is possible that the imposed 'nationalist' label on feminists who divorced from self-identifying antinationalist feminists had in some way contributed to the process of overlooking all other women's groups that were present in the time, especially those that did not self-identify as feminist.

Conscious of the implications that are attached with the use of the terms 'nationalist' and 'patriotic' and the weight they carry in the Croatian context, in this thesis I label women's groups who support nationalist discourse that uncritically promotes the official Homeland War narrative as right-wing women's groups. I have chosen this label because it reflects the term used in feminist literature that actually does analyse right-wing women's movements. I also use it in order to distance myself from the implications that may be drawn from scholarship on the division of Yugoslav feminists and their positioning in relation to the state. Finally, I use the term 'right-wing' because the term 'nationalist' has a negative connotation in everyday Croatian language and my intention is to avoid coming across as if I am making a value judgement of different women's groups positioning on nationalism. Now that I have clarified the terminology I use in this thesis in regards to Croatian women's groups, I turn to the story of the women's movement in former Yugoslavia and Croatia.

4. Women's movement in former Yugoslavia and Croatia

I. Women in the Yugoslav Partisan struggle and Yugoslav feminism

The women's movement in Croatia has an interesting history that begins with the Yugoslav partisan struggle during World War II when women mobilised themselves out of patriotism and solidarity for the socialist cause. In the early 1970s, women reorganised themselves around 'the woman question' that focused on achieving gender equality. This resulted in the birth of Yugoslav feminism, which in the 1980s became the leading force that opposed the sparks of nationalism in Yugoslavia. The strength of Yugoslav feminism rested on the unity and solidarity of women regardless of their national or ethnic identities. However, this strength was challenged by the war in the 1990s, which resulted in feminists dividing amongst themselves according to their positioning in relation to the war, sexual violence and nationalism.

Immediately after the Second World War, the socialist regime granted Yugoslav women full citizenship rights, which was due to the belief that gender equality was an inevitable result of the communist revolution. The legal recognition of women's rights was one of the many promises made by the Yugoslav Communist Party; a promise held on to by many Partisan women who fought for their country alongside their male compatriots. An estimated number of 100,000 women were involved in preparing the resistance and revolution. Their battle for freedom and the formation of the Anti-Fascist Women's Front is seen as the birth of the women's movement in Yugoslavia, and consequently in Croatia.³⁷⁹

The Anti-Fascist Women's Front, hereinafter AFŽ, was established in 1942 as a result of Tito's appeal for the Serbs, Croats, Montenegrins, Macedonians and others to take up a fight against 'fascist slavery'. Organisations of the Communist Party started to organise women's commissions under the guidance of the National Liberation Front (NOP). The aim of the commissions, and in particular the AFŽ, was to recruit women for the partisan movement, to help women become part of the war and the revolution, and to give women the opportunity to contribute to military and political victory over fascism. From its beginning, all the way to its organisation on a federal level, the AFŽ was seen as women's contribution to the partisan war effort. However, with the war taking up more of the Communist Party's time and this way leaving the women of the AFŽ as sole representatives of the partisan struggle in villages, it was easy for women to include their own goals and needs into the operation slowly.³⁸⁰

As the AFŽ evolved into an autonomous organisation with its own set of rules at a time when the communist victory was becoming more certain, the Communist Party turned its focus on the post-war period. After reviewing the AFŽ activities and organisational structure, the Communist Party decided that it was too 'elitist, exclusive and bureaucratic' and had distanced itself from the socialist political life and struggle. More importantly, the Party accused the local branches of the AFŽ of being too narrowly

³⁷⁹ Oliwia Berdak, 'Gender and Nationalism in the Former Yugoslavia: Exploring the Moral Fable' <<http://www.lse.ac.uk/europeanInstitute/research/LSEE/PDFs/PhD%20Symposium/Papers%202010/Berdak.pdf>>.

³⁸⁰ *Arhiva Jugoslavije: Antifašistički Front Žena Jugoslavije, Detalji Fonda*, vol August, 2014; B Jancar-Webster, 'Women in the Yugoslav National Liberation Movement' in SP Ramet (ed), *Gender Politics in the Western Balkans: Women, society, and politics in yugoslavia and the yugoslav successor states* (Penn State University Press 1999) 75–82.

organised as women's organisations. In order to remedy these developments, the Communist Party broke up the centralised AFŽ structure and subordinated it to the National Liberation Councils. In less than a year, the AFŽ moved from being a prosperous women's organisation to a typical Stalinist mass organisation. Jancar-Webster argues that the primary reason for this downgrading was that the leaders of the AFŽ identified primarily as communists and then as women, and when the Party told them to turn the organisation into a communist-style mass organisation, they did.³⁸¹

Although the AFŽ was downgraded, the transition to the new regime transformed resulted in significant advancements for women's rights. Women were granted equal legal and civil rights, which meant that they were able to enjoy the right to equal salaries, easy divorce, free medical and child care, free education and accessible legal abortion. Interestingly, the realisation of legal and civil rights for women that followed the National Liberation War was in part a result of women joining the revolution not out of feminist motivations, but out of patriotism, courage and solidarity for a common struggle. In essence, women joined the movement for their country and then were 'rewarded' with equal status.³⁸² A similar pattern is noticeable in the 1990s when women joined the war effort not out of feminist motivations, but for the purpose of joining the struggle for their country. Unfortunately, the reward that followed was quite regressive in terms of gender equality.

Since the downgrading of the AFŽ happened without resistance and by the members themselves, it is commonly seen as 'self-abolition' or 'evolution' into the Union of Women's Associations. The establishment of the Union of Women's Association happened at the same time that legal and civil equality came into force, consequently implying that 'the woman question' was settled. In other words, it was no longer necessary for women to emphasise the distinction between the women's struggle for rights and the socialist class struggle because the two struggles became synonymous. For the time being, 'the woman question' was dismissed, and common social issues became the focus. The issue of gender equality re-emerged in the 1970s and 1980s.³⁸³

³⁸¹ Jancar-Webster (n 380) 67–87.

³⁸² Berdak (n 379).

³⁸³ Batinić (n 377); Adriana Zaharijević, 'Being an Activist: Feminist Citizenship Through Transformations of Yugoslav and Post-Yugoslav Citizenship Regimes'.

In the 1970s, women intellectuals began to question the role of women in society and the official socialist regime's view that the women's struggle was synonymous with the class struggle. They also critiqued the assumption that solving class issues would also solve women's problems. These critical issues were addressed at an international feminist conference in Belgrade in 1978. Mladjenovic, Litricin and Renne view the conference titled 'Drugarica Žena. Žensko pitanje - novi pristup?' (Comrade Woman: The Women's Question – A New Approach") as the turning point for women's groups, especially as it concluded with a sense of a shift in loyalty and solidarity: 'away from national and class struggle and towards an exclusive focus on women and their liberation'.³⁸⁴ Jancar calls this the New Feminist wave, which was very visible with the establishment of organisations such as Žena i društvo (Woman and Society) as a section of the Croatian Sociological Society in Zagreb in 1979 and a second formed in Belgrade.³⁸⁵

The 'new' Yugoslav feminists debated socialist theory and practice, and discussed the empirical aspects of the women's emancipation project.³⁸⁶ Žarkov explains how the Yugoslav feminists, were excellent scholars, 'extremely critical and analytical, and very well-versed in the latest developments in international academic feminism, from philosophy to literature'.³⁸⁷ In summary, their key contributions included separating the discourse on the emancipation of women from the emancipation of workers and shifting focus onto the universal structure of patriarchy and women's oppression. As a result, they challenged the socialist regime's supposed success in achieving gender equality. The Yugoslav feminist movement argued that the way men and women were socialised was key to the prevailing patriarchal structure. By perceiving communist women as ultimately fooled by the ruling communist social structure, Yugoslav feminists were unable to recognise communist women's agency in the National Liberation War.³⁸⁸ The feminist dismissal of the agency of women who subordinated their gender identity in favour of a political or ethnic identity appears again in the 1990s when Yugoslav

³⁸⁴ Lepa Mladjenovic, Vera Litricin and Tanya Renne, 'Belgrade Feminists 1992: Separation, Guilt and Identity Crisis' [1993] *Feminist Review* 113, 113.

³⁸⁵ Barbara Jancar, 'Neofeminism in Yugoslavia: A Closer Look' (1988) 8 *Women & Politics* 1; Mladjenovic, Litricin and Renne (n 384); Berdak (n 379).

³⁸⁶ Berdak (n 379).

³⁸⁷ Dubravka Žarkov, 'Feminism and the Disintegration of Yugoslavia: On the Politics of Gender and Ethnicity' (2003) 24 *Social Development Issues* 59.

³⁸⁸ Jancar (n 385); Mladjenovic, Litricin and Renne (n 384); Žarkov (n 387).

feminists talk about women's agency and nationalism. I discuss this in more detail later on in the chapter.

The Yugoslav feminist movement emerged in a period of decolonisation, civil rights movements, and second wave feminism; all movements that challenged the established relationship between the state and its citizens. Within this context, Yugoslavia enjoyed the free flow of information and academic thought as part of the Non-Aligned Movement. As a result of the relative openness of the Yugoslav communist regime, Yugoslav feminists were influenced by second-wave feminism coming in from the West. However, this openness and interaction with second wave feminists from the West had its consequences. Following the first conference in Belgrade, the media accused feminists of importing Western capitalist ideology. At this point, the Yugoslav communist regime shifted its position in regards to the woman question. It claimed that feminism was in opposition to Marxism because it viewed feminist discourse as bourgeois ideas trying to prioritise the women's struggle over the class struggle.³⁸⁹ Consequently, the 1980s finds Yugoslav feminism slowly stepping out of its intellectualism and entering the realm of activism.

Although I have not found evidence of Yugoslav feminists' roles in advocating for the signing of the Convention on the Elimination of All Forms of Discrimination against Women, I assume that Yugoslav feminists were involved. With the Socialist Federal Republic of Yugoslavia signing the Convention on the Elimination of All Forms of Discrimination against Women in 1980 and ratifying it in 1982, feminist groups ignored the 'pro-western' and 'pro-capitalist' accusations coming from the League of Communists of Yugoslavia in 1982. They engaged in advocacy and support work on issues affecting women's lives such as rape and domestic violence, pornography, and women's right to employment. Their activism was amplified in the late 1980s when proposals for changes in legislation on rape, abortion and child subsidies brought many feminists onto the streets. This public activism was a novelty in feminist engagement in

³⁸⁹ Jancar (n 385); Mladjenovic, Litricin and Renne (n 384); Žarkov (n 387); Berdak (n 379).

Yugoslavia, and at this key moment in time, it showed solidarity amongst Yugoslav feminists from all the republics, without any ethnic or national lines.³⁹⁰

II. The Yugoslav feminist divide

In the late 1980s and until the start of the war, an atmosphere of solidarity and common ground was present among the Yugoslav feminists, especially with the establishment of feminist women's centres throughout Yugoslavia. SOS telephone-helplines were put up in Zagreb, Belgrade and Ljubljana for women and children experiencing rape and domestic violence. And the *Women's Lobby*, an organisation for the representation of the political opinion of women, was founded in Zagreb and Belgrade.³⁹¹ However, as the 1990s approached, this Yugoslav feminist solidarity and focus quickly began to change due to the reality of the developing armed conflict, the shifting political contexts in the respective countries and the campaigning for international legal recognition of rape as a war crime. Although initially, all Yugoslav feminists took the position of challenging and criticising their republic's discourses, they were faced with disharmony amongst themselves especially around their positioning in relation to the war, sexual violence and nationalism.

As mentioned, the war challenged the Yugoslav feminist solidarity by pushing feminists to examine feminism in the context of violent nationalism and war. In their article on the experience of Belgrade feminists, Mladjenovic and Litricin pose questions that perfectly illustrate these challenges:

Can a feminist be a nationalist chauvinist? Can a pacifist be a nationalist? Is a weapon an instrument of defence? Should the groups take clear attitudes toward nationalist questions (and therefore the war) and in that way lose some women? Should the groups avoid the issue of nationalism altogether? Should the women merely sit down and confront their beliefs about it and see what happens?³⁹²

³⁹⁰ Mladjenovic, Litricin and Renne (n 384) 113; Jovanka Stojsavljevic, 'Women, Conflict, and Culture in Former Yugoslavia' (1995) 3 *Gender and Development* 36, 36.

³⁹¹ Mladjenovic, Litricin and Renne (n 384) 113; Stojsavljevic (n 390) 36.

³⁹² Mladjenovic, Litricin and Renne (n 384) 13.

In an attempt to discuss their thoughts and fears on the ongoing war, the former Yugoslav feminists gathered in Zagreb in 1992 for an international feminist conference titled 'Women in War'. As Žarkov explains, the issue of identifying the 'victim' of the war was central to the divide that surfaced during the conference.³⁹³ *Kareta and Women's Help Now*, organisers of the conference, identified the 'victim' of the war as Muslim and Croat women and the 'aggressor'³⁹⁴ as the Serb men. This type of conceptualization of victim and aggressor puts *Kareta and Women's Help Now*, along with *Nona Women's Centre* and *Trešnjevka*, on the nationalist end of the feminist spectrum making them what antinationalist feminists would call nationalist feminists³⁹⁵ Women on this end of the spectrum represent the view that ethnicity and nationhood cannot be inseparable from feminism. In the context of the war in former Yugoslavia, the Serbian rape of Muslim and Croatian women was used as proof of Serbia's intention to ethnically cleanse Bosnia and Croatia. In a sense, feminists on the nationalist end of the feminist spectrum fused different aspects of the feminist agenda with the agenda of supporting the emerging nation-state. They also fused their feminist identity with their national and ethnic identities, and in this way, they positioned themselves in support of the Croatian government's discourse at the time. Consequently, this group of feminists were distanced and simultaneously distanced themselves from the self-identifying antinationalist feminists.³⁹⁶

Croatian antinationalist feminists that disagreed with the government's discourse, which portrayed Croatia as only the victim of the war and Serbia as sole aggressor, formed around the *Zagreb Women's Lobby* that was a coalition of the *Autonomous Women's House Zagreb*, the *Independent Alliance of Women*, the *Informative-Documentary Centre of Women* and the *Women from the Antiwar Campaign Croatia*. The coalition represented feminist organisations working on raising awareness of women's rights and issues. Their conceptualisation of the victim and the war rested on the premise that everyone, regardless of ethnicity, was a victim and an aggressor. They

³⁹³ Žarkov (n 387).

³⁹⁴ I use the term 'aggressor' when referring to the perpetrator army in the context of the Homeland War in order to avoid confusion and to allow consistence throughout the narrative. This is the term used in the Declaration of the Homeland.

³⁹⁵ Žarkov (n 387) 59-63. Miškovska Kajevska uncovers how antinationalist feminists label other feminist as nationalist feminists in an attempt to delegitimize their authority. For this reason I will try to refrain from the use of 'nationalist feminist'.

³⁹⁶ Žarkov (n 362).

argued that women of all ethnic backgrounds had been raped in the war, and men of all (para)militaries were the perpetrators. However, they accepted that Bosnian Serb forces and their allies had committed the most crimes systematically. For the self-identifying antinationalist feminists, the rapes in the war were essentially an escalation of male violence against women. Thus they argued that women were the main victims of the wars in Bosnia and Croatia.³⁹⁷ A small fraction of active radical antinationalist feminists in Belgrade argued a similar position, but completely dismissed the ethnic or nationalist issue related to rape in war. They viewed wartime rape only as a gender issue because they saw war, nation, state, patriotism as by-products of patriarchy, which was sustained through male violence against women and male hatred of everything female.³⁹⁸

As mentioned earlier, antinationalist feminists' conceptualisation of the victim and the war focuses exclusively on female victimisation and consequently dismisses opportunities for recognising women's agency. This is obvious in their positioning towards so-called nationalist feminists whom they see as 'manipulated' by nationalist discourse and for this reason denied their ability to form opinions and positions themselves on issues related to victims and war.³⁹⁹ This type of conceptualisation is problematic because, among other reasons, it dismisses the personal meanings of ethnicity. As a result, antinationalist feminists 'ignore the fact that nation, ethnicity, and womanhood are not mutually exclusive realms in women's lives and that women, feminists or not, do claim not only an ethnic identity but also nationalism as their own project'.⁴⁰⁰

The debate that was taking place between Yugoslav anti-nationalist feminists and nationalist feminists had its impact internationally as well. In spring 1993, MADRE, a women's group founded in 1983 in response to US intervention in Central America began touring under the title 'Mother Courage II'. The tours focused on raising awareness about the war rapes taking place in the former Yugoslavia. Women from the countries of the former Yugoslavia were represented by anti-nationalist feminists from

³⁹⁷ *ibid.*

³⁹⁸ Mladjenovic, Litricin and Renne (n 384) 113.

³⁹⁹ Žarkov (n 362) 215.

⁴⁰⁰ *ibid* 218.

Bosnia, Croatia and Serbia, something widely criticised by four women's groups, Karetam, Trešnjevka, Biser and Bedem Ljubavi, from Croatia and Bosnia. These four women's groups, who emphasised the ethnic dimension of the wartime rapes, released a letter protesting the MADRE tours. In the letter, they argued that MADRE was universalising rape as a weapon of war and ignoring the genocidal impact of the rapes in Bosnia, especially the occurrences of forced impregnation.⁴⁰¹

According to Batinić, the MADRE Executive Director refuted the accusations, stating that the participants of the MADRE tour had recognised the genocidal aspects of the war.⁴⁰² Instead, the real issue was in their argument that that rape was happening on all sides of the conflict; there were also Bosnian and Croatian perpetrators of rape. The nationalist leaning women's groups viewed the argument presented by the MADRE tour as an extension of Serbian propaganda. In other words, the MADRE tour was 'equalising a genocidal system to fabricated or isolated events by the victims against the aggressors'. They argued that such a representation of the wartime rapes was taking away some of the blame from the perpetrators, whom they referred to as the 'aggressor', and as a result laying equal blame on the 'victims'. It is important to note here that the term 'victims' is referred to in both an individual and collective manner. 'Victims' are understood to be the Croatian and Bosnian women rape victims and the Croatian and Bosnian nation. Similarly, the reference to 'the aggressor' means both Serbian perpetrators of rape and the aggressive Serbian nation as a whole.

The MADRE tour demonstrates just how sharp the rift amongst the Yugoslav feminists was. Not only were these four nationalist women's groups protesting the representation of the wartime rapes pursued by both the antinationalist Yugoslav feminists and international feminists; they were also protesting against their collective ethnic membership. Their emphasis on the ethnic dimension of the rapes framed all their involvement on the issue with an ethnic lens. For example, they considered Serbian women, including Serbian feminists, as part of the genocidal, 'aggressor', collective. For this reason, they found it unacceptable for Muslim and Croatian women to participate in events alongside Serbian women.⁴⁰³ However, the Karetam, Trešnjevka, Biser and

⁴⁰¹ Batinić (n 377) 10.

⁴⁰² Batinić (n 377).

⁴⁰³ *ibid* 10–11.

Bedem Ljubavi groups were not only bothered by the presence of Serbian feminists; they were also concerned about the Croatian representatives participating in the MADRE tour. They were particularly concerned about feminists Vesna Kesić and Djurdja Knežević participating. The nationalist women's groups considered these two Croatian feminists highly unrepresentative of Croatian women interests mostly because of their refusal to acknowledge the ethnic dimension of the rapes. They also rejected their representation because they believed that by ignoring the ethnic dimension of rape, antinationalist feminists were silencing victims of rape.⁴⁰⁴ This argument surfaces in the Croatian reparation process for victims of wartime sexual violence, which I will go into more detail in Chapter 5.

Although the MADRE tour aimed to unify feminists and women for the purpose of raising awareness about the horrific rapes that were taking place during the wars of the disintegration of the former Yugoslavia, instead it demonstrated the growing divide amongst feminist women's groups and feminists and women's groups in general on the issue of rape and nationalism. This division in thought and practice was also evident in international feminist scholarship and activism at that time.

5. International feminist dilemma: gender or ethnicity?

Making women's experiences in wartime visible to international law and policy has been a central goal for feminist scholars and activists for many years now. Efforts began in the 1980s and 1990s when feminists campaigned for international awareness of violence against women as a human rights issue.⁴⁰⁵ When the war broke out in the former Yugoslavia, the campaign began to receive more attention, which led to increased visibility of experiences of women in wartime. In 1993 and 1994, the Western press published a number of reports of mass rapes of women in Yugoslavia. As international feminists were looking for ways to mobilise international action on violence against women, the emerging accounts from Bosnia provided an example of violence against women that could not easily be ignored. However, the accounts coming from the

⁴⁰⁴ *ibid.*

⁴⁰⁵ See for example, JS Peters and Andrea Wolper (eds), *Women's Rights, Human Rights: International Feminist Perspectives* (1 edition, Routledge 1995); Hilary Charlesworth and CM Chinkin, *The Boundaries of International Law: A Feminist Analysis* (UK ed edition, Manchester University Press Melland Schill Studies 2000).

different countries of the former Yugoslavia were mostly narratives of ethnic rapes in which women were targeted because of their ethnicity and to destroy their ethnic group. Faced with the seriousness of the situation, international feminists were confronted with a dilemma. How could they highlight the everyday-ness of violence against women despite the mass rapes that were taking place in Bosnia? And how can they best characterise the mass rapes as a product of both gender and ethnic violence without one identity being erased by the other? The mass rapes taking place during the disintegration of the former Yugoslavia demonstrated just how intertwined gender, sexual violence and nationalism can be.

Puzzled by what approach would be most efficient in conceptualising the mass rapes that were taking place within the particular context of former Yugoslavia, international feminists were divided in their approach. Engle describes them as two camps 'rather than simply positions, to highlight the genuine debate that took place during the 1990s'.⁴⁰⁶ Departing from the understanding that the disintegration of Yugoslavia could be characterised as an ethnic conflict, the two camps disagreed on whether the mass rapes should be viewed as 'genocidal'. One camp argued that the mass rapes should be understood as an instrument of genocide, which essentially distinguished the rapes from 'everyday rape' and even 'everyday wartime rape'. According to the camps most vocal feminist, Catherine Mackinnon explained that '[w]hat is happening [in Bosnia] is first genocide, in which ethnicity is a tool for political hegemony: the war is an instrument of the genocide; the rapes are an instrument of the war'.⁴⁰⁷ Mackinnon claimed that the war could not be considered a civil war, because it was obvious that it was Serbian aggression on non-Serb territory with the intent to "ethnically cleanse" territories of all non-Serbs. By explicitly taking a side in the conflict, Mackinnon argued that the rapes were directed towards women because of their ethnic identity as Bosnian Muslims and Croats. In her view, anyone who did not recognise the rapes as genocidal was obscuring facts and participating in a 'cover-up'. Mackinnon criticised the "feminist version of the cover-up" because it acknowledged the atrocities but ignored the genocidal element of the rapes, and thus in her view, it reduced their severity. In Mackinnon's view, by not

⁴⁰⁶ Engle (n 7) 780.

⁴⁰⁷ Catherine Mackinnon, 'Rape, Genocide and Women's Human Rights' in Alexandra Stiglmeier (ed), *Mass rape : the war against women in Bosnia-Herzegovina* (University of Nebraska Press 1994) 187.

taking sides in the conflict one was accepting that the war and the mass rapes were “business as usual” and disrupting the opportunity for international intervention.⁴⁰⁸ In other words, viewing the mass rapes as genocidal provided justification for intervention that could possibly stop the ongoing atrocities.

It must be noted that Mackinnon did not downplay the extent to which women on both sides were raped; she did not exclude the possibility of Croatian or Muslim soldiers raping Serbian women or the vulnerability of Serbian women in general. Instead, she claimed that the mass and systematic rapes perpetrated by the Serbian side were part of a policy which had genocidal intent. Mackinnon equated “ethnic cleansing”⁴⁰⁹ with genocide and this way reinforced her argument that the Serbian campaign against all non-Serbs was of genocidal intent in which rape is ‘ethnic rape as an official policy of war in a genocidal campaign for political control’.⁴¹⁰ For Mackinnon, by raping women, forcibly impregnating them and sexually enslaving them, the Serbs were able to intimidate the women, and therefore were able to successfully drive the women and the families away from their homes, destroying a community, a society and people. For feminists in this camp, the mass rapes were explicitly genocidal.

On the other hand, the opposing camp disagreed with the idea that the mass rapes taking place in the Yugoslav wars should be viewed as genocidal. It claimed that, unfortunately, rape of women in wartime was not a new phenomenon and for this reason the focus should not be put on genocide. Rhonda Copelon explained that the overemphasis of the uniqueness of the Bosnian rapes was mainly a product of just how invisible rape of women was and still is.⁴¹¹ She argued that conceptualising mass and systematic rape as ‘genocidal rape’ risks rape becoming invisible again once the conflict is over. In her view, rape and genocide are separate atrocities, because rape as sexualised violence has the goal of destroying a woman based on her identity as a woman.⁴¹²

⁴⁰⁸ *ibid* 189.

⁴⁰⁹ Mackinnon (n 407), ‘Ethnic cleansing is a policy of ethnic extermination of non-Serbs with the aim of “all Serbs in one nation”, a clearly announced goal of Greater Serbia, of territorial conquest and aggrandizement.’

⁴¹⁰ *ibid* 190.

⁴¹¹ Rhonda Copelon, ‘Surfacing Gender: Reconceptualising Crimes against Women in Time of War’ in Alexandra Stiglmeier (ed) (University of Nebraska Press 1994) 197.

⁴¹² *ibid* 198.

Similarly to Mackinnon, Copelon did not dismiss the facts presented by the other camp. She recognised that mass rapes taking place in Bosnia had a goal to terrorise women, especially by having familiar men rape them. Moreover, she acknowledged that the purpose of some of the rapes was to drive the women and their families from the territory they occupied and to ensure they never returned. She did not deny that forced impregnation, especially with the intent of ‘breeding more Serbian babies’ was a way to ‘cleanse’ the population, and had elements of ‘genocidal’ intent. However, Copelon emphasised the intersection of both ethnicity and gender in the victimisation of the women in former Yugoslavia. Her main concern was to ensure that rape, forced prostitution, and forced impregnation of women was effectively prosecuted at the ICTY, which at the time had just been established. For this reason, she called for feminists to ‘critically examine the claim that rape as a tool of “ethnic cleansing” is unique, worse than or not comparable to other forms of rape in war or in peace’.[.]⁴¹³In Copelon’s view, recognising the gender dimension of rape in war is imperative for women becoming full subjects of sexual violence in war and for the recognition of rape in peacetime.⁴¹⁴ Overall, Copelon wanted mass and systematic rape to be recognised as a crime against humanity, because ‘it is invariably a persecution based on gender’.⁴¹⁵

The significance of the international feminist disagreement over how to best present the mass rapes taking place in Bosnia and Croatia was based on a particular conceptualisation of the conflict. In her exploration of the direct and indirect roles that feminists played in the international criminalisation of rape, Karen Engle pointed out that one of the significance of the feminist disagreement was that their positions reflected particular approaches to the war.⁴¹⁶ As explored earlier in this chapter, the Yugoslav feminist division was based on whether feminists gave greater priority to their national affiliation or women’s solidarity. The international feminist camp that argued for the connection of rape to genocide reflected an approach similar to the one taken by “nationalist” Yugoslav feminists who also viewed the war as Serbian aggression on non-Serb territories. Similarly, the international feminist camp that argued for recognition of the gender dimension of the mass rapes reflected an approach similar to

⁴¹³ *ibid* 199.

⁴¹⁴ *ibid* 208.

⁴¹⁵ *ibid*.

⁴¹⁶ Engle (n 7) 787.

‘antinationalist’ Yugoslav feminists who viewed the mass rapes as only male domination over women and capable of happening on all sides of the war.

The fact that the debates between Yugoslav feminists were mirrored in the discussions that international feminists had when confronted with the issue of conceptualising mass rapes taking place in the conflict was not unusual. As mentioned in Chapter 2, Communist Yugoslavia was more open to the West than other communist regimes. Yugoslav feminists had access to feminist philosophy coming in from the West. They also had the ability to travel freely, which provided Yugoslav feminists with the opportunity to expand their networks beyond the region. By the time the war broke out, Yugoslav feminists already had established connections with feminists in Western Europe. In the forward of the second edition of *The Collected Papers of the Center for Women War Victims*, prominent Croatian feminist Vesna Kesić points out that feminist groups from Croatia took part in several international conferences such as the UN Human Rights Conference in Vienna in 1993 and the UN Women’s Conference in Beijing in 1995.⁴¹⁷ She states how Croatian feminists contributed to the Vienna Declaration, which emphasised that women’s rights are human rights. They also participated ‘in multiple initiatives for introducing gender consciousness to international law, particularly in the Statue of the Hague tribunal, in which war rape was finally recognised as a war crime’.⁴¹⁸

Although feminists both regionally and internationally disagreed on how to conceptualise mass rapes in Bosnia and Croatia, they overcame their differences, and through considerable work and lobbying they achieved the successful prosecution of wartime rape as a war crime, crime against humanity⁴¹⁹, and even as genocide⁴²⁰. Feminist campaigning contributed to the ICTY statute explicitly establishing rape as a crime against humanity under Article 5. They also impacted the Rules of Procedure and Evidence that governs the ICTY proceedings, under which rape and other sexual violence crimes would be prosecuted. In regards to consent, Rule 96 established that ‘corroboration of the testimony of a sexual assault victim is not required and that

⁴¹⁷ Vesna Kesić, Vesna Janković and Biljana Bijelić (eds), *Women Recollecting Memories: The Center for Women War Victims Ten Years Later (Second Expanded Edition of the 1994 CWWV Collected Papers)* (The Center for Women War Victims 2003) The first edition was published in 1994.

⁴¹⁸ *ibid.*

⁴¹⁹ *Prosecutor v Kunarac et al., (Judgement) ICTY-2002-IT-96-23-T/1-T (12 June 2002)* (n 147).

⁴²⁰ *Prosecutor v Akayesu, (Judgement) ICTR-96-4-T (2 September 1998)* (n 60).

evidence in relation to consent is to be first presented to the judges in camera to determine whether it is relevant and credible'.⁴²¹ Significantly, it was established that consent could not be used as a defence if the victim was threatened or submitted out of fear.

The significant advance in the prosecution of wartime rape that was achieved with the ICTY is generally considered a feminist success. Although it would seem that the establishment of the ICTY eliminated the feminist debate regarding the appropriate conceptualisation of wartime rape, Engle argues that the 'move to institutions' silenced the debate to some extent. However, the issues that caused the debate in the first place led to some unintended consequences, which resonate in the structure and jurisprudence of the ICTY and international criminal law on sexual violence crimes. Engle argues that the unintended consequences are the result of "problematic assumptions" made by both camps in the debate. One of these assumptions has particular resonance to the story of Croatia's reparation law.⁴²²

One of the assumptions that Engle identified refers to women's sexual and political agency. Feminists on both sides assumed that women involved in the conflict were powerless victims incapable of taking sides.⁴²³ For example, the over-characterisation of Bosnian Muslim women as victims of rape ignored the fact that some women reported that their potential perpetrators saved them. Also, women who expressed nationalist views were represented as victims of nationalist ideology thus stripping them of any political agency they may have had. Most interestingly, the feminist presentation of rape as the worst harm that a woman could suffer from reinforced a Victorian idea of the loss of honour. By overemphasising the harm of rape, feminists made other harms that women suffer from in conflict less visible. Victimhood was restricted to being exclusively a female experience, and as a result, the possibility of exploring the complexity of victimhood in the war context was limited. It would seem that the consequences of this problematic assumption did not disappear with time, and have even surfaced in the

⁴²¹ Alison Cole, 'International Criminal Law and Sexual Violence: An Overview' in Clare McGlynn and Vanessa E Munro (eds), *Rethinking Rape Law: International and Comparative Perspectives* (Routledge-Cavendish 2010).

⁴²² Engle (n 7).

⁴²³ *ibid.*

debates leading to the drafting of Croatia's reparation law, which I address in more detail in Chapter 5.

Although feminists' limited understanding of women's agency resulted in an incomplete account of women in the disintegration of Yugoslavia, and more specifically of the different positioning of women in the Homeland War, recent efforts coming from non-feminist women's groups have tried to fill this gap. In the next section, I will explore the interests and motivations of non-feminist right-wing women's groups that were active in the 1990s war and who remain active today.

6. Wall of Love and the Association of Women of the Homeland War

As mentioned, not all women actively involved during the war period identified as feminists. In fact, one of the largest women's movements with representation throughout the republics of former Yugoslavia was the 'mothers against war' movement. The Committee of Mothers for the Return of Soldiers, also known as the Mothers' Committee, was one of the best organised wartime committees with its headquarters located in Zagreb and sister organisations present all over Croatia, Bosnia, Serbia and Kosovo, Montenegro and Macedonia. The Committee organised an action called the Wall of Love (*Bedem ljubavi*), which symbolised not a unified women's front fighting for women's rights, but rather the love of mothers for their children and their demand for peace. The purpose of the Wall of Love action was to bring home the soldiers who were serving in the Yugoslav National Army (JNA). The Wall of Love received its name from the idea of simultaneously building 'live walls' of women around military barracks around different cities and towns across Yugoslav republics with the action lasting until the soldiers were free to go home.⁴²⁴

The organisers invited all citizens to join this anti-war action, and many feminists and women's groups did. However, the Serbian and Croatian press politicised their actions in the summer of 1991. One of the actions taken by the Mother's Committee was a convoy of buses aiming to take women from the different republics to the JNA headquarters in Belgrade. The plan was to meet the Mothers' Committee from Serbia, Serbian feminist and anti-war groups and form the Wall of Love around the military

⁴²⁴ Carol S Lilly and Jill A Irvine, 'Negotiating Interests: Women and Nationalism in Serbia and Croatia, 1990-1997' (2002) 16 *East European Politics & Societies* 109, 113; Žarkov (n 362) 44-45.

headquarters. However, once the convoys reached Belgrade, they were opposed by the Mothers' Committee from Serbia who had joined the Serbian politicians in arguing that the Wall of Love was aiming to destroy Yugoslavia. In the end, only a small group of anti-war Serbian feminists joined the action.⁴²⁵

The Croatian convoys returned to Croatia with none of their demands being met, with the mothers' front having become vulnerable to splitting along ethnic lines. The support that was received previously in their march on Belgrade by many Croatian politicians including the Croatian president Franjo Tudman made it easier for the Wall of Love to align itself with the Croatian government's discourse and with Croatian so-called nationalist feminists.⁴²⁶ What followed was a procession of 800 mothers from Croatia and Bosnia-Herzegovina to the European Parliament in Brussels, the most significant demonstration made by the Croatian Wall of Love. They met with Doris Pack, member of the European Commission (EC) and presented her with their seven demands, the first and last being peace. However, amongst the other demands, they also requested the return of their sons from the JNA and asked the EC to stop Serbia's aggression against Croatia. At this point, it became clear that the action was not only an anti-war movement but also a means of bolstering the Croatian government's discourse. Consequently, antinationalist feminists distanced themselves from this 'mother against the war' group.⁴²⁷ Since then, accounts of so-called nationalist women's groups began to drop in feminist narratives of the war.

Until recently, women's accounts of their experience of the Homeland War were mostly found in feminist memoirs, the most impressive being 'Women Recollecting Memories' which was a collection of papers and accounts published by The Center for Women War Victims Ten Year Later. It was first published in 1994. However, in 2006, the Association of Women in the Homeland, established by Marija Slišković, began collecting women's memories of the Croatian Homeland War with the purpose of presenting evidence that supported the official narrative of the Homeland War. In her analysis of the memoirs of women from the years 1991-1995 published by the Association of Women in the Homeland War, Oliwia Berdak uncovers how women are 'not only being put into but

⁴²⁵ Lilly and Irvine (n 424) 115–116; Žarkov (n 362) 45.

⁴²⁶ Benderly (n 377) 63.

⁴²⁷ Lilly and Irvine (n 424) 116–117.

also consenting to the limiting roles of self-sacrificing mother, used for the purposes of nationalists'.⁴²⁸ The first volume of the collection of memoirs presents what these women's priorities were in the war: 'Our strength was the love for our children, our homeland and our nation'.⁴²⁹ Although the opening line depicts strong nationalist sentiments, the stories that follow are not as extreme and reflect personal narratives that include emotions, perceptions of the self and others along with discourses on religion, Europe, Croatia, Serbia and Yugoslavia. Berdak explains how the stories of journalists, nurses, doctors, actresses, teachers, professors and other women activists were selected to provide encouragement to women, to empower them, and to inspire them. It would seem that the memoirs aimed to reflect an overall picture of extraordinary women that were filled with strength and courage during the war.⁴³⁰

Although the memoirs were published with the aim of enforcing the official narrative of the Homeland War, Berdak observes ambivalences in regards to the women's attitude towards the 'homeland' or the interpretations of the war. However, what comes across clearly is the women's rejection of traditional femininity that implies dutifully waiting at home for the men to defend the homeland. Instead, Berdak observes how women were constantly negotiating their roles and finding empowerment in their contribution to the national cause. While all the women stressed the difficult and challenging circumstances in which they found themselves, they are also challenging the prevailing stereotypes and expectations of their roles in society. Berdak notices the women expressing a need to be involved and to help their 'homeland' and 'our boys'. Scholars often attribute such words to a particular kind of war masculinity. Interestingly, this war masculinity is reflected in the way the women report their first visits to the war front. The women's accounts perceive involvement in a proper battle as rites of passage and express great amounts of pride by being active in the war, standing side-by-side with soldiers, and sitting in tanks, wearing uniforms and holding guns. These are all symbols of ultimate masculinity, yet the women in the memories choose to see them as symbols of empowerment because the symbol of power is no longer only limited to 'their boys'.⁴³¹

⁴²⁸ Berdak (n 379) 8.

⁴²⁹ M Slišković (ed), *Snaga Ljubavi: Činiti Dobro* (Knjiga I, Parvus 2005) 5.

⁴³⁰ Berdak (n 379) 9.

⁴³¹ *ibid* 9–10.

In contrast to the 'mothers against the war' and the overall assumption that women only identify as victims and mothers, the stories published by the Association of the Women of the Homeland War reflect the difficult decision of delaying motherhood. In fact, motherhood is put on hold, since many of the women see their roles as journalists, humanitarians or military personnel as more important tasks, which required them to leave their families, including children and husbands, behind.

Berdak observes that in an interesting way these women had entered a different world from the one they lived in before the war.⁴³² Supporting the national cause had empowered these women allowing them to prove themselves, develop new skills and gain respect and recognition outside of their homes and everyday lives. By preparing bomb shelters, lobbying for Croatia abroad, presenting facts of aggression against Croatia, organising humanitarian aid, carrying wounded soldiers and civilians, organising concerts, protests, fighting and reporting from the war – these women felt empowered. A quote that Berdak uses to reflect how these women felt about the war describes that period of their lives as 'the most difficult but also the most beautiful part of my life'.⁴³³

Although the accounts collected in the memoirs reflect women's sense of empowerment, they also reflect a desire to be included in Croatia's history of the Homeland War as contributors to the nation equal to their male compatriots. However, Berdak observes that the women wish for only one particular interpretation of the war to emerge. This is demonstrated in the use of particular language and vocabulary in the way the women re-tell their memories. Words and phrases such as 'homeland', 'defenders', 'četniks', 'Greater Serbian terrorism', 'Our Beautiful', 'heroes', and 'our boys' support a narrative of the war that identifies Croatia as the ultimate victim and Serbs as the ultimate aggressor. This sentiment is reinforced with the way the women address the contemporary situation in Croatia, which happens to be 15-20 years after the war. They express disappointment with the lack of justice in the form of prosecutions of Serbs who committed war crimes. They also speak of the manipulation of facts about the war and the disgraceful accusations made towards 'our heroes' along with the lack of gratitude and respect towards the 'defenders'.⁴³⁴ These particular attitudes reflect

⁴³² Berdak (n 379).

⁴³³ *ibid* 11.

⁴³⁴ *ibid* 12.

what I call right-wing attitudes towards the Homeland War, and for this reason, I classify the Association of Women in the Homeland war as a non-feminist, right-wing women's group.

7. Conclusion

In addition to theorising how nationalism is based on particular gender notions of femininity and masculinity, feminist scholars have also explored nationalism 'through the examination of women's roles in nationalist movements'.⁴³⁵ However, the majority of these studies focused on women participating in anti-colonial movements. As a result, feminist scholarship analysing women in nationalism has failed to account for women's organising that does not fall within anti-colonial movements. The lack of knowledge about, and mention of, right-wing and nationalist women's movements is striking. This omission is particularly evident in feminist scholarship on women's organising in Croatia. One of the reasons for this omission is the assumption that right-wing and nationalist women cannot exercise political agency when mobilising for nationalist causes because they cannot possibly claim both a gender and ethnic identity at the same time.

Nevertheless, as seen in the accounts of the 'mothers against war' movement and the early memoirs of the Association of Women of the Homeland War, women are able to claim both an ethnic and gender identity consciously and in this way gain a sense of empowerment.⁴³⁶ The empowerment comes from their voluntary mobilisation for the war and nation-building effort. In this sense, by claiming both identities, women are able to move from an oppressed position to a position where they can gain more control over their lives by participating in the events that are taking place around them. They are able to become agents of social change. This intersecting identity, which provides women with a sense of empowerment, also allows women to distance their individual identity from victimhood. By distancing from a victimhood identity, women are able to become more empowered.

⁴³⁵ Kaufman and Williams (n 341).

⁴³⁶ Empowerment, in this case, 'is taken to mean a process by which oppressed persons gain some control over their lives by taking part with others in development of activities and structures that allow people increased involvement in matters which affect them directly'. Jill M Bystydzienski (ed), *Women Transforming Politics: Worldwide Strategies for Empowerment* (Indiana Univ Pr 1992) 3.

However, feminist scholarship tends to dismiss women's involvement in nationalist movements, regardless of its empowering effect, because of nationalism's inability to actually emancipate women. Case studies have shown how after war efforts women generally leave the public domain and continue to stay within the private domain, demonstrating nationalism's ability to re-establish gender hierarchies in society. Yet, I suggest that dismissing the study of right-wing and nationalist women's movements, for this reason, is irresponsible and problematic. The examples of the 'mothers against war' movement and the emergence of the Association of Women in the Homeland War in Croatia demonstrate more than just right-wing women's empowerment. They also reveal right-wing women's groups' ability to adapt to the circumstances around them, exercise some level of autonomy and in this way generate change within society. In order to understand why these groups support certain change over other types of change in society, it is important to understand their motivations and interests fully. This deeper understanding can only be achieved if feminist scholars truly engage with groups they may not agree with not ideologically. Furthermore, I suggest that by dismissing the agency of these women's groups, feminist scholarship is essentially dismissing their power in society.

In summary, this chapter has aimed to trigger a conversation within feminist scholarship on the importance of analysing right-wing and nationalist women's groups and their motivations and interests. In addition, it provides a more inclusive account of women's movements in Croatia immediately after the Homeland War. Primarily, it emphasises the importance of recognising right-wing and nationalist women's groups as agents of social change and highlights the urgency of understanding their motivations in order to gain a better grasp of how and why they advocate for change that may both promote feminist interests as well as subvert feminist developments. The next chapter builds on this argument by analysing how Croatian nationalist discourse and feminist politics help the Association of Women in the Homeland acquire political influence, which will ultimately affect the course of the *Reparation Law's* drafting process and the law's transformative potential.

CHAPTER 4

THE LEGISLATIVE PROCESS: INCLUSION OF WOMEN AND NATIONALISM

1. Introduction

So far, this thesis has demonstrated the importance of acknowledging nationalist discourse when discussing issues of victimhood, sexual violence and women's agency in Croatia. The historical contextualisation of Croatian nationalism reveals how nationalist discourse informs the narrative of the Homeland War and produces gender roles in Croatian society. Though it also shows how nationalism can restrict women's political agency, the examination of women's involvement in the Homeland War unveils the ways nationalism empowers women. Specifically, the previous chapter illustrates how an intersecting identity and mobilisation for a nation-building effort provides women with a sense of empowerment, which also allows them to distance their individual identity from victimhood.

This chapter develops my empirical analysis of how a right-wing, non-feminist women's group acquired enough political influence to direct the course of the legislative process and the outcome of Croatia's *Law on the Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War* (hereinafter: *Reparation Law*). It shows how both the socio-political context and calculated compromises helped the Association of Women in the Homeland War acquire political influence and consequently sway the direction of the *Reparation Law*. This argument is controversial because it poses the risk of being used to further exclusionary and discriminatory politics by radical right-wing and nationalist movements in Croatia. Moreover, by suggesting that representatives from participating feminist women's groups had made the compromise to disregard the presence of nationalist discourse in the drafting process of the *Reparation Law*, this argument is suggesting that feminists in Croatia to some extent contributed to the enactment of a law aligned to nationalist discourse. However, I argue that looking at the *Reparation Law's* legislative process from this perspective allows for a more complicated reading of law, politics and the role of women in Croatia, and more generally, in transformative justice projects.

The chapter proceeds as follows. The first part explores the international and national socio-political context, specifically looking at the events preceding the publishing of the testimony book *Sunčica* and the events that took place during the establishment of the Working Group. First, it describes the emergence of the Association as a civil society organisation. It then considers the significance of the process of implementation of the United Nation's Security Council Resolution 1325 in Croatia. Finally, it illustrates the power of war veterans, known as *branitelji*, at that point in time. The second part of the chapter focuses on the drafting process of the *Reparation Law* and the controversies that surrounded it. It provides a brief background to the legislation and then analyses the initial draft of the *Reparation Law* paying close attention to the role of the Association and the influence of nationalist discourse. The third section analyses the events that took place during the process of adopting the final draft of the *Reparation Law*. It shows how the events at a Roundtable in Vukovar led to war veteran protests in front of the Ministry of Veterans' Affairs. It concludes by explaining how those events and the actions of the Association influenced the course of the second parliamentary reading of the law, its adoption and its final amendments

2. The socio-political context

In April 2011, only a few months before the book *Sunčica* was published and released to the public, the International Criminal Tribunal for the former Yugoslavia in The Hague convicted Croatian Army generals Ante Gotovina and Mladen Markač⁴³⁷ for war crimes and crimes against humanity committed during the military campaign *Oluja*⁴³⁸ and sentenced them to extended prison terms. Thousands of people, among them many war

⁴³⁷ See *Prosecutor v Gotovina et al, (Judgement) ICTY-2011-IT-06-90-T (15 April 2011)*. The Croatian Army generals were indicted for committing crimes against humanity and violations of the laws or customs of war. Following a lengthy trial, Čermak was acquitted and Gotovina and Markač were found guilty of war crimes and crimes against humanity. The judgement was significant because it was also an indirect verdict on the late president of Croatia, Franjo Tuđman. It states that the late president of Croatia was the 'leader of a "joint criminal enterprise" to drive Serbs from Krajina'. See Marlise Simons, 'Croatian Generals Guilty of War Crimes' *The New York Times* (15 April 2011) <<https://www.nytimes.com/2011/04/16/world/europe/16hague.html>> accessed 16 October 2018.

⁴³⁸ *Oluja* or Operation Storm was a Croatian military campaign that took place in August 1995 that recovered the entire Krajina region in about eighty-four hours. Although celebrated in Croatia as the fulfilment of the nation's 'thousand-year old dream' for independence, in Serbia it is, to this day, considered a campaign of ethnic cleansing resulting in the murder of hundreds of elderly Serbian civilians and looting of thousands of Serb houses. See Victor Peskin, *International Justice in Rwanda and the Balkans: Virtual Trials and the Struggle for State Cooperation* (Cambridge University Press 2008) 102–105; Tanner (n 280) 296–298.

veterans and former military personnel, gathered in the large Jelačić Square in the capital of Zagreb to watch the broadcast of the verdict and reacted with ‘shock and outrage’.⁴³⁹ The gathered ‘crowd booed and hissed when the verdicts were announced, waved Croatian flags and portraits of ex-general Gotovina, and showed placards on which President Ivo Josipović, his predecessor Stjepan Mesić, the then prime minister Jadranka Kosor and other leading politicians were labelled as “Croatian traitors”’.⁴⁴⁰

The crowd’s reactions accurately represent the attitudes of the Croatian population, in particular, the war veteran population, in regards to the ICTY, the Homeland War and the political establishment. In the years that followed Tuđman’s rule, the Croatian government focused greatly on European Union accession, which became conditional to the state’s cooperation with the ICTY.⁴⁴¹ For some time, this conditionality rested on Croatia’s willingness to locate and turn over former general Gotovina. However, turning Gotovina over was not an easy decision for the Croatian government, because it risked destabilising the country’s fledgling democracy.⁴⁴² Nationally, Gotovina was known as a hero of the Homeland War and had become a political symbol used by radical nationalist groups to challenge pro-EU policies of the government.⁴⁴³ In fact, the most common slogan associated with him is ‘Hero, Not a Criminal’, which became popular as a result of a giant banner that hung near the entrance to the old city of Zadar from 2001 until 2004 when it was removed by the police.⁴⁴⁴

Although Gotovina’s hero status is related to his contribution to the defence of the country during the Homeland War, it was magnified when the ICTY identified him as the ‘highest ranking officer responsible for arguably the Croatian Army’s greatest victory during the conflict, Operation Storm (*Oluja*)’.⁴⁴⁵ For the Croatian population, especially the war veterans, convicting Gotovina of war crimes committed during the Homeland War meant that the tribunal was also attacking the legitimacy of the Homeland War. The political establishment was of similar conviction. Although the trial focused on

⁴³⁹ Michaela Schauble, *Narrating Victimhood: Gender, Religion and the Making of Place in Post-War Croatia* (Berghahn Books 2014) 196.

⁴⁴⁰ *ibid* 196–197.

⁴⁴¹ Peskin (n 438); Rangelov (n 29).

⁴⁴² Peskin and Boduszyński (n 40).

⁴⁴³ Vjeran Pavlaković, ‘Croatia, the International Criminal Tribunal for the Former Yugoslavia, and General Gotovina as a Political Symbol’ (2010) 62 *Europe-Asia Studies* 1707.

⁴⁴⁴ *ibid* 1718.

⁴⁴⁵ *ibid* 1713.

Gotovina's guilt under the principle of command responsibility, it also delivered a judgement on the lawfulness of Operation Storm.⁴⁴⁶ Following the announcement of the guilty verdict, Croatia's then centre-right prime minister, Jadranka Kosor, proclaimed that the government finds it unacceptable that the 'UN court considered Croatian wartime authorities responsible for the persecution and expulsion of Serbs from Krajina'.⁴⁴⁷ Calling Operation Storm a legitimate military operation, Kosor quickly met with war veteran organisations in an attempt to 'pre-empt any extreme reactions, such as protests, that a negative verdict could provoke. In her meeting with the veterans, she promised to elevate the law on veteran benefits to a constitutional right that would thus be safeguarded from any future changes'.⁴⁴⁸

This pre-emptive action on the part of Kosor demonstrates how important the reactions of the war veteran population in Croatia are for the political establishment, in particular, the HDZ which throughout the years consolidated its power through 'the large and powerful group'.⁴⁴⁹ The benefits system created for war veterans, which includes financial, medical, housing, educational, employment and tax benefits and is one of the most comprehensive systems in the world, did very little to reintegrate this large population of ex-combatants into society after the war. Instead, it created a 'social category based on the identity of the citizen-soldier, which is favoured over any other victims of war (many of whom are women) and other vulnerable social groups whose status is not related to the war'.⁴⁵⁰ The problem, however, is that this identity based on benefits has created interest groups that organise in a number of associations and are mostly mobilised in defence of their entitlements, but also for political purposes as a result of their link to the HDZ.⁴⁵¹ The associations are well-organised and essentially keep both political parties in balance by ensuring that the nationalist but also official narrative

⁴⁴⁶ *Prosecutor v Gotovina et al.* (n 1).

⁴⁴⁷ Schauble (n 439) 197.

⁴⁴⁸ *ibid.*

⁴⁴⁹ Oliwia Berdak, 'Reintegrating Veterans in Bosnia and Herzegovina and Croatia: Citizenship and Gender Effects' (2015) 49 *Women's Studies International Forum* 48, 51.

⁴⁵⁰ *ibid.*

⁴⁵¹ HDZ stands for *Hrvatska demokratska zajednica*, which translated to English is the Croatian Democratic Union. It is a conservative political party and the main centre-right political party in Croatia established by Franjo Tuđman in the 1990s.

of the Homeland War is never threatened, along with 'the understanding of their role in it and their entitlements'.⁴⁵²

In summary, the period preceding the publication of the 'Sunčica' testimony book was marred by on and off accession negotiations with the European Union, cooperation issues with the ICTY, and arrests and convictions of national heroes Generals Gotovina and Markač. These events led to increased scrutiny of the Homeland War both internationally and nationally. As a result, right-wing organisations became more active in strengthening the memory of the official narrative of the Homeland War, which considers Croatia as the victim of foreign (Serbian/Montenegrin) aggression.⁴⁵³ It was within this period, specifically in 2006, that Marija Slišković established the Association of Women in the Homeland with the purpose of collecting women's memories of the Croatian Homeland War in order to provide truthful evidence in support of the official narrative of the Homeland War.

I. The Association of Women in the Homeland War

In 2011, within this particular socio-political context, the Association of Women the Homeland War presented the testimony book *Sunčica* to the public. Before establishing the Association, Marija Slišković was collecting testimonies from women in Zagreb about their experiences of the Homeland War. While working on the first book, a collection of memories from women of the city of Zagreb, Slišković recognised that the level of work required a more institutionalised approach and consequently established the Association of Women in the Homeland War.⁴⁵⁴ The Association carried out the project under the title 'Power of Love: Doing Good'.⁴⁵⁵ The purpose of the collection and subsequent publications of women's testimonies in books in the Croatian, English and

⁴⁵² Berdak (n 449) 51.

⁴⁵³ Dejan Jović, 'Turning Nationalists into EU Supporters: The Case of Croatia' in Jacques Rupnik (ed), *The Western Balkans and the EU: 'the hour of Europe'* (European Union Institute for Security Studies (EUISS) 2011) <<https://www.stir.ac.uk/research/hub/publication/824037>> accessed 16 October 2016.

⁴⁵⁴ Although similar in name, Slišković's Association should not be confused with the Association of Women in the Homeland War – Zadar, another civil society organisation which membership consists of women who participated in the Homeland War and has its headquarters in the city of Zadar.

⁴⁵⁵ Translation by the author of the original Croatian title *Snaga ljubavi, činiti dobro*.

Spanish⁴⁵⁶ languages was to convey to future generations the sense of unity that existed in defence of the homeland.⁴⁵⁷

As described on the official website of the Sunčica Foundation, the only official reference to its work apart from the 2015 publication of its Statute, the Association's mission is to encourage remembrance of the 'glorious, historical days of the defence of the Republic of Croatia'.⁴⁵⁸ Essentially, by collecting testimonies from women who were involved in the war, the Association was contributing to the reinforcement of the nationalist and official narrative of the Croatian military defence during the Homeland War. It was also standing up to alternative narratives that were surfacing at the time as a consequence of the Gotovina trial. For example, one of the main alternative narratives of Operation Storm is that it was essentially an act of ethnic cleansing of territories inhabited by Serbian minorities on the part of the Croatian Armed Forces.⁴⁵⁹ In summary, based on the articulated aims presented by the Association in its Statute, the Association can be located alongside nationalist and right-wing civil society organisations, which mostly consist of war veteran associations. This similarity with war veteran groups proves to be beneficial for the Association during the drafting process of the law, which I will address in more detail later in this chapter. Now I turn to the events that led the Association's publication of *Sunčica*.

Since 2005, the Association published seven consecutive books on women's memories of the Homeland War, each from a different city, town or village throughout Croatia under the same title 'Power of Love: Doing Good'.⁴⁶⁰ The included cities were Zagreb, Osijek, Zadar, Sisak, Petrinje, Šabrnje and Vukovar. Although all books presented a

⁴⁵⁶ I suggest that Marija Slišković is well acquainted with a community of Croats living in Buenos Aires, Argentina. Video footage of a book promotion hosted by Studia Croatica in Buenos Aires, Argentina on 9 May 2008 shows Marija Slišković thanking the hosts as 'friends'. Interestingly, Slišković is introducing Predrag Matić who is in Argentina promoting his personal memoir of the Homeland War titled *Ništa lažno* (Nothing Fake). Matić is a war veteran who in December 2011 becomes the Minister of Veterans' Affairs that is responsible for drafting the *Reparation Law*. The video footage points to the fact that Slišković and Matić were acquainted long before the issue of reparations for victims of wartime sexual violence surfaced. See *Predrag Matic, 'Promocija Knjige "Ništa Lažno"' (2008)* <https://www.youtube.com/watch?v=Rw_R2Q5nQzA> accessed 16 October 2016; Predrag Matić Fred, *Ništa Lažno* (Self-publication 2001).

⁴⁵⁷ Statut Udruge Žene u Domovinskom Ratu, on file with author.

⁴⁵⁸ 'O Nama' (*Zaklada Sunčica*) <<http://zakladasuncica.hr/o-nama>> accessed 16 October 2016, translation provided by author of the original in Croatian 'slavne povijesne dane obrane Republike Hrvatske'.

⁴⁵⁹ Peskin (n 438).

⁴⁶⁰ Title translated by the author. Slišković (n 429).

nationalist narrative of the Homeland War, they nevertheless brought to light the very different roles women had during the Homeland War. While the books aimed to strengthen the 'true' narrative of the war, it simultaneously challenged the stereotype of women's roles in the war by providing evidence of them being more than just mothers and victims, but also defenders, journalists and cooks.⁴⁶¹ It is this almost contradictory action of the Association that precisely makes its role in the drafting process of the *Reparation Law* all the more critical.

This paradoxical engagement of the Association becomes even more interesting when one considers an additional book published by the Association under the title 'The Power of Friendship: A selection of published texts from 1990 to 2014'.⁴⁶² This book differs from the rest of the books because it is a collection of texts written by scientist Dr Olga Carević who is ethnically a Serb but has continuously expressed her support for Croatia, her homeland. Her texts address topics such as friendship and tolerance amongst nations, especially between Serbs and Croats. Essentially, the purpose of the book is to testify to positive Serbian engagement in the Homeland War. It shows that there were Serbs who were not against the Croatian nation but instead dedicated to the Croatian homeland. The book is significant because, like the other books published by the Association, it promotes women's voices as well as strengthening the nationalist narrative of the Homeland War. However, in this case, it is also promoting the voice of a Serb woman thus suggesting that there was a difference between Serb women and Serb men during the Homeland War.

Nevertheless, it was the seventh book on Vukovar that led Slišković to the Sunčica trail. While meeting women from Vukovar and listening to their stories, she began to notice a pattern in many of the women's accounts. They would each mention a similar episode from the war, which consisted of women being taken away individually and questioned all night. In her interview with me, Slišković explained how she was initially puzzled by the so-called logic of Serb forces questioning Croatian civilian women all night, women who had no knowledge of military information.⁴⁶³ However, she quickly realised that

⁴⁶¹ Berdak (n 379).

⁴⁶² Title translated by the author from the original Croatian: 'Snaga prijateljstva - Izbor tekstova objavljenih od 1990. do 2014.' See: 'O Nama' (n 21); Tihomir Ponoš, 'Autentičan glas ljudskosti' (*autograf.hr*) <<http://www.autograf.hr/autentican-glas-ljudskosti/>> accessed 16 October 2016.

⁴⁶³ Interview with Marija Slišković (Zagreb, Croatia, 28 April 2016).

this so-called interrogation was another word for rape. At this point, Slišković dropped the work on the Vukovar book and focused on collecting testimonies of rape victims in order to bring to light the silenced rapes of Vukovar and its surrounding areas. Consequently, she began campaigning for legal status for victims of wartime rape. I consider the publication of the book *Sunčica* in autumn 2011, and its subsequent promotion throughout Croatia in the months that followed, the beginning of the *Reparation Law's* history and the legislative process.

II. UN Resolutions on women, peace and security and National Action Plans

The national socio-political context that preceded the publication of the *Sunčica* book proved to be advantageous for the Association, particularly in regards to its agenda aimed at strengthening the official narrative of the Homeland War. However, the international political context, specifically the adoption of United Nations Security Council resolutions focused on addressing sexual violence in armed conflict and increasing women's participation in peace processes and political institutions, was also significant. It created a space, both internationally and nationally, that proved to be advantageous for the Association's campaign for breaking the silence of wartime rape and achieving a legal status for victims of wartime sexual violence.

Almost a decade after the adoption of United Nations Security Council Resolution (UNSCR) 1325 on the topic of women, peace and security,⁴⁶⁴ a number of related resolutions were adopted with the aim of addressing the gaps identified in UNSCR 1325 and increasing gender mainstreaming in the context of armed conflict, peacebuilding and reconciliation. As Swaine identifies, the initial three resolutions, UNSC Resolutions 1820⁴⁶⁵, 1888⁴⁶⁶ and 1889⁴⁶⁷, are a reflection of the current thinking of the time that was focused on moving the women, peace and security agenda forward. Each of the resolutions expands on the initial groundwork provided by UNSCR 1325, but some particularly respond to the issue of conflict-related sexual violence.⁴⁶⁸

⁴⁶⁴ UNSC Res 1325 (31 October 2000) UN Doc S/RES/1325 (n 130).

⁴⁶⁵ UNSC Res 1820 (19 June 2008) UN Doc S/RES/1820 (n 61).

⁴⁶⁶ UNSC Res 1888 (30 September 2009) UN Doc S/RES/1888 (n 61).

⁴⁶⁷ UNSC Res 1889 (5 October 2009) UN Doc S/RES/1889.

⁴⁶⁸ Aisling Swaine, 'Assessing the Potential of National Action Plans to Advance Implementation of United Nations Security Council Resolution 1325' (2010) 12 Yearbook of International Humanitarian Law 403.

For example, UNSCR 1820 furthers the need for the protection of women from gender-based abuses by placing sexual violence at the centre of the Security Council's attention.⁴⁶⁹ Though the approach that has been taken towards sexual violence in Resolution 1820 has attracted 'criticism of the Security Council for claiming a traditional role "as a protector of women, rather than as a supporter of women's emancipation"'.⁴⁷⁰ It is valuable because of the attention it attracted to the scale of sexual violence taking place in conflict, while also affirming that rape should be treated as a war crime.⁴⁷¹ Adopted in 2009, UNSCR 1888⁴⁷² builds on UNSCR 1820 by setting in place a number of measures to address conflict-related sexual violence. It also calls for the appointment of a Special Representative of the Secretary-General to represent and advance the UN's work on addressing sexual violence in conflict. In 2010, the United Nations Security Council adopted Resolution 1960, which also focuses mostly on the issue of conflict-related sexual violence, in particular calling for the creation of a monitoring and reporting system to keep track of sexual violence in conflict.⁴⁷³ In 2013, UNSCR 2106 was adopted and also addresses the problem of sexual violence in conflict while stressing women's political and economic empowerment.⁴⁷⁴

This thematic approach taken by the UN has had many positive effects, some of which Otto explains had disrupted the Council's conservative approach to gender and had driven 'remarkable levels of institutional activity in support of the resolutions'.⁴⁷⁵ However, the most remarkable effects the resolutions have had are found outside the formal UN system and in the local communities. Their use by women's groups in post-conflict societies in order to pursue local projects has allowed women to assert their right to participate in a 'traditionally 'male' space of decision-making associated with conflict resolution and peace building'.⁴⁷⁶ Although criticised for looking like Governance

⁴⁶⁹ UNSC Res 1820 (19 June 2008) UN Doc S/RES/1820 (n 61).

⁴⁷⁰ Swaine (n 468) 407.

⁴⁷¹ Naomi Cahn, Fionnuala Ní Aoláin and Dina Francesca Haynes, 'Women in the Post-Conflict Process: Reviewing the Impact of Recent U.N. Actions in Achieving Gender Centrality' (2012) 11 Santa Clara Journal of International Law 189.

⁴⁷² UNSC Res 1888 (30 September 2009) UN Doc S/RES/1888 (n 61).

⁴⁷³ UNSC Res 1960 (16 December 2010) (n 62).

⁴⁷⁴ UNSC Res 2106 (24 June 2013) (n 62).

⁴⁷⁵ Dianne Otto, 'Power and Danger: Feminist Engagement with International Law through the UN Security Council' (2010) 32 Australian Feminist Law Journal 97, 99.

⁴⁷⁶ *ibid* 105.

Feminism⁴⁷⁷, these resolutions have created the space for local women's groups to voice their concerns and have given them the authority to be heard and included in the decision-making process that directly affects their lives.

The development of National Action Plans (NAPs) for the implementation of UNSCR 1325 and the subsequent related resolutions has become an essential part of the women, peace and security agenda. In August 2010, Croatia adopted a decision to establish an expert working group responsible for drafting a National Action Plan for the implementation of UNSCR 1325 and its subsequent resolutions.⁴⁷⁸ The Croatian government adopted the National Action Plan (NAP) for the period of 2011 to 2014 on 21 July 2011.⁴⁷⁹ The NAP provides a systematic collection of data on participants in the war as well as victims. It also lists measures that were already taken to assist victims.⁴⁸⁰ Amongst its primary objectives, the Croatian NAP is to work towards 'increasing the representation of women in decision-making activities and processes concerning security and peacebuilding'. It should promote the 'protection of the rights of women and girls – victims of gender-based violence in the area of armed conflict and after conflict'. Moreover, it aims to implement 'the protection of the rights of women and girls – war victims in the Republic of Croatia with a view to their post-conflict recovery'. According to these objectives, relevant bodies would, amongst other outlined action points, 'gather and analyse information about women and girls in the war, and the effects of the war on women and girls in the Republic of Croatia'.⁴⁸¹

Though it is recognised as a comprehensive NAP in comparison to the Bosnian and Serbian NAPs, the Croatia document does not discuss details relating to war crimes of

⁴⁷⁷ Term coined by Janet Halley to describe the way feminists and feminist ideas have been ingrained in legal-institutional power, particularly in international criminal law aimed at prosecuting sexual violence. See Janet E Halley and others, 'From the International to the Local in Feminist Legal Responses to Rape, Prostitution/Sex Work and Sex Trafficking: Four Studies in Contemporary Governance Feminism' (2006) 29 *Harvard Journal of Law & Gender*.

⁴⁷⁸ Vesna Pusić, 'Odgovor Na Zastupničko Pitanje Zastupnice Gordane Sobol u Vezi s Nadležnosti Nad Provedbom i Praćenjem Rezolucije VS UN 1325 (2000) o Ženama, Miru i Sigurnosti, Te Srodnih Rezolucija' (15 March 2013) <<https://vlada.gov.hr/UserDocsImages/Sjednice/Arhiva/84.%20-%2033a.pdf>>.

⁴⁷⁹ 'Vlada RH Donijela NAP Za Provedbu Rezolucije Vijeća Sigurnosti UN-a 1325 (2000)' (*Ured za ravnopravnost spolova*, 22 July 2011) <<https://ravnopravnost.gov.hr/vijesti/vlada-rh-donijela-nap-za-provedbu-rezolucije-vijeca-sigurnosti-un-a-1325-2000/776>> accessed 21 October 2018.

⁴⁸⁰ Vlada Republike Hrvatske, 'Nacionalni Akcijski Plan Za Provedbu Rezolucije Vijeća Sigurnosti UN-a 1325 (2000) o Položaju Žena, Miru i Sigurnosti i Srodnih Rezolucija Za Razdoblje 2011. - 2014.' (2011).

⁴⁸¹ *ibid.*

sexual violence against women and girls.⁴⁸² Subotic and Zaharijevic attribute this omission to the ongoing preparations for the *Reparation Law* (which began in 2013). However, I suggest that the omission was due to the overall lack of data on sexual violence crimes during the Homeland War. Namely, the first comprehensive overview of the forms and occurrences of sexual violence and estimates of numbers of victims during the Homeland War was only completed in 2013 as a result of the UNDP financed sociological study.

Moreover, the turn towards the rights of victims of wartime sexual violence only began in 2011. It was facilitated by the Association's publication of the *Sunčica* testimony book and its campaign for the rights of Croatian victims of wartime sexual violence that began only a few months after the adoption of the NAP. I maintain that it was the Association's publication and promotion of *Sunčica*, facilitated by the suitable international and national climate for addressing this silence, which subsequently attracted the immediate support from the President of the Republic of Croatia, UNDP Office in Croatia and finally the Ministry of Veteran's Affairs that triggered the legislative process.

III. The rise of the Croatian *Branitelji*⁴⁸³

The two year period that took place between the publication of *Sunčica* and the establishment of the Ministerial Working Group responsible for drafting the new legislation is significant because of specific events that took place. It began with a change of government in December 2011 as a result of a landslide victory for the centre-left 'Kukuriku' coalition led by the Social Democratic Party of Croatia.⁴⁸⁴ However, it ended on a very controversial note when two-thirds of those who voted in a constitutional referendum backed the proposal to ban same-sex marriages, which was supported by the opposition HDZ party.⁴⁸⁵ This controversial referendum and the several turbulent events concerning *branitelji* that took place in those two years increased the tensions

⁴⁸² Gordana Subotić and Adriana Zaharijević, 'Women Between War Scylla and Nationalist Charybdis: Legal Interpretations of Sexual Violence in Countries of Former Yugoslavia' in John Idriss Lahai and Khanyisela Moyo (eds), *Gender in Human Rights and Transitional Justice* (Springer International Publishing 2018).

⁴⁸³ *Branitelji* in English means defenders or war veterans.

⁴⁸⁴ The SDP is a centre-left political party, which usually has a more favourable approach to issues regarding women's rights and non-discrimination.

⁴⁸⁵ Florian Bieber, 'Croatia Referendum Shows Perils of Direct Democracy' (4 December 2013) <<http://www.balkaninsight.com/en/article/croatia-referendum-shows-perils-of-direct-democracy>> accessed 21 October 2018.

between the state and right-wing organisations, thus inevitably creating ripple effects on the drafting process of the *Reparation Law*.

Two events that stand out within this period created a favourable socio-political climate for the Association and its position in the Ministerial Working Group. The first is the unexpected acquittal of all charges of the two former generals Ante Gotovina and Mladen Markač in November 2012 by a surprising 3-2 majority vote in the ICTY's five-judge Appeals Chamber.⁴⁸⁶ The overturn of the initial verdict, which was viewed by the Government and Croatian public as an attack on the legitimacy of *Oluja* and the Homeland War, was received by the Croatian public as a vindication of *Oluja* as a proper and just attempt to unite all Croatian territories. In other words, the acquittal had 'contribute[d] to a collective annulment of potential war guilt committed by Croatia and Croats during the Homeland War, but also encourage[d] the hero status of Gotovina'.⁴⁸⁷ As expected, the ruling was not welcomed in Serbia, but was celebrated vastly in Croatia: tens of thousands of people including Croatian war veterans gathered on the Jelačić Square in Zagreb and celebrated the release of the generals with flags and fireworks.⁴⁸⁸

The second event relates to the incident that took place in October 2013 in Vukovar, when Igor Gilja, a 25-year-old police officer, removed the bilingual sign on the Centre for Social Service, which he was posted to watch over.⁴⁸⁹ The incident followed the announcement of the introduction of bilingual signs in the town of Vukovar, which in 1991 was besieged and conquered by the Yugoslav People's Army and Serbian paramilitaries and suffered a massacre after the Serbian siege. The announcement, which is based on the Law on the Rights of National Minorities, was greeted with great disappointment by the *branitelji* association in Vukovar. According to their response to the media, they viewed the change as 'an illegal and completely immoral act that is

⁴⁸⁶ *Prosecutor v Gotovina et al, (Appeals Chamber Judgement) ICTY-2012-IT-06-90-A (16 November 2012)*; Boris Pavelić, 'Croats Celebrate Acquittal of Gotovina and Markac' *Balkan Insight* (16 November 2012) <<http://www.balkaninsight.com/en/article/croats-celebrate-acquittal-of-gotovina-and-markac>> accessed 21 October 2016.

⁴⁸⁷ Schauble (n 439) 199.

⁴⁸⁸ *ibid* 201.

⁴⁸⁹ Nikola Patković, 'Policajac Gilja (25) ostat će bez posla zbog skidanja ploče' *Slobodna Dalmacija* (9 October 2013) <<http://www.slobodnadalmacija.hr/novosti/hrvatska/clanak/id/214511/policajac-igor-gilja-25-ostat-ce-bez-posla-staviti-sina-poginulog-branitelja-da-cuva-ploce-u-vukovaru-je-isto-kao-i-staviti-gladnoga-pred-pun-stol>> accessed 21 October 2015.

inconsiderate of the real and symbolic significance of Vukovar in current Croatian history as a place of special respect'.⁴⁹⁰ It warned that the announced changes to the signs on state institutions could cause severe consequences for the Vukovar society and break down the post-conflict reconciliation and reconstruction taking place in Vukovar.

Following the Igor Gilja incident, protests of *branitelji* commenced in Vukovar as well as the continuous removal of bilingual signs, resulting in growing tensions with the Government. Soon enough, the *branitelji* associations collected 650,000 signatures (200,000 more than the number needed to trigger a referendum) in two weeks for a referendum that could limit the use of Cyrillic in the country.⁴⁹¹ Croatia, which had at this point joined the European Union as the 27th member, was warned by an open letter signed by 74 members of the European Parliament that the initiative was 'absurd and extremely dangerous for Croatia and the European Union'.⁴⁹² The signatures were handed to Parliament in December 2013, and then the referendum question was sent to the Constitutional Court in July 2014. On 12 August 2014, the Constitutional Court ruled that the proposed referendum on amending the country's Law on the Rights of National Minorities was unconstitutional.⁴⁹³

The events that took place during the two year period preceding the establishment of the Ministerial Working Group created strong tensions between the newly elected centre-left government and the right-wing organisations. Although creating an advantageous climate for the Association, the acquittal of former generals Gotovina and Markač in the autumn of 2012 and the war veteran protests in 2013 can be viewed as a double-edged sword in regards to the Association's campaign for women victims' rights. On the one hand, the events created the space for the Association and the war veteran organisations to come together over their shared interest of reinforcing the official

⁴⁹⁰ "“Ćirilica će prekinuti mirnodopski poslijeratni oporavak Vukovara” *Večernji list* (1 September 2013) <<https://www.vecernji.hr/vijesti/cirilica-ce-prekinuti-mirnodopski-poslijeratni-oporavak-vukovara-606605>> accessed 21 October 2018.

⁴⁹¹ Josip Ivanović, '650,000 Croats Back Anti-Cyrillic Referendum' *Balkan Insight* (6 December 2013) <<http://www.balkaninsight.com/en/article/650-000-croats-back-anti-cyrillic-referendum>> accessed 21 October 2018.

⁴⁹² Tomislav Krasnec, 'Europski zastupnici upozorili na apsurdnost ograničavanja ćirilice' *Večernji list* (20 December 2013) <<https://www.vecernji.hr/vijesti/europski-zastupnici-pismom-upozorili-na-apsurdnost-ogranicavanja-cirilice-u-rh-911118>> accessed 21 October 2018.

⁴⁹³ Sven Milekić, 'Croatia Court Vetoes "Anti-Cyrillic" Referendum' *Balkan Insight* (12 August 2014) <<http://www.balkaninsight.com/en/article/croatia-court-vetoes-anti-cyrillic-referendum>> accessed 21 October 2018.

narrative of the Homeland War. This joint platform granted the Association particular political influence in the drafting process of the Law. On the other hand, the dominant position that the war veterans enjoyed in Croatian socio-political affairs as both ex-combatants and men overshadowed the Association's campaign for women victims of wartime sexual violence and took away the spotlight from the Law. This was particularly evident in the final moments when the Law was voted on in Parliament. However, before I turn to this, I first look at the drafting process of the legislation.

3. Drafting a law for the rights of victims of wartime sexual violence

I. Background to the legislation

Following the publication of the testimony book *Sunčica*, the Association launched a campaign with the aim of breaking the silence surrounding wartime rape and sexual violence in the Homeland War with the aim of gaining support from relevant state institutions and international organisations. At the onset, Slišković, president of the Association, approached the Office of the President of the Republic of Croatia. Then President Ivo Josipović, a dedicated proponent for gender equality, expressed his support for the cause by joining forces with the Croatian Office of the UNDP and the City of Vukovar to organise a high-profile roundtable in Vukovar in April 2012. The roundtable aimed to bring attention to victims of wartime sexual violence and to set in motion efforts that would meet their needs.⁴⁹⁴

One of the recommendations of the roundtable, which I will go into more detail in the next chapter, called for significant legislative changes in order to address outstanding issues of victims' legal rights. According to Bojan Glavašević, then Assistant Minister of Veterans' Affairs, it was Louisa Vinton, then UN Resident Representative of the UNDP in Croatia, who advised the Ministry to consider sponsoring separate legislation exclusively for the rights of victims of wartime sexual violence. As explained by Glavašević, separate legislation would provide an opportunity to address not only the direct lives of the victims but also the secondary consequences of their victimisation (i.e. the effect on their family members). In other words, a law for rights of victims of wartime sexual

⁴⁹⁴ 'Survivors of Wartime Sexual Violence Appeal for Justice in Vukovar' (*UNDP in Croatia*) <<http://www.hr.undp.org/content/croatia/en/home/presscenter/articles/2012/04/03/survivors-of-wartime-sexual-violence-appeal-for-justice-in-vukovar.html>> accessed 22 October 2016.

violence would have a positive impact on the victims' lives and the Croatian society as a whole. Furthermore, separate legislation could also be seen as a form of symbolic reparation, because it would legally and on an institutional level recognise the suffering of the victims.⁴⁹⁵

This idea of a separate law was further discussed and announced at a working meeting held in the Croatian Parliament on the topic of 'Women victims of wartime sexual violence in the Homeland War' in 2012 organised by the Parliamentary Group for Gender Equality and the Commission for Gender Equality from the Split-Dalmatian County. Having highlighted that the legislation, procedures and structures in place in 2012 made it impossible for victims of wartime sexual violence to gain adequate support, Vesna Nađ, then Assistant Minister of Veterans' Affairs, announced that the most acceptable solution would be to create an entirely new law that would provide women with a legal status and right to reparations. However, she stressed that the greatest obstacle was the lack of reliable documentation that could provide an estimated number of victims of wartime sexual violence. According to Nađ, in order to properly draft new legislation, it was important to have reliable estimates of the number of victims and beneficiaries, as well as the estimated amount of financial compensation that could be offered by the law.⁴⁹⁶ As I will demonstrate in the following sections of this chapter, this issue of numbers continued to play a part in the discussions on the legislation throughout the drafting process, thus demonstrating the opposing views of the Ministry and the women's groups involved in the process.

In January 2013, the UNDP, the Ministry and the Association, as well as the Embassy of Switzerland signed a Memorandum of Understanding that aimed to 'provide a framework of cooperation and facilitate collaboration'.⁴⁹⁷ The main objective of the cooperation was to join efforts and work towards achieving 'social recognition of the suffering of wartime victims of sexual violence' that would entail 'legal status provision,

⁴⁹⁵ Interview with Bojan Glavašević (20 April 2016).

⁴⁹⁶ Tea Romić, 'Mijenjat će se zakon zbog žena silovanih u ratu ili donijeti novi' *Večernji list* (28 June 2012) <<https://www.vecernji.hr/vijesti/mijenjat-ce-se-zakon-zbog-zena-silovanih-u-ratu-ili-donijeti-novi-425325>> accessed 22 October 2018.

⁴⁹⁷ 'Memorandum of Understanding between Ministry of War Veterans of Republic of Croatia, The Embassy of Switzerland, Association of Women in the Homeland War and The United Nations Development Programme' <http://www.hr.undp.org/content/dam/croatia/docs/legal/social_inclusion/UNDP_HR_Wartimevictims MoU.pdf> accessed 24 January 2014.

access to justice and creation of adequate psycho-social and health services'. This cooperation would be realised with the implementation of the UNDP project titled 'Addressing the needs of wartime victims of sexual violence in Croatia: An unresolved legacy of the 1991-95 war'. Essentially, the UNDP project was ready to financially support the Ministry's effort in designing and drafting a law that would address the needs and rights of victims of wartime sexual violence.

In response to the Ministry's call for reliable documentation, the UNDP produced a report in December 2013 titled 'Assessment of the number of sexual violence victims during the Homeland War on the territory of the Republic of Croatia and optimal forms of compensation and support to victims'.⁴⁹⁸ A research team from the Department of Sociology at the University of Zagreb conducted the empirical study on behalf of the UNDP. It provided an assessment of the types of sexual violence that took place in Croatia, the number of victims of sexual violence during the Homeland War on the territory of Croatia, and also provided an assessment of the most desirable models of compensation for the victims of sexual violence based on the expectations of survivors and experts.

As a result of the empirical research, a Policy Paper was published under the title 'Reparations for Civilian Victims of War-Related Sexual Violence'. It further developed the guidelines provided in the report and proposed 'an adequate and applicable legislative and institutional framework necessary for securing an effective reparation process'⁴⁹⁹ Based on a 'comprehensive analysis of national legislation and comparative experiences' the purpose of the Policy Paper was to serve as a foundation for the new legislation. Both the Policy Paper and the UNDP report are important documents because they informed the Ministerial Working Group throughout the legislative drafting process. Several members of the working group particularly stressed their importance emphasising how they were useful because they provided an 'empirical

⁴⁹⁸ United Nations Development Programme in Croatia, 'Assessment of the Number of Sexual Violence Victims during the Homeland War on the Territory of the Republic of Croatia and Optimal Forms of Compensation and Support to Victims' (2013) <<https://bit.ly/2S9r4wU>> accessed 24 January 2014.

⁴⁹⁹ Maja Munivrana Vajda and United Nations Development Programme in Croatia, 'Policy Paper on Reparations for Civilian Victims of War Related Sexual Violence' (2013) <<https://bit.ly/2q7z2tD>> accessed 24 January 2014.

basis' for the *Reparation Law*. Essentially, the UNDP financed research report and Policy Paper provided the legislation with greater legitimacy.

To begin the drafting process sooner rather than later, the Ministry of Veterans' Affairs initially established a working group tasked to design and draft the new legislation in June 2013. This first ministerial Decision that appointed the Ministerial Working Group was amended in September 2013 and replaced with a new ministerial 'Decision on the appointment of the Working Group for preparing and designing the Draft Law on the Rights for Victims of Sexual Violence in the Homeland War' on 9 January 2014.⁵⁰⁰ Interestingly, this final Decision that appointed members to the Ministerial Working Group came into force days after the results of the UNDP report were published. According to the Ministry, this was because the findings of the report identified additional members from civil society who were experts on the subject matter, but were not already included in the drafting process.⁵⁰¹ This revision of the Ministerial Working Group's membership demonstrates that a genuine effort was made on the part of the Ministry to include as many experts in the process, particularly individuals from the civil society who had directly worked with victims of wartime sexual violence.

According to the Decision mentioned above of 9 January 2014, the Ministerial Working Group consisted of 21 official members each with an appointed deputy. Glavašević, then Assistant Minister of Veterans' Affairs, was appointed the president of the working group. The 21 members represented the following institutions: the Ministry of Veterans' Affairs, the Ministry of Justice, the Ministry of Interior Affairs, the Ministry of Social Policy and Youth, the Ministry of Health, the Parliamentary Committee on Gender Equality, the High Misdemeanour Court, the Office of the Ombudsman for Gender Equality, the UNDP and several different civil society organisations. Although the representation of government institutions outweighed the number of representatives from civil society, the working group's membership included a diverse selection of civil society organisations.

⁵⁰⁰ Title translated by the author. Ministarstvo Branitelja Republike Hrvatske, Odluka o imenovanju Radne skupine za pripremu i izradu Prijedloga Zakona o pravima žrtava seksualnog nasilja u Domovinskom ratu, Klasa: 050-01/13-0001/111; Urbroj: 522-03/1-2-14-36 od 9. siječnja 2014. On file with author.

⁵⁰¹ Interview with Government Official from the Ministry of Veterans' Affairs (4 May 2016).

The following civil society organisations were included in the drafting process: Croatian Memorial-Documentation Centre of the Homeland War, Association of Women in the Homeland War, Association for the Support of Victims and Witnesses, “Medica” Zenica (BiH), Documenta – Dealing with the Past, Croatian Law Centre, and Centre for Women’s Studies. Based on the list of names provided in the *Decision*, the majority of the members were female, with only a total of 4 male members including the president. As explained by the Ministry, the working group included legal experts from different state institutions as well as the country’s leading experts on issues of women’s rights and victims’ support.⁵⁰² Although official membership of the working group existed, through my interviews it became apparent that additional individuals were called to temporarily participate in the sessions due to their expert knowledge on specific issues that were being discussed at the time.

The Ministerial Working Group met from December 2013 to March 2015 several times but conducted most of its work through email. Tasked to design and draft a law that was the first of its kind in the region, it faced a number of issues. Based on my interviews and communication with some members of the Ministerial Working Group, the definitions of the victim and the perpetrator, the type and amount of financial compensation, and the allocated time for victims to submit their status applications produced the most disagreement. These issues were also raised in the parliamentary debates. I address these issues in more detail in the following sections.

II. Draft Proposal of the Law on Rights of Victims of Sexual Violence in the Homeland War

The Draft Proposal of the Law on Rights of Victims of Sexual Violence in the Homeland War (hereinafter: Draft Proposal) was finalised in June 2014 and then submitted to Parliament for the first reading that took place on 26 September 2014.⁵⁰³ As expressed in the Explanation attached to the Draft Proposal, this separate legislation aimed to provide survivors and their families with more significant support, thus granting them a greater sense of belonging to society and trust in the legal system.

⁵⁰² Briefing from Ministry of Veterans’ Affairs (8 September 2015). On file with author.

⁵⁰³ Ministarstvo branitelja, Nacrt prijedloga Zakona o pravima žrtava seksualnog nasilja u Domovinskom ratu 2014.

With the purpose of reaching the stated aims, the Draft Proposal attempted to provide a progressive definition of sexual violence by including vaginal, oral or anal penetration with any part of the body or object, serious injury resulting in the mutilation in whole or in part of a person's sexual organs, induced abortion and forced sterilization.⁵⁰⁴ However, it remained restrictive by not including sexual slavery and sexual harassment, both forms of sexual violence according to international standards. Furthermore, it refrained from providing an open clause that could include any other forms of sexual violence that had not been specifically listed. Representatives of the Women's Network Croatia, who were also temporary members of the Ministerial Working Group, raised and continuously stressed this omission.

Although the definition referred to sexual violence as a gross violation of international humanitarian law according to the Geneva Conventions and as a war crime and crime against humanity,⁵⁰⁵ it also explicitly stated that the legislation would apply to sexual violence perpetrated in the circumstances directly related to the armed conflict.⁵⁰⁶ This reference to 'armed conflict' will become an issue during the parliamentary debate because of the HDZ's belief that it does not correctly characterise the Homeland War.

The most problematic aspect of the definition is its reference to consent, stating that 'Sexual violence also includes that which is committed by inciting another person without his/her consent to commit the act under paragraph 1 of this Article on themselves or a third person'.⁵⁰⁷ The reference to consent in cases of sexual violence committed in war has been extensively discussed in cases at the ICTY, and it is expected that this would have been taken into consideration when preparing this first draft of the *Reparation Law*. Although the definition changed after the first parliamentary reading to include some of this criticism, the amendments did not resolve all the problematic aspects of the definition. I will go into more detail when I consider the final draft of the legislation.

The Draft Proposal covered the period from 5 August 1990 to 30 June 1996 and required the crime of sexual violence to have taken place within the territory of the Republic of

⁵⁰⁴ *ibid* Article 2.

⁵⁰⁵ *ibid* Article 2, para 3.

⁵⁰⁶ *ibid* Article 2, para 5.

⁵⁰⁷ *ibid* Article 2, para 2.

Croatia or during captivity in enemy concentration camps or prisons outside of the territory of Croatia.⁵⁰⁸ Furthermore, in order to gain status and rights, it required that the victims in question be Croatian citizens at the time or had registered their residence within the territory of Croatia at the time.⁵⁰⁹ This is somewhat progressive considering the neighbouring legislation in Bosnia and Herzegovina, which in addition to the residency requirement also requires that the victimisation had taken place within the territory of Bosnia and Herzegovina and for the victims to continue to reside within Bosnia and Herzegovina when applying for monetary compensation. In the proposed Croatian legislation there are no restrictions on the present-day residence of the victims.

In addition to scope and citizenship, the Draft Proposal defined the victim of sexual violence in the Homeland War as an individual who has survived one or more forms of sexual violence as listed in Article 2. It also defined the perpetrator as 'any members of military or paramilitary units of the enemy army or armed and police forces of the Republic of Croatia, or civilians that were incited or forced to commit sexual violence by these persons'.⁵¹⁰ As detailed in the attached Explanation, the purpose of defining the perpetrator was to ensure that the law protected all victims of sexual violence, including those victims who were victimised by individuals who were incited or forced to commit the crimes by military or police personnel.

However, the Ministry's reasoning for its proposed definition of the perpetrator was not convincing for the opposition during the first parliamentary reading of the legislation. Since the purpose of the *Reparation Law* is to repair the harms that victims suffered, it was expected that Parliament would focus mostly on the technical aspects of the law in order to ensure that the best possible legislation for victims of sexual violence. Instead, the majority of this first session focused on the definition of the perpetrator. All the comments and criticisms regarding the definition of the perpetrator came from the opposition party at the time, the HDZ. In his first comment, MP Ivan Šuker stated that 'only one legitimate army participated in the Homeland War'.⁵¹¹ In order to clarify,

⁵⁰⁸ *ibid* Article 1.

⁵⁰⁹ *ibid* Article 26.

⁵¹⁰ *ibid* Article 4.

⁵¹¹ 14. *sjednica Hrvatskoga sabora, 26. rujna 2014. - Prijedlog Zakona o pravima žrtava seksualnog nasilja u Domovinskom ratu, prvo čitanje, P. Z. Br. 685* <<http://itv.sabor.hr/video/default.aspx?TockalID=6491>> accessed 3 March 2015.

considering the war consisted of two warring parties, Šuker simply said that he could not comprehend how a Minister of Veterans' Affairs could even imply that all the armies that participated in the Homeland War committed war crimes. Furthermore, he reminded the Minister that every legislation should be harmonised with the Declaration of the Homeland War, which clearly outlines the definition of the war and who the perpetrator was. Šuker's complaint was further reinforced by MP Đurđica Sumrak, also a member of the HDZ, who suggested that every group of the aggressor side should be explicitly listed. She claimed that this was necessary because victims find it important to see their perpetrators explicitly named (by ethnicity). Also, she claimed that this would confirm the 'purity' of the Homeland War. Sumrak emphasised that the 'the Homeland War did not have a strategy of rape and torture, but that it was a war of defence'.⁵¹²

Although the discussion regarding the inappropriateness of Article 4 lasted more than an hour, all the comments and contributions reiterated what was voiced by MPs Šuker and Sumrak. The consistent emphasis on explicitly labelling the perpetrator as Serbian and the need for preserving the 'purity' of the Homeland War point to the way nationalism enters Croatian public discourse especially on issues relating to the Homeland War. Furthermore, in the context of this first parliamentary reading dedicated to the rights of victims of wartime sexual violence, it shows how the needs and rights of the victims quickly become secondary to the issue of the sanctity of the Homeland War. In other words, women victims' needs and rights are addressed only when the needs of the victim of the war align with the need to preserve the sanctity of the Homeland War.

As legislation aimed to provide reparative justice to victims, its primary purpose is to establish rights for victims of wartime sexual violence. In the Draft Proposal, the proposed rights included psycho-social, legal and medical aid, medical rehabilitation, compulsory and supplementary health insurance as well as financial compensation.⁵¹³ However, financial compensation became the most problematic out of all the rights. Namely, the Draft Proposal did not define the exact amount of monetary compensation or the way it would be administered. It only prescribed the conditions under which

⁵¹² *ibid.*

⁵¹³ Ministarstvo branitelja Nacrt prijedloga Zakona o pravima žrtava seksualnog nasilja u Domovinskom ratu (n 503) Article 11.

financial compensation would *not* be allowed⁵¹⁴ and the conditions that would provide the right to increased financial compensation.⁵¹⁵ Instead of providing a concrete solution regarding financial compensation, the Draft Proposal announced that a monetary fund would be established and regulated with separate legislation yet to be drafted. The Ministry claimed that the fund would receive donations from Croatia and abroad and this way provide victims with their right to financial compensation.⁵¹⁶

This initial proposal for the administration of financial compensation was put under much scrutiny within the Ministerial Working Group as well as during the first parliamentary reading of the legislation. The Association of the Homeland War, as well as representatives from feminist women's groups, argued that the Ministry's proposed approach to financial compensation through a voluntary fund presented a serious structural problem because it would not guarantee compensation to the victims. They expressed their disappointment over this by saying 'for women, there is never money in the state budget'. Essentially, both the Association and the feminist groups agreed that the state should be responsible for allocating money within the state budget for victims of wartime sexual violence.

The Draft Proposal also prescribed the process by which victims can apply for legal status and gain access to their rights. The process consists of victims submitting necessary paperwork that includes an application form, medical evidence and factual evidence of victimisation⁵¹⁷ within a timeframe of five years starting from the day the *Reparation Law* enters into force.⁵¹⁸ Following the paperwork application, a committee consisting of five members (experts in the field of medicine, law, psychiatry, psychology and social work) would review the submitted paperwork and take a decision.⁵¹⁹ It is important to mention that the Draft Proposal stipulated the way victims would be expected to participate in the process. Namely, in Article 30 it states that victims will provide a statement in a way that is least traumatising for the victim, 'taking into consideration gender sensitivity'.

⁵¹⁴ *ibid* Article 22.

⁵¹⁵ *ibid* Article 23 and Article 24.

⁵¹⁶ *ibid* Articles 21, 25 and 39.

⁵¹⁷ *ibid* Article 27.

⁵¹⁸ *ibid* Article 28.

⁵¹⁹ *ibid* Articles 31, 32 and 33.

In cases where the committee receives formal evidence of victimisation, an additional statement from the victim is not necessary. Also, the decision by which victims are given status and rights according to the proposed legislation does not assume the criminal responsibility of the perpetrator. However, representatives from feminist women's groups, as well as the Association, fiercely opposed the suggestion of a five-year timeframe. Namely, they argued that victims who have not yet spoken about their victimisation would be even less motivated to speak out if they had a deadline within which they would have to apply. They considered the timeframe insensitive and unnecessary. They argued that imposition of a deadline was just the Ministry's way of limiting the number of applications out of fear that too many victims would apply and put even more pressure on the state budget.

Finally, the Draft Proposal also guided situations where victims have gained compensation or rights on the basis of other laws. This is important to mention because the interpretation of Article 37 becomes problematic in the implementation phase of the law. Namely, it suggested that if a victim had already received disability benefits on the basis of harm suffered as a result of sexual violence, the victim would be entitled to all the above-listed rights except for financial compensation. If, however, the amount the victim had received at the time of his/her application is less than the amount stipulated by the new legislation, the victim would be granted the difference. The Ministry pushed this approach because it believed that providing all victims with the same amount of financial compensation would ensure that a hierarchy of victims would not be created. In other words, the harm suffered as a result of sexual violence would not be measured in terms of severity.

In summary, the Draft Proposal produced a legislative framework that would provide victims with psycho-social, legal and medical aid, medical rehabilitation, compulsory and supplementary health insurance as well as financial compensation. However, it was controversial in the way it defined sexual violence, the perpetrator and the approach it was suggesting regarding the administration of financial compensation. Although these elements of the Draft Proposal are important, because they demonstrate how the law has changed between its first and final draft, the parliamentary debate suggests that the technical issues of the legislation were less important than the proposed legislation's interpretation of the Homeland War. The first parliamentary reading focused on the

Homeland War to ensure the law was consistent with the official Homeland War narrative.

At this point, the Association had acquired a particular influence within the legislative process. Already having the advantage of the socio-political context and support of the UNDP for the psycho-social programme 'I am more than my trauma',⁵²⁰ the parliamentary reading's emphasis on the Homeland War further strengthened its influence within the process. In this sense, the Association's secondary goal of aligning the legislation to the dominant Homeland War narrative was also supported by representatives in Parliament. However, I suggest its influence was also strengthened as a result of an alliance with participating feminist women's groups. This particular alliance was strong enough to succeed in making important changes to the law's administration of financial compensation, but only at the expense of calculated compromises made on the part of the representatives of feminist women's groups.

III. The Alliance between the Association of Women in the Homeland War and Croatian feminists

As mentioned earlier, the Ministerial Working Group tasked to draft the *Reparation Law* was made up of mostly women. However, only a small group of those officially appointed to participate were actively involved in drafting the law. One of the significant findings of this research is the discovery that women's groups of different ideological positioning came together and formed an alliance. As briefly mentioned in Chapter 3 and 4, women's groups in Croatia had divorced at the beginning of the 1990s due to their differing positions on nationalism. The force of women that was initially united in the fight against patriarchy across the former Yugoslav states was divided at the outbreak of the war due to their inability to reconcile the coexistence of feminism and nationalism. Although the dispute at the time was amongst antinationalist feminist women's groups and nationalist feminist women's groups, this case study shows that a compromise has taken place amongst women's groups in Croatia, which now has also included non-feminist women's groups.

⁵²⁰ 'Healing and Hope for Victims of Sexual Violence' (*United Nations Development Programme*) <<http://www.undp.org/content/undp/en/home/ourwork/ourstories/healing-and-hope-for-victims-of-sexual-violence.html>> accessed 22 October 2016. 'I am more than my trauma' is an UNDP-supported pilot project that provides psychosocial support for survivors of sexual violence and abuse during the war.

I discovered the cooperation amongst the different ideologically positioned women's groups while interviewing several members of the Ministerial Working Group in order to confirm the major themes of the legislative process. In most of my interviews, I was told about an alliance of women that was formed within the Ministerial Working Group. The alliance was referred to as the '*mala grupa*' in Croatian and when translated into English means 'small group'. In this sense, its members envisaged it as a subgroup to the 'big' Ministerial Working Group. It consisted of about 6 or 7 members, which included leading feminist activists, as well as the president of the Association of Women in the Homeland War.

The alliance was formed to strengthen the women's groups' position within the Ministerial Working Group. The group met at all hours and discussed proposed legislative changes and the ways each article and definition may affect the lives of the victims. They also prepared negotiation strategies to convince the representatives from the Ministry to take up their proposals. This was particularly the case when it came to defining the type and amount of financial compensation that victims would be entitled to through the legislation. However, even as an alliance, they faced challenges. Sometimes proposed amendments were distributed the last minute, and the *mala grupa* had no time to consult with each other or even provide feedback. Some of them found the process frustrating. For example, when the Ministry would provide last minute changes to the legislation and distribute these changes for feedback, representatives of the feminist women's groups had very little time to consult with their lawyers and exchange views with their colleagues in Bosnia.

Though the alliance consisted of women with very radically different worldviews, all of the members of the *mala grupa* made an effort to put aside their politics in order to create a just and effective legislation for victims of wartime sexual violence. These were some of the ways that this was expressed:

'Well yes, the different worldviews were not important. In fact, no one, nor feminists or anyone else on any other side could not agree with the aim ... who would even try to say that these

victims do not need this status? For this reason, it was easy to come together in agreement around this'.⁵²¹

'We met together. We fought for the same things regardless of our worldviews. Of course when she would insist on discourse that I did not accept I would not politically comment on it'.⁵²²

'Our group met separately. That is how we somehow connected ... We fought for the amount of money, a joint platform with Marija. Even her lawyer said it was great how different women's organisations were able to connect'.⁵²³

What becomes apparent in my interviews is that the women's groups' alliance played an important role in the adoption of the gender-sensitive approach to financial compensation. They aimed to ensure that victims were granted their rights and that their rights took priority over any political considerations. Therefore, it was important that they collectively put pressure on the Ministry of Veteran's Affairs to consider the gender dimension regarding financial compensation.

The feminist activists I interviewed generally applauded the Association's dedicated and relentless work for the Vukovar victims. They mainly drew attention to the importance of the holistic therapy programme called 'I am more than my trauma' that the Association set up with financial assistance from the UNDP. However, they mildly criticised the Association's representation of these same victims. For example, one of the interviewees referred to the Association's highly politicised representation of the Vukovar victims, which she attributed to the proximity of the approaching parliamentary elections at the time. The other expressed her uneasiness with the manner in which the Association, in particular, Slišković, treated the victims and their testimonies. She felt that Slišković exposed the victims to too much public scrutiny, as if they were objects, thus risking re-traumatisation. She referred to how this particular issue was addressed

⁵²¹ Interview with Slišković (n 463).

⁵²² Interview with Rada Borić (26 April 2016).

⁵²³ Interview with Nela Pamuković (25 April 2016).

by the Women's Court that took place in Sarajevo, where women were the 'subjects of justice, not objects of justice.'

Regarding the working relationship between the different women's groups, feminist activists admitted to not always agreeing with the politics of the Association of Women in the Homeland War. However, since all the women professed to have the same goal, they made an effort not to let the political considerations divide them. Nevertheless, there were two points on which they expressed concern to me. The first point relates to the streaming of a film documentary that was co-produced by the Association and that promotes a nationalist narrative of the war. It was streamed to Parliament before its final reading of the proposed legislation. One of the feminist activists perceived this streaming as a calculated political tactic on the part of the Association because of the nature of the documentary. However, the fact that the film documentary was even given time in Parliament signals towards the Association's political influence and lobbying power.

The second point of concern that was raised was regarding the title of the adopted legislation, which feminist activists were not given the opportunity to provide feedback. The change was insisted on by the president of the Association, which initially caused tension between the Association and the Minister and his Assistant Minister. The last-minute amendments were done only days before the law was adopted and explicitly align the legislation to the official Homeland War narrative.

Though feminists had their reservations about the way the Association was supporting and representing victims from Vukovar, they nevertheless acknowledged the importance of the Association's role in the reparation process. Two of the feminist activists noted that years earlier some attempts were made by feminist women's groups to attract the state's attention on the issue of reparations for victims of wartime sexual violence. However, they both implied that regardless of whether it was a left-wing or right-wing government, the issue required the leadership of a right-wing women's group. As Borić said, '[b]asically, these women who were qualitatively more Croatian may have had the opportunity to instigate the process earlier'.⁵²⁴

⁵²⁴ Interview with Borić (n 522).

In summary, it becomes evident that *mala grupa* had a substantial role in pushing for the gender-sensitive approach to financial compensation. I suggest that this achievement is to some extent a result of a strong alliance between the feminists and the Association. Though the feminist activists had their reservations regarding the politics and discourse of the Association, they made a calculated compromise. By placing their politics aside and not engaging in and challenging nationalist discourse when it arose within the Ministerial Working Group, the strength of the alliance was upheld and significant suggestions proposed by the alliance, specifically by the feminist women's groups, were included. However, an inevitable consequence of this calculated compromise was that the Association of Women in the Homeland War acquired more influence over the law regarding its alignment with the Homeland War narrative. This becomes particularly evident in the negotiations over Article 4 in the Draft Proposal of the legislation that provided the definition of the perpetrator and the last minute changes made to the title of the legislation.

4. Adopting the *Law on the Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War*

I. The first act: The roundtable in Vukovar

The Ministry of Veterans' Affairs was also looking to develop a legislative framework that would provide all civilian victims of the Homeland War the right to claim status and rights. In order to support the Ministry's initiative, a Roundtable was organised in Vukovar on 26 September 2014, the same day that the first parliamentary reading of the *Reparation Law* was concluded, by civil society organisations *Europski dom Vukovar* and *Documenta – Center for dealing with past*.⁵²⁵ The Roundtable aimed to discuss the political and judicial developments in providing reparations for victims of sexual violence and present victims' perspectives on obstacles that prevent access to reparations. Furthermore, *Documenta* presented its research findings of 2013 on the needs of all Croatian civilian war victims. The Roundtable concluded that the status of civilian war victims had not be resolved for over 20 years due to the lack of political will. In response,

⁵²⁵ Branimir Bradarić, 'Documenta: Civilne žrtve rata traže pravdu' (26 September 2014) <<https://www.vecernji.hr/vijesti/documenta-civilne-zrtve-rata-traze-pravdu-963451>> accessed 22 October 2018.

the Assistant Minister at the time, Bojan Glavašević announced that the new Law on the Rights of Military and Civilian Invalids of War would be amended or wholly redrafted in order to address pressing issues related to civilian war victims.

Although the Roundtable resembled a crucial moment in the process of resolving the neglected needs of civilian war victims in Croatia, its positive contribution to a critical dialogue between state institutions and civil society organisations was overshadowed by the controversy that followed Glavašević's statement regarding civilian war victims. In an attempt to explain how lack of information on all civilian war victims and their specific needs could lead to incomplete legislative reform, Glavašević leaned on the example of PTSD prevalence amongst the war veteran population. He said that currently PTSD was exclusively recorded in the population that 'won the war'. In other words, PTSD patients were mostly 'Croatian defenders and civilian war victims on the "Croatian side"' who also have the right to claim benefits based on the harm that they suffered. He questioned why there were no records of PTSD in the population of Croatian Serbs that live in the Croatian region of Krajina, who 'lost the war', and who also have no right to claim benefits on the basis of the harm they may have suffered during the war.

Namely, Glavašević was attempting to explain the significance of providing support to all civilian war victims within the territory of Croatia regardless of ethnicity. He emphasised the importance of conducting a comprehensive study of the needs of all civilian war victims in order to conduct a legislative reform that is not discriminating. However, his example was misconstrued by the *branitelji* population that was present at the Roundtable. In fact, in the video recording of his presentation where he speaks of the population of Krajina, a voice is heard yelling out: 'Do you mean the aggressors?', suggesting that anyone of Serbian ethnicity is also an aggressor.⁵²⁶

Not long after the Roundtable, *branitelji* protests began in Vukovar and in front of the Ministry of War Veterans' Affairs demanding the resignation of Minister Matić, and his Assistant Ministers Bojan Glavašević and Vesna Nađ. The *branitelji* argued that the Minister and his deputies were equalising the aggressor and the victim in their policy-making and were, therefore, offending the entire *branitelji* population and the memory

⁵²⁶ Bojan Glavašević, 'Prezentacija Na Okruglom Stolu "Reparacije Civilnih Žrtava Rata"' (2014) <<https://www.youtube.com/watch?v=4v4ajJfU8LO>> accessed 22 October 2016.

of the Homeland War.⁵²⁷ The timing of the protests is significant because they commence soon after financial compensation for victims is given more attention. This points to a connection between the *branitelji*, the official narrative of the Homeland War and issues relating to the financial compensation of victims of the Homeland War. In essence, the memory of the Homeland War is used by the *branitelji* population in order to protect their benefits and rights that are at risk of being reduced if the state budget is also to address compensation for civilian victims of the war.

II. The second act: Šatoriši⁵²⁸ in Savska street

Shortly after the Roundtable in Vukovar, a substantial number of *branitelji* led by the Association of 100 per cent Handicapped Croatian Defenders and its head Đuro Glogoški launched a protest in front of the Ministry of Veterans' Affairs in Savska Street. They set up a tent and began a 555-day protest which climaxed in May 2015 in the Church of Saint Mark located across from the Croatian Parliament building. The protest was apparently organised in response to the comments made by Glavašević at the Roundtable in Vukovar. The protesters claimed that the implication that Serbian aggressors could have PTSD and therefore require assistance from the Croatian state was an attempt to equalise aggressors with victims. As expressed by one of the protestors: 'We cannot allow ourselves to be compared with those who were involved in the aggression towards Croatia, who murdered and raped'.⁵²⁹ Based on the reactions and the reasoning expressed by the *branitelji* in the tent on Savska Street, any Serbian Croat who was in Croatia during the Homeland War was an aggressor by default regardless of whether he or she was indeed just a civilian. Moreover, the protesting *branitelji* claim that any harm that Serb Croats may have suffered should not be the responsibility of the state of Croatia; more precisely, they should not receive benefits like the defenders of the Homeland War.

⁵²⁷ HINA, 'Branitelji Tvrdje Da Ministarstvo Izjednačava Žrtvu i Agresora' *Novi List* (6 November 2014) <<http://www.novolist.hr/Vijesti/Hrvatska/Branitelji-tvrde-da-Ministarstvo-izjednacava-zrtvu-i-agresora>> accessed 22 October 2018.

⁵²⁸ 'Šator' in Croatian means 'tent'. The media called the war veterans in the protest tent, 'Šatoriši'.

⁵²⁹ Sven Milekić, 'Croatian War Veterans' Protest Enters Second Week' *Balkan Insight* (27 October 2014) <<http://www.balkaninsight.com/en/article/protesting-croatian-war-veterans-not-giving-up/1431/64>> accessed 22 October 2015.

Money has always been an issue for war veterans' associations in Croatia. In the protest that commenced in October 2014, money took a more central role than usual because of the recent cuts made to *branitelji* benefits made by the centre-left government that was in power at the time. In addition to requesting the resignation of the Minister and his cabinet, the *branitelji* were also protesting against the cuts made to their benefits. However, according to Minister Matić, the only cuts that were made were to those pensions that amounted to more than 5000 kunas monthly (this is more than minimum wage). Essentially, all pensions that were under 5000 kunas were left untouched as well as pensions for the two categories of the 100 per cent disabled war veterans.⁵³⁰ Even though the cuts were indeed minimal, the war veterans protesting on Savska Street continued to protest under the slogan that the Government and Minister Matić and his cabinet were not distinguishing between *branitelji* and Croatian victims of the Homeland War and Serbs who were responsible for the aggression on the Republic of Croatia. Therefore, they were protesting against the Ministry's policy of equalising the aggressor and victim. However, what is most significant about this protest for the purposes of this study is its relation to the Draft Proposal and the Association of Women in the Homeland War.

Glogoški, the leader of the protest, used the Draft Proposal of the Law on Rights of Victims of Sexual Violence in the Homeland War on many accounts as proof of the equalising policy that the Government was pursuing. He claimed that the proposed legislation lacked an explicit reference to the real aggressor in the Homeland War because its reference to 'paramilitary groups' was far too general.⁵³¹ In other words, Glogoški viewed the legislation as an opportunity to enforce a 'truth' of the Homeland War according to which the perpetrator is identified as the Serb aggressor. This reasoning is not new. It was also, to a large extent, expressed in the first parliamentary reading of the proposed legislation. The Minister himself addressed this during his opening statement to Parliament when he explained that Article 4 that refers to the definition of the perpetrator still needed an acceptable solution.

⁵³⁰ Media servis, 'Matić: Ne bojim se nikoga, i da dobro zaključujete - HDZ je iza svega' *Index.hr* (23 October 2014) <<https://www.index.hr/clanak.aspx?id=779356>> accessed 22 October 2015.

⁵³¹ HINA, 'Branitelji Tvrde Da Ministarstvo Izjednačava Žrtvu i Agresora' (n 527).

However, *branitelji* protests are not uncommon in Croatia, particularly when a centre-left government was in power. Previously, a massive protest was organised in 2011 in Split, also when a centre-left government was in power and immediately before elections. When according to the *branitelji* it is time to change the orientation of the government, they take to the streets and make it happen. Like in 2011, the protest in Savska Street broke out months before the 2015 presidential election. As expected, the tent in Savska was visited by prominent members of the centre-right opposition, amongst them Kolinda Grabar Kitarovic who was running for president at the time (and who also won the election). The support given to the protest by centre-right politicians put even more pressure on the Ministry at a time when it was busy with, amongst other things, drafting the Final Proposal of the Law on Rights of Victims of Sexual Violence in the Homeland War. Though, what the Ministry did not expect was the Association joining the protesters in the tent and publicly supporting the *branitelji's* demands.

About two weeks before the Association endorsed the war veteran protest, Slišković, president of the Association, was featured in an article published on New Year's Eve by Dnevnik.hr of Nova TV, the online news portal of one of Croatia's most popular commercial television networks.⁵³² In the online article, Slišković expressed her dissatisfaction with the delayed reparation law, claiming that the Minister was highly irresponsible for letting yet another year to go by without a law for the victims. She reminded the Minister that it was the UNDP Office in Croatia that secured the financial resources to create a law as soon as possible, and yet two years had passed in which victims were still living in financially vulnerable situations. Slišković stressed the issue of financial vulnerability by saying that even though the law was in the drafting process, the financial resources had not been allocated in the new state budget. This meant that the victims would spend another year waiting for their right to financial compensation. She also addressed the *branitelji* protest, by highlighting how the *branitelji* were still protesting in front of the Ministry regardless of the cold weather conditions. With this, she drew a connection between the *branitelji*, the Association and the Sunčica victims' group and asked the Minister what he would say to the victims if they joined the

⁵³² D Š, 'Grupa "Sunčica" Proziva Ministra Predraga Matića Za Nebrigu Prema Žrtvama Ratnog Zločina Silovanja - Dnevnik.Hr' *Dnevnik.hr Nova TV* (31 December 2014) <<https://dnevnik.hr/vijesti/hrvatska/grupa-suncica-proziva-ministra-predraga-matica-za-nebrigu-prema-zrtvama-ratnog-zlocina-silovanja---366958.html>> accessed 22 October 2015.

protesters. She taunted the Minister asking him whether he would also label that the victims as politicised, just as he has done with the *branitelji*. Only two weeks later, the president of the Association, as well as victims from the Sunčica victims' group, joined the *branitelji* in the tent.

On 13 January 2015, images provided by Dnevnik.hr from a press conference in the tent on Savska Street show the president of the Association, Marija Slišković, three women war victims from the Sunčica group and the leader of the protest sitting at the same table.⁵³³ The Association and victim representatives from the Sunčica group claimed that they publicly endorsed the *branitelji* protest for two reasons: first, because they believed it was a way of showing respect towards the dignity of the war veterans; second, because they wanted to sensitise the public to the reality of women war victims and their pending rights.

The Association's public support of the protest is a significant moment in the process through which it acquires political influence because it shows how the Association publically supported the call for the removal of the very Minister and cabinet that it was working with on the development of the law. It also sheds light on the positioning of the Association within the Ministerial Working Group. Furthermore, it highlights how the Association acquired and used its political influence. Based on the Association's statements made to the media at the press conference, it becomes clear that its main issues with the proposed legislation were regarding controversial Article 4 and its definition of the perpetrator, as well as the delay in finalising the legislation and the allocation of state funds.

According to Slišković, Article 4's lack of specificity regarding the definition of the enemy perpetrator was a serious problem for the Association, to that extent that its legal advisors resigned from the Working Group in the act of protest. Emphasizing that the rapes that took place during the Homeland War were part of a Serbian war strategy, Slišković states: 'Victims say that the Draft Proposal is inadequate, because it is important to directly identify that it was the Serbian army and paramilitaries that

⁵³³ Ma B, 'Udruga Žene u Domovinskom ratu poduprla braniteljski prosvjed' *Dnevnik.hr Nova TV* (13 January 2015) <<https://dnevnik.hr/vijesti/hrvatska/udrugazeneu-domovinskom-ratu-poduprla-braniteljski-prosvjed---368422.html>> accessed 22 October 2016.

committed the rapes, instead of just describing the perpetrator as the enemy army'.⁵³⁴ From this statement, it is possible to deduce Slišković's understanding of the law. For her, the law is not only a legal framework regulating rights or behaviours; it is also a form of truth-making.

The controversy over Article 4 is an excellent example of how the legislation, aimed at providing a legal framework for the regulation of victims' access to rights, suddenly becomes a tool of truth-making. Excluding 'Serbian' from the definition would imply that the legislation and, by proxy, the Ministry and Government sponsoring it were refusing to record the 'truth': that Serbs perpetrated the rapes that took place in the Homeland War as part of a war strategy, as well as the incidental few committed by Croats. This omission was regarded as an attack against the dignity of Croatian war veterans because the legislation was implying that they committed rapes in the Homeland War the same way the Serbian perpetrators did, as part of a war strategy.

Although the reasoning behind the protest against Article 4 may seem incoherent to an outsider or foreigner, it sits perfectly with the population that endorses the official narrative of the Homeland War that assumes that defenders who were defending their country cannot commit crimes because they were acting in self-defence. It also sits perfectly with the victimhood narrative that constructs Croatia and Croats as victims of Serbian aggression. The Association's endorsement of the war veteran protest, which mainly rests on the *branitelji's* fear of being equalised with Serbian aggressors, can be seen as a strategic move in the process of acquiring and using political influence. For this reason, even though the Association publicly denounced Article 4 and protested against Minister Matić and Assistant Minister Glavašević, assuming that Article 4 was its main issue with the Draft Proposal would be a simplistic interpretation of its action. The political power the Association gained by endorsing the war veterans protests allowed for it to further negotiate with the Ministry over the terms of the financial compensation, a significant issue for the feminist women's groups in the Working Group.

⁵³⁴ *ibid.*

However, the Association's support of the war veterans did not go by without a trade-off. By endorsing the war veterans, it acquired political influence to further push for changes regarding financial compensation, but it also risked side-lining its aim of sensitising the public to the reality of women war rape victims. Although it would seem from the perspective of the tent on Savska Street that the *branitelji* had the interests of the Association in mind, the events that follow demonstrate that the gender dynamic was far too strong, even in the process of adopting a progressive reparation law for victims of wartime sexual violence. The role of war veterans as men and protectors of the nation once again gain priority over the needs and rights of women.

III. The third act: Parliament adopts the *Reparation Law*

Following the first parliamentary reading, the legislation was substantially amended in particular regarding the areas referring to the perpetrator and financial compensation. These issues, as well as the issue of the timeframe for applications, caused a considerable amount of disagreement within the Ministerial Working Group, consequently further enforcing the divide between the women's groups and the Ministry. The *Final Proposal of the Law on Rights of Victims of Sexual Violence in the Homeland War* was finalised after six months of deliberation and three months after the Association endorsed the war veterans' protest.

On 20 May 2016, members of the Croatian parliament began their workday earlier than usual in order to watch a film documentary written and produced by the Association of Women in the Homeland War before the second parliamentary discussion on the Law on Rights of Victims of Sexual Violence in the Homeland War. The documentary titled *Sunčica*, just like the book of testimonies that preceded it, consists of 16 testimonies from victims of rape during the Homeland War, of which male victims provide two. The theatrical and emotional documentary, which I consider in greater detail in the next chapter, sets the tone for the parliamentary discussion, and I believe that was the aim of the Association when it insisted on its screening. Expecting a heated debate on the sensitive political issues relating to the legislation, the president of the parliament, Josip Leko, reminded the members of parliament that 'regardless of the emotions involved, I ask that the discussion takes into consideration the sensitivity of the topic and that we

do not fall under the impression of the film'.⁵³⁵ Sadly, the MPs did not follow the instruction of the President.

Presented by the Minister of Veterans' Affairs, the final proposal of the legislation took into consideration many of the recommendations provided by the Parliament and the Ministerial Working Group. It consists of an amended definition of sexual violence in order to clarify that the legislation addresses only the sexual violence that took place during the 'armed aggression' on Croatia. Matić emphasised how this amendment had been harmonised with the Declaration of the Homeland War.⁵³⁶ Also, the final proposal clarified the eligibility requirements for the victim status. It stipulates that the status can be granted to those victimised individuals who are Croatian citizens in the time that they submit their application. However, it denies victims of sexual violence who were also members of enemy armies the possibility of applying for rights under the legislation. This change can be attributed to the pressures coming from the war veterans and the Association in response to the Ministry's so-called attempt to equalise the aggressor and victim through the legislation. The reasoning that is behind the 'equalisation of aggressor and victim' assumes that Serbs cannot be legally deemed victims under Croatian law because they are essentially the aggressors. Their identity of aggressor deems them undeserving victims. This exclusion is significant because it points to the way nationalist discourse has 'leaked into' the legislation.

Moreover, the definition of sexual violence was expanded to include sexual slavery and other forms of sexual violence thus harmonising it with international standards. The military characteristics of the perpetrator were emphasised in order to make a clear distinction between military perpetrators and civilian perpetrators of sexual violence. Finally, significant changes were made to the clause on financial compensation. Victims can be awarded, along with a monthly amount, a one-off sum of 100 000 kunas and 150

⁵³⁵ Maja Šurina, 'Leko Na Rubu Suza Nakon Filma o Žrtvama Silovanja u Ratu' *tportal.hr* (20 May 2015) <<https://www.tportal.hr/vijesti/clanak/leko-na-rubu-suza-nakon-filma-o-zrtvama-silovanja-u-ratu-20150520>> accessed 22 October 2015.

⁵³⁶ Tea Romić, 'Zastupnici u Saboru pogledali potresni film o silovanjima u Domovinskom ratu' *Večernji list* (20 May 2015) <<https://www.vecernji.hr/vijesti/zastupnici-u-saboru-pogledali-potresni-film-o-silovanjima-u-domovinskom-ratu-1006459>> accessed 22 October 2015.

000 kunas for a qualified form of sexual violence that resulted from very difficult consequences.⁵³⁷

As mentioned, the parliamentary discussion did not take place without political drama. The first politically charged comment was given by an HDZ representative, condemning the representatives of the minority communities for not attending the screening of the documentary. However, this was not the only issue. According to other HDZ representatives, the law failed to concretely define the circumstance of the war as 'circumstances directly related to the aggression on the Republic of Croatia'. To add dramatic effect, HDZ representative Josip Đakić said that the final title of the law should be the 'Law on the Rights of Victims of Monstrous Actions of Aggressors who charged on the Republic of Croatia'.⁵³⁸ Although this proposal was obviously a taunt, it nevertheless set the tone of the discussion and direction. Namely, it completely side-lined the very crime of sexual violence that the victims had survived, in order to emphasise how monstrous the Serbian aggressors were. It was certainly the first attempt during the second reading to side-line the issue of victims' needs and rights in order to re-emphasise the importance of the narrative of the Homeland War. HDZ representatives pushed this even further by declaring that they would file for an amendment of the title of the law, in order to ensure that such an important law does not cast a negative shadow on the Homeland War.

The most controversial part of the discussion was when SDSS representative Milorad Pupovac (representative of the Serbian minority party) problematized the fact that members or collaborators with the enemy forces cannot claim victim status, even though some had been raped during the war. He contextualised the problem by saying: 'So those in Lora deserved to be raped, they were men and Serbs?'⁵³⁹ Furthermore, he expressed his hope that awarded victim statuses would not be used to file criminal charges against those identified as rapists. He worried that such action could reinstate

⁵³⁷ Ministarstvo branitelja, Konačni prijedlog Zakona o pravima žrtava seksualnog nasilja u Domovinskom ratu 2015.

⁵³⁸ Romić (n 536); *Sjednica Hrvatskoga Sabora, Konačni Prijedlog Zakona o Pravima Žrtava Seksualnog Nasilja u Domovinskom Ratu* (2015) <<http://itv.sabor.hr/video/default.aspx?TockaID=6993>> accessed 30 May 2015.

⁵³⁹ HINA, 'Pupovac Izazvao Žestoke Reakcije u Saboru' *Jutarnji List* (20 May 2015) <<https://www.jutarnji.hr/vijesti/hrvatska/po-vama-muskarci-srbi-silovani-u-lori-nisu-zrtve-pupovac-izazvao-zestoke-reakcije-u-saboru/387757/>> accessed 22 October 2015.

the system of two witnesses, as it was in the judiciary in the 90s when two witness statements formed the basis of criminal charges. Also, he condemned the HDZ representatives for referring to the Serbian minority in the context of wartime sexual violence. He accused them of committing a grave sin because they used the context of sexual violence as a political campaign to stigmatise a specific ethnic group. His comments produced a great outrage in parliament leading to climax where HDZ representative accused Pupovac of not supporting the prosecution of sexual violence crimes, further accusing him of 'raping the parliament' with his comments.⁵⁴⁰

Once again it becomes evident that the Parliament prioritised the legislations alignment with the official narrative of the Homeland War as opposed to the technical details of the *Reparation Law*. However, it can be argued that the Association had set up the climate for such a parliamentary discussion when it lobbied for the screening of the film documentary to take place before the session. This documentary left an impression on the members of parliament. I suggest that it also played a role in the amendment of the legislation's title. It is not clear whether the Association was using the Parliament to further its agenda aimed at reinforcing the official narrative of the Homeland War, or whether the expected parliamentary discussions on issues of the Homeland War provided the Association with the material to push for an altered title. When I asked about the title in my interview, Slišković ignored the fact that the title was discussed at length. She simply said that the title was always the same, always included the part referring to the 'armed aggression on the Republic of Croatia' because that was the truth.⁵⁴¹ This further suggests that Slišković viewed the law as a tool for reinforcing the truth, and in this case, the truth would mean alignment with the official narrative of the Homeland War.

On May 28, only eight days after the second parliamentary reading of the Final Draft and on the eve of the Parliament's vote on the legislation, a group of war veterans proceeded to protest on St Mark's Square where the Croatian Government building is located. St Mark's square is also the location of the Croatian Parliament building. Having been informed that they were not legally allowed to protest at that location after 10 pm, a

⁵⁴⁰ Romić (n 536).

⁵⁴¹ Interview with Slišković (n 463).

clash between the police and the war veterans commenced. Many of the war veterans, as well as those in wheelchairs, entered St Mark's church for refuge from the police where priests of the local church protected them. The image of the clash between the police and the war veterans on the door of a church caused outrage throughout the country, reminding some of the clashes between the Yugoslav police and defenders in the early 90s. More than 200 war veterans refused to leave the church and spent the night there. The media exploded with reports of the clash between the police and the war veterans.⁵⁴² The next day the parliament convened to vote on the *Reparation Law*.

On May 29 the Croatian Parliament adopted the *Law on Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War*, with 86 votes 'for' and three 'abstaining', but also without the presence of the centre-right HDZ representatives.⁵⁴³ The HDZ opposition refused to attend as a sign of protest in response to the announcement that a special session of Parliament would be held the next day, the Day of the Parliament, regardless of the raging *branitelji* protest just outside the parliamentary walls. The HDZ, the party that continuously spent time during parliamentary debates addressing the issue of the legislation's accurate depiction of the Homeland War, prioritised the needs of war veterans over the needs of victims of wartime sexual violence. This prioritisation suggests that the opposition was never as invested in the legislation's potential to provide victims with meaningful recognition and reparation. It also suggests that the prioritisation of *branitelji*'s needs points to a particular gender hierarchy that exists in Croatia. Namely, the *branitelji* population's needs, the needs of men and the protectors of the nation, are more important than the symbolic recognition of victims and women.

⁵⁴² Radmila Kovačević and others, 'Branitelji se sklonili u Markovu crkvu, policija na ulaz stavila ogradu. Glogoškom pozlilo' (29 May 2015) <<https://www.vecernji.hr/vijesti/pred-saborom-prosvjeduju-djelatniciriz-a-imunoloskog-i-branitelji-iz-savske-1007802>> accessed 22 October 2015; HINA, 'Strani Mediji "Građani Su u Strahu! Branitelji Našli Utočište u Crkvi, Traže Bolji Socijalni Status"' *Jutarnji List* (29 May 2015) <<https://www.jutarnji.hr/vijesti/hrvatska/strani-mediji-gradani-su-u-strahu-branitelji-nasli-utociste-u-crkvi-traze-bolji-socijalni-status/390649/>> accessed 22 October 2015; 'Croatian Veterans Shelter in Church' *BBC News* (29 May 2015) <<https://www.bbc.com/news/world-europe-32935292>> accessed 22 October 2015; Sven Milekić, 'Croatia Police Trap Protesting Veterans in Church' (29 May 2015) <<http://www.balkaninsight.com/en/article/croatian-veterans-staging-a-protest-in-front-of-government>> accessed 22 October 2015.

⁵⁴³ HINA, 'Bez zastupnika HDZ-a: Sabor donio Zakon o pravima žrtava seksualnog zločina u Domovinskom ratu' (29 May 2015) <<http://www.novilist.hr/content/view/full/915803>> accessed 22 October 2018.

5. Conclusion

With the publication of *Sunčica* at a particular point in time, the Association of Women in the Homeland War initiated the process of drafting and adopting Croatia's *Law on Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War*. However, it was due to its particular positioning that it was able to influence the direction of the law. This chapter showed how the Association acquired influence as a result of its strategic actions, feminists' calculated compromises, and the socio-political context at the time. Consequently, it secured a gender-sensitive financial compensation model that would greatly benefit the lives of individual victims that are granted the status. However, it also ensured that the legislation was reinforcing the official narrative of the Homeland War through its title and in its definition of the perpetrator.

These two different outcomes point to the Association's two aims; to ensure the law provides meaningful reparation to victims and that it reflects the 'true' narrative of the Homeland War. However, the outcomes also uncover the complexity of its involvement in the legislative process. As a right-wing women's group determined to empower women and victims within the framework of a particular nationalist discourse, the Association's decision to publicly endorse the *branitelji* protest had significant repercussions. The endorsement granted the Association particular influence throughout the legislative process, but it also overshadowed the legislative process and the *Reparation Law*. This overshadowing becomes strikingly apparent in the moments leading up to the Parliament's vote on the law: the *branitelji* protest leads to the right-wing opposition boycotting the parliamentary vote and distracts the public and the media with imagery of the *branitelji* clashing with the police in front of a church. Though the passing of the *Reparation Law* was a historical moment for victims of wartime sexual violence, its potential for symbolic recognition in Croatia on that very day was taken away by the *branitelji* and their protest. The dominance of the *branitelji*'s needs over the needs of victims or women is the result of a deeply entrenched gender hierarchy in Croatia society, which is continuously reproduced with a particular nationalist discourse. The Association's endorsement of the protest essentially reinforced this particular hierarchy, though it aimed to use the platform to shed light on the victims' claim to rights.

It becomes evident that the Association's participation in the legislative process was both crucial for passing this particular legislation, but also complex regarding its contribution to the goals of transformative justice. In order to gain a better understanding of the complexity of the Association of Women in the Homeland War's role in the legislative process, it is necessary to consider its motivations and interests. By analysing its discourse, it is possible to gain a deeper understanding of why the Association took the actions and made the compromises it did. A better understanding of its discourse also uncovers the full extent of the Association's influence on the law and its transformative potential.

CHAPTER 5

THE POLITICS OF REPRESENTATION: HOW THE ASSOCIATION OF WOMEN IN THE HOMELAND WAR CONSTRUCTED THE 'NATION'S IDEAL VICTIM'

1. Introduction

An assumption exists that women's inclusion in the design of reparations increases their potential to transform structural gender inequality in a given society. However, including grassroots women's and victims' groups in the design of reparations with the aim of transforming structural gender inequality can be challenging in societies recovering from conflicts where national identities played a central role. In these cases, tensions fuelled by nationalist discourse may continue to manifest decades after the conflicts have ended. This is particularly evident in the case of Croatia, where these tensions have the ability to influence discussions on reconciliation or restorative justice as seen in the previous chapter.

This chapter examines the complexity of the Association's involvement in the design of the *Reparation Law* by considering what its motivations and interests were throughout the legislative process. By analysing its discourse, it is possible to shed light on the potential reasoning for the Association's actions and compromises. On the basis of an analysis of the Association's discourse from 2011 to 2015, the chapter illustrates how its representation of victimhood hinges on the construction of the 'nation's ideal victim'. This nation's 'ideal victim' is female, innocent, violated by the Serb aggressor, a contributor to the independence of Croatia, and empowered yet also financially vulnerable. Moreover, the 'nation's ideal victim' takes different forms throughout the drafting process, shifting from a silenced victim, to a sacrificial victim, and finally to a compensable victim. These shifts highlight the different emphases the Association made in its representations of victimhood throughout the selected period.

By acquiring a better understanding of the Association's discourse during the process of drafting Croatia's reparation law, the chapter provides a more complicated reading of the women's group's participation in the process of drafting the *Reparation Law*. In this sense, it assists in the analysis of what the Association's participation means for the law's transformative potential in Croatia. The chapter begins by summarising both the

problems that arise with the call for an increase in women's participation in justice processes and the need for addressing right-wing women's participation in these processes. By setting up the framework for its analysis, the chapter proceeds to demonstrate how the Association of Women in the Homeland War constructed the 'nation's ideal victim' through its discourse. The final part of the chapter shows the different emphases the Association made in its representation of victimhood throughout the legislative process and considers what these different emphases imply about its motivations and interests.

2. Women's participation, agency and victimhood

As noted in previous chapters, following the adoption of Resolution 1325 in 2000, the women, peace and security agenda has been continuously calling for 'women's equal and meaningful participation in peace and security efforts.'⁵⁴⁴ Scholars have considered the reasons for this plea for women's participation.⁵⁴⁵ An instrumentalist reasoning assumes women's participation will enhance legitimacy and contribute to the durability of the solutions developed in the peace and justice decision-making process.⁵⁴⁶ One of the problems with this type of approach is that it risks essentialising women as well as uncritically assuming that women have the ability to build peace and reconciliation. However, what is more problematic is the question of representation, and specifically substantive representation. Are there universal ideas and interests that are specific to women? This question particularly relates to local contexts looking to address the harms of victims of conflict-related sexual violence, such as in Croatia. Although it may seem that women who are involved in the reparation process as policy-makers, activists, and victims may have a common goal, they are nevertheless coming to the table with different worldviews and experiences, and thus will inevitably have different interests in mind. This is particularly crucial when looking at the participation of right-wing women.

⁵⁴⁴ Radhika Coomaraswamy and UN Women, *Preventing Conflict, Transforming Justice, Securing the Peace: A Global Study on the Implementation of United Nations Security Council Resolution 1325* (2015) <reliefweb.int/sites/reliefweb.int/files/resources/UNW-GLOBAL-STUDY-1325-2015.pdf> accessed 7 May 2018.

⁵⁴⁵ O'Rourke, "'Walk[Ing] the Halls of Power'?" (n 131).

⁵⁴⁶ O'Rourke, Catherine. "Feminist Scholarship in Transitional Justice: a De-Politicising Impulse?" *Women's Studies International Forum*. 51 (2015): 118-127.

From a critical feminist perspective, it is essential to accept that right-wing women can also represent independent choices. By departing from this point, one avoids assuming that their participation and impact is meaningless because it is merely manipulated by rhetoric, usually nationalist rhetoric. Instead, one can fully explore their motivations and interests and in this way understand how their actions are impacting change. The participation of the Association of Women in the Homeland War in the advocacy for and drafting process of Croatia's *Reparation Law* presents a good case to explore right-wing women's participation in reparation processes.

As this chapter will demonstrate, the language used when representing victimhood in the drafting process of a reparation law provides important insights into the transformative potential of the process and its outcome. As this chapter will demonstrate, the language used by the Association when speaking about victimhood does not challenge nationalist ideas of victimhood, nor does it speak of gender inequality or discrimination that leads to violence against women and also sexual violence. Instead, the discourse used by the Association in the process of representing victims relies on nationalist discourse. As a result, the victim is represented as the 'nation's ideal victim', which takes different forms throughout the legislative processes all for the purpose of establishing meaningful victimhood status and reparations.

In his work titled 'The Ideal Victim', Nils Christie argued that personal characteristics of the victim and the offender, but also the circumstances surrounding the crime, can influence the degree to which a society will deem the victim innocent and grant him or her legitimate status as victims. According to Christie, the 'ideal victim' is the one that will produce the most sympathy from society. He defines his famous stereotype as 'a person or category of individuals who – when hit by crime – most readily is given the complete and legitimate status of being a victim'.⁵⁴⁷ In fact, one way of thinking about the 'ideal victim' is by thinking about it in terms of 'hero' or 'traitor', both labels that are at the same level and type of abstraction as the 'ideal victim'. Christie argued that in order for a victim to claim victim status, it was important for the victim to convince the community of his or her legitimacy of being a victim. Christie characterises the 'ideal victim' using the following attributes: The victim is 'weak', 'carrying out a respectable

⁵⁴⁷ Nils Christie, 'The Ideal Victim' in EA Fattah (ed) (MacMillan 1986) 17–30.

project', and 'not to be blamed'. Furthermore, the victimisation was perpetrated by a 'big and bad offender' who is 'unknown'.

Adapting Christie's famous stereotype of the 'ideal victim', which was later elaborated by van Wijk in order to test its application to international crimes,⁵⁴⁸ to the Croatian context, I analyse the Association of Women in the Homeland War's discourse from the period of 2011 to 2015. By choosing this particular period, the analysis includes the Association's discourse during its campaigning for public and governmental awareness on the issue of victims' rights and its discourse during the period the Ministerial Working Group was designing and drafting the legislation. The analysis draws from data that includes the Association's publications, speeches, newspaper coverage of its activities, films, blog content, Facebook content as well as its appearances at public events and conferences. Based on my analysis of its discourse, I arrive at the conclusion that the Association was representing victimhood in a way that produces what I term an image of the 'nation's ideal victim'. The 'nation's ideal victim' is female, innocent and violated by the Serb aggressor. The figure has also contributed to the independence of Croatia and has become empowered, yet she remains vulnerable. Moreover, I demonstrate how and why the Association's representation of the 'nation's ideal victim' takes the form of a silenced, sacrificial and compensable victimhood at different phases throughout the legislative process.

3. The construction of the 'nation's ideal victim'

The Association of Women in the Homeland War played an important role in the legislative process by drawing public and political attention for the cause of victims' rights and influencing the course of the process as well as the outcome of the law. Although it gained substantial influence as a result of the socio-political context, calculated compromises and its strategic actions, the discourse it used while representing a group of victims from Vukovar also contributed to its influence. Furthermore, understanding how the Association spoke about victims and their right to reparations provides insights on how the women's group's involvement in the process impacted the *Reparation Law's* potential to transform structural gender inequality in Croatia. In this section, I look at how the Association, through its representation of

⁵⁴⁸ van Wijk (n 53).

Vukovar victims, constructed the 'nation's ideal victim'. I will begin with the first attribute: the 'nation's ideal victim' is female.

I. The nation's ideal victim is female

As mentioned, many Croat women (and men) were victims of rape and sexual violence during the Homeland War, with estimates of about 1500-2000 victims.⁵⁴⁹ Although victims were predominately women, the Reparation Law that was adopted in May 2015 makes no distinction in the gender of the victims. It is progressive in this matter, as it ensures that male victims are also covered by the law. Although the final legislation shows no hints of discrimination on this ground, it is significant that the Association in its approach to campaigning for victims' rights to gain public and governmental support made a distinction. In fact, throughout the 2011-2015 period, it continued to refer to victims of wartime rape and sexual violence as female.

I suggest that the emphasis on female victimhood was a calculated decision made on part of the Association. As it was crucial to gain support for the creation of a reparation law, the Association had to present victimhood in terms that the wider public and especially the war veterans would deem acceptable. Speaking about female victimhood created a space to speak about women's empowerment while also upholding ideas of Croatia's collective victimhood. Though male victim testimonies were included in the book of testimonies and the documentary, male victimhood presented a challenge in terms of rallying support. It had the potential of alienating the war veterans who were predominantly men because it challenges Croatian ideas of masculinity and consequently ideas of national identity. Male victims were not 'ideal victims' and for this reason were not included in the Association's discourse.

One of the first instances, when the Association began to address the victim as exclusively female, was in its book of testimonies titled *Sunčica*. As mentioned in the previous chapter, the book contains 15 anonymous testimonies. Instead of chapters, the book is structured according to 'Stations of the Cross', with fourteen testimonies from women corresponding to the fourteen 'Stations of the Cross'. The only testimony that is given by a male victim of wartime sexual violence had been added additionally under

⁵⁴⁹ United Nations Development Programme in Croatia (n 498).

the title: 'They raped women, men, and children'.⁵⁵⁰ As is seen from the title of the only male testimony, it makes no exclusive reference to the victim as male. Instead, it reinforces the understanding that both women and men were raped, disregarding the fact that the testimony is given by a male victim and further enforcing the idea that rape victims are inherently female.

In my analysis of content on the Sunčica Facebook group, I noticed that it was common for women victims from Vukovar whose testimonies have been included in the testimony book to be referred to as the Sunčice (Sunnies). The name Sunčica comes from the name of the eight-month-old female baby that was held captive while Serbian soldiers raped her mother. The story of Sunčica is found at the beginning of the testimony book and has been used and referred to by the Association throughout this period as a symbol of suffering, but also victory, of the women of Vukovar. It also surfaces throughout its discourse as a regular reference. In addition to the Sunčica story, the book begins with a foreword from Marija Slišković titled 'A warning on behalf of the victims'. As the title suggests, the foreword is meant to be a warning to its readers about the truth that would come out with the book of testimonies. Slišković's warning is a good starting point for understanding the Association's representation of victimhood. It begins with the following paragraph:

The newly constituted state of Croatia lacked the power in 1991 to protect its inhabitants from the military forces of Serbia and the Yugoslav National Army, which committed aggression and countless crimes upon its territory.

The people defended with their lives. Twenty years later, after the factual testimonies of the victims, we strongly emphasise that the perpetrators have not been punished and the victims have not been compensated for their losses. There is a conspiracy of silence about the crimes. The women are alone in their suffering. The criminals are among us.⁵⁵¹

⁵⁵⁰ Slišković (n 1).

⁵⁵¹ *ibid* 12–13.

This introductory paragraph is significant for two reasons. On the one hand, it explicitly refers to the victims as 'women [who] are alone in their suffering'. On the other hand, it clarifies whom the Association identifies as the perpetrator. It explicitly refers to the 'military forces of Serbia and the Yugoslav National Army' and describes their actions as 'aggression' upon the territory of Croatia. This is important because it implies that the Association views the Homeland War as a crime of aggression⁵⁵² committed by Serbia on Croatia. Moreover, it conceptualises the victim as female but also violated by Serbian aggression.

The reference to victims as female is further reinforced in the dedication of the book: 'We dedicate this book to all the women who suffered in the hands of the dark, aggressor forces and who, through their sacrifices, have paid the greatest price for our freedom'.⁵⁵³ By addressing the victims as female, the Association is consequently silencing the presence of male victims of rape, which I find particularly interesting considering the book contains testimony from a male victim of sexual violence.

The reference to the victim as female continues in the introduction to the book written by Danijel Rehak, president of the Croatian Association of Prisoners in Serbian Concentration Camps (HDLSKL) and retired colonel of the Croatian Army. In his introduction, he calls for the silence of wartime rape to be broken and for the recognition of women who had been left 'unacknowledged, unprotected, denigrated, ridiculed, and abandoned'.⁵⁵⁴ Rehak, similarly to Slišković, refers to the victims as women. He does this by describing the suffering of women as the ultimate pain a *branitelj* could experience: 'That which the prisoner is unable to anticipate is the inclusion into the equation of wife, mother, daughter, sister, grandmother. Their screams hurt worse than any beating'.⁵⁵⁵ By describing women victims' suffering in relation to the male *branitelj* experience of their suffering, Rehak introduces the logic of 'woman-as-nation/men-as-protector'.⁵⁵⁶ Furthermore, he reinforces the notion that victims are exclusively female.

⁵⁵² UNGA Res 3314 (XXIX). Definition of Aggression (14 December 1974) A/RES/29/3314.

⁵⁵³ Slišković (n 1) 13.

⁵⁵⁴ *ibid* 22.

⁵⁵⁵ *ibid*.

⁵⁵⁶ Helms, *Innocence and Victimhood - Gender, Nation, and Women's Activism in Postwar Bosnia-Herzegovina* (n 368) 230.

In addition to the *Sunčica* book of testimonies, the Association also campaigned for its cause using online resources. One of the online platforms was on Facebook, a social media network, which started in September 2011.⁵⁵⁷ The Association created a public group to attract members in order to break the silence of the wartime rapes and pressure institutions to take action. The group was called ‘SUNČICA – silenced rapes as war crimes of victims in the Homeland War’ and had reached 2,500 members by the time the law was adopted. In addition to the Facebook group, it also managed an online blog, which was written more professionally. The blog titled ‘Sunčica – war crime against women of Vukovar’ was created in February 2012 within the blogosphere of a leading Croatian daily newspaper *Večernji list*.⁵⁵⁸ As its subheading it posted a call for action: ‘We ask you to support the victims and to prompt the state institutions to begin judicial processes, punish perpetrators and provide redress for victims’. As demonstrated with the subheading, the blog’s main purpose was to inform the public and gather support for the Association’s campaign for justice for the victims of wartime sexual violence. Besides the subheading, the only other detailed description on the blog contained the Sunčica story from the book of testimonies.

The blog is significant for two reasons. First, its published posts provide a general timeline of the Association’s discourse and reveal the events the Association deemed important. Secondly, as the posts were published with the intention to inform the public of the Association’s efforts, progress and opinions, it provides evidence of the Association’s representation of victimhood. In fact, in the first blog entry titled ‘Silenced rape crimes during the Homeland War’, which was published on 27 February 2012, victims are referred to as exclusively women and as ‘Croatian martyrs’ who had spent the last 20 years suffering in silence.⁵⁵⁹ The reference to victims as female continues throughout the blog. However, this use of ‘Croatian martyrs’ implies a level of innocence that is attributed to the victims. This brings me to the next characteristic of the nation’s ideal victim.

⁵⁵⁷ ‘Public Group: Sunčica - Prešućeni ratni zločini silovanja nad žrtvama u Domovinskom ratu’ (*Facebook*) <<https://www.facebook.com/groups/158981280856234/>> accessed 30 November 2011.

⁵⁵⁸ Udruga ‘Žene u Domovinskom ratu’ (*Sunčica: ratni zločin nad ženama Vukovara*) <<http://blog.vecernji.hr/suncica>> accessed 20 January 2012.

⁵⁵⁹ Udruga ‘Žene u Domovinskom ratu’, ‘Prešućeni zločini silovanja tijekom Domovinskoga rata’ (*Sunčica: ratni zločin nad ženama Vukovara*, 27 February 2012) <<https://blog.vecernji.hr/suncica/presuceni-zlocini-silovanja-tijekom-domovinskoga-rata-1925>>.

II. The nation's ideal victim is innocent

As Helms has explained in her book 'Innocence and Victimhood', nationalisms aim for their 'nations to be recognised as collective victims, perhaps defenders but never aggressors'.⁵⁶⁰ For this reason, it is common for discourses to make visible the suffering of surviving bodies in order to make an argument for the purity and innocence of the nation. By establishing the nation's innocence, it is fairly easy to establish the nation's victims as innocent as well. This is particularly evident in how the Association represented victimhood.

An important event that occurred during the Association's campaign for victims' rights was a Roundtable that took place in Vukovar on 3 April 2012. Organised and sponsored by the UNDP and the City of Vukovar with the support of the Office of the President, its purpose was to foster a discussion on the topic of 'Sexual Violence in War and Prosecuting Perpetrators of Wartime Sexual Violence'.⁵⁶¹ It also aimed to attract attention to the suffering of victims of wartime rape with the purpose of mobilising state institutions and civil society organisation in taking appropriate action such as prosecuting perpetrators and providing support systems for victims. The presence of high profile participants such as the then Minister of Veteran Affairs, Predrag Matić, UN Coordinator and Permanent Representative to the UNDP in Croatia, Louisa Vinton and Eve Ensler, a prominent and world known American playwright and feminist activist, speaks for the Roundtable's level of importance. The event began with streaming of the ICTY's documentary film on the prosecution of wartime sexual violence titled 'Sexual Violence and the Triumph of Justice', which was followed by three panels.⁵⁶²

The first panel on the topic of 'Voices of Women Survivors of Sexual Violence during the War in Croatia' included presentations from Slišković and Vesna Teršelić, a prominent Croatian feminist and director of the NGO 'Documenta', as well as testimonies from two victims of wartime sexual violence, Snježana Maljak and Đurđica Pankas.⁵⁶³

⁵⁶⁰ Helms, *Innocence and Victimhood - Gender, Nation, and Women's Activism in Postwar Bosnia-Herzegovina* (n 368) 32.

⁵⁶¹ 'Survivors of Wartime Sexual Violence Appeal for Justice in Vukovar' (n 494).

⁵⁶² 'Screening of Sexual Violence Documentary' (*United Nations - International Criminal Tribunal for the former Yugoslavia*, 3 April 2012) <<http://www.icty.org/en/outreach/activities/screening-sexual-violence-documentary>> accessed 23 October 2018.

⁵⁶³ R I, 'Žrtve seksualnog nasilja u ratu zahtijevaju pravdu u Vukovaru: Život jedne žene je život svih nas' (*Index.hr*) <<https://www.index.hr/clanak.aspx?id=607873>> accessed 23 October 2018; Karmela Gajdek,

Representing the Association and the victims who had spoken up about their victimisation, Slišković used the opportunity to publicly foreground the silencing that had been taking place in Croatia. She began her presentation with a strong statement saying: ‘Women in Croatia have been sentenced to silence’.⁵⁶⁴ As her presentation was aimed at an international and high-level audience that would attract enough media attention but also provide appropriate support if convinced, Slišković continued her presentation with a special focus on the Sunčica story. Here is an excerpt of her presentation where she refers to Sunčica and her silencing:

Never about Sunčica who had eight months and was imprisoned with her mother who was continuously raped, a nineteen-year-old slave at the end of the 20th century. Never about rape and then pregnancy, spontaneous birth in cells along and with the miscarriages that were swept away with a broom, or the women without any energy brought to a hospital and handcuffed to a bed. There was no talk about the women who were not allowed to lock their doors, who had to put white ribbons on their front doors, and who already in September 1991 became property, war spoil of the invaders.⁵⁶⁵

Slišković uses examples from the testimony book to illustrate the type of victimisation women had suffered. As seen in this excerpt, her discourse relies on specifically listing the different forms of victimisation the women victims had suffered. This reference to the suffering of surviving bodies strengthens the notion of innocence, both of the nation and the victims. The continuous reference to Croatian victims further strengthens this idea of innocence because by silencing the existence of victims of other nationalities the Association can strengthen the idea of both the nation’s and women victims’ innocence.

‘U Vukovaru održan okrugli stol o seksualnom nasilju u ratu’ (*Libela - Portal o rodu, spolu i demokraciji*) <<http://www.libela.org/vijesti/2556-u-vukovaru-odrzan-okrugli-stol-o-seksualnom-nasilju-u-ratu/>> accessed 23 October 2018; ‘Seksualno Nasilje u Ratu - Vukovar, Izvještaj s Okruglog Stola’ (*Documenta - centar za suočavanje s prošlošću*) <<https://www.documenta.hr/hr/seksualno-nasilje-u-ratu-vukovar-izvje%C5%A1taj-s-okruglog-stola.html>> accessed 23 October 2018.

⁵⁶⁴ Udruga ‘Žene u Domovinskom ratu’, “‘Mučeno nam je tijelo, ali još više srce i duša” – Govori žena-žrtava silovanja: Snježane Maljak i Đurđice Pankas, te urednice “Sunčice” Marije Slišković, na Okruglom stolu održanom 3. travnja 2012.’ (*Sunčica: ratni zločin nad ženama Vukovara*, 4 April 2012) <<https://bit.ly/2OF4Sgh>> accessed 13 January 2012.

⁵⁶⁵ Translated by author into English *ibid*.

Also evident in the excerpt provided is Slišković's use of the word 'invaders' when referring to Serb perpetrators, which I will turn to next.

III. The nation's ideal victim was violated by the Serb aggressor

According to Nils Christie, victims of big and bad offenders are most likely to receive victimhood status.⁵⁶⁶ However, in his examination of Nils Christie's characteristics of the 'ideal victim', van Wijk questions whether the offender should 'be big and bad compared to the victim, or big and bad compared to other offenders'?⁵⁶⁷ van Wijk argues that in the context of international crimes it is necessary to think about the 'big and bad' offender compared to other offenders because through a 'gradation of "evilness"' the offender becomes more blameworthy. Essentially, the general audience is more likely to believe that a 'gradation of "evilness"' exists and that perpetrators of large-scale atrocities are 'evil'. This is because people 'have an intrinsic willingness to believe that people who commit such acts differ fundamentally from us'.⁵⁶⁸ In this sense, the offender that is the vilest is the one that is far away from the inner circle of the victimised population.

This conceptualisation of the 'big and bad offender' is easily applicable to the Association's construction of victimhood. Though the Association is campaigning for the rights of victims of wartime sexual violence, its reference to the perpetrator of the crimes is always done in the form of a collective 'other'. In other words, its discourse does not frame sexual violence as a crime committed by individual male perpetrators of irrelevant nationalities. Instead, it chooses to portray it as a systemic policy done by Serbs. As shown in the excerpt in the previous section, Slišković referred to Serb perpetrators as the 'invader' implying that Serb perpetrators had invaded Croatian territory and the autonomy of Croatian women thus demonstrating the collective and systemic capacity of the perpetrator. Similar language is used in the *Sunčica* book of testimonies, except instead of 'invader' the word 'aggressor' is used, again implying an act of aggression on an independent territory and its women by a collective force that is not part of 'us'.

⁵⁶⁶ Christie (n 547) 25.

⁵⁶⁷ van Wijk (n 53).

⁵⁶⁸ *ibid* 165.

Throughout the Association's discourse, there is consistent use of the word 'aggressor' when referring to the perpetrator. Not only does the use of this particular word reinforce the notion that the nation's ideal victim was violated by a Serb perpetrator, but it also distances any possible reference to individual Croat perpetrators of sexual violence. A scale of evil exists for the Association, which is also accepted by the Croatian public. According to this scale, the Serb perpetrator is the evilest. Therefore, by emphasising the 'otherness' of the perpetrators, the Association not only increases their 'evil', but it also enhances the status of the 'nation's ideal victim'.

IV. The nation's ideal victim contributed to the independence of Croatia

Women and men are constructed differently by nationalist discourse and as a result, they are incorporated differently into nationalist projects. Although men usually represent a progressive agent of national modernity, women, on the other hand, represent the authentic body of national tradition that embodies nationalism's conservative principle of continuity, as Chapter 3 showed. This is evident in the positioning of women in nationalist discourse, as they are commonly used for their reproductive and symbolic roles.⁵⁶⁹

When looking at their symbolic roles, women are usually symbolic bearers of the nation and as a result, stand as a symbol of 'motherland'. However, this concept of the nation-as-woman depends on a certain image of a woman that is chaste, dutiful, daughterly or maternal. In this imagery, the body of the woman becomes an important marker, a boundary, for the nation.⁵⁷⁰ Furthermore, the depiction of the nation as a woman or as being given female virtues justifies the need for masculine protection.⁵⁷¹ Since women's bodies represent the 'purity' of the nation, an attack on these bodies is interpreted by nationalist discourse as an attack on the nation and its honour. The Association in its representation of victimhood does not challenge this understanding of women's roles in society. Instead, it frames the victimhood it is representing as a sacrifice that women had endured for the 'greater purpose'; the independence of Croatia. I suggest that this approach is taken in order to promote an empowered representation of victimhood,

⁵⁶⁹ McClintock (n 336) 260–263; Yuval-Davis (n 161) 1–4; Ozkirimli (n 236) 56–57.

⁵⁷⁰ A Parker and others, 'Introduction' in A Parker and others (eds) (Routledge 1992) 6.

⁵⁷¹ Ozkirimli (n 236) 59.

which does not cast women as passive victims or nameless bodies, but as women with agency that had equally contributed to the independence of Croatia just as their male compatriots, the *branitelji*.

Building on this nationalist notion of empowered victimhood, the Association promotes a 'deserving' representation of victimhood in its campaign for the rights of victims' of wartime sexual violence. Though it continuously campaigned for victims' rights on the basis on their international legal right to reparation, its discourse framed the right to reparation as 'deserving' which goes beyond international legal rights and instead is based on the victims' relation to the nation, but also to the *branitelji*. Essentially, victims that are 'deserving' are inherently entitled to the victimhood status and the compensation it provides because of their significant contribution to state-formation. Moreover, by emphasising 'deserving' victimhood, the Association can demand the state to recognise the victims' 'sacrifice' and 'contribution' in equal measure to the *branitelji* - through a comprehensive compensation scheme. Although this representation of the 'deserving' victim is present throughout the Associations discourse in this particular period, I have identified two occasions when it takes a prominent role.

The first occasion was at a classical music concert that took place on 7 March 2012 in Zagreb in the Mimara Museum.⁵⁷² The concert was organised in light of the celebration of International Women's Day and to support women of Vukovar who were victims of war crimes. Titled *Mi Smo Uz Vas* (We are with you), the concert was free of charge but encouraged donations for the legal support of the victims. Attendance included 20 women victims from Vukovar, the Mayor of Zagreb, Milan Bandić, Mrs Vesna Nađ from the Ministry of Veteran Affairs and representatives from the Zagreb Office for War Veterans, Norwegian Embassy, Croatian Association of Detainees in Serbian Detention Camps and Bishop Valentin Pozaić as well as other members of the clergy and numerous war veterans. Although invited, no one attended from the Office of the President of the Republic of Croatia or the President of the Government of the Republic of Croatia, and

⁵⁷² Udruga 'Žene u Domovinskom ratu', 'Vukovarske Sunčice – Žene Su Godine!' (*Sunčica: ratni zločin nad ženama Vukovara*, 8 March 2012) <<https://bit.ly/2q5AfBZ>> accessed 23 October 2018.

no explanation was given. Also, the major Croatian media outlets did not cover the event.

The purpose of the event was to show support for the women victims of Vukovar, yet the choice of material for the performances and the speeches that were given imply that the event was also aimed at showing the public what victimhood means to the individual victims and Croatia as a whole. For example, the first act was a sung and spoken interpretation of the tribulations of Mila Gojsalić, a Croatian martyr from the 16th century called the *poljička Ivana Orleanska* (a literal translation would be the highlander's Joan of Arc). Performed by the mezzo-soprano Martina Gojčeta Silić and composed and written by Jakov Gotovac and Danka Angjelinović, the 'Ode to the land' was about the sacrifice that Gojsalić had made in order to save her nation, the *Poljičane* (highlanders) from the Turks.⁵⁷³

Mila Gojsalić is considered a famous female from Zagora, the hinterlands of Croatia. Although it is debatable whether Mila Gojsalić was a real or fictional historical character, reference made to her at this concert points to the purpose of presenting an empowered and deserving victimhood. The story of Gojsalić says that she was taken away by invading Turks in the 16th century and raped by a member of the Turkish army. As a young girl and virgin before her kidnapping and due to the theology of the time, Gojsalić instead of living in shame chose life through death. This was interpreted as heroic chastity. The story goes that once her rapist fell asleep, she set the whole camp as well as herself on fire, thus securing her status as Christ's virgin and inheriting the title of Christ's warrior. Although the story does not entirely match the experiences of the women victims, it is the interpretation of the story by the master of ceremony, Maruša Biliško, which I find relevant here. Biliško provided the following interpretation:

Mila Gojsalić has become a real Croatian Judith⁵⁷⁴, only ten years after Marko Marulić, so to speak, began Croatian literature, with the image of a woman, who brings her people freedom, who alone pays the price specific to female victims. This example of

⁵⁷³ *ibid.*

⁵⁷⁴ As mentioned above, she is viewed as the hinterlands' Joan of Arc, almost a copy of Marko Marulić's Judita, the main character of a poem considered one of the most important Croatian literary works of the 16th century based on the story of the Biblical Judith.

the purity of female heroism and sacrifice who transforms her own suffering into general happiness and freedom is spread throughout Croatian history to the present day. Our culture, statehood and freedom rest on the sacrifices made by Croatian women for the freedom of their own nation. Our Mila Gojsalićs, Judiths, Joan of Arcs are here with us: our *Vukovarke*.⁵⁷⁵

As evident in Biliško's interpretation, which she provided at the onset of the concert thus setting a particular tone to the event, several implications can be made about the relationship between gender, nation and the crime of rape. First, it speaks only to female victims of rape and defines rape as a 'price specific to female victims'. This framing of rape as only a crime that can be committed against a woman further silences the rapes that have been committed against men. Also, it further strengthens the narrative that men's sacrifice for the independence of Croatia was in their role as soldiers who fought to their death. In this sense, the interpretation of the story of Mila Gojsalić reinforces the gendered categories created within the Homeland War narrative.

Secondly, the death of Gojsalić is seen as an example of 'purity of female heroism and sacrifice' which is actively transformed by the heroine into general happiness and freedom. With this, Gojsalić's sacrifice is used to demonstrate that women victims are also heroic contributors to nation-formation and that their contribution has the potential to produce happiness and freedom. Essentially, by framing rape as a sacrifice for the independence and freedom of the Croatian nation, women have been included in the narrative of the Homeland War as empowered actors and not passive victims. This attempt to resurrect a female heroine is a reaction to the patriarchal view of heroes in Croatia. The reaction is still taking place within a patriarchal framework because a woman's sacrifice for statehood and freedom is once again linked to her violated body. The Association's blog post that reported on the event noted that Biliško's commentary was received by a 'thunderous and long applause that echoed within the hall thus

⁵⁷⁵ In English, *Vukovarke* means women from the city of Vukovar. See *Koncert - 'Mi Smo Uz Vas' Potpora Silovanim Ženama* (2012) <<https://www.youtube.com/watch?v=eEmTgez-CFQ>> accessed 23 October 2018.

inviting [the] present day martyrs to stand up, those who had also sacrificed themselves for the nation'.⁵⁷⁶

Though the concert is significant because it depicts the way the Association constructs the 'nation's ideal victim' through the role of a contributor to the independence of Croatia, it is important to note that it did not reach a wide audience. For this reason, the documentary film, also titled *Sunčica*, is relevant for this discussion.⁵⁷⁷ The documentary⁵⁷⁸ is significant because most of the testimonies that it provides are no longer anonymous. The victims show their faces to the camera sometimes even stating their names, which is not the case in the book of testimonies where they had all remained anonymous. Sixteen testimonies were recorded, of which two are testimonies of male victims of wartime sexual violence, and two are not provided directly to the camera. The victims' testimonies in the documentary are very similar to the testimonies provided in the book, by which they follow a similar pattern: time and place, type of victimisation and present-day status. In the documentary, most of the victims do not speak explicitly about the acts of sexual violence, although specifics of their victimisation are listed in their written testimonies.

Although the documentary is focused on the victims' brave testimonies, its significance is in the discourse it uses and the narrative it promotes. It shows that the Association's representation of victimhood promotes an empowered and 'deserving' status, which is based on the victims' contribution to the independence of Croatia. For example, the chosen music and images imply that there is an intention to generate a connection between the victims and the Croatian nation-state. The documentary begins with a choir singing and images of the Blessed Virgin Mary and present-day Sunčica in the windows of a building that resembles a church. With this imagery, Sunčica, who symbolises the raped women of Vukovar, is placed at the same level of the Blessed Virgin Mary, thus implying a connection between the women victims and the Blessed Virgin Mary. This connection could be related to chastity, innocence, sacrifice or honour; all important

⁵⁷⁶ Udruga 'Žene u Domovinskom ratu', 'Vukovarske Sunčice – Žene Su Godine!' (n 572).

⁵⁷⁷ Nikola Knez, *Sunčica - Prešućeni Ratni Zločini Silovanih Žena u Domovinskom Ratu* (iFilms LLC) <<https://www.youtube.com/watch?v=iHdc8UYAYOM&t=15s>> accessed 23 October 2018.

⁵⁷⁸ It is a Croatian-American coproduction between the Association of Women in the Homeland War and iFilms, a film production company owned by the producer and director Nikola Knez, an American with Croatian roots. It is 43 minutes long and was filmed in several locations throughout Croatia.

qualities the Blessed Virgin Mary embodies and that are traditionally viewed as qualities Croatian women should have. In this sense, this connection is aimed at taking away any stigma that may be attached to the women victims in order to demonstrate their 'deserving' status.

Furthermore, the first minute of the documentary consists of a written introduction that clarifies the narrative of the documentary and the perspective it is taking:

Croatian heroines bravely endured terror and trauma of the war crime of rape; the perpetrators walking freely; and complete disregard from the state.

They speak the truth without calling for hate or revenge but are seeking justice for themselves and punishment for the perpetrators.

We thank them for surviving. We thank them for telling the truth.

We thank them for their courage to speak about everything once more, in the hope that their tired voices will awake our conscience.

They are the victims/sacrifice for the freedom of Croatia!

During the war, when Croatia had no power to protect them and today when it has forgotten them.

We thank the women victims.⁵⁷⁹

Words such as 'heroines', 'truth', 'surviving', 'courage', 'sacrifice', 'women victims' seem to imply that the documentary is essentially speaking about the women victims of wartime rape and that their survival, courage and sacrifice must be recognised. Furthermore, it demonstrates how the Association differentiates between the 'nation' and the 'state. The Croatian 'nation' is seen as not having the power to protect victims

⁵⁷⁹ Translated by author into English.

during the war. However, the Croatian 'state', which was established as a result of all the sacrifice, disregards the fact that perpetrators are walking freely.

Following the introduction, a song titled *Sokolov krik* (Eagle's shrill) by controversial Croatian singer Thompson begins with the words: 'Only love can transform this world', implying that the documentary has a reparative potential. The image of Sunčica and the Blessed Virgin Mary transforms into a flying bird over barbed wire in the rain, an image similar to the symbol used on the cover of the book of testimonies. The song makes several references to being Christian and having a duty to transform the world. Although these verses are not played in the documentary, they shed light on the discourse of the song and the way it has been used. I suggest that the use of this particular song is significant because of the relationship Thompson's music has with Croatian national identity as well as the controversies that exist in Croatian society about Thompson's songs.⁵⁸⁰

In essence, the use of this particular song by this particular singer further clarifies the Association's positioning on issues of Croatian national identity and nationalism. The documentary enforces the argument that Croatian women victims of wartime rape and sexual violence have through their suffering made a sacrifice for the independence of Croatia; therefore, are not passive victims but empowered contributors to nation-formation. In this sense, they are 'deserving' of recognition on equal terms as their male compatriots, the *branitelji*. In this sense, recognition comes in the form of comprehensive reparations that include monetary compensation. However, in order to strengthen the need and right to financial compensation, the Association's discourse goes beyond 'deserving'. It turns to point out the vulnerability of women victims regarding their financial circumstances while still reinforcing their image as empowered heroines of the nation.

⁵⁸⁰ Marko Perkovic Thomson is a nationalist singer who was nicknamed Thompson after the American machine gun. He is famous for his popular wartime song *Čavoglave* and for refusing to dismiss fascist symbols and slogans used by his fans during his concerts.

V. The nation's ideal victim is empowered, but financially vulnerable

The contradiction in the Association's representation of victimhood becomes evident with this final characteristic. Although Christie argues that the weaker the victim is, the easier he or she is given a victim status, I find that it is more complicated in the case of the Association's representation of victimhood. Based on my analysis of its discourse throughout the chosen period, it becomes evident that the Association does not wish to represent the victims as weak, nor does it want the public or government to view them as weak. In fact, through its work with the victims, it is evident that it aims to provide them with a sense of empowerment so that they may claim their rights. However, this becomes complicated because the Association is also campaigning for victims' rights to reparation, which among other things includes financial compensation. Even though international law supports victims' rights to compensation, it is the perception that the public and government have of the victims that will ultimately decide whether they will be awarded meaningful compensation. For this reason, I suggest that the Association emphasises the victims' financial vulnerability in addition to its empowered and 'deserving' status in order to put pressure on the state to accept its responsibility in relieving victims of their dire living situations.

This contradiction becomes quite evident in the final phase of the legislative process when the Ministry of Veterans' Affairs was deliberating about the most appropriate amount and type of compensation. One of these occasions was during a Roundtable that took place on 14 April 2014 to initiate a public discussion on the draft Law on Rights for Victims of Wartime Sexual Violence in the Homeland War.⁵⁸¹ It was organised by the Ministry of Veterans' Affairs and the UNDP as part of the partnership established between the Ministry, the UNDP and the Association to address the issue of wartime sexual violence in Croatia. Participants included Louisa Vinton, representative of the UNDP, who introduced the event, representatives from relevant ministries, academics, representatives from the civil society and members of the interested public.

⁵⁸¹ Media servis, 'U Zagrebu okrugli stol o pravima žrtava seksualnog nasilja u Domovinskom ratu' *Index.hr* (14 April 2014) <<https://www.index.hr/clanak.aspx?id=739705>> accessed 23 October 2018.

As the primary purpose of the Roundtable was to encourage discussion, the topic was primarily focused on financial compensation. Slišković's presentation at the Roundtable began with an emphasis on the systematic nature of the crimes. However, her major focus was on the pressing issue of the state not having resources for victims, while continuously finding resources for other causes. She highlighted the importance of monetary compensation for the victims by saying: 'I have been in daily contact with the victims, they live in difficult living situations'. She explained how it was not a matter of choice, but a matter of responsibility to provide victims with what 'they deserved'.

A few days after the Roundtable, Slišković gave an interview for an online news portal run by the civil society organisation 'In the Name of the Family'. She reemphasised her position by saying:

No monetary compensation can repair the damage suffered from rape, but it can definitely help victims deal with their trauma in a better way. The appropriate amount can be easily calculated. If you put on the paper that in the past 20 years victims had the right to compensation which will be determined and that they only received 500kn a month, they should receive 250 000 kunas today. It is not compensation; it is simply something the state owes them.⁵⁸²

In Slišković's statement, it becomes clear that compensation is something that the state owed the victims. Victims are not 'weak' but 'deserving' of this assistance. There is a sense in the way she speaks of monetary compensation, as well as of victims that she does not wish to represent the women victims as vulnerable and weak, but as 'deserving' and empowered. However, she refers to their dire living situations in order to demonstrate that the state has made them vulnerable by neglecting to recognise them and their contribution. Even though she represents empowered and 'deserving' victims, her reference to their living situations immediately portrays their vulnerability, thus framing them as even more 'deserving'. She reiterated this in her presentation at

⁵⁸² Marta Kušeković, 'Marija Slišković: Najvažnije je pomoći silovanim ženama, a do sada niti jedna vlada to nije činila' *narod.hr* (21 April 2014) <<http://narod.hr/hrvatska/marija-sliskovic-najvaznije-je-pomoci-silovanim-zenama-niti-jedna-vlada-nije-cinila>> accessed 23 October 2018.

the Regional Conference titled 'Sexual violence in armed conflict: Delivering justice for the past, preventing abuse in the future'.⁵⁸³

Not long after the Roundtable, the Ministry of Veterans' Affairs with the support of the UNDP and under the high patronage of the President of the Republic of Croatia organised a regional conference in Zagreb on 29-30 May 2014. Bringing together more than 120 government officials and members of the civil society throughout Southeast Europe, the purpose of the conference was to raise awareness, share knowledge and increase efforts of all governments and organisations working to give justice to victims of wartime sexual violence across Southeast Europe. The regional conference had received enormous support. Opening remarks were given by the following high-ranking individuals: Louisa Vinton, UNDP Resident Representative in Croatia; Ban Ki-moon, UN Secretary-General through a recorded video statement; Ivo Josipović, President of the Republic of Croatia; Predrag Matic, Minister of Veteran's Affairs; Vesna Pusić, Deputy Prime Minister and Minister of Foreign and European Affairs and Josip Leko, Speaker of the Parliament of the Republic of Croatia.⁵⁸⁴

The Association was invited to speak on two different panels. Slišković spoke on the panel which focused on reparations for sexual violence, along with other experts from the international community and civil society sector. Speaking about her work with the women victims from Vukovar, Slišković emphasised the importance of establishing trust with the victims and creating a sense of community. She explained how the sense of community empowered the women to make changes in their lives. One of these changes was undergoing holistic therapy as part of the UNDP funded programme 'I am more than my trauma'. Slišković explained how the women were transformed after their first intensive sessions but then had to return to their realities of dealing with only 200 Euros a month. By emphasising how empowered the victims were becoming, but then reminding the listeners of how vulnerable they were in their everyday lives, Slišković had

⁵⁸³ Udruga 'Žene u Domovinskom ratu', 'Izlaganje Marije Slišković Na Konferenciji o Seksualnom Nasilju - Večernjakova Blogosfera' (*Sunčica: ratni zločin nad ženama Vukovara*, 31 May 2014) <<https://bit.ly/2O4sfe8>> accessed 23 October 2018.

⁵⁸⁴ Croatian Ministry of Veterans' Affairs and UNDP, 'Concept Note and Agenda: "Sexual Violence in Armed Conflict: Delivering Justice for the Past, Preventing Abuse in the Future"' (Croatian Ministry of Veterans' Affairs 2014). On file with author.

combined two contradictory characteristics into one that I claim completes the construction of the nations 'ideal victim'.⁵⁸⁵

In summary, the analysis of the Association of Women in the Homeland War's discourse demonstrates how the right-wing, non-feminist women's group's representation of victimhood hinges on the construction of the 'nation's ideal victim'. The Association's construction of the 'nation's ideal victim' carries the attributes of being female, innocent and violated by the Serb aggressor, while also being considered an empowered contributor to the independence of Croatia that remains financially vulnerable. In the next section, I demonstrate how and why the Association's representation of the 'nation's ideal victim' takes the form of a silenced, sacrificial and compensable victimhood at different phases throughout the legislative process.

4. The three forms of victimhood: silent, sacrificial and compensable

I. Silent victimhood

Silence relating to sexual violence is not uncommon, particularly when the crime has taken place in wartime. It is also not unusual that silencing of wartime rape took place in Croatia following the Homeland War. As Žarkov explains in her analysis of Croatian and Serbian media reports and their representation of ethnicity, gender and sexuality, the rape of Croat women was hardly reported in Croatian media in the 1990s.⁵⁸⁶ Although rape took place within the territory of Croatia, the Croatian media mostly focused on stories of Serbian men raping Muslim women. The reason for this was to distance rape and the humiliation and stigma it produced from the Croat women and the Croatian nation. This way, the Croat woman and the Croat nation would be seen morally distanced from the victimised Bosnian bodies and the brutality of Serbian perpetrators.⁵⁸⁷

However, many Croat women (and men) were victims of rape and sexual violence during the Homeland War. Since the Croatian media actively portrayed only Muslim women as victims and Serbian men as perpetrators during the war, the newly independent

⁵⁸⁵ Udruga 'Žene u Domovinskom ratu', 'Izlaganje Marije Slišковиć Na Konferenciji o Seksualnom Nasilju - Večernjakova Blogosfera' (n 583).

⁵⁸⁶ Žarkov (n 362) 129–131.

⁵⁸⁷ Elissa Helms, 'Transformations of Gender, Sexuality and Citizenship in Southeast Europe: New Lenses for New, and Not so New, Times' (2015) 49 *Women's Studies International Forum* 101, 57.

Croatian state was complicit in the silencing of rape that took place on the Croatian side, of both its victims and perpetrators.⁵⁸⁸ As the silencing lasted for more than twenty years, it is not unusual that it dominates as a theme in the first phase of the Association's representation of the victims of wartime sexual violence. Breaking the silence around rape has also been a dominant theme in feminist thought and activism for decades, particularly in the field of international criminal law where feminist groups campaigned for rape to be recognised as a war crime and crime against humanity. However, the president of the Association, Slišković, and the Association of Women in the Homeland War do not identify as feminists. For this reason, their approach to breaking the silence around wartime rape has been different from Croatian feminist groups that have been working towards the same goal for many years.

Three events were crucial for breaking the silence of wartime rape. First, the publication of the book of testimonies titled *Sunčica* in 2011, which was followed by a book tour launched in Zagreb on 15 September 2011 in the 'Novinarski dom', the home of the Croatian Journalists' Association. The second event was the creation of the blog in 2012 titled *Sunčica – war crime against women of Vukovar*. The third event was the high-profile Roundtable on the topic of sexual violence in war and prosecuting perpetrators of wartime sexual violence that took place in April 2012, in Vukovar.

What becomes clear in all these three events is that that the issue of silencing relates only to Croat victims, whose suffering is depicted as a contribution to the defence and freedom of Croatia. As seen in the analysis of the book's forward and introduction, the silenced victimhood exclusively refers to a victim that is female, raped by the Serb aggressor, who is innocent because of her Croat identity. Although these features contribute to the construction of the 'nation's ideal victim', they also reinforce the narrative of silenced victimhood. Although the Association is attempting to break the silence, it is also unintentionally engaging in silencing of its own. Continuous references to women victims make the male victims of wartime sexual violence more invisible to the Croatian state and the public. Moreover, by reinforcing the idea that the perpetrator is Serbian, rapes committed by Croats and the Croatian Army are also made invisible. As

⁵⁸⁸ The Croatian media was completely controlled by the Croatian state during the Homeland War. See Žarkov (n 362).

demonstrated in the previous chapter, the issue of rapes committed by the Croatian army have been a controversial issue throughout the legislative process.

The second event refers to the Association's blog, which provides a general timeline of the Association's discourse and evidence of the shifts in emphasis that took place throughout the selected period. Amongst all the entries published throughout this first phase of the Association's discourse, two entries seem to have drawn the most attention and reveal the most about the Association's discourse about the silencing and representation of victimhood.⁵⁸⁹ The first entry demonstrates how the blog aims to 'raise Croatia's public awareness about the silenced crime of rape perpetrated during the defensive Homeland War in Croatia'. However, the second entry, published only a few days later, shows more reference to the issue of silence. Published on 1 March 2012, the blog entry titled 'Step by step...' provides an account of the progress the Association had made in breaking the silence of wartime rape.⁵⁹⁰ Apart from a meeting with representatives at Amnesty International (AI) in London upon AI's request, the blog entry shares a letter written to the Chief Editor of Croatian Radiotelevision (HRT, a Croatian public broadcasting company), Bruno Kovačević, regarding an episode of the series 'In medias res'.⁵⁹¹

In this letter, Slišković, in the name of the Association, questions the media's elaborate coverage of the promotion of Angelina Jolie's movie 'In the Land of Blood and Honey,' particularly in the light of the media silence towards the wartime rape crimes committed against the women of Vukovar. She describes the media's coverage as 'petty-bourgeois admiration' for a celebrity and her movie, emphasising that such a topic is highly sensitive and requires dignified coverage.⁵⁹² Although it would seem she is criticising the media's coverage of Jolie's movie promotion, essentially she is using the opportunity to bring attention to the crimes committed against the women of Vukovar.

⁵⁸⁹ This is based on the number of views found for this blog entry.

⁵⁹⁰ Udruga 'Žene u Domovinskom ratu', 'Korak Po Korak...' (*Sunčica: ratni zločin nad ženama Vukovara*, 1 March 2012) <<https://blog.vecernji.hr/suncica/korak-po-korak-1927>> accessed 23 October 2018.

⁵⁹¹ 'In medias res' was a daily informative show that would cover topics such as politics, economics, entertainment and sports.

⁵⁹² For more detail on local reaction to Angelina Jolie's film, see Elissa Helms, 'Rejecting Angelina: Bosnian War Rape Survivors and the Ambiguities of Sex in War' (2014) 73 *Slavic Review* 612.

To further emphasise the problem of silencing wartime rape in Croatia, in the letter Slišković asks why a Croatian documentary titled 'Oh God, why me?' about the testimony of a raped woman from Vukovar was not promoted equally. She concludes by calling to mind the Sunčica story: 'Is silence possible in light of the facts that an eight-month-old baby Sunčica was the youngest detainee? Why is no one speaking about this?'⁵⁹³

The Association's consistent reference to silencing dominates the years of 2011 and 2012, which coincides with the publication of the testimony book and its promotion around the country. The silent victimhood phase takes place before the Association began its cooperation with the Ministry of Veteran's Affairs. The period is best described as the campaigning period, which explains why the Association's discourse emphasised silent victimhood. However, as my analysis has found, the emphasis changed as the legislative process progressed. The Association's different emphases begin to loosely overlap when silent victimhood shifts to sacrificial victimhood.

II. Sacrificial victimhood

Loosely taking place from 2012 until 2014, what I term the sacrificial victimhood phase corresponds to the period when the partnership was established between the Association, the UNDP, the Ministry of Veteran's Affairs and the Swiss Embassy in Zagreb. This was also the period when the initial drafting of the law was taking place. The discourse within this phase puts a strong emphasis on the victims' role in the establishment of a free democratic state of Croatia. This emphasis is particularly highlighted in the forward provided by Rehak in the Sunčica testimony book, where he states that '...they played an historical role in the creation of the Republic of Croatia, through their sacrifices, which are immeasurable value, through their support, loyalty, participation, their bodies, and finally, their lives, the ultimate sacrifice'.⁵⁹⁴ The emphasis on sacrifice and bodies becomes central to the phase of sacrificial victimhood, perhaps because it is a way to make sense of the horrors the victims had experienced.

Although the Roundtable that took place in Vukovar in April 2012 was instrumental in breaking the silence regarding the rapes because it provided the space for some of the

⁵⁹³ Udruga 'Žene u Domovinskom ratu', 'Korak Po Korak...' (n 590).

⁵⁹⁴ Slišković (n 1) 22.

victims to speak out for the first time, the timing is significant for the phase of Sacrificial Victimhood. Taking place in the week leading up to Easter, the author of the blog entry makes a connection between the 'Stations of the Cross' and the women victims' testimonies in the Sunčica book. This connection is noteworthy because by connecting the victims' sacrifice to the sacrifice Christ made, their victimisation becomes even more innocent and deserving of recognition.

An event that demonstrates the complexity of this representation of wartime sexual violence was the classical music concert that took place in the Mimara Museum. As demonstrated earlier in the chapter, the use of the Gojsalić story attempts to frame women's victimhood as a contribution to the independence of the nation. This connection, of course, is closely linked to the idea of sacrifice, which reflects the overarching theme of this phase. Speaking about Gojsalić's sacrifice essentially implies that the women's victimisation is also sacrificial for the overall purpose of creating an independent Croatia. Although the *Mi Smo Uz Vas* concert that took place in the Mimara Museum was the first public event to represent sacrificial victimhood directly, it was not the first time similar references were made in the Association's awareness raising campaign.

The first glimpse of the sacrificial victimhood narrative is found in the introduction of the book of testimonies. Perceived by the author as a war of defence, people's victimisation or involvement in the Homeland War is viewed as 'their sacrifice' for the establishment of a free and independent Croatia. Additionally, in the introduction, the author emphasises the need to recognise the victims and their sacrifices because they are at the core of the establishment of Croatia. Essentially, in its first publication, the Association demonstrates that it bases its demand for victims' recognition on the argument that their sacrifice is central to the establishment of Croatia and for this reason, they are entitled to recognition, status and reparations.

Although the public greatly supported the classical music concert, its lack of coverage diminished its possibility of gaining prominence in the public discourse. This, however, was achieved with the documentary film and its promotion throughout Croatia, which I have addressed earlier in this chapter. As was demonstrated in the analysis of the discourse in the previous phase, silence was central to the Association's discourse early

on in the legislative process. As the Association's relationships with the UNDP and the Ministry are formalised, the need to frame victimhood within an acceptable narrative takes priority. In the sacrificial victimhood phase, the Association explicitly talks about the victims' sacrifice for the independence of the nation, thus demonstrating its compatibility with nationalist discourse. The discourse within this phase puts a strong emphasis on highlighting the victims' role in the narrative of the Homeland War in an empowered manner. Though this emphasis makes the victimhood of women' victims of wartime sexual violence compatible with the dominant discourse at the time, it shifts to an emphasis on financial compensation. In the final phase of the Association's discourse, compensation becomes central thus establishing the compensable victimhood phase.

III. Compensable victimhood

This final phase of the Association's discourse loosely covers the period of 2014 to 2015, where the dominant issue regarding the *Reparation Law* was the appropriate type and amount of financial compensation for the harm caused by sexual violence. In this phase, the initial cooperation between the Association and the Ministry of Veteran's Affairs continues but with tensions, which is evident by the diverging opinions on the type of compensation victims should receive. The Association's discourse primarily focuses on representing a victim that is empowered and deserving as a result of its contribution to nation-formation, but vulnerable because of its dire living standards. This feature of the 'nation's ideal victim' plays a dominant role in the discourse of this phase.

The Regional Conference on sexual violence that took place in Zagreb in May 2014 is significant for the phase of compensable victimhood. The two-day conference consisted of five panels. It began with a panel on the global context that framed the national efforts to address the rights of victims of wartime sexual violence and then continued with panels on national legal processes of recognition of victims, approaches to reparations for sexual violence and rehabilitation and advocacy. Its concluding panel was focused on lessons learned from Southeast Europe which could be shared with other countries and regions. The lessons drawn from this regional conference were aimed to be and were later, presented at the Global Summit of the Prevention of Sexual Violence Initiative on 10-13 June 2014 that took place in London.

The regional conference was held in English and Croatian supported by simultaneous translation. Moreover, it was broadcasted online through a live-stream and supported by a well-developed social media campaign under the slogan “#ActforVictims”, which was continuously used on Twitter, a social media platform, by several participants throughout the conference. The high-profile speakers and participants, the resources invested in making the regional conference as professional as possible, and the aim to share the lessons learned to the Global Summit in London speaks of how the issue of rights of victims of wartime sexual violence was received by both the Ministry of Veterans’ Affairs and the Government of Croatia. It also shows how invested in the issue both had been at that point in time.

I identify the conference as a critical point in the phase of the compensable victim because it symbolises national and international recognition of the Ministry’s efforts to sponsor the new legislation that would provide victims with recognition and compensation. However, it also demonstrates that the voices of the women victims from Vukovar, under the patronage of the Association, had been heard nationally, regionally and internationally and that their demands for financial compensation were being addressed.

The move towards wider recognition of victims is evident from the document produced by both the Ministry and the UNDP which was distributed to conference participants along with the agenda. In the paragraph describing the Croatian context, it says: ‘Survivors of wartime rape at present enjoy no special status, privileges or healthcare assistance, but a group of women survivors from the war-devastated town of Vukovar has recently come forward to demand their rights’.⁵⁹⁵ Although the Association is not explicitly acknowledged, the reference to ‘women survivors from the war-devastated town of Vukovar’ is essentially referring to the women victims from Vukovar who call themselves *Sunčice* and who had been continuously active with and represented by the Association. With this sentence, the Ministry seems to imply that the victims of wartime

⁵⁹⁵ The document was written in the form of a concept note. It begins with a brief description of the issue of sexual violence in armed conflict and sets Resolution 1670 of Parliamentary Assembly of the Council of Europe (2009) on sexual violence against women in armed conflict as the basis for pursuing the issue of rape in Yugoslav conflicts. It also briefly describes the Croatian context, the region and the world in relation to wartime sexual violence and then lists the aims of the conference. Croatian Ministry of Veterans’ Affairs and UNDP (n 584).

rape from Vukovar demanded their rights without any assistance from civil society. Moreover, it also seems to imply that the legislation was driven exclusively by victims' voices. Although this description is flattering for the Ministry and its efforts in creating legislation inclusive of women victims' voices, it is incomplete. The Ministry's incomplete description of victim activism in the Croatian context is problematic because by excluding the Association's role in the process the Ministry incorrectly represents the victims of wartime sexual violence, whom it claims were the driving force behind the new legislation.

The Association provided significant coverage of the Regional Conference in its Facebook group and blog. As demonstrated earlier in the chapter, Slišković's participation in the conference sheds light on the way the Association combines empowerment and financial vulnerability in order to further the demand for compensation. However, it is important to note that the Association's understanding of compensation is not the same as reparations in the form of financial compensation. The logic of compensable victimhood rests on an attribute of the 'nation's ideal victim' that refers to it being empowered and deserving but financially vulnerable, and not on the principle of redressing victims for the harms they had suffered. In other words, the Association's demands for compensation do not require the Croatian state to admit that it had not protected its citizens. Instead, its demands require the state to acknowledge the victims in equal standing with the *branitelji*, which it measures by reference to financial support. This comes from the Association's initial belief that reparations should come from Serbia and not from Croatia because the Croatian state had not done anything wrong.

The significance of the compensable victimhood phase is threefold. First, it demands meaningful compensation for victims of wartime sexual violence on the basis of victims being empowered and deserving, while also financially vulnerable. Second, through its framing of meaningful compensation, it attempts to break the gender hierarchy that exists in the narrative of the Homeland War. Finally, its emphasis on recognition in the form of financial support hints at the influence of neoliberalism and its relationship with right-wing groups. Though this relationship is outside the scope of this thesis, it is worth highlighting in order to demonstrate the complexity of the Association's emphasis on compensable victimhood. Mostly, the final phase in the Association's representation of

victimhood demonstrates just how complex the Association's discourse is in relation to gender and nation.

5. Conclusion

An analysis of the Association of Women in the Homeland War's discourse showed that its representation of victimhood hinges on the construction of the 'nation's ideal victim'. According to the Association, the 'nation's ideal victim' is female, innocent, violated by the Serb aggressor, contributor to the independence of Croatia, and empowered yet financially vulnerable. Moreover, it takes different forms throughout the legislative process, shifting from a silenced victim, sacrificial victim to finally a compensable victim. These shifts highlight the different emphases the Association made in its representation of victimhood throughout the selected period.

It becomes clear through this analysis that the Association had two principal aims throughout the legislative process: to empower women victims by ensuring that a meaningful reparation law was adopted and that the reparation law reflected the official narrative of the Homeland War. Though it may seem that the Association's aims are conflicting, by looking at its motivations and interests within a nationalist framework, it is possible to see how they are mutually dependent. In other words, it becomes clear how some of its actions were aimed at facilitating the potential for transformation on an individual level, thus directly transforming the lives of victims. However, the meaningful transformation of the victims' lives depended on a nationalist framing of victimhood that aligned with the official narrative of the Homeland War. In this sense, it becomes clear that the Association had no intention to challenge nationalist ideas of victimhood and gender. Instead, its representations of victimhood and gender were closely linked to Croatian nationalism. This particular representation was useful for evoking public support for the recognition of victims' rights but was also helpful when applying pressure on the Ministry of Veterans' Affairs.

A better understanding of the Association's motivations and interests, as well as the process that led to it gaining influence, has been provided. It is now possible to consider the implications of its participation on the legislation's potential to transform structural gender inequality in Croatian society.

CHAPTER 6

THE ASSOCIATION OF WOMEN IN THE HOMELAND WAR'S ROLE IN PROMOTING AND LIMITING THE *REPARATION LAW'S* TRANSFORMATIVE POTENTIAL

1. Introduction

In the previous chapter, I point out that increasing women's participation in peace and justice processes is important, but also risks making the assumption that participating women will represent the same universal ideas and interests that are somehow specific to women. By analysing the Association of Women in the Homeland War's discourse throughout the legislative process, my aim was to demonstrate that not all women's groups speak about victims of wartime sexual violence in the same way. I showed how the discourse of this particular women's group does not challenge nationalist ideas of victimhood and gender. Instead, when it speaks about victims of wartime sexual violence, it links victimhood to Croatian nationalism. I argued that through its discourse the Association constructed the 'nation's ideal victim' and with this representation of victimhood evoked public support for the recognition and formalisation of victims' rights, as well as applied pressure on the Ministry of Veterans' Affairs throughout the legislative process.

Building on this argument, my aim in this chapter is to illustrate how the participation of the Association of Women in the Homeland War, which represented victims of wartime sexual violence in a particular way, has significant implications for the legislation's potential to transform structural gender inequality in Croatian society. I argue that the actions of the right-wing, non-feminist women's group that conforms to the dominant nationalist discourse of the socio-political context influenced the process through which the legislation was realised from its inception to its adoption. Consequently, the *Reparation Law* is aligned to a particular nationalist discourse that severely limits the potential that this process and the resulting law have for the transformation of structural gender inequality in Croatian society.

The chapter is structured as follows. Firstly, I summarise how the Association of Women in the Homeland War's discourse and actions, from the period of 2011 to 2015, contributed to the legislation's inception and adoption in light of the socio-political context of the time. Then I discuss the ways the legislative process affected 'modest' transformations of structural gender inequality as a result of some of the Association's actions. Further, I explain how the *Reparation Law* is aligned to a particular nationalist discourse, and I clarify the Association's role in the process of this alignment. Finally, I conclude by explaining how the alignment of the *Reparation Law* to a particular Croatian nationalist discourse limits the legislation's potential for the transformation of structural gender inequality. The chapter concludes with three lessons to keep in mind when evaluating the legislation's implementation and embarking on the design of future reparation programmes or laws.

2. 'Modest' transformations of structural gender inequality: the legislative process and its transformative potential

The limited research that has been conducted on the topic of Croatia's *Reparation Law* has to some extent ignored the Association of Women in the Homeland War's role in the legislative process, as well as the potential the process and legislation could have on transforming structural gender inequality in Croatian society.⁵⁹⁶ The only published research conducted on this particular law was an early analysis of its strengths and weaknesses that also informatively pointed to its political character. Clark did not explore the Association's role in the process, but only mentioned in passing that the 2011 publication of the Sunčica testimony book and the subsequent release of the related film 'contributed to raising public awareness on the issue' of wartime sexual violence.⁵⁹⁷ In addition, her analysis only included the implementation phase and made no connections to transformative justice.

Apart from the published research, two Master's theses were written on the topic of Croatia's *Reparation Law*. The first acknowledged Clark's limited focus on the

⁵⁹⁶ See Janine Natalya Clark, 'In from the Margins: Survivors of Wartime Sexual Violence in Croatia and an Early Analysis of the New Law' (2016) 8 *Journal of Human Rights Practice* 128; Iva Bubalo, 'The Feminist Analysis of Croatian State's Post-Conflict Reconstruction Efforts to Address the Issue of Wartime Sexual Violence' (Master thesis, Central European University 2016); Jana Kujundzic, 'Wartime Sexual Violence in Croatia: Shifts in the Public Discourse' (Master thesis, Central European University 2014).

⁵⁹⁷ Clark (n 596) 132.

implementation phase and conducted an excellent examination of the process that led to the adoption of the *Reparation Law*. Although Bubalo's thesis only focused on the way the Croatian state had addressed the issue of wartime sexual violence throughout the process, she acknowledged that the 'role of non-governmental (mostly feminist and women's) organisations was significantly implicated in this process'.⁵⁹⁸ The second thesis was the only one to acknowledge the relationship between the Association of Women in the Homeland War and the *Reparation Law*. Kujundžić's thesis provided a limited analysis of the women's group's discourse in order to demonstrate the way the public discourse had shifted on the issue of wartime sexual violence since the early 1990s. However, in her attempt to demonstrate the link between public discourse and the legislation, her analysis did not go beyond the initial draft of the legislation.⁵⁹⁹

In contrast to the existing research, this thesis focused on the Association of Women in the Homeland War's role in the process that preceded the *Reparation Law's* implementation phase. In particular, it looked at how the Association's influence determined the course of events throughout the legislative process and the final outcome of the law. The aim of this chapter is to unveil the significant implications the Association's participation and influence have on the legislation's potential to transform structural gender inequality in Croatian society. In this section, I will begin by summarising how the Association of Women in the Homeland War's discourse and actions, from the period of 2011 to 2015, contributed to the legislation's inception and adoption in light of the socio-political context of the time. Then I will discuss the legislative process' potential for 'modest' transformations of structural gender inequality as a result of some of the Association's actions.

As a women's group established for the purpose of 'documenting the ways women contributed in the Homeland War' and encouraging remembrance of the Homeland War, the Association had a unique positioning in relation to other civil society organisations working on issues of women's empowerment or issues related to the Homeland War at the time. Through its collection of women's memories of the Homeland War, which the Association began prior to the publication of the Sunčica

⁵⁹⁸ Bubalo (n 596).

⁵⁹⁹ Kujundžić (n 596).

testimony book, it actively promoted a particular narrative of the Homeland War that aligned with the official narrative of the Homeland War. It is not unusual for a civil society organisation that declares defenders and victims as its target group to reinforce the official narrative of the Homeland War through its work. In this sense, the Association of Women in the Homeland War is very much like the other 1200 civil society organisations in Croatia that assist war veterans or victims. However, what is unique about the Association and its work is its focus on women within the context of the Homeland War. The memoirs initially published by the Association uncovered the different roles that women took on in the war. The collected experiences told by women depart from the usual stories of women in war, which tend to be focused on motherhood and victimhood. Instead, the memoirs reflect the women's sense of empowerment as a result of the many other roles they had to take on during the war. It is precisely the Association's emphasis on women's empowerment combined with an active encouragement of a particular narrative of the Homeland War that increases its influence within the process.

The intersection of nationalist discourse and women's empowerment, found at the core of the Association of Women in the Homeland War's discourse, is key to its participation in and its influence on the legislative process and the final outcome of the law. On the one hand, its use of nationalist discourse within a context that was dominated by nationalism provided it with a particular influence that feminist women's groups did not enjoy. By speaking in terms of the 'nation's ideal victim', the suffering of Vukovar victims was framed as an act of sacrifice for the greater cause of establishing an independent state of Croatia. Consequently, a link was established between the Vukovar victims' individual victimhood and Croatian collective victimhood, which also linked discussions on victims' rights to reparation to wider debates on the sanctity and truth of the Homeland War. With this discourse, the Association had the potential to gain the sympathies of the right-wing opposition, other victims' and war veteran groups, but also of the general Croatia public. Its sympathetic positioning is particularly evident in the way the media continuously covered its work in a positive light throughout the legislative process. By not challenging the official narrative of the Homeland War, but instead seeking to reinforce it, the Association's work was not challenged by right-wing

political representatives or right-wing civil society organisations, particularly the war veteran organisations that have political influence in Croatia.

On the other hand, the Association's emphasis on women's empowerment throughout its work and advocacy also attracted particular sympathies. Initially, I expected to see resistance come from feminist women's groups and the centre-left government that was in power at the time because of their different ideological positions. However, the media did not cover any resistance that may have taken place amongst the groups during the legislative process. Moreover, during my interviews with the members of the Ministerial Working Group, resistance did not arise as a theme. Instead, the majority of interviews emphasised cooperation amongst the women's groups and some disagreement between the different women's groups and the Ministry of Veterans' Affairs. The Association's emphasis on women's empowerment, even if set within the frame of nationalism, was a contributing factor to its cooperation with feminist women's groups within the legislative process, but also, to some extent, with the left-wing government that was in power at the time.

Apart from its discourse that was compatible with the dominant nationalist discourse of the time, it was the Association's actions from the period of 2011 to 2015 that influenced the course of the legislative process and the *Reparation Law*. As Clark also stated, the publication of the Sunčica testimonies book and subsequent release of the related film documentary raised public awareness on the issue of victims of wartime sexual violence in Croatia. Raising public awareness was key for the instigation of the legislative process, which the Association continuously worked on throughout the process. The publication of the Sunčica testimony book in 2011 prompted the promotion of the book throughout Croatia. The Association announced the dates and provided summaries of the events through its blog and social media account. The testimony book marked the first phase of the legislative process that was mostly focused on raising public awareness and gaining support from institutions like the Ministry of Veterans Affairs and the United Nations Development Programme.

The film documentary also played an essential role in the Association's public awareness raising campaign. Although it was produced and promoted towards the end of the legislative process, it kept the topic of wartime sexual violence and the need for victims'

rights in the public eye. More importantly, it placed wartime sexual violence in Croatia and victimhood within a nationalist frame, which was useful for reinforcing the official narrative of the Homeland War. This dual importance of the film was utilised by the Association when it arranged a viewing for the Croatian Parliament at the onset of its last reading of the legislation. As argued in Chapter 5, by priming the Parliament with powerful testimonies within a nationalist narrative, the Association ensured that the legislation would be adopted, but that it would also reinforce the ‘true’ narrative of the Homeland War.

In addition to the testimony book and the film documentary, the Association also acquired influence through its public appearances where it demonstrated its role in representing victims’ needs. During the first roundtable that took place in Vukovar in April 2012, the Association arranged for two victims of wartime sexual violence from Vukovar, who are also part of the Sunčica victims’ group, to share their testimony. Although feminist women’s group criticised this decision because of the potential of re-traumatisation, this public appearance placed the Association in an important position within the legislative process. It was recognised by both the UNDP and the Ministry of Veterans’ Affairs as a women’s group that included victims but also represented victims.⁶⁰⁰ This recognition is evident in the Association becoming a signatory party to the UNDP project titled ‘Rights and needs of victims of sexual violence in the war in Croatia—Unaddressed legacy of the war from 1991 to 1995’.

As the legislative process progressed towards the drafting of the legislation, the Association’s participation in the Ministerial Working Group placed it in a direct position to influence the direction of the legislation. In cooperation with feminist women’s groups, it vigorously pushed for the *Reparation Law* to ensure adequate financial compensation for victims in the form of a one-lump sum as well as a monthly pension. However, it also put pressure on the Ministry of Veterans’ Affairs to amend the working title of the law so that it would explicitly reflect the narrative of the Homeland War.

⁶⁰⁰ It is interesting to note that following this first Roundtable in Vukovar, the UNDP designed a comprehensive project, which it signed along with the Swiss Embassy, Ministry of Veterans’ Affairs and the Association of Women in the Homeland War. The project was titled “Rights and needs of victims of sexual violence in the war in Croatia—Unaddressed legacy of the war from 1991 to 1995” and comprised of a psycho-social support program for survivors ‘I am more than my trauma’, a policy paper and a research paper, and further awareness raising events through conferences and roundtables.

In addition to applying pressure on the Ministry of Veterans' Affairs within the Ministerial Working Group, the Association also applied public pressure on the Ministry by joining the ongoing war veterans' protests that were taking place during the legislative process. With its endorsement of the protests, the Association publicly declared its dissatisfaction with the draft law's definition of the perpetrator, which was considered insulting to Croatian war veterans. Its endorsement also coincided with internal disagreements within the Ministerial Working Group over the Ministry's initial recommendation of forming a victims' fund that would be regulated with a separate law and then the delays in securing funds for the legislation within the state budget. Although the public pressure over the definition of the perpetrator was important for the Association's goal of reinforcing the official narrative of the Homeland War, it also, to some extent, facilitated the Association's goal of gaining an appropriate compensation model for victims. The effect of the pressure is evident in the final draft law, which was released three months after the Association's press conference with war veterans. It removes Article 4 and includes the suggestions that the women's groups pushed for regarding financial compensation. Essentially, it can be argued that the action of joining the protest increased the Association's political influence within the Ministerial Working Group and led to changes in the draft law.

As argued in earlier chapters, the socio-political context that framed the legislative process was advantageous for the Association of Women in the Homeland War and contributed to it acquiring political influence. Although this thesis explores a number of significant events that took place during the legislative process, there was one particular event that instigated the advantageous atmosphere for the Association. The acquittals of Croatian Generals Gotovina and Markač created an atmosphere of relief and celebration in the Croatian public domain because they were perceived, and continue to be perceived, as confirmations of the 'truth' about the Homeland War. The 'truth' that was confirmed by the acquittals rests on the claim that the Homeland War was indeed legal and just and that the Croatian Armed Forces could not have committed war crimes if they were fighting a defensive, legal and just war. As a result, the acquittals revived the collective victimhood narrative within public discourse. Within this particular socio-political context, the Association began to raise the visibility of rape and sexual violence in the Homeland with discourse that conformed with the dominant discourse

at the time. This combination of context and discourse ensured that the topic of reparations for victims of wartime sexual violence became political capital for the Association. Consequently, the socio-political context was advantageous for the Association and helped it acquire political influence within the legislative process, particularly influence in the Ministerial Working Group and on the Croatian parliament.

The Association of Women in the Homeland War played an important role in the legislative process that led to the adoption of Croatia's *Reparation Law*. Through its particular discourse that conformed to the dominant nationalist discourse of the time and strategic actions aimed at achieving an acceptable legislation for victims that also reinforced the official narrative of the Homeland War, the Association acquired political influence. With this influence, the Association was able to push for the state to instigate the legislative process but was also able to influence the course of the process and the outcome of the law. Before discussing the major effects the Association's actions had on the legislation's transformative potential, I will first discuss the ways its actions had influenced the initiation of the legislative process and the process' potential to produce 'modest' transformations of structural gender inequality.

Ni Aolain, O'Rourke and Swaine have argued that a transformative approach to reparations for conflict-related sexual violence requires both a response to the immediate reparative needs of victims while also paying attention to social and economic obstacles that keep women from achieving full equality.⁶⁰¹ In contrast to the broader transformative reparations agenda set out by initiatives such as the Nairobi Declaration, this conceptualisation of reparations would consist of 'modest' potential for transformation.⁶⁰² The 'modest' potential aims to 'subvert, instead of reinforce, pre-existing structural gender inequalities'.⁶⁰³ Having examined the ways the Association of Women in the Homeland War influenced the legislative process, I argue that as a result of its actions the legislative process instigated a process of 'modest' transformation of structural gender inequality in Croatian society. The first change to point to transformation is the state's recognition of victims of wartime sexual violence through

⁶⁰¹ Ni Aolain, O'Rourke and Swaine (n 13).

⁶⁰² Rubio-Marín and de Greiff (n 111); O'Rourke and Swaine (n 21).

⁶⁰³ Rubio-Marín, *The Gender of Reparations: Unsettling Sexual Hierarchies While Redressing Human Rights Violations* (n 11) 66.

its initiation of the legislative process, subsequent inclusion of victims in this process and adoption of the legislation. The second change to point to transformation is the inclusion of women with different ideological perspectives in the legislative process, which resulted in the legislation adopting a gender-sensitive financial compensation model. Both changes have the potential to instigate a process of transformation that has the possibility of translating from the individual level to the collective level.

Scholars have noted that the idea of transformation will vary in different settings, depending on the 'local political context of gender, violence and transitional justice'.⁶⁰⁴ Following the war, the Croatian state was quick to address the needs of war veterans who were mostly men. However, for more than twenty years it neglected to address the rights of victims of wartime sexual violence who were mostly women. Indeed, rape and sexual violence were not reported on in Croatia as much as it was in Bosnia and Herzegovina. For one, the Croatian media focused mostly on the rape of Muslim women and very rarely mentioned the rape of Croatian women. There was also no official data on an estimate of victims. This changed with the recent UNDP study, which was conducted in response to the legislative process. Based on its analysis, up to 2500 individuals were subjected to some form of sexual violence in Croatia during the war, which were mostly women. Hence, I argue that the state's formal recognition of victims has the potential to produce 'modest' transformation in the Croatian context.

The commencement of the legislative process, the subsequent inclusion of victims in this process, and the adoption of the law point to the state's formal recognition of victims of wartime sexual violence. The Association of Women in the Homeland War's publication of the *Sunčica* testimony book played a significant role in the process of formal recognition. By breaking the silence about wartime rape and sexual violence in Croatia, it was able to push the state to acknowledge that the crimes took place and to ensure victims' rights to reparation were recognised. Moreover, the Association ensured that the (Vukovar) victims and their testimonies were at the centre of the legislative process. For example, some members of the Sunčica's victims' group actively shared their experiences throughout the process, which was in itself an empowering and

⁶⁰⁴ O'Rourke and Swaine (n 21) 1305.

transformative effect of the process. This particular example of empowerment was only possible as a result of the state formally recognising victims of wartime sexual violence.

Apart from sharing their stories at roundtables or conferences, victims were to some extent included in the drafting process.⁶⁰⁵ As part of the UNDP funded report titled 'Assessment of the number of sexual violence victims during the Homeland War on the territory of the Republic of Croatia and Optimal Forms of Compensation and Support to Victims', six women from Vukovar and Eastern Slavonia were interviewed by members of the research team and an additional four were interviewed by Marijana Senjak, who worked with them as a therapist. As Clark points out, only '6.8 per cent of the total number of survivors (147) were consulted'. However, regardless of the small percentage of consulted victims, their views were needed on a wide range of issues. For example, victims provided their views on the procedure for obtaining the victim status and the desirable model for compensation.

However, through the consultation with victims, it emerged that 'some victims believe that the right to the granting of status should be provided solely to Croatian civilians who suffered rape/sexual abuse during the Homeland War'.⁶⁰⁶ Moreover, it also emerged that 'some victims oppose the granting of status and rights to Serbian civilian victims, providing an argument that this amounts to the equalisation of the aggressor and the victim'. It should also be mentioned that the report found that some victims believed that the issue of ethnicity should not be included in the process of granting victim status. Finally, it emerged that 'the recognition of the status of a civilian victim of sexual violence would partially change the perception of their close environment and the wider public'.⁶⁰⁷ Essentially, victims provided guidance on what they deem as meaningful reparation. Although some did not express ethnicity as an issue, several expressed the need for legislation that did not also compensate Serbian civilian victims. Victims also confirmed that recognition of their personal sacrifice through a formal status would change the way they would be perceived by their families and their wider communities, such as in Vukovar. In this sense, formal recognition would have the

⁶⁰⁵ Clark (n 596) 136.

⁶⁰⁶ United Nations Development Programme in Croatia (n 498) 57–60.

⁶⁰⁷ *ibid.*

potential of transforming structural gender inequality because it would remove the stigma and shame attached to victimisation.

As a result of the Association's efforts, the state began the course of formal recognition by instigating the legislative process, including victims in this process and adopting the legislation. I argue that the course of formal recognition simultaneously initiated a process of 'modest' transformations of structural gender inequality. Firstly, the inclusion of victims' experiences and views in the legislative process produced a sense of ownership in those individuals who were included and set a precedent for future legislative processes. Essentially, this has the potential of transforming the way harms and victimisation specific to women are dealt with on an institutional level while setting an example for other women that they can also be agents of change. Secondly, as a result of including victims' views in the process, it was possible to shed light on how the course of formal recognition could remove the stigma and shame that is attached to victimisation. In this sense, the course of formal recognition in Croatia has the potential to transform the way women victims are perceived within their communities (particularly Vukovar), which could potentially change the course of their everyday lives.

However, the course of formal recognition has its limitations. Firstly, only some victims were included in the legislative process. The included victims were mostly from the Sunčica group, which are represented by the Association of Women in the Homeland War and support a particular narrative of the Homeland War. Indeed, their participation may not be an example of empowerment for victims who do not support their discourse or narrative of the war. In truth, their participation may be discouraging for victims of wartime sexual violence who are ethnically Serb. Secondly, there is also a problem with the way the participating victims perceive satisfactory and meaningful legislation. By expressing the view that the legislation should not include Serbian civilian victims, the victims essentially are advocating for discriminatory legislation. Consequently, the inclusion of a select group of victims in the legislative process has put a limitation on the process' potential to produce transformation of structural gender inequality because it is by default excluding victims that do not fit the 'nation's ideal victim'. These important limitations are explored in more detail later on in the chapter when I look at the major effects the Association's actions had on the legislation's transformative potential. The

next section will discuss the role women's inclusive participation had on initiating the process of transformation.

Scholarly analysis has stated that involving women in the design of reparations has the potential to promote women as 'valuable agents of political and social transformation'.⁶⁰⁸ It has also pointed to the benefits of increasing the participation of women from different contexts. Some argue that women's participation may increase the likelihood of reparations reflecting women's, not men's, experiences of violence, as well as their needs regarding redress.⁶⁰⁹ In the context of Croatia, the inclusion of women in the legislative process is not entirely a new development in itself. As illustrated in Chapter 3, the inclusion of women in public and political life can be traced back to the time of the socialist struggle against fascism. Women were called to join the Yugoslav Communist Party ranks and to fight as equals against fascism with the promise of equal status in the newly formed communist state. Unfortunately, they were not provided with complete social and political equality. As a result, the first women's feminist movements of the region were created for the purpose of establishing women's equality. With the outbreak of the war in the 1990s, the unified feminist movement divided into nationalist and antinationalist feminist groups as a result of the groups' different positioning on nationalism, victimhood and sexual violence.

This division amongst feminist women's groups in Croatia was long-lasting and further alienated other non-feminist women's groups. Although feminist groups, especially the Centre for Women Victims of War – Rosa, continued to assist victims of wartime sexual violence and were politically active even after the war, the unity that was formed amongst women prior to the conflict was tainted due to their different positions on nationalism and conceptualisations of wartime sexual violence. However, the process of drafting the *Reparation Law* prompted a change in terms of the unity of women's groups in Croatia. This research found that the legislative process promoted a more inclusive approach to women's participation. In other words, women's groups of different

⁶⁰⁸ Rubio-Marín and de Greiff (n 111) 324.

⁶⁰⁹ Madeleine Rees and Christine Chinkin, 'Exposing the Gendered Myth of Post Conflict Transition: The Transformative Power of Economic and Social Rights' (2016) 48 *New York University Journal of International Law and Politics* 1211; O'Rourke, "'Walk[Ing] the Halls of Power"?' (n 131); Catherine O'Rourke, 'Dealing with the Past in a Post-Conflict Society: Does the Participation of Women Matter? Insights from Northern Ireland' (2012) 19 *William & Mary Journal of Race, Gender, and Social Justice* 35.

ideological perspectives and different positioning on nationalism and wartime sexual violence united to secure legislation that would recognise victims of wartime sexual violence and provide them with their rights. Essentially, their alliance was created for the purpose of ensuring that victims of wartime sexual violence, who were mostly women, were recognised as equal citizens under the law.

As explored in Chapter 4, representatives from feminist women's groups and the Association of Women in the Homeland War created their own alliance during their participation in the Ministerial Working Group tasked to draft the *Reparation Law*. Referring to their alliance as the '*mala grupa*',⁶¹⁰ both the feminist and non-feminist women representatives stated that it was created to strengthen their position within the Ministerial Working Group. The group met at all hours and discussed proposed legislative changes and the ways each article and definition may affect the lives of the victims. They also prepared negotiation strategies for the purpose of convincing the representatives from the Ministry to take up their proposals. This was particularly the case when it came to defining the type and amount of financial compensation that would be granted with the legislation.

The alliance's ability to apply pressure on the Ministry of Veterans' Affairs and meaningfully represent the needs of women victims of wartime sexual violence produced a significant result: the legislation's gender-sensitive compensation model. Following intense deliberations, the alliance was able to secure a compensation model which includes a one-off compensation payment of '100,000 Croatian kuna (approximately 9,281 pounds sterling), or to an increase pecuniary compensation of 150,000 Croatian kuna (approximately 13,921 pounds sterling', as well as a "monthly pecuniary compensation amounting to 73 per cent of the budget base" (currently 2,427 Croatian kuna or approximately 226 pounds sterling)'.⁶¹¹ This dual compensation model plays an important role in the process of formal recognition of victims of wartime sexual violence, but also in confirming women as equal citizens.

⁶¹⁰ In English it means 'small group'. This is how my interviewees spoke about their alliance.

⁶¹¹ Clark (n 596) 134.

Victims are more likely to take financial compensation as a real sign of recognition if they perceive that the state had made a serious effort in providing this form of reparation.⁶¹² In the Croatian context, financial compensation caused great controversy throughout the legislative process. As mentioned earlier in this thesis, immediately after the war, war veterans, who are mostly men, were provided with a comprehensive welfare scheme that continues to provide them with monthly pensions. All payments and contributions made to war veterans come from the state budget, thus confirming the state's recognition of their contribution to the war effort. In this respect, it is not surprising that victims, and their representatives, demanded the same treatment from the state by refusing the idea of a victims' fund and insisting on the state to allocate resources within the state budget. The demand for meaningful financial compensation made by the women's groups' alliance is, in fact, a demand for the state to recognise victims, and women, as equal citizens. Consequently, by adopting a gender-sensitive compensation mode, the state has granted victims recognition which they deem meaningful but also confirmed women's equal status as a citizen. As a result, this form of recognition demonstrates the legislative process' potential to transform structural gender inequality.

However, as explored in Chapter 4, the process that led to the legislation adopting a gender-sensitive compensation model did not happen without trade-offs, which I argue place limitations on the legislation's potential for transformation. The feminist women's groups in the alliance had to make trade-offs in order to enforce the strength of the *mala grupa* and ultimately ensure that gender-just legislation was adopted. By placing their politics aside and not engaging in and challenging nationalist discourse when it arose within the Ministerial Working Group, the strength of the alliance was upheld and significant suggestions proposed by the alliance, specifically by the feminist women's groups, were included and adopted. Nevertheless, an inevitable consequence of this possibly strategic choice was the Association of Women in the Homeland War acquiring more influence within the Ministerial Working Group. This influence becomes particularly evident in the deliberations that took place over Article 4 in the Draft Proposal of the legislation that defined the perpetrator, and the last minute changes

⁶¹² Rubio-Marin, *The Gender of Reparations: Unsettling Sexual Hierarchies While Redressing Human Rights Violations* (n 11) 103.

made to the title of the legislation. Although the unity amongst the different women's groups helped initiate the process of transformation, it also indirectly contributed to the legislation's alignment to a nationalist discourse, which places significant limitations on the legislation's potential to transform structural gender inequality. The next section will explore how the legislation was aligned to nationalist discourse and what this means for the transformation of structural gender inequality.

3. The challenge of Croatian nationalism: the *Reparation Law* and its transformative potential

Victim reparations are inherently political. The way a given context conceptualises reparations will have significant implications for the interpretation of its past.⁶¹³ For this reason, when considering reparations' potential to transform structural gender inequality, it is important to understand how the political is involved in the conceptualisation of reparations and how this involvement may influence the transformative potential. Apart from considering the socio-political context, the political can be examined by considering how a given state chooses to legally conceptualise victimhood and how this conceptualisation interprets the past, legitimises the state's narrative of the conflict, or enforces a particular narrative of nationhood.⁶¹⁴ In Croatia, nationalism is closely intertwined with victimhood. As demonstrated in Chapter 2, Croatian nationalist discourse relies on a collective victimhood narrative for the purpose of legitimising its claim to historical statehood. As a result of the Homeland War, contemporary Croatian nationalist discourse increased its emphasis on the collective victimhood narrative and incorporated a gendered nature. Croatian nationalism's gendered nature recognises men, especially *branitelji*, as defenders and heroes of the nation and women as mostly sacrificial mothers and reproducers of the nation or anonymous victims of rape.

In this section, I look at the challenge that Croatian nationalist discourse presents to the legislation's potential to transform structural gender inequality. I argue that the *Reparation Law* is aligned to a particular nationalist discourse that severely limits the Law's potential for transforming structural gender inequality in Croatian society. First, I

⁶¹³ García-Godos (n 166) 126.

⁶¹⁴ García-Godos (n 166); Pablo de Greiff, *The Handbook of Reparations* (Oxford University Press 2006).

illustrate the way nationalist discourse ‘leaked into’ the *Reparation Law* while considering the role the Association may have played in this process. Then, I explain how the alignment of the *Reparation Law* to a particular Croatian nationalist discourse limits the legislation’s potential for the transformation of structural gender inequality. In order to illustrate how the law is aligned to Croatian nationalist discourse, I focus on the process of defining legal victimhood and how this process reinforced the state’s official narrative of the Homeland War. This section begins by looking at why the ‘perpetrator’ was included in the legislation’s final definition of ‘victim’. Then, it analyses the reasoning behind the decision to exclude Serb soldiers who suffered sexual violence during the war in Croatia from the benefits of the legislation. It also briefly addresses the last minute changes to the legislation’s title.

Human rights discourse commonly defines human rights violations in terms of victim and perpetrator. It seeks to identify the violations according to the individual that had been harmed and the individual that had inflicted the harm. Reparations, on the other hand, identify the victim according to a specific type of human rights violation. In this sense, it is the human rights violation that determines how the victim will be defined in order to provide guidance on what form of remedy should be administered. In the early draft of the *Reparation Law*, the victim of sexual violence in the Homeland War was defined in a clear and concise manner as ‘an individual who had survived one or several forms of sexual violence as listed in Article 2 of this Law’.⁶¹⁵ This early definition of victimhood was in line with international principles such as the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power which also defines a victim of crime according to harms suffered.

Although a definition of the perpetrator is not generally necessary when establishing legal victimhood, in the early draft of the legislation the perpetrator of sexual violence was conceptualised separately in Article 4 that stated:

Sexual violence can be committed by members of military or paramilitary units of the enemy army or armed and police forces

⁶¹⁵ Article 3 of the Draft Proposal

of the Republic of Croatia, or civilians that were incited or forced to commit sexual violence by these persons.

In this definition, the qualification of the perpetrator as a member of 'military or paramilitary units', 'armed and police forces' and 'civilians that were incited to commit sexual violence by members of armed forces' seems to be included in order to clarify the circumstances of the armed conflict. As with any initial legislative drafts, the sponsoring Ministry provides an annexed Explanation for each provision in the proposed legislation. The Explanation attached to the Draft Proposal of the legislation stated that the aim of the provision was to define the perpetrator of sexual violence as well as to ensure that the law protected all victims of sexual violence, including those victims who were victimised by individuals who were incited or forced to commit the crimes by military or police personnel. However, the Explanation makes no reference to the use of qualifying language in the provision.

The Assistant Minister at the time, Bojan Glavašević, clarified the use of qualifying language stating that the true purpose of the qualification was to ensure that the law also protected those who were victimised by Croatian armed forces, 'who were generally excluded, except when forced by law'.⁶¹⁶ Considering Glavašević's reasoning, I suggest that the provision's reference to 'enemy' forces and 'forces of the Republic of Croatia' leads to two interesting implications. The explicit qualification of the perpetrator clarifies that the legislation's initial conceptualisation of the perpetrator is inclusive of both sides of the conflict. Thus, it is seeking to interpret the past in a way that may deviate from the official narrative of the Homeland War. However, the use of the term 'enemy', which implicitly refers to Serbian forces, continues to reinforce the narrative of the war as provided in the Declaration of the Homeland War. Although the provision's aim seems contradictory, I suggest that its use of qualifying language points to the legislation's initial potential to challenge the identity of the innocent Croatian *branitelji*.

As mentioned earlier in this thesis, the Croatian *branitelji* embody a distinguished identity and are praised by the Croatian state for their contribution in the Homeland

⁶¹⁶ Interview with Glavašević (n 495).

War and the establishment of the independent state of Croatia. The general public has viewed prosecutions of *branitelji* at local courts or at the ICTY as attacks on the legitimacy of the Homeland War. In this sense, the Croatian *branitelji* not only embody a distinguished identity, but they also embody an innocent identity. I suggest that by challenging the innocent *branitelji* identity it is possible to challenge the official Homeland War narrative, which is based on the claim that the Croatian nation is an innocent victim of Serbian aggression. For this reason, I argue that the early legislation's definition of the perpetrator had the potential to keep nationalism out of the legislation. However, the potential was quickly quashed.

The initial draft of the legislation, the Draft Proposal of June 2014, passed the first parliamentary reading in the autumn of 2014. Although problems were raised concerning the Draft Proposal's definition of sexual violence and its approach to the administration of financial compensation, issues that would directly impact the legislation's effect on victims' lives, the parliamentary debate mainly focused on the inappropriateness of the definition of the perpetrator. As illustrated in Chapter 4, the initial definition proposed by the Ministry of Veterans' Affairs led to a lengthy and politically charged debate in Parliament. The opposition argued that the provision was disrespectful towards the *branitelji* population that had risked their lives fighting for the independence of Croatia because it implied that *branitelji* could also be perpetrators of sexual violence. One of the recommendations was to amend the definition by adding more qualifying detail, which would list all the potential perpetrator groups during the war.

As a result of the controversy that surrounded the Draft Proposal's definition of the perpetrator, the Final Proposal as an alternative amended its approach to defining victimhood. The Ministry of Veterans' Affairs dismissed the opposition's recommendation to amend the definition of the perpetrator with additional qualifying detail. Instead, as provided in Section V. of the attached Explanation to the Final Proposal, the drafters merged the two articles that separately defined the victim and perpetrator into one. The Ministry claimed that with this approach it could provide a more detailed definition of the victim and this way place victimhood at the centre of the legislation. Additionally, it emphasised that the article defining the perpetrator in the earlier draft was completely erased. However, the definition of the victim still includes

a reference to the perpetrator, which was justified as a necessity in order to ‘make a distinction from civilian perpetrators who are not subjects of this Law.’⁶¹⁷

The remnant of the perpetrator in the newly amended and adopted definition of the victim is evidence of nationalism ‘leaking into’ the legislation. The definition of a victim of sexual violence in Article 3 of the Final Proposal, and subsequently the adopted *Reparation Law* states:

For the purpose of this Law, a victim of sexual violence is an individual upon whom there has been committed, or who has in the circumstances of captivity been incited to commit upon oneself or a third person, one or many forms of sexual violence under Article 2 of this Act by military or a police officials, members of paramilitary troops and groups or by a civilian who has been incited or forced to commit sexual violence by these persons.

As evident in the formulation of the definition, the reference made to the perpetrator clarifies that it addresses non-civilian perpetrators.⁶¹⁸ The provision also takes the form of a broad definition in order to include both sides of the conflict. However, the controversy that led to this amendment was focused on the definition’s implication that *branitelji* could also be perpetrators of sexual violence. Therefore, the inclusion of the perpetrator in the definition of legal victimhood must be seen as more than just clarification of the context.

The war veteran protest that took place during the legislative process also points to the significance of the remnant. The main theme of the protest was the war veterans’ dissatisfaction with the Government’s attempts to equalise the aggressor and the victims. The protestors used Article 4 of the Draft Proposal as evidence of the Government’s disrespectful policy-making. Indeed, when the Association of Women in the Homeland War endorsed the war veteran’s protests, it also expressed its dissatisfaction with the Government’s treatment of war veterans. With its actions, the

⁶¹⁷ The legislation does not include civilian perpetrators who were not incited to commit rape or sexual violence. Crimes of sexual violence committed by civilians fall under the Criminal Code.

⁶¹⁸ It also includes civilians who were incited to commit sexual violence by non-civilian armed persons.

Association was reinforcing the identity of the innocent *branitelji*. For this reason, I argue that the *Reparation Law's* definition of victimhood, which includes a remnant of the perpetrator, is more than just a qualification of the context. The process that led to the final definition points to its relationship with the identity of the innocent *branitelji* and the legislation's quashed potential to challenge this identity. Essentially, the definition of legal victimhood is evidence of the legitimisation of the official narrative of the Homeland War, which reinforces the claim that Croats are the collective victims of Serbian aggression. This reinforcement of the collective victimhood narrative allows for nationalism to 'leak into' the legislation. It aligns the *Reparation Law* to Croatian nationalist discourse.

Scholarship dedicated to examining victimhood in the context of transitional justice identified a hierarchy of victimhood based on the 'innocence' of victims. As illustrated in Chapter 1, distinctions were made between 'good' and 'bad' victims, which eventually led to some victims being identified as more deserving of legal recognition than others. Although the early drafts of the *Reparation Law* provide no evidence of the hierarchization of victimhood, this changed after amendments were made to the legal definition of victimhood. In the Final Proposal of the legislation and the adopted *Reparation Law*, an additional clause was included under Article 14. The aim of Article 14, as expressed in its attached Explanation, was to define the status of victimhood and the conditions that had to be met in order for the status to be recognised.

Article 14's additional clause is additional evidence of the legislation's alignment to nationalist discourse. The problem with the clause is that it adds an exclusionary element to the status. The fourth condition requires that the:

... party was not a member, collaborator or did not assist in any way the enemy military or paramilitary groups, or was not convicted of cooperating with enemy military or paramilitary groups for the purpose of destabilising the constitutional establishment and security of the Republic of Croatia.

According to the Explanation attached to the Final Draft Proposal, the provision means that 'all members of hostile military and paramilitary forces are excluded from

realisation of the rights laid down by the Law.’ In other words, the clause excludes those victims of sexual violence who are citizens of the Republic of Croatia and had resided on the territory of the Republic of Croatia during the time of their victimisation but were also members of Serbian military or paramilitary forces. Simply put, it does not treat all victims of wartime sexual violence equally.

The added clause to Article 14 establishes a hierarchy of victimhood based on the idea of a deserving victim. Although, the decision to exclude Serbian soldiers was because the Ministry ‘felt that it would be inappropriate for potential perpetrators to be included in the same law as their victims’.⁶¹⁹ I agree with Clark that this justification is not convincing because ‘it seems to assume that any Serb soldiers who suffered sexual violence were, simply by virtue of their ethnicity, also possible perpetrators’. This attitude is also reflected in the way the Association spoke about perpetrators of sexual violence. The president of the Association of Women in the Homeland War emphasised that the difference between rapes committed by individuals who were in some way deviant and rapes committed as part of a strategy of war.⁶²⁰ In other words, she was pointing to the fact that rapes committed by Serbian perpetrators were part of a war strategy.

Although Article 5 of the legislation states that ‘the principles of gender equity and equality, without discrimination of parties on any grounds, shall be applied,’ Article 14 excludes the ‘undeserving’ Serbian victims of wartime sexual violence and implicitly promotes the identity of the innocent and deserving Croatian victim. Essentially, the provision is making an ethnic distinction between ‘our’ victims and ‘their victims’ of wartime sexual violence. With this distinction only ‘our’, ‘deserving’ victims should be beneficiaries of the Law. Indeed, Article 14 has also allowed for nationalism to ‘leak into’ the legislation, thus aligning the *Reparation Law* to Croatian nationalist discourse.

Finally, the legislation’s title is evidence of how the *Reparation Law* aligns to Croatian nationalism. When the final draft of the legislation entered the second parliamentary reading, it was entitled the *Law on the Rights of Victims of Sexual Violence in the Homeland War*. On the day of the second reading, the Association of Women in the

⁶¹⁹ Clark (n 596) 140.

⁶²⁰ Interview with Sliskovic

Homeland War arranged for the Croatian Parliament to watch a screening of the Sunčica film documentary. Recalling what I discussed in Chapter 5, the film's particular use of language, music and imagery frames the sixteen recorded victim testimonies in a nationalist manner. Essentially, it frames the victims' suffering as a sacrifice and contribution to the independence of the Croatian state. In addition to promoting the imagery of women heroines as a result of their sacrifice, the film documentary is also reinforcing a narrative of the Homeland War that places Croats as the innocent victims of Serb aggression. This collective victimhood narrative is evident in the way the documentary makes no reference to Serbian victims of wartime sexual violence. Following a screening of an extremely dramatic and politically charged film, the Croatian Parliament proceeded to discuss the final draft proposal of the *Reparation Law*. It is sufficient to say that the parliamentary discussion focused on the legislation's reflection of the Homeland War. Only nine days later, the title was changed to the *Law on the Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War* and adopted as such. It is unclear whether the Association of Women in the Homeland War pushed for this change in the title, or whether this was insisted upon by right-wing parliamentary representatives. Nevertheless, as Clark points out, the change reinforces a nationalist sense of 'us' and 'them' implying that the *Reparation Law* is for 'Croat victims of Serb-perpetrated sexual violence'.⁶²¹ In other words, the last minute changes to the legislation's title further demonstrate the *Reparation Law's* alignment to Croatian nationalism.

In summary, the process of defining legal victimhood status led to the reinforcement of the state's official narrative of the Homeland War and ultimately aligned the law to Croatian nationalist discourse. Three actions led to this alignment. First, the 'Serbian perpetrator' was continuously emphasised throughout the legislative process and in the final version of the law. This was evident in the way the parliament discussed the legislation, the Association's endorsement of the war veterans' protest and ultimately, the Ministry's decision to leave remnants of the perpetrator in the definition of legal victimhood. Secondly, the legislation legitimised the hierarchization of victimhood. This hierarchy is established with the inclusion of the additional clause under Article 14 in the final draft of the legislation. The article ambiguously excludes a category of victims

⁶²¹ Clark (n 596) 138–141.

of sexual violence based on ethnicity. In this way, the status of victimhood depends on whether the victim of sexual violence is a 'deserving victim'. Finally, the way the title of the law was changed at the last moment to include 'armed aggression' also points to the law's reinforcement of the official narrative of the Homeland War and its alignment with nationalist discourse. The emphasis on 'armed aggression' is an explicit reminder of Serbian aggression on Croatia and implies the Law is only for Croat victims of sexual violence. In essence, the alignment of the legislation to nationalist discourse is problematic because it poses a challenge for the reparation law's potential to transform structural gender inequality. The following section clarifies how this alignment is problematic. It concludes by pointing to lessons one must consider when analysing the legislation's implementation and embarking on the development of future reparations programmes in nationalist contexts.

In order to clarify how the legislation's alignment to nationalism limits its potential for transformation, it is important to consider the relationship between nationalism and gender⁶²². Nationalism is inextricably linked to gender because nationalist discourse both constructs and depends on particular notions of gender in a given society. As Yuval-Davis has theorised, in nationalism 'gender relations play crucial roles, constructing notions of femininity and masculinity, naturalise power relations and reproduce biologically, culturally and symbolically national collectivities'. In essence, nationalist discourse produces a gender hierarchy that is normalised through the different roles women and men are given within society.

Within this hierarchy, women are generally depicted as the biological and cultural reproducers of the nation and kept within the private sphere, while men are cast the role of protectors of the nation and dominate the public sphere. Consequently, these gendered notions of what it means to be female and male may translate into state policies. For example, the role of women as 'biological reproducers of group members' will manifest itself through policies that reinforce women's roles as mothers by providing 'financial rewards' to those women that have more children. It will also manifest itself through policies that restrict women's access to contraception and

⁶²² Gender is 'a social construct, based on biology but determined by the roles that are traditionally assigned and played by men and women' as used in Rees and Chinkin (n 609).

abortion.⁶²³ As mentioned in Chapter 2, these examples resonate with the policies that were pushed for in Croatia in the 1990s following the Homeland War. In addition, legislation that governs issues such as child custody, marriage and property rights will be used by the state to determine who is eligible for 'membership in the state'.⁶²⁴ Nationalism manifesting itself through policies further reinforces gender hierarchies. In essence, such policies impose legal restrictions on women citizens, thus strengthening structural gender inequality.

Furthermore, gendered nationalism also links to sexuality, particularly emphasising heterosexual relations within the patriarchal family structure, which is supported and reinforced by the state.⁶²⁵ In particular, women's sexuality plays an important role in nationalist discourse because women symbolise the nation, and as wives and daughters are placed as 'bearers of masculine honour'. Therefore, any deviation from the appropriate sexual behaviour will 'bring dishonour to the nation, and thus to men'.⁶²⁶ Such links between nationalism, sexuality, femininity and masculinity become particularly acute at times of conflict when women are often victims of rape and other sexual violence by virtue of their membership in a particular national/ethnic group. This was particularly the case in Homeland War. However, even at 'peacetime', it becomes clear that in contexts where there are ideal heteronormative expressions of femininity and masculinity 'women's distinctive susceptibility to men's violence arises'.⁶²⁷ From 2000 to 2010, there were a total of 6625 reported cases of sexual violence in Croatia.⁶²⁸ In 2013, eight women were killed by their intimate partners.⁶²⁹

For this reason, when considering how nationalism constructs gender and manifests itself through policies, it becomes clear that aligning the *Reparation Law* for victims of wartime sexual violence to nationalist discourse severely limits its potential to subvert the pre-existing gender inequalities in Croatian society. Instead, it presents a risk of being seen as a legitimisation of gendered nationalism according to which women

⁶²³ Peterson (n 4).

⁶²⁴ *ibid.*

⁶²⁵ *ibid.*

⁶²⁶ Joane Nagel, 'Masculinity and Nationalism: Gender and Sexuality in the Making of Nations' (1998) 21 *Ethnic and Racial Studies* 242, 256.

⁶²⁷ Swaine (n 90) 33.

⁶²⁸ M Mamula and others, 'Sexual Violence in Croatia 2000-2010' (Women's Room).

⁶²⁹ 'Combating Violence against Women: Croatia' (European Institute for Gender Equality) <eige.europa.eu/sites/.../2016.5479_mh0216773enn_pdfweb_20170215100604.pdf>.

embody the roles of ‘mothers of the nation’ and men continue to ‘defend the nation from any type of dishonour’. There is also a risk in the example that such a law sets for future legislative processes. Instead of paying attention to the way nationalism and gender intersect in Croatia when drafting legislation, policy-makers may pass policies that further reinforce nationalist conceptualisations of gender. In summary, there is a relationship between gender and nationalism in Croatia, which manifests itself in the gender hierarchies nationalism reproduces in Croatian society. Consequently, this is a problem for the aims set by those promoting transformative reparations.

In her 2010 report, *Special Rapporteur on Violence against Women, Its Causes and Consequences*, Rashida Manjoo, stressed that ‘reparations for women cannot be just about returning them to the situation in which they were found before the individual instance of violence’.⁶³⁰ Instead, reparations should also provide a guarantee of non-repetition. This would mean looking for ways to ‘subvert instead of reinforce pre-existing patterns of cross-cutting structural subordination, gender hierarchies, systemic marginalisation and structural inequalities that may be at the root cause of the violence that women experience before, during and after the conflict’.⁶³¹ As expressed in the 2014 *Guidance Note of the Secretary-General on Reparations for Conflict-Related Sexual Violence*, the design of reparations should be ‘guided by their potential to be transformative’ by including meaningful participation and consultation of women and victims.⁶³² However, as demonstrated in this chapter, nationalism, particularly Croatian nationalism, presents a challenge for the transformative justice aims set by scholars and policy-makers.

Croatian nationalism’s inextricable link to gender impacts the potential reparations may have to transform structural gender inequality. First, it risks being seen as a legitimisation of gendered nationalism in Croatia, thus missing the opportunity to challenge gender hierarchal roles in Croatian society. Second, it risks setting a bad example for future legislation and potentially allowing for the return of policies that were pushed for in the early 1990s. But most importantly, it severely limits the *Reparation Law’s* potential to guarantee non-repetition. The alignment of the

⁶³⁰ Manjoo (n 17) para 85.

⁶³¹ *ibid* 24.

⁶³² Office of the United Nations High Commissioner for Human Rights (OHCHR) and UN Women (n 19) 9.

Reparation Law to nationalism has further reinforced the idea that wartime sexual violence is the worst form of violence and missed the opportunity to trigger discussions about everyday violence against women in Croatia. Consequently, it is essential to keep in mind two points. First, the *Reparation Law*, as adopted, has only the potential to address the immediate needs of some victims of wartime sexual violence in Croatia. Second, it is unrealistic to expect Croatia's *Reparation Law* to subvert pre-existing patterns of gender hierarchies when the nationalist discourse it is aligned to promotes the reinforcement of structural gender inequality.

4. Points to consider for scholarship and policy

As clarified with this chapter, this Croatian case study is important for both scholarship and international policy working on transformative justice and reparations because it provides a challenging and novel analysis of how the participation of a right-wing, non-feminist women's group facilitated a reparation law's alignment to nationalism, consequently limiting its potential to transform structural gender inequality in Croatia. Based on my findings and conclusions, I present three points for consideration when evaluating the *Reparation Law's* implementation. These points should also be considered by those who will be involved in designing transformative reparations in nationalist contexts in the future.

One of the key lessons to emerge from this research was that the inclusion of women and victims might not necessarily lead to developing reparations that aim to transform structural gender inequality. As demonstrated, both transformative justice and feminist scholarship, as well as international policy on transitional justice, are increasingly calling for the design process of reparations to become women-centred. The idea is to have reparations designed from the bottom-up, and this is possible only if women and victims from the affected context are included from the moment the process has been conceived. Their inclusion, especially the inclusion of all women and victims regardless of their viewpoints, is important for developing a meaningful reparation program or law. However, I would like to stress the importance of considering whether the included and participating parties are fairly representing all women and victims.

It becomes evident in this case study that the process included victims and women. As then-Assistant Minister Glavašević likes to emphasise, 'it needed to be a law written by

women, for women'.⁶³³ However, through closer inspection, it becomes clear that there were significant power imbalances amongst those participating in the process. For this reason, it is also important to consider the power relations amongst the participating parties and the sources of the power. Although the feminist women's groups had some political power, considering their ideological perspective to some extent aligned with the Government's centre-left ideology at the time, the source of the right-wing, non-feminist women's groups power came from a discourse that was dominant at the time and that was embedded in both the way the nation-state was formed and reinforced. Essentially, any unequal power distribution amongst the participating women and victims can affect the outcome of their contribution. More importantly, scholarship and policy analysis must consider what conceptualisation of victimhood is being fostered through the participation of women and victims in order to avoid the implementation of any victim hierarchies that may emerge from intersections of different identities, such as gender and ethnicity.

The second lesson to emerge relates to the development of reparation programmes or laws exclusively dedicated to addressing the rights of victims of wartime sexual violence. An exclusive reparation law or programme developed in a context saturated with exclusionary nationalist discourse may inevitably reinforce gender inequality. As studies have shown, in order to break the silence surrounding wartime rape and sexual violence and remove the stigma attached to these violations, it is important for the state to denounce the crimes and acknowledge the victims at a national level. Initiatives promoted by the government are more likely to regain the trust of citizens and to also promote a guarantee of non-recurrence. Interviews with victims conducted as part of the UNDP sponsored sociological research showed that victims considered acknowledgement from the state, in the form of a law, a sign of meaningful recognition. However, I would like to point to a problematic outcome if reparative justice at a national level exclusively prioritises sexual violence. An exclusive focus on sexual violence in a nationalist context suggests that this crime and violence is the worst harm and only harm that women (and men) have suffered in conflict. As pointed out: 'it risks reducing women's lives to a sexual dimension and the entrenching of patriarchal systems of meaning which sanction women's sexual purity or chastity as of utmost

⁶³³ Interview with Glavašević (n 495); The same quote was found in Clark (n 596) 132.

important'.⁶³⁴ Furthermore, such exclusivity fails to address other gendered harms that both women and men suffer, in conflict and post-conflict, in the public as well as in the private domains.⁶³⁵

Finally, I would like to point to the involvement of international bodies, such as the UN or the EU. Their involvement in processes designing and implementing reparation programmes in nationalist contexts may be used by local grassroots movements to put pressure on the state in ways that may not produce social transformation or the transformation of structural gender inequality. There is evidence that international support in the form of expertise or financial assistance has the potential to greatly assist a state in the pursuit of justice. In Croatia, the assistance of the UNDP provided expert opinions, funded the important sociological study on conflict-related sexual violence in Croatia, and funded the psychosocial programme 'I am more than my trauma'. These are all significant contributions that helped those directly working with victims and their needs to effect a substantial transformation on the individual level.

In a way, the UNDP's involvement demonstrates a turn in the way the international community addresses post-conflict issues and resonates with calls for 'the international community [to] focus on broader and deeper social transformation of post-conflict situations'. This was particularly emphasised by Subotić in her study of institutions established to deal with the legacies of violence in the aftermath of the Yugoslav war, having observed how 'international efforts can be used to pursue different local goals' such as getting rid of domestic political opponents.⁶³⁶ Advocates for transitional justice to embrace transformative justice aims have made similar suggestions. Gready and Robins argue that 'outside engagement with communities in transition – is about creating space in which locally led transformation can occur and facilitating change through the provision of resources, material and intellectual'.⁶³⁷

However, and most importantly, outside engagement may need to consider how the locally led transformation will use its assistance. International bodies may need to come

⁶³⁴ Ruth Rubio-Marín, 'Reparations for Conflict-Related Sexual and Reproductive Violence: A Decalogue' (2012) 19 *William & Mary Journal of Women and the Law* 69, 72.

⁶³⁵ Swaine (n 90).

⁶³⁶ Jelena Subotić, *Hijacked Justice: Dealing with the Past in the Balkans* (Cornell University Press 2009).

⁶³⁷ Gready and Robins (n 98).

to terms with the fact that some locally driven transformations will not produce the outcomes that the outside engagement expected. The Croatian case study shows how the Association of Women in the Homeland War repeatedly referred to the UNDP's financial support when putting pressure on the Ministry of Veterans' Affairs to speed up the legislative process, but also implicitly to accept those suggestions it deemed important. I would suggest that the UNDP's assistance was used by the Association as a bargaining chip for ensuring that both of its goals were met: recognition of victims' rights and the reinforcement of the official narrative of the Homeland War. Both goals are essentially inextricably linked. This is a valuable lesson to consider when promoting justice from below with assistance from international bodies.

5. Conclusion

Since Rubio-Marin's pioneering work on the topic of transformative reparations, scholars have continued to explore 'the meaning, realisation and viability of transformative reparations for victims of sexual violence in post-conflict contexts.'⁶³⁸ They have looked at the design and implementation of reparations through national courts, truth and reconciliation commissions and women's hearings and evaluated different contexts' capacity to challenge the recurrence of sexual violence against women.⁶³⁹ Central to most of the claims made in the research on transformative reparations is that including women's and victims' voices is important for an 'effective and appropriate design and implementation of a reparative process and outcome'.⁶⁴⁰ Building on this research, my aim with this chapter was to question the idea that women's and victims' participation in the design of reparations would contribute to establishing its transformative potential. As my case study of Croatia's *Reparation Law* shows, the participation of a right-wing, non-feminist women's group played an important role in aligning the reparation law to nationalist discourse. With nationalism 'leaking into' the legislation, a particular interpretation of the past was legitimised. As discussed in this chapter, this legitimisation is problematic, not only because it creates limitations to the way victims of the Serbian minority will be able to benefit from the

⁶³⁸ Andrea Durbach, Louise Chappell and Sarah Williams, 'Foreword: Special Issue on "Transformative Reparations for Sexual Violence Post-Conflict: Prospects and Problems"' (2017) 21 *The International Journal of Human Rights* 1185, 1186.

⁶³⁹ Duggan and Abusharaf (n 203).

⁶⁴⁰ Durbach, Chappell and Williams (n 638) 1189.

Law, but also because it further reinforces gendered nationalism, and thus presents a significant challenge for the potential of the *Reparation Law* to transform structural gender inequality in Croatia.

CONCLUSION

'Twenty years later, independent and free Croatia has no justification for remaining silent about the crimes of the aggressor. The victims contributed not only to the defence, but to the establishment of a free, democratic state of Croatia. It is not and will not be free or democratic until it has the strength to demand justice, punishment, and compensation from the aggressor state, as well as the validation of the sufferings of each and every victim. The "Stations of the Women's Cross" in Vukovar call for human rights to be a prerequisite for future peace'.⁶⁴¹

Marija Slišković formed the Association of Women in the Homeland War with the purpose of collecting women's memories of the Croatian Homeland War. She aimed to highlight women's role in Croatian history and to reinforce a particular memory of the war. In the process of collecting women's testimonies, she uncovered that several women mentioned 'interrogations', which she realised were ways of talking about rape. As a result of her discovery, the Association of Women in the Homeland War published 'Sunčica', a book of testimonies, and initiated and influenced the process of drafting and adopting Croatia's *Law on the Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War*. In the quote above, Slišković is warning the readers of *Sunčica* that an independent and democratic Croatia means a Croatia that recognises the contribution of the victims and demands justice from the 'aggressor state'. This sentiment frames the Association's involvement in and influence on the legislative process and the outcome of the law, which has significant implications for the law's potential to transform structural gender inequality in Croatian society.

With the aim of contributing to knowledge about women's participation in transitional justice processes, this thesis interrogated the assumption that women's inclusion in the design of reparations increases the likelihood of a transformative process and a transformative outcome. The notion of 'women's participation' is one of the central themes in feminist scholarship on transitional justice and in UN policies on transitional justice and peacebuilding. Generally, it means increasing the representation of women

⁶⁴¹ Slišković (n 1) 13.

at all levels of decision-making in international and national institutions and all phases of transitional justice and peace-building processes. Specifically, in terms of reparation processes for victims of conflict-related sexual violence, the call for increasing 'women's participation' refers to the inclusion of local women's groups and women victims from the conflict-affected area in the design, implementation and evaluation of reparation processes.

Participation 'remains an ambiguous objective' because there is not enough clarity about why women's participation is important and what form this participation would take.⁶⁴² Regarding reparations, it is assumed that it would ensure the inclusion of women's experiences and suggestions in the reparation programme or law and this way facilitate the goal of transforming structural gender inequality in a society. However, this assumption rests on a problematic belief that women share a set of universal values. Though existing scholarship has mostly uncovered the structural obstacles that place limitations on women's participation in reparations processes, there is little knowledge about how women's participation may complicate the transformative potential of reparations. In response to this gap in existing literature, which inevitably informs international policy on gender and transitional justice, this thesis conducted a case study analysis of the role of a Croatian right-wing, non-feminist women's group in the process of drafting and adopting a reparation law for victims of conflict-related sexual violence. It considered how the implications of its involvement might impact the reparation law's potential to transform structural gender inequality in Croatian society. The thesis was guided by the question: 'What does right-wing women's participation mean for the potential of Croatia's reparation law to transform structural gender inequality in Croatia?'

A review of the developments in the field of transitional justice point to an increasing turn towards transformative justice, which in relation to transition calls for the inclusion of more grassroots groups and victims groups in order to move away from top-down approaches to justice (Chapter 1). It also calls for justice mechanisms to address structural inequalities that allow violence, especially violence against women, to persist.

⁶⁴² Catherine O'Rourke, 'Feminist Scholarship in Transitional Justice: A de-Politicising Impulse?' (2015) 51 *Women's Studies International Forum* 118, 124.

Identified as one of the more able mechanisms to pursue a transformative approach to justice, 'transformative reparations' aim to address the immediate needs of victims as well as to subvert pre-existing structural gender inequality. This form of reparation, which requires the inclusion of women and victims at all stages of the process, is increasingly supported by scholarship, international organisations, governments and activists. However, it becomes clear that more knowledge is needed about the meaning of women's participation in reparation processes and how it relates to the transformative potential of reparations while situating such an analysis within the 'broader political dynamics that drive transition in that context'.⁶⁴³

My focus on the Association of Women in the Homeland War initially emerged from observations of the socio-political developments in Croatia at the onset of my study. Events such as Croatia's 7th parliamentary election, the ICTY acquittals of Generals Gotovina and Markač, the accession of Croatia into the EU and the referendum on the constitutional definition of marriage continuously triggered public debates on the topic of Croatian national identity. Since these events were unfolding simultaneously with the drafting process of the legislation, I chose to conduct a historical examination of Croatian nationalism to show how it intertwines with victimhood and informs gender relations in Croatian society (Chapter 2).

With this conceptualisation of Croatian nationalist discourse and the aim to address the lacuna in literature on women's movements in Croatia (Chapter 3), I took a socio-legal approach to analyse the legislative process that led to the adoption of the *Law on the Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War*. My analysis mainly focused on the context within which the legislative process took place and the role of the Association of Women in the Homeland War in initiating and influencing the process and the outcome of the law. I aimed to understand what the Association's participation in the legislative process means for the law's transformative potential. Focusing on the period of 2011 to 2015, I have analysed public events, newspaper articles, publications by different women's groups, UNDP publications, documents from the Ministry of Veterans' Affairs, three drafts of the legislation and parliamentary debates, as well as examined data collected

⁶⁴³ *ibid* 125.

through semi-structured interviews with members of the Ministerial Working Group, from blogs, videos and social media websites. The research findings are presented in Chapters 4, 5 and 6.

This research demonstrated that right-wing women's participation in the design of a reparation law complicates the law's potential to transform structural gender inequality in Croatia. By showing how the Association initiated the process at a particular point in time, the thesis highlighted the significance of paying attention to the role of a right-wing, non-feminist women's group in the reparation process. It explained how the Association's use of discourse that both promoted women's empowerment and was compatible with the dominant nationalist discourse at the time provided it with influence that feminist women's groups did not enjoy in the Croatian context. This particular positioning allowed the Association to create an alliance with these same groups. Through its strategic actions aimed at securing legislation that would be meaningful for victims and reinforcing the official narrative of the Homeland War, this research found that the course of the legislative process and the outcome of the *Reparation Law* were affected by the Association's particular political influence.

This thesis argues that, firstly, the Association of Women in the Homeland War's influence facilitated the commencement of a transformative process on the individual level, which relates to the individual lives of the participating victims and victims who will benefit from the gender-sensitive financial compensation model. Although the individual level does not directly influence structural gender inequality, I suggest that the process of transformation that has potentially commenced on this level has the possibility of translating to the collective level and this way encouraging the transformation of structural gender inequality. Whether this potential will be utilised will depend on the social climate in Croatia. Secondly, the Association's influence also facilitated the alignment of the *Reparation Law* to a particular nationalist discourse that severely limits the Law's potential to transform structural gender inequality on the collective due to the inextricable link between gender and nationalism.

By analysing how the Association of Women in the Homeland War secured an advantageous position that eventually influenced the course of the legislative process and the outcome of the law, the research found that the socio-political context at the

time and calculated compromises contributed to it acquiring political influence. Namely, circumstances that preceded the publication of *Sunčica* and its subsequent promotion, and continued throughout the legislative process set the ground for the Association's advantageous position. The research identified two key circumstances. The first refers to developments in the international political context, which translated to the national context through the implementation of United Nation Security Council Resolution 1325 and its subsequent resolutions.

As elaborated in Chapter 4, in 2000 the UNSC Resolution 1325 initiated the women, peace and security agenda, which was upgraded with a number of related resolutions aimed at addressing its gaps. One of the main gaps that UNSCR 1820 addressed in 2008 looked at the need to pay more attention to sexual violence in conflict. Resolutions 1888 in 2009 and 1960 in 2010 build on this call by providing a set of measures for addressing conflict-related sexual violence and calling for a monitoring and reporting system. This emphasis on conflict-related sexual violence on the international political level translated to the national level. In 2011, the Croatian Parliament passed the National Action Plan for the implementation of UNSCR 1325 and all its subsequent resolutions for the period of 2011-2014 and only a few months later the *Sunčica* testimony book was published. The thesis argued that this receptive political climate helped the Association attract the immediate support from the President of the Republic of Croatia, the UNDP office in Croatia and the Ministry of Veterans' Affairs following its publication and promotion of *Sunčica*.

The second circumstance that this research uncovered refers to the role of the *branitelji*, war veterans of the Homeland War, in Croatian political affairs. The thesis identified two significant events that set the context for the legislative process and consequently established an advantageous position for the Association within this process. The first event refers to the conviction (2011) and acquittals (2012) of Generals Gotovina and Markač, which stimulated the Croatian public domain with nationalist sentiments. Though the initial convictions initiated the sentiments, the acquittals reinforced them. This was because the acquittals were perceived as confirmations of the 'truth' about the Homeland War, which rests on the claim that the Homeland War was indeed legal and just and that the Croatian Armed Forces could not have committed war crimes if they were fighting a defensive, legal and just war. Essentially, the acquittals revived the

collective victimhood narrative, which this research identified as a central element to contemporary Croatian nationalist discourse.

The second event related to the *branitelji* refers to an incident that took place in Vukovar in 2013, a town in Eastern Slavonia that was besieged and conquered by the Yugoslav People's Army and Serbian paramilitaries in 1991. The town suffered a massacre after the Serbian siege and remains a symbol of Croatian victimhood and resistance. The event refers to a police officer removing a bilingual sign, in both Croatian and Serbian, from the entrance to the Centre for Social Services. Triggering several subsequent events that essentially created serious tensions between the newly elected centre-left government and the *branitelji* population, the tensions climaxed when the *branitelji* commenced a 555-day protest in front of the Ministry of Veterans' Affairs demanding the removal of the Minister and his Assistant Ministers.

The thesis argued that the context set by the *branitelji* population helped the Association's campaign for the rights of victims of wartime sexual violence because of their shared interest in reinforcing the official narrative of the Homeland War. However, the priorities given by governments to the *branitelji* population is the result of a deeply entrenched gender hierarchy in Croatia society, which is continuously reproduced with a particular nationalist discourse. As a result of the already existing gender hierarchy in Croatian society, the *branitelji* protests, though providing a platform for the Association's campaign, also undermined its work, and overshadowed the legislative process and the law. This overshadowing becomes particularly clear in the days leading up to the adoption of the *Reparation Law* when the *branitelji* moved their protest to the Church of Saint Mark located across from the Croatian Parliament building, thus taking up all public and political attention at the moment the *Reparation Law* was passed. The *Reparation Law's* potential to symbolically acknowledge the victims in Croatia at the moment of the law being passed in Parliament was taken away by the *branitelji* and their protest. The Association's endorsement of the protest only reinforced this particular hierarchy, though it aimed to use the platform to shed light on the victims' claim to rights.

Though these circumstances demonstrate the complexity of the political climate in Croatia at the time, they also proved to be advantageous for the Association because its

discourse was compatible with the dominant discourse at the time. My analysis of the Association's discourse from 2011 to 2015 found that the Association of Women in the Homeland War's representation of victimhood hinged on the construction of what I term the 'nation's ideal victim'. This representation of victimhood consists of five characteristics which make the victim female, innocent, violated by the Serb aggressor, contributor to the independence of Croatia, and empowered but financially vulnerable.

In addition to this representation of victimhood, the thesis found that at different phases during the legislative process, the Association's representation of victimhood took different forms. These forms reflected the major themes of the phases, beginning with silenced, moving on to sacrificial and concluding with compensable victimhood. Essentially, the Association's representation of victimhood was compatible with the official narrative of the Homeland War and with contemporary nationalist discourse. The thesis argued that a representation of victimhood in this manner within a nationalist context enabled the Association to evoke public support for its cause, gain sympathies from right-wing politicians and the *branitelji* population, and put pressure on the Ministry of Veteran's Affairs.

Apart from its discourse, the research found that that the Association increased its political influence through strategic actions aimed at securing legislation that would simultaneously be meaningful for victims and reinforce the official narrative of the Homeland War. These actions also impacted the course of the legislative process and the final outcome of the *Reparation Law*. In addition to its publication of *Sunčica*, three other significant actions increased its influence. For example, the Association's public appearances attracted support from influential bodies.

One such event was its presentation at a roundtable in 2012, where it arranged for two victims to share their testimonies publicly. Although feminist women's groups criticised this action, it attracted the support of the UNDP which signed a cooperation agreement with the Association for a UNDP project addressing the rights and needs of victims of wartime sexual violence in Croatia. One of the key contributions that the UNDP made to the Association's work was the funding of a psycho-social programme called 'I am more than my trauma'. The Association used its cooperation with the UNDP as well as its financial support for the legislative process to put pressure on the Ministry of Veterans'

Affairs. It pressured the Ministry to speed up the process, but also to align the legislation to the Homeland War narrative.

Another public appearance that produced support and was used to apply pressure on the Ministry of Veterans' Affairs to influence changes on the law was the Association's public endorsement of the *branitelji* protest. I suggest that the Association's alliance with the *branitelji* applied pressure on the Ministry to align the law to the Homeland War narrative and accept the proposed gender-sensitive compensation model (which was also pushed by feminist women's groups). This was evident in the changes made to the law's definition of the perpetrator and its incorporation of the recommended compensation model following the public endorsement. Finally, the film documentary that the Association produced and then arranged for the Parliament to view at the beginning of its last reading of the legislation presented wartime sexual violence in Croatian and victimhood through a nationalist lens. As a result, the nationalist narrative primed the parliamentary session and prompted last minute changes that reflected the 'true' narrative of the Homeland War. I claim that the final parliamentary discussion of the law prompted the amendment to the law's title, which was changed to include 'Armed Aggression against the Republic of Croatia'.

As demonstrated with these findings, the thesis showed that the Association of Women in the Homeland War's influence directed the course of the legislative process and the outcome of the *Reparation Law*. This is significant because the law is aligned to a particular nationalist discourse. To demonstrate the alignment, I analysed how the process of defining legal victimhood led to the reinforcement of the official narrative of the Homeland War. This uncovered how continuous references to the 'Serbian perpetrator', the legitimisation of a victimhood hierarchy and the last minute amendments to the law's title reinforced the narrative of the Homeland War and thus aligned the Law to nationalist discourse.

The thesis argued that the law's alignment to nationalist discourse is problematic for the goals of transformative gender justice because it legitimises nationalist discourse through the law and this way reinforces gender hierarchies in Croatian society that are produced through this particular nationalist discourse. Consequently, the inextricable link between gender and nationalism limits the *Reparation Law's* potential to transform

structural gender inequality in Croatia. This is problematic for three reasons. First, it risks legitimising gendered nationalism in Croatia; second, it risks setting a bad example for future legislation; finally, and most importantly, it risks limiting the law's potential to guarantee non-repetition because it reinforces the idea that sexual violence is the worst form of violence against women and marginalises everyday violence against women that takes place in Croatia.

Although the Association's use of nationalist discourse within a nationalist context severely limited the *Reparation Law's* potential to transform structural gender inequality on a collective level, the thesis has also reflected on the way the Association's influence had contributed to 'modest' transformations of structural gender inequality on the individual level. In this sense, it looked at how the legislative process itself prompted a process of transformation and the Association's role in this process. It was shown that the mere initiation of the legislative process demonstrated the state's recognition of victims of wartime sexual violence in Croatia. This recognition is further reinforced with the inclusion of victims in the drafting process and finally through the adoption of the legislation. The thesis found that in the Croatian context, the creation of a reparation law, meaningful participation of victims in the process and meaningful financial compensation is perceived as a form of recognition by victims, thus providing them with a sense of empowerment and potentially transforming their lives on the individual level.

The Association contributed to this 'modest' transformation in two ways. First, its particular positioning in the Croatian context and amongst civil society organisations contributed to it successfully initiating the process of recognition. Second, its inclusion in the process and subsequent alliance with participating feminist women's groups resulted in the law adopting a gender-sensitive financial compensation model. This approach to financial compensation is both seen as meaningful by victims and also has the potential to transform the lives of those who find themselves in very poverty-stricken situations. The research argued that the Association's contribution facilitated the legislative process to prompt a transformative process on the individual level. Although this process demonstrates the transformative potential of the legislative process, it nevertheless came with trade-offs. The thesis found that feminist women's groups had to compromise their positions on nationalist discourse to uphold the

strength of the alliance and ensure the adoption of the gender-sensitive compensation model. An unfortunate result of this calculated compromise was the Association's increased influence in the Ministerial Working Group, which in the end contributed to the law's alignment to nationalist discourse.

This case study of the participation of a right-wing women's group in the process of drafting and adopting a law for the rights of victims of wartime sexual violence argued that the Croatian *Reparation Law's* alignment to nationalism severely limits its potential to transform structural gender inequality in Croatia. As a result of its findings, the thesis presented three lessons to consider when evaluating the law's implementation and when embarking on the design of future transformative reparations in nationalist contexts. First, the inclusion of women and victims may not necessarily lead to developing reparations that aim to transform structural gender inequality. For this reason, it is essential to consider the power relations amongst the participating parties and their sources of power, as well as how the unequal power distribution can affect the aimed outcome.

Second, a reparation law or programme exclusively aimed at victims of conflict-related sexual violence developed in a context saturated with exclusionary nationalist discourse may inevitably reinforce gender inequality. An exclusive focus on sexual violence in a nationalist context suggests that this crime and violence is the worst harm, and only harm, that women (and men) have suffered in conflict. As a result, such exclusivity fails to address other gendered harms that both women and men experience, in conflict and post-conflict, in the public as well as in the private domains and risks rendering everyday violence against women invisible. Finally, the involvement of international bodies in processes designing and implementing reparation programmes in nationalist contexts may be used by local grassroots movements to put pressure on the state in ways that may not produce social transformation or the transformation of structural gender inequality. Essentially, they will need to come to terms with the fact that some locally driven transformations will not produce the outcomes that the outside engagement expected.

Though this research uncovers how women's participation in this particular context placed limitations on reparations' potential to transform structural gender inequality, it

also aims to address the lack of detailed studies exploring what transformative justice may look like in practice. In doing so, it pointed to normative issues that emerge when considering transformative reparations. Located within the approach that conceptualises transformative reparations as ‘modest projects of transformation’,⁶⁴⁴ the thesis supported the view that reparations should aim for transformation by being gender-sensitive in the way they address the immediate harm caused by CRSV, while also paying attention to the broader context in which the harm took place. In this sense, the modest aim is to subvert and not reinforce the structural inequalities or gender hierarchies that led to the harm in the first place.

More importantly, this modest approach does not provide a prescribed idea of transformation, but instead expects transformation to vary according to context. By looking at how transformation of structural gender inequality may take place on the individual and collective level, the thesis showed how reparations can simultaneously promote and limit transformative gender justice. While the reparation law’s alignment to nationalist discourse limits its potential to challenge gender hierarchies in Croatian society and promote transformation on the collective level; its gender-sensitive financial compensation model and the inclusion of victims in the legislative process initiated a transformative process on the individual level. By considering transformation on these two levels, it is possible to look for ways in which transformative justice can be translated from the individual level to the collective level.

The thesis also provided important insights regarding ideas of women’s empowerment. These insights come from an examination of the way in which the Association pushed for a gender-sensitive compensation model while distancing female victimhood from the idea of a weak and agentless victim by emphasising the victims’ contribution to the independence of Croatia. Through this examination, the thesis showed how women’s empowerment can be promoted and achieved within a nationalist framework. The Association’s promotion of women’s empowerment was important because it made it possible for the public to view the women victims as empowered women who were only financially vulnerable. Moreover, it made it possible for the Association to challenge the

⁶⁴⁴ Rubio-Marin, *The Gender of Reparations : Unsettling Sexual Hierarchies While Redressing Human Rights Violations* (n 11).

gender hierarchy that exists within the nationalist framing of Croatian society. By seeking state recognition of victims, the Association aimed to place women and victims in Croatian society on the same level as the *branitelji*.

The Association's approach to women's empowerment also relates to discussions on women's agency. Namely, by claiming a gender identity in addition to their Croat identity, the Association was able to push for a gender-sensitive reparation law while also ensuring that the official narrative of the Homeland War was enforced. In this sense, by claiming both identities the Association and the women involved in its efforts gained a sense of empowerment which enabled them to become agents of social change. However, the limits to this approach to women's empowerment and agency are found in the nationalist framework itself. It is possible to push for empowerment and promote agency only to the extent that the framework allows. This, of course, becomes apparent in the way the reparation law's potential to transform structural gender inequality is limited by its alignment to nationalist discourse.

It is also important to acknowledge the limitations of the research. Its primary contribution is to contemporary debates in the area of feminist scholarship on transitional justice, specifically on the topic of increasing women's participation in transitional justice processes and drafting and implementing reparations for conflict-related sexual violence. It contends that dismissing right-wing women's involvement in reparation processes risks generating an incomplete account of women's impact on the transformative potential of reparations for conflict-related sexual violence. However, it is important to remember that this argument is entirely context-based. In the Croatian context, ignoring the role and power of the right-wing, non-feminist women's groups would have generated an incomplete and inaccurate account of the reparation process. This may not be the case in other contexts looking to implement reparations. In this sense, this research is not making any generalised claims. Instead, it is suggesting that more knowledge is needed about why women's participation is vital for the transformative potential of reparations, and furthermore, that it is essential to consider the local context when looking to explore this angle.

One of the central tenets of this research is that the Association of Women in the Homeland War influenced the *Reparation Law's* transformative potential. This

argument is based on the claim that the Association facilitated the law's alignment to a nationalist discourse, which due to the inextricable link between gender and nationalism, limits its potential to transform structural gender inequality in Croatia. I acknowledge that a different approach to studying the processes of drafting and adopting the *Reparation Law* may have highlighted other influences on the legislation. Moreover, it is possible that my own blind spots may have overemphasised the Association's influence on the process and the law. However, this research does not claim to provide a definitive account of the process that led to Croatia's reparation law. Instead, it interrogated the assumption that women's participation increases the transformative potential of reparations. The Croatian context provided an ideal opportunity to examine this assumption by focusing on how the law's nationalist connotations were influenced by the involvement of a right-wing women's group, while also generating more knowledge about right-wing women's groups in Croatia.

There is little examination of how women's participation, particularly right-wing women's participation, influenced the law's nationalist connotations and consequently limited its transformative potential. This thesis offers an original analysis of the process that led to the adoption of Croatia's reparation law for victims of conflict-related sexual violence. This is significant because it opens up the Croatian case to discussion, but also provides the opportunity for comparisons with other contexts, such as Kosovo and Bosnia and Herzegovina. Alternatively, it presents a starting point for further interrogations of right-wing women's involvement in Croatian society.

Investigating right-wing women's activism and how it relates to goals of transformative gender justice is particularly crucial in Croatian society. Not long after the adoption of the *Reparation Law*, the Commission responsible for deciding whether an individual applicant had met the necessary criteria to be granted victimhood status was established. It commenced its work on 5 November 2015, with Marijana Senjak as its elected president. From November 2015 until May 2016, when it took a temporary break, 147 applications were submitted to the Commission of which 107 were decided.⁶⁴⁵ However, in September 2016 the Minister of Veterans' Affairs of the newly elected right-wing government passed a decision to dismiss the appointed members of

⁶⁴⁵ Clark (n 596) 139.

the Commission and appoint new members. This decision was seriously contested by Women's Network Croatia, the European Women's Lobby, and representatives from UN Women who expressed worry about how the process of granting victims of wartime sexual violence in Croatia would proceed.⁶⁴⁶ Namely, the members who were dismissed were leading experts in the field of victims' rights, and some even were involved in the drafting process of the legislation. Criticism of the Commission's work increased since its initial members were dismissed and replaced.⁶⁴⁷

The dismissal of highly qualified experts from the Commission points to the state's disregard of the meaningful implementation of the *Reparation Law* thus demonstrating yet another case of how problems with the implementation of reparations limit their transformative potential. However, as argued in this thesis, the *Reparation Law's* alignment with nationalist discourse proves to be a greater reason for its lack of transformative potential. An opportunity was missed to connect the discussions about the law to wider discussions on violence against women. Consequently, though this legislation now exists, it has had little impact on changing the public's perception of how structural gender inequality perpetuates violence against women.

This becomes clear in the way right-wing groups mobilised to protest against Croatia's ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence, which is also known as the Istanbul Convention. On a Saturday in March 2018, tens of thousands of attendees gathered in the centre of Zagreb to protest against the ratification claiming that it was promoting a so-called 'gender ideology' in the Croatian legal system and taking away state sovereignty due to its requirement of a monitoring role from non-state actors.⁶⁴⁸ What is most striking about this protest is the attendees' dismissal of the Convention's role in preventing violence against women and overemphasis on its role of promoting a 'gender ideology'

⁶⁴⁶ HINA, 'Zašto je Medved razriješio povjerenstvo za žrtve silovanja?' (*N1 HR*, 8 September 2016) <<http://hr.n1info.com/a148267/Vijesti/Zasto-je-Medved-razrijesio-povjerenstvo-za-zrtve-silovanja.html>> accessed 3 October 2018.

⁶⁴⁷ HINA, 'Ministarstvo branitelja odbacuje kritike na rad Povjerenstva za žrtve seksualnog nasilja' (24 November 2017) <<https://www.vecernji.hr/vijesti/ministarstvo-branitelja-odbacuje-kritike-na-rad-povjerenstva-za-zrtve-seksualnog-nasilja-1209940>> accessed 3 October 2018.

⁶⁴⁸ 'Croats Protest against European Treaty They Say Threatens...' *Reuters* (24 March 2018) <<https://www.reuters.com/article/us-croatia-protests/croats-protest-against-european-treaty-they-say-threatens-traditional-family-idUSKBN1H00GW>> accessed 3 October 2018.

that they perceive as threatening to their understanding of gender roles in Croatian society.

I suggest there is a connection between the adoption of the *Reparation Law* and the ratification of the Istanbul Convention. Although both laws are addressing violence against women, the way they were received by the public points to the complexity of the public/private distinction in Croatian society. The *Reparation Law* was not resisted by the public because it was perceived to be providing women with justice. However, its drafting process and adoption were not widely covered by media because the *branitelji* protests were deemed more important. In essence, the needs of the male defenders overshadowed the needs of women and victims and this was not considered problematic. In contrast, the ratification of the Istanbul Convention was widely challenged by the public because it was perceived to be threatening the existing order of gender relations. Although it was widely covered by the media, its potential to protect women and provide them with justice was completely dismissed by the public. Essentially, the needs and rights of women were dismissed because they did not fit the right-wing framework of gender relations.

It can be inferred that legal protection and justice for women in Croatia is welcomed, but to some extent. If violence against women is attributed to the 'other' and does not threaten the nationalist order of gender relations then legal changes are welcomed. However, if protection for women comes in the form of legal changes that have the potential to transform the nationalist order of gender relations, it is immediately attacked and considered unacceptable. This points to the worrying conclusion that the *Reparation Law's* positive outcomes for victims of wartime sexual violence on the individual level have been secured at the expense of its potential to transform structural gender inequality on the collective level.

Though the findings of this research cast a dark shadow over the *Reparation Law's* potential for transformation, they nevertheless point to a way forward. One approach is to examine the law's implementation by considering whether the process itself is discriminatory in any way. This can be done by studying victims' experiences of the process and how their experiences affect their perceptions of justice and sense of recognition. This approach can also take into consideration the reasons why the initial

members were dismissed from the Commission and how their dismissal has impacted the process and the victims' experience of the process and sense of justice.

Another way forward is by looking at other legislative processes in related areas, both nationally and internationally, to get a better understanding of how right-wing groups perceive gender justice. With more qualitative knowledge about how right-wing women's groups talk about and learn about violence against women and the concept of gender, new ways of advocating for the prevention and suppression of violence against women can be developed that will include the investment of both feminist and right-wing women's groups and this way have wider impact on society.

APPENDIX 1: CONSENT FORM IN CROATIAN

Suglasnost sa sudjelovanjem u istraživanju

Naziv projekta: Žene, nacija i stradanje: Studija o uključenosti žena u izradi reparacija za žrtve seksualnog nasilja u Domovinskom ratu u Hrvatskoj

Ako smatrate da imate dovoljno informacija i rado bi to učinili, molim vas označite svaki red kvačicom. U slučaju da ne, slobodno se javite za više informacija.

Potvrđujem da sam pročitao/pročitala obavijest vezanu uz gore navedeno znanstveno istraživanje te sam imao/imala priliku postavljati pitanja.	
Razumijem da je moje sudjelovanje dobrovoljno te se mogu povući u bilo koje vrijeme, bez navođenja razloga i bez ikakvih posljedica, te da mogu zatražiti da se bilo koji audio ili pisani zapisi mog sudjelovanja unište.	
Dajem pristanak da se moj intervju snima.	
Slažem se da se citati pripisuju meni u svim publikacijama, izvješćima, internetskim stranicama i drugim istraživačkim portalima, pod uvjetom da mi je pružena prilika pregledati citati prije nego što su upotrebljeni.	

Ime i prezime ispitanika (tiskano)

_____ Potpis	_____ Datum	_____ E-mail adresa u slučaju daljne komunikacije
_____ Istraživač	_____ Potpis	_____ Datum i mjesto

Josipa Šarić
PhD Candidate/Graduate Teaching Assistant,
Kent Law School, Eliot College,
University of Kent, Canterbury CT2 7NS
E-mail: js764@kent.ac.uk

APPENDIX 2: INITIAL INTERVIEW GUIDE IN CROATIAN

Pilot Intervju – October 2015

1. Vodič za intervju

a. Uvod i kontekst

- i. Možete li mi ispričati kako ste se našli u odvjetničkoj profesiji?
- ii. Možete li mi malo više reći o području prava kojim se bavite?
 - Prompts: interesi/aktivnosti u odnosu na žrtve Domovinskog Rata? Žrtve seksualnog nasilja? Nasilja nad ženama? Rodno uvjetovano nasilje?

b. Izrada reparacijskog zakona

- i. Možete li mi ispričati o svojoj ulozi u procesu izrade Zakona o pravima žrtava seksualnog nasilja za vrijeme oružane agresije na Republiku Hrvatsku u Domovinskom ratu?
- ii. Po vašem mišljenju, koji su faktori doveli do izrade reparacijskog zakona, nakon više od 20 godina šutnje od strane države?
- iii. Možete li se sjetiti nekih ključnih trenutaka u zadnjih par godina u odnosu na regulaciji statusa i prava žrtava seksualnog nasilja za vrijeme Domovinskog rata? Najujtecanijih trenutaka?
- iv. Možete li mi malo komentirati o ulozi žena u procesu zagovaranja, izradi i donošenje zakona?
- v. Po vašem mišljenju, koji bi bio najveći uspjeh ili uspjesi reparacijskog zakona?
- vi. Koji su bili glavni izazovi pri izradi zakona?
- vii. Po vašem mišljenju, kako, ili na koji način su potrebe i prava žrtava zastupljena kroz cijeli process izrade zakona?
- viii. Po vašem mišljenju, kako bi ovaj zakon utjecao na život žrtava u odnosu na njihov doživljaj stradanja?

c. Razmatranja o Zakonu o pravima žrtava seksualnog nasilja za vrijeme oružane agresije na RH u Domovinskom ratu.

- i. Kakvo je vaše mišljenje o tome da se koristi Zakon kao sredstvo za transformaciju rodni odnosa u hrvatskom društvu?
- ii. A mišljenje o tome da se Zakon koristi kao sredstvo za osnaživanje? Za žrtve seksualnog nasilja? Za žene?
- iii. Kakvo je vaše mišljenje o tome da se koristi Zakon kao sredstvo za poticanje javne rasprave o prošlosti, pogotovo o Domovinskom ratu?
- iv. Možete li malo komentirati o razlogu zašto je napuštena naglašena i detaljizirana definicija počinitelja tijekom izrade Zakona?

d. Stajalište o zločinu seksualnog nasilja, rodu, i konceptu stradanja

- i. Možete li mi malo komentirati, po vašem mišljenju, koji su uzroci seksualnog nasilja za vrijeme rata? Zašto se to događa? I zašto se to dogodilo?
 - Prompts: sistematično? Planski? Ili slučajno?
- ii. Možete li mi malo ispričati o tome zašto zakon koristi baš termin 'žrtva' a ne na primjer – 'preživjeli'?
- iii. Možete li malo komentirati na izraz "spolne slobode" koji se navodi u članku 2. Zakona – "te kazneno djelo protiv spolne slobode". Kako je došlo do uvođenja tog termina?
- iv. Koji su glavni izvori informacija kojima se konzultirate kada se bavite pitanjem ratnog zločina seksualnog nasilja?
- v. Koja su vaša mišljenja o tome da se koristi riječ "feministkinja" kao politički identitet?
- vi. A vaše mišljenje o tome kada se netkog opisuje kao nacionalist?

e. Zaključni komentari

- i. Imate li još koje komentare o Zakonu u odnosu na pitanja definicije zločina seksualnog nasilja, roda ili stradanja?
- ii. Jesam li možda izostavila koja važna pitanja?
- iii. Imate li pitanja koja bi meni postavili o našem sadašnjem razgovoru ili o mom istraživanju?
- iv. Želite li dodati još nešto?
- v. Možete li mi možda preporučiti osobe s kojima bi mogla razgovarati kako bi što bolje razumjela izradu Zakona o pravima žrtava seksualnog nasilja?

BIBLIOGRAPHY

- Alvarez SE, *Engendering Democracy in Brazil: Women's Movements in Transition Politics* (Princeton University Press 1990)
- Anderson B, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (Verso 1991)
- Anthias F and Yuval-Davis N, *Woman-Nation-State* (Palgrave Macmillan 1989)
- Arbour L, 'Economic and Social Justice for Societies in Transition' (2007) 40 *International Law and Politics* 28
- Arhiva Jugoslavije: Antifašistički Front Žena Jugoslavije, Detalji Fonda*, vol August, 2014
- Arthur P, 'How "Transitions" Reshaped Human Rights: A Conceptual History of Transitional Justice' (2009) 31 *Human Rights Quarterly* 321
- B M, 'Udruga Žene u Domovinskom ratu poduprla braniteljski prosvjed' *Dnevnik.hr Nova TV* (13 January 2015) <<https://dnevnik.hr/vijesti/hrvatska/udruga-zene-u-domovinskom-ratu-poduprla-braniteljski-prosvjed---368422.html>> accessed 22 October 2016
- Bacchetta P and Power M, *Right-Wing Women: From Conservatives to Extremists Around the World* (Psychology Press 2002)
- Bailey LE, 'Feminist Research' in Stephen D Lapan and others (eds), *Qualitative Research: An Introduction to Methods and Designs* (John Wiley & Sons, Incorporated 2011)
- Barry K, *Female Sexual Slavery* (New York University Press 1979)
- Batinic J, 'Feminism, Nationalism, and War: The 'Yugoslav Case' in Feminist Texts' (2001) 3 *Journal of International Women's Studies* 1
- Bell C, 'Women and the Problems of Peace Agreements: Strategies for Change in Women, Peacemaking and Constitutions' in Radhika Coomaraswamy (ed), *Women, Peace-making and Constitutions* (Women Unlimited 2005)
- , 'Transitional Justice, Interdisciplinarity and the State of the "Field" or "Non-Field"' (2009) 3 *International Journal of Transitional Justice* 5
- Bell C and O'Rourke C, 'Does Feminism Need a Theory of Transitional Justice? An Introductory Essay' (2007) 1 *International Journal of Transitional Justice* 23
- Bellamy AJ, *The Formation of Croatian National Identity: A Centuries-Old Dream* (Manchester University Press 2003)
- Benderly J, 'Rape, Feminism, and Nationalism in the War in Yugoslav Successor States' [1997] *Feminist nationalism* 59

Berdak O, 'Gender and Nationalism in the Former Yugoslavia: Exploring the Moral Fable' <<http://www.lse.ac.uk/europeanInstitute/research/LSEE/PDFs/PhD%20Symposium/Papers%202010/Berdak.pdf>>

—, 'Reintegrating Veterans in Bosnia and Herzegovina and Croatia: Citizenship and Gender Effects' (2015) 49 *Women's Studies International Forum* 48

Bieber F, 'Croatia Referendum Shows Perils of Direct Democracy' (4 December 2013) <<http://www.balkaninsight.com/en/article/croatia-referendum-shows-perils-of-direct-democracy>> accessed 21 October 2018

Bijelić B, 'Women on the Edge of Gender Equality' in Sabrina P Ramet and Davorka Matic (eds), *Democratic Transition in Croatia: Value Transformation, Education, and Media* (Texas A&M University Press 2007)

Biondich M, 'Chapter 2. "We Were Defending the State": Nationalism, Myth, and Memory in Twentieth-Century Croatia' in John Lampe and Mark Mazower (eds), *Ideologies and National Identities: The Case of Twentieth-Century Southeastern Europe* (Central European University Press 2006) <<http://books.openedition.org/ceup/2420>> accessed 11 September 2018

Boesten J and Wilding P, 'Transformative Gender Justice: Setting an Agenda' (2015) 51 *Women's Studies International Forum* 75

Bojan Glavašević, 'Prezentacija Na Okruglom Stolu "Reparacije Civilnih Žrtava Rata"' (2014) <<https://www.youtube.com/watch?v=4v4ajfU8L0>> accessed 22 October 2016

Bradarić B, 'Documenta: Civilne žrtve rata traže pravdu' (26 September 2014) <<https://www.vecernji.hr/vijesti/documenta-civilne-zrtve-rata-traze-pravdu-963451>> accessed 22 October 2018

Bryman A, *Social Research Methods* (4 edition, OUP Oxford 2012)

Bubalo I, 'The Feminist Analysis of Croatian State's Post-Conflict Reconstruction Efforts to Address the Issue of Wartime Sexual Violence' (Master thesis, Central European University 2016)

Buss DE, 'The Curious Visibility of Wartime Rape: Gender and Ethnicity in International Criminal Law' (2007) 25 *Windsor Yearbook of Access to Justice* 3

Bystydzienski JM (ed), *Women Transforming Politics: Worldwide Strategies for Empowerment* (Indiana Univ Pr 1992)

Cahn N, Aoláin FN and Haynes DF, 'Women in the Post-Conflict Process: Reviewing the Impact of Recent U.N. Actions in Achieving Gender Centrality' (2012) 11 *Santa Clara Journal of International Law* 189

Calhoun C (ed), 'Nationalism', *Dictionary of the Social Sciences* (Oxford University Press 2002) <<http://www.oxfordreference.com/view/10.1093/acref/9780195123715.001.0001/acref-9780195123715-e-1141>> accessed 11 September 2015

- Calhoun CJ, *Nationalism* (U of Minnesota Press 1997)
- Carpenter RC, 'Recognizing Gender-Based Violence Against Civilian Men and Boys in Conflict Situations' (2006) 37 *Security Dialogue* 83
- Chappell L, 'The Gender Injustice Cascade: "Transformative" Reparations for Victims of Sexual and Gender-Based Crimes in the Lubanga Case at the International Criminal Court' (2017) 21 *The International Journal of Human Rights* 1223
- Charlesworth H and Chinkin CM, *The Boundaries of International Law: A Feminist Analysis* (UK ed edition, Manchester University Press Melland Schill Studies 2000)
- Chinkin C, 'Gender and Economic, Social, and Cultural Rights' in Eibe Riedel, Gilles Giacca and Christophe Golay (eds), *Economic, Social, and Cultural Rights in International Law* (Oxford University Press 2014)
- Chinkin C and Paradine K, 'Vision and Reality: Democracy and Citizenship of Women in the Dayton Peace Accords' (2001) 26 *Yale Journal of International Law*
- Christie N, 'The Ideal Victim' in EA Fattah (ed) (MacMillan 1986)
- "'Ćirilica će prekinuti mirnodopski poslijeratni oporavak Vukovara'" *Večernji list* (1 September 2013) <<https://www.vecernji.hr/vijesti/cirilica-ce-prekinuti-mirnodopski-poslijeratni-oporavak-vukovara-606605>> accessed 21 October 2018
- 'Civil Society Calls for Wartime Sexual Violence Survivors Participation in Reparations and Justice' (*UN Women*, 20 June 2016) <<http://eca.unwomen.org//news/stories/2016/06/civil-society-calls-for-wartime-sexual-violence-survivors-participation-in-reparations-and-justice>> accessed 5 September 2018
- Clark JN, 'Giving Peace a Chance: Croatia's Branitelji and the Imperative of Reintegration' (2013) 65 *Europe-Asia Studies* 1931
- , 'In from the Margins: Survivors of Wartime Sexual Violence in Croatia and an Early Analysis of the New Law' (2016) 8 *Journal of Human Rights Practice* 128
- Cock J, *Women and War in South Africa* (Pilgrim Press, The/United Church Press 1991)
- Cockburn C, *The Space Between Us: Negotiating Gender and National Identities in Conflict* (Zed Books 1998)
- Cohen DK, 'Explaining Rape during Civil War: Cross-National Evidence (1980–2009)' (2013) 107 *American Political Science Review* 461
- Cohen DK and Nordas R, 'Sexual Violence by Militias in African Conflicts: Not a Question of "Delegation" by States' (2012) 1 *CSCW Policy Brief*
- Cohen P, *The World War II and Contemporary Chetniks: Their Historico-Political Continuity and Implications for Stability in the Balkans* (CERES 1997)

Cole A, 'International Criminal Law and Sexual Violence: An Overview' in Clare McGlynn and Vanessa E Munro (eds), *Rethinking Rape Law: International and Comparative Perspectives* (Routledge-Cavendish 2010)

'Combating Violence against Women: Croatia' (European Institute for Gender Equality) <eige.europa.eu/sites/.../2016.5479_mh0216773enn_pdfweb_20170215100604.pdf>

Cook JA and Fonow MM, *Beyond Methodology Feminist Scholarship as Lived Research* (1991)

Coomaraswamy R and UN Women, *Preventing Conflict, Transforming Justice, Securing the Peace: A Global Study on the Implementation of United Nations Security Council Resolution 1325* (2015) <reliefweb.int/sites/reliefweb.int/files/resources/UNW-GLOBAL-STUDY-1325-2015.pdf> accessed 7 May 2018

Copelon R, 'Surfacing Gender: Reconceptualising Crimes against Women in Time of War' in Alexandra Stiglmayer (ed) (University of Nebraska Press 1994)

Copelon R, 'Gendered War Crimes: Reconceptualising Rape in Time of War' in Julie Stone Peters and Andrea Wolper (eds), *Women's rights, human rights: international feminist perspectives* (Routledge 1995)

Couillard V, 'The Nairobi Declaration: Redefining Reparation for Women Victims of Sexual Violence' (2007) 1 *International Journal of Transitional Justice* 444

Croatian Ministry of Veterans' Affairs and UNDP, 'Concept Note and Agenda: "Sexual Violence in Armed Conflict: Delivering Justice for the Past, Preventing Abuse in the Future"' (Croatian Ministry of Veterans' Affairs 2014)

'Croatian Veterans Shelter in Church' *BBC News* (29 May 2015) <<https://www.bbc.com/news/world-europe-32935292>> accessed 22 October 2015

'Croats Protest against European Treaty They Say Threatens...' *Reuters* (24 March 2018) <<https://www.reuters.com/article/us-croatia-protests/croats-protest-against-european-treaty-they-say-threatens-traditional-family-idUSKBN1H00GW>> accessed 3 October 2018

Daly E, 'Transformative Justice: Charting a Path to Reconciliation' (2002) 12 *Int'l Legal Perspectives* 83

Davies SE and True J, 'Reframing Conflict-Related Sexual and Gender-Based Violence: Bringing Gender Analysis Back In' (2015) 46 *Security Dialogue* 495

de Greiff P, *The Handbook of Reparations* (Oxford University Press 2006)

—, 'Justice and Reparations' in Pablo de Greiff (ed), *The Handbook of Reparations* (Oxford University Press 2006)

De Greiff P and UN. Human Rights Council. Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence (eds), *Report of the*

Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence, Pablo de Greiff (UN 22)

Djokić D, 'The Second World War II: Discourses of Reconciliation in Serbia and Croatia in the Late 1980s and Early 1990s' (2002) 4 *Journal of Southern Europe and the Balkans* 127

Duggan C and Abusharaf AM, 'Reparation of Sexual Violence in Democratic Transitions', *The Handbook of Reparations* (Oxford University Press 2006)

Durbach A, Chappell L and Williams S, 'Foreword: Special Issue on "Transformative Reparations for Sexual Violence Post-Conflict: Prospects and Problems"' (2017) 21 *The International Journal of Human Rights* 1185

Durbach A and Geddes L, "'To Shape Our Own Lives and Our Own World": Exploring Women's Hearings as Reparative Mechanisms for Victims of Sexual Violence Post-Conflict' (2017) 21 *The International Journal of Human Rights* 1261

Engle K, 'Feminism and Its (Dis)Contents: Criminalizing Wartime Rape in Bosnia and Herzegovina' (2005) 99 *The American Journal of International Law* 778

Enloe C, *Bananas, Beaches and Bases: Making Feminist Sense of International Relations* (University of California Press 1989)

—, *Maneuvers* (University of California Press 2000)

Enloe CH, *Globalization and Militarism: Feminists Make the Link* (Rowman & Littlefield 2007)

Eriksson A, 'A Bottom-Up Approach to Transformative Justice in Northern Ireland' (2009) 3 *International Journal of Transitional Justice* 301

Eriksson Baaz M and Stern M, *Sexual Violence as a Weapon of War? Perceptions, Prescriptions, Problems in the Congo and Beyond* (Zed Books 2013)

Farmer P, 'An Anthropology of Structural Violence' (2004) 45 *Current Anthropology* 317

Farmer PE and others, 'Structural Violence and Clinical Medicine' (2006) 3 *PLOS Medicine*

Farr K, 'Extreme War Rape in Today's Civil-War-Torn States: A Contextual and Comparative Analysis' (2009) 26 *Gender Issues* 1

Fineman M and Zinsstag E, 'Introduction: Feminist Perspectives on Transitional Justice' in Estelle Zinsstag and Martha Fineman (eds), *Feminist perspectives on transitional justice: From International and Criminal to Alternative Forms of Justice* (Intersentia 2013)

Finlayson A, 'Ideology, Discourse and Nationalism' (1998) 3 *Journal of Political Ideologies* 99

Ford L, 'Sexual Violence in War: Women Must Get Reparations, Says Head of UN Women' *The Guardian* (11 June 2014) <<https://www.theguardian.com/global-development/2014/jun/11/ending-sexual-violence-conflict-summit-reparations-un-women-mlambo-ngcuka>> accessed 26 February 2017

Foreign and Commonwealth Office, *Declaration on Preventing Sexual Violence in Conflict* (2013)

—, *Summit Report: The Global Summit to End Sexual Violence in Conflict* (2014)

Freizer S, 'Reparations after Conflict Related Sexual Violence' (2016) 27 *Security and Human Rights* 14

Gajdek K, 'U Vukovaru održan okrugli stol o seksualnom nasilju u ratu' (*Libela - Portal o rodu, spolu i demokraciji*) <<http://www.libela.org/vijesti/2556-u-vukovaru-odrzan-okrugli-stol-o-seksualnom-nasilju-u-ratu/>> accessed 23 October 2018

Galtung J, 'Violence, Peace, and Peace Research' (1969) 6 *Journal of Peace Research* 167

—, 'Cultural Violence' (1990) 27 *Journal of Peace Research* 291

García-Godos J, 'Victim Reparations in Transitional Justice—What Is at Stake and Why' (2008) 26 *Nordic Journal of Human Rights* 111

—, 'Victims in Focus' (2016) 10 *International Journal of Transitional Justice* 350

Goldstein I, *Croatia: A History* (McGill-Queen's University Press 1999)

Gready P and Robins S, 'From Transitional to Transformative Justice: A New Agenda for Practice' (2014) 8 *International Journal of Transitional Justice*

Greenfeld L, *Nationalism: Five Roads to Modernity* (New Ed edition, Harvard University Press 1993)

Haldemann F and Kouassi R, 'Transitional Justice Without Economic, Social, and Cultural Rights?', *Economic, Social, and Cultural Rights in International Law* (Oxford University Press 2014)

Halley J, 'Rape at Rome: Feminist Interventions in the Criminalization of Sex-Related Violence in Positive International Criminal Law' (2008) 30 *Michigan Journal of International Law* 1

Halley JE and others, 'From the International to the Local in Feminist Legal Responses to Rape, Prostitution/Sex Work and Sex Trafficking: Four Studies in Contemporary Governance Feminism' (2006) 29 *Harvard Journal of Law & Gender*

Haraway D, 'Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective' (1988) 14 *Feminist Studies* 575

'Healing and Hope for Victims of Sexual Violence' (*United Nations Development Programme*)

<<http://www.undp.org/content/undp/en/home/ourwork/ourstories/healing-and-hope-for-victims-of-sexual-violence.html>> accessed 22 October 2016

Helms E, *Innocence and Victimhood - Gender, Nation, and Women's Activism in Postwar Bosnia-Herzegovina* (University of Wisconsin Press 2013)

—, 'Rejecting Angelina: Bosnian War Rape Survivors and the Ambiguities of Sex in War' (2014) 73 *Slavic Review* 612

—, 'Transformations of Gender, Sexuality and Citizenship in Southeast Europe: New Lenses for New, and Not so New, Times' (2015) 49 *Women's Studies International Forum* 101

Henry N, 'The Fixation on Wartime Rape: Feminist Critique and International Criminal Law' [2013] *Social & Legal Studies*

HINA, 'Branitelji Tvrde Da Ministarstvo Izjednačava Žrtvu i Agresora' *Novi List* (6 November 2014) <<http://www.novolist.hr/Vijesti/Hrvatska/Branitelji-tvrde-da-Ministarstvo-izjednacava-zrtvu-i-agresora>> accessed 22 October 2018

—, 'Pupovac Izazvao Žestoke Reakcije u Saboru' *Jutarnji List* (20 May 2015) <<https://www.jutarnji.hr/vijesti/hrvatska/po-vama-muskarci-srbi-silovani-u-lori-nisu-zrtve-pupovac-izazvao-zestoke-reakcije-u-saboru/387757/>> accessed 22 October 2015

—, 'Bez zastupnika HDZ-a: Sabor donio Zakon o pravima žrtava seksualnog zločina u Domovinskom ratu' (29 May 2015) <<http://www.novolist.hr/content/view/full/915803>> accessed 22 October 2018

—, 'Strani Mediji "Građani Su u Strahu! Branitelji Našli Utočište u Crkvi, Traže Bolji Socijalni Status"' *Jutarnji List* (29 May 2015) <<https://www.jutarnji.hr/vijesti/hrvatska/strani-mediji-gradani-su-u-strahu-branitelji-nasli-utociste-u-crkvi-traze-bolji-socijalni-status/390649/>> accessed 22 October 2015

—, 'Zašto je Medved razriješio povjerenstvo za žrtve silovanja?' (*N1 HR*, 8 September 2016) <<http://hr.n1info.com/a148267/Vijesti/Zasto-je-Medved-razrijesio-povjerenstvo-za-zrtve-silovanja.html>> accessed 3 October 2018

—, 'Ministarstvo branitelja odbacuje kritike na rad Povjerenstva za žrtve seksualnog nasilja' (24 November 2017) <<https://www.vecernji.hr/vijesti/ministarstvo-branitelja-odbacuje-kritike-na-rad-povjerenstva-za-zrtve-seksualnog-nasilja-1209940>> accessed 3 October 2018

Hoepken W, 'War, Memory, and Education in a Fragmented Society: The Case of Yugoslavia' (1998) 13 *East European Politics and Societies* 190

I R, 'Žrtve seksualnog nasilja u ratu zahtijevaju pravdu u Vukovaru: Život jedne žene je život svih nas' (*Index.hr*) <<https://www.index.hr/clanak.aspx?id=607873>> accessed 23 October 2018

Interview with Rada Borić (26 April 2016)

- Interview with Bojan Glavašević (20 April 2016)
- Interview with Government Official from the Ministry of Veterans' Affairs (4 May 2016)
- Interview with Nela Pamuković (25 April 2016)
- Interview with Marija Slišković (28 April 2016)
- Ivanović J, '650,000 Croats Back Anti-Cyrillic Referendum' *Balkan Insight* (6 December 2013) <<http://www.balkaninsight.com/en/article/650-000-croats-back-anti-cyrillic-referendum>> accessed 21 October 2018
- Jancar B, 'Neofeminism in Yugoslavia: A Closer Look' (1988) 8 *Women & Politics* 1
- Jancar-Webster B, 'Women in the Yugoslav National Liberation Movement' in SP Ramet (ed), *Gender Politics in the Western Balkans: Women, society, and politics in Yugoslavia and the Yugoslav successor states* (Penn State University Press 1999)
- Jayawardena K, *Feminism and Nationalism in the Third World* (Zed Books 1986)
- Jović D, 'Croatia after Tudjman: The ICTY and Issues of Transitional Justice' (13-27) 116 *Chailot* Paper
<<https://dspace.stir.ac.uk/bitstream/1893/1993/2/Jovic%2c%20Chailot%20Paper%20116%2c%20June%202009%2c%20as%20published%5b1%5d.pdf>> accessed 5 November 2017
- , 'Turning Nationalists into EU Supporters: The Case of Croatia' in Jacques Rupnik (ed), *The Western Balkans and the EU: 'the hour of Europe'* (European Union Institute for Security Studies (EUISS) 2011)
<<https://www.stir.ac.uk/research/hub/publication/824037>> accessed 16 October 2016
- Kaufman JP and Williams KP, 'Nationalism, Citizenship, and Gender', *Oxford Research Encyclopedia of International Studies* (2017)
<<http://internationalstudies.oxfordre.com/view/10.1093/acrefore/9780190846626.001.0001/acrefore-9780190846626-e-58>> accessed 18 September 2018
- Kedourie E, *Nationalism* (4 edition, Wiley-Blackwell 1993)
- Kesic V, Jankovic V and Bijelic B (eds), *Women Recollecting Memories: The Center for Women War Victims Ten Years Later (Second Expanded Edition of the 1994 CWWV Collected Papers)* (The Center for Women War Victims 2003)
- Knez N, *Sunčica - Prešućeni Ratni Zločini Silovanih Žena u Domovinskom Ratu* (iFilms LLC)
<<https://www.youtube.com/watch?v=iHdc8UYAYOM&t=15s>> accessed 23 October 2018
- Kohn H, *The Idea of Nationalism: A Study in Its Origins and Background* (Transaction Publishers 2005)
- Koncert - 'Mi Smo Uz Vas' Potpora Silovanim Ženama (2012)
<<https://www.youtube.com/watch?v=eEmTgez-CFQ>> accessed 23 October 2018

Koonz C, *Mothers in the Fatherland: Women, the Family and Nazi Politics* (St Martin's Press 1987)

Kovačević R and others, 'Branitelji se sklonili u Markovu crkvu, policija na ulaz stavila ogradu. Glogoškom pozlilo' (29 May 2015) <<https://www.vecernji.hr/vijesti/pred-saborom-prosvjeduju-djelatnici-riz-a-imunoloskog-i-branitelji-iz-savske-1007802>> accessed 22 October 2015

Krasnec T, 'Europski zastupnici upozorili na apsurdnost ograničavanja ćirilice' *Večernji list* (20 December 2013) <<https://www.vecernji.hr/vijesti/europski-zastupnici-pismom-upozorili-na-apsurdnost-ogranicavanja-cirilice-u-rh-911118>> accessed 21 October 2018

Kujundzic J, 'Wartime Sexual Violence in Croatia: Shifts in the Public Discourse' (Master thesis, Central European University 2014)

Kušeković M, 'Marija Slišković: Najvažnije je pomoći silovanim ženama, a do sada niti jedna vlada to nije činila' *narod.hr* (21 April 2014) <<http://narod.hr/hrvatska/marija-sliskovic-najvaznije-je-pomoci-silovanim-zenama-niti-jedna-vlada-nije-cinila>> accessed 23 October 2018

Lambourne W, 'Transformative Justice, Reconciliation and Peacebuilding' in Susanne Buckley-Zistel and others (eds), *Transitional Justice Theories* (Routledge 2014)

Lawler S, 'Narrative in Social Research' in Tim May (ed), *Qualitative Research in Action* (SAGE Publications Ltd 2002)

Lilly CS and Irvine JA, 'Negotiating Interests: Women and Nationalism in Serbia and Croatia, 1990-1997' (2002) 16 *East European Politics & Societies* 109

Lundy P, 'Commissioning the Past in Northern Ireland' (2010) LX *Review of International Affairs* 101

MacDonald DB, *Balkan Holocausts?: Serbian and Croatian Victim Centred Propaganda and the War in Yugoslavia* (Manchester University Press 2003)

MacDowall A, 'Slobodan Praljak's Suicide Reopens Old Wounds in Bosnia' *The Guardian* (2 December 2017) <<https://www.theguardian.com/world/2017/dec/02/slobodan-praljak-suicide-reopens-old-wounds-bosnia>> accessed 11 September 2018

Mackinnon C, 'Rape, Genocide and Women's Human Rights' in Alexandra Stiglmayer (ed), *Mass rape : the war against women in Bosnia-Herzegovina* (University of Nebraska Press 1994)

Madlingozi T, 'Good Victims, Bad Victims: Apartheid's Beneficiaries, Victims and the Struggle for Social Justice' in W Le Roux and K Van Marle (eds), *Law, Memory and the Legacy of Apartheid* (Pretoria University Press 2007)

Mahmood S, 'Feminist Theory, Embodiment, and the Docile Agent: Some Reflections on the Egyptian Islamic Revival' (2001) 16 *Cultural Anthropology* 202

Mamula M and others, 'Sexual Violence in Croatia 2000-2010' (Women's Room)

- Mani R, *Beyond Retribution: Seeking Justice in the Shadows of War* (Polity Press 2007)
- Manjoo R, 'Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences' (2010) UN Doc A/HRC/14/22
- , 'Introduction: Reflections on the Concept and Implementation of Transformative Reparations' (2017) 21 *The International Journal of Human Rights* 1193
- Mann M, 'A Political Theory of Nationalism and Its Excesses' in Sukumar Periwal (ed), *Notions of Nationalism* (Central European University Press 1995)
- Matic D, 'Is Nationalism Really That Bad? The Case of Croatia' in Sabrina P Ramet and Davorka Matic (eds), *Democratic Transition in Croatia: Value Transformation, Education, and Media* (Texas A&M University Press 2007)
- Matić Fred P, *Ništa Lažno* (Self-publication 2001)
- McClintock A, "'No Longer in a Future Heaven": Nationalism, Gender and Race' in G Eley and RG Suny (eds) (Oxford University Press 1996)
- McCrone D, *The Sociology of Nationalism: Tomorrow's Ancestors* (Psychology Press 1998)
- McEvoy K, 'Beyond Legalism: Towards a Thicker Understanding of Transitional Justice' (2007) 34 *Journal of Law and Society* 411
- McEvoy K and McConnachie K, 'Victimology in Transitional Justice: Victimhood, Innocence and Hierarchy' (2012) 9 *European journal of criminology*. 527
- McEvoy K and McGregor L (eds), *Transitional Justice from below Grassroots Activism and the Struggle for Change* (Hart Pub 2008)
- Media servis, 'U Zagrebu okrugli stol o pravima žrtava seksualnog nasilja u Domovinskom ratu' *Index.hr* (14 April 2014) <<https://www.index.hr/clanak.aspx?id=739705>> accessed 23 October 2018
- , 'Matić: Ne bojim se nikoga, i da dobro zaključujete - HDZ je iza svega' *Index.hr* (23 October 2014) <<https://www.index.hr/clanak.aspx?id=779356>> accessed 22 October 2015
- Meger S, 'Rape of the Congo: Understanding Sexual Violence in the Conflict in the Democratic Republic of Congo' (2010) 28 *Journal of Contemporary African Studies* 119
- 'Memorandum of Understanding between Ministry of War Veterans of Republic of Croatia, The Embassy of Switzerland, Association of Women in the Homeland War and The United Nations Development Programme' <http://www.hr.undp.org/content/dam/croatia/docs/legal/social_inclusion/UNDP_HR_WartimevictimsMoU.pdf> accessed 24 January 2014

Milekić S, 'Croatia Court Vetoes "Anti-Cyrillic" Referendum' *Balkan Insight* (12 August 2014) <<http://www.balkaninsight.com/en/article/croatia-court-vetoes-anti-cyrillic-referendum>> accessed 21 October 2018

—, 'Croatian War Veterans' Protest Enters Second Week' *Balkan Insight* (27 October 2014) <<http://www.balkaninsight.com/en/article/protesting-croatian-war-veterans-not-giving-up/1431/64>> accessed 22 October 2015

—, 'Croatia Police Trap Protesting Veterans in Church' (29 May 2015) <<http://www.balkaninsight.com/en/article/croatian-veterans-staging-a-protest-in-front-of-government>> accessed 22 October 2015

—, 'Croatia Expresses Shock at Hague Tribunal Suicide' *Balkan Insight* (30 November 2017) <<http://www.balkaninsight.com/en/article/croatia-expresses-shock-at-hague-tribunal-suicide-11-30-2017>> accessed 11 September 2018

Milovanovic S, 'Slobodan Praljak: War Criminal or Croatian Hero?' *Al Jazeera News* (30 November 2017) <<https://www.aljazeera.com/news/2017/11/slobodan-praljak-war-criminal-croatian-hero-171130181546531.html>> accessed 11 September 2018

Miškovska Kajevska A, 'Taking a Stand in Times of Violent Societal Changes: Belgrade and Zagreb Feminists' Positionings on the (Post-)Yugoslav Wars and Each Other (1991-2000)' (Unpublished PhD, University of Amsterdam 2014)

Mladjenovic L, Litricin V and Renne T, 'Belgrade Feminists 1992: Separation, Guilt and Identity Crisis' [1993] *Feminist Review* 113

Moffett L, 'Transitional Justice and Reparations: Remediating the Past?' in Cheryl Lawther, Luke Moffett and Dov Jacobs (eds), *Research Handbook on Transitional Justice* (Edward Elgar Publishing 2016)

Moghaddam F (ed), 'Patriotism', *The SAGE Encyclopedia of Political Behavior* (SAGE Publications 2017) <<https://ebookcentral.proquest.com/lib/kentuk/detail.action?docID=4871978>>

Molyneux M, 'Analysing Women's Movements' (1998) 29 *Development and Change* 219

Munivrana Vajda M and United Nations Development Programme in Croatia, 'Policy Paper on Reparations for Civilian Victims of War Related Sexual Violence' (2013) <<https://bit.ly/2q7z2tD>> accessed 24 January 2014

Nagel J, 'Masculinity and Nationalism: Gender and Sexuality in the Making of Nations' (1998) 21 *Ethnic and Racial Studies* 242

Nagy R, 'Transitional Justice as Global Project: Critical Reflections' (2008) 29 *Third World Quarterly* 275

—, 'Transitional Justice as Global Project: Critical Reflections' in Ruth Buchanan and Peer Zumbansen (eds), *Law in Transition: Human Rights, Development and Transitional Justice* (Hart Publishing 2014)

'Nairobi Declaration on Women and Girls' Right to a Remedy and Reparation' <https://www.fidh.org/IMG/pdf/NAIROBI_DECLARATIONeng.pdf> accessed 15 September 2015

Ni Aolain F, 'Political Violence and Gender in Times of Transition' (2006) 15 *Columbia Journal of Gender and the Law* 829

—, 'Gendered Under-Enforcement in the Transitional Justice Context' in S Buckley-Zistel and R Stanley (eds), *Gender in Transitional Justice* (Palgrave Macmillan 2012)

Ni Aolain F, O'Rourke C and Swaine A, 'Transforming Reparations for Conflict-Related Sexual Violence: Principles and Practice' (2015) 28 *Harvard Human Rights Journal* 97

Ní Aoláin F and Rooney E, 'Underenforcement and Intersectionality: Gendered Aspects of Transition for Women' (2007) 1 *International Journal of Transitional Justice* 338

Ni Aolain F and Turner C, 'Gender, Truth and Transition' (2007) 16 *UCLA Women's Law Journal* 229

Niarchos CN, 'Women, War, and Rape: Challenges Facing the International Tribunal for the Former Yugoslavia' (1995) 17 *Human Rights Quarterly* 649

'O Nama' (*Zaklada Sunčica*) <<http://zakladasuncica.hr/o-nama>> accessed 16 October 2016

Office of the Special Representative of the Secretary-General for Sexual Violence in Conflict, 'Press Release: 122 Countries Endorse Historic "Declaration of Commitment to End Sexual Violence in Conflict"' (2 October 2014) <<https://www.un.org/sexualviolenceinconflict/press-release/122-countries-endorse-historic-declaration-of-commitment-to-end-sexual-violence-in-conflict/>> accessed 5 September 2018

Office of the United Nations High Commissioner for Human Rights (OHCHR) and UN Women, 'Guidance Note of the Secretary-General: Reparations for Conflict-Related Sexual Violence' (2014)

O'Rourke C, 'Dealing with the Past in a Post-Conflict Society: Does the Participation of Women Matter? Insights from Northern Ireland' (2012) 19 *William & Mary Journal of Race, Gender, and Social Justice* 35

—, *Gender Politics in Transitional Justice* (Routledge 2013)

—, "'Walk[ing] the Halls of Power"? Understanding Women's Participation in International Peace and Security' (2014) 15 *Melbourne Journal of International Law* 128

—, 'Feminist Scholarship in Transitional Justice: A de-Politicising Impulse?' (2015) 51 *Women's Studies International Forum* 118

O'Rourke C and Swaine A, 'Gender, Violence and Reparations in Northern Ireland: A Story yet to Be Told' (2017) 21 *The International Journal of Human Rights* 1302

Otto D, 'Power and Danger: Feminist Engagement with International Law through the UN Security Council' (2010) 32 *Australian Feminist Law Journal* 97

Ozkirimli U, *Theories of Nationalism: A Critical Introduction* (Macmillan 2000)

—, *Contemporary Debates on Nationalism: A Critical Engagement* (Palgrave Macmillan 2005)

Parker A and others, 'Introduction' in A Parker and others (eds) (Routledge 1992)

Passmore K, *Women, Gender, and Fascism in Europe, 1919-45* (Manchester University Press 2003)

Patković N, 'Policajac Gilja (25) ostat će bez posla zbog skidanja ploče' *Slobodna Dalmacija* (9 October 2013) <<http://www.slobodnadalmacija.hr/novosti/hrvatska/clanak/id/214511/policajac-igor-gilja-25-ostat-ce-bez-posla-staviti-sina-poginulog-branitelja-da-cuva-ploce-u-vukovaru-je-isto-kao-i-staviti-gladnoga-pred-pun-stol>> accessed 21 October 2015

Pavelić B, 'Croats Celebrate Acquittal of Gotovina and Markac' *Balkan Insight* (16 November 2012) <<http://www.balkaninsight.com/en/article/croatians-celebrate-acquittal-of-gotovina-and-markac>> accessed 21 October 2016

Pavlaković V, 'Croatia, the International Criminal Tribunal for the Former Yugoslavia, and General Gotovina as a Political Symbol' (2010) 62 *Europe-Asia Studies* 1707

Pavlakovic V, 'Fullfilling the Thousand-Year-Old Dream: Strategies of Symbolic Nation-Building in Croatia' in Pål Kolstø (ed), *Strategies of Symbolic Nation-building in South Eastern Europe* (1 edition, Routledge 2014)

Peskin V, *International Justice in Rwanda and the Balkans: Virtual Trials and the Struggle for State Cooperation* (Cambridge University Press 2008)

Peskin V and Boduszyński MP, 'International Justice and Domestic Politics: Post-Tudjman Croatia and the International Criminal Tribunal for the Former Yugoslavia' (2003) 55 *Europe-Asia Studies* 1117

Peters JS and Wolper A (eds), *Women's Rights, Human Rights: International Feminist Perspectives* (1 edition, Routledge 1995)

Peterson VS, 'Sexing Political Identities/Nationalism as Heterosexism' (1999) 1 *International Feminist Journal of Politics* 35

Phillips A, *The Politics Of Presence: Political Representation of Gender Race and Ethnicity* (Oxford University Press, USA 1998)

Pitkin HF, *The Concept of Representation* (University of California Press 1967)

'PM: Praljak's Act Speaks of Deep Moral Injustice towards Bosnian Croats' (*Government of the Republic of Croatia*, 29 November 2017) <<https://vlada.gov.hr/news/pm-praljak>>

s-act-speaks-of-deep-moral-injustice-towards-bosnian-croats/22949> accessed 11 September 2018

Ponoš T, 'Autentičan glas ljudskosti' (*autograf.hr*) <<http://www.autograf.hr/autentican-glas-ljudskosti/>> accessed 16 October 2016

Predrag Matic, 'Promocija Knjige "Ništa Lažno"' (2008) <https://www.youtube.com/watch?v=Rw_R2Q5nQzA> accessed 16 October 2016

'Press Release: Turning the Tide on Sexual Violence in Conflict, New UN Guidance on Reparations Launched' (UN Women) <<http://www.unwomen.org/news/stories/2014/6/new-un-guidance-on-reparations-launched>> accessed 26 February 2017

'Public Group: Sunčica - Prešučeni Ratni Zločini Silovanja Nad Žrtvama u Domovinskom Ratu' (*Facebook*) <<https://www.facebook.com/groups/158981280856234/>> accessed 30 November 2011

Pusić V, 'Odgovor Na Zastupničko Pitanje Zastupnice Gordane Sobol u Vezi s Nadležnosti Nad Provedbom i Praćenjem Rezolucije VS UN 1325 (2000) o Ženama, Miru i Sigurnosti, Te Srodnih Rezolucija' (15 March 2013) <<https://vlada.gov.hr/UserDocImages/Sjednice/Arhiva/84.%20-%2033a.pdf>>

Rangelov I, *Nationalism and the Rule of Law: Lessons from the Balkans and Beyond* (Cambridge University Press 2014)

Rees M and Chinkin C, 'Exposing the Gendered Myth of Post Conflict Transition: The Transformative Power of Economic and Social Rights' (2016) 48 *New York University Journal of International Law and Politics* 1211

Reilly N, 'Seeking Gender Justice in Post-Conflict Transitions: Towards a Transformative Women's Human Rights Approach' (2007) 3 *International Journal of Law in Context* 155

Renan E, 'What Is a Nation?' in Geoff Eley and Ronald Grigor Suny (eds), *Becoming National: A Reader* (First Edition edition, OUP USA 1996)

Roht-Arriaza N, 'The New Landscape of Transitional Justice' in Naomi Roht-Arriaza and Javier Mariezcurrena (eds), *Transitional Justice in the Twenty-First Century: Beyond Truth Versus Justice* (Cambridge University Press 2006)

Romić T, 'Mijenjat će se zakon zbog žena silovanih u ratu ili donijeti novi' *Večernji list* (28 June 2012) <<https://www.vecernji.hr/vijesti/mijenjat-ce-se-zakon-zbog-zena-silovanih-u-ratu-ili-donijeti-novi-425325>> accessed 22 October 2018

—, 'Zastupnici u Saboru pogledali potresni film o silovanjima u Domovinskom ratu' *Večernji list* (20 May 2015) <<https://www.vecernji.hr/vijesti/zastupnici-u-saboru-pogledali-potresni-film-o-silovanjima-u-domovinskom-ratu-1006459>> accessed 22 October 2015

Rubio-Marin R, 'The Gender of Reparations: Setting the Agenda' in Ruth Rubio-Marin (ed), *What Happened to the Women? Gender and Reparations for Human Rights Violations* (The Social Science Research Council 2006)

— (ed), *The Gender of Reparations : Unsettling Sexual Hierarchies While Redressing Human Rights Violations* (Cambridge University Press 2009)

—, 'Reparations for Conflict-Related Sexual and Reproductive Violence: A Decalogue' (2012) 19 *William & Mary Journal of Women and the Law* 69

Rubio-Marín R and de Greiff P, 'Women and Reparations' (2007) 1 *International Journal of Transitional Justice* 318

Š D, 'Grupa "Sunčica" Proziva Ministra Predraga Matića Za Nebrigu Prema Žrtvama Ratnog Zločina Silovanja - Dnevnik.Hr' *Dnevnik.hr Nova TV* (31 December 2014) <<https://dnevnik.hr/vijesti/hrvatska/grupa-suncica-proziva-ministra-predraga-matic-a-za-nebrigu-prema-zrtvama-ratnog-zlocina-silovanja---366958.html>> accessed 22 October 2015

Schauble M, *Narrating Victimhood: Gender, Religion and the Making of Place in Post-War Croatia* (Berghahn Books 2014)

Schiff DN, 'Socio-Legal Theory: Social Structure and Law' (1976) 39 *Modern Law Review* 287

'Screening of Sexual Violence Documentary' (*United Nations - International Criminal Tribunal for the former Yugoslavia*, 3 April 2012) <<http://www.icty.org/en/outreach/activities/screening-sexual-violence-documentary>> accessed 23 October 2018

'Seksualno Nasilje u Ratu - Vukovar, Izvještaj s Okruglog Stola' (*Documenta - centar za suočavanje s prošlošću*) <<https://www.documenta.hr/hr/seksualno-nasilje-u-ratu-vukovar-izvje%C5%A1taj-s-okruglog-stola.html>> accessed 23 October 2018

'Sexual Violence in War: Jolie Opens Summit in London' *BBC News* (10 June 2014) <<https://www.bbc.co.uk/news/world-europe-27769132>> accessed 26 February 2017

Simons M, 'Croatian Generals Guilty of War Crimes' *The New York Times* (15 April 2011) <<https://www.nytimes.com/2011/04/16/world/europe/16hague.html>> accessed 16 October 2018

—, 'Croatian War Criminal Dies After Swallowing Poison in Court - The New York Times' *The New York Times* (29 November 2017) <<https://www.nytimes.com/2017/11/29/world/europe/bosnian-war-croatia.html>> accessed 11 September 2018

Sjednica Hrvatskoga Sabora, Konačni Prijedlog Zakona o Pravima Žrtava Seksulanog Nasilja u Domovinskom Ratu (2015) <<http://itv.sabor.hr/video/default.aspx?TockalID=6993>> accessed 30 May 2015

Sjednica Hrvatskoga Sabora, *Prijedlog Zakona o Pravima Žrtava Seksualnog Nasilja u Domovinskom Ratu* (2014) <<http://itv.sabor.hr/video/default.aspx?TockalD=6491>> accessed 3 March 2015

Slišković M (ed), *Snaga Ljubavi: Činiti Dobro* (Knjiga I, Parvus 2005)

Slišković M (ed), *Sunčica/Sunny* (Hrvatsko društvo logoraša srpskih koncentracijskih logora 2011)

Snyder LL, *Varieties of Nationalism: A Comparative Study* (Dryden Press 1976)

Spasić I, 'Woman-Victim and Woman-Citizen: Some Thoughts on the "Feminist" Discourse on War' in S Slapšak (ed), *War Discourse, Women's Discourse: Essays and Case-Studies from Yugoslavia and Russia* (Topos and ISH 2000)

Squires J, *The New Politics of Gender Equality* (Palgrave 2007)

Stan L (ed), 'Croatia', *Encyclopedia of Transitional Justice, Volume 2* (Cambridge University Press 2013) <[/core/books/encyclopedia-of-transitional-justice/3B29452FCC780067A352DFBE6CC4C2CB](http://www.cambridge.org/core/books/encyclopedia-of-transitional-justice/3B29452FCC780067A352DFBE6CC4C2CB)> accessed 17 November 2017

Stančić N, 'Hrvatski narodni preporod - ciljevi i ostvarenja' (2009) X *Cris: časopis Povijesnog društva Križevci* 6

Stern M and Nystrand M, 'Gender and Armed Conflict' (Sida 2006)

Stiglmayer A, *Mass Rape: The War Against Women in Bosnia-Herzegovina* (U of Nebraska Press 1994)

Stojsavljević J, 'Women, Conflict, and Culture in Former Yugoslavia' (1995) 3 *Gender and Development* 36

Subotić G and Zaharijević A, 'Women Between War Scylla and Nationalist Charybdis: Legal Interpretations of Sexual Violence in Countries of Former Yugoslavia' in John Idriss Lahai and Khanyisela Moyo (eds), *Gender in Human Rights and Transitional Justice* (Springer International Publishing 2018)

Subotić J, *Hijacked Justice: Dealing with the Past in the Balkans* (Cornell University Press 2009)

Suny RG, 'History' in AJ Motyl (ed), *Encyclopedia of Nationalism*, vol 1 (Academic Press 2001)

Šurina M, 'Leko Na Rubu Suza Nakon Filma o Žrtvama Silovanja u Ratu' *tportal.hr* (20 May 2015) <<https://www.tportal.hr/vijesti/clanak/leko-na-rubu-suza-nakon-filma-o-zrtvama-silovanja-u-ratu-20150520>> accessed 22 October 2015

'Survivors of Wartime Sexual Violence Appeal for Justice in Vukovar' (*UNDP in Croatia*) <<http://www.hr.undp.org/content/croatia/en/home/presscenter/articles/2012/04/03/survivors-of-wartime-sexual-violence-appeal-for-justice-in-vukovar.html>> accessed 22 October 2016

Swaine A, 'Assessing the Potential of National Action Plans to Advance Implementation of United Nations Security Council Resolution 1325' (2010) 12 Yearbook of International Humanitarian Law 403

—, *Conflict-Related Violence against Women: Transforming Transition* (2018)

Tanner M, *Croatia: A Nation Forged in War; Third Edition* (3rd ed. edition, Yale University Press 2010)

Teitel RG, *Transitional Justice* (Oxford University Press 2000)

—, 'Transitional Justice Genealogy' (2003) 16 Harv.Hum.Rts.J. 69

'The ICTY Renders Its Final Judgement in the Prlić et Al. Appeal Case' (*United Nations - International Criminal Tribunal for the Former Yugoslavia*, 29 November 2017) <<http://www.icty.org/en/press/the-icty-renders-its-final-judgement-in-the-prli%C4%87-et-al-appeal-case>> accessed 11 September 2018

Turner C, 'Transitional Justice and Critique' in Cheryl Lawther, Dov Jacobs and Luke Moffett (eds), *Research Handbook on Transitional Justice* (Edward Elgar Publishing 2016)

Udruga 'Žene u Domovinskom ratu', 'Korak Po Korak...' (*Sunčica: ratni zločin nad ženama Vukovara*, 1 March 2012) <<https://blog.vecernji.hr/suncica/korak-po-korak-1927>> accessed 23 October 2018

—, 'Vukovarske Sunčice – Žene Su Godine!' (*Sunčica: ratni zločin nad ženama Vukovara*, 8 March 2012) <<https://bit.ly/2q5AfBZ>> accessed 23 October 2018

—, "'Mučeno Nam Je Tijelo, Ali Još Više Srce i Duša" – Govori Žena-Žrtava Silovanja: Snježane Maljak i Đurđice Pankas, Te Urednice "Sunčice" Marije Slišković, Na Okruglom Stolu Održanom 3. Travnja 2012.' (*Sunčica: ratni zločin nad ženama Vukovara*, 4 April 2012) <<https://blog.vecernji.hr/suncica/muceno-nam-je-tijelo-ali-jos-vise-srce-i-dusa-govori-zena-zrtava-silovanja-snezane-maljak-i-durdice-pankas-te-urednice-suncice-marije-sliskovic-na-okruglom-stolu-odrzanom-3-travnja-2012-u-1932>>

—, "'Mučeno Nam Je Tijelo, Ali Još Više Srce i Duša" – Govori Žena-Žrtava Silovanja: Snježane Maljak i Đurđice Pankas, Te Urednice "Sunčice" Marije Slišković, Na Okruglom Stolu Održanom 3. Travnja 2012.' (*Sunčica: ratni zločin nad ženama Vukovara*, 4 April 2012) <<https://bit.ly/2OF4Sgh>> accessed 13 January 2012

—, 'Izlaganje Marije Slišković Na Konferenciji o Seksualnom Nasilju - Večernjakova Blogosfera' (*Sunčica: ratni zločin nad ženama Vukovara*, 31 May 2014) <<https://bit.ly/2O4sfe8>> accessed 23 October 2018

— (*Sunčica: ratni zločin nad ženama Vukovara*) <<http://blog.vecernji.hr/suncica>> accessed 20 January 2012

United Nations Development Programme in Croatia, 'Assessment of the Number of Sexual Violence Victims during the Homeland War on the Territory of the Republic of Croatia and Optimal Forms of Compensation and Support to Victims' (2013) <<https://bit.ly/2S9r4wU>> accessed 24 January 2014

Urban Walker M, 'Transformative Reparations? A Critical Look at a Current Trend in Thinking about Gender-Just Reparations' (2016) 10 *International Journal of Transitional Justice* 108

van Wijk J, 'Who Is the 'little Old Lady' of International Crimes? Nils Christie's Concept of the Ideal Victim Reinterpreted' (2013) 19 *International review of victimology*. 159

Vickers J, 'Bringing Nations in: Some Methodological and Conceptual Issues in Connecting Feminisms with Nationhood and Nationalisms' (2006) 8 *International Feminist Journal of Politics* 84

'Vlada Republike Hrvatske, "Nacionalni Akcijski Plan Za Provedbu Rezolucije Vijeća Sigurnosti UN-a 1325 (2000) o Položaju Žena, Miru i Sigurnosti i Srodnih Rezolucija Za Razdoblje 2011. - 2014." (2011)'

'Vlada RH Donijela NAP Za Provedbu Rezolucije Vijeća Sigurnosti UN-a 1325 (2000)' (*Ured za ravnopravnost spolova*, 22 July 2011) <<https://ravnopravnost.gov.hr/vijesti/vlada-rh-donijela-nap-za-provedbu-rezolucije-vijeca-sigurnosti-un-a-1325-2000/776>> accessed 21 October 2018

Walby S, 'Woman and Nation' (1992) 33 *International Journal of Comparative Sociology* 81

Waldorf L, 'Anticipating the Past: Transitional Justice and Socio-Economic Wrongs' (2012) 21 *Social & Legal Studies*

West L (ed), *Feminist Nationalism* (1 edition, Routledge 1997)

Wetherell M, Taylor S and Yates SJ, *Discourse as Data: A Guide for Analysis* (SAGE 2001)

Wieringa S, *Subversive Women: Women's Movements in Africa, Asia, Latin America, and the Caribbean* (Zed 1995)

Williams S and Opdam J, 'The Unrealised Potential for Transformative Reparations for Sexual and Gender-Based Violence in Sierra Leone' (2017) 21 *The International Journal of Human Rights* 1281

Williams S and Palmer E, 'Transformative Reparations for Women and Girls at the Extraordinary Chambers in the Courts of Cambodia' (2016) 10 *International Journal of Transitional Justice* 311

'Women Suffer Disproportionately during and after War, Security Council Told during Day-Long Debate on Women, Peace and Security' (*United Nations*, 29 October 2003) <<https://www.un.org/press/en/2003/sc7908.doc.htm>> accessed 13 September 2015

Wood EJ, 'Variation in Sexual Violence during War' (2006) 34 *Politics & Society* 307

—, 'Armed Groups and Sexual Violence: When Is Wartime Rape Rare?' (2009) 37 *Politics & Society* 131

—, 'Conflict-Related Sexual Violence and the Policy Implications of Recent Research' (2014) 96 *International Review of the Red Cross* 457

Yack B, 'The Myth of the Civic Nation' (1996) 10 *Critical Review* 193

Yepes RU, 'Transformative Reparations of Massive Gross Human Rights Violations: Between Corrective and Distributive Justice' (2009) 27 *Netherlands Quarterly of Human Rights* 625

Yuval-Davis N, *Gender and Nation* (SAGE Publications 1997)

—, 'Nationalist Projects and Gender Relations' (2003) 40 *Narodna umjetnost : hrvatski časopis za etnologiju i folkloristiku* 9

Zaharijevic A, 'Being an Activist: Feminist Citizenship Through Transformations of Yugoslav and Post-Yugoslav Citizenship Regimes'

Žarkov D, 'Feminism and the Disintegration of Yugoslavia: On the Politics of Gender and Ethnicity' (2003) 24 *Social Development Issues* 59

—, *The Body of War: Media, Ethnicity, and Gender in the Break-up of Yugoslavia* (duke University press 2007)

Zubaida S, 'Theories of Nationalism' in G Littlejohn and others (eds), *Power and the State* (Croom Helm)

Zupanov J, Sekulic D and Sporer Z, 'A Breakdown of the Civil Order: The Balkan Bloodbath' (1996) 9 *International Journal of Politics, Culture, and Society* 401

Prosecutor v Akayesu, (Judgement) ICTR-96-4-T (2 September 1998)

Prosecutor v Delalić et al, (Appeals Chamber Judgement) ICTY-2001-IT-96-21-A (Čelebići case)

Prosecutor v Furundžija, (Judgment) ICTY-2000-IT-95-17/1-T (July 2000)

Prosecutor v Gotovina et al, (Appeals Chamber Judgement) ICTY-2012-IT-06-90-A (16 November 2012)

Prosecutor v Gotovina et al, (Judgement) ICTY-2011-IT-06-90-T (15 April 2011)

Prosecutor v Kunarac et al, (Appeals Chamber Judgement) ICTY-2002-IT-96-23-T/1-T (12 June 2002)

Prosecutor v Kunarac et al, (Judgement) ICTY-2002-IT-96-23-T/1-T (12 June 2002)

Prosecutor v Prlić et al, (Appeals Chamber Judgement) ICTY-2017-IT-04-74-A (29 November 2017)

Prosecutor v Tadić, ICTY-1999-IT-94-1-A (15 July 1999)

Briefing from Ministry of Veterans' Affairs (8 September 2015)

Ministarstvo branitelja, Nacrt prijedloga Zakona o pravima žrtava seksualnog nasilja u Domovinskom ratu 2014

—, Konačni prijedlog Zakona o pravima žrtava seksualnog nasilja u Domovinskom ratu 2015

Ministarstvo branitelja Republike Hrvatske, Odluka o imenovanju Radne skupine za pripremu i izradu Prijedloga Zakona o pravima žrtava seksualnog nasilja u Domovinskom ratu, Klasa: 050-01/13-0001/111; Urbroj: 522-03/1-2-14-36 2014

Ministarstvo hrvatskih branitelja, Nacrt prijedloga novog Zakona o hrvatskim braniteljima iz Domovinskog rata i članovima njihovih obitelji 2017

UNGA Res 60/147 'Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law' (16 December 2005) UN Doc A/RES/60/147

UNGA Res 69/293 'International Day for the Elimination of Sexual Violence in Conflict' (19 June 2015) UN Doc A/RES/69/293

UNGA Res 3314 (XXIX). Definition of Aggression (14 December 1974) A/RES/29/3314

UNSC Res 827 'Statute of the International Tribunal for the Former Yugoslavia' (25 May 1993) UN Doc S/RES/827

UNSC Res 955 'Statute of the International Tribunal for Rwanda' (8 November 1994) UN Doc S/RES/955

UNSC Res 1325 (31 October 2000) UN Doc S/RES/1325

UNSC Res 1820 (19 June 2008) UN Doc S/RES/1820

UNSC Res 1888 (30 September 2009) UN Doc S/RES/1888

UNSC Res 1889 (5 October 2009) UN Doc S/RES/1889

UNSC Res 1960 (16 December 2010) UN Doc S/RES/1960

UNSC Res 2106 (24 June 2013) UN Doc S/RES/2106

Rome Statute of the International Criminal Court (17 July 1998) UN Doc A/CONF.183/9 of 17 July 1998, entered into force 1 July 2002

Statut Udruge Žene u Domovinskom Ratu

Ustav Republike Hrvatske (pročišćeni tekst, Narodne novine, br. 85/2010)