
WARTIME SEXUAL VIOLENCE IN CROATIA: SHIFTS IN THE PUBLIC DISCOURSE

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Submitted to

Central European University

Department of Gender Studies

In partial fulfillment for the degree of Master of Arts in Gender Studies

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Budapest, Hungary

2014

ABSTRACT

This thesis will focus on the issue of wartime sexual violence in Croatia following the recent draft proposal of the new law which will regulate the status of victims of 1990s wartime sexual violence. Two major shifts are identified in the public discourse surrounding the issue of wartime sexual violence since the 1990s. The first one concerns the media reports which still report in a populist and sensationalist way but with a milder focus on the perpetrators as opposed to the media reports in the 1990s. Dubravka Žarkov's analysis of media reports of sexual violence in Croatian media in the 1990s is presented as a stepping stone for the analysis of the recent time period. The second shift concerns women's groups and feminist debates in Croatia. Two positionings of Croatian feminists in the 1990s - anti-war, anti-nationalist feminists and nationalist feminists has changed since nationalist feminists have disappeared from the public discourse. Association of Women in the Homeland War which has been a key organization in prompting the legal regulation of victims' status does not claim to be feminist. The law itself presents an important step forward since the legal category of victims of wartime sexual violence is being introduced for the first time. The analysis of relevant media reports shows a divergence from the draft of the new law itself. Furthermore, the law itself raises certain objections; the most controversial issue is the matter of financial benefits since the financial means for this law are not foreseen in the state budget for this year (2014). This paper contributes to the existing literature on the gender, war and nationalism by focusing on the nationalist elements in the public discourse around the issues of wartime sexual violence. It also builds upon feminist legal theories by examining the new law through feminist legal reasoning.

Key words: wartime sexual violence, legal feminist theories, public discourse, nationalism

ACKNOWLEDGMENTS

First and foremost, I want to thank my supervisor, Elissa Helms, for her kind support and helpful insights which led me through this painful process of thesis writing and editing. She inspired me as a professor and as a mentor with her assistance and dedicated involvement throughout this one year program.

I want to thank Nela Pamuković for all the insider information about the feminist objections to the new law and for always patiently answering my questions through our online correspondence. Without her help my understanding of the topic would be incomplete.

I also want to thank Marija Slišković, for the interview, the book and the movie. Our interview was crucial for my understanding of the discourse around wartime sexual violence.

I would also like to show my gratitude to my former professors and supervisors, Irena Cajner Mraović and Renato Matić from the department of Sociology, University of Zagreb-Center for Croatian studies. Without their support, inspiration and letters of recommendation I wouldn't be able to write this acknowledgments in the first place.

For all the help with understanding the Croatian legal system and legal expressions, I want to thank Lana Petö. She helped me become the person I am today.

Last but not least, to my dear friends, Đorđe and Jovan. For their love, companionship and medical assistance in this difficult times I will be forever grateful.

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LIST OF ABBREVIATIONS

UNDP- United Nations Development Program

HDZ- *Hrvatska Demokratska Zajednica* (Croatian Democratic Union)

SDP- *Socijaldemokratska Partija Hrvatske*(Socialist democratic Party)

NN- *Narodne Novine Republike Hrvatske* (Official Gazette of the Republic of Croatia)

JNA- *Jugoslavenska Narodna Armija* (Yugoslav People`s Army)

PEN- Poets, Essayists and Novelists

NGO- Non-governmental Organization

HZZO- *Hrvatski Zavod za Zdravstveno Osiguranje* (Croatian Institute for Health Insurance)

HRK- *Hrvatska kuna* (Croatian currency)

EUR- Euro currency

1. INTRODUCTION

This thesis will focus on the two major shifts that were brought to light by the research I conducted on the recent public discourse in Croatia concerning 1990s wartime sexual violence. One of these shifts is concerned with media reports and representations of wartime sexual violence and the other is found among the positioning of Croatian women's groups and feminists working on the issue of wartime sexual violence. These shifts are brought to light by the debates surrounding the draft proposal of a new Law on victims of sexual violence during the war.¹ The new law is important because it officially recognizes, for the first time, victims of wartime sexual violence as war victims. The new law also brought back the issue of wartime sexual violence in media representations and feminist debates. I will look at the issues of ethnicity and nationalism in the public discourse about the victims of 1990s wartime sexual violence. My research questions are: In what ways does this new law interact with the public discourse about the victims of wartime sexual violence in Croatia? When and how do the issues of gender, ethnicity and nationalism come up in the current public discourse about the issues of 1990s wartime sexual violence?

Throughout my thesis I will be using the term "victim" even though I am aware that using that term reproduces the discourse of victimhood. Since I am reporting on the public discourses, legal framework and media representations I will use their own expressions for the sake of clarity but when the context allows I will use the term "survivor" because this term implies agency and not passivity.

¹The draft proposal of the Law on victims of sexual violence was released for public debate on the 17th of March 2014: <https://www.branitelji.hr/pregled/nacrt-prijedloga-zakona-o-pravima-zrtava-seksualnog-nasilja-u-domovinskom-ratu>, date accessed: 20.3.2014

Discourse around wartime sexual violence in Croatia cannot be examined without taking into account the categories of ethnicity, nationalism and gender which are simultaneously produced by the discourse itself. In exploring these issues I will engage with the two main bodies of literature: feminist literature on gender, nationalism and war, and feminist legal theories. This thesis can be situated in three broader debates: the issues of gender, war and the nation-state building process, the post-war period and state regulation of wartime sexual violence and victimized bodies, and the role of the media in representing wartime sexual violence connected to national narratives of the wartime.

The importance of this research can be seen in the two shifts which show the change in the Croatian public discourse of wartime sexual violence in the post-conflict period. This paper explores these shifts and examines the ways in which the topic of wartime sexual violence has changed from the 1990s. It also opens up space for the further researches on the connection between public discourse on the topic of wartime sexual violence and the state regulation of victims' status in the post-war period.

Media representations of wartime sexual violence have changed from the 1990s and the positioning of Croatian feminist and women's groups has changed as well. I will build upon Dubravka Žarkov's analysis of the Croatian media reports on wartime sexual violence to present the shift in the media reports in the recent time period. I will also present the split among Croatian feminists on the topic of wartime rape in the 1990s and present the changes among women's groups and feminists in the recent time period.

I will begin by providing context of the 1990s wartime in Croatia, explaining the public discourse around the Homeland War and recent political context. I will also point out the relevance of the Croatian city of Vukovar because of its importance concerning the new law and the issue of victimization in Croatian war narratives. In the second chapter I will

briefly present Žarkov's analysis of media reports during the 1990s wartime concerning the topic of sexual violence. Žarkov's analysis helps to point out the recent change in the public discourse which I will show further in the text. I will also elaborate on the split among Croatian feminists around the issue of wartime rape. Then I will explain the two recent shifts I identified in the media representations and feminist debates around the wartime sexual violence since the 1990s. I present the recent media discourse around the new law and examine the discrepancies between the media reports about the law and the actual law itself. In the third chapter I will briefly present feminist legal theories relevant for the analysis of the new law. Croatian lawyer and a feminist scholar Ivana Radačić made an important contribution to legal scholarship in Croatia by introducing feminist overview of legal scholarship in Croatia and translating some of the works of Anglo-American legal feminist scholars in Croatian. Following her legal feminist reasoning in my thesis I will be looking through critical feminist lenses at the draft proposal of the new law. I show the importance of critical feminist thinking, through my analysis, in approaching the legislation and legal regulation of victims of wartime sexual violence. I will present feminist objections to the draft of the new law further in the third chapter. In the conclusion I will summarize the most important points about the two shifts around the issue of wartime sexual violence and the new law itself.

1.1 CROATIAN 1990S WARTIME DISCOURSE

The Official Croatian historical account of events states that after the Croatian Declaration of Independence in June of 1991, on the eastern front of Croatia Serbian paramilitary units began forming and they aligned with the local militia against the Croatian

Ministry of Internal Affairs and the Croatian National Guard. Žarkov states that “in Croatia armed clashes between Croatian majority and Serbian minority started already in 1989” (2007:4). The tension escalated after the massacre of twelve Croatian policemen in Borovo Selo, a settlement in the county of Vukovar. Vukovar is a Croatian city situated at the very north-east of Croatia, bordering with Serbia. Croatian national narrative perceives Vukovar as the city which suffered the most tragic consequences and heavy losses during the war in the 1990s.

The context of Vukovar is important for the national public discourse around the war in Croatia since Vukovar is a powerful symbol of Croatian victimhood. Vukovar was always an ethnically mixed city and according to the last population census in 2011 the population is 57.46% Croat and 32.88% Serb². I will explain further why its mixed population is important for the recent political context in Croatia. The open siege of Vukovar began in July of 1991 following the involvement of the units of the Yugoslav People`s Army (JNA). After eighty-seven days of resistance the Croatian defense was broken and numerous wounded and captured civilians alongside non-civilians were executed. For Croatian national war narratives one of the most notorious massacres happened in Ovčara, a farm near Vukovar where around 300 people were taken from the hospital, killed and buried in a mass grave. The exhumation and the search for the missing persons are still ongoing. Vukovar is referred to as a hero city in Croatian public discourse and every year on the 18th of November there is a commemoration procession in Vukovar as remembrance of the fall and its victims (in this context, this mostly refers to Croat victims).

Vukovar was officially reintegrated into Croatia in 1998 following the Dayton agreement in 1995. From around 17,000 to 18,000 exiled Croatian citizens, around 13,000 and 14,000 have returned (Pokos and Živić 2004:740). Nowadays, however, many of them are

²Official webpage of Croatian Central Bureau of Statistics, www.dzs.hr, date accessed: 22.5.14.

leaving the city again due to the difficult economic situation and low employment rates (Pokos and Živić 2004:742). Since the reintegration the city has been ethnically segregated. There are schools, coffee shops and restaurants divided by ethnicity; they are known to be either Serb or Croat. There has been no reconciliation of history and the annual commemoration of the fall of Vukovar is still not supported by the Serb population, even though the former Serbian president, Boris Tadić, visited Vukovar in 2007 and apologized for war crimes.

In the Croatian public discourse the wartime period from 1991-1995 is referred to as The Homeland War (*Domovinski rat*) or in some cases Greater Serbian Aggression on Croatia (*Velikosrpska agresija na Hrvatsku*). Ante Nazor, Croatian national historian and a former war veteran, identifies the politics of Slobodan Milošević and the idea of Greater Serbia as the main cause of the dissolution of Yugoslavia (Nazor 2011:19). His opinion is shared by the official Croatian narratives of the war. Žarkov states that at the beginning of the conflict the term “civil war” was used mostly by the international community but it was soon replaced by the term “ethnic war” which was “widely accepted both inside Yugoslavia and by the international community” (Žarkov 2009:5). The term “ethnic war” indicated that the fighting was going on among different ethnic groups precisely because of ethnicity and proclaimed right to sovereignty of certain territories (Ibid.). But as Žarkov notes, the term “ethnic war” was also “to a great extent part and parcel of the Eurocentric, Orientalist, and Balkanist perceptions of the Balkans-both within and outside of it-that slowly but surely became the main frame of reference for Yugoslav disintegration” (Ibid.).

From the Croatian perspective the war started because the Serb minority rebelled against Croatian independence and it was soon backed up by Yugoslav`s Army forces (JNA). I will not go into great detail explaining the historical relationship between Croatian and Serbian communities and the breakup of Yugoslavia since a lot has been written about it by

both national and international writers (See for example: Jović 2003, Čolović 2009, Ivanović 2006, MacDonald 2002, Benson 2001, Banac 2001, Matković 1998, Garde 1996, Županov 1995). Kukec (2012) has presented in his MA thesis an elaborate account of historical narratives presented in the mainstream Croatian media and political narratives related to the breakup of Yugoslavia and Croatian nationhood. In his thesis he was exploring the shifts in masculinities of Croatian Homeland War veterans in the post-war context, I will return to some of his points further in the text (Kukec 2012).

I will briefly explain the key terms that I will be using throughout my thesis starting with the “Homeland War” (*Domovinski rat*) and “defenders” (*branitelji*). Homeland War is used in Croatian national narratives describing the 1990s wartime and it implies that the war was fought for the defense of the homeland. Croatia was merely defending itself; it was not the one who was attacking. I am deliberately using the term Croatia and not Croats since Croatia was personified by the Croatian media in the 1990s as I will show in presenting Žarkov’s analysis in my second chapter. The term defenders refers to the war veterans and it implies their position of the ones who defended their homeland. This term also enables the claims for victimhood and establishment of absolute innocence. It also foregrounds Croatia and Serbia in two fixed positions; the former of defenders and the latter of aggressors. All Croatian national war narratives arise from this position and this position is prevalent among all political parties in Croatia differing in the degree and the manner of expression. By the decision of Croatian government in 1997 Ministry of Defenders (*Ministarstvo Branitelja*)³ was founded for developing an integrated system of care for different categories of war veterans. But its name also speaks of the assumed position of defending even though the Ministry deals not only with the war veterans from the 1990s war but also with the war veterans from World War II as well.

³Official website of the Ministry of defenders: <http://www.branitelji.hr/>, date accessed: 29.5.14.

1.2 RECENT POLITICAL CONTEXT

I will now briefly explain the political context from the 1990s Croatian independence to present because the political context is relevant for the further understanding of Croatian context concerning the war. Croatian Democratic Union (HDZ) won the first multiparty elections in Croatia in 1990 and Franjo Tuđman⁴ was elected as the first president. After his death in 1999, HDZ lost the next elections and the Socialist Democratic Party (SDP) came to power with Stjepan Mesić as the newly elected president. On the elections in 2003 HDZ won again and Mesić was reelected as president in 2006. In 2010 Ivo Josipović became the newly elected president. The SDP won the election in 2011 and currently is in power.

Even though Croatia has had a multiparty system since the 1990s, HDZ and SDP have in practice been the ruling parties (with necessary coalitions with minor parties). HDZ built its reputation as a more or less hardline nationalist party while SDP is known as a social-liberal party. Both parties proclaim different and opposing positions in politics but in practice, the outcome of their policies is almost the same. For example, both were in favor of Croatia joining the EU and both advocated for and introduced neoliberal policies such as privatization of public goods. Both parties lobbied for the rights and care of war veterans but neither did much for them during their terms in power. SDP is currently in the third year of their term in power but they have already disappointed their voters on numerous accounts. For example, by cutting back the social benefits, not reducing the public debt, and increasing taxes which weighs heavily on the backs of citizens during the economic crisis. Meanwhile, HDZ is trying to consolidate its members and prepare for the next parliamentary elections which will be held in less than two years, counting on the votes of disappointed people. But HDZ has

⁴He was also the founder and the first president of HDZ

somewhat lost the trust of its voters due to the corruption trial where its former president Ivo Sander was accused and convicted of embezzlement of 70 million HRK (approx. 9,207,333.15 EUR) from governmental and public companies (Škiljić Ravenšćak 2014). In the following section I will briefly explain the recent context of Vukovar because of the recent political discourses related to the war narratives.

Recent issue in the city of Vukovar is the introduction of the Cyrillic alphabet alongside the Latin, following the provision of the Constitutional Law on National Minorities which requires the introduction of bilingualism when the members of national minorities make up at least a third of the population of the local unit. This introduction was based on the last population census in 2011 which showed that Serb minority makes up a third of the population of Vukovar. The introduction of Cyrillic was met with fierce revolt by the Croatian war veterans and most of the Croatian public. From a formal and legal standpoint, Cyrillic in Vukovar has been an official alphabet from 16th July 2009 according to the Statute of the city of Vukovar. But the matter has gained public attention after the last population census in 2011. Right wing parties started to push for the erasure of that clause and to change the Statue of the city of Vukovar. Defenders organizations started lobbying for declaration of Vukovar as a place of special reverence which would be exempt from the Constitutional provision on minority rights. Defenders organizations started an initiative called “Headquarters for the defense of Croatian Vukovar“(further in the text: Headquarters) which is said to be supported by 22 war veterans` organizations from Vukovar and 350 from all of Croatia (official website⁵). Bilingual signs, or to be more precise, signs in both Cyrillic and Latin alphabet, were set up on the buildings in Vukovar, which caused protests and violent breaking of those signs (Bradarić 2013). This issue has stirred up old animosities between Serbs and Croats in Vukovar and divided Croatian public and the media. The controversy within the controversy

⁵<http://stozerzaobranuhrvatskogvukovara.hr/o-nama/>, date accessed: 24.5.14.

is the fact that the right wing parties HDZ and HSP-AS⁶ had voted for the introduction of the Statute in 2009 but in 2013 they publicly opposed the introduction of Cyrillic alphabet (Špoljar 2013). This fact agitated the defenders even more but their sentiment was no different in regard to the current government. During the last year`s annual commemoration of the fall of Vukovar government officials were cut off from the procession to the Memorial graveyard by the defenders lead by the Headquarters (Patković 2013). The defenders are disappointed with the work of the current government and they resent the visits made by the government only once a year when their picture is taken placing wreaths on the graveyards. Also, they blame the current government for the systematic disdain of war veterans and reducing their legal rights (Hina 2014).

Kukec (2012:65) explains the difficulties of adaptation to peace time by war veterans in Croatian society. He argues that their position changed from a dominant, active one in wartime to a passive, marginalized one in peace time (Kukec 2012:66). He also notes a renegotiation of the active role which can be seen in self-organizing in war veterans associations (Kukec 2012:70). The uneasy positions of defenders in the times of peace is signaled by the estimated number of 2,000 suicides and overall 30,000 deaths of war veterans since the 1990s mainly caused by tumors, cardiovascular diseases, diseases of the digestive system and consequences of injury and poisoning (Šimić 2013, Šlabek 2011). All these diseases can be related to the Posttraumatic stress disorder (PTSD) related to war trauma. Taking all this into account about the lives of war veterans in the post-war period and all the struggles they encounter even with their legal status regulated, which entails social benefits, health insurance, monthly pension, social benefits for one`s family, one can imagine the difficult position of survivors of wartime sexual violence whose status was not legally acknowledged.

⁶Croatian Party of Rights- Ante Starčević. Ante Starčević was a politician who is considered the father of the Croatian homeland. (See: Horvat 1990)

The legal recognition for the survivors of wartime sexual violence is therefore an important step even though there are many objections raised to this new law, excuses and problems with funding which I will explain further in my thesis. Nevertheless, this new law can also be regarded as a populist measure to score political points by the current government finally addressing the issue of legal protection for the victims of wartime sexual violence.

1.3 RESEARCH DESIGN AND METHODS

In my research I will mostly rely on discourse analysis as a method which draws from linguistics, psychology and recently, social studies, concerned with the production of meaning through talk and texts (Tonkiss 1998:246). Discourse analysis helps to uncover the production of specific meaning and effects made by the language in talk and texts (Tonkiss 1998:247). I analyze a book *Sunny* which is important for the public discourse around the topic of 1990s wartime sexual violence in Croatia because it contains survivors' testimonies and because the book itself brought back the media's attention to the topic of wartime sexual violence. The book is also connected with the new law as I will show further in the text. I also analyze recent media reports on the new law and the draft of the new law itself. The majority of analyzed media reports were published in the online editions of the two most prominent Croatian daily newspapers, *Večernji list* i *Jutarnji list* in the recent time period from 2011 to 2014. I have also analyzed some articles from other newspapers such as *Novi List* and *Slobodna Dalmacija*. I choose to look only at relevant articles that report on the topic of wartime sexual violence connected to the new law. I look at the online editions of newspapers because of the availability. I also include in my analysis the official announcements from the official webpages of the UNDP Croatia, Ministry of Defenders and relevant NGOs reports on the new law and the issue of wartime sexual violence.

I have conducted two interviews, one in person and the other through the online correspondence. The first interview was conducted with the president of the Association of Women in Homeland War (*Udruga žena u Domovinskom ratu*) on the 23th of April in 2014 in the headquarters of the association in Zagreb. It was not recorded but written down in notes afterwards. I wanted to keep the conversation going and I was afraid that bringing up the recording would break the flow of the conversation. I mentioned my previous educational background in sociology since I thought it would be more favorable for the interview because gender studies is not a discipline well understood by the Croatian public. The second interview I conducted was through online correspondence with the coordinator of Center for Women Victims of war (*Centar za Žene Žrtve rata*). This interview was more relaxed since I knew that the coordinator comes from the feminist circles so I had no reason not to mention my graduate studies at the CEU and my feminist perspective. The second interview was not conducted in person because of the mutual inability to coordinate our schedules. The online correspondence went on for couple of months since the December of 2013.

I have conducted these interviews to gain better perspective on the issue of wartime sexual violence since both persons deal with the survivors and both were involved with the drafting of the new law so their insights and critique of the new law and government efforts were very useful for my research. More important, their perspectives present two opposite approaches to the issue of the wartime sexual violence and the survivors.

2. PUBLIC DISCOURSE ON THE TOPIC OF WARTIME SEXUAL VIOLENCE

In the beginning of this chapter I will briefly go over the theoretical framework of the role of the mass media concerning the war and national identities in former Yugoslavia. After that I will present Žarkov's analysis of the Croatia media reports about the sexual violence in the 1990s. Then I will elaborate on two major shifts around the issue of wartime sexual violence. Mass media had an important role in shaping and producing ethnic and national identities in the late 1980s and beginning of 1990s in the former Yugoslavia. In the beginning, during and after the conflict national media was employed in building and sustaining the national identity and national difference (Volčič and Džihana 2011:8). The history is represented in different ways in the media of different ex-Yugoslav countries. Žarkov points out that "the ethnic groups in former Yugoslavia were never as segregated or differentiated as some other ethnic or racial groups in other parts of the world" (2001: 81). In the interest of nationalist projects these differences were magnified and represented as insurmountable. Žarkov argued that the media representation in former Yugoslavia produced ethnicity, or in her own words, "I perceive both the media war and the ethnic war as wars that produce ethnic groups" (2007: 2). Media coverage of certain issues in conflict zones and framing of those issues influences public opinion and impacts decision makers (Carpenter 2009). Media discourses can influence power relations but power relations also shape and influence media or in other words, media is never a neutral, objective observer or reporter. Mass media acts as dominant agent of ideological reproduction since it represents social and power relations (Volčič and Džihana 2011: 13).

Mass media has the power to highlight certain issues while drawing attention away from others (Carpenter 2009). Concerning media in the states of former Yugoslavia ethno-nationalistic ideology was (and still is) the dominant ideology through which the social reality

is represented (Volčič and Džihana 2011:9). Merging interests of political and economic elites restrained proliferation of a variety of political discourses despite market deregulation. The majority of the mass media market in the states of former Yugoslavia is controlled by a few owners of national media. The National media in every country forms a basis for the process of homogenization and unity of the members of the nation. Benedict Anderson, in his book *Imagined Communities* emphasizes the historical importance of the press (print-capitalism) in helping to construct the nation as an imagined political community (2006). The newspaper reader is connected to other readers by the same social reality presented in the newspaper, binding them as fellow citizens. The newspapers are reminders of the rootedness of the imagined community in the everyday life of its members (Anderson 2006: 35).

Volčič and Džihana (2011) have analyzed the representation of the history of the Yugoslav wars in the media in the former states of Yugoslavia focusing on the media representation of war crimes trials. Media reports about the trials implicated the transformation of the entire political paradigm and the breakup with the former regimes. Analysis revealed that, not surprisingly, media reports on war crimes trials reflected the dominant interests and perspectives of ethnic ideologies (Volčič and Džihana 2011:11). Media strengthened and mediated between political elites and their discourse in Croatia, Serbia and Bosnia and Herzegovina. Media reports about the war crimes shaped the public opinion by focusing on one version of history which avoided any responsibility for war crimes, representing the accused as heroes and innocent victims of conspiracy (Volčič and Džihana 2011:23). Similar bias reporting on the issues of the wartime sexual violence can be seen in the recent media reports in Croatia as I will show further in the text.

2.1 CROATIAN MEDIA REPORTS ABOUT SEXUAL VIOLENCE IN 1990S WARTIME

The topic of wartime rape was scarcely reported on in Croatian media. Its highest peak of representation was at the beginning of the conflict but it quickly turned its focus on the Muslim women being raped by Serbian men, leaving Croat women (and men) out of the equation (Žarkov 2007). In this sense, the Croat women and the Croatian nation were not represented as humiliated through the ordeal of sexual victimization, and it allowed Croatia to take the “higher” stance above the victimized Bosnian bodies and the brutality of the Serbian perpetrators. Dubravka Žarkov (2007) analyzes Croatian and Serbian press examining the representation of ethnicity, gender and sexuality in the context of war in former Yugoslavia. By introducing gender and sexuality into the analysis Žarkov wanted to destabilize ethnicity by showing “that without the notions of masculinity and femininity, and the norms of heterosexuality, ethnicity could not have been produced” (2007:8).

Žarkov’s analysis has shown, among other things, the different Croatian and Serbian media representation of war in the context of sexual violence. Media in Serbia focused on Serbian people, specifically men and their suffering while media in Croatia defined war as war against Croatia. Žarkov interprets this as a matter of statehood and international recognition; Croatia gained statehood in 1992 and emphasized its independence while Serbia claimed to be acting on behalf of Yugoslavia (2007:14-15). Croatia was personified and presented as the principal victim in the Croatian media. As Žarkov’s analysis shows, the Croatian media was also concerned with producing the ethnic Other by focusing on the rapes of Muslim women (2007:131). Žarkov points out three distinctive stories about wartime rapes developed by the Croatian newspapers: about victims of rape, about forced impregnation, and about the rapists (2007:129). Croatian journalists had scarcely done research by themselves about the sexual violence; most articles were translated from Italian, French, British and

German newspapers and the majority revolved around raped Muslim women (Žarkov 2007:129). The rape of Croatian women was usually mentioned without further detail, if mentioned at all. Croatian media focused on Muslim women presenting them both as victims and as a problem that needs sorting out⁷ (Žarkov 2007:131). The representation of Muslim women only as rape victims separated them from Croat men and women. Articles about forced pregnancies of Muslim women were focusing on the issue of abortion and the children's faith looked at through an orientalist lens and debated through a Catholic religious framework (Žarkov 2007:129). Serbs were defined through the image of the rapist and indirect statements were used to point out that Muslim and particularly Croatian forces did not commit rapes or at least only incidental and not genocidal, systematic rapes (Žarkov 2007:133). Since the 1990s time period which was analyzed by Žarkov (2007), the mentioning of wartime rapes decreased and the topic was almost completely abandoned by the media. The topic has gained attention again in 2011 with the publishing of the book *Sunny* on which I will elaborate further in the text.

2.1.1 "THE WITCHES FROM RIO" AND THE SPLIT AMONG CROATIAN FEMINISTS

In this following section I will present an example of media representations of a few individual feminists who opposed the nationalist regime and who wrote about the topic of sexual violence in anti-nationalist rhetoric. Consequently, I will briefly elaborate on the split among Croatian feminists. During the 1990s most of the Croatian media was controlled by the government. Daily papers and periodicals had their chief editors appointed by a board of

⁷ Because a lot of refugees escaped from Bosnia to Croatia, that is why the Croatian media could present them as a problem which need to be sorted out (Ibid.)

directors nominated by the government. Croatian radio and television (HRT) was/is state-owned, and program content and personnel were supervised in the 1990s by a director Antun Vrdoljak who was also the vice president of the ruling party (HDZ). But research has shown no strong correlation between media ownership and the manner of reporting (Volčič and Džihana 2011:31). Biased ethnic reporting is sometimes not imposed from the outside but is internalized by the reporter her/himself. Subašić and Marković have analyzed the media reports of four Croatian and Serbian daily newspapers on the war crimes committed in Vukovar in the 1991 and they have noticed a difference between state owned and private/commercial media in this particular case (Volčič and Džihana 2011:78). State owned media were more moderate in their reporting and were using every opportunity to present the official governmental position. On the other hand, the private and commercial media were reporting in the populist manner, trying to appeal to the public by introducing elements of national aspirations and national pride (Volčič and Džihana 2011:31).

The Croatian government owned a printing house which issued a weekly nationalist magazine *Globus*. On the 11th of December in 1992 *Globus* issued an article headlined “Croatia’s Feminists Rape Croatia” about five women writers, journalists and publicists who wrote about rapes in Bosnia and Croatia and had also pointed out press censorship in Croatia to international human rights monitors (Tax 1993:624). The article called the women “witches from Rio” because they allegedly, during the 58th congress of Poets, Essayists and Novelists (PEN) congress in Rio de Janeiro, lobbied against holding the next (PEN) congress in Dubrovnik, Croatia (Tax 1993:624). These five women, Jelena Lovrić, Rada Iveković, Slavenka Drakulić, Vesna Kesić and Dubravka Ugrešić were accused of being pro-Serbian and traitors to Croatia. Their biographies in the article were used to portray them as the enemies of the state, communists and wives of Serbian men (Tax 1993:625). They were said to have betrayed Croatia by publishing their works abroad, reading foreign literature and

allegedly omitting the information about Serbian rape camps (Tax 1993:625). Both Drakulić and Kesić have written about wartime rapes emphasizing the feminist perspective of rape as not a nationalist issue of Serbian men raping Croatian and Muslim women but as the continuation of peace time patriarchal violence of men against women.

A lot of information in the article was wrong and twisted, and the women filed a law suit against *Globus*. Slavenka Drakulić was the first one to win the law suit against *Globus* in 2004 on the basis of "infringing the dignity of the person" (H-alterov investigativni tim 2008). This example shows how the feminist approach is seen as threatening to the building of the nation-state and how these women were attacked for their disobedience to the acceptable national rhetoric. But they were attacked not only as writers, journalists or freethinkers; they were attacked as feminists and as women. Calling them "witches" signalizes that they are not proper women; they do not behave as proper Croatian women should behave, they are evil and malicious as the stereotypical representation of witches in fairytales would have them. But the term "witch" is also doing more than reproaching; it is also patronizing them in a male-centered, chauvinistic way (since the term "witch" is commonly used as an insult for the old women in Croatian language). Also, the title that charges that the "Croatian feminists are raping Croatia" is positioning Croatia as the victim and the feminists as evil perpetrators who are betraying their own nation-state. A lot has been written about this incident by involved feminists themselves and others (See: Kesić 1994, Korać 1994, Tax 1993, Mostov 1995, Helms 2013, Miškovska Kajevska 2014).

The metaphor of rape is commonly used by nationalist projects to justify their actions and to present their nation-state as a victim (Massad 1995:471). In this case these feminists were accused of being just as bad as the Serbs who are raping Croatian and Muslim women since they were obscuring this truth which negates the Croatian victimhood. This was a powerful tool to discredit these anti-nationalist feminists and to turn popular opinion against

them. The article was written anonymously but in 1993 it was revealed that the author was Slaven Letica, a sociologist and a political advisor to the Franjo Tuđman in the 1990s after first democratic elections. Allegedly, Letica had offered his advisory services to Slobodan Milošević first, but was turned down (Halterov investigativni tim 2008). He included the article about the “witches” in his book, claiming that it was “a charitable endeavor” because it helped to promote the careers of these women (Ibid 2008).

The topic of rape is what caused a split among the Croatian feminist in the 1990s. Ana Miškovska Kajevska addresses this split among feminists in Zagreb in her PhD thesis (2014). She states that “in 1992 the feminists clearly split on the definition of the perpetrators and victims of the (sexual) war violence in Bosnia and Herzegovina and Croatia” (2014:14). Feminist organizations such as Autonomous Women's House Zagreb, Center for Women War Victims, Women's Lobby Zagreb and the Croatian Anti-War Campaign advocated women's solidarity, objectivity and political neutrality in providing assistance to women victims of violence, regardless of ethnicity and nationality, and they have continued to maintain contact and cooperation with activists and women's groups from the former Yugoslavia (Borić 2005:26). Today, these organizations, along with other new anti-war and anti-nationalist organizations form the Croatian Women's Network.

In contrast, during the 1990s wartime period, organizations such as the Radical feminist groups *Kareta (Radikalna feministička grupa Kareta)* and Women's Help Now (*Ženska pomoć sada*), Multi-media Women`s Center NONA (*Multimedijski ženski centar NONA*), Multicultural Help Network group (*Mreža multikulturalne pomoći*) and O-Zona/Women`s Line (*O-Zona/Ženska linija*), have emphasized the necessity of naming the aggressor and the victim in the war, and cooperated with organizations *Biser* and Women BiH from Bosnia and Herzegovina (Borić 2005:26). The latter organizations became a part of the dominant nationalistic politics. They identified with and supported the discourse of

victimization of Croatia and refused to cooperate with Serbian feminists because all Serbs were considered the enemies (Miškovska Kajevska 2014:55). As I have shown with the example of the “witches from Rio” the anti-national feminists were seen as enemies of the Croatian state and were discredited as Yugo-nostalgic and pro-Serbian. They were also accused of silencing the “truth” about, what the nationalist feminists called, the genocidal rapes committed by the Serbs (Miškovska Kajevska 2014:55). In the 1990s, to put it roughly, on the one side there were the anti-nationalist, anti-war feminists who opposed the manipulation of wartime rapes to further the nationalist propaganda and, on the other side, the nationalist feminists who internalized the victimization of Croatia and who insisted on the clear emphasis between victims and perpetrators in ethnic terms. Croatian nationalist feminists were aligned with Bosnian women`s groups who emphasized the ethnicity in the wartime rapes and claimed their victimhood. The situation among women`s groups and feminists has changed since the 1990s as I will elaborate on in the next paragraph.

2.1.2 SHIFT IN THE FEMINIST/WOMEN`S DISCOURSES

Since the 1990s, the situation has changed. The feminist groups which form the Women`s Network of Croatia persisted since the 1990s with the same anti-nationalist, anti-war rhetoric and continue in promoting women`s solidarity across borders and cooperating with the feminist groups in the region⁸. On the other hand, the nationalist feminist groups have disappeared from the public visibility since 1990s. The women`s group which gained recent media attention and exposure, *Udruga žena u Domovinskom ratu* (Association of Women in Homeland War), does not proclaim to be feminist.

⁸ In this context the term region will mostly be used in reference to Serbia and Bosnia and Herzegovina if not stated otherwise

In my interview with Marija Slišković, the president of the Association of Women in Homeland War, she told me that she has nothing against feminism but asked how we can talk about women's rights when there are not enough jobs and men are also victims of unemployment. Also, when asked about cooperation with other women's organizations from the region she responded briefly that the Association cooperates with everyone. But later in our conversation she told me that we (Croatia) should not look to the region, to Bosnia or Serbia, concerning legal regulation of wartime sexual violence, we should rather look at Norway. This presents a shift from the 1990s in a multilayered way.

The differentiation of Croatia from the region, the Balkans, started already in the 1990s when Tuđman argued in his interview for the *New Yorker* in 1991 that Croatia belongs to the Western Europe while Serbia belongs to the East (Luketić 2013:292). The fundamental distinction was made between Croatia and Serbia by grouping Serbia together with Yugoslavia and Balkan ("the monster with three heads") portraying them as one demonic, enemy force (Luketić 2013:291). Even though the recent political context is much different from the 1990s, Slišković's line of reasoning can be seen as falling into the same discourse of distancing Croatia from the region. Recent Croatian accession to the European Union (1st of July 2013) means, among other things, that the funds of EU become available to Croatia. That might be one of the reasons why Slišković argues there is no need to look to the region. Croatia is now official a part of Europe and can use its recourses which is not an option for the rest of the region (not including Slovenia). This line of reasoning is reproducing the old dichotomy of cultural and advanced Europe and barbaric and backward Balkans. In the 1990s the emphasis was placed on the common enemy, the Serbs, which is why the nationalist feminists and women's groups from Croatia could collaborate and consolidate with Bosnian and Kosovar Albanian women's groups but this is no longer the case. The present rhetoric of

Marija Slišković, ties Croatia to Europe distancing Croatia from the entire region not just from Serbia.

2.1.3 SHIFT IN THE MEDIA REPORTS

The recent focus on wartime sexual violence was brought back by the activities starting in 2011 of the Association of Women in the Homeland War, and not by the feminists who have been working on this issue in different ways since the war. Here I will provide a few examples of the media reports concerned with the wartime sexual violence. *Novi list* has published an article in 2011 written by Vesna Roller about the gathering of testimonies of raped women from Vukovar by Marija Slišković (Roller 2011). The title reads “Crime without punishment: Association of Women in Homeland War gathers frightening testimonies of women from Vukovar.” Some inserts of testimonies are presented in the article depicting sexual violence and torture that women suffered through. No names are mentioned, only the initials of the perpetrators. Slišković is quoted saying that these women experienced unprecedented atrocities but there is silence about every day, systematic rapes (Roller 2011). Their suffering is not known or recognized, it is omitted from the history (Roller 2011). The outcome of these testimonies was the book *Sunny*, published later in 2011, on which I will focus later in the text.

In an article published in *Jutarnji list* in 2012, the idea that the status of civilian victims of war should be available for the victims of sexual violence is introduced stating that the District Attorney’s Office has investigated the stories of women that were published in the book *Sunny* and that they have managed to determine the identities of perpetrators (Šeni 2012). The Minister of Justice, Orsat Miljenić was quoted saying that the biggest problem of prosecuting perpetrators of wartime rapes is the passing of time since a lot of perpetrators do

not live in Croatia anymore or have passed away. In this article the emphasis is placed on the prosecution of perpetrators as an important governmental step alongside the regulation of victims' status.

The same thing is stated by the article in *Večernji list* published in 2013. The article is entitled "Croatia and UNDP are writing a Law on victims of sexual violence" in which they quote Minister of Defenders Predrag Matić saying that the goal of new Law is to punish all perpetrators of wartime rapes and also to ensure financial support for the victims (Romić 2013). As I will show later in the text it is explicitly stated by the draft of the new law that it will not deal with the prosecution of perpetrators.

In looking at relevant articles published about the new law and the issue of wartime sexual violence in Croatia in the time period since 2013, in the two most prominent daily newspapers in Croatia, *Jutarnji list* and *Večernji list* there was lot of false information and sensationalism. There was no significant difference in which way the sexual violence was presented between the two daily newspapers, even though the *Jutarnji list* is considered a more left wing newspaper and *Večernji list* is considered more right wing. What is similar to both newspapers is equating the term "victims" with women. This reproduces the well-known gender binary of regarding war as a masculine phenomenon where women are represented only as passive victims (Denov and Gervais 2007:885). Almost every article starts with the "neutral" term of victims but it quickly substitutes women for victims as the text progresses. For example, one article in *Večernji list* begins by quoting a women victim of wartime sexual violence and revealing her full name in the text. She is quoted saying how this is a great day for all the women victims of wartime sexual violence in the response to the governmental promise on resolving the issue of legal protection for victims of sexual violence in the war and the realization of their rights through the new law (Romić 2013). She is depicted as

shedding a tear while saying this. Later in the text it is acknowledged in one sentence that not only women were victims of wartime sexual violence.

Equating gender with women reproduces the gender binary under the pretense of gender neutrality. As Theidon argues, “by assuming that women are a homogenous group of victims or apolitical bystanders, it gives the illusion of rendering a group with shared interests based upon their identity as women” (Theidon 2008:462). But more importantly, it defines women as “peripheral to the conflict” which obscures their agency and in some cases, active participation in the conflict itself (Theidon 2008:463). Also, “equating women with gender leaves men as the unquestioned, unmarked category” (Theidon 2008:471). The media does this in their articles about the new law even though the law itself recognizes that not only women were victims of wartime sexual violence. I will return to this point later in text.

Contrary to the insistence of journalists and the quotes from Minister Matić, the goal of the new law was never to prosecute perpetrators. The main goal of the law was to regulate the legal status of the victims of wartime sexual violence and to ensure financial support. One of the main complaints about the new law which Marija Slišković told me was precisely that the law will not regulate the relations between victims and perpetrators and that there will be no claims made towards the state of the offenders (Serbia).

Twenty years has passed since the war, the manner of reporting on the issue of wartime sexual violence has changed from the 1990s. The establishing of Croatian statehood in the terms of world recognition may be over but the need to establish Croatian victimhood is not. It is still quite clear from the relevant media reports who is considered a victim and who is a perpetrator. Serbs are maybe not portrayed explicitly and aggressively as perpetrators as in the 1990s media reports but their culpability is strongly implied in the reports. The focus

has now finally turned to Croat women, but their victimization is presented in ways fitting to the national discourse and gender stereotypes.

2.2 *SUNNY* (2011)

I will now focus on the book *Sunny* which foregrounds the women victims of wartime sexual violence in a specific way; the emphasis is strongly put on the victimhood. Anthias and Yuval-Davis have identified five major ways in which women tend to participate in nation-state building and ethnic processes, and they will be useful to consider when analyzing the content of *Sunny*:

1. “as biological reproducers of members of ethnic collectivities;
2. as reproducers of the boundaries of ethnic/national groups;
3. as participating centrally in the ideological reproduction of the collectivity and as transmitters of its culture;
4. as signifiers of ethnic/national differences- as a focus and symbol in ideological discourses used in the construction, reproduction and transformation of ethnic/national categories;
5. as participants in national, economic, political and military struggles” (1998:7).

All these five ways are to a lesser or greater extent expressed or implied in women`s testimonies in the book *Sunny*.

The book *Sunny* (*Sunčica*) was published by the *Hrvatsko društvo logoraša srpskih koncentracijskih logora* (Croatian Association of Prisoners of Serbian Concentration Camps)

in 2011, and it contains testimonies of women survivors of sexual violence during the 1990s wartime in Croatia. The editor and author of the project is Marija Slišković. The purpose of the book was to give voice to the survivors and to encourage and prompt governmental regulation of the rights of survivors. The book was published in both Croatian and English language which signifies it was meant for international audience as well. After the book was published, UNDP Croatia⁹ and Ministry of Defenders signed the agreement in 2013 with the Association of Women in the Homeland War to work on the issues of restitution for victims of sexual violence during the 1990s wartime in Croatia. The outcome was the drafting of the new Law on the victims of sexual violence during the war.

Slišković has positioned herself and her association as the key organization which deals with the issues of wartime rapes, even though there were several other NGOs which worked with wartime victims since the war itself. During our interview, Slišković told me that no one before her had raised the issue of legal regulation of victims of sexual violence during the war. This resonated with the Bosnian case of the Association of Women Victims of War (ŽŽR) and Bakira Hasečić, ŽŽR's president. ŽŽR positioned itself as a key organization for establishing eligibility of wartime victims of sexual violence following the Bosnian Federation benefits law in 2006 (Helms 2013:211). I will elaborate more on this Bosnian law in the third chapter since it is also mentioned in the draft of the Croatian new law as an example of legislation dealing with wartime sexual violence from the region. Both associations positioned themselves as primary advocates for all raped women in their respective countries. Both Hasečić and Slišković have regularly spoken out to the media about the need to arrest and prosecute the perpetrators of war crimes (Helms 2013:213). Also, both associations have been pushing the survivors of wartime rape to expose themselves publicly

⁹ UNDP in Croatia contributed to the preparation of the new law at the initiative of the President Ivo Josipović and Marija Slišković. Also, fighting sexual violence in conflict has been at the top of the United Nations' global agenda. (official website, <http://www.hr.undp.org/content/croatia/en/home.html>, date accessed: 6.6.2014)

and speak out more. Feminist organizations in Bosnia as well as Croatia, which have been conducting therapy with the victims, were concerned and objected to such approach.

I was unable to find out directly whether there has been any cooperation among these two organizations but as I have mentioned previously, Slišković stated that she does not want to look to “the region” concerning these matters of regulating the wartime sexual violence. As Helms (2013:215) noted, it was paradoxical that feminist and therapy NGO aligned on the side of protection, discretion and silence of victims while the non-feminist associations favored public testimony, reproducing the feminist position that the female rape victim should not be silent and ashamed. In a way, the latter approach can be seen as forcing women to testify publicly with their identities fully exposed to can claim their status as victims. In order to persuade women to do this some sort of coercive mechanisms must be used. One of those mechanisms can be publicly praising these women who speak out and construct them as courageous while shaming those women who remain silent. This approach is problematic because it “constructs only women who speak out as courageous and brave, and it obscures other forms of courage that women survivors demonstrate on daily basis” (Theidon 2008:464). It also obscures the difficulties that women have to face in everyday life after they publicly expose their identities as victims of wartime sexual violence. For example, none of the media articles in Croatia in the recent time period from 2011 explore what it means for women in Vukovar, who revealed their identities to the public, to live their everyday lives as known rape survivors. It is interesting to notice this apparent disinterest in such matters in the Croatian media representations.

The book *Sunny* can be compared to the book *I Begged Them to Kill Me* which was published in 1999 by the Bosnian Association of Former Prison Camp Inmates of Bosnia and Herzegovina and the Center for Information and Documentation (Ajanović 1999). Both books were published by the associations of former prison camp inmates. The regulation of legal

status for victims of wartime rape followed the publications of both books. Both books are highly political and nationalistic, emphasizing the victimization of one particular ethnic group. In both cases the Serbs are explicitly and implicitly portrayed as the perpetrators and the aggressors.

Sunny is the name of an eight-month-old baby that was trapped in an apartment in occupied Vukovar in 1991 with her mother. Her mother was sexually molested by the Serbian soldiers who frequented the apartment. Sunny's cries were muffled by the heavy military jackets thrown over her by the Serbian soldiers (Slišković 2011: 9). Today she is a grown woman and she is aware of what happened to her and her mother. The book begins with her story and the statement that "Croatia is interwoven with the strength of countless Sunnies" (Slišković 2013:9). The book consists of ten testimonies, nine of which are told by women and one by a man. They are all Croats abused by Serbs. In each of the testimonies there is a clear emphasis on the ethnicity of the victims and the perpetrators.

Religious vocabulary is extensively used and it presents the connection of national and religious identity, in this case, intertwinement of Roman Catholicism with Croatian national identity. Religion serves a fit purpose for the development of national identity because it offers to create a shared experience and collective identity based on the same beliefs, values, meaning of life and death, traditions and rituals (Smith 1991:6-7). During the war for independence in the 1990s Croatia gained great support from the Catholic Church and The Vatican was among the first states to recognize Croatian independence. After the end of the war, the Vatican Agreement was signed between the Roman Catholic Church and the Republic of Croatia. According to the last population census in 2011 86, 28% of the Croatian population¹⁰ identifies as Roman Catholic and the Church has a powerful influence on the public discourse in Croatia as well as the support of the majority of parties. Catholicism has

¹⁰Official webpage of Croatian Central Bureau of Statistics, www.dzs.hr, date accessed: 28.5.2014

always been a core element of Croatian identity construction. The strong influence of Catholic values entwined with nationalism can be seen throughout the entire book. Each testimony ends with the statement that there has been no compensation for the victimization and war crimes committed. Even the ones who state that they testified before the local courts write that they were never called again or notified about the status of the procedures. All testimonies conclude with the difficulty of life without the legal recognition of their sufferings.

In the foreword of the book Slišković calls for justice, punishment, validation of victims` suffering and compensation from the aggressor state, claiming that Croatia will never be free or democratic until it makes those claims (Slišković 2011:10). Serbia is not mentioned explicitly but is implied in the term “aggressor state.” Not naming the perpetrator communicates that we all know who the perpetrator is, so it goes without saying. “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” (Slišković 2011:13). “Our freedom” in this context means the Croatian freedom and it foregrounds Croatian independence as a justified cause that led to freedom from Yugoslavia. Croatian war narratives portray Croats as a nation of martyrs who dreamed of their own country for a thousand years (Luketić 2013:291). Croatia went through “the way of the Cross” (*križni put*) for the freedom and realization of an independent state (Luketić 2013:291). These notions can be seen throughout the testimonies in the book. Freedom is a powerful notion in the war narratives since it implies some sort of enslavement that one needs to break free from. It also provides authority to the survivors` testimonies and persuades readers of their value since they have sacrificed themselves for the freedom of Croatia.

The introduction to the book is written by Danijel Rehak, the president of the Croatian Association of Prisoners of Serbian Concentration Camps and retired colonel of the Croatian Army. Rehak calls for acknowledgment, protection, integration, respect and embracement of

women prisoners of war. “Women are mothers, sisters, wives, or daughters, and they played an historical role in the creation of the Republic of Croatia, through their sacrifices, which are of immeasurable value, through their support, loyalty, participation, their bodies, and finally, their lives, the ultimate sacrifice” (Slišković 2011:22). Rehak poses the direct question in the name of some people who might question the importance of this book: “Some might think: Who cares? After all, it’s just a woman” (Slišković 2011:22). But he provides a direct answer to this question, these women are someone’s mothers, sisters, wives, relatives, daughters (Slišković 2011:23).

Women are identified in their relation to men following the nationalistic ideology of gender construction. McClintock argues that many nationalistic narratives tend to depend on powerful construction of gender difference (1993). Women are conceived as symbolic bearers of the nation while men are seen as the actual, progressive agents of the nation (McClintock 1993:66). The political relation of women to the nation is mediated by her relation to men of the nation. In *Sunny* women are describing themselves in relation to men and they are defined as important because they are related to men.

Coming back to the already mentioned five ways in which women participate in nation-state building processes, these women serve as signifiers of ethnic differences throughout their testimonies, they are signifying the difference between victims and perpetrators, between Croats and Serbs (Anthias and Yuval-Davis 1989:9). Through their victimhood they are foregrounding Croatia’s victimhood. Their victimhood is constructed in opposition to the aggression and savageness of Serb soldiers. In a way, they are also signifying domesticity since Serb soldiers are portrayed as outsiders that came from Serbia to ravage Croatia. Even though there was significant number of Serbs living in Vukovar they are portrayed as either collaborating with the Serb soldiers in torturing and evicting Croat people

from their homes or as not truly belonging to Croatia since they were spared from the torture once their ethnicity was made known.

Most testimonies involve the description of the collapse of the social structure of Vukovar following the arrival of paramilitary Serbian units and Yugoslav Army (JNA). A lot of women describe how their first neighbors turned against them by naming them to the soldiers or how they knew personally the ones who participated in their humiliation, torture and sexual abuse. For example, in testimony X, the woman says that her rapists were all locals and that she knew all of them (Slišković 2011:121). She even encountered one of her rapists after the liberation. He was working as a police officer and she reported him but soon after that he disappeared (Slišković 2011:122).

The women demonstrate a certain degree of agency in their testimonies, how they managed to survive the horrible ordeals but their agency is somewhat obscured by the overall passive tones of the testimonies. But their agency nevertheless goes against the assumption that victims are passive recipients of their ordeals. As Denov and Gervais point out, the oppressive conditions of conflict and overall preexisting patriarchal gender norms shape the degree of agency and resistance manifested by women and girls during armed conflict (2007:904). Since the emphasis is placed on how they have been forgotten and abandoned by Croatia for whom they have sacrificed so much, their agency is constructed in such ways that it fits with these requirements. For example, in testimony II the woman describes her detention in a house by the Serb soldiers: “I was afraid what was happening to her and my daughter, so I entered the room they were in. He sent my mother in law and daughter out of the room, and raped me again; saying I had to go along or he was going to kill them” (Slišković 2011:44). A mother who sacrifices herself for her family is the kind of trope that is favored by the national narratives of wartime. The role of the mother offers a certain authority and legitimacy because of its value in the patriarchal society. Women as mothers signify in

the nation-state building process as not only “biological reproducers of members of ethnic collectives” but also as the reproducers of culture and ethnicity (Anthias and Yuval-Davis 1989:8). Most of the women in their testimonies establish their identities as wives and mothers.

In testimony V there is a peculiar characterization of a perpetrator of rape: “One of them took me to the upper floor of the house to the children`s room. That person was gay, and abused me in especially perverse ways” (Slišković 2011:71). There is no other characterization of this person nor is it clear why exactly this person is perceived to be of homosexual orientation. Peterson defines heterosexism as “institutionalization and normalization of heterosexuality and the corollary exclusion of non-heterosexual identities and practices” (1999:39). But this example shows more than exclusion of non-heterosexual identities and practices since it equates perversion with homosexuality and it foregrounds the perpetrators as diseased monsters. I do not wish to minimize the horror done to this woman by any means. I simply want to stress the framing of the suffering in the context of Croatian national war narrative. It correlates with Žarkov`s analysis of the Croatian media reports where she notes the construction of Serb rapists as “monsters, centered on an unnatural and abnormal sexuality, which defined all Serbs as perverts. Rape was only one of their perversions, alongside homosexuality and sodomy” (Žarkov 2009:138).

The last testimony is the told by a man, titled: “They raped women, men and children: A testimony of a raped man.” The whole testimony depicts physical torture and only one sentence mentions the rapes: “Several men raped me, saying I should experience being a male whore” (Slišković 2011:171). There is no detailed description of the rapes but the physical torture is explained in great detail. Žarkov (2001:81) pointed out that there cannot be “too much exposure of the sexually victimized male bodies in a culture in which dominant masculinity is equated with power and heterosexuality.” In his testimony there are powerful

notions of ethnic difference and ways of preserving Croat identity which are not that explicit in the women`s testimonies. “They tried to force me to wear a Serbian hat with the five-pointed star, which I refused, and they also tried to force me to sing Chetnik songs, which I also refused, so they abused me brutally because of that” (Slišković 2011:171). By his refusal he foregrounds his Croat identity; he did not betray it by giving in to these requests. He endured more suffering because of his refusal of giving in which foregrounds him as a hero who did not hesitate to sacrifice himself for Croatia.

In 2014 the documentary based on the book *Sunny* was released. The producer was Nikola Knez, a Croat who owns his own movie industry in the US. Documentary parts of the film were filmed on locations in Croatia: Vukovar, Sisak and Petrinja. Feature parts of the documentary, where actors reenact parts of the book, were recorded in Texas. This is a Croatian-American co-production with the support of Association of Women in the Homeland War and with Texas films. I will not go in the deep analysis of the movie itself but ethical questions present themselves already. Is it possible to represent sexual violence in literature or film without disrespecting victims and survivors? To be more specific: is it possible to represent wartime sexual violence in such a movie without sliding into nationalist propaganda? This movie is made for a specific purpose of telling “the truth” about Croatian suffering positioned from the Croatian side. It is very different from the movie blockbuster like Angelina Jolie`s movie *In the land of blood and honey* a love story set in wartime Bosnia which caused a lot of controversy among women`s groups in Bosnia, since this movie will remain left relatively unknown to the wider audience because of its low key advertisement and unknown producer and production (For more information see: Helms 2013:216-220). Depicting wartime sexual violence in movies is always problematic because it can represent suffering in sensationalistic ways and fetishize the violence. Such movies can be used to further collective contempt against a specific group. In this case this movie furthers contempt

against Serbs and foregrounds Croatian victimhood. This is also true for the entire book as I have shown with the examples above. As I have mentioned before, this book prompted governmental regulation of the status of victims of wartime sexual violence and the outcome was the draft of the new law. In the next chapter I will present and discuss the new law.

3. LEGAL FRAMEWORK AND FEMINIST DEBATES

In this chapter I give a brief overview of the legal feminist theories related to my topic and then I present the existing laws and the new law addressing the issue of wartime sexual violence in Croatia. I critically examine the draft of the new law and I present feminist objections to it. Ivana Radačić argues that in the last 15 years in Croatia, following the process of the European Union accession, various legal reforms concerning human rights of women have been passed without the subsequent analysis on the theoretical level of jurisprudence (Radačić 2009:3). Meaning, no theoretical framework was dedicated to explore these various legal reforms. Systematic consideration of the relations of gender and law has not been developed in Croatian academia. Feminist legal theories do not exist as a subject in any of the classes in law schools in Croatia. Feminist legal theories have not been recognized or explored among Croatian legal scholars. In analyzing the proposal of the new law, feminist legal theories will help me understand its gender implications. Uncritical considerations of the legal system assume the objectivity and neutrality of laws and legal measures, when in fact; laws have been written and formulated through a patriarchal framework.

Different definitions of different feminist legal theories can be summed up in their common focus on gendered aspects of legal rules and practices, in other words, the construction and reflection of gender identities through legal rules and practices, the sustainment of patriarchy and what are the possible ways to transform the legal system in order to vanquish its patriarchal overtones and male biases (Radačić 2009:10). Katharine T. Bartlett analyzes feminist legal methods by focusing on three main methods: posing the woman question, practical feminist judgment and consciousness-raising (1990:28). Posing the “woman question” refers to the examining of the gender implications of a social practice or norm. In the case of the legal system it refers to the questioning of the proposed objectivity

and neutrality of legal standards and concepts. Woman question as a legal method aims to unmask the male biases in the legal formulations, uncover their function and propose legal amendments (Bartlett 1990:29). Practical feminist reasoning combines classical Aristotelian reasoning model with the feminist perspective of recognition and validation of marginalized experiences (Bartlett 1990:40). It tries to bring out in the open the political and moral influences and interests behind the legal decision making process. Consciousness- raising is a meta-method since it precedes the previous methods by emphasizing women`s experiences which could alter the public perception of various problems. It is an interactive and collaborative process of articulation and validation of personal experience together with other experiences that are being articulated and validated (Bartlett 1990:47).

Since the new law is dealing with the legal status of victims of wartime sexual violence the issue of victimization is important to take in account. Legal procedures can produce secondary victimization by making the survivors relive their trauma for the purpose of witnessing and proving their victimhood. Ratna Kapur argues that the subject of victimhood is a transnational phenomenon and that focusing on the subject of victimhood perpetuates gendered and cultural essentialism in the international arena of women`s human rights (2005:251-252). Her argument states that the subject of victimhood and emphasis on the violence encourages legal remedies and state measures which have nothing to do with promotion of women`s rights and can provoke paternalistic and conservative state responses (Kapur 2005:254). The construction of women solely thought the victimhood framework provoked an international and local response after the UN Declaration on the Elimination of Violence against Women in 1993¹¹ in the form of legal reforms focused on the penal code which in some cases further restricted women`s rights in the name of their own protection. She criticizes that the campaigns about violence against women do not take in to the account

¹¹<http://www.un.org/documents/ga/res/48/a48r104.htm>, date accessed: 30.5.14.

how their discursive mechanisms produce the subject of victimhood and identity politics (Kapur 2005:260). Wendy Brown argues that “the welfare state produces social identities, available for politicization because they are deployed for the purposes of political regulation, which cross-cuts juridical identities based on abstract right”(1995:58). In the Croatian case of the new law the identities of victims are produced as political identities through the category of victimization. Brown raises some important questions regarding the state protection when the state itself reproduces the same mechanisms of violence from which one seeks protection from (1995:169). For example, institutional violence as secondary victimization during the court procedure which is trying to remedy the “first” victimization. The state and the legal system perpetuates “the very modality of dependence and powerlessness marking much of women`s experience across widely diverse cultures and epochs” (Brown 1995:170).

Brown`s critique is important because it points out the problems within the legal system which are taken for granted. Statement of assessment on the impact of the law ¹²(later in text: Statement), which was issued alongside with the draft of the new law, acknowledges the problematic of court procedures for the victims such as the length of procedures, secondary victimization, stigmatization of victims and lack of evidence. But it does nothing more than simply acknowledge the problem with the legal system, it does not state how will the implementation of this new law be carried out in spite of all this. Also, the Statement reasons that the need for regulation of status of victims of wartime violence exists in the need of Croatia to respect the international law and international conventions and protect the basic, moral human integrity. Reflecting on Kapur`s argument I argue that this new law is an outcome of focusing on the subject of victimhood which perpetuates gendered and ethnic

¹² *Iskaz o procjeni učinaka propisa za zakon o pravima žrtava seksualnog nasilja*, <http://www.branitelji.hr/pregled/nacrt-prijedloga-zakona-o-pravima-zrtava-seksualnog-nasilja-u-domovinskom-ratu>, date accessed: 15.5.2014

essentialism. This will be shown more clearly in examining particular articles of the new law further in the text.

3.1 CROATIAN LEGAL REGULATION OF WAR VICTIMS` STATUS

In the following section I will briefly explain the existing legislation in order to show the need for the new law and the problems with existing laws. In the Statement the lawmakers have assessed the existing laws relevant to the issue of wartime victims. I will draw from their analysis and I will also briefly mention some of the complaints made by the NGO Documenta. Documenta- *Center for dealing with the past* is an NGO founded in 2010 by the Centre for Peace, Nonviolence and Human Rights Osijek, the Centre for Peace Studies, Civic Committee for Human Rights and the Croatian Helsinki Committee.

It is worth mentioning that The Criminal Code of the Republic of Croatia in the ninth chapter titled "Crimes against humanity and human dignity", Article 91 recognizes as a war crime against civilians, *inter alia*, rape and forced prostitution. But the protection of civilian and military victims of war is governed by special laws such as: The Law on the Protection of Military and Civilian War Invalids (NN¹³ 33/92, 57/92), The Law on the Rights of Croatian Homeland War Veterans and Their Families (ZOPHBDR, NN 174/04, 92/05, 02/07, 107/07, 65/09, 137/09, 146/10, 55/11, 140/12, 18/13), The Law on Liability for Damage Caused by Terrorist Acts and Public Demonstrations (ŽOST, NN 117/03), The Law on the responsibilities of Croatia for damage caused by members of the Croatian Army and police forces during the Civil war (ZORH, NN 117/03) and The Law on compensation to crime victims (NN 80/08, 27/11). None of these laws explicitly include sexual violence as the basis for claims to restitution. The most evident problem with ZOPHBDR is that it offers legal

¹³Official Gazette of Republic of Croatia , <http://www.nn.hr/Default.aspx>, date accessed: 17.5.2014

protection for only those persons with established status as Homeland War veterans. Four women and two men have obtained the status of Croatian war veterans under this law on the basis of minimum three days imprisonment in a detention camp and proof of bodily damage from 50% to 100% as a result of sexual violence. The Law on the Protection of Military and Civilian War Invalids has a time limit for claiming compensation of 3 months from the date of termination of hostilities which means that the deadline for making those claims has long expired. Under this law ten women were able to achieve compensation. Concerning ŽOST and ZORH, it is acknowledged in the Statement that the main purpose of these laws is to determine war damage done to Croatia, to its individual and legal entities, and not to regulate the matter of responsibility and reparation.

Both ŽOST and ZORH were criticized by NGO Documenta for the problem of implementation in cases where there is a lack of material evidence as well as for their insufficient definitions of terrorism and war damage (Bužinkić 2012). Documenta issued a handbook and a research report about civil victims of war in Croatia. Research was conducted in the time period from September 2011 to July 2012 with a sample of 105 civilian victims and with dozens of experts on the issues of human rights (Bužinkić 2012:18). Research methods included in-depth and semi-structured interviews, focus groups, public hearings, document analysis and case studies (Ibid.). The number of civilian victims of war in Croatia is unknown but estimated between 4,000 and 8,000 people (Ibid.). The results of the research show that a very small number of victims have obtained the status of civilian victims of war and thus realized the associated social rights (disability living costs allowance, care and assistance at home, etc.). Most victims have no information about their rights and opportunities or how to realize these social rights. The same is also acknowledged by the Statement when reasoning for the need of the new law. In areas where military operations took place and where they destroyed a large number of housing units, procedures for

compensation for damage mainly resulted in litigation costs for the victims (Bužinkić 2012:39). This may be one of the reasons why victims are reluctant to start a court procedure. Concerning victims of sexual violence, Documenta's research has found 17 court cases in their analysis of court documents in different stages of criminal proceedings that contain, as a form of execution of war crimes, *inter alia*, sexual abuse against civilians and prisoners of war (Bužinkić 2012: 64). The report states that it is very difficult to assess the exact number of rapes during armed conflict, because it is very difficult to get information from the conflict areas and because the victims are mostly silent due to trauma or fear of social stigmatization. But there is no doubt, according to the report, that so far the victims have not received the necessary support (Bužinkić 2012: 65).

The support for civilian victims is a part of the project "Support to the Victims of Torture" and it is carried out in collaboration of Documenta and the European House Vukovar since June 2013. The project ends in December of 2014 after which there will be new planned activities related to psycho-social support for the victims. Documenta has been addressing the problems of civilian victims since 2010, including the victims of wartime sexual violence but their efforts have not prompted government reaction as was the case with the Association of Women in the Homeland War. Slišković managed to prompt the legal regulation of victims' status and to gain media attention in a way no other NGO has. This new law is meant to precisely address the issues which are brought up by Documenta but it is interesting that the draft or the Statement do not address Documenta's report.

It is interesting to note that while both Documenta, among many others, and Slišković's Association have been criticizing the state and the government for not regulating the victims' status for so long, their positions are qualitatively different. Documenta is an anti-war, anti-nationalist organization while Association of Women in the Homeland War shows nationalistic tendencies. It seems like the government easily ignored the works of anti-

nationalist, anti-war NGOs but there was something about the Slišković's Association which got their attention. Slišković's Association focuses on the victimhood of Croatian women and men who have suffered from the Serbian aggression which is in accordance with the official national narrative of the war.

Slišković's Association focuses on 1991 and Vukovar which is ideal for foregrounding the Croatian victimhood. On the other hand, Documenta is known for addressing the war crimes committed against the Serbian minority in Croatia. Marija Slišković told me during our interview that "those leftist NGOs" like Documenta, always talk about 1995 but never about 1991. They are always mentioning Varivode¹⁴, but they don't want to hear about Škabrnja¹⁵. In this statement there is a sense of resentment towards what is interpreted as Documenta's ignoring of Croatian suffering. Slišković told me that this preoccupation with 1995 is only aggravating the Croatian people and it is not helping the Serbian minority either because it creates animosity towards them. In the following section I will present and explain the draft of the new law alongside with my comments. Then I will present the feminist objections.

3.2. THE NEW LAW ON THE VICTIMS OF SEXUAL VIOLENCE IN THE WAR

The law on victims of sexual violence during the Yugoslav war in the 1990s, which was recently released for public debate, is the first of its kind in Croatia. As I mentioned previously, no other existing law provided the basis of realizing rights for the survivors of wartime sexual violence.

¹⁴ Varivode is a small village near Skradin where nine Serbian civilians were killed two months after the operation Storm in 1995. Perpetrators were never found nor prosecuted.

¹⁵ Škabrnja is a small village near Zadar where 84 Croats were killed, 26 defenders and 58 civilians in 1991. For that crime Milan Babić and Milan Martić were sentenced to 35 years of imprisonment by the ICTY.

The draft states that the regulation of this issue is necessary because of the fundamental principles and requirements of international humanitarian law which have been incorporated in Croatian legislation. The protection of basic human rights and liberties also means enabling the compensation if these rights and liberties have been violated. The draft then presents the comparison of legislative systems of the neighboring countries showing that compensation for war victims has not been achieved in the most parts of the region. Republic of Slovenia is presented in the draft as the most advanced concerning legislation since it passed The Law on victims of war violence in 2001 and The Law on the payment of compensation to victims of war and post-war violence in 2004. But these laws refer to the victims of the Second World War since the time period is defined from 06.04.1941 until 15.05.1945. Specifics of implementation of those laws are not explored in the draft. Federation of Bosnia and Herzegovina regulated the status of civil war victims in 2006 by The Law on Social Protection of Civilian Victims of War and Protection of Families with Children and its amendments which placed survivors of wartime sexual violence in a special category. In the draft it is acknowledged that this matter is not uniformly resolved on the whole territory of Bosnia and Herzegovina and the federal Law on the Protection from Torture has not been adopted which would establish a uniform sum of compensation. Helms has written about the problems with implementation in Bosnia regarding the determination of victim`s status and secondary victimization through public exposure (Helms 2013:211).

As examples of good international practice South African Republic, Argentina, Chile and Germany are mentioned in the draft but it is not clear what is directly taken from them in regard to this law. Also, what does an example of good practice mean? Drawing from feminist scholarship, Fiona C. Ross (2001) has written about the women`s testimonies in public hearings of the South African Truth and Reconciliation Commission. She pointed out the issue of silence in public testimonies of women. She has shown how women mostly testified

about men`s experiences and not about their own abuse (Ross 2001:253). Ross also pointed out the difficulties of testifying and sharing personal stories about one`s own victimization and the victimization of loved ones (Ross 2001:276). The witnessing process in front of the Commission can serve as a case in point to the difficulties of witnessing process itself in the case of wartime violence. Ross warns about silences in women`s speech and importance of being aware of the meanings of silence in a particular context (Ross 2001:271). The issue of silence is here important because every legal procedure requires that violence and trauma are translated and communicated into language. Ross also points out that the silence is gendered and in order to truly understand how women express their experiences related to war trauma one must acknowledge silence as a legitimate discourse on pain (Ross :272). In the Croatian case of the new law, as I will mention further in the text, there are required conditions which the victims need to fulfil in order to claim their status as victims. But proving of one`s victimhood also relies on the assumption that the victimization can and must be translated into language to be acknowledged.

In the draft it is stated that Administration for the detainees and missing persons of Ministry of War veterans has gathered data about 7, 666 exchanged persons of which 932 are women. The new Law is said to be in accord with recently adopted (2013) UN Declaration on Commitment to End Sexual Violence in Conflict. There are several points in the draft which the new law claims to address:

- definition of sexual violence in the Homeland War,
- establishing and acknowledging the status of victims,
- insuring the rights of mandatory and supplementary health care insurance,
- enabling regular psychological and health care check-ups for the victims,

- establishing a monthly financial support to the persons who obtained the status of wartime sexual violence victims.

The consequences of the law, as proclaimed by the draft, will be:

- the promotion of truth,
- reparation and guarantee of non-repetition of crimes,
- encouragement of speaking out about crimes in the Homeland War and the cooperation of official institutions in the prosecution of crimes,
- restoring the dignity of victims,
- approaching the European and world standards of basic human rights protection,
- collecting funds from various sources (funds, foundations) for the victims in order to increase financial support.

In the previously mentioned issued Statement it is stated that the state's treasury is overloaded and that the funds for this law are not foreseen in the state budget for the year 2014. That is why the payment of compensation is envisioned through the new foundation which would require a new law. Mayor of Zagreb, Milan Bandić has signed an agreement with Marija Slišković on establishing the Foundation for the wartime victims of sexual violence on 8th of May 2014. Mayor said that the City of Zagreb will allocate for the Foundation 200,000 HRK (approx. 26,380.60 EUR) for this year, and another 400,000 HRK (approx. 52,761.20 EUR) for the next year (Official website of the city of Zagreb).

It is unclear how exactly will this law achieve its stated goals, especially things such as the promotion of truth, reparation, restoration of dignity and guarantee of non-repetition of crimes. Concerning the rights of mandatory and supplementary health care insurance, every Croatian citizen is already entitled to mandatory health care insurance since the contribution is taken from their paychecks and "Croatian citizens who belong to a particularly vulnerable

category are exempt from paying health care contributions” (Croatian Institute for Health Insurance, HZZO ¹⁶). The only additional benefit in this case is bearing the cost of supplementary health insurance by the state which is stated in the draft Article 13, clause 1.

The Article 10 of the draft states: “Expressions used in this law for persons of male or female gender are neutral and apply to both female and male persons.”¹⁷”The previously mentioned Statement that was issued alongside the draft claims to have assessed that the majority of victims were women but it has acknowledged that men and children were also victims of wartime sexual violence. It has been estimated that the majority of sexual violence against men was done in captivity (detention camps). It is acknowledged in the draft that the fear of stigmatization is more prevalent among men (than among female victims) which diverts them from coming forward and speaking about it.

Acknowledgment of men as victims of rape presents a shift in the public discourse from the 1990s. Sexual violence against men and its media representation was explored by Žarkov in her article “The body of the Other man- Sexual violence and the construction of masculinity, sexuality and ethnicity in Croatian media” (2001). War narratives in the 1990s were very specifically gendered when presenting men as only perpetrators of rape and never the victims. In Žarkov’s example of six articles in Croatian newspapers that reported on the rapes of men, Serbs were always portrayed as perpetrators and Muslims as victims, while Croatian men were completely invisible in those reports. She interprets this as a way of preserving the Croatian masculinity as “the legitimate one”, not perverse and savage as the Serbian one, nor is it weak and powerless as Muslim’s (Žarkov 2001:79). Croatian media reports in the 1990s concerning sexual violence against men endorsed the idea that “a real man” doesn’t get raped and implied that only weak and homosexual men do. In the wartime

¹⁶Official webpage, <http://www.hzzo.hr/en/croatian-health-care-system>, date accessed: 20.5.14.

¹⁷„Izrazi koji se u ovom Zakonu koriste za osobe u muškom ili ženskom rodu su neutralni i odnose se na muške i ženske osobe.“

narratives there was no place for weak men as war propaganda was going strong and the morale of Croatian men had to be bolstered.

Since the war has been over for twenty years the narrative has changed and there is space for Croat men to be presented as victims of wartime sexual violence. But their presentation is still highly gendered as I have tried to show with the example of a man's testimony in the book *Sunny*. Also one might wonder about the Statement's assessment of the low turnout of male victims of sexual violence. Of course it stands to reason that in patriarchal society men might fear greater stigmatization for being raped but the Statement might be producing those fears rather than representing a known reality.

The issues of secondary victimization caused by establishing the status of victim are not explored. As I have previously mentioned, drawing on criticism of Wendy Brown (1995) and Ratna Kapur (2005) of the state concerning the legal categories of victimhood, secondary victimization and institutional violence should be taken into account. The law makers should explore the ways the law can be implemented in the first place rather than simply stating the problem of estimated low turnout of victims.

According to the data of Ministry of Defenders, specifically the Administration for Detainees and Missing Persons, it is estimated that the majority of sexual violence outside of detention camps and prisons on the occupied areas of Croatia was committed in the first stage of the war and in the areas of East Slavonia, counties of Zadar and Šibenik and Dalmatian hinterland. The Statement claims that the majority of rapes were single incidents but there were also multiple rapes occurring when women were detained committed by enemy forces as well as Croat soldiers. This is can be seen as assuming more objective position in acknowledging the crimes of all parties and not just emphasizing the enemy's crimes. But the question remains how influential is this proclamation on the general public attitude? That

statement resonates with something Marija Slišković said to me during our interview. She said that incidental rapes were indeed committed by Croatian soldiers but JNA and Serbian paramilitary forces raped systematically and their rapes were genocidal. This falls in line with the previously explained stances of nationalist feminist groups back in the 1990s wartime period.

A lot has been written on the matter of genocidal rape by feminists and other scholars and many disputes were held (See for example: Allen 1996, Hayden 2008, Bećirević 2010, Carpenter 2010, Nielsen 2013). The most well-known support for the arguments in favor of genocidal rape came from the American feminist Catharine MacKinnon who actually attacked Croatian anti-national feminists for acknowledging that Croat forces also committed rapes (Žarkov 2007: 150). MacKinnon was influenced and supported by Croatian nationalist feminists and her attack was used by the nationalist press in Croatia to further discredit the anti-national, anti-war feminists (Žarkov 2007: 150). I have previously explained the division among Croatian feminists on the issue of wartime rape in my second chapter. Genocidal rape can be used as a part of war propaganda since it emphasizes matters of ethnicity and nationality concealing the gendered dimension of wartime sexual violence. Also, Turpin argued that “the idea that genocide could be accomplished by the mass rape of the women of the enemy’s ethnic group derives from a patriarchal definition of ethnicity” (1998: 5). It implies that the ethnicity is produced through paternity and the woman is simply an object carrying the man’s offspring. In that sense men are the only ones who have real agency in the nation building process.

The Article 31 clearly states that the determination of status of victims does not determine criminal responsibility of the perpetrators and does not affect the decisions of relevant authorities concerning criminal charges. Here we can see the discrepancy between the media reports about the law and the actual law itself. The law clearly states that it will not

deal with the prosecution of the perpetrators so why the media insistence on the prosecution? One of the reasons can be the sensationalism needed to capture the public's attention. Another reason can be the need to sustain the victim/perpetrator dichotomy by drawing attention to the perpetrators which are known to be Serbian and therefore to further foreground the Croatian victimhood through the Croatian media. Following the process of accession to the European Union the rhetoric of animosity towards Serbs was mitigated and replaced by the rhetoric of national reconciliation but in the Croatian national narratives and public discourse it is made very clear who was responsible for the aggression. Also, the Serb minority which is still living in Croatia or returned after the war is seen by certain right wing politicians as contributors to the war against Croatia (tportal.hr/Hina 2014). As I have previously mentioned in the second chapter about media representations, nationalist elements can be introduced to appeal to the general public. State owned media might want to present governmental decision in the best possible light which might result in the discrepancy between what is said about the law and what is actually written in the law.

3.3 FEMINIST OBJECTIONS TO THE NEW LAW

The Center for Women Victims of War (CŽŽR) has filed its opinion, suggestions and objections to the draft of the law in the time period open for filing opinions from 17th of April 2014 until 30th of April 2014. The opinion was signed by Sanja Bezbradica Jelavić as the attorney and Nela Pamuković as the coordinator. Nela Pamuković sent me the form through our online correspondence. This form is also endorsed by Women's Network of Croatia which involves 30 organizations from Croatia and the "The Initiative for a Women's Court-Feminist Approach to Justice", which involves more than 100 women's NGOs from the region of former Yugoslavia. The suggestions and objections are made on the following articles: Article 2 concerning the definitions of sexual violence in war, Article 16 concerning right of

placement in war veterans` centers, Article 18 concerning the right to financial benefits, Article 23 concerning the deadline for the submission of claims, Article 25 concerning the status of victim and Article 29 concerning legal expenses.

In the article 2 the objections is made by Jelavić and Pamuković on the definition of sexual violence claiming that the definition is too narrow since it excludes other possible acts of sexual violence such as indecent acts (*bludne radnje*) and sexual harassment. Also, definition should include, according to Jelavić and Pamuković, not only threats or force directed to the victim but also to the third party¹⁸. Concerning the article 16 which regulates the right of placement in war veterans` centers Jelavić and Pamuković advise a prescribed deadline in which such centers will be founded so that this provision can be implemented. If this draft is relying on other regulations then there has to be a deadline in which these regulations are to be passed. The suggestion of Jelavić and Pamuković is six months from the date of the entry into force of this law.

Objections concerning the article 18, which defines the right to financial benefits, state that there should be deadline concerning the amount of the benefit which will be defined by the special regulation. The suggested deadline is three months from the date of the entry into force of this law. Jelavić and Pamuković have suggested that the article 23 should be completely erased since it proscribes the deadline of two years, from the date of entry into force of this law, for the submission of claims which is not *in favorem* of victims. Jelavić and Pamuković argue that the proscribing of such deadline makes no sense because it disables the victims from claiming their rights and help in their own time. Also, rightly they point out that the law itself will not be functional once it enters into force because currently there are no

¹⁸In the Croatian Criminal Code (article 153-the act of rape) the force or threat is also defined as directed not only towards the victim but also towards the third party which is also pointed out by Jelavić and Pamuković

veterans` centers and the amount of financial benefits is unknown so it is not fair to proscribe the deadlines for the victims` claims.

The article 25 prescribes the conditions of eligibility for victim status. Condition of proved residency on the territory of Croatia before the beginning of Homeland War is seen as problematic by Jelavić and Pamuković, since the law refers to the violence experienced through during the Homeland War. This insistence on formalities is seen as aggravating for establishing the victim`s status. The criteria for residency should be made less formal including the evidence other than formal confirmation of Ministry of Internal Affairs. The article 29 states that the cost of procedure in which the party has succeeded in its claim will be paid by the state budget. Jelavić and Pamuković point out that this means that the party which has failed in its claims will have to bear to cost of the procedure on its own. They insist that the cost of procedure should be paid by the state budget in any outcome because real victims can be rejected on the basis of formality which already happens on everyday basis in different court procedures.

These objections are merely suggestions to the lawmakers and carry no legal obligation. Since it is unknown when exactly will this law come into force it is difficult to predict which changes to the articles will be made and how will the law look like in the end. The matter of implementation is also important but difficult to foresee for the time being.

As an alternative to the state responses and legal measures feminists from the region of former Yugoslavia have initiated the forming of the Women`s Court in 2009. The Center for War Victims was among the initiators, together with other feminist organizations from the region, who wanted to re-initiate the issues related to war trauma and define the needs of women survivors. According to the latest information provided by Nela Pamuković, the court should formally begin its work in March 2015 in Sarajevo and more than 300 women and 100

organizations from the region have supported and helped its initiative. The main idea of the court is to enact an alternative, feminist approach to justice by placing women as subjects and not objecting to their own testimonies. The court is envisioned as serving a catharsis role in allowing women to tell their story in their own way. Nela Pamuković stated for the *Zadarski list* in 2012 that the idea is to have continuing proceedings for three days and nights (Rogoznica 2012). The Women`s Court will not impose judgments, but will express public condemnation, pressuring the national and international institutions. However, the Court can initiate appropriate measures against perpetrators of crimes, including the collection of evidence for the initiation of judicial proceedings. But it is unclear how exactly that will affect national courts in the region and how successful this method will be in pressuring national and international institutions.

4. CONCLUSION

In my thesis I have argued that the public discourse around the issue of wartime sexual violence has changed from the 1990s. I presented two shifts I identified through my research; one in the media representations of wartime sexual violence and the other in the women's groups working on this issue. I have pointed out the importance of the new law and its problem zones. I tried to capture the entwinement of the public discourse around the issue of wartime sexual violence and the new law. I also problematized the nationalistic elements in the representations of wartime sexual violence in survivors' testimonies in the book *Sunny*. Short analysis of relevant media articles helped me show the discrepancy between the public discourse around the new law and the actual law itself. I critically analyzed the new law, alongside with feminist objections to it, in order to show what is being promised to the survivors of wartime sexual violence.

Since the 1990s the topic of wartime sexual violence was mostly forgotten by the Croatian media. The topic gained media coverage again in the 2011 following the publication of the book *Sunny* which consisted of testimonies of survivors of 1990s wartime sexual violence. The book was framed in the nationalist way which foregrounds the Croatian victimhood and emphasizes Serbs as vicious perpetrators who are still left unpunished. After the publication of *Sunny* media started writing about the new law which will finally address the legal status of victims of wartime sexual violence. The media reported several times on the need to punish perpetrators even though it is clear from the draft that this law will not be concerned with persecuting the perpetrators. The new law itself presents an important step forward in regulating the legal status of survivors of wartime sexual violence. The most controversial issue is the matter of financial benefits which should be regulated by this law. Excuses about the overload of the state budget have been made by the lawmakers and

politicians, and a special Foundation was founded by the city of Zagreb which will provide financial support for the victims.

The various elements I bring up in my thesis also present the limitations of my thesis. I did not do a comprehensive analysis of the media reports since I only analyzed those articles connected with the new law. Also, a more thorough analysis of Croatian movie representation of war itself and the issue of wartime sexual violence in Croatia drawing from the film *Sunny* could be a subject of some further research. My background as a sociologist majoring in Gender studies influenced my perspective on this topic which distinguishes it from the analysis which could have been made by a legal scholar; it adds a focus on the social consequences and gender implications. This could be a stepping stone towards a more complex analysis of the Croatian legal system through feminist reasoning.

It is worth mentioning that one of the limitations is also the use of the English language while explaining Croatian terminology. I did my best but certain things have surely gotten lost in the translation. Also, since I use the English distinction of Croat/Croatian and Serb/Serbian it is important to note that there is no such differentiation in Croatian or Serbian language so an honest mistake could have been committed in the text.

The shifts I identified in my thesis point out that the public discourse around the issues of wartime sexual violence has changed over time and under specific circumstances such as the Croatian accession to the EU. These shifts point to the importance of post-conflict studies with gender perspective which could lead to further researches of the post-conflict countries and their regulation of wartime issues of sexual violence.

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