

**THE FEMINIST ANALYSIS OF CROATIAN STATE'S POST-CONFLICT
RECONSTRUCTION EFFORTS TO ADDRESS THE ISSUE OF WARTIME
SEXUAL VIOLENCE**

By

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Abstract

In June 2015, after three years of negotiation and lobbying by different state and non-state actors, the Croatian state has implemented *The Law on the Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War* which provides financial, psycho-social, medical and legal support for survivors of conflict-related sexual violence (CRSV) that occurred during the Homeland War (5 August 1990 – 30 June 1996). However, in order to better understand implications of this law, this thesis explores *why* and *how* the Croatian state engaged in addressing the issue of CRSV and implemented the law for reparations in its post-conflict reconstruction efforts. Thus, by drawing on a feminist theory of wartime sexual violence, and by situating the Croatian state within the political, social and historical context, this thesis points to barriers that underpinned political efforts to substantially address women's needs in post-conflict Croatia. Findings of this research are based on 13 interviews conducted with stakeholders involved in the process of making this policy framework. Process tracing methods and discourse analysis are also employed as methodological tools in this analysis.

This thesis shows that the law-making process had been largely incited by international community actors and proceeded due to the Social Democratic government's acknowledgement of the necessity to address women's needs in the post-conflict environment. Notwithstanding, Croatian political institutions failed to take into account the gendered character of war and wartime sexual violence. That is, wartime sexual violence has been narrowly conceptualized as an exceptional and abhorrent phenomenon, therefore, decontextualized from the gender order and the continuum of violence. Thus, the lack of commitment towards gender basis of CRSV resulted in further entrenchment of women's victimhood and the lack of awareness of the necessity to address gender inequality in a wider sense.

Furthermore, this thesis shows how women's victimhood served as an instrument for patriarchal and nationalistic political interests which are reflected in the law-making process and outcomes of

this policy framework. In that sense, sexual and gender based violence, both in war and peace, as well as the needs that emanate from it, has proved to be only of secondary interest for Croatian institutions. Hence, by this kind of politics, gendered peace and justice remains an elusive aim.

Keywords: conflict related sexual violence, securitization, gender, nationalism, patriarchal politics

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Introduction

Occurrences of conflict-related sexual violence (CRSV) during the Homeland War (5 August 1990 – 30 June 1996) in the Republic of Croatia had been almost entirely neglected by the state until relatively recently. Besides a relatively small number of prosecutions for these crimes, in comparison to the estimated number of victims, not much has been done to address this violence since the war ended 20 years ago. It was only in June 2015, after three years of negotiation and lobbying by different state and non-state actors, that the Croatian parliament (*Hrvatski Sabor*) passed *The Law on the Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War*¹ (hereinafter the *Victims Law*). This new legal reparative framework acknowledges the status of victims² of CRSV and grants them financial, psycho-social, medical and legal support.

Given the uniqueness and importance of the *Victims Law*, it comes as no surprise that scholars have immediately delved into analysis of this new mechanism to redress war related sexual violations in the Republic of Croatia. In particular, Clark (2016) offers an early analysis of the *Victims Law* by identifying both major strengths and problematic elements of this policy framework. Whilst it is necessary to understand potentials of the *Victims Law*, her analysis fails to reflect on the process that preceded its implementation. In that sense, it overlooks how the underlying assumptions regarding wartime sexual violence in the Homeland War, and the associated advocacy of stakeholders involved in the law-making process, led to this particular mechanism as a means for addressing survivors' needs in post-conflict reconstruction efforts. Thus, in order to better understand the potentials of this policy framework for addressing survivors' (mainly women's) needs in the post-conflict environment, this thesis seeks to explore *why* and *how* the Croatian state

¹ Zakon o pravima žrtava seksualnog nasilja za vrijeme oružane agresije na Republiku Hrvatsku u Domovinskom ratu See <http://www.zakon.hr/z/794/Zakon-o-pravima-%C5%BErtava-seksualnog-nasilja-za-vrijeme-oru%C5%BEane-agresije-na-Republiku-Hrvatsku-u-Domovinskom-ratu>.

² Instead of using the term 'victim' which has been employed by the *Victims Law*, throughout this thesis I intentionally use the term 'survivor' as it has more empowering and positive connotation. For further debate regarding the victim/survivor dichotomy see Kelly, Burton and Regan (1996).

engaged in addressing the issue of CRSV, in general, and implemented the *Victims Law*, in particular, in its post-conflict reconstruction efforts? In order to answer these questions and gain insights into the nature of the *Victims Law* and its ideological underpinnings, several methodological tools have been employed – interviews, discourse analysis and process tracing methods.

It is important to note that the aim of this thesis is neither to question the importance of redress for people subjected to sexual violence during war, nor to deny the political will and stakeholders' efforts to address the needs of these people. However, by drawing on feminist theory, I argue that despite the political will, which was largely incited by actors of the international community, the provision of reparations for CRSV by the Croatian state is bounded up in too narrow of a conceptualization of this type of violence. That is to say, through the *Victims Law* framework, wartime sexual violence has been decontextualized from the dynamics of gendered relations which are crucial to account for if one is to sufficiently address the issue of CRSV. Moreover, the victimhood narrative has been utilized as a political instrument, thus rendering women's needs subordinated to the patriarchal politics and nation building tendencies by which this law has been underpinned. In light of these barriers that underpin efforts to substantially address women's needs, the *Victims Law* has a limited potential in attaining successful reconstruction and sustainable gendered peace in post-conflict Croatia.

The argument proposed in this thesis is developed through four chapters. Firstly, I lay out the Croatian state's context with regards to sexual violence in the Homeland war and map out feminist perspectives on gendered aspects of war, sexual violence and the law-making process. In the second chapter, by presenting empirical findings of this research, I show how decision makers have only sporadically and uncritically accounted for gender dimensions of wartime sexual violence. In the third chapter, by relying on empirical data, I show how, through the making of the *Victims Law*, the victimhood narrative has been used as an instrument for political ends. Finally, I further analyze patriarchal and nationalistic character of the *Victims Law* making process in light of alternative

models (the Women's Court) for addressing the experiences of sexual and gender-based violence in war and conflict.

Methodology

Given that the focus of my research is to gain insights into the nature of *the Victims Law* making process, I have chosen to use a combination of qualitative methodological tools – interviews, process tracing and discourse analysis. In this section, I briefly present these tools and explain why these are relevant for my research. In addition, I also explain how, through this research process, I have attempted to be guided by a feminist research ethic proposed by Ackerly and True (2008).

According to Collier (2011:823), process tracing is defined as “the systematic examination of diagnostic evidence selected and analyzed in light of research questions and hypotheses posed by the investigator”. For this thesis project, process tracing is chosen because it contributes to describing political and social phenomena and evaluating causal relations. In particular, it helps me to trace how a series of conditions led to the *Victims Law*. By looking at sources that pertain to the Croatian case of law making, in terms of the sequence and structure of events, I will be able to show how certain events (responses) were caused by particular stimuli.

Alongside the process tracing method, I am drawing on the ‘What’s the Problem Represented to be’ (WPR) approach, introduced by Carol Bacchi (2009), which serves as a tool for critical interrogation of public policies. Bacchi departs from the “premise that what one proposes to do about something reveals what one thinks is problematic (needs to change)” and, therefore, argues that “policies and policy proposals contain *implicit* representation of what is considered to be the ‘problem’ (‘problem representation’)” (Bacchi, 2012:21). Therefore, by using the set of critical questions proposed by Bacchi (2012:21), I will be able to gain insights in the way in which the issue of CRSV has been understood within the *Victims Law* policy framework, and to further understand power relations between various stakeholders who were involved in the law-making process.

Additionally, interviewing was used as a way of information gathering, by which not only I was able to trace the *Victims Law* making process, but also to understand how the Croatian state has approached to the issue of CRSV in terms of inclusion of gender dimensions of war and sexual

violence. I conducted 13 semi-structured interviews with a variety of stakeholders (7 representatives of state bodies and 6 representatives of non-state bodies) who participated in the law-making process. Interviews were conducted during field work in April 2016. A number of interviewees were reached through personal connections that I established through activism and scholarly work in Croatia. These people helped me get in touch and organize interviews with other participants in this research. Finally, some interviews were arranged on the basis of e-mail invitation to participate in this project.

Besides the process tracing and interviews, this thesis employs discourse analysis of key sources regarding the policy framework for reparations in order to more thoroughly analyze factors that underpin the existing law. According to Stubbs (1983:1) discourse analysis is defined as “(a) concerned with language use beyond the boundaries of a sentence/utterance; (b) concerned with the interrelationships between language and society; and, (c) as concerned with the interactive or dialogic properties of everyday communication”. Thus, discourse analysis is an analytical tool which I will be using to unpack meanings associated with different aspects of the *Victims Law* making process. The materials that are analyzed in this thesis, by utilizing discourse analysis, are interviews, parliamentary debates, the final version of the *Victims Law* and other policy documents related to it.

Finally, given that this research is concerned with power relations between those who are in position to make decisions (political elites, NGOs, international organizations) and those for whom decisions are being made for (survivors of sexual violence), it requires continuous reflexivity regarding the whole research process in order to maintain respect towards people who experienced sexual violence. In that sense, throughout my research I have attempted to build upon principles of feminist research ethics proposed by Ackerly and True (2008). In particular, I attempt to reflect on power relations in the process of knowledge production, namely I keep (re)questioning my personal power position to produce this knowledge and consequently take responsibility for the

knowledge that is being produced. In relation to that, I attempt to be attentive to humanly-constructed and disciplinary boundaries and their power to lead to marginalization, exclusion and silencing. Finally, I reflect on my own situatedness in this research process, namely my feminist informed (activist and scholarly) background and how this shapes the questions I ask and the answers I provide in this analysis.

Chapter 1 - The feminist framework for understanding the issue of wartime sexual violence

Since ancient times, the occurrences of rape and other forms of sexual violence have been widely present but in variable forms exerted in warfare and conflict throughout history (Heinman, 2011).

The war that affected the Croatian state in 1990s, as a result of the break-up of the Socialist Federal Republic of Yugoslavia³, is not an exception in that sense. Mainly women, but men too, suffered from these aggressive attacks on their physical, psychological and sexual integrity, only to be relegated to the margins of the society in the aftermath of war.

In this chapter, I lay out the historical context of the war and sexual violence in Croatia and present an overview of the ways in which this issue has been addressed before the initiative came to implement the *Victims Law*. Further, I map out a critical feminist perspective with regards to the gendered character of sexual violence, war, militarization and institutional mechanisms for addressing this type of violence. This theoretical framing is of relevance as it helps to contextualize the way in which the Croatian state approached the issue of CRSV two decades after the war started.

1.1. Sexual violence in the Homeland War and post-conflict reconstruction

The Homeland War (*Domovinski rat*) in the Republic of Croatia pertains to the period from August 5th, 1990 to June 30th, 1996, during which the Croatian state defended its newly established national boundaries from the Great Serbian Aggression.⁴ The war in Croatia was not the only one that took place in the region upon disintegration of Yugoslavia. For instance, severe conditions of war and an exorbitant level of sexual crimes occurred in Bosnia and Herzegovina, whereby this type of violence for the first time became a high matter of concern within the international community. In comparison to the level of incidence of sexual violence in Bosnia and Herzegovina - according to

³ Socialist Federal Republic of Yugoslavia was established after World War II as a federal state made up of six republics: Slovenia, Croatia, Bosnia, Montenegro, Serbia, and Macedonia.

⁴ In 2000 the Croatian parliament passed the Declaration of the Homeland War in which among other things the war is defined as a legitimate, defensive and liberating but not aggressive or conquering act, that aimed at protecting internationally acknowledged Croatian territory from the Great Serbian Aggression. See <http://narodne-novine.nn.hr/clanci/sluzbeni/274008.html>

some accounts there were up to 60 000 victims (Peterson and Runyan, 2010) – occurrences of sexual violence in Croatia were neither that abundant nor particularly salient within the national and international public discourse. For instance, Zarkov's (2007) analysis of Croatian newspapers shows that reports on wartime rape mostly referred to the rape of Muslim women, whereas very few articles even mentioned the rape of Croat women. When it comes to the estimates of people subjected to sexual violence in Croatia, there had not been any official data until the UN Development Program (UNDP) conducted a research that was a part of the project related to the implementation of the *Victims Law*. According to this analysis, up to 2500 suffered from sexual crimes (UNDP, 2013). These conflicts in the Yugoslav region between different nations (*narodi*) that claimed their right to sovereignty of certain territories were regarded as “ethnic wars”, both inside Yugoslavia and by the international community (Zarkov, 2007:5). The way in which an understanding of these wars as ethnic conflicts became important in explaining crimes of sexual violence will become clearer throughout this thesis.

Despite concerns expressed by the international community regarding crimes of sexual violence in the Yugoslav region, nation states did not put in much effort to tackle this issue during the war. Instead, irrespective of some internal divisions between feminist and women's groups in the region, based on their different outlook on wars and crimes of sexual violence against women (Zarkov, 2002), they were the ones who actively worked both to reduce the level of crimes and rehabilitate communities (Kesic, Jankovic & Bijelic, 2003; Korac, 2006; Djuric-Kuzmanovic, Drezgic & Zarkov, 2007). Furthermore, Croatian feminist groups closely collaborated with Serbian ones and publicly advocated against militarism, nationalism and, more importantly, against crimes of sexual violence (Kesic, Jankovic & Bijelic, 2003). Throughout the years after the war, the issue of CRSV in Croatia continued to be, rather inconsistently, on the agenda of several civil society organizations, but remained nevertheless publicly and institutionally invisible.

Unlike survivors of sexual violence (mainly civilian women), who were left on the margins of the society without any legal support to press charges against perpetrators or any forms of reparations after the war, men's needs, namely of war veterans, were immediately prioritized by the state in its post-conflict reconstruction efforts. Firstly, in 1997, a governmental decision was made to establish the Ministry of War Veterans (*Ministarstvo branitelja*) in order to develop an integrated system of care for different categories of war veterans. In light of this institutional type of care, veterans were also granted plenty of rights through various laws such as *The Law on the Rights of the Croatian Homeland War Veterans and their Family Members*⁵ or *The Law on the Protection of Military and Civilian Homeland War Invalids*⁶. This kind of politics resonates to Handrahan's (2004) argument that, both during and after the war, women's security is marginalized in political and analytical terms due to presence of gender inequality both locally and globally. Indeed, the Croatian state has by and large marginalized the provision of a secure life for women who experienced sexual violence during the war.

When it comes to accountability of perpetrators, only a small number of survivors of sexual violence received justice. According to a report published by the non-governmental organization *Documenta – Center for dealing with the past* (2014), only 15 perpetrators have been sentenced for rape crimes in warfare, whereby the victims were mostly women. In this report, it has been raised that the lack of institutional support, recognition and acknowledgment of suffering experienced by survivors of sexual violence, accompanied by the stigmatization of these people in Croatian society, are major factors that influenced the small number of charges brought against perpetrators (Dubljevic, 2014: 59). This lack of effort to end impunity for crimes of sexual violence during the war reflects the general lack of interest for this issue expressed by Croatia's patriarchal institutional establishment.

⁵ Zakon o pravima hrvatskih branitelja iz Domovinskog rata i članova njihovih obitelji, See <http://www.zakon.hr/z/325/Zakon-o-pravima-hrvatskih-branitelja-iz-Domovinskog-rata-i-%C4%8Dlanova-njihovih-obitelji>

⁶ Zakon o zaštiti vojnih i civilnih invalida rata, See <http://propisi.hr/print.php?id=539>

Irrespective of concerns regarding the impunity and negligence of war crimes of sexual violence, to which actors of civil society or the International Criminal Tribunal for the former Yugoslavia (ICTY) outreach program in Croatia have been pointing, the issue had not received formal acknowledgment until the Social Democrats came into power in 2011⁷. Since its inception, Croatia has had a multiparty system; however, in practice there have been only two ruling parties (with often necessary coalitions with minor parties) – the Socialist Democratic Party of Croatia (*Socijaldemokratska Partija Hrvatske - SDP*) and the Croatian Democratic Party (*Hrvatska Demokratska Zajednica - HDZ*). The first has built a reputation of being a social-liberal party, whereas the latter is known as a more or less hardline nationalist party. Before 2011, when the Social Democrats won the elections, it was HDZ that governed most of the years since the Republic of Croatia was established; SDP had only been in power from 2000 to 2003. In general, in their political program, SDP has been much more inclined to address women's needs and promote their rights in comparison to HDZ, which firmly advocates traditional and patriarchal values with regards to women's position within the Croatian society. As it will be discussed later, the political will to address the issue of CRSV, among other factors, derived from SDP's certain level of awareness of the necessity to address women's needs in post conflict reconstruction. By virtue of their position as a ruling party at the moment when other state and non-state actors revived the issue of CRSV, the process fortunately proceeded towards the implementation of *the Victims Law*.

1.2. The feminist perspective on wartime sexual violence

Before I proceed mapping out feminist perspectives with regards to the gendered character of war and sexual violence, it is important to explain how the notion of gender is to be understood in this thesis. Traditionally, gender – *masculine* and *feminine* - has been defined in terms of social characteristics that are associated with perceived membership to biological sex categories. For

⁷ The 12th cabinet of Croatia was formed as a coalition of four parties (Social Democratic Party of Croatia – SDP; Croatian People's Party – HNS; Istrian Democratic Assembly – IDS; Croatian Party of Pensioners - HSU) and mandated by the prime minister Zoran Milanović (Social Democratic Party of Croatia - SDP) from December 23rd, 2011 to January 22nd, 2016. See <https://vlada.gov.hr/o-vladi/clanovi-vlade/sazivi-vlada-93/12-vlada-rh/18448>

example, traits like strength, rationality, independence, autonomy, aggression, the ability to provide and protect, stoicism, virility and risk taking are frequently associated with masculinity (and therefore men) (Connell, 2005). On the other hand, the opposite cluster of traits such as physical weakness, emotion, passivity, interdependence, need for protection, innocence, care, maternity, and risk-aversion to name a few are assigned to femininity, and therefore women (Chodorow, 1994). However, to understand how gender operates, Sandra Harding (1986) explains how gendered social life is produced through three distinct processes or aspects of gender. The first aspect, which she calls *gender symbolism*, refers to assigning dualistic gender metaphors to a variety of perceived dichotomies that are rarely related to sex differences, e.g. emotions vs. rationality – as if these are dichotomous states of being. Secondly, *gender structure* means that social activities are organized through appealing to these gender dualisms and are divided between different groups of people, for example the gendered division of labor. Finally, *individual gender* pertains to an individual identity which is constructed through social relations but only imperfectly reflects either “reality” or what one perceives as sex differences. It is important to note that referents for these three meanings of gender differ between cultures and times in history, but within a cultural and historical context these three meanings are related to each other. This means that there is not only one masculinity or femininity, but multiple ones, dependent not only on time, location or culture, but also race, class and sexuality dynamics (Sjoberg, 2014).

What is further relevant for understanding the concept of gender is not only that gender is a means of differentiation between groups of people, individuals, or activities, but that it is also a power relation between people. That is, in social and political situations, traits associated with masculinity (assumed to be men’s characteristic) are valued over traits associated with femininity (women’s characteristics), therefore rendering men and women unequal in social and political life. The notion of gender as a relation of power has been further conceptualized by R.W. Connell (2005) in terms of gender hierarchy. This way of understanding gender as relational refers to social stratification by which a particular form of masculinity is superior to other forms of masculinities (allied,

marginalized, subordinated) and all forms of femininities. This dominant or superior form of masculinity is regarded to as the hegemonic masculinity. The nature of hegemonic masculinity changes over time and across cultures, but most typically it is associated with elite Western, upper-class, race-privileged, and heterosexual men. Therefore, in this thesis, I adopt and build on this understanding of gender as a hierarchical power relation between different forms of masculinities and femininities. This framework helps understand how wartime sexual violence perpetrated both against men and women is based on hierarchical gender relations, as it will be further explained throughout this analysis.

Despite the historical existence of sexual violence (Conley, 2014) it was not until the 1970s, when second wave feminist theorists and activists started to grapple with this issue, that it gained wider public and scholarly attention. In particular, it was Brownmiller's book *Against Our Will: Men, Women and Rape* (1975) that signaled a historically significant shift in challenges regarding the thus far omnipresent but insufficiently problematized issue of rape perpetrated by men against women. In this stunning but also to a binary system confined analysis, she argued that the function of rape "is nothing more or less than a conscious process of intimidation by which all men keep all women in a state of fear" (1975:15). This book and subsequent analysis proposed by other prominent feminist scholars (Millet, 1972; Rich, 1980; MacKinnon, 1989) paved the way for further engagement with the issue of sexual violence that occurs in conflict and war zones. Ever since, theorizing the nature, causes and patterns of wartime sexual violence became an inexhaustible topic in different scholarly disciplines and policy frameworks (Skjelsbæk, 2001).

The idea that men perpetrate sexual violence in war due to their biology, namely "sexual urge" or that this type of violence is an inevitable side effect of war has been aptly refuted by feminist scholars (Brownmiller, 1975; Seifert, 1996; Enloe, 1998). Notwithstanding that, the complexity and variety of manifestations of this type of violence in different wars have resulted in diverse explanations of the strategic nature of wartime sexual atrocities among feminist scholars

themselves. Based on existing analyses with respect to relationship between sexual violence and war, Skjelsbæk (2001) deduced three different ways in which the issue has been conceptualized.

Within the first conceptual approach that she denotes as *essentialism*, it is argued that, during war, all women bear a potential to become targets of sexual violence due to the (pre)existing gender hierarchy. In these accounts, sexual violence during the war serves as a strategy to assert the militaristic notion of manhood and reaffirm the patriarchal dominance of men over women (Skjelsbæk, 2001). However, attainment of militarized masculinity norms within patriarchal societies alone cannot explain why in times of war some women get affected by this type of violence more than others, why certain men do not exert this type of violence or why men also get victimized and violated within the patriarchal system.

Unlike that approach, which fails to take into account the way in which ethnic, religious and political power relations intersect with gender relations in an understanding of sexual violence (Skjelsbæk, 2001), proponents of the second conceptual approach, dubbed *structuralism*, emphasize how an interaction of different identities - religious, ethnic, political - with gender identity puts certain groups of women at greater risks of violent experiences. Therefore, from this perspective, patriarchy is “made more complex because it is no longer seen as men having power over women, but as men belonging to the most powerful ethnic, religious and political groups having power over ‘their’ women (in order to protect them) and over the women of the ‘other’ (by potentially attacking them)” (Skjelsbæk, 2001:218). The main shortcoming of this conceptualization is that it does not explain why men too can be victims of this kind of violence, which is taken into account by *social constructionist* approach, in which Skjelsbæk (2001) also positions herself.

Proponents of *social constructionism* agree that women, regardless of their belonging to ethnic, religious or political identity groups, are at greater risks than men to experience sexual violence in war, as has been argued by scholars who fall into the *essentialist* faction. Further, they also acknowledge that some groups of women are at greater danger to be subjected to sexual violence

in war-zones than other merely on the basis of their ethnic, religious or political belonging. However, given that both men and women can be subjected to sexual violence during war, a group of scholars devoted to *social constructionist* approach also argue that an understanding of this empirical reality is incomplete without exploring how sexual violence, both in war and peace, is a manifestation of power relations accompanied by a construction of gender identity (Nordstrom, 1996; Sofos, 1996; Zarkov, 1997). In other words, regardless of one's sex, the victim of wartime sexual violence is victimized by feminizing not only her sex but also ethnic, religious and political identity. Additionally, perpetrator's identity (sex, religious, ethnic and political) is strengthened and empowered by becoming more masculinized. As it has been explained earlier, masculine and feminine gender identities are positioned on a hierarchy, whereby the first are ascribed power and the latter are not. Thus, men can be victimized too by feminizing their identity and therefore reducing their social power. When it comes to sexual violence against men, Meger notes (2015) that this type of violence is an effective means to expose the weakness of victimized men and demonstrate perpetrator's social power. Further, Jones (1994) has pointed out that leaving the men out from feminist analysis of conflicts in the Yugoslav region obscured the fact that they had also been sexually abused on a large scale in concentration camps (Jones, 1994; Sivakumaran, 2010). In Croatia in particular, men in detention were subjected to different forms of sexual violence (sexual torture, rape, genital beatings, electroshock treatments to their genitals and castration) by Serbian captors (Oosterhoff, Zwanikken & Ketting, 2004).

Despite the aforementioned divergences among scholars regarding conceptualizations of wartime sexual violence, feminists have contributed to the understanding that wartime sexual violence is not an inevitable side effect of war but rather a form of political violence that stems from unequal gender relations and consequently sustains them (Brownmiller, 1975; Enloe, 1998). Thus, in light of Connell's (2005) conceptualization of gender hierarchy, in this thesis I adopt the view that wartime sexual violence perpetrated both against men and women serves as means by which

perpetrators are able to employ humiliation for the purpose of reinforcing gender hierarchy (Meger, 2015).

In her analysis, Skjelsbæk (2001) has alerted our attention to what many other feminist authors also argue for (Sjoberg, 2014; Peterson and Runyan, 2010). That is, any analysis of the phenomenon of wartime sexual violence must have as its basis a clear gendered understanding of warfare. In other words, it is incomplete to attempt to analyze sexual violence without simultaneously looking at how the course of conflict is also an enactment of gender relations. In particular, feminist scholar Laura Sjoberg (2014) argues that, without employing a gender analysis, the existence, causes, practices and consequences of war and conflict are obscured because wars construct and are constructed by traditional notions of gender roles. In war, both men and women are confined to their traditional gender roles. In particular, “womenandchildren” (Enloe, 1991) are the ones who need to be protected, whereas the men’s role is to protect them. It is these gender tropes upon which war is built, which in turn further perpetuates traditional gender roles and gender hierarchy. Thus, as Cockburn (2010:144) argues, “war deepens already deep sexual divisions, emphasizing the male as perpetrator of violence, women as victims. In particular, it legitimates male sexual violence, enabling mass rape of women”.

Cynthia Cockburn (2010) expands the notion of war as being caused only by patriarchal gender relations and argues that it is also economic (particularly capitalism) and ethno-national power relations that intersect and perpetuate a tendency to armed conflict in human societies. As she suggests, war institutions, namely the military industrial complex, can be understood as a nexus between economic, national and patriarchal power whereas wars are led by capitalist, phallocratic, patriarchs, white supremacist located advantageously in cultural and religious systems of power (Cockburn, 2010). Cockburn’s notion is relevant as it discloses the way in which different dimensions of social life, by which war is determined, are also highly suffused by gendered relations of power.

Despite feminist critiques of militarism and war, the conventional view of war in mainstream international relations discourse emphasizes its institutional, political, calculated and organized nature, whereas “it tends to downplay the messy *cultural* detail of armed conflict” (Cockburn, 2010:146). Thus, as Sjoberg (2013) has pointed to, a gender analysis remains absent from or marginal to both mainstream and critical war theorizing while a gender perspective in the relation between conflict and conflict resolution is necessary for restoring and maintaining peace (Cockburn, 2004).

1.3. Gendered mechanisms for addressing the issue of CRSV

The feminist scholarship is abundant with analyses of the ways in which women and their conflict-related needs get marginalized and inadequately addressed both during and after the conflict. For instance, Cockburn and Zarkov (2002) note that the post-conflict environment, just like the conflict one, is centered around male power, struggles and identity formation while women’s needs remain marginalized. Despite feminists’ critiques of conventional conceptualizations of war, conflict and peace, women remain excluded from peacebuilding and post-conflict reconstruction processes (Cahn, 2005). Similarly, Pankhurst’s analysis (2003) has shown that, even though more recently a somewhat larger attention has been afforded to women in projects of peacebuilding and post-conflict reconstruction, women’s needs are consistently marginalized in conflict and post-conflict societies. This is also evident by women’s marginalization in operational contexts of conflict, peacemaking processes and addressing accountability of violence (Ní Aoláin, O’Rourke & Swaine, 2015) as well as their exclusion from Disarmament, Demilitarization and Reintegration programs (MacKenzie, 2009).

When it comes to CRSV in particular, the larger attention that this issue has gained on the international institutional level arose precisely from the outbreak of the Yugoslav Wars and the mass rapes of women in Bosnia and Herzegovina. The UN’s *ad hoc* accountability mechanism established in 1993, the International Criminal Tribunal for the former Yugoslavia (ICTY), has

been followed by other legal bodies through which the issue of CRSV has also been addressed, e.g. International Criminal Tribunal for Rwanda, the Special Court for Sierra Leone, the International Criminal Court (ICC) (Ní Aoláin, Haynes & Cahn, 2011). When taken collectively, within these statutes and laws, together with UN's Action Against Sexual Violence in Conflict, the following acts are subsumed under the definition of CRSV: rape, enforced sterilization, forced abortion, forced pregnancy, forced prostitution, trafficking, sexual enslavement and forced nudity. However, despite significant efforts and progress in international frameworks for addressing this issue, feminist have pointed to the shortcomings of these accountability approaches (Askin, 2003; Buss, 2007).

In her empirical analysis of tribunal indictments, Doris Buss (2009) has found that there is a significant gap between indictments for sex-based crimes and other crimes. In other words, the number of indictments for crimes of sexual violence is disproportionately lower relative to other crimes and other charges. Furthermore, she suggests that, despite some progress that was made by international law in addressing impunity for CRSV, the law's mechanisms are tightly related to the conception of those conflicts as ethnically based (Buss, 2007). In particular, she argues that the saliency of ethnicity as the framework for understanding conflicts masks structural gender inequality as a root cause of sexual crimes. Thus, an analysis of gender relations with regards to wartime sexual violence remained overshadowed by an overemphasis of ethnicity in the context of international criminal law.

Further, Ní Aoláin, Haynes and Cahn (2011:160) have pointed to the failure of the tribunal and courts to provide meaningful and fully resourced victim support. The same authors also argue that both international and domestic legal systems are not good in terms of their recognition of a gendered notion of harm. According to some empirical findings, men and women perceive, experience, and process harms in different ways (Ni Aolain, 2009). However, the legal system is not attuned to the range of violations that women themselves define as central to their

individualized experiences of violation and harm. Ní Aoláin, Haynes and Cahn (2011) note that, even when sexual and reproductive violence is addressed, accountability processes often fail to attend to a variety of harms that are sidelined as secondary in nature, such as depression, insomnia, low self-esteem, anxiety and shame, vaginal and reproductive tract problems, sexually transmitted diseases, difficult births and sterility or harms that are product of direct harms to others to whom women are connected or in a relationship with (children, partners, family members).

These and other shortcomings of legal frameworks to acknowledge the complexity of women's needs, could be attributed to the fact that not only the law but also other social institutions – politics, religion, the academy, the state and the economy – are “historically developed by men, currently dominated by men, and symbolically interpreted from the standpoint of men in leading positions, both in the present and historically” (Acker, 1992:567). As Acker notes (1992:567), despite some changes in terms of bringing women into all institutions, males still dominate central institutions. The already mentioned notion of hegemonic masculinity introduced by Connell (1987) supports these claims. As she notes, institutional areas, including military, business, academia and politics are suffused by images of hegemonic masculinity. That is, successful organizations and their leaders are often depicted as aggressive, competitive, goal oriented and efficient, but rarely as kind, supportive and caring. Acker (1992) argues that the gendered reality of these institutions is obscured by conceptualizing and theorizing their character in gender-neutral terms.

The way in which national and international laws (fail to) protect women's human rights has been problematized by Catherine MacKinnon in her book *Are Women Human?* In this book, she argues that domestic and international legal frameworks reflect men's social reality, whereas women's social reality, in which they experience different forms of violence - rape, rape as genocide, sexual abuse, pornography, prostitution – is neglected. That is, these violations are not regarded as violations of women's human rights, but rather a double standard is used when these crimes are being addressed by the law which results in the protection of men and a lack of protection of

women. In other words, women's condition and status are considered as merely private and therefore not in need of being addressed on a public or political level. The legal system ignores the fact that society is embedded in rigid hierarchy in which women are always positioned on the lower level while men are on the higher one. More specifically, MacKinnon argues that, in terms of laws, "if men don't need it, women don't get it" (MacKinnon, 2006:26). Therefore, as she asserts, "no state effectively guarantees women's human rights within its borders" (MacKinnon, 2006:148).

Besides accountability mechanisms, the provision of gender-sensitive remedies for survivors of CRSV has been afforded the least policy and legal attention (Ni Aolain, O'Rourke and Swaine, 2015). This comes as no surprise given a tendency to neglect women and their needs in conflict and post-conflict reconstruction efforts (Pankhurst, 2003; MacKnezie, 2009). As pointed by Schmidt-Harzbach (1992, p.43, cited in Seifert, 1996) "the victims of rape are not included in the public rite of mourning over the lost war, they are not admired as 'heroines' and do not receive any compensation". For instance, in their analysis of Colombia, the DRC, Nepal and Sierra Leone's attempts to implement reparations programs, Ni Aoláin, O'Rourke and Swaine (2015) found that the practice and implementation of these programs in conflict and post-conflict contexts is extremely erratic and inconsistent. Despite some recent advancement in terms of gender-sensitive reparations, Ni Aolain, O'Rourke and Swaine (2015:126) note that, since the inception of UN Security Council Resolution 1325 on Women, Peace and Security in 2000, "not a single comprehensive administrative program encompassing substantive and adequate reparations for CRSV has been initiated in any post-conflict setting".

According to Ni Aolain, O'Rourke and Swaine, (2015:109) reparations are defined as "measures that aim to repair or redress the impact of harm to provide remedy for the systematic violation of human rights commonly associated with armed conflict". The main point of departure for these authors is gender-sensitive character of reparations. In particular, they suggest that in order to be gender-sensitive, reparations are necessarily concomitantly transformative. Therefore, not only

should reparations account for the immediate reparative needs of survivors of sexual atrocities, but also for the structural barriers that impede women from the attainment of full equality and gender justice. Thus, if one is to holistically address the multidimensionality of women's vulnerabilities and the needs that follow from sexual violence in times of armed conflict, one should be cognizant of complexities of CRSV and the context that produces it (Ni Aolain, O'Rourke & Swaine, 2015). As Ni Aolain, O'Rourke & Swaine suggest (2015:103), "without readiness to address the broader context of women's equality in the planning, execution, and enforcement of reparations, there is a fundamental defect in the promise of remedy for the victims of CRSV". Thus, if one is to fully address women's needs in post-conflict reconstruction, one needs to tackle entrenched patriarchy and privileges by which men are advantaged to the detriment of women.

Instead of efforts to provide reparations for survivors of CRSV, international approaches, besides prosecution, are focused on prevention and elimination of this type of violence in contemporary conflict and war-zones (Ni Aolain, O'Rourke & Swaine, 2015). Notwithstanding the feminist contribution to understandings of the complex phenomenon of wartime sexual violence, Meger's (2016) analysis suggests that today's most prominent approach to conceptualizing CRSV in scholarship, advocacy and international policy frameworks work in a way to unwittingly obscure the complexity of conflict-related gender-based violence and the structures that produce it. In other words, in the last few decades, she argues, the rapid expansion of the scope of security issues has been accompanied by the securitization of wartime sexual violence within domains of international advocacy, policy and scholarship. The concept of securitization refers to the process through which a particular social problem becomes presented as an existential one (Hansen, 2010:288). According to Meger (2016), not only is securitization an unsuccessful mechanism for addressing the issue of CRSV, but also it often further entrenches unequal power relations. She further deploys this argument through the theoretical framework in which she shows how the international approach to CRSV as a security issue unintentionally produced its fetishization, which undermines efforts to successfully address sexual violence. In my analysis, I draw on Meger's (2016) theoretical

framework regarding securitization (fetishization) of CRSV within international policy frameworks in order to show how the Croatian state, in its efforts to implement reparations of CRSV, mirrors the international approach to this issue.

1.4. Conclusion

In this chapter, it has been shown how feminist scholars in various ways disclosed the shortcomings of institutional approaches to addressing the issue of CRSV, as well as how institutions such as military, politics and law are gendered. However, Djuric-Kuzmanovic, Drezgic and Zarkov (2007:284) suggest that women's insecurities in the Balkans cannot be solved until institutions of formal political power embrace the politics of cooperation and post-conflict reconciliation and provide systematic institutional support. Further, they also alert our attention to the fact that engaging with the state is not without problems and that women's and feminist organizations are still wary of co-option of their advocacy agenda. In that sense, they cooperate with state institutions with both hesitation and hope.

As it has been introduced at the beginning, in recent years, the post-conflict Croatian state governed by the Social Democrats has diverted its approach to CRSV and shown the political will to institutionally address survivors' needs. In particular, reparations (financial, psycho-social, medical and legal support) have been granted in the form of the *Victims Law*. That this law is necessary cannot be denied. However, in light of aforementioned institutional frameworks and international approaches to the issue of CRSV, while having in mind the critical feminist notion of the necessity to address gendered hierarchy when trying to come into terms with the causes and consequences of this type of violence, one needs to explore how the issue has been addressed by the Croatian state in order to understand implications and potentials of the *Victims Law*. In particular, it is important to explore how understandings and concerns regarding gender dimensions of war and CRSV have been expressed throughout the law-making process.

Chapter 2 - Decontextualization of conflict-related sexual violence

The critical analysis of the way in which the issue of CRSV has been addressed by the Croatian state and the rhetoric surrounding the *Victims Law* is crucial for understanding the potentials of this policy framework to both substantially address needs of those who suffered from sexual violations during the Homeland War and, in a wider sense, to tackle the issue of sexual violence. Therefore, in order to fully understand the character of the *Victims Law*, one needs to look at the discourse surrounding the law and, in particular, its gendered aspects. Therefore, in this chapter, by drawing on concepts of securitization and decontextualization of CRSV, I explore how the issue of CRSV has been understood throughout the law-making process.

The structure of the chapter goes as follows. Firstly, I lay out conceptual framework that is useful to understand framing of the problem of CRSV within Croatian national context. Secondly, by tracing the process of the design of the *Victims Law*, I show how this policy framework has been suffused with the narrow conceptualization of CRSV as an exceptional and horrifying form of violence and decontextualized from the gender order. Finally, it is further explored how the Croatian state's approach to reparations for survivors of CRSV has been accompanied by sporadic and uncritical considerations of the gendered dimension of wartime sexual violence. That is to say, the provision of reparations for survivors of CRSV, granted by the Croatian state, has been divorced from gender dynamics which are crucial to account for when addressing wartime sexual violence.

2.1. Securitization and decontextualization of CRSV

The relatively recent phenomenon of the securitization of CRSV (rendering a particular social problem as an existential one) in international policy frameworks has been problematized by feminist scholars (MacKenzie, 2010; Meger, 2016). In particular, Meger (2016) has offered the theoretical framework for understanding how CRSV became fetishized through the process of securitization. That is, in the first stage of this process which Meger (2016:152) denotes as

decontextualization/homogenization, this type of violence is decontextualized from the gender order, from the continuum of violence, as well as treated as a homogenous and distinct phenomenon, all due to insufficient engagement with the feminist analysis of the causes and consequences of wartime sexual violence.

Further, Meger (2016:152) argues that the neglect of feminist conceptualizations of CRSV within mainstream policy frameworks has resulted in the decontextualization and homogenization of wartime sexual violence by relying on expressions “rape as a weapon of war” or “conflict-related sexual violence”. An overreliance on this terminology obscures the social relations behind this type of violence and conflates all forms of sexual violence under the same label (Meger, 2016). In that sense, there is little distinction made between perpetrators or the types of victims, or ways in which different forms of wartime sexual violence may serve different purposes which is dependent upon the type of conflict or objectives of different groups involved in it (Meger, 2011).

Aforementioned effects are all the more amplified when the rape is denoted as “genocidal”. Engle (2005) argues that the term “genocidal rape” emphasizes the difference between rape perpetrated during genocidal conflict and “everyday rape” or even wartime mass rape, whereby this differentiation can have the effect of undermining the importance of violence of the latter two forms. That this narrow conceptualization of CRSV as “genocidal rape” obscures the complexity of sexual violence was also reflected upon by Catherine MacKinnon. She argues that acts of sexual violence perpetrated as an act of genocide “are routinely done to women everywhere every day on the basis of their sex. All the sexual atrocities that become genocidal in genocides are inflicted on women every day under conditions of sex inequality” (MacKinnon, 2006:225).

The problem of framing CRSV as an exceptional type of violence, disconnected from the gendered system of power, has also been analyzed by Ni Aolain, O’Rourke and Swaine (2015), whose work is particularly informative with regards to gender sensitive reparations. They argue that, if one is to fully and adequately address the needs of survivors of sexual violence in war/conflict, one needs

to account for and address the interconnectedness of violence before, during and after the conflict. That gender-based violence is continually present, irrespective of war or “peace”, and grounded in unequal gendered power relations has been discussed by authors such as Liz Kelly (1988) and Cynthia Cockburn (2004). Cockburn’s (2004) conceptualization of the continuum of violence suggests that experiences of violence in armed conflict cannot be separated neither from violence experienced in everyday life nor from the structural violence of the economic system that sustains inequalities. According to her, the continuum of violence permeates the social, the economic, and the political, whereby gender relations penetrate all of these modes of relations (Cockburn, 2004:43). Therefore, unequal gendered relations of power account as an explanatory factor of violence by men against women and, by sustaining or deepening economic inequalities, violence only gets exacerbated. Cockburn’s (2004) gender analysis suggests that it is senseless to clearly delineate between peace and war, or prewar and postwar period, given that the gendered phenomenon persists throughout all of these phases. Gender is manifest in the violence that flows through all phases including peace processes and “to consider one moment in this flux in the absence of the next is arbitrary” (Cockburn, 2004:43). I also want to point to an argument made by the Croatian feminist activist Rada Boric (1997), whose work is based on the experiences of sexual violence faced by women on the territory of former Yugoslavia. She argues that the violence women faced in the conflict environment is an extension of the pervasive discrimination and systematic violence directed at women that is also present during the peace time.

In the following sections, by utilizing the outlined conceptual framework, I show how the national-level framework, within which the Croatian state operated in its efforts to address the needs of survivors of CRSV, corresponds to the international framework of the securitization (decontextualization) of CRSV.

2.2. *The Victims Law making process*

It has been outlined before that, since the war started, it had mostly been feminist and women's groups that more or less actively worked on tackling the issue of CRSV which occurred during the Homeland War. However, their activism and advocacy did not bring much success in terms of institutional and legislative changes until the constellation of political events formed a new trajectory for dealing with this issue. Given that this analysis is primarily concerned with the way in which the issue of survivors of CRSV and reparations for these crimes have been addressed by the Croatian state and its institutions, actions of state bodies regarding the *Victims Law* making process are foregrounded in this section. That is not to say that the work of non-state actors has been less important. On the contrary, the role of non-governmental (mostly feminist and women's) organizations was significantly implicated in this process.⁸ What the particular role of these organizations was and how their influence determined the course of events regarding the Victims Law remains to be explored by future studies. However, notwithstanding the role of non-state bodies, in this thesis, I take it as relevant that state actors had and still have institutional power to make decisions regarding this issue and in that sense an emphasis is put on institutional activities. Finally, since the whole process of *the Victims Law* making lasted for more than three years, only aspects of this process that are the most important ones for understanding the state's approach to the issue of CRSV are outlined in this section.

The law-making process can be crudely divided into two distinct procedural frames: the process of drafting the bill, which was guided by the Ministry of War Veterans, and the process of debating the bill in the Croatian Parliament. These two frames mainly differ in terms of stakeholders involved in the process and their positions of power to influence the changes of the law itself. Insights into the law-making process are based on data from interviews and documents that were

⁸ Besides official meetings within the Ministry of War Veterans, representatives of non-state bodies formed their own informal group in order to create stronger ties when lobbying for certain aspects of the law. This lobbying group showed to be particularly relevant for advocacy of certain rights granted by the *Victims Law*, namely financial provisions. Furthermore, by virtue of advocacy of civil society organizations definition of sexual violence has been expanded in the final version of the law (Dubljevic, 2014:41).

provided to me by interviewees. In that sense, one should bear in mind that if some factual information (e.g. dates) are omitted or mistaken, it is due to an inability to reach all relevant data.

Institutional-level engagement with the issue of CRSV, which had thus far been neglected, resulted mostly from the collaboration of politically influential individuals who encountered the topic of CRSV throughout their work. Initially, according to an interviewee, the whole process was instigated by the Croatian president Ivo Josipović and his adviser Zrinka Vrabec Mojžeš:

“Everything started in late 2011 when the President and his advisor convened a meeting to discuss the topic, which the President got acquainted with during his visit to the Vukovar [...] There he met the group of women⁹ who have survived wartime sexual violence but hadn’t been granted any rights [...] The invitation for the meeting did not come as a surprise, but the topic did” (Interviewee 4, 2016).

Following this meeting, in which representatives of UNDP and civil society organizations were also present (Interviewee 4, 2016), the round table - *Sexual Violence in the War and the Prosecution of the Perpetrators of Sexual Violence* - took place on April 4th in the Croatian city of Vukovar, under the auspices of the UNDP, the President’s Office and the City of Vukovar (Documenta report, 2012) and in collaboration with the *Association of Women in the Homeland War* (Interviewee 1, 2016). Several interviewees asserted that this event paved the way for further engagement with the topic. It has been pointed out that the Ministry of War Veterans and, in particular, Minister Predrag Matić, showed high receptivity and sensibility for the topic.

From the beginning of their mandate, the Social Democrats had it planned on their agenda to create a law for reparations of civil war victims whose rights have been marginalized by the Croatian state in the aftermath of the war.¹⁰ Thus, initially the plan was to include reparations for survivors

⁹ The group of women that the president met in Vukovar have been organized around the *Association of Women in the Homeland War*

¹⁰ To date, this law still has not been implemented and it remains to be seen what the steps the present, right-wing government will utilize regarding this issue. It is of relevance to mention that this issue is also related to long-term protests by war veterans that are held in front of the Ministry of War Veterans since October 2014. These protests are highly politicized and present in the public sphere and media coverages. Unfortunately, due to limited scope of this paper it is not possible to get into details of this complex issue. However, it is of importance to mention that the extension of the protests in front of the Ministry of War Veterans had been the protest that was organized in front of the St. Mark’s Church in May 2015. The day of this protest coincided with day on which the Croatian Parliament had been voting the *Victims Law*. Members of the main opposing Croatian Democratic Party (Hrvatska Demokratska Zajednica – HDZ) left the session and did not give their voice in the final decision regarding the law. According to media reports this happened due to HDZ’s discontent regarding the protest events in front of the parliament (St. Mark’s Church) and the celebration of the Parliament Day that was scheduled for the day after the voting for the *Victims Law*. See <http://womensenews.org/2015/07/croatias-wartime-rape-law-raises-hope-and-doubt/>. In total 89 (out of 151) parliamentarians participated in voting. 86 voted for the law whereas 3 abstained.

of CRSV under the overarching law for civil war victims. However, due to impetus coming from UNDP¹¹ and pressure of feminist and women's organizations, the Ministry had acknowledged that the rights of people subjected to sexual violence should be covered by a separate law. Given that the Social Democrats had in general been attuned to women's rights (more so on their political agenda than in practice), it comes as no surprise what one of the interviewees closely involved in the coordination of the *Victims Law* drafting process within the Ministry stated:

“The whole process of the law making was initiated due to the assumption that women's needs were neglected after the war. Women and what is perceived as women's problems, such as sexual violence, always end up in the corner, whereas the veteran population, which mainly were men, received their reparations immediately after the war [...] We wanted this law to be written by women for women” (Interviewee 6, 2016).

However, despite the acknowledgment that women's needs were marginalized during the post-conflict years and that women should be foregrounded in the process of drafting the *Victims law*, I argue that Croatian institutions have failed to genuinely address the issue of CRSV and its gendered character. In light of Meger's (2016) argument - that within international scholarship, advocacy and policy, CRSV is decontextualized from both global and local power relations and the continuum of violence, as well as homogenized as a distinct phenomenon - I suggest that a similar kind of process can be traced within the Croatian national context.

The most important stage of the *Victims Law* making was the working group for drafting of the bill, organized by the Ministry of War Veterans. Group meetings were held from the end of 2013 to the beginning of 2015. Members of this group were representatives of state bodies, but also,

¹¹ The events that followed the Vukovar round table revolved around the preparations for the *Victims Law* making process. According to the majority of interviewees, the UNDP and particularly Louisa Vinton (UN Resident Coordinator and UN Development Programme Resident Representative in Croatia) had the most significant role in pushing the further action. Given that the Ministry of War Veterans had been the most receptive one for the issue of CRSV, UNDP offered a collaboration and financial support in order to foster their further engagement with the creation of the *Victims Law*. For that purpose, UNDP arranged three important and interrelated parts of the project *Addressing the needs of wartime victims of sexual violence in Croatia*: (1) scientific research conducted by the Faculty of Philosophy in Zagreb - Assessment of the number of sexual violence victims during the Homeland War on the territory of the Republic Croatia and optimal forms of compensation and support to victims (UNDP, 2013); (2) analysis of thus far existing law frameworks for addressing the issue of CRSV; (3) non-institutional psycho-social treatment for survivors which was organized in collaboration with the *Association of Women in the Homeland War*. (For further information about this project, see http://www.hr.undp.org/content/croatia/en/home/operations/projects/poverty_reduction/wartime_victims_sexual_violence.html).

more importantly, of the civil society and, in particular, feminist and women's organizations, whose previous work has been related to the issue of CRSV. It came out from interviews that aforementioned feminist perspectives regarding the complexity of wartime sexual violence were not reflected in this working group. When research participants were asked – more or less explicitly – was there within the working group a presence of understanding of CRSV as the form of violence related not only to other forms of gender-based violence but also to power relations between men and women (patriarchy), their answers implied that there has been a certain but very limited level of inclusion of this kind of perspective. Even though, to a certain extent, some interviewees themselves expressed an understanding of the complexity of the problematics of CRSV, it can be inferred from interviews that this perspective remained visible mainly on the individual level. For example, some of the answers were as follows:

“No, this has not been emphasized, we immediately started discussing specificities of the law, no one there [the working group] had an awareness if the law should be feminist or not” (Interviewee 11, 2016).

“The Ministry as the state body has to remain objective, maybe that is not the right word, but it shouldn't take on a feminist approach” (Interviewee 7, 2016).

“These kind of problems came up in several conferences¹² and round tables that were organized in parallel with the bill drafting; however, when any type of sexual violence is discussed within the public sphere, which happens rarely, one approaches it with reservation; there is very little space to go into the depth and discuss all these things into details as well as interconnectedness of different forms of violence” (Interviewee 4, 2016).

From these interviewees' assertions, it is evident that the issue of CRSV has been narrowly framed within institutional state bodies. On the other hand, the voice of non-state bodies or certain individuals who had deeper awareness of the complexity of this issue, remained marginalized and silenced.

The second procedural stage of the law-making process that pertains to debates within the Croatian Parliament is even more illustrative of the aforementioned decontextualization of CRSV. Besides

¹² The conference *Delivering justice and support for victims of wartime sexual violence* was emphasized by several interviewees as an important event that was organized by UNDP and Ministry of War Veterans in Zagreb on May 29th/30th. See <http://www.iprcc.org/Index/skip/cid/4251.html>

meetings of parliamentary committees and representatives' clubs respectively, the core of this part of the process were two parliamentary sessions held on September 26th, 2014 and May 5th, 2015. Unlike the indirect access (through interviewees) that I had to rhetoric that was salient within these enclosed meetings, publicly accessible footage of parliamentary sessions allowed me to gain deeper insights in the language that has been used to frame the issue of CRSV.

Throughout the parliamentary discussions, wartime sexual violence was denoted in manifold ways, such as war-related, political, mass crime against humanity, part of a military strategy, tactic of enslavement, planned genocide and ethnic cleansing perpetrated by Serbian forces with an aim to humiliate the nation, to destroy one's integrity, to demoralize family relations and achieve victory (Croatian Parliament, 2014; 2015). However, none of these denotations had been underpinned by an understanding of sexual violence as a manifestation of gendered power relations. Although very few parliamentary statements somewhat referred to sexual violence in terms of power and gender relations - for instance by pointing that "neither rape during the war nor any other is an accidental phenomenon, rather it is a question of power and control" (Croatian Parliament – Sonja König, 2014, 2015) or that "rape of women exemplifies how patriarchal and gender unconscious society we are" (Croatian Parliament – Nadica Jelaš, 2015) - this type of discourse was neither pertinent nor in depth critical of the gendered system of power.

Moreover, this kind of decontextualized representation of CRSV was accompanied by seeing wartime sexual violence as an exceptional and more egregious crime than other types of gendered violence, which, according to Meger (2016:152), is what warrants an extraordinary response to it. For instance, the following parliamentary statement is exemplary of how CRSV is articulated in a clear-cut way as a distinct and horrifying act: "During ordinary, civil sexual violence, rape happens maybe once. In this [CRSV], it counts in days, months and dozens of different people are affected. It is about the gravity and specificity, not about individual, sporadic violence" (Croatian Parliament – Nada Murganić, 2014, 2015). This utterance is problematic because, as Nordstorm (1991) argues,

differentiating between rape in war and peace carries the danger of prioritizing sexual assaults. That is, rape that is used in war as a tactic of ethnic cleansing evokes moral outrage, whereas sexual violence that occurs in the privacy of one's home is conceived as more acceptable. This example of abhorrent and distinct representation of wartime sexual violence was not the only one that had been evoked during parliamentary discussions. Rather, members of the parliament were repeatedly pointing to the horrendous and opaque character of this kind of violence (Croatian parliament, 2014; 2015). Thus, as seen from these examples, wartime sexual violence was decontextualized by political representatives and presented as an exceptional and egregious form of violence which is problematic, as Meger (2016:152) notes, because "by elevating this particular form of violence above others, wartime sexual violence is excised from the continuum of violence and underlying social, political and economic determinants of gendered violence."

Finally, the *Victims Law* itself is the mechanism through which it is delimited to who can be the claimant of these rights. That is, only individuals whose victimhood is in direct relation to the Homeland War, which is precisely defined as in the period from August 5th, 1990 to June 30th 1996, are entitled to restitution. Not only is the precisely defined period a factor by which CRSV is decontextualized, but also, one can infer from Article 3 of the law that women who were sexually violated during the war within the private sphere, cannot claim for these rights:

"The victim of sexual violence in a sense of this law is the person against whom, in a detention, or who was prompted to inflict against oneself or the third person one or more types of sexual violence from the Article 2 of this law, by the military or police person, members of paramilitary troops or groups or civilian person who was prompted or forced to commit sexual violence by these forces."

As many feminists have informed us, the level of violence within the private sphere drastically increases during the war and conflict. In her analysis, Seifert (1996) notes that, after the outbreaks of violence, reports from Zagreb (Croatia) testified that within the family sphere death threats against women and rape increased by at least 30%. Moreover, one could notice immediate increase in anti-female violence especially after TV broadcasts that were characterized by nationalist tendencies. Lori Handrahan (2004) notes that the post-conflict period also poses a threat for

women's security in terms of the increased likelihood to experience sexual violence. Further, she notes that domestic violence tends to increase for women whose male relatives managed to survive the war and return home. However, the implicit message that emanates from the *Victims Law* is that harm that was done to women in a civilian (private) context, outside dates indicated by the law, is less serious and not important enough to be neither redressed nor institutionally acknowledged on a large scale.

That Croatian institutions expressed a lack of interest for the occurrences of sexual violence within the private sphere during the war comes as no surprise given the general lack of concerns regarding sexual and domestic violence in the so-called peace time. One such indicator is the fact that only one center for victims of sexual violence¹³ exists in Croatia. Given that, according to the Council of Europe, the minimum standard is to have one counseling center for victims of sexual violence per 200 000 women, it is more than evident that there is a massive deficiency of these kinds of centers in Croatia, since there are 1 800 000 women above 18 years old living in this country. Furthermore, when it comes to domestic violence, Croatian women's groups have warned multiple times that, despite declarative support of governing bodies to suppress and prevent the level of violence against women in the domestic sphere, little is done in practice to see any positive results.¹⁴ As one of the interviewees asserted:

“Any seminar on the topic of violence against women that is organized with institutions ends up by diverting the theme towards violence against children, or the other thing they say is that men are also abused ones” (Interviewee 3, 2016).

This assertion is telling of the ignorance to the fact that, regardless of growing strength of women's voices and advancements of their rights globally, “violence continuous to be a feature of relations between men and women and constitutes one of the primary risks to women's lives and their physical and mental health” (Sideris, 2001). Notwithstanding this highly upsetting phenomenon, in

¹³ This center that is located in the capital city Zagreb and it offers medical counseling, psychological and legal support to victims of sexual violence - Women's Room – Center for Sexual Rights. See <http://zenskasoba.hr/en/>.

¹⁴ See <http://www.libela.org/sa-stavom/6609-nasilje-nad-zenama-u-hrvatskoj-kad-se-zakoni-ne-provide-a-odgovorni-pojma-nemaju/>

the Croatian society, prevention and reduction of violence against women remains neglected on the institutional level. Thus, despite the political will to redress wartime survivors of sexual violence, I argue that Croatian institutions did not express genuine concerns regarding the gender basis of this violence nor the fact that women experience violence on daily basis irrespective of war conditions. In the following section, I further explore how, besides framing CRSV narrowly as exceptional and abhorrent form of violence, the Croatian state failed to account for gender sensitive perspective when addressing needs of survivors of CRSV.

2.3. Gendered outcomes

In this section, which is inextricably intertwined with the previous one, I focus on three major indicators of the lack of the awareness of gender dynamics, by which the process of addressing the issue of CRSV by the Croatian state bodies has been suffused. The first one pertains to the way in which survivors' (mainly women's) voices have been featured during the law-making process and how the law resulted in the entrenchment of women's victimhood subjectivities. Secondly, I show how a seemingly gender sensitive approach of including men's wartime sexual victimhood narratives on the agenda of addressing the issue of CRSV by the Croatian state is underpinned by the uncritical reflection of gender dynamics and gender inequality as the factor that sustains the stigmatization of both men and women survivors of sexual violations during the war. Finally, this section shows how mechanisms for further engagement with the issue of CRSV are understood and reflected upon by state actors, whereby the necessity to address gendered power relations has been almost entirely left out of the picture.

When reflecting on transitional justice mechanisms, Ni Aolain, O'Rourke and Swaine (2015) remind us that reparations are the most victim-centered mechanism of all existing mechanisms. That is, survivors - or victims as they have been regarded by the Croatian state – are positioned as central subjects within the process of redress for extreme levels of hardship. Departing from this assumption, I propose that, in order to further understand how the gender hierarchy comes into

play in the specific context of the Croatian state's efforts to address survivors' needs, it is of relevance to map out the survivors' positioning and the way in which their voices were manifested in the process of redress.

It has been argued by Zuckerman and Greenberg (2004) that women should be afforded space to meaningfully participate in resource allocation and policy making for survivors of CRSV. In her analysis of the *Victims Law*, Clark (2016:9) suggests that Croatian survivors of CRSV played a central role in decisions regarding reparations. She asserts that, as a part of the UNDP's research project (2013), a small number of survivors had been consulted and interviewed in-depth about their preferences regarding the optimal forms of compensation. However, despite a small number of survivors having been given a space to voice their needs, I suggest that the inclusion of survivors' voices within the law-making process, particularly women's voices, has been only partial and mediated through the willingness of actors whose positions of power enabled them to do so. For instance, one of the interviewees, whose work is related to the Ministry of War Veterans, articulated that during the process of drafting the bill within the Ministry "victims were represented only through civil society organizations" (Interviewee 7, 2016). Further, another state actor asserted that

"victims were given the voice through parliamentary representatives who collaborated with them during the process of bill drafting. Victims had a voice through individuals who showed an empathy towards their suffering and who had the will to work on solving this issue" (Interviewee 13, 2016).

As seen from these examples, survivors' voices regarding their needs have been only intermediary, mediated and dependent on an individual's effort to include them in this process. On the other hand, survivors (mainly women) seemed to be relevant speakers when it comes to representation of their experiences. What some of my respondents find particularly problematic, and I agree with, is the fact that women who publicly testified to the horrendousness of their experiences were not given relevant space to actively voice their needs and demands regarding reparations throughout the law-making process. Furthermore, not only were women's voices present in a way to emphasize abhorrence of sexual violence during the war, which contributed to decontextualization of this type

of violence, but they were also treated throughout this process as victims that need help rather than active agents who can be supported to take on the role of active citizens. For example, the redress that is granted by *the Victims Law* neither involves opportunities for education nor employment which would to a certain extent provide a repair for the women's lost opportunities to be active members of the society. In that sense, I argue that survivors of CRSV, of which mainly are women, were devoid of agency and power by which their victimhood has been further entrenched.

Furthermore, it has been outlined above that not only women, but men too may be subjects of sexual violence in the war due to reasons of gender hierarchy. In their analysis, Ni Aolain, O'Rourke and Swaine (2015) have pointed to the problem that states and other institutional actors often overlook and fail to account for men when conceiving and implementing reparations. In light of this shortcoming, the Croatian state seems to have made progress, as it has equally included men in the reparative framework for experiences of sexual violence in the Homeland War. However, despite this seeming progress, the inclusion of men as victims of CRSV has been done in an uncritical manner, without seriously taking into account the issue of gender hierarchy, which not only led to this type of violence in the first place, but also sustains the stigmatization of both men and women (MacKenzie, 2010).

Not only the participants in this research, but also a certain number of representatives during parliamentary debates, emphasized that it might be even more difficult for men, who were subjected to sexual violence, to admit to their experience(s) and therefore they might be reluctant to claim for their rights. However, these kind of statements were articulated only factually, without a reflection on gender hierarchy as a major factor underpinning such conditions. For instance, one of the interviewees asserted that, within the parliamentary committee, nothing more was discussed besides that "it has been acknowledged as a fact that it is more difficult for men to confess that they were subjected to sexual violence" (Interviewee 12, 2016). In general, throughout the law-making process, Croatian institutions did not endorse the view that, in order to reduce the level of

stigmatization, one needs to address the patriarchal system of power that is still heavily embedded in the Croatian society. Statement uttered by a male state actor is indicative of the level of patriarchy in Croatia: “there is no way that, as a man, you can say in Dalmatia that you were sexually abused” (Interviewee 10, 2016). As is the one by a female state actor: “In people’s heads it sounds even more horrible that man is the one who can be raped. He is the one who is stronger in the society, this is how it is in Croatian society” (Interviewee 8, 2016). Notwithstanding, during the law-making process, nothing further on these lines has been recognized as necessary to grapple with.

Ni Aolain, O’Rourke & Swaine (2015) argue that if reparations are to be gender sensitive they are necessarily concomitantly transformative. That is, not only should reparations account for immediate reparative needs of survivors of sexual atrocities, but also for structural barriers that impede women from the attainment of full equality and gender justice. If one is to holistically address the multidimensionality of women’s vulnerabilities and needs that follow from sexual violence in times of armed conflict, one should be cognizant of complexities of CRSV and the context that produces it (Ni Aolain, O’Rourke & Swaine, 2015). Thus, as Sideris (2001:143) notes, “attempts to combat sexual violence require and understanding of gender roles, the relative power of men and women, material conditions and socio-cultural practices in specific situations and localities.”

In the Croatian case, the lack of recognition for the necessity to address the structural system of inequality between men and women, further came to the fore when I asked Croatian state actors what further mechanisms they consider as necessary to implement in order to prevent this type of violence in the future. Respondents were mostly focused on either punishment of perpetrators or education of military, police and peacekeeping personnel, accompanied by awareness raising of the unacceptability of sexual violence and consequences that one will face for committing these crimes. Given that military, police and politics, which are responsible for wars, are fundamentally gendered institutions (Acker, 1992) through which patriarchy is perpetuated, my concern is that these

mechanisms are not sufficient enough to tackle occurrences of sexual violence. As Cockburn (2010:139) argues, “if gendered relations are one of the root causes of war, a feminist program of gender transformation is a necessary component of the pursuit of peace.” Without disclosing and subverting the gendered hierarchy upon which these institutions are sustained, sexual violence in the war and conflict zone is most likely to continue its course just as much as in times of so-called peace. Moreover, it is important to note that, besides implementing the *Victims Law*, Croatian institutions have not put in effort to further promote this law or to keep raising awareness regarding the issue of sexual violence. In other words, the Croatian government didn’t take an initiative to challenge socio-cultural and political practices that legitimate violence against women, and, in that sense, potentials of future occurrence of sexual and other types of violence against women have not been sufficiently addressed.

2.4. Conclusion

In this chapter, by drawing on the empirical data, I provided an analysis of the Croatian institutional approach to CRSV in relation to gender basis of this type of violence. By tracing the *Victims Law* making process, I have shown how the issue of CRSV has been narrowly conceptualized by the Croatian political bodies and presented as an exceptional and abhorrent form of violence. That is, wartime sexual violence has been divorced from the continuum of violence - the violence that women face both in war and peace – and in that sense, it has been excised from the gender hierarchy that leads to and sustains this type of violence. This kind of approach mirrors what Meger (2016) denotes as decontextualization and homogenization of CRSV within international policy frameworks for addressing this issue. Furthermore, it has been shown how the lack of commitment to gender basis of CRSV resulted both in further entrenchment of women’s victimhood and a lack of awareness of the necessity to address gender inequality in a wider sense if one is to fully and substantially tackle the issue of not only wartime sexual violence but also other forms of violence that women face in their everyday lives.

In light of the shortcomings presented in this chapter, in the following chapter, I further analyze how the issue of CRSV has been instrumentally used for political ends; that is for the nation-building endeavor and sustainment of patriarchal political power.

Chapter 3 - Instrumentalization of conflict related sexual violence

In the previous chapter, it was pointed out how the political will of the Croatian state to address the issue of CRSV has been devoid of genuine concerns regarding the gendered causes of CRSV and its connectedness to other forms of violence that women experience in their everyday lives. By building on this argument, in this chapter, my aim is to analyze the *Victims Law* in view of the politics of nationalism that became prevalent in the Republic of Croatia by virtue of the Yugoslav disintegration and ethnic wars that followed from it. In particular, by drawing on feminist conceptualization of nationalism as the gendered phenomenon, I argue that the issue of CRSV has been used as a political instrument, that is, survivors' (mainly women's) victimhood was co-opted by the Croatian right-wing opposition for the nation-building endeavor and the entrenchment of men's political power. In the context of this nationalist political strivings, I further explore how the issue of CRSV has been instrumentally utilized for political ends. By drawing on the concept of objectification of CRSV within international policy frameworks, I show how the leading party utilized the issue of CRSV for the political interest of creating political ties and advancing the status of the Croatian state within the international community. Thus, instead of focusing on the gendered character of the war and sexual violence, the issue of CRSV during the Homeland War was used as an instrument for political ends.

This chapter proceeds as follows. Firstly, I map out a conceptual framework that I use to unpack the Croatian political context of addressing the issue of CRSV. Further, I show how the right-wing opposition utilized the issue of CRSV, namely women's victimhood, to (re)affirm men's honor and political power. Finally, I explore how building the relationship with the international community and advancing the Croatian state's status within it, has been more prevalent than concerns expressed regarding gender dimensions of wartime sexual violence.

3.1. *Gender, nationalism and the state*

The rise of nationalism in Croatia is just one example of multiplex, multi-dimensional and historically specific nationalist projects (Yuval-Davis, 2003). The nation – most famously denoted by Benedict Anderson (1983) as an “imagined community” - and nationalism has been theorized prominently within scholarly circles in the last several decades (Gellner, 1983; Calhoun 1997). However, it was not until feminist scholars engaged with the topic that the relationship between gender and nationalism has been acknowledged and integrated into the understanding of this social phenomenon. In particular, Nira Yuval-Davis’s (2003) essay offers comprehensive insights in the way in which gender relations play a crucial role in all dimensions of nationalist projects – their origins, cultural dimension and citizenship as a determinant of the boundaries of the nation. In other words, gender relations are manifested in nationalist projects through the construction of femininity and masculinity, naturalization of power relations, and biological, cultural and symbolic reproduction of national collectivities (Yuval-Davis, 2003).

As outlined above, nationalist projects are based upon gender hierarchy; that is, they constitute and are constituted by particular men’s and women’s roles and positions within the society. In particular, women’s bodies are utilized as material and symbolic instruments in nation building attempts. Depending on the hegemonic discourses by which nationalist projects are constructed at a specific historical moment, women’s role of biological reproducers is accompanied either by encouragement, discouragement or even force to have or not to have children (Yuval-Davis, 2003). Further, women in nationalist projects are assigned the role of cultural reproducers by which they are constructed as the symbolic carriers of the collectivity’s identity and honor. However, as Yuval-Davis (2003) has pointed out, women are rarely part of the collective when it comes to politics. In terms of political bodies, women are kept in an object rather than a subject position.

The way in which gender was at the heart of the conflict and nationalist projects during Yugoslav Wars has been analyzed in Dubravka Zarkov’s (2007) book *The Body of War*. In her analysis of

Croatian and Serbian media discourses, she argues that upon the Yugoslav dissolution the ethnicities were produced through both hate speeches in media representations and violent practices of the wars. However, more importantly, production of ethnicity was dependent on specific notions of femininity and masculinity as well as norms of (hetero)sexuality. In particular, by analyzing newspaper reports, Zarkov (2007) shows how the female body, which is a symbol of the nation as it is vested with a power to give a birth to the nation, served as an instrument for the construction of the ethnic Self and the Other. Furthermore, Zarkov (2007) illuminates how female bodies served as a site to “establish a particular ethnic geography” (Zarkov, 2007:153). That is, national territories had been mapped in blood and bones through acts of violence of which sexual violence against women was a key component (Zarkov, 2007). Thus, the nationalist upsurge in 1990s was grounded on instrumentalization of female bodies (maternal and victimized body in particular); female bodies were used as instruments for the strengthening of men’s political power, construction of ethnicities and their successor nation-states.

Not only are women and their bodies instrumentally used in nationalist political projects and wars, as exemplified by Yugoslav Wars, but also CRSV - by which majorly women are affected - has become treated as an object in contemporary international politics. Meger (2016) notes that the referent subject of the securitization of wartime sexual violence is the state which means that women’s experiences are subsumed under the conventional state interstate rubric and that CRSV becomes “an object of conflicting parties/states rather than a subject of human relations” (Meger, 2012). Thus, Meger (2016) argues that in parallel with the process of decontextualization and homogenization, fetishization of CRSV also occurs through its objectification. That is, besides being stripped of its context and meaning, this type of violence is represented as an object of fascination and suffused with exchange value which renders it consumable and banal (Meger, 2016:153). The value of wartime sexual violence depends on its representation as an abject phenomenon after which one is invited to engage with and consume it. An example of objectification is the way in which reports on wartime sexual violence are focused on its brutality,

scale (number of women affected) or intensity (Meger. 2016:153) which in turn obscures its root causes, namely gender hierarchy. Furthermore, as Meger (2016) notes, in light of this process, CRSV has become political commodity by which politicians justify their foreign policy decisions.

3.2. The prominence of nationalist tendencies

Clark's (2016) early analysis of the *Victims Law* is highly informative with regards to the politicized character of this law, namely the pressure coming from the opposing political parties to exclude members of Serbian nationality from the rights granted by the *Victims Law*. In particular, Clark has pointed to specific stipulations of this law that fuel the ambiguity of Serbian survivors' rights in relation to the *Victims Law*. For instance, the mere name of the law, which was modified in the last minute, implies that this is a law for Croat victims of Serb-perpetrated sexual violence, which in turn reinforces ethno-nationalist sense of "us and "them" (Clark, 2016). Alongside the law's title, Clark (2016) has also pointed to Article 14 by which members of enemy forces - not explicitly stated but one can easily infer that this refers to Serbs - who were subjected to sexual violence during the Homeland War will not be able to get redress from this new law. As Clark (2016:14) concludes, "any law that is truly survivor-centered should treat all survivors equally" regardless of their nationality or any other identity grounds. However, although this analysis correctly identifies shortcomings of the law in terms of its politicized character and tendencies to restrict Serbs as claimants of the rights to reparation, it fails to account for gender as a category of analysis and therefore, unpack how this kind of nationalistic tendencies are embedded in gendered relations of power. Thus, in this section my aim is to show how the right-wing exclusionary politics, the attempts to (re)establish the honor of the Croatian community and (re)affirm men's political power, are based on the utilization of women's victimhood.

In conversation with all of the interviewees, it came out that one of the main points of contestation during the whole process of law making - be it within the working group, parliamentary committees or parliamentary sessions - was related precisely to nationalist concerns expressed by the political

opposition regarding the rights granted by the *Victims Law*. With the following statements, I hope to exemplify how the ethnicity was implicated in the *Victims Law* making process; in particular, how exclusionary narratives of aggressors/Serbs (“them”) vs. victims/Croats (“us”) were remarkably pertinent to the law-making process:

“It has been severely debated within the committee (War Veterans) whether those who were on the ‘other side’ should be granted repair” (Interviewee 10, 2016).

“Within the working group that drafted the law, there was the expressed idea that people of Serbian nationality should not be able to benefit from this law” (Interviewee 4, 2016).

“It was particularly inconceivable to members of the parliamentary War Veterans’ committee that Croatian war veterans could have been perpetrators of sexual violence” (Interviewee 5, 2016).

“The opposition directly objected the possibility that women of other nationality, who could have been raped by the Croatian army, can be beneficiaries of this law” (Interviewee 3, 2016).

Alongside these interviewee assertions, if one looks at the parliamentary sessions regarding the *Victims Law*, it becomes more than evident that debates had been suffused with nationalist strivings to explicitly delineate between victims/Croats (“us”) and aggressors/Serbs (“them”) and therefore, exclude the aggressor from the entitlement to the *Victims Law*. For instance, the right wing parliamentarian articulated the following:

“It is vital and necessary to define who the aggressor was, to define the perpetrator, these beasts that committed such crimes. These crimes should be defined as the aggression of Serbia, Montenegro, Yugoslav People’s Army (*Jugoslavenska Narodna Armija* - JNA), paramilitary troops and even civilians who committed these crimes” (Croatian Parliament – Josip Đakić, 2015).

Besides this utterance, and other right-wing parliamentarian’s requirements to explicitly state in the law who the aggressor was, dispute that arose during the second parliamentary session is particularly telling of nationalist tendencies. That is, right-wing representatives and members of the Independent Democratic Serb Party (*Samostalna demokratska srpska stranka* – SDSS) engaged in a long, highly provocative and politicized debate regarding the victim vs. aggressor issue. Not only was this kind of discussion inappropriate and disrespectful towards victims, as it was regarded so by several parliamentarians, but also it reinforced divisions between “us”, victims and “them”, aggressors. Further, a certain number of parliamentarians did not miss the chance to multiply

emphasize concerns regarding the Croatian state's failure to hold criminals of these atrocities accountable, however, in many of these cases variety of tropes such as beasts, devils, monsters, serb-chetnik (*srbočetnik*) were used by right-wing parliamentarians to entrench the flagitious aggressors' character (Croatian Parliament 2014; 2015).

Finally, the exemplary of the way in which nationalist tendencies underpinned *the Victims Law* making process pertains to the documentary film *Sunny* that was screened at the beginning of the second parliamentary session (Croatian Parliament 2015). In her analysis, Kujundzic (2014) suggests that both the film and the book upon which the film is based, are highly political and nationalistic. In both, the victimization of only one ethnic group is pointed out, namely of Croats, whereby Serbs are explicitly and implicitly portrayed as perpetrators and aggressors. Moreover, only women (and one man) from the city of Vukovar - the symbol of Croatian war suffering – are portrayed in this movie, which is not the only case in which the women from Vukovar are evoked as symbols of Croatian victimhood. As one of the interviewees paraphrased a survivor's utterance upon the end of the aforementioned conference held in Vukovar: “she came out and said - no one even mentioned anything about us, it sounded like none of Serbian women were ever raped” (Interviewee 11, 2016).

However, these nationalistic attempts to (re)assert “the Other” only get their full meaning when one takes into account the role that gender plays in this process. It is narratives about “our” women victims and “their” men perpetrators that had been discursively constructed throughout the *Victims Law* making process, which is commonly evoked in nationalist projects. As Handrahan (2004:437) notes, by referring to the argument of other feminist scholars too, in nationalist projects “women's bodies are used as ‘vehicles’ for the symbolic depiction of political purpose”. It is my argument here, that not only has women's victimhood been entrenched by the *Victims Law*, as I have argued earlier, but that women's victimhood (and particularly of women from Vukovar) was also instrumentally used by proponents of nationalist politics to (re)establish the division between “us”

and “them”, between “our” women and “their” men who have endangered the men’s honor and Croatian national identity through acts of sexual violence.

It has been widely argued that rape is an attack on honor, just as it is on national identity or group cohesion (Stiglmeier 1994; Olujic, 1998) particularly when it comes to sexual violence studied in ethnic conflict. In her analysis of mass rapes in Bosnia and Herzegovina, Helms (2013) notes that, due to a failure to protect “their” women, who are symbolically linked to the nation, men lost their pride and honor, both masculine and national. Further, Yuval-Davis (2003) has also pointed out in her analysis of nationalist projects, that women are the ones who carry the role of bearers of collectives’ honor. Even in the Geneva Conventions, rape has been defined as “a crime against honor”, whereby the emphasis is on the honor of the men and community, rather than that of women themselves (Yuval-Davis, 2003:23). Lori Handrahan (2004), who in her analysis addresses the role that the nexus between gender and ethnicity plays in post-conflict societies, similarly asserts that women are expected to serve the honor of their male relatives by “preserving” their sexual purity. According to Coomaraswamy (1999:12) this is the reason why raped women can be shamed by their relatives to commit suicide in order to maintain the “honor” of their men. Thus, it is the honor of the community, of its male members that is endangered by the rape of “their women”. As Handrahan (2004) notes, when the issue of sexual violence is discussed, it is in terms of the shame and harm that is brought to male relatives of women who were subjected to sexual violence, but also to survivors themselves.

In their political agenda regarding CRSV, members of the parliament managed to depart from the notion of shame that is attached to survivors when occurrences of wartime sexual violence come to the surface. Instead, they were commending survivors’ bravery to publicly talk about these experiences and, accordingly, pointing to survivors’ deserved respect (Croatian Parliament 2014, 2015). Nevertheless, it is relevant to remind how, as outlined in chapter two, the common belief exists within the Croatian society that experiences of sexual violence are more shameful for men

than women. This kind of gender bias is also reflected in the documentary film *Sunny*. Unlike women's identities that are disclosed throughout the film, the identity of the only male survivor of sexual violence is blurred. Furthermore, it has been mentioned earlier how parliamentarians regarded that an aim of wartime sexual violence was to humiliate the nation, destroy one's integrity, demoralize family relations and achieve victory (Croatian Parliament, 2014; 2015). Therefore, given that a post-conflict setting, just like a conflict one, revolves around male power, their struggles and identity formation (Cockburn and Zarkov, 2002), I suggest that in order for men's and the community's honor to be (re)affirmed, one had to make sure that those who threatened these men's honor in the first place, get excluded from rights to reparations. If men were not successful in defending "their" women and therefore their honor at the time needed, it is through exclusionary nationalistic politics (denying any rights to those from which the threat and humiliation came), with which the *Victims Law* making process had been suffused, that men could have (re)established not only the community's identity and honor, particularly men's, but also men's political power. In doing so, these nationalistic tendencies relied on "our" women's victimhood, thus rendering women's suffering an instrument for political ends. Indeed, a few of the interviewees firmly argued that this law wouldn't have been possible if it was not framed in nationalist discourse of Croatian (particularly Vukovar) women as victims and Serbian men as perpetrators. Thus, it is this kind of nationalist framing that allowed men the space to (re)establish their honor and political power.

It is also important to note that it had not only been men who advocated nationalistic political agenda, but also certain women actively contributed to this political ventures which resonates with Peterson's (1999) argument that women are not only victims but they can also be significant agents of nationalism. In particular, Zarkov's analysis (2007) exemplifies how women, and a group of Croatian feminists, supported Croatian nationalism during 1990s. She particularly reflects on the way in which "antinationalist feminists were ignoring the fact that nation, ethnicity and womanhood are not mutually exclusive realms in women's lives and that women – feminists or not – do claim not only an ethnic identity but also nationalism as *their own* project" (Zarkov, 2007:218).

Finally, the day of voting for the *Victims Law* is telling of how nationalistically laden political opposition was not genuinely concerned with needs of survivors of sexual violence (mainly women), but more so with their own political power. As outlined before, members of HDZ refused to give their vote due to highly politicized protests of Croatian war veterans (mainly men) in front of the parliament. It can be inferred from this political decision that, again, war veterans' needs surfaced as more relevant to be supported than those of survivors of sexual violence. Thus, the issue of CRSV, a form of violence that had its grounds in nationalist politics of 1990s, has become once again - through nationalist tendencies with regards to rights for survivors of CRSV - a site for (re)affirmation of men's honor, national identity and political power. Accordingly, women's suffering due to wartime sexual violence has been instrumentally utilized and sidelined.

It is not only the political interest of the right-wing opposition that comes into play in the *Victims Law* making process, but also the leading party had its own political strategies. For instance, one cannot fail to notice the last minute political compromise regarding the name of the law, which, as it sounds now, implies that this is the law for Croat victims of Serb-perpetrated sexual violence (Clark, 2016). This change could be attributed to the right-wing opposition's demand to modify the name of the law. This requirement was pointed out several times during parliamentary debates, for instance, one of the parliamentarians stated:

“This kind of name of the law discriminates the Homeland War and war veterans; therefore, we suggest the following change regarding the name of this law: The Final Draft of the Law for the Rights of the Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War” (Croatian Parliament – Nada Murganić, 2015).

However, throughout my interviews I was not able to obtain substantial empirical data which would help me unpack the question of how and why this last minute change of the law's name came into effect. When I touched upon this topic in conversation with state actors, they tended to diminish this issue and divert from the topic. For instance, one of the state-actors, who worked on the bill drafting within the Ministry, stated as follows:

“The name of the law is not essential, what is important is its content. There is no need for such a long name of the law but the name itself does not imply anything discriminatory, we did not want this to be politicized law. However, there were some suggestions for change” (Interviewee 7, 2016).

Notwithstanding the tendency to diminish and disregard this political decision, I suggest that silences I faced regarding this compromise are telling of political “games” between the leading party and the political opposition. By making compromises regarding nationalist demands, the leading party has proved to have their own political interests and thus being less concerned with gendered dimensions of sexual violence during the Homeland War but more so with their own political power. Besides politicization of the law within a domestic political framework, in the following section I further show how politics, and particularly international politics, has been implicated in the *Victims Law* making process.

3.3. Relations of the Croatian state with the international community

It has been analyzed in the first chapter how the Croatian approach to CRSV corresponds to the first stage of the securitization (decontextualization/homogenization) of CRSV, which characterizes the international policy framework for addressing this issue (Meger, 2016). In this section, my aim is to further show how the second stage of this process, denoted by Meger (2016) as objectification of CRSV, can also be traced within the Croatian domestic policy framework in efforts to provide reparations for survivors of CRSV.

The major example of the way in which CRSV has become a political commodity not only within the international community (Meger, 2016) but also on the national level of the Croatian state is the financial dimension of reparations. That is, according to all of the interviewees and footage of the parliamentary sessions, the other major point of contestations throughout the whole process of the *Victims Law* revolved around the issue of financial and other material types of support for survivors. In particular, it had been debated how to define adequate monetary value for the experienced atrocities and where to gain funds from - the state, foreign donors or, as even

suggested by a group of nationalistically inclined parliamentarians, from the perpetrators' state (Croatian parliament 2014; 2015).

Related to the financial dimension of reparations is the estimated number of victims, which was oftentimes evoked by a number of parliamentarians in relation to the costs for the state's budget (Croatian parliament, 2014; 2015). The number of people subjected to sexual atrocities during the Homeland War, which has been assessed by UNDP's (2013) research, was also invoked during parliamentary sessions in order to emphasize the brutality of this type of violence. Notwithstanding reasons for bringing attention to the number of victims of CRSV and the fact that the scale of sexual violence may have brought the issue to the attention of government, the intent of reports on the scale of wartime sexual violence is not to consider its underlying causes – gender hierarchy – but rather to present on sufficiently brutal and descriptive stories of violence (Meger, 2016:153).

Given the above analysis of the way in which the Croatian state has addressed the issue of CRSV and the fact that the *Victims Law* was to a large extent incited by international community actors (UNDP) as outlined in the first chapter, it could be inferred that Croatian institutions largely adopted international norms when it comes to addressing this issue. There is quite a broad literature in IR theory that is concerned with the process through which international norms come to operate and be accepted within domestic political policy (O'Faircheallaigh, 2014). However, due to limited empirical data, this question remains to be addressed by future research. Nevertheless, data obtained in this research suggest that the relationship with the international community played a significant role in the implementation of the *Victims Law* in terms of building political ties for the purpose of (financial and operational) support as well as the role model status that the Croatian state has built within international circles through this law. As one interviewee stated:

“This law has been important for the relationship with the international community in terms of international support and cooperation. We connected two frameworks, UNDP's and British one [...] We've been told by the deputy executive of the UN Women that this is so far the best law in the world which was really important for us. We are proud that this law can be example for some other countries that might be in need for this kind of policy” (Interviewee 6, 20016).

Building political ties with the international community might not be problematic in and of itself; however, in light of Meger's (2016) criticism regarding international policy frameworks for addressing the issue of CRSV, one should be wary of the ties with the international community and the motivation behind the political will to address the issue of CRSV expressed by the Croatian leading political structures. Lori Handrahan (2004) is highly critical of the international community and their refusal to seriously take into account gender issues in post-conflict reconstruction processes. As she notes, the lack of gender concerns seems not to be the result of the international community's inability to know better, but rather "its inability to consider its own patriarchy and the damage this does within international development paradigms" (Handrahan, 2004:436). Following these lines, I suggest that, similarly, Croatian political structures are not willing to reflect on the entrenched patriarchy within political institutions which, accompanied with international paradigms for addressing the issue of CRSV, does not lead to the advancement of gender equality and establishing of gendered peace, but rather to the entrenchment of the masculine political power. More importantly, following Enloe's (1989) argument that "the international is personal" and "the personal is international", one should bear in mind that international policies, having been diffused to the domestic context, have significant impact on women's most intimate and private lives, on their everyday embeddedness in patriarchy and on possibilities for (re)experiencing gender-based violence. Notwithstanding this feminist assertions, political interests of the Croatian state to build the relationship with the international community and advancement of the Croatian state's status within it, have proved to be more prevalent than truly addressing gendered aspects of wartime sexual violence.

3.4. Conclusion

In this chapter, I argued that the implementation of reparations for survivors of CRSV has been highly politicized and women's victimhood instrumentally utilized for political ends. Firstly, I have shown how the right-wing political opposition imposed their exclusionary political agenda with

regards to the *Victims Law* and, by doing so, (re)established men's honor and political power, therefore rendering women's needs secondary. Further, the implementation of the *Victims Law* that was guided by the leading party, but largely incited and supported by international community actors, has been embedded in international policy frameworks for addressing the issue of CRSV. Given the shortcomings of international frameworks for addressing this issue and the importance for the Croatian state to build international political ties and state's status, the attention has been diverted from the necessity to genuinely commit to addressing the root causes of wartime sexual violence, namely gender hierarchy. In that sense, the Croatian state's institutions have failed to transgress the mere political will in their efforts to provide reparations for survivors of CRSV and, to give primacy to gendered character of this type of violence.

In the following chapter I reflect on the alternative (feminist) model of transitional justice, namely the Women's Court that temporally coincided with the process of the *Victims Law* making but, despite shared concerns regarding wartime sexual violence, has received very little acknowledgment by Croatian political institutions.

Chapter 4 - Alternative models of transitional justice – the Women's Courts

Provision of reparations for survivors of wartime sexual violence is one type of institutional mechanisms for addressing these crimes. The *Victims Law*, which has been implemented by the Croatian state, is one such example of reparative models, since its aim is to redress survivors in a symbolic and material way. Besides reparations, international and national criminal courts have been much more common institutional mechanism for bringing justice to survivors of CRSV and ending impunity. Feminist objections and shortcomings of these approaches have already been overviewed earlier in this thesis, just as it has been analyzed what the particular drawbacks of the *Victims Law* are. Nevertheless, it is important to note again that, besides reparations, the Croatian state has done very little to address this issue; there are very few perpetrators that have been charged for crimes of wartime sexual violence. This limitation of national courts is not only symptomatic for Croatia, but also for other successor states in the former Yugoslav region. Thus, the awareness of shortcomings of national and international courts prompted feminists from the Yugoslav region to more seriously take into consideration restorative models of justice (Clark, 2015). Moreover, international courts have also proved to have limited capacity and narrow focus on prosecuting the most responsible offenders, thus, restorative justice has emerged as a focal point of alternative accountability (Ni Aolain, Haynes & Chan, 2011:153). All of these models of justice - punitive, reparative, restorative – can be considered as elements and parts of transitional justice which, according to Clark (2015:68), reflects a need for a holistic approach to dealing with the legacy of human rights abuses and war crimes. On these lines, the Women's Court exemplifies one such element of transitional justice, in particular a restorative one.

The Women's Court is an overarching term for a number of initiatives that have been taking place worldwide since the early 1990s. It represents “a global movement that seeks to relook at rights and other notions of justice from the lives and life visions of women – particularly from the global South” (Duhacek, 2015:160). Even though the women's courts and tribunals resemble legal proceedings they are only symbolically designated as courts and tribunals. In that sense, these

models of justice are different from the official judicial procedures and they are in no way an alternative but only supplementary to the mainstream judicial systems (Duhacek, 2015). Therefore, the women's court proceedings are not adversarial and have no official (state) power to punish perpetrators for committed crimes. In other words, they cannot enforce judgments. Rather, instead of emphasizing perpetrators' names, the focus is on inflicted injustice that stems from social, political and economic forces. One of the main characteristics of the women's court is its inclusiveness; that is, "a great effort is made to give a voice to *all whose voices which have not yet been heard* and, if it were not for this court, would not be heard" (Duhacek, 2015). What further characterizes these courts is that, unlike official judicial systems, testimonies are conceived of as stories of survival and resistance, not victimhood. Furthermore, these testimonies are personal and politically relevant as they have "the power of naming, rewriting the past, introducing and establishing new subjects, new authorities of history, and thus shaping new possibilities in the present for the future" (Duhacek, 2015:162).

The women's courts are usually convened by women's groups and organizations whereby the duration of each is not predetermined in advance, rather, the courts are uniquely organized depending on the context. Besides the core of the process, which is listening to women's voices (testimonies) regarding the violation of their human rights, the aim is also to raise awareness about the abuse of human rights within the local, regional and international community. This is achieved not only through the court proceedings itself, but also through a series of activities that precede it, e.g. a circulation of relevant information, round table discussions, public debates, seminars, workshops, educational activities, theater performances, exhibitions and film screenings. Thus, this event also has an aesthetic significance as it delivers and spreads the message of inflicted injustice by using artistic performances (Duhacek, 2015). As Duhacek (2015:161) notes, "the unique feminist methodology evolved by the Courts of Women revolves around weaving together the personal, the political, the affective and the aesthetic. It seeks to invite the audience to relook at these issues not as experts but as witnesses to the violence of our times." Finally, unlike legally

binding verdicts that are a characteristic of official judicial system, women's court proceedings are accompanied by a jury that brings judgment in the form of public condemnation of violence. Similarly, women's testimonies are followed by relevant political analysis which serves to contextualize individual cases of violence (Duhacek, 2015). However, one should keep in mind that there is limited data to clearly suggest to which extent women's courts are successful models of restorative justice or what limitations of these courts are.

4.1. The Women's Court for the Yugoslav region

The initiative to set up the Women's Court for the Region of the former Yugoslavia followed from the wars fought after the dissolution of Yugoslavia and came from regional feminists due to their awareness of the limitations of international (ICTY) and national criminal trials (Clark, 2015). The court itself has been regarded by its organizer as "The Women's Court – A Feminist Approach to Justice" and was held at the Bosnian Cultural Center in Sarajevo, from 7th to 10th May, 2015 (whereas the whole project started in December 2010). During its five years' period, the project was to a large extent coordinated by the Belgrade-based feminist and anti-militaristic organization, Women in Black, though more than 200 nongovernmental organizations across the former Yugoslav region took part in this process. As Duhacek (2015) notes, the aim of the court was to bring justice to victims of Yugoslav Wars, and through this regional initiative, women and women's groups from successor states were brought together. "These groups and individual women had a long history of political alliances in antiwar and/or feminist activism, cooperation and exchange, and last but not the least, personal friendship based on these political choices" (Duhacek, 2015:160). The process that preceded the court's event in Sarajevo comprised of 10 consultations and trainings, 16 feminist discussion circles, 136 public presentations in 100 towns throughout the former Yugoslav region, and 16 seminars in the region (Clark, 2015).

Given that the aim of the Court was to underline the continuity of violence against women in different contexts during both the war and peace period, the proceedings were organized around

five themes: “the war against the civilian population (militaristic/ethnic/gender-based violence); woman’s body – a battlefield (sexual violence in war zones); militaristic violence and women’s resistance; persecution of those who are different - in war and peace (ethnic violence); and an undeclared war (social and economic violence, women’s resistance)” (Clark, 2015:77). Albeit interconnected, these thematic sections with regards to different types of violence alerted attention to the fact that it is not only sexual violence that women experience during the war, but also other forms of violence that are present both during war and so-called peace, which is conceptualized by Cynthia Cockburn (2004) as the continuum of violence.

One of the main strengths of the Sarajevo Women’s Court is that each of the 36 women who participated in proceedings, was provided a safe space to tell, as an individual, in her own words what she personally found the most important to share with the public. By giving women the space to voice their experiences, thoughts and feelings with regards to different layers of violence, in a safe and supportive zone, women were not cast simply as victims but also as actors in their own right. As Clark’s (2015) early analysis of the Women’s Court suggests, not only the suffering of women who testified has been recognized, but also their agency has been acknowledged. Acknowledgment of women’s perspective with regards to different forms of the experienced violence, as well as of their individual experience of harm and suffering - which is not just a one-off experience, but an injustice that gets accumulated over the course of war and peace - is what Clark (2015) sees as a fundamental element of justice as recognition. In that sense, by building on Haldemann’s (2008) concept of justice as recognition of which the crucial point is to give victims a voice in order to fully understand their personal experiences of injustice, Clark argues that the Women’s Court was successful in terms of delivering this type of justice. In other words, the Court recognized the multiple types of violence perpetrated against women during war period and in so-called peace, acknowledged the affective and experiential dimensions of injustices that women faced, as well as showed that victimhood can be transgressed and translated into activism.

In general, both Clark's (2015) and Duhacek's (2015) analyses of this particular Women's Court are focused on this event in light of the concept of justice. However, the aim of this thesis is not to question neither the *Victims Law* nor the Women's Court through the lens of justice, but rather to explore how the Croatian state-bodies approached the issue of wartime sexual violence. Therefore, in what follows, my aim is to point to the Croatian states' failure to recognize this regional - reparative - approach to the violations of women's human rights in general and wartime sexual violence in particular. Due to a lack of empirical data, it is not possible to provide firm conclusion why it has been done so. Nevertheless, I suggest that this project was mainly neglected because of its effort to challenge ethnic boundaries and foreground women's voices, which is in collision with the deeply entrenched nationalist and patriarchal politics in Croatia.

Throughout the process of preparation for the Women's Court proceedings, it became clear that women's voices from all over the former Yugoslavia were brought together. Duhacek (2015:173) asserts that the assumed principle upon which the work of the core group was based, although nowhere explicitly stated, was to abide to their own politics of peace and feminist solidarity while constantly critically reflecting on nationalist politics of their respective state's. Sometimes, this principle had been unfolded in details and articulated as a feminist basis of the Women's Court process.

A general tendency of the Women's Court, which was to get women involved in the Court regardless of their ethnic background and to challenge entrenched nationalist narratives, has been problematized by Clark (2015). She suggests that the Women's Court "had the potential to challenge the deeply entrenched ethnic narratives that continue to frame popular discourse on the conflict in the former Yugoslavia" (Clark, 2015:82). However, as she notes, the issue of ethnicity was not directly approached and each woman had an opportunity to confront ethnic prejudices in her own individual way, without any pressure to do so. As Handrahan (2004) notes, a factor that reduces the significance of ethnicity may be the fact that as women, mothers and wives subjected

to violence, women share same experiences by which their gender identity gets strengthened; indeed, this identity seemed to be more salient in the Women's Court. Further, Clark (2015) points to the fact that, due to ethnic composition of thematic sections outlined above, one could get the impression that certain groups of women suffered from violence more than others. However, this was in no way the message intended to be conveyed, rather this situation was a consequence of organizational limitations. In that sense, Clark (2015) asserts, it is not possible to conclude whether the elimination of ethnic hierarchies of suffering has been challenged enough by this Court. Regardless of this point of critique, the Women's Court had been imagined and eventually realized as the space where ethnic divisions tended to be challenged and transgressed, whilst respect towards ethnic diversity and political specificities of successor states tended to be expressed.

Despite the significance and magnitude of the Women's Court project, it did not find its space neither within Croatian political nor within media sphere; it has been devoid of any real political and wider social interest. It is symptomatic of Croatian politics that the round table event *Sexual Violence in the War and the Prosecution of the Perpetrators of Sexual Violence*, where stories of sexually violated women from Vukovar are being narrated, receives large political attention whereas the Women's Court, which is presented in Vukovar at the same period of time, was almost entirely neglected. Once again, I want to emphasize that my aim is not, in any way, to undermine the level of suffering that women from Vukovar experienced. However, one may ask oneself, why the Women's Court gets so little political acknowledgment although the issue being addressed is a similar one – wartime sexual violence; even more importantly, the Women's Court reflected the reality of violence against women experienced both during war and post-war period. Although an answer to this question may require a little more exploration, I suggest, in light of my general argument in this thesis, that an answer should be looked for in patriarchal and nationalistic constitution of Croatian political bodies.

Although the entry point to the *Victims Law* may have been the recognition that women's needs were neglected after the war and the initial intention may have been to foreground women in the law-making process, I argue that Croatian leading political structures expressed a lack of real concern regarding the needs of women who experienced sexual harms during the war. The lack of political acknowledgment of the Women's Court can be understood as a manifestation of this kind of politics. The Women's Court - through which concerns have been expressed regarding the violence against women primarily related to the war - is underpinned by anti-militarist, anti-nationalist and feminist principles (of care and solidarity). Therefore, challenging ethnic boundaries and foregrounding women's voices collides with nationalistic narratives of the back then Croatian opposition and, in a wider sense, with the politics of largely dominating patriarchal political bodies. As one of the interviewees stated: "The Women's Court did not have nationalistic perspective and that was the problem, that is why it has been ignored in a way" (Interviewee 9, 2016). It seems that, when it comes to the Croatian state, men's political power and national honor has again been prioritized over women's needs and injustices faced during the war. However, Croatian political structures tend to be blind to the fact that this is a pattern of behavior within Croatian society.

Croatian post-conflict politics is in a way a reminiscent of Korac's (2006) argument that feminists' peacebuilding efforts during Yugoslav Wars, which were aimed at overcoming divides along ethnic lines and pointing to the gendered nature of sexual crimes, had not only received little (inter)national support and recognition but also feminists, involved in anti-war agenda, were cast as a threat to the national politics. It is precisely feminist principles that pose a threat to male (nationalistic) political power, given that this power depends upon the domination over women's bodies in a material and symbolic way. Similarly, twenty years after the war, nation building tendencies and patriarchal politics seems, to be more salient during the *Victims Law* making than genuine concerns regarding, not only women's needs but also gender issues in a wider sense.

Given that, throughout this thesis, I have been guided by principles of feminist research ethics, I consider it relevant to reflect on the fact that I personally attended the four-day event of the Women's Court (which, to a large extent, has been a generator of this research project). It is not completely irrelevant that the argument I am suggesting is invested with a certain level of emotionality, which I carry from this event. Thus, one could argue that, given my personal, feminist, scholarly and activist background, the knowledge I have produced in this thesis is only partially objective. However, as feminist scholars such as Donna Haraway (1991) and Karen Barad (2007) argue, the knower is always embedded in the world (s)he studies and therefore can establish only a partial objectivity. However, they also go on to say that this fact does not mean that one cannot produce a reliable and objective piece of knowledge. It has been my aim throughout this paper to obtain this kind of knowledge. I believe that the historical, political and social conditions of the Croatian state, which were presented throughout this thesis, are illustrative enough for my argument to stand on firm ground. In line with that, I am aware that the Women's Court may have had its own shortcomings which is not the matter of this thesis and should be further explored by future research in order to better understand the relationship between institutional and non-institutional mechanisms of transitional justice. However, as Clark's (2015) analysis of the court concludes, the main challenge is to turn this symbolic justice as recognition into a more practical and substantive form. Indeed, the aim of reaching a wider audience, and raising regional and international awareness regarding the issue addressed by the court, has not been achieved. Therefore, the main failure of this type of transitional justice is that it did not manage to successfully gain larger public and political attention and get institutional structures to take the issue of wartime sexual violence and other forms of violence more seriously and with much more gender awareness and sensitivity.

4.2. Conclusion

In this section, I have further analyzed the *Victims Law* making process in light of other forms of transitional justice, namely the Women's Court. In particular, I reflected on the lack of acknowledgment expressed by the Croatian political establishment for the women who testified about their experiences of sexual violence and other gender-based crimes at the Women's Court. In that sense, I argued that women's needs, with relation to their experiences of violence, were not the priority for the Croatian state bodies, rather they were only secondary to the patriarchal politics and nation building tendencies by which this law has been underpinned. This argument should be understood in light of the broader argument of this thesis that, despite the political will, addressing the issue of CRSV by the Croatian state has been devoid of gender concerns regarding this type of violence. The provision of reparations for survivors of CRSV has been decontextualized from the gendered relations of power and women's victimhood instrumentally appropriated for political ends. In that sense, the Croatian state has not been successful in substantially challenging the issue of CRSV and bringing gendered peace and justice.

Conclusion

The implementation of *The Law on the Rights of Victims of Sexual Violence during the Armed Aggression against the Republic of Croatia in the Homeland War* is a significant step that has been done by the Croatian state after 20 years of blindness towards the issue of wartime sexual violence. Financial, psycho-social, medical and legal support for survivors of sexual violence that is granted by this law, is a form of reparation that is arguably going to bring some positive changes in lives of certain number of individuals who suffered from these crimes. However, in order to understand the potentials of this law to attain successful reconstruction and sustainable gendered peace, in this thesis I drew on feminist critical theory and sought to explore the *Victims Law* making process with regards to its gender dimensions. In particular, the question I asked is *why* and *how* the Croatian state engaged with addressing the issue of CRSV in general and implementing the *Victims Law* in particular in post-conflict reconstruction efforts? Findings of this research are based on several methodological tools – interviews, discourse analysis and process tracing methods.

A political will to address the occurrences of CRSV during the Homeland War in the Republic of Croatia emanated from the constellation of political circumstances of which two have proved to be the most significant – an impetus coming from international community actors, namely United Nations Development Program, and a certain level of awareness of the necessity to address women's needs in post conflict reconstruction that stemmed from then leading political party, the Social Democratic Party. However, despite the initiative to implement the *Victims Law* and an inclusion of civil society organizations in the law-making process (mainly feminist and women's groups that had previously been dealing with the issue of CRSV), I argued in this thesis that this process has had substantial shortcomings in terms of the lack of sensitivity to gendered character of sexual crimes committed during the war.

Firstly, the provision of reparations for CRSV by the Croatian state has been bounded up in too narrow of a conceptualization of this type of violence. In other words, wartime sexual violence has

been decontextualized from the dynamics of gendered relations, presented as a specific, horrifying form of violence and excised from the continuum of violence that women face before, during and after the conflict. This narrow conceptualization of CRSV and lack of awareness of the necessity to address the gender hierarchy as the root cause of not only wartime sexual violence but also other forms of gender-based violence, has been accompanied by the entrenchment of women's victimhood since they were denied political agency during the law-making process and devoid of a support to become publically active citizens.

Consequently, I argued that Croatian institutions, besides a lack of gender awareness regarding CRSV in general and reparations in particular, utilized the victimhood narrative for political ends. Nationalist tendencies and exclusionary politics during the law-making process, that came from the political opposition, served as a mechanism for entrenching men's honor, Croatian collective identity and men's political power. A nationalist pressure, to which the leading party had succumbed to a certain extent, was accompanied by a tendency to build political ties with the international community. A close collaboration with international actors is also reflected in the decontextualization and objectification of CRSV within the Croatian framework for addressing this issue, since the current international framework for addressing wartime sexual violence is characterized by the securitization and therefore fetishization of CRSV. Thus, this kind of politics implies the lack of genuine concerns regarding women's needs.

Finally, women's needs were only secondary in the *Victims Law* making process which has been exemplified by the lack of the state's political interest and acknowledgement of the Women's Court - a regional mechanism of restorative justice by which different forms of violence experienced by women (including wartime sexual violence), mainly during but also after the wars in Yugoslav region, had been addressed. This oversight speaks to my argument that women's needs were only subordinated to patriarchal politics and nation building tendencies by which the *Victims Law* making process has been underpinned. Despite efforts and political will to address the issue of

CRSV, the *Victims Law* making process has been embedded in a gendered system of power from the international to the personal level. In that sense, the potentials this law could have had regarding future prevention of sexual and other forms of gender-based violence has not been successfully utilized. Therefore, there has been very limited advancement done in terms of building sustainable gendered peace in post-conflict Croatia.

Currently, gendered peace is even further from possible by virtue of the new Croatian right wing in power endangering women's rights on a daily basis, particularly reproductive rights. Despite some symbolic progress in terms of women's rights in recent history of the Croatian state, one cannot fail to notice a huge backlash that is reflected in a number of indicators of patriarchy on the economic, political and social level. The intersection of neoliberal economy, accompanied by high level of corruption, and nationalistic politics by which the prewar and war period has also been characterized, creates a terrain for the likelihood of future conflicts and higher levels of violence against women and abuse of their rights. To conclude, if positive change is to happen, one should start asking questions from the position of marginalized women's groups and give them more public space to voice their needs, concerns and strengths by which their everyday lives are shaped.

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Appendix: List of Interviewees

Gender	Organization/political body
Female	Women's non-governmental organization
Female	Feminist non-governmental organization
Female	Feminist non-governmental organization
Female	Feminist non-governmental organization
Female	Civil society organization
Female	International non-governmental organization
Male	Ministry of War Veterans
Female	Ministry of War Veterans
Female	Member of Parliament
Female	Member of Parliament
Female	Member of Parliament
Male	Member of Parliament
Male	Member of Parliament