

Workshop Report

Dealing with war-related sexualised violence: Experiences and challenges

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1. Introduction

The Workshop “Dealing with war-related sexual violence: Experiences and challenges” responded to requests from participants in a session on “Dealing with the past/Transitional Justice” during the *Global Peacebuilders Summit* in September 2017. They expressed specific interest in discussing the possibilities for dealing with war-related sexual violence in Transitional Justice policies. Peacebuilders and women’s rights activists in many post-war societies face the question of how to deal with these issues in an appropriate way that addresses truth, justice, healing and relationship-building.

In the past 25 years, the issue of war-related sexual violence has been addressed by international law and by mechanisms that aim at accountability after violent conflict, such as international and domestic courts in war crimes prosecution. Truth commissions have also addressed the issue. These transitional justice mechanisms helped to inform the debate and supported progress in this field; however, they also show clear limitations in terms of acknowledgement of the survivors. The question of what kind of restorative approaches have been applied so far and how more victim-centred approaches can be offered was therefore a main focus of the workshop.

GUIDING QUESTIONS:

- What kind of restorative approaches, aimed at healing and compensation, have been applied?
- Dealing with traumatic experiences: What kind of approach is recommended by scholars and practitioners in psychological and/or social work?
- How can we treat the survivors mindfully, ensure their safety and avoid re-traumatisation? How can we keep ourselves healthy and avoid our own re- or secondary traumatisation? What does a stress- and trauma-sensitive approach (STA) comprise, how can we incorporate this concept in our daily work and what are its benefits?
- How should we address stigmatisation and social taboos (i.e. perceptions relating to war-related sexual violence against women/men)?
- How can we transform war and gender-related identities?

1.1. Introduction to the Workshop by Monika Hauser, *medica mondiale*

“Heroes and martyrs are always visible; traumatised women are invisible.”

Monika Hauser

In Japan, during the Second World War, women were subjected to systematic sexual exploitation by the military. Between 1937 and 1945, approximately 200,000 women were forced to work as sex slaves in brothels, so-called “Comfort Stations”, set up to provide recreation for Japanese soldiers. Women and girls, mainly from Korea but also from other Southeast Asian countries, were abducted and sent to Japan for this purpose. To this day, these “Comfort Women” have received neither justice nor any kind of compensation for their suffering. In 2000, a symbolic International Tribunal in Tokyo addressed the exploitation of the “Comfort Women” by the Japanese military during World War II and found the late Emperor Hirohito and his generals guilty of forcing the women into sexual slavery.

For the rest of their lives, these women suffered from physical and psychological problems and lived as outcasts in their own societies. They were proud that through this symbolic tribunal, their suffering was acknowledged at least once in their lives. “It’s all about justice and dignity,” Monika Hauser concluded.

Another example of recognising the suffering of female survivors of wartime violence can be found in Pristina, Kosovo. While most war memorials are dedicated to male war heroes and martyrs, the *Heroinat* Memorial in Pristina was set up to recognise women’s suffering during the Kosovo War. However, this monument recalls the suffering of the ethnic Kosovar women only; Serbian and Roma women are excluded from remembrance.

Berlin has a small, not very impressive memorial to the women, girls and children who were deported, exploited and forced into slave labour during World War II.

This indicates that in terms of acknowledgement of the survivors of war-related (sexualised) violence, among others two problems arise. Problem number one is that women who suffered violence are often forgotten. Problem number two is that even if women are remembered, this often only includes women who belong to the constituency or conflict party engaged in this memorialisation.

2. Input by Maria Zemp, *medica mondiale*: *medica mondiale’s* stress- and trauma-sensitive approach (STA)

medica mondiale’s stress- and trauma-sensitive approach (STA)¹ was developed with colleagues from various countries. *medica mondiale* began its trauma-sensitive work in Bosnia, developing it into a systemic approach in Afghanistan and Liberia and then taking it a step further through projects with refugees in Germany. The evolution of this low-threshold approach was a bottom-up process that draws on *medica mondiale’s* long-term engagement and wealth of experience.

¹ See the article “Supporting survivors of violence with a multi-sectoral, solidarity-based, stress- and trauma-sensitive approach.” Karin Griese, Alena Mehla, *medica mondiale*, 2016

As experience has shown, dealing with the past and justice is not possible without talking about trauma. **The effects of trauma may be observed at three different levels:**

Social dimension of trauma

A core experience of trauma is disempowerment and disconnection from others. The chance to build relationships within the family, with other people and communities, reintegration, the experience of empathy in a group or community and reconnection with others help survivors to rebuild their lives and participate in society.

Individual level

Trauma evokes certain brain reactions that cause people to feel stressed and tense more rapidly and to feel less empathy for others. Traumatized people also respond faster to trigger situations. These reactions are stronger if the person is living in an environment of ongoing conflict.

Level of collective trauma

At the level of collective trauma, the occurrence of trigger situations and the escalation of existing conflict dynamics may be observed. A loss of empathy, as a symptom of trauma, feeds the culture of violence. Defensiveness and aggressiveness serve to secure the group identity. An environment such as this offers a high risk of re-traumatization and reactivation of trauma symptoms (e.g. when accessing healthcare, during press interviews, or in legal proceedings). Stress and trauma dynamics may be transmitted to other people, to groups such as teams and staff members of organizations, and to the next generation.

Trauma also affects professionals working in this field. Professionals and other people dealing with traumatized individuals may themselves experience traumatic stress or secondary/indirect traumatization; they may also suffer from stress due to their own personal experience of conflict, trauma and helplessness.

Post-traumatic effects undermine gender equality in various ways. By acting out violence, men lose their ability to be role models. For women, the experience of trauma has an impact on their education and economic empowerment. If half of the population loses its voice, this has a major economic impact. A decline in reproductive health and reduced opportunities for participation and leadership may be another consequence.

The four principles of the trauma-sensitive approach (STA)

In order to understand and adopt the trauma-sensitive approach, it is also important to address trauma as human rights violations and their consequences – especially when it comes to sexualized violence. These include fear, powerlessness, isolation, stress and trauma dynamics in the support system. As a response to these consequences, the four principles of the STA were established:

1. Security

How can stress and fear be reduced?

- ✓ psychologically and physically safe rooms
- ✓ influence and control
- ✓ transparency and reliability

2. Empowerment

How can self-efficacy and self-worth be strengthened?

- ✓ space for agency and initiative
- ✓ focus on resources
- ✓ power and gender sensitivity

3. Connection

How can we strengthen each other?

- ✓ solidarity and networking
- ✓ multi-perspective view on everyone involved
- ✓ informed dealing with negative group dynamics

4. Mindful organisational culture and self-care

How can STA principles be implemented individually and organisationally?

- ✓ mindfulness, self-reflection, self-protection
- ✓ supervision, inter-vision, further training
- ✓ stress- and trauma-sensitive working conditions

2.1. Discussion: participants' input, questions and recommendations

Is every person who has experienced (sexualised) violence traumatised?

Not every person who has experienced violence is traumatised and only qualified experts should make a diagnosis. In every case, it is helpful to use the STA when working with survivors. The STA is a multi-sectoral, solidarity-based approach that can be used in staff and organisational development in various fields: psychosocial work, advocacy and sensitisation, legal assistance, healthcare, support for livelihood security. The aim is to support survivors of violence in a holistic, trauma-sensitive and sustainable way and to prevent (re-)traumatisation of all persons involved. Even without therapeutic skills, trauma-sensitive coaching thus enables service providers to adequately support survivors of violence.

Can this approach be adapted to specific religious (e.g. Islamic) contexts in order to make it more applicable for grassroots organisations?

The STA can be adapted to any work context. Partners of *medica mondiale* all over the world have adapted it to their specific gender or religious contexts.

Why is self-care important for the service provider?

Service providers working in the context of violence and trauma are at risk of suffering from compassion fatigue or exhaustion. Their professional capability will decrease, making it impossible for them to perform effectively and also impacting adversely on their private lives and relationships.

Working on self-reflection (e.g. monitoring how we as individuals react to others' trauma) helps in learning the skills needed to build connections, safety and trust. In this way, an attitude that is supportive of trauma-sensitive action may be developed, which leads to self-care *and* empowerment of others.

3. Input by Martina Fischer, *Bread for the World*: “War-related sexualised violence and Transitional Justice: Achievements and shortcomings”

War-related sexualised violence is seen as a specific form of gender-based violence that is mainly experienced by women but may also affect men. Rape and sexual violence are often ordered by commanders and used as a tactical tool and collective strategy of humiliation and expulsion. Female bodies are politicised and cultural patterns of male identity that see men as protectors of women are transgressed. Sexualised violence against men has homophobic connotations and is driven by a desire to humiliate and violate taboos. Both forms of violence are meant to destroy relationships within communities. Sexualised violence against and sexual exploitation of people of different gender identity and sexual orientation still receives little attention in the context of transitional justice.²

What has been done at an international level to address sexualised violence?

Many studies focus on the **international courts** which were established to prosecute war crimes, such as the Tribunals for the former Yugoslavia, Rwanda, Sierra Leone and Lebanon and the International Criminal Court. The question of what kind of impact transitional justice mechanisms have on societies affected by war or dictatorship has been researched less intensively. Since the 1990s, **truth and reconciliation commissions (TRCs)** have been promoted as alternatives to prosecutions and as important mechanisms for counteracting cultures of denial. It has been argued that public exposure of truth provides redress for victims and may contribute to individual and social healing and reconciliation. However, research on TRCs has also revealed enormous shortcomings. Having seen the early truth commissions in Latin America as major advances in terms of accountability, the human rights community has meanwhile come to view these instruments much more sceptically. The disillusionment stems from the fact that governments are often not ready to implement the recommendations.

² See Brandon Hamber (2017), *Masculinity and Transitional Justice: An Exploratory Essay*, in *International Journal of Transitional Justice*, vol. 1, no. 3, p. 375-390.

Alex Boraine (2006)³ offers a more holistic approach to transitional justice that consists of five key pillars: accountability, truth recovery, reconciliation, institutional reform, and reparations. Truth recovery may be done at different levels, such as forensic, social or restorative truth. The establishment of truth should be combined with reconciliation. According to Boraine, each society needs at least a certain measure of reconciliation in the sense of “a common memory that can be acknowledged by those who created and implemented an unjust system, those who fought against it and the many more who were in the middle and claimed not to know what was happening in their country” (p. 22).

Achievements

Gender-based violence in armed conflict has now been recognised as a war crime under international law. Thanks to feminist efforts, the use of sexualised violence in war has been recognised as a war crime by the International Criminal Tribunal for the former Yugoslavia (ICTY). It is also recognised in UN Security Council Resolution 1820, adopted in 2008. In addition, Resolution 1325 (2000) recognises women’s important role in peace processes in post-conflict countries.

Feminist research has revealed that as a consequence of campaigns to end impunity for violence against women, legal standards have been modified. Courtroom procedures have been reformed in order to ensure that victims of sexualised violence are not re-traumatised by adversarial legal processes (the ICTY introduced changes to investigation procedures and to the rules regarding evidence, limiting the extent to which “consent” can be presented as a defence for sexual assault and prohibiting the use of evidence of a victim’s past sexual conduct).

Following criticism of gaps in ICTY practice, appeals for inclusion of victims and respect for their needs were taken into account when the Special Tribunal for Lebanon and the International Criminal Court (ICC) were set up, and these courts have introduced special procedures for victims.

Several **truth and reconciliation commissions** have also responded to the need to find appropriate ways of addressing gender-based violence. In Haiti, Sierra Leone and East Timor, the issue of gender-based or sexualised violence was explicitly incorporated into the TRCs’ mandates; other commissions have held gender hearings (South Africa) or established gender units (Peru). However, it has also been argued that placing emphasis on post-conflict restoration or calls for reconciliation without challenging uneven gender power relations can contribute to women losing equality gains that they made through the war and subordinating them in unjust relationships.

However, at a practical level, several **shortcomings**⁴ can be observed:

³ Alex Boraine (2006), *Defining Transitional Justice: Tolerance in the Search for Justice and Peace*. In: A. Boraine and S. Valentine (eds.), *Transitional Justice and Human Security*, New York, International Center for Transitional Justice, p. 26-31.

⁴ For a comprehensive overview, see Rita Schäfer (2013), *Transitional Justice: Geschlechterpolitische Perspektiven für Übergangsgesellschaften*, Heinrich-Böll-Stiftung, Berlin.

The **International Tribunals for the former Yugoslavia and for Rwanda** have investigated and tried cases of war-related sexualised violence. Both have focused on violence against women and men (ICTY: 476 indictments of sexualised violence; 64 against women, 31 against men; in five cases, men and women were affected). The ICTR has also tried women (i.e. the former Minister for Women's Issues and several Catholic nuns) for sexual abuse.

Both Tribunals brought about a paradigm shift in international law and policy, although they did not deal with gender in a comprehensive way⁵; both adhered to a conception of war-related sexualised violence that is very much focused on rape of women. Some trials have also dealt with sexual attacks against men but little attention has been paid to violence that was motivated by homophobia.

The **International Criminal Court (ICC)**, in its Rome Statute, mentions various forms of war-related sexualised violence (rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilisation) as war crimes and crimes against humanity. Cases of human trafficking may also be prosecuted. Victims and witnesses have the right to testify in court hearings without public access, in order to protect them. They should also be accompanied by trauma experts, who are allowed to participate in the hearing. Furthermore, a trust fund is intended to support victims and witnesses. However, there has been criticism of the fact that the provisions of the Rome Statute have not been fully implemented in the ICC's practice. It is reported that court procedures often fail to give space to the victims to tell their stories in an appropriate way, and the protection of victims and witnesses is still inadequate.

The performance of hybrid courts, such as the **Special Court for Sierra Leone**, and the **Extraordinary Chambers in the Courts of Cambodia**, is ambivalent too. It was reported that gender-based violence did not receive much attention from the Sierra Leone Tribunal. The Cambodia Chambers at least considered sexualised violence against people with different gender identities.

The idea that **Truth and Reconciliation Commissions** would have a more convincing record in terms of dealing with war-related sexualised violence has not proved to be correct. Rita Schäfer found that truth and reconciliation commissions often reduced their concept of gender to individual women's experiences. She analysed the **TRC in Sierra Leone** and found that in many cases people who participated had completely exaggerated expectations and were frustrated by the outcomes. Very few women dared to address their experiences of war-related sexualised violence; many were deterred because they did not feel safe. There are similar findings from **Rwanda's Gacaca Tribunals**. The lay judges were not sufficiently prepared and sensitised to deal with gender issues and cases of war-related sexualised violence. Furthermore, in many cases gender hierarchies and sexist stereotypes were reflected, and in some cases perpetrators were able to display overtly sexist behaviour and attitudes without restriction which led to re-traumatisation of victims.

The studies by Rita Schäfer have also looked at **reparation programmes** and revealed that in many countries that have gone through wars or dictatorship, structural problems prevent victims from benefiting from compensation. Often the financial support does not reach those who have been affected (examples from South Africa and Morocco).

⁵ See the documentation of the International Workshop of medica mondiale from 7-11 September 2008 in Bad Honnef "[In search of justice - what does justice mean for women and girls who have experienced sexualised violence in violent conflicts?](#)"

Despite achievements in terms of international law, transitional justice measures have failed to connect justice with reparation processes.

The British NGO International Alert, in its Women Building Peace campaign, insisted that development measures must recognise gender justice as being an integral part of social justice, that reconstruction programmes should be geared more towards the specific needs of women, and that demobilisation and reintegration initiatives for former combatants must put greater emphasis on gender perspectives. Measures must be implemented together with local communities, including women, to avoid injustices and prevent those guilty of war crimes from going unpunished or otherwise benefiting from the situation.

3.1. Discussion: participants' input, questions and recommendations

The discussion revealed further deficits and open questions:

“In terms of transitional justice, it's clear how to deal with perpetrators and victims. What still needs to be defined, though, is how to deal with bystanders, who may have benefited from a conflict and afterwards deny having known anything about it.”

“Truth commissions have played an important role in creating an understanding of conflicts and identifying perpetrators and survivors. One deficit, though, is that they are often a one-time process and bound to a limited timeframe.”

“Truth and reconciliation commissions are not necessarily a universal solution that fits each context. In South Africa, where there was a strong civil society and a political will for reforms, they were helpful. In other circumstances, where a strong society (and political will) is lacking, they might just end in hearings and encounters. In such a context one should go for fact-finding mechanisms rather than for the ambitious concepts underlying a “Truth and Reconciliation Commission.”

History has shown that even after a period of lasting peace, war may break out again. What are the factors causing such events? What can be learned from the previous years of peace? And how can a governmental strategy for transitional justice and dealing with the past be framed?

The following policy recommendations can be concluded from the discussion:

The development of guidelines that address non-recurrence may be one step in securing lasting peace. Prosecutions of war crimes and crimes against humanity are important but are not enough since their main objective is to establish individual responsibility and they do not have much capacity to support healing.

In order to support the non-recurrence of war, transitional justice mechanisms have to be combined with conflict transformation approaches. It is therefore important to address the root causes of conflict. Difficult discussions should not be avoided. It is also important to create space for narrative truth and dialogue in war-torn societies, even if a truth and reconciliation commission is not established. Taboos (such as war-related sexualised

violence) have to be addressed. It is important to foster initiatives at all levels concerned, such as state, cultural, religious or civil society level. Top-down and bottom-up initiatives have to meet somewhere in order to support a change in perspectives and policies. Another challenge (for international actors who support dealing with the past processes) is linking transitional justice initiatives with security sector reforms in an effective manner.

Experience has shown that politicians or security forces may misuse international aid. How can this be prevented?

One possibility is to make such misuse public and thus force the government to prevent it. Democratic control needs to be ensured in order to give a clear picture of the beneficiaries of security measures and international aid. International cooperation with police and armed forces should ensure that there is a political will for reforming state institutions and for lustration and screening of personnel. Military aid may not be given to repressive regimes that avoid dealing with the past and act against civil society.

4. Input by Halima Adan, *Save Somali Women and Children (SSWC)*: “Why the issue of war-related sexualised violence has to be addressed in peace talks in order to pave the way for addressing it in cultures of memory – Report from Somalia”

**“In a world with more women in leading positions,
we have a better understanding of what’s necessary to create peace.” (Halima Adan)**

After 25 years of civil war, Somalia faces the challenge of rebuilding peace, security and human rights. This must include discussing the issue of how to address sexualised gender-based violence (SGBV) in the post-conflict context. Several **problems at the civil, societal and governmental level** can be observed:

- Intra-societal problems
- Ongoing fights between clans, which destroy peacemaking efforts
- Rape is the most powerful weapon available for destroying the lives of women, families and entire communities during conflicts
- Lack of legal infrastructure and prosecution of sexualised violence
- SGBV is a very sensitive topic. It is often perpetrated systematically by armed personnel and militias and ignored by those who are involved in peace talks
- Women are not represented during peace talks - which means that survivors of war-related sexualised violence have no voice in decision-making.

Furthermore, there is a lack of understanding of the impacts of gender-based **sexualised violence** and how it can affect survivors for the rest of their lives. These impacts include:

- Unwanted pregnancy
- Disease
- Shunning and stigmatisation
- Problems in finding a partner
- Some women have to raise children born from rape, which increases their physical and psychological suffering
- Some rape survivors have been subjected to revenge attacks for reporting their perpetrators to the police, resulting in re-traumatisation and risks to their personal safety
- In Somalia, women are the breadwinners in the family; women's economic independence is close to 100 per cent. Attacks on women therefore impact on the economy as a whole
- Most rape cases are addressed through traditional law (Xeer) under the guidance of community elders, which is not in the survivors' favour: compensation payments are often divided among the elders and are not paid to survivors.

Why are peace talks necessary?

Peace enriches our communities and individual lives. But can peace exist without justice? What would the world look like without peace? Can families and communities thrive without mutual support?

In order to establish a peaceful society, peace needs to be internalised within each individual. Promoting peace means valuing and considering ourselves and others. In other words, peace is central to every situation throughout our lives. Preventive measures must be taken early if they are to be effective. International assistance can preserve peace, save lives and protect human rights if it reaches and involves vulnerable communities in time.

However, the humanitarian sector does not prioritise women's most urgent needs; usually the humanitarian sector prioritises whatever decision-makers in Geneva or London think women need. As a result, international actors often fail to address realities on the ground and are rarely able to engage for human rights on a holistic level. There can be no real peace unless local leaders and the population at large are willing to make the necessary effort to reach a settlement. Lasting peace cannot be imposed from outside.

Women's integration through a holistic approach: What can be done?

Save Somali Women and Children (SSWC) responds to war-related sexualised violence in Somalia by providing comprehensive services, i.e. medical, psychosocial and legal aid. SSWC aims to minimise the stress of extended and painful reporting processes to which survivors of violence are usually subjected. It is also working to raise awareness of SGBV, provide economic empowerment programmes to survivors and also provides them with safe houses.

The following are recommendations for a one-stop SGBV model:

- **Safe houses:** create safe spaces for survivors of sexualised violence
- **Advocacy policies that foster peace and justice,** e.g. a sexual offences bill (still pending in Somalia)

- **Response to quality service provision** (medical and psychosocial counselling and legal aid)
- **Empowerment of women:** Economic empowerment of women through income-generating activities to foster equality and social justice
- **Awareness-raising:** Involve communities in order to avoid marginalisation of individuals. Broadcasting via radio has proven to be effective in raising awareness and informing women about their rights and available support services
- **Pursuing reconciliation (women's engagement):** Seeking revenge for things done either directly to us or through a history of harms done to our family or people will never bring peace, so opening up to reconciliation is crucial
- **Prevention mechanism** to avoid women being exposed to the risk of violence
- Ensuring that all **communities are welcomed and that none are excluded** (working with different stakeholders, religious leaders, neighbours, women's groups, youth and others who are marginalised).

A holistic approach and women's integration at all levels of action is long-term and very important in achieving reconciliation and peace.

4.1. Discussion: participants' inputs, questions and recommendations

One participant stated: "The fact that in Somalia compensation payments are handed out to the elders instead of the surviving women raises the question of culture. Problems may be rooted within cultural norms and traditions. In order to achieve justice, segments of these norms and traditions need to be transformed. Currently, perpetrators have little reason to fear consequences. They can often rely on somebody who covers up their wrongdoing and protects them.

Another discussant mentioned "the dilemma of evidence": "Traditional law in Somalia requires four persons to confirm evidence, which is not feasible in the case of rape. This has caused many women to lose their cases due to a lack of evidence. The existing laws therefore need to be examined in order to ensure that they function to protect women instead of making them vulnerable. Furthermore, possibilities for women's leadership and effective ways to address SGBV need to be identified. The United Nations Special Representative on Sexual Violence in Conflict, Pramila Patten, should be encouraged to take more target-oriented action."

Participants also see a need to reflect individual behaviour: "In the long term, it's important to evoke change in ourselves. How do we behave as mothers, fathers, parents or grandparents? Are we educating people in the sense of paying proper respect to women, to the virtues of working together and to equality of the sexes? Or are we passing on harmful traditional messages and patterns of behaviour?"

How can reconciliation be understood in terms of the relationship between perpetrators and survivors? Should they sit together and talk?

Reconciliation serves the important task of repairing divisions within the community. This requires neighbours to talk to each other, in order to become peaceful as individuals in intra-community relations. For the survivor, justice is required; the perpetrator should go to jail. The enactment of the sexual offences bill and its working in favour of the survivors is therefore crucial. This is not the case yet; women's voices are given no space in the conversation about rape, which is still conducted solely by the elders. Perpetrators often avoid jail, which leaves all fingers pointing at the survivor. Reconciliation in terms of the relationship between perpetrators and survivors means putting justice into place.

A lack of support, especially in legal terms, and the strong desire not to remain a victim lead some women in other war-torn societies to establish their own armed groups, either to defend themselves or to actively participate in the fighting. Are there any such groups in Somalia?

We do not have information on any armed women's self-defence groups. Women's activities tend to focus on promoting peace. There is the Sixth Clan, a women's network active in Somali politics founded by Asha Haji Elmi. Within Somalia's society, that consists of five major clans, the network functions as a pan-Somali women's movement, striving to be part of the peace process in Somalia and campaigning for women's interests.

Within Somali society, a woman reflects the dignity of the family and is viewed as a precious gift that needs protection. Raping a woman or girl is a major taboo and the informal traditional legal system makes provision for dealing with perpetrators. Religious leaders may influence positive change based on religious laws. How far have these opportunities been explored?

Within the traditional legal system, the common pattern of punishment for rape is to oblige the perpetrator to marry the woman he raped. This decision is clearly made by men, by the very people who cause the problem, and it ignores the perspective of the survivor. In a society where a woman's chastity reflects on the whole community, it might be considered an adequate punishment to force a perpetrator to marry a woman who has lost her dignity. But from the survivor's point of view, this practice is horrific. Not only does it lack justice and accountability, but worse still, the cycle of violence against women is maintained by forcing them to live with their abusers for the rest of their lives. This under no circumstance can and should be an acceptable solution from a human rights perspective. Unfortunately, many religious and traditional leaders are influenced and manipulated in political terms. As long as there is no understanding of what their true objections are, cooperation has proved to be difficult. Nevertheless, cooperation is necessary to embed guidelines that enhance the safety of women and include the survivor's perspective, especially when religious leaders opt for traditional solutions that are not in women's favour.

Are there any reports of children being sexually abused?

Sexual abuse of children is also documented, but there are no reliable statistics yet. Service providers are still in the process of gathering evidence in order to seek justice.

5. Input by Monika Hauser:

“Compensation needs legal frameworks, and restorative justice has to be based on a multi-level approach – Examples from the Balkans”

During the Bosnian war from 1992-1995, between 20,000 and 50,000 women and girls were raped by soldiers, the police and paramilitaries. In early 1993, when we first came to Bosnia, there was no direct help available for survivors of sexualised violence. We teamed up with Bosnian psychologists and doctors to help war-traumatised women and their children and *Medica Zenica* came into being. During the Kosovo war in 1998/1999, too, an estimated 20,000 women and girls were raped. Social taboos around sexualised violence and limited resources made it difficult to reach and support all the survivors. Fear of stigmatisation or being labelled a rape victim prevented many women from accepting support and made it necessary to find alternatives. The result was a holistic support concept that combines political advocacy, trauma-sensitive healthcare, psychosocial counselling and legal advice, as well as economic support. This was applied by Medica Zenica and Medica Gjakova

Bosnia and Herzegovina: consistent advocacy for women’s rights

Thanks to the tireless commitment of activists and women’s rights defenders over the years, some progress regarding the rights of women raped during the war in Bosnia and Herzegovina has been achieved:

- In 2000, activists launched a campaign for recognition of rape survivors and urged the government to implement a compensation law.
- The film *Esma’s Secret: Grbavica* by Jasmila Žbanić about the fate of a woman and her child born from rape won the Golden Bear at the Berlin International Film Festival in 2006; the public attention in the aftermath of the film made it possible to raise awareness of the situation of survivors of sexualised violence in Bosnia and Herzegovina, where the issue has been hushed up. Activists used the film to launch major campaigns aimed at securing appropriate compensation for raped women.
- In 2006, a law granting the status of “civilian war victim” to Bosnian women raped during the war was finally adopted and secures survivors the right to a pension that is comparable to the amount payable to male veterans. The law also provides access to medical and psychosocial support for the women, and material support for their children.

While this law is a great achievement, **various problems** are associated with its implementation:

Re-traumatisation of the survivors

Although four qualified Bosnian NGOs (among them also Medica Zenica) have got the permission to issue the necessary certificate to apply for the pension, survivors have to repeatedly report their painful experiences to officials of a commission, who often respond to them with stereotypes or patriarchal attitudes (e.g. “Our veterans have

survived much worse, why are you even here?”). Several women reported that health staff treated them in insensitive ways. This may lead to a re-traumatisation of the survivors, as has been proved by a *Medica Zenica* and *medica mondiale* study on the long-term consequences of wartime rape in Bosnia and Herzegovina.⁶

Taboo and stigmatisation

Sexualised violence is linked with taboos and the stigmatisation or blaming of survivors. A public servant in charge of certification commented: “Why didn’t you take care of yourself like I did, why did nobody rape me?” Women’s privacy has also been violated in some cases. A postman, who recognised the stamp of the ministry, confronted the addressee with the words, “Oh, you are one of these raped women!”

As a result of the study, *medica mondiale* set up a programme together with *Medica Zenica*, which runs STA training courses to sensitise healthcare and administration staff and thus avoid re-traumatisation of the survivors. Awareness-raising campaigns aim to foster greater understanding within society and give survivors the opportunity to tell their stories in their own words.

Kosovo: tireless commitment eventually pays off

The patriarchal structure of society in Kosovo was a major obstacle to the adoption of a law granting compensation to survivors of war-related sexualised violence. Having a female president – Atifete Jahjaga – was very helpful in overcoming such resistance as she was a firm advocate for the legislation. In March 2014, the country’s parliament passed the first draft of the amendment to the Law on the Status of Rights of Martyrs, Invalids, Veterans, Members of KLA, Civilian Victims of War and their Families, officially recognising civilian victims of sexual violence during the war in Kosovo. But as Jahjaga was not re-elected in 2016, the agenda faded into the background. However, the National Council pressed ahead with important changes in the legal provisions and kept the issue on the agenda through regular meetings with key stakeholders and NGOs.

Only since February 2018 have survivors been able to apply for the status of civilian war victims, thanks to the tireless engagement of civil society actors such as *Medica Gjakova* and the *Kosova Rehabilitation Centre for Torture Victims*. However, as in Bosnia and Herzegovina, problems have arisen with implementation:

Limited application of the law

- The application period is limited to 5 years
- The timeframe only covers violent acts committed before June 1999 (i.e. until the end of the NATO air strikes) and excludes violence that occurred in the aftermath (e.g. against Serbian or Roma women).

⁶ *medica mondiale* (2014), Summary of the Research “We are still alive” on the long-term consequences of war rape and coping strategies of survivors in Bosnia Herzegovina
<https://www.medicamondiale.org/en/service/media-centre.html?tx_igxmediathek_mediathek%5Bfilter%5D%5Byears%5D=&tx_igxmediathek_mediathek%5Bfilter%5D%5Bsword%5D=we+are+still+alive&tx_igxmediathek_mediathek%5Bfilter%5D%5Bcat%5D=alldocuments&tx_igxmediathek_mediathek%5Bfilter%5D%5Bnewscat%5D>

Stigmatisation

In Kosovo's patriarchal society the concept of honour is a big problem and prevents victims of war-related sexual violence from applying for compensation. As one female survivor reported: "My son has threatened to kill himself if I apply for this pension."

International authorities' failures

Rape and other forms of war-related sexualised violence were never considered a priority for international authorities such as the European Union Rule of Law Mission in Kosovo (EULEX) and the United Nations Interim Administration Mission in Kosovo (UNMIK). They failed to investigate and prosecute cases of war-related sexualised violence, thus the survivors justice.

The examples of Kosovo and Bosnia and Herzegovina with their many obstacles show that fighting for women's rights and justice is a long-term process that requires great courage and persistence. Nevertheless, it is possible to bring about change. "Dedicated commitment eventually pays off," Monika Hauser concludes. "The pension is an important signal for those affected: as financial compensation, but also as society's acknowledgement of the injustice they suffered. But women's organisations know that the campaigning to raise awareness in society has to go on!"

5.1. Discussion: participants' input, questions and recommendations

Problems relating to compensation and restorative justice:

- **Difficulties in terms of effective implementation of justice⁷**

So far, the ICTY has been able to close only 161 cases. For Bosnia and Herzegovina alone, 1,100 cases remain open and have to be investigated by the BiH Court. In the Western Balkans, the ICTY helped to set up and professionalise the domestic courts. However, the implementation of the national justice system is lacking in quality. In many other war-torn countries, functional legal systems and judicial bodies that have the knowledge and experience to deal with war crimes do not even exist. The criminal courts are often unable to ensure the safety of the victims and others who testify in court cases related to war-related sexualised violence.
- **Safety of the survivors**

In the region of former Yugoslavia, trials take place in various countries that have emerged from the war(s). In order to attend trials, survivors and/or witnesses often have to travel to different cities or even countries. This raises the question of how to ensure their safety.
- **"Dirty deals"**

Courts dealing with cases of war-related sexual violence often face an increased workload, difficulties in gathering evidence and/or unwillingness to take the specific dynamics of sexualised violence into account, and a lack of readiness for different

⁷ "... and that it does not happen to anyone anywhere in the world - The Trouble with Rape Trials – Views of Witnesses, Prosecutors and Judges on Prosecuting Sexualised Violence during the War in the former Yugoslavia" Gabriela Mischkowski, Gorana Mlinarevic, medica mondiale e.V., 2009

reasons on the part of survivors to testify. This was particularly true for the ICTY. In order to save time, charges of sexualised violence have often been dropped; this was how Carla del Ponte (former Chief Prosecutor at the ICTY) handled the problem. In other cases, “dirty deals” were made with the perpetrators: some were offered a deal which involved accepting all the charges against them in exchange for the accusation of rape being dropped.

How did *Medica Zenica* deal with the issue of certificates for wartime rape survivors in Bosnia and Herzegovina and the problem of evidence?

Some women possessed records of the medical care they received after being raped. But in Bosnia and Herzegovina, it took a long time to clarify which institution should be allowed to compile the certification papers needed for the pension. Due to the lack of proof, it was necessary to opt for providers with psychological knowledge who document and analyse the survivors’ stories. Documentation and reports by organisations like *Human Rights Watch* and *Amnesty International* were very important.

In 2015, *medica mondiale* and *Medica Zenica* compiled the study *We are still alive* in order to assess the situation of survivors 20 years on. Comparing the 1993/94 files with the current situation showed that more than 50 per cent of these women still suffer from post-traumatic and gynaecological problems. Their children born from rape suffer from psychological problems too.⁸

In Kosovo and Bosnia and Herzegovina, much progress has been made compared to Rwanda, where survivors have no right to compensation yet. Also talking about children born from rape is a big taboo. How can compensation laws be set up in this country? And are there other effective options to move towards justice?

Currently, the Bosnian and the Kosovar law granting survivors the status of “civilian war victim” is unique worldwide. Its implementation proved that the tireless commitment of likeminded people can really make a difference and bring about change. This may serve as a model for similar laws in other countries. However, the legal systems in many post-war countries are weak and corrupt and the criminal prosecution of perpetrators often fails. We still need to bring about major changes regarding effective prosecution and punishment – at the international and the national level. Often, perpetrators will “only” be sentenced for murder, not for sexualised violence, and when they return home, their own community may celebrate them as war heroes. This has also happened in Bosnia and Herzegovina. Bosnia and Herzegovina’s still divided society needs to be stabilised in order to ensure lasting peace and bring about justice. Women who testified as witnesses at the ICTY in The Hague or in domestic courts in the region often regret their decision. They feel that they not only failed to get justice but also experienced re-traumatisation. Legal staff needs to be trained to support survivors in a trauma-sensitive way.

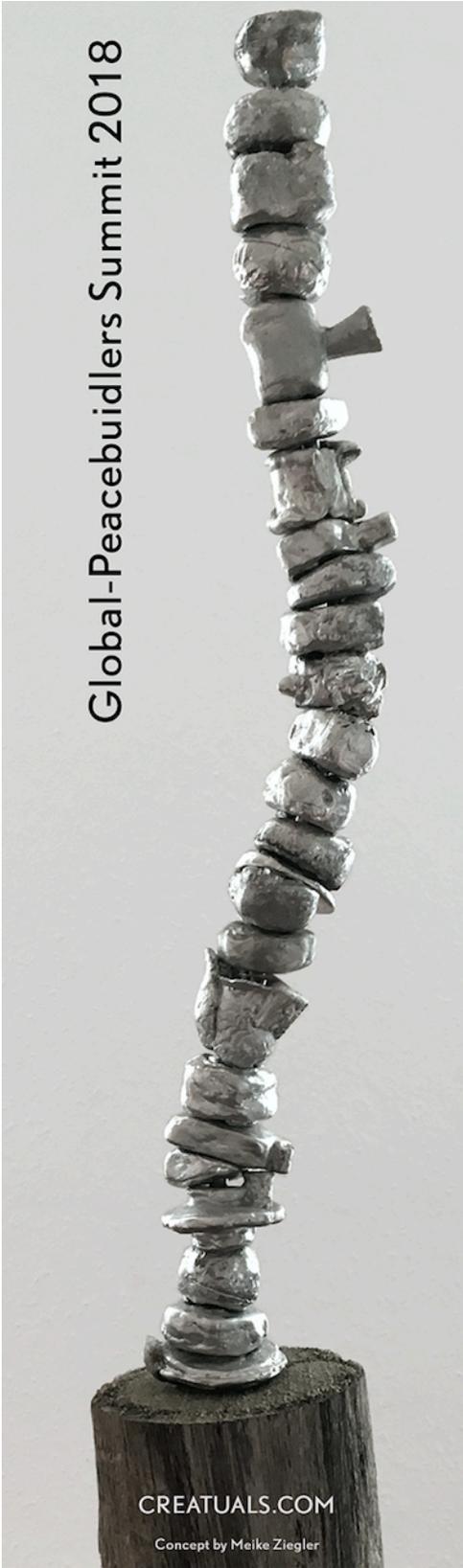
⁸ *medica mondiale* (2015), “We have been harmed but we are brave and strong”
<https://www.medicamondiale.org/en/nc/latest/we-have-been-harmed-but-we-are-brave-and-strong.html>

In terms of justice, what elements of informal (legal) systems can be used to support survivors and their children?

One achievement which was particularly important for religious women and families was a fatwa issued in 1993 by the Islamic authorities in Bosnia, which stated that women bore no responsibility for being raped and had no reason to feel guilty. However, on other occasions religious and traditional structures were less helpful and women's organisations could not always rely on support from religious communities and had to develop their own methods to sensitise wider society to their issues, i.e. by conducting awareness-raising campaigns.

Our thanks go to Hillary Crowe for the language editing.

As a result of a “creatural” (**creative ritual**) the Global Peacebuilders created a P-spine, a symbol for the backbone of their network.



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