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No Justice Without Women

Towards gender-based transformative justice in post-conflict Kosovo

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List of abbreviations

CRSV	Conflict-related sexual violence
CSO	Civil Society Organisation
EU	European Union
EULEX	European Union Rule of Law Mission in Kosovo
ICTY	International Criminal Tribunal for Former Yugoslavia
KLA	Kosovo Liberation Army
KRCT	Kosova Rehabilitation Centre for Torture Victims
KWN	Kosovo Women's Network
MP	Member of Parliament
NATO	North Atlantic Treaty Organization
NSD	Norwegian Centre for Research Data
UN	United Nations
UNMIK	United Nations Interim Mission in Kosovo
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution
WPS	Women, Peace and Security

1 Introduction

Challenges of gender equality and protection of women's human rights are particularly visible in post-conflict societies. While linkages between gender and violence are complex and multi-dimensional, women's varied experiences, contributions and suffering during armed conflicts are often overlooked in common understandings of war.¹ The failure of adequately understanding women's experiences carries over to how justice is negotiated in the aftermath of armed conflicts.² Transitional justice is considered a principal aspect of how societies address past large-scale and serious human rights violations and move away from violent politics.³ However, transitional justice has been criticised for being overly focused on men's experiences, the political elite and perpetrators of war crimes, while the rights of individual victims have been discounted.⁴ This raises the question of how to achieve justice for conflict-related gender-based violence in a setting where women and their experiences are excluded.

My research examines how women contribute to and understand justice in post-conflict Kosovo. It further discusses how transitional justice can adapt to account for women's experiences and provide a more inclusive justice for victims of gender-based violence. Based on semi-structured qualitative interviews with human rights activists and a former politician in Prishtina, I analyse how women actively contributed to the inclusion of survivors of conflict-related sexual violence (CRSV) in Kosovo's law on war victims, and how this effort connects to their overall understanding of justice. The law provides war victims with recognition and reparations, which now reads "The Law on the Status and the Rights of the Martyrs, Invalids, Veterans, members of Kosovo Liberation Army, **Sexual Violence Victims of the War**, Civilian Victims and Their Families [emphasis added]" (The Law on the Victims of the War).⁵ By analysing my research participants' accounts, I argue that transitional justice will benefit from a broader understanding of justice that addresses underlying structural factors that cause gender-based violence, focusing on the full protection of women's human rights.

In the following section, I contextualise Kosovo's recent history with political violence and provide an overview of past studies on gender in the country's post-conflict justice process, including how my research adds to the literature. In Chapter 2, I outline my theoretical framework based on critical feminist theory and ideas from transformative justice. Then I provide an

¹ Skjelsbæk, "Is Femininity Inherently Peaceful?"

² Bell and O'Rourke, "Does Feminism Need a Theory of Transitional Justice?," 2007; O'Rourke, *Gender Politics in Transitional Justice*; Otto, "Power and Danger"; Ní Aoláin, "Women, Security, and the Patriarchy of Internationalized Transitional Justice."

³ O'Rourke, *Gender Politics in Transitional Justice*, chap. 1.

⁴ O'Rourke.

⁵ Republic of Kosovo, Law No. 04/L-172; Republic of Kosovo, Law No. 04/L-054.

overview of transitional justice and of key developments relevant to women in conflict and post-conflict societies in international normative frameworks. Chapter 3 considers the methods, my main research question and sub-questions. In Chapter 4, I present findings relevant to my research objectives, interpreted based on my theoretical framework, specifically looking at how women in Kosovo contribute to and understand justice. The implications of these findings are discussed in Chapter 5 by considering the shortcomings of transitional justice and how it can be transformed, before I reach my conclusion.

1.1 Background Kosovo

Kosovo is still undergoing post-conflict transformation after the armed conflict ended in 1999. The conflict took place in the context of the violent breakup of the Socialist Republic of Yugoslavia in the 1990s, which caused serious instances of political violence in Bosnia and Herzegovina, Croatia and Kosovo.⁶ The conflict erupted in 1998 following increased discrimination and persecution of Kosovo Albanians in the 1990s under Slobodan Milošević's administration, then president of Yugoslavia.⁷ In the spring of 1999, forces of the North Atlantic Treaty Organization (NATO) intervened in an intensive military campaign, ending high-level political violence.⁸ The conflict in Kosovo led to gross violations of human rights, such as mass killings, forced displacement, ethnic cleansing, torture, including conflict-related sexual violence (CRSV), and direct targeting of civilian populations.⁹ The scale and implications of CRSV are detailed under Chapter 4.

The Kosovar government defines the armed conflict as having taken place between February 1998 and June 1999.¹⁰ As will be shown in this paper, the official definition does not necessarily reflect women's experiences, as gender-based violence was on-going prior to and after this time frame. For example, conflict-related sexual violence occurred after June 1999. Therefore, when I discuss the war in Kosovo, I include such instances of violence that took place after June 1999.

In the aftermath of the conflict, implementation of human rights protection and rehabilitation were central to the justice process in Kosovo.¹¹ In 2000, Kosovo was placed under the administration of the United Nations Interim Mission in Kosovo (UNMIK), tasked with governing the territory, addressing past human rights violations, and establishing political institutions

⁶ Rozpedowski, "Just Peace at War's End," 509–10.

⁷ Rozpedowski, 510.

⁸ Rozpedowski, 510.

⁹ Istrefi and Hajrullahu, "Conflict-Related Sexual Violence in Kosovo," 199.

¹⁰ Republic of Kosovo, Law No. 04/L-054.

¹¹ Rozpedowski, "Just Peace at War's End," 511–14.

based on democratic principles.¹² Following Kosovo's declaration of independence in 2008, the European Union Rule of Law Mission (EULEX) held operational responsibility for Kosovo's legal institutions until 2018 when Kosovo's domestic institutions assumed the main responsibility.¹³ EULEX still maintains a monitoring presence to assist Kosovo's justice system.¹⁴ The involvement of international actors, such as NATO, the United Nations (UN), and European Union (EU), has formed Kosovo's political institutions and strongly influenced its legal framework. Critically, Kosovo's Constitution of 2008 complies with international human rights by incorporating the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the European Convention on Human Rights, the Framework Convention for the Protection of Minorities, Convention on the Elimination of Racial Discrimination, Convention on the Elimination of All Forms of Discrimination Against Women, and the Convention Against Torture.¹⁵ At the same time, Kosovo struggles to raise awareness of these rights among the public.¹⁶ As Kosovo remains a partially recognised state, it is not a member of the UN or Council of Europe and the country cannot officially ratify international conventions.¹⁷

Previous research on Kosovo's transitional justice processes has shown that gendered experiences of war remain a barrier to justice for gender-based crimes disproportionately directed against women.¹⁸ For example, Krasniqi has investigated how women were involved in peace activism prior to 1998.¹⁹ However, women's activism in the 1990s tends to be overlooked in the public narratives on Kosovo's past.²⁰ An increasing body of literature on gender and transitional justice has focused on one specific form of gender-based violence, namely CRSV, which was not discussed in the public sphere for a long time.²¹ Scholars have examined challenges relating to ensuring justice for CRSV that took place in Kosovo, studying the trials under the

¹² UN Mission in Kosovo, "Mandate."

¹³ UN Mission in Kosovo.

¹⁴ European Union Rule of Law Mission in Kosovo, "The Mission."

¹⁵ Republic of Kosovo, Constitution of the Republic of Kosovo, art. 22.

¹⁶ Personal interview with employee A (Constitutional Court of Kosovo).

¹⁷ According to Kosovo Ministry of Foreign affairs, 117 states have recognised Kosovo as an independent state: Republic of Kosovo Ministry of Foreign Affairs and Diaspora, "International Recognitions of the Republic of Kosovo."

¹⁸ See the following studies: Di Lellio and McCurn, "Engineering Grassroots Transitional Justice in the Balkans"; Di Lellio, Rushiti, and Tahiraj, "Thinking of You in Kosovo"; Istrefi and Hajrullahu, "Conflict-Related Sexual Violence in Kosovo"; Krasniqi, "Same Goal, Different Paths, Different Class"; Di Lellio, "Seeking Justice for Wartime Sexual Violence in Kosovo"; Gopalan, "Conflict-Related Sexual Violence in Kosovo"; Krasniqi, Sokolić, and Kostovicova, "Skirts as Flags," 2020.

¹⁹ Krasniqi, "Same Goal, Different Paths, Different Class."

²⁰ Krasniqi.

²¹ See the following studies for more information: Di Lellio, "Seeking Justice for Wartime Sexual Violence in Kosovo"; Gopalan, "Conflict-Related Sexual Violence in Kosovo"; Di Lellio, Rushiti, and Tahiraj, "Thinking of You in Kosovo"; Istrefi and Hajrullahu, "Conflict-Related Sexual Violence in Kosovo."

International Criminal Tribunal for Former Yugoslavia (ICTY) and national war crime tribunals.²² The research shows that there has been limited justice achieved through ICTY and other war crime tribunals with limited prosecution and adjudication, leading to high levels of impunity for this crime. For instance, Istrefi and Hajrullahu argue that few cases on CRSV have been addressed by the justice system due to the survivors' fear of stigmatisation, of retaliation against themselves or their families, and of rejection from their own families.²³ Academics have further focused on how women's activism has been central in calling for justice for CRSV in Kosovo, emphasising how their inclusion in transitional justice mechanisms leads to more attention to women's concerns, such as through their inclusion in the Law on the Victims of the War.²⁴

The disproportionate attention to CRSV as the primary gender-based crime in Kosovo has also received criticism. Krasniqi, Sokolić and Kostovicova hold that Kosovo's post-conflict transformation has been marked by a return to traditional values, and consequently gender roles.²⁵ The attention to CRSV in women's activism arguably neglects women's other experiences, reinforcing the gendered view of women as primary victims of war.²⁶

My research builds on past studies on transitional justice, gender and women's activism by providing empirical evidence from Kosovo. Due to women's exclusion from decision-making positions, studying women's roles and activism outside formal political institutions highlight how they work to alter harmful gender relations and to improve the protection of women's human rights. Women's participation in civil society and local communities further draws attention to their agency, moving beyond the "women-as-victims" narrative that is prevalent in international frameworks. By drawing on ideas from feminist and transformative justice scholarship, my research resonates with previous studies on the need of addressing underlying structural factors that lead to gender-based violence in transitional justice and peacebuilding processes. Importantly, this case demonstrates that legal protection of human rights is not enough to secure justice for conflict-related violence unless harmful patriarchal gender structures are addressed. This is a valuable contribution because it shows that women's meaningful participation challenges gender relations and produce more inclusive justice for gender-based violence in Kosovo. These findings have implications on transitional justice mechanisms, which I argue will benefit from incorporating an inclusive gender perspective that critically examines local structural factors that inhibit gender equality.

²² Askin, "The Quest for Post-Conflict Gender Justice"; Gopalan, "Conflict-Related Sexual Violence in Kosovo"; Istrefi and Hajrullahu, "Conflict-Related Sexual Violence in Kosovo."

²³ Istrefi and Hajrullahu, "Conflict-Related Sexual Violence in Kosovo," 204.

²⁴ Di Lellio, "Seeking Justice for Wartime Sexual Violence in Kosovo"; Di Lellio, Rushiti, and Tahiraj, "'Thinking of You' in Kosovo"; Gopalan, "Conflict-Related Sexual Violence in Kosovo."

²⁵ Krasniqi, Sokolić, and Kostovicova, "Skirts as Flags," 2020, 466.

²⁶ Krasniqi, Sokolić, and Kostovicova, 463.

This research paper is also centred on CRSV in Kosovo because my research participants viewed the survivors' inclusion in the Law on the Victims of the War as the main achievement regarding justice for conflict-related gender-based harms and of women's activism. Aware of the criticism against a limited focus on sexual violence, I pay careful attention to the survivors' agency and women's varied roles in addressing gender-based crimes. Therefore, I connect women's understanding of justice for CRSV to broader challenges of gender inequality, recognising women's varied positions and experiences in society, contributing to the broader debate on this topic. Importantly, this aspect recognises that gender-based violence extend beyond CRSV.

2 Theory and Background: Gender and Justice

Due to women's historical exclusion in conceptualisations of war, feminist researchers have questioned whether transitional justice is able to transform the situation of women due to the privileging of male perceptions of justice.²⁷ This Chapter situates my paper within earlier research on transitional justice and transformative justice based on feminist theories. It justifies my approach in undertaking this study, which is based on my motivation to continue the research on how to achieve justice for gender-based crimes. I start by outlining my theoretical framework, before considering feminist literature on these topics and key developments under international normative frameworks relevant to women and post-conflict justice.

2.1 Theoretical framework: Feminist approaches on gender and justice

Feminist literature criticises male-dominated views in international politics, which influence how international law and other normative frameworks are understood, arguing for the need of including women and exposing inherent gender biases. The failure of studying individuals' experiences and contributions during and after armed conflicts is particularly visible when it comes to women.²⁸ Nordstrom argues that public discourses often leave out the "[...] many women and girls who die and fight without recognition".²⁹ Central feminist scholars, such as Tickner, Enloe and Elshtain, argue that due to strong gender hierarchies, men are recognised as the high-level political actor, while women are invisible or seen as "the other".³⁰ Elshtain draws

²⁷ Bell and O'Rourke, "Does Feminism Need a Theory of Transitional Justice?," 2007; O'Rourke, *Gender Politics in Transitional Justice*; Ní Aoláin, "Women, Security, and the Patriarchy of Internationalized Transitional Justice."

²⁸ Skjelsbæk, "Is Femininity Inherently Peaceful?"

²⁹ Nordstrom, "(Gendered) War," 400.

³⁰ Tickner, *Gender in International Relations*, 5–6; Elshtain, *Women and War*; Enloe, *Bananas, Beaches and Bases*.

attention to the use of gendered language where men are seen as “avatars of a nation’s sanctioned violence”, while women “work and weep and sometimes protest”.³¹ Such perceptions essentialises women as inherently peaceful, while men are seen as warriors.³² Based on this worldview, women lack agency in the public sphere and depend on protection from the (masculine) state. Due to the strong dominance of men and masculinity in foreign and military policymaking, such understandings are normalised in peace and reconciliation efforts.³³ Bell and O’Rourke argue that the dominant legal standards in transitional justice exclude women, as these measures are often negotiated through peace negotiations where women tend to be absent.³⁴ Moreover, both men and women are viewed as homogenous groups, failing to recognise their varied experiences. Enloe argues that there is a need to follow women into the private sphere, in the home and family life where they spend significant time, to fully recognise their diverse understandings and roles in society.³⁵

Feminist scholars and activists have drawn attention to the need of including gender in peace, reconciliation and transitional justice processes.³⁶ Prominent feminist scholars entered the field of international relations in the 1980s, criticising positivism as a central theory for understanding global politics, as it arguably provides a limited (male-dominated) perspective.³⁷ Forming part of social constructionist theories, feminists view theory “as constitutive of reality and conscious of how ideas shape the world [...]”, as opposed to positivist ideas that knowledge is “objective”.³⁸ These scholars argue that international politics and local communities are deeply gendered and contextualised due to patriarchal structures where men hold power over women in political institutions and in cultural relations.

Situated within feminist scholarship, my research views reality as continuously constructed and reconstructed.³⁹ Actors’ priorities and interests are seen as shaping ideas and norms, while also being shaped by the same. This means that gender is viewed as a social construction. The ideas of “masculinity” and “femininity”, which define the expected roles of men and women, are

³¹ Elshtain, *Women and War*, 3–4.

³² Elshtain has also received criticism for her understanding of feminism: See for example Sylvester, *Feminist International Relations*, chap. 2.

³³ Tickner, *Gender in International Relations*, 5–6.

³⁴ Bell and O’Rourke, “Does Feminism Need a Theory of Transitional Justice?,” 24–25.

³⁵ Enloe, *Bananas, Beaches and Bases*, 3.

³⁶ Schulz, “Towards Inclusive Gender in Transitional Justice,” 2020, 691; Ní Aoláin, “Women, Security, and the Patriarchy of Internationalized Transitional Justice”; Reilly, “Seeking Gender Justice in Post-Conflict Transitions.”

³⁷ Sylvester, *Feminist International Relations*, chap. 1.

³⁸ Tickner, “Feminism Meets International Relations,” 19; Cockburn, “Gender Relations as Causal in Militarization and War,” 140–41.

³⁹ Bryman, *Social Research Methods*, 30.

shaped by society.⁴⁰ These ideas change over time and vary between different cultures.⁴¹ Feminist researchers analyse and critique harmful gender structures, which is seen as power structures that shape gender (in)equality.⁴² Relevant for this research is that the understanding of gender roles, justice and vulnerability can be altered by the active role of individuals over time.

While gender is a central factor studied here, feminist researchers hold that individuals' experiences are influenced by different relations simultaneously, such as gender, ethnicity, class, and age.⁴³ This means that how individuals understand "reality" can vary even if they are members of the same identity group.⁴⁴ Consequently, it is vital to recognise that women are not a homogenous group and have different needs, experiences, and priorities.

Earlier feminist research has investigated how patriarchal gender relations or structures, which often connect to militarism and nationalism during conflicts, are a central factor for the persistence of underlying gender biases in transitional justice and international law, discussed below.⁴⁵ Patriarchy in feminist studies tends to focus on the implications of male dominance over women in societies and in international relations.⁴⁶ Ní Aoláin discusses international patriarchies, where gender biases found in international law are "imported" to local communities in justice processes, leaving out local women's experiences in top-down processes.⁴⁷ These "international patriarchies" interact with "local patriarchies", which she argues reinforces male dominance.⁴⁸ The construction of masculinity and femininity is recognised as different between societies, but tends to privilege men's positions over women in the public sphere. In this research, patriarchy refers to how power structures place women at a disadvantage when it comes to their participation in the public, in their access to justice and their overall human rights protection.

The underlying gender structures have implications on how terms like peace and justice are understood in post-conflict societies. The mainstream conceptualisation of peace has been defined as the absence of political violence, so-called "negative peace".⁴⁹ However, from a feminist perspective, absence of political violence in the public sphere does not necessarily address

⁴⁰ Tickner, *Gender in International Relations*; Schulz, "Towards Inclusive Gender in Transitional Justice," 2020.

⁴¹ Tickner.

⁴² Wibben and Donahoe, "Feminist Peace Research," 1–4.

⁴³ Wibben and Donahoe, 2–3.

⁴⁴ Wibben and Donahoe, 3.

⁴⁵ Cockburn, "Gender Relations as Causal in Militarization and War," 143.

⁴⁶ Cockburn, "Gender Relations as Causal in Militarization and War"; Ní Aoláin, "Women, Security, and the Patriarchy of Internationalized Transitional Justice."

⁴⁷ Ní Aoláin, "Women, Security, and the Patriarchy of Internationalized Transitional Justice," 1057–58.

⁴⁸ Ní Aoláin, 1057–58.

⁴⁹ Tickner, *Gender in International Relations*, 53–55.

violence that occurs in the private sphere, meaning that the mainstream conceptualisation of peace favour male understandings.⁵⁰ Therefore, feminist scholars and activists support the concept of “positive peace”, which has broadened the understanding of peace to include the full protection of human rights.⁵¹ This perspective includes social and economic rights, recognising underlying factors that can be seen as root causes to violence and discrimination, which occur outside the “traditional” battlefield.⁵² Therefore, positive peace includes human rights violations taking place in the private sphere.⁵³

The understanding of positive peace shares similarities with how justice is understood. Based on feminist theory, the full protection of women’s human rights is linked to the concept of justice. According to Bell and O’Rourke, feminist theory on transitional justice mechanisms should examine the broader picture; namely how to improve protection of women’s human rights.⁵⁴ By broadening the concept of justice to include this aspect, efforts that aim to alter gender roles and norms can be captured. This can ensure improved accountability for past crimes and recognition of women’s contributions and roles in society. This conceptualisation reflects the notion of social justice, which addresses forms of inequality, such as socioeconomic conditions.⁵⁵ Economic and social rights are often considered important by victims of human rights violations, which require attention to structural factors.⁵⁶ In order to understand the interlinkages between justice and peace, women’s involvement in all sectors of society should be studied.

As I seek to provide insight into women’s contributions to and understandings of justice at a local level, I further draw on perspectives from transformative justice. Transformative justice has been suggested as a concept that can be applied to a range of forms of structural, political and “everyday” violence, addressing root-causes of violence.⁵⁷ A central criticism against transitional justice is that it focuses on “treating the symptoms rather than the causes of conflict”, in addition to overlooking the role of gender as previously discussed.⁵⁸ Transformative justice focuses on local communities and individuals, emphasising how this perspective can reveal underlying unequal and harmful power relations.⁵⁹ Transitional justice mechanisms are often

⁵⁰ O’Rourke, *Gender Politics in Transitional Justice*, chap. 1.

⁵¹ UN, “2022 Theme.”

⁵² UN.

⁵³ UN.

⁵⁴ Bell and O’Rourke, “Does Feminism Need a Theory of Transitional Justice?,” 23.

⁵⁵ Gready and Robins, “From Transitional to Transformative Justice,” 342.

⁵⁶ Gready and Robins, 347.

⁵⁷ Gready and Robins, 340; Hoddy and Gready, “From Agency to Root Causes,” 562.

⁵⁸ Gready and Robins, “From Transitional to Transformative Justice,” 340.

⁵⁹ Gready and Robins, 340.

implemented or supported by international actors and the elite, rather than including local perceptions.⁶⁰ Following from elite-dominated procedures, it can be challenging for individual victims to interact and participate in justice processes.

How women contribute to and understand justice can be studied by drawing on both feminist and transformative justice scholarship. As this perspective focuses on local context, it takes into account cultural practices that harm women in post-conflict societies. In this context, gendered power structures are seen as a structural factor that cause violations of women's rights prior to, during and after armed conflicts. Reilly argues that transitional justice would benefit from paying careful attention to gender justice that recognises women's agency and that draws on aspects of transformative justice.⁶¹ International normative frameworks influence the ideas of "gender" and "justice". However, Schulz holds that these ideas vary according to local cultures, which differs across geo-political space.⁶² Local perceptions of justice can provide insight into how individuals work to alter gender roles, such as by removing stigma around survivors of sexual violence.⁶³ Local processes have the advantage of being accessible to marginalised persons, allowing for a more inclusive engagement with post-conflict justice. Looking at the local context makes it possible to study informal efforts of seeking justice and recognition of past crimes, seen here as taking place outside state-led processes. Considering informal efforts of justice, such as the use of art to draw attention to certain issues, are useful for capturing and recognising women's agency in the "spaces of the everyday".⁶⁴ This perspective is often neglected in the state-centric, top-down transitional justice studies, which can render women agentless.⁶⁵

While Schulz argues for the need of including local understandings of justice, Björkdal and Selimovic warn that local understandings of peace and justice can be influenced by ethnonationalist and patriarchal structures that perpetuate or uphold gendered power relations, which often reduce women's agency.⁶⁶ Moreover, the domination of male perceptions of justice at both the international and local level means that peace processes can reinforce or reintroduce harmful gender roles.⁶⁷ Björkdahl and Selimovic argue that the failure to understand how gender identities are reconstructed and redefined during post-conflict transformation is a reason

⁶⁰ Gready and Robins, 342.

⁶¹ Reilly, "Seeking Gender Justice in Post-Conflict Transitions."

⁶² Schulz, "Towards Inclusive Gender in Transitional Justice," 2020, 692.

⁶³ Schulz, 704.

⁶⁴ Björkdahl and Selimovic, "Gendering Agency in Transitional Justice," 173.

⁶⁵ Björkdahl and Selimovic, 173.

⁶⁶ Björkdahl and Selimovic, 167.

⁶⁷ Schulz, "Towards Inclusive Gender in Transitional Justice," 2020, 692; Bell and O'Rourke, "Does Feminism Need a Theory of Transitional Justice?"

explaining the poor quality of peace in many post-conflict societies.⁶⁸ Local perceptions of justice should not be assumed to produce “better” ways of dealing with past human rights violations. However, as argued by Hoddy and Gready, underlying factors of violence need to be scrutinised in post-conflict justice processes.⁶⁹ The theoretical approach outlined here allows me to pin down women’s agency. As ideas and norms are seen as social constructions, studying women’s contributions to and understanding of justice under the Law on the Victims of the War will recognise their agency, emphasising how they challenge gender norms, stigma and the concept of justice.

While most cultures have gender differences that put women at a disadvantage, due to patriarchal cultural practices, stereotypical ideas of militarised masculinity also hurt men if they do not fit into this constructed idea.⁷⁰ Similar to women’s experiences, male vulnerabilities are often ignored, such as male survivors of sexual violence.⁷¹ Gender minorities, who do not identify as belonging to the gender binary classification of men and women, are also often overlooked in post-conflict studies.⁷² The expected gender roles can harm women, men and gender minorities, meaning that the social construction of gender does not necessarily reflect individuals’ lived experiences. The attention to the binary construction of femininity and masculinity is also problematic from this perspective. My research recognises that male vulnerabilities and the perspectives of gender minorities are not adequately included in peace and justice processes. However, I focus primarily on how women contribute to and understand justice in Kosovo based on the current social constructions of femininity and masculinity, adding to the feminist literature on women in post-conflict societies.

2.2 Debates on gender, conflict and justice

Previous research has established that gender plays a central role in how violence is executed during armed conflicts, meaning that women and men are targeted in specific manners due to their gender. This section outlines understandings of gender-based violence in armed conflicts, before looking at key developments under international normative frameworks.

2.2.1 Women in armed conflicts

Women and men have different experiences and understandings relating to their needs in post-conflict justice. In recent armed conflicts, such as during the 1990s, civilian populations

⁶⁸ Björkdahl and Selimovic, “Gendering Agency in Transitional Justice,” 167.

⁶⁹ Hoddy and Gready, “From Agency to Root Causes,” 562.

⁷⁰ Tickner, *Gender in International Relations*, 6–7; Schulz, “Towards Inclusive Gender in Transitional Justice,” 2020.

⁷¹ Schulz, “Towards Inclusive Gender in Transitional Justice,” 2020, 702–5.

⁷² Schulz.

constitute the main casualties. Because women face additional challenges, they are disproportionately affected compared to men.⁷³ For instance, while women take part in combat, they are often not part of recognised military units, making them more vulnerable targets.⁷⁴ Furthermore, women are often tortured in numbers equal to or higher than that of men in recent armed conflicts.⁷⁵ Gender relations where women often have the main responsibility for children and the home further place them at increased risk of displacement and socioeconomic deprivation.⁷⁶ These inequalities are often perpetuated after a conflict, as women face discrimination in justice processes as, for example, crimes occurring in the public sphere are prioritised.⁷⁷

Gendered understandings of masculinity and femininity impact how human rights violations and deprivation occur. Gender relations further intersect with constructions of other relations, such as nationality and race. Ashraph shows how gender shapes the execution of violence by looking at how ISIS carried out the crime of genocide against the Yazidi minority in Iraq.⁷⁸ Yazidi men and boys were subject to killings in larger numbers than women as they were seen as more threatening due to patriarchal structures where men have, or are perceived to have, powerful positions.⁷⁹ Yazidi women and girls were at a higher risk of being subjected to sexual violence, which was used to target the Yazidi community as women were seen as representing group honour.⁸⁰

The use of conflict-related sexual violence (CRSV) has gained increased attention after the widespread use of this form of violence in the conflicts in Bosnia and Rwanda in the 1990s.⁸¹ CRSV is a crime that disproportionately affects women, but men are also victims of this crime. Sexual violence includes a range of acts, such as rape, forced marriage, forced sterilisation, genital mutilation, and forced prostitution.⁸² It can take different forms during armed conflicts. For example, it can be directed against political detainees as a form of torture or perpetrated on massive scales against civilian populations to target the individual victim and the ethnic group as a whole.⁸³ While this form of violence is seen as endemic to conflict, recent research has identified that it does not take place in all conflicts.⁸⁴ Studies on CRSV show that survivors

⁷³ Nordstrom, "(Gendered) War," 92; International Center for Transitional Justice, "Gender Justice."

⁷⁴ Nordstrom, "(Gendered) War," 402.

⁷⁵ Nordstrom, 402.

⁷⁶ International Center for Transitional Justice, "Gender Justice."

⁷⁷ International Center for Transitional Justice.

⁷⁸ Ashraph, "Acts of Annihilation."

⁷⁹ Ashraph, 17–19.

⁸⁰ Ashraph, 18–19.

⁸¹ Skjelsbæk, "Silence Breakers in War and Peace," 498.

⁸² Skjelsbæk, *The Political Psychology of War Rape*, 11.

⁸³ Cohen, Green, and Wood, "Wartime Sexual Violence," 2–3.

⁸⁴ Cohen, Green, and Wood, 2–3.

often face different forms of trauma and post-traumatic stress disorder.⁸⁵ Sexual violence is often connected to stigmatisation and shame, which can be exacerbated in cultures where, for instance, women carry the family's or ethnic group's honour. For example, in her study on CRSV in Bosnia, Skjelsbæk discusses how deeply patriarchal societies connect male honour to women's sexuality, meaning that targeting a woman's body is considered as targeting the family or community.⁸⁶ Consequently, women who are victims of CRSV risk being shamed by their families and husbands, similarly to Ashraph's findings regarding ISIS's genocide against the Yazidi.⁸⁷

2.2.2 Transitional justice

Feminist scholars hold that transition justice contains an opportunity to recognise women's contributions during armed conflicts and to take into account their specific needs.⁸⁸ However, feminist scholars argue that transitional justice mechanisms are overly centred on male experiences, while excluding women's experiences, vulnerabilities and contributions.⁸⁹ Before looking at the feminist critiques of transitional justice, the conventional understandings of justice and international law are outlined. Ideas of transitional justice links back to the Nuremberg and Tokyo war crimes tribunals that took place after the Second World War, aiming to hold perpetrators accountable for the crimes that occurred during the war.⁹⁰ These tribunals impacted the developments and codification of crimes of genocide, crimes against humanity and war crimes under international law, as well as how to provide post-conflict justice.⁹¹ When many societies sought to establish peace and democracy at the end of the Cold War, transitional justice emerged as a central field of study to address the past.⁹² Transitional justice serves a dual purpose of both coming to terms with past human rights violations and transitioning a society away from violent politics.⁹³ The respect and protection of human rights under international and domestic law require access to effective judicial remedies.⁹⁴ Access to justice is considered fundamental to the individual that experienced a human rights violation and for general protection and enforcement of human rights, often through the legal system.⁹⁵ Over time, transitional justice has moved beyond a limited focus on criminal justice and includes judicial and non-judicial

⁸⁵ Skjelsbæk, *The Political Psychology of War Rape*, 1–8.

⁸⁶ Skjelsbæk, 34.

⁸⁷ Skjelsbæk, 34.

⁸⁸ Reilly, "Seeking Gender Justice in Post-Conflict Transitions," 157–58; O'Reilly, "Why Women?" 5–6.

⁸⁹ Nordstrom, "(Gendered) War"; O'Rourke, *Gender Politics in Transitional Justice*, chap. 1; Bell and O'Rourke, "Does Feminism Need a Theory of Transitional Justice?"

⁹⁰ Rowen, "War Crimes Tribunals, Crimes against Humanity and Transitional Justice," 382–382.

⁹¹ Rowen, 382–382.

⁹² Schulz, "Towards Inclusive Gender in Transitional Justice," 2020, 691.

⁹³ Bell and O'Rourke, "Does Feminism Need a Theory of Transitional Justice?" 2007, 24.

⁹⁴ Francioni, "The Rights of Access to Justice under Customary International Law," 1.

⁹⁵ Francioni, 1.

mechanisms, such as reparations to victims, commissions to establish the truth about past events, and reconciliation between conflicting communities.⁹⁶ For example, the UN relies on a broad definition that includes accountability, justice and reconciliation:

“[T]ransitional justice is the full range of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. Transitional justice processes and mechanisms are a critical component of the United Nations framework for strengthening the rule of law”.⁹⁷

As can be seen in the UN’s definitions, transitional justice is tied to the need of re-establishing the rule of law and includes different priorities. As stated by the International Center for Transitional Justice, which seeks to affirm victims’ dignity and end impunity for human rights violations, post-conflict states face difficult dilemmas regarding how to respond to large-scale and serious human rights violations, which have implications on law, politics and social sciences.⁹⁸ The different priorities can, for example, lead to a situation where ending political violence takes precedence over prosecuting perpetrators of war crimes. Therefore, the needs of the victims are not the only, or even the main, focus area, which has implications for individuals’ access to justice. Because transitional justice has been considered the main framework for addressing post-conflict justice by the international community, it is a central discussion point in this paper.

2.2.3 Human rights and Women, Peace and Security

Women’s exclusion from understandings of war has implications on international human rights law, humanitarian law and criminal law, which serve an important role in shaping the understanding of human rights and harms. A growing body of literature has investigated gender biases found in international law.⁹⁹ O’Rourke argues that international law has historically been centred on what men perceive to be the main threats, focusing on the public sphere of political decision-making.¹⁰⁰ In contrast, harms that occur in the private sphere have typically been seen as belonging to an area free of state interference.¹⁰¹ This means that the substantial harm that women experience in the home, such as domestic violence, have long been invisible under international law. Transitioning societies have often experienced gross and large-scale human rights violations that receive prioritisation in justice processes, leading to a “human rights

⁹⁶ Zyberi and Černič, “Transitional Justice Processes and Reconciliation in the Former Yugoslavia,” 135–36.

⁹⁷ UN, Guidance Note of the Secretary-General, 3.

⁹⁸ International Center for Transitional Justice, “What Is Transitional Justice?”

⁹⁹ For developments on the inclusion of gender-based harms in international law, see for instance: O’Rourke, *Gender Politics in Transitional Justice*, chap. 1; deBrouwer, *Supranational Criminal Prosecution of Sexual Violence*, chap. 1.

¹⁰⁰ O’Rourke, *Gender Politics in Transitional Justice*, 20.

¹⁰¹ O’Rourke, 20.

hierarchy” where gender-based violence is considered a secondary issue.¹⁰² Ní Aoláin holds that this explains why transitional justice “in the broadest sense fails women” as underlying biases that give rise to gender-based violence are not considered.¹⁰³

Due to these problematic aspects of male-dominated institutions at both the international and local level, transnational women’s movements and feminist academics argue that peace and justice will never be achieved without the full protection of women’s human rights.¹⁰⁴ Women’s transnational cooperation has led to changes in the international frameworks on human rights and gender equality in connection to peace and conflict.¹⁰⁵ As already discussed, gender roles and structures have a significant impact on women’s and men’s experiences during conflict. However, international law has been slow to recognise gender-based crimes. For example, CRSV was not explicitly included under international law until the 1990s, following the Rwandan genocide and the wars in former Yugoslavia, where this form of violence had been widespread, as mentioned above. The *Akayesu* case before the International Criminal Tribunal for Rwanda was the first time an international court recognised that sexual violence can constitute genocide, falling under “[c]ausing serious bodily or mental harm to members of the group”, if committed with the intent of destroying a national, religious, racial or religious group.¹⁰⁶ Sexual violence has been further codified in the Rome Statute of the International Criminal Court. Here it was defined as including rape, sexual slavery, enforced prostitution, forced pregnancy and enforced sterilisation, and sexual violence can be classified as crimes against humanity, if perpetrated systematically or in large-scale against a civilian population, war crimes if committed in violation of the Geneva Conventions, and genocide, if committed with the intent of destroying a protected group.¹⁰⁷ Despite these achievements in the international legal field, few perpetrators of CRSV have been prosecuted in international and domestic courts.¹⁰⁸ While prosecution of perpetrators of human rights violations is an essential component of justice, there is high levels of impunity of crimes committed against women.

The UN Women, Peace and Security (WPS) agenda has been central for advancing the understanding of women’s experiences and needs during and after armed conflicts at the international level. The WPS agenda came as a result of continuous lobbying and activism by transnational

¹⁰² Ní Aoláin, “Women, Security, and the Patriarchy of Internationalized Transitional Justice,” 1059.

¹⁰³ Ní Aoláin, 1059–60.

¹⁰⁴ Tickner, “Peace and Security from a Feminist Perspective.”

¹⁰⁵ Tickner, 15–17.

¹⁰⁶ de Brouwer, *Supranational Criminal Prosecution of Sexual Violence*, 41–42; UN General Assembly, Convention on the Prevention and Punishment of the Crime of Genocide, art. II(b).

¹⁰⁷ International Criminal Court, Rome Statute of the International Criminal Court, arts. 6, 7 and 8; International Criminal Court, Elements of Crimes, art. 6(b).

¹⁰⁸ Reilly, “Seeking Gender Justice in Post-Conflict Transitions,” 159–62.

women's movements, including the Women's League for International Peace and Freedom.¹⁰⁹ In 2000, the UN Security Council (UNSC), tasked with maintaining international peace and security, acknowledged for the first time that women are disproportionately affected by conflict when it adopted UNSC Resolution 1325 on WPS.¹¹⁰ It states that "civilians, particularly women and children, account for the vast majority of those adversely affected by armed conflict, including as refugees and internally displaced persons, and increasingly are targeted by combatants and armed elements [...]".¹¹¹ Moreover, it urges UN member states to increase the number of women at "all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management and resolution of conflict".¹¹² The UNSCR1325 is regarded as an essential document for pushing for women's inclusion in post-conflict settlements, in addition to peace negotiations and reconciliation efforts.

In addition to the UNSCR1325, the UN Security Council has adopted nine resolutions on WPS.¹¹³ When it comes to post-conflict societies, UNSCR1889 is particularly relevant as it views women's empowerment and gender equality as key components needed to ensure peace.¹¹⁴ As outlined above, this concept is connected to the understanding of justice, making UNSCR1889 applicable in transitional justice mechanisms. The resolutions on WPS show a development in how peace is viewed at the UN level, seen as closely tied to the protection of human rights.

Despite the significant achievements in calling for improved protections of women's human rights, the WPS agenda has received criticism, including for viewing women as primarily victims of war.¹¹⁵ While the resolutions recognise that women should be included, Jansson and Eduards hold that this justification should not be based on the essentialist view that women are more peaceful than men.¹¹⁶ As men's participation is not justified based on what they will potentially contribute, women have the right to participate following from the idea of having equal

¹⁰⁹ Tickner, "Peace and Security from a Feminist Perspective."

¹¹⁰ Tryggestad, "Trick or Treat?"

¹¹¹ UN Security Council, Resolution 1325, preamble.

¹¹² UN Security Council, para. 1.

¹¹³ Women's International League of Peace and Freedom, "The Resolutions."

¹¹⁴ Jansson and Eduards, "The Politics of Gender in the UN Security Council," 595; UN Security Council, Resolution 1889.

¹¹⁵ In addition to viewing women as mainly victims of war, the WPS agenda has been criticised for disregarding male vulnerabilities and for being overly focused on "patriarchal" protection. For instance, gender-based crimes have been used to legitimise the use of armed forces without considering the wider consequences such use of violence has on women. Moreover, such justifications to use armed forces further reinforces the idea of "women-as-victims" in need of protection from the (masculine) state. See for instance: Ní Aoláin and Valji, "Scholarly Debates and Contested Meanings of WPS."

¹¹⁶ Jansson and Eduards, "The Politics of Gender in the UN Security Council," 596.

rights and autonomy regardless of gender. At the same time, women's participation will add to the discussion as they have different perspectives and experiences than men.¹¹⁷

While the inclusion of CRSV under international law is considered an important achievement, the attention to this particular type of gender-based violence has been criticised for viewing women's experiences as primarily linked to sexual violence. For instance, a majority of WPS resolutions have been narrowly focused on sexual violence during armed conflicts.¹¹⁸ This perpetuates the idea of agentless women in need of protection and neglects women's diverse roles and experiences.¹¹⁹ There is a real need of addressing sexual violence, but it should not downplay women's other experiences. As emphasised in Chapter 1, women's activism on CRSV in Kosovo has received similar criticism. To reiterate, my research aims to pay careful attention to women's agency, diverse roles and contributions to justice. Having outlined my theoretical framework and relevant international normative frameworks, the next Chapter considers the methods and research questions.

3 Methods

With support from the Centre on Transitional Justice and Human Rights at University of Prishtina, I conducted fieldwork in Kosovo between February and April 2022. Looking into local understandings in Kosovo provided me with the opportunity to study the local community's unique features, while also keeping in mind how these findings relate to international developments on gender, peace and justice. Studying Kosovo's unique features, including the dynamics of having a well-developed legal framework imposed on a deeply patriarchal society, provide insight into the role of civil society, the importance of including women and the limits of laws.

Following from my research objectives, I have adopted a qualitative case study design, which allows for an in-depth study of a particular location and setting. Qualitative research carries key advantages when it comes to studying local contexts, culture, and power structures.¹²⁰ As my main research question focuses on examining how justice is constructed and shaped in Kosovo, qualitative research through fieldwork allows me to study social structures and power relations necessary to answer this question.

¹¹⁷ Jansson and Eduards, 596.

¹¹⁸ Ní Aoláin and Valji, "Scholarly Debates and Contested Meanings of WPS," 55; Women's International League of Peace and Freedom, "The Resolutions."

¹¹⁹ Ní Aoláin and Valji, "Scholarly Debates and Contested Meanings of WPS," 55.

¹²⁰ Bryman, *Social Research Methods*, chap. 17.

3.1 Research questions

My research questions have been developed from my theoretical framework, which emphasises the need to study a local context and constructions of gender and justice. My study is guided by the following main research question:

- How do women in Kosovo contribute to and understand justice and what are the implications to transitional justice at large?

In order to address the main research question, I have developed three sub-questions. The first two questions consider how women contribute to and understand justice with reference to their local activism in Kosovo on conflict-related sexual violence (CRSV), exemplified by the Law on the Victims of the War. These questions are considered in Chapter 4. The third sub-question considers the implications of women's contributions to and understandings of transitional justice, addressed in Chapter 5.

Theme one: Contribution to justice

1. How did women contribute to the Law on the Status and the Rights of the Martyrs, Invalids, Veterans, members of Kosovo Liberation Army, Sexual Violence Victims of the War, Civilian Victims and their Families (The Law on the Victims of the War)?

Theme two: Understanding of justice

2. How does women's contribution to the Law on the Victims of the War reflect their understanding of justice?

Theme three: Transitional justice

3. What are the implications of the above questions on transitional justice processes?

The next sections explain the method utilised to answer these questions.

3.2 Data collection and fieldwork

The main method of data collection during my fieldwork was interviews. Interviews are often used in feminist research, as they capture differences and similarities between people and allows for examining individual perceptions.¹²¹ By using this method, I was able to personally engage with those that I study and consider their individual experiences in a nuanced manner. While I interpret the findings based on the theoretical framework outlined above, interviews allowed

¹²¹ Jacoby, "From the Trenches," 161.

me to take the participants' own accounts as the starting point of analysis. The purpose of studying the experiences and statements of my research participants is to reflect on their individual understandings of women's roles and contributions in Kosovo's post-conflict setting. Moreover, this method highlights their agency, which is a central focus area of this paper.

During my fieldwork I used semi-structured interviews. This form of interviews grants flexibility to the research participants to discuss their specific understandings, while also ensuring that similar questions were asked, allowing for comparison across the participants.¹²² As I seek to capture women's understandings of gender and justice, I relied on open-ended questions that granted space for the participants to discuss the aspects they found important.¹²³ I intentionally did not provide the participants with definitions of concepts, as I was interested in hearing their understandings and interpretations around justice.

A central challenge I had to overcome was how to sample people relevant to my research question. As the aim of the research is to examine women's understandings and contributions to justice, I was interested in interviewing local persons working in this field. In order to make contact with potential interviewees, I received support from staff at the University of Prishtina and the Norwegian Embassy in Prishtina. Prior to departure, I also had support from contacts in Norway that had experience from Kosovo. In addition, I relied on the method of snowball sampling where participants recommended other relevant contact persons.¹²⁴ Through these efforts, I was able to get in contact with relevant participants, with the majority being connected to local civil society organisations. Except for one online interview with a representative of the EU Rule of Law Mission, all interviews were conducted physically in Prishtina. While I initially wanted to include perspectives from persons with different ethnic and religious backgrounds, I was unable to get in touch with relevant interviewees residing outside Prishtina during my time in Kosovo. The language barrier was another challenge that I encountered, as I do not speak Albanian or Serbian, the two official languages in Kosovo. Therefore, potential participants were limited to those that spoke English. The findings are based on perspectives of persons residing in the capital and that belong to the majority group of Kosovo Albanians. I emphasise that these perspectives do not represent Kosovo in its entirety, but they provide insights into local contributions and understandings of justice. Research participants' backgrounds are further outlined in connection to Chapter 4 below and they have been given fictional names to ensure anonymity.

¹²² Bryman, *Social Research Methods*, 468–69.

¹²³ See Appendix I for example of interview guide.

¹²⁴ Bryman, *Social Research Methods*, 696.

The data collected through my fieldwork is supplemented by academic literature and reports by civil society organisations (CSOs) in order to contextualise the research participants' insights on women's inclusion in transitional justice in Kosovo. The research is also informed by my personal experiences and reflections during my time in Kosovo. A drawback of my methods is potentially tied to my focus on women. As I explained that my project was about women's inclusion and contribution to justice in Kosovo before starting the interviews, this may have led the participants to mainly consider the positive aspects and perceptions of women's activism. Another limitation is that the findings are mainly relevant to the context of Kosovo, more specifically Prishtina, granting low external validity. Moreover, interviews are difficult to replicate, and the study is to some extent based on my own analysis of the data gathered, which is a general challenge in qualitative research.¹²⁵ However, these trade-offs are justifiable as the research has a high internal validity, provides room for individuals' voices and the local context in line with my research purpose. This allows me to draw some suggestions on shortcomings and recommendations on transitional justice in Kosovo and in gendered post-conflict societies.

3.3 Ethical reflections

During my research, I reflected on the ethical considerations I had to take during fieldwork. A central ethical obligation particularly relevant to my research was how to treat interviewees.¹²⁶ This obligation included adhering to principles of ensuring respect, ensuring no harm, confidentiality, and free and informed consent.¹²⁷ Prior to my departure to Kosovo, I obtained approval from the Norwegian Centre for Research Data (NSD), where I explained how I would store data and ensure confidentiality of the data collected. In line with the ethical obligations, I started all interviews by explaining the purpose of my research and how the data would be stored. The interviewees were given an information letter containing an overview of their rights, how the data would be stored and how it would be anonymised. They were further given time to ask me questions, before I received and documented their explicit consent and asked if I could record the interview. While a majority of the participants appreciated the detailed information given prior to the interview, some made comments that the information was too extensive. None of the interviewees had any objections or expressed any particular concerns to participating in my project.

Another challenge relates to ethnocentrism when engaging in fieldwork in a foreign environment.¹²⁸ For instance, Jacoby argues that the researcher's position influences how they relate to

¹²⁵ Bryman, 398–99.

¹²⁶ Nygaard, *Writing Your Master's Thesis*, 37.

¹²⁷ Nygaard, 37–40.

¹²⁸ O'Leary, *The Essential Guide to Doing Your Research Project*, 71.

those being studied.¹²⁹ Due to my foreign background and limited experiences with Kosovo, I took steps to gain cultural knowledge and sensitivity prior to leaving for my fieldwork. Moreover, being aware that I would not know all cultural practice, I tried to be open to learn and understand when interacting with people in Kosovo. I believe being a foreigner in Kosovo was to sometimes helpful during my fieldwork, as I was not expected to “know” everything, and I received good response to my questions about Kosovo’s culture and traditions. During my interviews, the interviewees took time to explain details that may have been taken for granted if I had been from Kosovo.

Differences in positionality between a researcher and interviewees pose a challenge in qualitative research. For example, the researcher’s understanding of statements may not necessarily reflect the intention of the interviewees.¹³⁰ Relevant for my fieldwork are how cultural and other differences, and similarities, between me and the participants affected our relations. As a person interested in studying and understanding gender, justice and human rights, I shared an interest with most of my interviewees. This established a common ground during the interviews. Even though my foreign background held certain advantages, I recognise that my background could have influenced how the participants responded to my questions. Moreover, because I do not have any personal experiences with war and conflict-related gender-based violence it can be challenging for me to fully grasp the realities and concerns for persons that have undergone such experiences. These factors may have influenced my interactions and interpretation of the data I collected, but I tried to be mindful and aware of these aspects during and after my fieldwork.

4 Findings

This chapter is primarily based on interviews with six female human rights activists (‘Erona’, ‘Elvide’, ‘Jana’, ‘Valide’, ‘Barjeda’, ‘Deja’), two male human rights activists (‘Gani’, ‘Jahir’) and one former female politician (‘Zora’), hereafter referred to as the research participants.¹³¹ Erona, Elvide and Jana work primarily on women’s rights in their personal capacity or through local civil society organisations (CSOs); Gani, Jahir, Valide and Barjeda are engaged in local CSOs working on broad human rights issues and on dealing with the past; Deja runs a local CSO focusing on assisting torture victims, including survivors of conflict-related sexual violence (CRSV). Zora is a former Member of Parliament (MP) with experience on addressing gender-based discrimination and women’s rights. I have given the participants fictional names to ensure their anonymity. Additionally, insights from two male employees of the Constitutional

¹²⁹ Jacoby, “From the Trenches,” 157.

¹³⁰ Jacoby, 162.

¹³¹ All research participants have been given fictional names.

Court of Kosovo, working in non-legal positions, and two representatives of the EU Rule of Law Mission (EULEX) are included when specified.¹³²

A central theme among the human rights activists, Zora and representatives of EULEX was the role of civil society and CSOs. Civil society was seen as a collection of CSOs, movements and networks that aim to address a societal issue. In this context, civil society is institutionally separate from the government, public institutions and international actors. My use of the term reflects this understanding.

The observations below present an overview of the participants' reflections on the topic of women, gender and justice in relation to addressing Kosovo's past history of political violence with highlighted quotes. The thematic categories are contextualised based on my theoretical framework, as outlined in Chapter 2.

During interviews with the research participants, a set of common themes that provide insight into how women contribute to justice and shape understandings of justice in Kosovo's post-conflict process emerged. Themes relevant to my research question(s) were women's exclusion from the public narrative and state-led transitional justice initiatives, and women's mobilisation to address this exclusion and gender-based discrimination. In the context of transitional justice, the participants drew particular attention to how women contributed to the amendment of the Law on the Victims of the War, leading to the inclusion of survivors of CRSV. As this contribution was seen as a main achievement regarding transitional justice and conflict-related gender-based violence, this Chapter focuses on the process and effects of amending the Law. When discussing their understanding of justice, the female participants expressed a broad understanding, including the need of addressing general forms of gender-based harm, such as domestic violence and socioeconomic inequalities. Therefore, my research moves beyond a narrow focus on CRSV in transitional justice by connecting it to broader challenges of gender-based discrimination in Kosovo. Before turning to the findings, I briefly outline the case of CRSV and the Law on the Victims of the War. The implications of women's contribution to and understanding of justice on transitional justice are further considered in Chapter 5, addressing my third sub-question.

¹³² While not forming the main basis of my findings, these interviewees gave explicit consent to be interviewed.

4.1 Background on the Law on the Victims of the War and conflict-related sexual violence in Kosovo

During the armed conflict of 1998-1999, conflict-related sexual violence (CRSV) was perpetrated on a massive scale in Kosovo, used to target the civilian population. Due to shame and stigma few survivors have come forward with their experiences, meaning that the full scale of this crime is not known. However, civil society organisations, based on survey data, estimate that around 20,000 people experienced rape and other forms of sexual violence during the armed conflict, with the majority being women and girls.¹³³ In Kosovo, this form of violence was primarily directed against Kosovo Albanians and other minorities in former Yugoslavia.¹³⁴ CRSV in Kosovo is seen as a gender-based crime due to the primary targeting of women, however, there are also male survivors. This claim is supported by a 2021 report by the Kosova Rehabilitation Centre for Torture Victims (KRCT), based on interviews with 345 survivors, which shows that 325 were women and girls and 20 were men and boys.¹³⁵ The report by KRCT reveals that the violence caused serious personal harm to the victims. 98 percent stated that they struggled with mental harm, such as post-traumatic stress disorder, depression, panic disorder or anxiety.¹³⁶ 82 percent said they experienced physical harm, including genital injury, body injury or open wounds injuries.¹³⁷ Deja states that sexual violence is a special type of crime that leaves significant and complex psychological scars, in addition to physical harm:

“Majority of the victims don't recognise their bodies anymore because [sexual violence] touch your integrity, it's like you don't know your organs anymore. You don't recognise them as yours and you feel guilty, you feel dirty and shame” (Deja).

In Kosovo, the Law on Victims of the War remains the main legal framework that grants benefits and certain rights to civilian victims, veterans and their families.¹³⁸ Victims and their families are entitled to reparations, termed “pension”, due to the war of 1998-1999.¹³⁹ The extent of benefits is defined under the different categories of war victims.¹⁴⁰ For instance, a family “with one missing of KLA [Kosovo Liberation Army]” receives a pension of 358,50 EUR per

¹³³ Rushiti and Haliti, *Right to Truth “Unnamed Victims,”* 18.

¹³⁴ Istrefi and Hajrullahu, “Conflict-Related Sexual Violence in Kosovo,” 200.

¹³⁵ Rushiti and Haliti, *Right to Truth “Unnamed Victims,”* 15.

¹³⁶ Rushiti and Haliti, 63.

¹³⁷ Rushiti and Haliti, 62.

¹³⁸ Republic of Kosovo, Law No. 04/L-054.

¹³⁹ Republic of Kosovo, art. 1.

¹⁴⁰ Republic of Kosovo, art. 3.

month, while a family “of the missing Civilian” receives 135 EUR per month.¹⁴¹ As can be seen, those who were part of military units receive more benefits than civilian victims.

When the Law was adopted in 2011, it did not include survivors of conflict-related sexual violence. On 20 March 2014, the Law was amended to include this category of war victims defined as “person who survived sexual abuse and rape within period from 27.02.1998 until 20.06.1999”, providing survivors with the right to a monthly pension of 230 EUR.¹⁴²

In order to receive the pension, survivors must have their status approved by the Government Commission on Recognition and Verification of the Status of Sexual Violence Survivors during the Kosovo Liberation War.¹⁴³ The opportunity to register began in 2018 with survivors having to register within five years to receive the official status, which is due to expire in 2022. A survivor can apply directly to the Secretariat of the Commission, through seven Regional Offices or certain non-governmental organisations who have received authorisation by the Government to receive and submit documentation.¹⁴⁴ Of the 345 cases examined by KRCT, 84 percent had applied for recognition. 68 percent received the status, while 10 percent had their application denied and 22 percent are still waiting to hear back.¹⁴⁵ By June 2022, 1,274 out of 1,712 applications received recognition and reparations from the Government Commission, while the remaining applications were either denied or not determined.¹⁴⁶ 1,217 recognised victims were women and 57 were men.¹⁴⁷ The survivors of CRSV are victims of the war and have experienced significant trauma. While they have been included in the Law on the Victims of the War, the numbers show that relatively few survivors have applied for recognition.

The term “victim” under international law denotes that a person has experienced a form of harm and is used in the Law on the Victims of the War.¹⁴⁸ In the context of CRSV in Kosovo, feminist literature often uses the term “survivor” to recognise their individual agency. In addition, most research participants used the same term when discussing CRSV. To underline their agency, I also use the term “survivor” to describe this category of war victims.

¹⁴¹ Republic of Kosovo, 20–21.

¹⁴² Istrefi and Hajrullahu, “Conflict-Related Sexual Violence in Kosovo,” 205; Republic of Kosovo, Law No. 04/L-172, art. 4(6).

¹⁴³ Rushiti and Haliti, *Right to Truth “Unnamed Victims,”* 73.

¹⁴⁴ Rushiti and Haliti, 73.

¹⁴⁵ Rushiti and Haliti, 75.

¹⁴⁶ Avdyli, “Sexual Violence as a Weapon of War.”

¹⁴⁷ Avdyli.

¹⁴⁸ UN General Assembly, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, para. 1; Republic of Kosovo, Law No. 04/L-172.

4.2 Contributions to justice

Having outlined the Law on the Victims of the War and the scale of CRSV, the next paragraphs consider the participants' discussion around how women in Kosovo have contributed to justice for CRSV. The section starts by looking at women's exclusion from the public narrative, and political institutions, which influenced how women mobilised to raise awareness of CRSV and to amend the Law.

4.2.1 Patriarchal structures

My discussions with the participants frequently revolved around how Kosovo has been and continues to be a deeply patriarchal society. The research participants drew attention to how the dominant narratives are centred on male and militarised perspectives, excluding women's experiences, contributions and needs. Patriarchal family structures, which connect male honour and women's bodies, were seen as having a direct negative impact on women's access to justice. This was especially the case for the survivors of CRSV.

4.2.1.1 *Masculinity, militarism and exclusion*

While women in Kosovo operate in a deeply patriarchal society, the participants' accounts of women's contributions to justice and peace show that they are active in this field. The female activists emphasised that women had been engaged in diverse roles during the 1990s, including as peace and human rights activists, as combatants, and by taking care of their families, refugees and armed forces. For example, Erona states that "women had this very important role, especially in the peaceful resistance during the 90s in Kosovo". How women engaged in activism during the 1990s is reflected in Jana's story, who discussed her personal experience as being part of the peace movement. She began working as a human rights researcher during the 1990s, motivated by a drive to address ethnic discrimination in Kosovo and conflicts in other parts of former Yugoslavia. For instance, she documented war crimes that occurred in Kosovo, which she found personally traumatic and stressful:

"Then in 98-99, we had the first war crimes committed and I had to investigate every single case [...] I investigated all massacres that have taken place here [...] There's no master's or PhD degree that will provide you with such a length of information and experiences that I experienced throughout the war here [...]" (Jana).

The activists viewed activism, like Jana's, as an important contribution to peace and justice in Kosovo, as it shows how women are active and competent. However, women struggle to get recognition for their contributions and suffering. When asked about women's inclusion in transitional justice mechanisms in Kosovo, the activists often pointed to how women had mainly been excluded from the dominant narrative of the events in the 1990s and the war of 1998-

1999. Women's experiences and contributions were initially overlooked by Kosovo's government and the UN Mission in Kosovo (UNMIK), which was responsible for Kosovo's administration until 2008. Consequently, women have not received recognition or been included by the general public, leading to exclusion from political processes on how Kosovo should address its past legacies of violence.

A common sentiment held by a majority of the research participants was that women's exclusion is particularly visible in the public narrative on the war, which honours male "heroes". This is visible in male-centric memorials and in the public discourse, while women's contributions are either not referred to or downplayed. Elvide views the official history as "not only written by men, but also written *for* men [...] [which has] given a lot of value to the war and to the heroic man fighting in the war" (Elvide). The attention to the war was also seen as leaving out both men's and women's struggle against ethnic discrimination prior to the war. Moreover, women have not been given the same space as men to discuss their experiences even when they faced similar forms of violence and discrimination. Elvide talks about the different treatment between male and female political prisoners who served time during the 1990s:

"Why does he [a male former political prisoner] have a platform to talk about his experience in front of the Parliament, in the media, and live on TV with people from every corner of Kosovo listening to his story and no one, absolutely no one, will know that his wife served six years in prison, just like he did [...] if we're holding a public debate on political imprisonment, where are the women?" (Elvide).

Due to such different treatments as expressed by Elvide, male victims are often remembered by name, while this is not the case for women. For instance, Jahir refers to how "most" people in Kosovo are likely to only know the name of the husband of a family, even if the entire family was killed during the war.

Valide, Gani, Jahir, Barjeda and Elvide considered how statutes and other memorials are primarily focused on the male heroes of the war, often heavily militarised with weapons. In addition to the vast majority of statutes being dedicated to men, Valide holds that men are also "exaggerated with these guns", while female combatants are "usually armless". Even though there are a few exceptions, the exclusion of women from these platforms were seen as tied to the patriarchal structures that inhibit women's recognition.

Privileging masculine militarised perspectives combined with a patriarchal mindset was seen as a main obstacle to women's participation, as most political processes are led by men. For example, Elvide states the following: "I do think that nationalist feelings and patriarchy both diminish women's stories and contributions. Not only in transitional justice, but their

contributions during the past as well.” Therefore, patriarchy was viewed as impacting all levels of society, which especially is the case for survivors of CRSV.

4.2.1.2 Stigmatisation and shame

Based on the recurrent theme of CRSV in Kosovo among the participants, the next section presents their views on how the patriarchal cultural practices have affected the survivors. In relation to this topic, I did not observe any significant difference in opinion between the female activists and the two male activists, Gani and Jahir. All activists agreed that the survivors of CRSV had been excluded from the public narrative for “too long” and that women in civil society and in political institutions played the main role in securing the survivors’ inclusion in the Law on the Victims of the War. This late recognition was seen as a particularly noticeable example of the negative consequences of women’s exclusion.

The survivors’ suffering and needs have largely been left out of the public discourse on the war. The patriarchal structures, viewing women’s bodies as central to men’s honours and the family’s honour, were held to have caused significant stigma and shame for the survivors. They have faced stigmatisation from their families and society, essentially being blamed for the crimes that were committed against them. Due to the view that women’s honour is tied to the husband’s honour, it has been difficult for survivors to discuss their experience even at home; many do not tell their husbands, other family members or friends at all. Elvide explained how rape was used during the war as a tool that went beyond targeting the individual victim: “Rape itself is the sort of mechanism [used] to emasculate men in terms of their traditional role to be there for the safety of their wives.”

The so-called patriarchal mindset was seen as directly influencing how the survivors were perceived in society, as husbands of female survivors are often ashamed of their family. In the years after the conflict, the crime was not discussed in public, and survivors faced a difficult reality in dealing with their trauma “in silence”. Deja provides an example of a survivor who was raped by multiple perpetrators before being shot. When she wanted to testify in court, the interpreter at the police station was from her husband’s family. Because she did not want her husband to know what happened to her, she decided to not testify. Due to the challenging environment, civil society organisations provided aid in secret, as survivors feared that family members or society would understand that they received treatment for CRSV. Deja emphasises that for many survivors, living with the shame and stigma is a significant trauma on its own, which has lasted for over 20 years:

“You read what they went through [...] But what about the survivors who are living with those consequences, you have to be in their skin and see: what are they facing on a daily basis? [...]

It's much harder to live with that consequence [of the rape] when your family does not accept you" (Deja).

These findings of the domination of masculine militarised perspectives and women's exclusion resonate with feminist critiques on how peace and justice processes are deeply gendered at both the international and local level.

4.2.2 Women's mobilisation on conflict-related sexual violence

All research participants discussed how women mobilised to call for justice for CRSV. The difficult reality of the survivors led civil society organisations, in cooperation with the survivors, to campaign for recognition and reparations for the crime of sexual violence. While women have been largely excluded from the dominant narrative of the war and public institutions, they have been active in dealing with the past in Kosovo. Considering the difficult context of being underrepresented in high-level political positions and excluded from the dominant narrative, women have used alternative ways to call for justice. For example, Jahir reflects with regret on how he did not realise the survivors' challenges prior to the women's awareness raising, despite working on humanitarian issues in Kosovo. He therefore underlines that it was women that pushed for the debate on CRSV, while men lacked an understanding on this topic.

4.2.2.1 *Women in Civil Society*

Due to the limited attention to gender-based discrimination and violence, women-led civil society organisations stepped up to call for increased awareness of women's experiences, and for their inclusion in political decision-making positions. These organisations were regarded as being at the forefront for seeking justice for survivors of CRSV. They have in practice carried out tasks that tend to fall under the responsibility of the government and public institutions, such as by providing legal aid and psychological support to torture victims. Female activists and women-led organisations mobilised to raise awareness of women's rights and needs through various forms of campaigning and protesting, including the use of art. The civil society organisations work closely with victims of war, such as the survivors, aiming to strengthen and to amplify their voice in the public sphere.

The female activists viewed the development of women-led organisations as a response to women's exclusion, making it necessary to form movements that focus primarily on women's rights and issues. For example, Deja, who worked as a medical doctor in Albania, stated that she wanted to aid torture victims by creating an organisation after meeting survivors of CRSV who had fled the war in Kosovo.

“Hearing all of those stories [of CRSV] made me reflect that I have to establish an organisation in Kosovo which will ensure a safe space for survivors of sexual violence, but also all the other torture victims” (Deja).

The participants made similar statements on how Kosovo has benefitted from having strong CSOs that cooperate on women’s rights and gender issues, such as KRCT, Youth Initiative for Human Rights, Medica Kosova and Medica Gjakova. A particularly strong network is Kosovo Women’s Network (KWN), which consists of around 200 women’s organisations, representing Kosovo’s different ethnic groups and regions.¹⁴⁹ KWN was seen as being a key stakeholder in protecting and advocating for women’s rights in Kosovo.

4.2.2.2 Awareness raising on conflict-related sexual violence

While civil society was seen as having a strong position in Kosovo, the participants discussed how challenging it was to advocate and gain recognition of the crimes committed against the survivors, especially as it was not discussed in public. Deja expresses that she and the survivors advocated for 15 years until the survivors' situation was addressed by the national government:

“Until 2014, survivors of sexual violence were unknown to society, so we had to fight very strongly in order for them [the government] to accept the value of the law of the war [...] we were advocating for [the survivors] to be recognised” (Deja).

The participants viewed the increased involvement of the civil society as central for providing the survivors with a safe space to be heard. Moreover, providing this space for the survivors was seen as important for allowing them to move outside the “victim box”. Because few survivors were able to come forward, due to fear of stigmatisation, civil society organisations were important for advocating on their behalf and for telling their stories anonymously. Deja refers to the role of memory books, which have made it possible to present survivors’ experiences. *I Want to be Heard*, published in 2017, was the first time stories of female survivors of CRSV were “revealed”.¹⁵⁰ A second memory book, *Beyond Pain, Toward Courage*, was published in 2021 and includes narratives from male survivors, family members of survivors and witnesses of CRSV.¹⁵¹ The second book presents a more nuanced picture of the trauma of survivors and persons that witnessed family members being subjected to CRSV. Moreover, it was important to Deja to draw attention to how some husbands are supportive: “We wanted to address the message of the good husband, how they have to treat the victims in the family because majority of the husband [view this] war crime as an issue of honour.” These memory books seek to

¹⁴⁹ Kosovo Women’s Network, “Members.”

¹⁵⁰ Integra, forumZFD, and Kosova Rehabilitation Centre for Torture Victims, *I Want to Be Heard*.

¹⁵¹ forumZFD and Kosova Rehabilitation Centre for Torture Victims, *Beyond Pain, Towards Courage*.

provide insight into the implications of CRSV and how society and international actors address and perpetuate gender-based discrimination.¹⁵²

Deja held that it was important for the survivors to not be seen only as a victim, while underlining the difficulties they face due to stigmatisation and shame. For example, Shyrete Tahiri-Sulimani is one of the few survivors that have spoken publicly about her experience and fronted the campaign “Be My Face” where she stated: “I was a victim, I am a survivor”.¹⁵³ This statement shows how survivors seek to regain agency and move outside the “victim box” that is often imposed on them. The campaign was an exhibition with photos with short stories of what the survivors went through and encouraged politicians and the general public to step into their reality. With the exception of Tahiri-Sulimani, the stories of the survivors did not include their names or locations due to fear of stigmatisation. The continued problem with stigmatisation leading few survivors to come forward demonstrates the challenging environment to ensure justice for CRSV. Other forms of awareness raising occurred through art. For example, Eliza Hoxha, an activist who work with survivors, has developed music, photography and other forms of art that tell the stories and struggles of the survivors. Her song “Heshtja e Kanges [the silence of the song]” tells the story of the isolation felt by the survivors due to stigmatisation and fear of ostracization.¹⁵⁴ A central goal in this process of awareness raising was to gain recognition through the Law on the Victims of the War, which to the survivors would mean that they are treated equally to other war victims.

“During the whole process we had victims’ voices present, and they wanted to be treated with the same law. Because in the end of the day they were part of the war, and they cannot be treated with a separate law” (Deja).

This statement by Deja shows that campaigning on CRSV aimed to include the survivors' views and opinions. However, due to the strong stigmatisation in Kosovo, the survivors' voices were represented by the CSOs, as reflected in their campaigns on CRSV.

4.2.2.3 *Cooperation between survivors, civil society and women in political decision-making positions*

Raising awareness of the survivors’ challenges related to fear of stigmatisation and ostracization was considered important for targeting women in decision-making positions, as it revealed the lack of justice for this group. As mentioned above, the participants reflected on how women had been excluded from political institutions after the war. However, following lobbying by

¹⁵² Integra, forumZFD, and Kosova Rehabilitation Centre for Torture Victims, *I Want to Be Heard*, 7.

¹⁵³ Hoxha and Kosova Rehabilitation Center for Torture Victims, “Be My Face.”

¹⁵⁴ Hoxha, *The Silence of the Song*.

women in civil society, Kosovo introduced a quota system, which has led to an increase of women in Parliament and in governmental positions, including as ministers, over the past decade.¹⁵⁵

According to its Constitution, Kosovo is a parliamentary republic where the Assembly of the Republic exercises legislative power, referred to as the Parliament by my research participants.¹⁵⁶ Therefore, in order to amend the Law on the Victims of the War, the Parliament had to be supportive, which required greater understanding and knowledge about the survivors' lived experiences among parliamentarians. Even though the president of Kosovo is the head of state and does not hold direct executive power, the participants' expressed that this person holds significant influence on shaping the political agenda, for instance by starting debates and initiatives on key issues.¹⁵⁷ As the majority of the survivors are women, civil society focused on recruiting support from female MPs. The cooperation between civil society and female politicians, which included ministers, the then President Atifete Jahjaga, and MPs, was seen as essential for pushing the agenda forward, leading to the topic being debated in public and in political institutions. Erona discusses how female MPs worked with civil society on recognition of CRSV:

“In the [Parliament], the issue [of CRSV] was initiated by a woman who was an MP. They [female MPs] cooperated with Kosovo Women's Network to convince women from other political parties to support this proposal to recognise the status of survivors of sexual violence the same way as that of veterans” (Erona).

Zora, the former MP, views cooperation between female MPs, civil society and the survivors as necessary for their eventual inclusion in the Law because it gave the survivors an opportunity to tell their stories anonymously. For instance, she states that civil society organisations pushed for the survivors to be allowed to tell their stories behind covers. Deja provides an example of a meeting between a female minister and survivors, which demonstrates the risks the survivors had to take to tell their stories even in secret.

“We invited 50 women [survivors] to meet the Minister with bus because [...] nobody had to know what we were doing [...] We were planning to have around 75 women, but one [person] at the bar [nearby the bus] asked her [a survivor]: “where are you going? You are going to meet the Minister. Why? Because you are a survivor?” Everything failed and we had to dismiss [parts of the group]. But 50 victims met the Minister and expressed their concern to her” (Deja).

¹⁵⁵ For information on the introduction of the quota system see for example: Shala, “Gender Quote in the Kosovo Electoral Law.”

¹⁵⁶ Republic of Kosovo, Constitution of the Republic of Kosovo, art. 4.

¹⁵⁷ Republic of Kosovo, art. 4(3).

Meetings between survivors and politicians were seen as important for putting their situation on the political agenda, in addition to the awareness raising activities described above. Through cooperation in the Women's Caucus in Parliament, where female MPs can address gender issues regardless of party affiliation or ethnicity, justice for the survivors were debated in Parliament. As the Parliament had discussions on this theme, female activists simultaneously organised protests to further increase the attention to CRSV. For instance, in 2012, there was a major protest on Women's Day organised by women in civil society organisations, who according to Erona, had placards stating: "We don't want flowers, we want justice for survivors of sexual violence". Erona holds that this protest was followed by a new debate on how to ensure justice for the survivors. These forms of interactions and mobilisation were seen as essential for the eventual amendment of the law in 2014, seen as a major achievement in seeking justice for gender-based crimes that were committed after the war. To illustrate, Deja views the cooperation between civil society, international community and politicians as essential for the amendment of the law: "Through those kinds of engagements, [through] mobilising civil society, goodwill people, international community, and some of the politicians we reached a change of the law in the Parliament". Similar statements were also made by Erona and Jana in particular.

That women make meaningful and significant contributions to justice and peace can be seen in how they are perceived in Kosovo. All research participants, the EULEX representatives and the two male employees of the Constitutional Court viewed women in civil society and in political institutions favourably. My impression was that women are considered hard-working, seen as having a high "moral" and integrity. Some statements essentialised women as being more peaceful than men, which is problematic from a feminist perspective. However, most participants, especially the female activists, expressed that women make valuable contributions to society due to having different experiences from men, and because they face additional societal barriers, meaning that those women who make it into political institutions are particularly capable. Having presented how women contributed to the amendment of the Law on the Victims of the War, the following section considers how women understand justice both in relation to CRSV and broader challenges.

4.3 Understanding of justice

Based on the expressions of the female participants, the reason for why the Law on the Victims of the War was considered a major achievement is also linked to how women understand the concept of justice. When asked about how they understood the concept of justice, they broadly defined justice as including reparations, recognition, positive peace, democracy, reconciliation between communities, and women's equal opportunities and participation to that of men. While all female participants understood justice broadly, they differed in how they prioritised the

various forms of justice. For instance, some participants felt strongly that socioeconomic inequalities were the main challenge for women's participation, while others pointed to the need of recognition for women's contributions. My overall understanding of the participants' accounts is that justice for Kosovo's legacies of violence extends beyond crimes that occurred in the time period between 1998 and 1999, and instead relates to the structural factors of gender structures that are discriminatory against women. These structural factors can be seen as linked to the patriarchal cultural practices that impact women in all sectors of society. Lastly, regardless of gender, all participants viewed criminal justice for war crimes as central but agreed that there had been no criminal justice for the survivors of CRSV. The next section considers how the participants viewed the Law in relation to women's access to justice, before the final section of this Chapter looks at how the Law is connected to the general struggle for gender equality.

4.3.1 Justice for conflict-related sexual violence

The 2014 amendment was generally considered the main achievement on justice for gender-based violence that occurred during the war. Barjeda, for instance, refers to the amendment as the "biggest change so far". The Law was seen as an important mechanism for justice as it provides recognition and reparations, which according to Deja has been a central goal for the survivors. Reparations were identified as vital for recognising the challenging socioeconomic situation of the survivors. However, all activists expressed that they were disappointed in that the survivors had not been included earlier.

The focus on recognition was seen as essential because it provided a more nuanced understanding of war victims' experiences and needs, further challenging the patriarchal and militarised narratives. For instance, Barjeda refers to how the Law can lead to a change to the patriarchal idea that sexual abuse negatively affects the honour of survivors' husbands or families:

"[...] [the law is a step towards] changing the mentality when it comes to accepting this crime and accepting the victims and survivors into our families [...] into our society and to make sure that the state and society provide for them, respect them, and don't further stigmatise them. Because they were victims and they had nothing to do with the crime that was done to them" (Barjeda).

The Law was considered a starting point for changing the patriarchal structures in society. Today, civil society organisations can openly say that they work with survivors and their situation is discussed in domestic politics. Deja considers how her organisation can be open about their work with survivors of CRSV today: "There is some progress. If I compare, for example, some years ago when we were not allowed to even speak to the media about such a crime [with today]".

This progress is visible in Prishtina, where a memorial *Heroinat* [heroines] was erected in 2015 and is dedicated to the survivors.¹⁵⁸ It is made of 20,000 pins, representing each survivor, and forms the face of a woman. However, *Heroinat* fails to make references to how men also experienced CRSV, indicating that the common understanding remains gendered. Barjeda and Deja further referred to how the survivors contribute to society such as being elected MPs, leading CSOs, establishing small businesses and working in various sectors, underlining that the survivors are more than victims of a war crime.

Even though the survivors are now included in the Law on the Victims of the War today, the activists and Zora deemed that their physical and mental trauma have still not been addressed properly. The female participants agreed in particular that there were serious shortcomings. The stigmatisation and shame placed on the survivors are seen as a main barrier for applying for recognition, in addition to a lack of evidence of the war crime. Many survivors distrust the system after being excluded from the public narrative for over 20 years, meaning that the five-year limit to apply for recognition was considered too short for allowing survivors to apply for recognition. The fact that only 1,274 survivors have received recognition was seen as a significant shortcoming, as the estimated number of survivors is 20,000. The female participants emphasised that they were not satisfied with the limited justice for CRSV. For example, Jana held that she and her colleagues would continue to advocate for the survivors: “So parallelly we have to fight stigma [...] and convince women to apply for the recognition”.

Additionally, the timeframe of the Law proves to be limited, as some survivors were raped after the set end-date of the Law, 20 June 1999. Deja referred to how sexual violence continued after this date and took place within the context of the armed conflict. This problem points to how gender-based violence can continue after establishing negative peace. As the Law is central to justice for CRSV, the female activists continue to advocate for new amendments to the Law that would make it easier to apply and receive recognition. For example, Deja appears cautiously optimistic, while stating the need of introducing new initiatives that will enhance the survivors' sense of justice:

“This is it, but at least survivors of sexual violence found they are recognised by law. They are entitled to get some kind of support from the state [...] I think we could now introduce some of the recommendations we have in terms of access to justice and sensitivity in terms of documentation of war crimes [referring to CRSV], in terms of reparation [...] [and] in terms of non-repetition” (Deja).

¹⁵⁸ See appendix II

This section has shown how the amendment of the Law connects to women's understanding of justice as being linked to recognition and reparations, challenging the militarised masculine narrative that dominates the public discourse. The implications of women's understandings of justice are further discussed in Chapter 5 below.

4.3.2 Justice for gender-based discrimination and violence

The research participants often referred to broader problems of gender-based violence during our discussions, in addition to discussing CRSV. The patriarchal practices were identified as a main barrier to women's participation and inclusion in society in general, as well as related to problems of domestic and sexual abuse. This form of violence was considered to be a persistent problem that has affected women prior to, during and after the armed conflict at the end of the 1990s. The activists referred to Kosovo's high levels of domestic violence and femicide, which is a term used when a woman is killed because of her gender. Valide holds that violence against women is normalised in Kosovo. Similarly, Barjeda states that violence against women occurs "because men feel entitled that they have ownership towards women". The female activists expressed a clear motivation to continue to challenge these gendered practices and increase the protection of women's human rights. For example, Jana continues to campaign on these issues:

"I just want to grab what is there for me. There are rights that I deserve and that belongs to me [...] I don't want anyone ever to touch this because they belong to me [...] I fight over that" (Jana).

Most of the participants discussed how the patriarchal structures also negatively impact women's socioeconomic rights. The protection of economic rights was seen as a necessary condition for women's economic and social independence, such as the right to own property and the right to inherit on the same basis as men. For example, Valide highlights that if women were economically independent, they would not have to rely on "abusive husbands and families".

While the legal framework in Kosovo grants women the right to own property and to inherit, according to some of the participants, women are "pressured" by social norms to give up these rights in favour of their husbands or other male family members. Valide says that if a woman accepts property she will be considered "an outcast" and a "bad daughter". Similarly, Zora discusses how it was important for her when she was an MP to ensure that the legal framework recognises women's economic rights, but stated that inequality results from cultural expectations:

"Only seven to eight percent [of women] use their right to inherit property [...] Due to the customs and traditions, women are giving up their inheritance, their property [...] to their brothers

and to the man in a family [...] That means that they are getting into the marriage with empty hands and then when they divorce, they remain again without anything” (Zora).

Therefore, Zora connects economic inequality to the broader cultural practices that discriminate against women. At the same time, some activists argued that there are changes to gender roles in Kosovo, as was expressed by Jana:

“The society is going very fast forward. I think that men in our society cannot handle that. They realise that their powers are shaken beneath them and they become more aggressive in keeping that power. That's why I think we have an increase in domestic violence, but on the other hand we have also many raising their voices against it. During the war when we [campaign] against domestic violence, we were told: ‘just mind your business for a while because we have bigger enemies to fight’, that was Milošević and the dictatorship. Now we don’t care. There are no more any more important things to fight for” (Jana).

Jana argues that even though domestic violence is a serious issue, women are no longer accepting the prioritisation of other issues in Kosovo, such as the larger political issues of the Balkan region. Despite this progress as expressed by Jana, younger activists like Valide, Erona and Elvide, expressed a fear that the change is happening so slowly that they will never experience gender equality and justice.¹⁵⁹ For instance, Valide states that unless human rights are placed at the centre of the justice process, Kosovo will not be a “just” society: “Social justice will just be a concept [...] If we don’t tackle human rights violations at every level, it [social justice] is senseless”. The issues linked to cultural practices result in limits on Kosovo’s legal framework. The participants argued that the Constitution reflects human rights found in the UN human rights conventions and the European Convention on Human Rights. For instance, Barjeda expresses the following: “We have a very advanced Constitution when it comes to human rights in general, gender equality is one of the principles enshrined in the Constitution”.

The activists and Zora drew attention to the need of having a legal framework that protects women’s rights and that contains provisions on anti-discrimination, as it strengthens women’s activism and mobilisation. However, a main challenge is to implement these rights, as expressed by Barjeda:

“Because state institutions are mostly led by men and obviously their ideas, their conservative ideas, are also enshrined in the way they work and do their business [...] On paper, opportunities are granted, but when it comes to the mentality of the society, the general culture is very much patriarchal and conservative when it comes to accepting women and women’s rights” (Barjeda).

¹⁵⁹ Younger activists are defined as those who were children at the end of the 1990s.

Here Barjeda links the lack of implementation of women's human rights to the male-dominance in political institutions and the cultural patriarchal practices. Similarly, Jana provides the following answer when asked about what is needed for Kosovo to be considered a “just” society: “Implementation of laws, implementation of laws and that’s it”. While there is a lack of implementation, having a well-developed legal framework was seen as a good starting point, allowing women in civil society to mobilise around international framework on human rights and gender equality. This Chapter has examined two central themes of my research objectives. Firstly, how women actively contributed to the 2014 amendment of the Law on the Victims of the War. Secondly, women's understanding of justice has been considered, which was identified as connected to the full protection of human rights, including economic and social rights. A central finding is that justice for gender-based violence requires Kosovo to examine its cultural patriarchal practices that harm women's human rights.

5 Discussion and Conclusion: Moving towards gender-based transformative justice?

The aim of my research was to critically examine how women contribute to and understand justice in post-conflict Kosovo by studying how the Law on the Victims of the War was amended and its significance for addressing gender-based harm. Women’s meaningful participation in political institutions and in civil society organisations was necessary for producing better outcomes for conflict-related gender-based harms in Kosovo. The mobilisation around the Law further provides insight into how women challenge harmful gender relations that are normalised in society and in political institutions. Recognising and understanding inherent harmful gender structures can have a positive effect on transitional justice mechanisms, showing the importance of including women and local conceptualisations of justice when addressing past human rights violations and re-establishing political institutions. Based on critical feminist theory and ideas from transformative justice, this Chapter turns to discussing shortcomings of transitional justice and how it can be enhanced to secure better protection of women’s human rights and enhance gender equality.

The Chapter starts by looking into the potential of transitional justice in transforming harmful gender relations and increasing women’s participation. I argue that transitional justice mechanisms will benefit from including a transformative and feminist perspective, which will allow for addressing harmful gender structures by drawing on local women’s understandings and needs. However, as local cultural practices may perpetuate gender-based discrimination, transitional justice mechanisms should also engage with the Women, Peace and Security (WPS) agenda and international human rights. Secondly, the Chapter discusses how examining bottom-up movements in Kosovo recognises how women can be agents of change in the “spaces

of the everyday”, before it considers the tension between justice and peace found in post-conflict societies.¹⁶⁰ While the findings are specific to Kosovo, this paper provides insight into the importance of contextualising justice mechanisms in post-conflict societies and the inclusion of women.

5.1 The potential of transitional justice

Transitional justice mechanisms hold the potential of addressing past human rights violations, including providing justice for gender-based violence and discrimination. As seen in Chapter 2, feminist scholars emphasise that recognition and inclusion of women produce better outcomes for gender-based harms in justice processes, as they have different experiences and understandings than men. The aforementioned findings of this research showed that gender relations in Kosovo shaped women’s experiences both during and after the conflict, as women were disproportionately affected by conflict-related sexual violence (CRSV), not remembered for their political and peace activism, and faced unfavourable expectations in economic relations in their families. The violence committed against women during the war and their treatment after the war were seen as resulting from cultural practices that place men as the head of the family, while women represent their honour and the honour of the family at large. In order to address such violence and discrimination in the aftermath of a conflict, a more complex understanding of justice is required in transitional justice initiatives. Adding a gender dimension to transitional justice will enhance women’s experiences and needs during conflicts, providing deeper insight into how such experiences are linked to general struggles of gender equality and harmful gender relations. Moreover, focusing on how justice can be transformative by emphasising the role of social movements and understandings can also positively add to the justice process.

The newly developed legal framework in Kosovo was influenced by the involvement of the UN and the EU, seeking to establish rule of law and democratic institutions that comply with human rights. While Kosovo is not a member of the UN or Council of Europe, due to its lack of international recognition, it has incorporated central human rights conventions into its Constitution, with the Constitutional Court being responsible for judicial review. As outlined in Chapter 1, the efforts to seek justice for human rights violations at the end of the 1990s were primarily based on top-down processes led by the domestic political elite, the UN and the EU. As expressed by my research participants, women were rendered invisible in the public debate and were underrepresented in decision-making positions due to the militarised masculine narratives. Consequently, Kosovo’s legal framework based on human rights and justice mechanisms were not sufficient for recognising the underlying causes of harm against the survivors of CRSV.

¹⁶⁰ Björkdahl and Selimovic, “Gendering Agency in Transitional Justice,” 173.

While the original Law on the Victims of the War appeared inclusive at the time, as it granted different groups of victims' recognition and reparations, it failed to include the survivors of CRSV, who constitute a large group of around 20,000 persons. This failure of including the survivors suggests that a lack of awareness of militarised and patriarchal cultural practices can produce negative consequences when it comes to justice for gender-based violence, even if this exclusion is unintentional.

As mentioned by the research participants, the harmful gender structures, referred to as "patriarchal mindsets", were seen as a main obstacle to justice for the survivors, who face significant stigmatisation and shame from their families and society at large. The activists and Zora further connected the patriarchal structures to other discriminatory practices that occur in the private sphere in Kosovo, especially when it comes to domestic violence and economic inequality. Therefore, in addition to the survivors' access to justice, the "patriarchy" was identified as a barrier to women's full protection of human rights and participation in society.

Despite the promising starting point of the newly developed institutions, the top-down processes "accepted" a continuation of socioeconomic gender inequalities, women's exclusion from dominant narratives of the war and women's limited participation in political institutions. Therefore, in order to provide justice for conflict-related gender-based violence, the findings above indicate that the domination of discourses on militarism and masculinity should be examined in transitional justice mechanisms by adding a gender perspective that recognises biases found in Kosovo's political institutions, cultural practices and in international human rights law.

A main reason for the amendment of the Law on the Victims of the War was due to women's mobilisation in civil society, in the Parliament and in the government, who worked on combating stigmatisation and increasing the awareness of the survivors' situation. Consequently, women's meaningful participation remains essential for addressing underlying factors of gender-based discrimination, here identified as patriarchal structures where men's honour is connected to women's bodies. In Kosovo, women in civil society organisations operated outside formal state-led justice initiatives to raise awareness of CRSV, bringing attention to the underlying patriarchal cultural practices that harm the survivors.

Under theories of transformative justice, local understandings and agency are central. Women's contributions in civil society in Kosovo point to the need of granting room for bottom-up movements that critically assess harmful structural factors and human rights norms. As survivors continue to face harm in the form of fear of stigmatisation and ostracization, such perspectives are important for transforming transitional justice. Having looked at the local context in Prishtina, it was possible to identify and study the informal ways that women use to shape

understandings of “gender” and “justice”. Therefore, by drawing on ideas from transformative justice and feminist scholarship, transitional justice will benefit from including bottom-up perspectives, making it more accessible to marginalised persons and groups.

However, as is prevalent in Kosovo, local patriarchal structures can negatively influence women’s access to justice. This means that while including local perceptions are essential under transformative justice, they may not always provide “better” outcomes. Consequently, post-conflict societies still need to examine how gender identities are reconstructed and redefined during transformation in order to prevent a poor quality of peace.¹⁶¹ Therefore, I argue that it is useful to draw on normative frameworks on Women, Peace and Security (WPS) and international human rights, discussed in the following.

While the international human rights framework turned out to be insufficient for ensuring gender justice on its own in Kosovo, having legal protection of human rights is nonetheless necessary as women in civil society can draw on these norms in their mobilisation.¹⁶² Alongside human rights law, the WPS agenda has the potential of placing gender at the centre of justice initiatives in post-conflict societies, the UN Security Council Resolution (UNSCR) 1889 is especially relevant. The UNSCR1889 notes that women’s capacities tend to not be fully recognised in post-conflict situations and that they are often seen as primarily victims rather than actors in such situations.¹⁶³ Moreover, it urges member states, international and regional actors to increase women’s participation in political and economic decision-making at “early stages of recovery processes”, calling for the use of “gender mainstreaming in all post-conflict peace-building and recovery processes [...]”.¹⁶⁴ These aspects apply to Kosovo, as women were not originally included in decision-making on transitional justice. However, Kosovo’s struggle to address its past history of violence has taken more than 20 years and continues today. While the Law has granted some forms of justice for the survivors and there are legal protections of women’s economic rights, the issues linked to patriarchal cultural practices remain a significant barrier to ending stigmatisation for the survivors; domestic and sexual violence; and to protecting women’s socioeconomic rights. Therefore, the case of Kosovo demonstrates that post-conflict justice requires sustained attention to women’s meaningful participation and gender perspectives over a significant time period. Kosovo would likely benefit from continuing to engage with the international normative developments on women’s human rights, as Reilly suggests are valuable for post-conflict societies.¹⁶⁵ Furthermore, justice efforts for conflict-related

¹⁶¹ Björkdahl and Selimovic, 167.

¹⁶² Earlier research has investigated the interactions between human rights and activism. See for instance: Simmons, *Mobilizing for Human Rights*; Risse, Ropp, and Sikkink, *The Power of Human Rights*.

¹⁶³ UN Security Council, Resolution 1889, para. 2.

¹⁶⁴ UN Security Council, paras. 1 and 8.

¹⁶⁵ Reilly, “Seeking Gender Justice in Post-Conflict Transitions,” 167.

crimes can take place outside specifically designed transitional justice mechanisms, as the Law was passed in the regular domestic politics through the Parliament.

Sustained efforts towards justice in Kosovo will benefit from drawing on transformative justice theory, which can be applied to different forms of structural, political and “everyday” violence, also in non-conflict situations.¹⁶⁶ Moreover, transformative justice’s attention to local practices in communities, opens up to a perspective to bottom-up movements rather than being centred on the political elite and international actors. As seen above, the attention to local movements in Kosovo demonstrates their specific understanding of justice and their needs, such as the situation of the survivors who were “invisible” to the public narrative for a long time. Moreover, transformative justice with a feminist perspective further highlights the importance of social justice, especially for addressing socioeconomic inequality. As a central criticism against transitional justice is that it prioritises male-dominated views of civil and political rights, emphasis on transforming underlying causes of structural inequality has the potential of establishing a “fairer” peace and justice for marginalised groups in a society. Attention to economic and social rights further confirms the idea of indivisibility of international human rights, often overlooked in common understandings of transitional justice.¹⁶⁷ Ideas under transformative justice fit well with feminist theories, allowing a focus on marginalisation and ignorance of everyday violence in male-dominated political institutions.

The female research participants’ definition of justice in Kosovo was connected to the concept of social justice, including gender equality and women’s socioeconomic rights, in addition to building democracy and reconciliation between communities. Socioeconomic inequalities and exclusion disproportionately harm women.¹⁶⁸ As argued by Reilly, including social justice will render visible the human rights violations that occur in the private sphere.¹⁶⁹ Moreover, it will address “everyday” instances of violence that women face. As survivors continue to face harm in the form of fear of stigmatisation and ostracization, such perspectives are important for transforming transitional justice. This is further connected to the feminist understanding of positive peace. The construction of societal norms based on militarism and masculinity continued to perpetuate patterns of gender-based violence after the war was declared over. The survivors’ experience of continued trauma due to isolation, stigmatisation and fear of ostracization highlights that violence does not necessarily end even though the level of political violence is reduced. Under conventional understandings of transitional justice, a state has to balance the need for establishing (negative) peace and individuals’ right to justice. However, it should be

¹⁶⁶ Gready and Robins, “From Transitional to Transformative Justice,” 340.

¹⁶⁷ Gready and Robins, 345–46.

¹⁶⁸ Reilly, “Seeking Gender Justice in Post-Conflict Transitions,” 165.

¹⁶⁹ Reilly, 165.

recognised that negative peace, meaning the absence of political violence, will not be considered peace by those that experience serious forms of gender-based discrimination. Consequently, from a feminist perspective, there will be no peace without addressing underlying factors inhibiting gender equality, such as the cultural practices that link women's bodies and men's honour. The understanding of justice in Kosovo is connected to peace and social justice, calling for the need of ending such practices. The findings in this research resonate with feminist critiques of mainstream transitional justice scholarship, which see the need of exposing gender biases and women's exclusion in conventional approaches.

5.2 Women as agents of change

Women's contributions to the Law of the Victims of War have shown that women are agents in transforming gender roles and norms. Through diverse roles such as being human rights and peace activists, civil society leaders and high-level political leaders in cooperation with the survivors, women placed the survivors' needs and rights on the national political agenda. Moreover, women in Kosovo are not staying silent on issues of domestic violence and economic inequalities in marriage and inheritance, bringing attention to gender-based discrimination in the private sphere. This research has focused on how local understandings of justice, with attention to women's understandings, are vital for ensuring gender justice. Moreover, by considering how individual women seek to alter gender roles, such as by removing stigma around CRSV, their agency is emphasised.

The "women as victims" narrative is heavily criticised by feminist scholars within transitional justice scholarship. This serves a challenge for Kosovo as a deeply patriarchal society where, for instance, survivors are afraid to speak up, meaning that recognising their agency can be challenging. Removing stigma and providing them with recognition and reparations can serve to humanise the survivors and viewing them as individuals with dignity, moving beyond the "victim only" narrative. Moreover, as Jana and Barjeda mentioned, the survivors have taken up a variety of positions, such as being elected MPs, leading CSOs and owning small businesses. This shows that their situation should not be generalised, and the survivors are agents of change alongside other female and male activists in Kosovo. The *Heroinat* memorial in Kosovo serves as an example of how the female survivors are not seen as primary victims today, but heroes alongside Kosovo's other war victims.¹⁷⁰ Recognising women's and the survivors' agency formed part of my research objective in studying a local context, as it counters the "women as victims" narrative. In Kosovo, women are at the forefront of upholding women's individual rights by challenging gender biases in political institutions and continues to advocate for addressing gender-based violence, both in connection to the war and to general discrimination.

¹⁷⁰ See Appendix II

Due to Kosovo's legal framework that complies with human rights, women's movements continue to mobilise and call for their rights.

The findings strongly indicate that women's position in Parliament was central to the amendment of the Law. This aspect supports feminist theory and the arguments under the WPS agenda in that women's meaningful participation leads to enhanced gender equality in post-conflict societies. The findings further show that a main obstacle to implementation of human rights is the patriarchal structures, as serious challenges of ending stigmatisation and shame for survivors remain. Due to women's strong position in civil society and representation in political decision-making positions that continue to address gender-based violence and discrimination, Kosovo has the potential to push for justice and positive peace that recognise the full protection of human rights in practice. In sum, the understanding of justice as expressed by the research participants shows the need for extending transitional justice mechanisms to addressing underlying harmful gender practices and to consider social, economic and cultural inequalities. As have been stated by other feminist scholars and in transformative justice scholarship, transitional justice should be placed within larger transformation of social and economic practices.¹⁷¹ This Chapter has discussed the implications of women's contributions to and understandings of justice on transitional justice mechanisms, covering my final research objective. The next section considers shortcomings of this research and suggestions for future research on gender and post-conflict justice.

5.3 Suggestions for future research

I have argued that transitional justice mechanisms in Kosovo will benefit from including a broader understanding of justice that recognise underlying factors that inhibit gender equality and that takes into account the local context. The focus has been on how gender relations impact political institutions and processes. However, harmful gender practices are not the only factors that have inhibited Kosovo post-conflict justice process. For instance, the process has been influenced by tension between Kosovo's ethnic groups, especially between Kosovo Albanians and Kosovo Serbs, and Kosovo's difficult negotiations with Serbia, which does not recognise Kosovo's independence.¹⁷² Kosovo's national struggle for statehood and challenges of being an ethnically divided society should be investigated in further studies, including how these aspects intersect with gender relations and the implications on post-conflict justice. These important aspects were beyond the scope of this research paper.

¹⁷¹ Reilly, "Seeking Gender Justice in Post-Conflict Transitions," 156–57.

¹⁷² Di Lellio and McCurn, "Engineering Grassroots Transitional Justice in the Balkans"; Zyberi and Černič, "Transitional Justice Processes and Reconciliation in the Former Yugoslavia."

The abovementioned findings suggest that women in Kosovo are mobilising to challenge the patriarchal norms, which serve as a main barrier to women's access to justice and equal protection of human rights. These practices and changes to gender roles affect both men and women in Kosovo, meaning that men's views and opinions are also valuable to further understand the role of gender in society. As this research is focused on how women contribute to and understand justice, it was beyond the scope to include this perspective, which should be considered in future research.

5.4 Conclusion

As this paper has discussed, seeking justice for past human rights violations remains a challenge for post-conflict Kosovo. Through qualitative semi-structured interviews, my research has provided insight into how women contribute to and understand justice, which was illustrated by examining the 2014 amendment to the Law on the Victims of the War. Moreover, the implications of women's contributions to and understandings of justice on transitional justice was discussed above. Through examining these questions, this research has added to the feminist literature on post-conflict justice. The findings from my fieldwork resonates with previous studies on women's activism in Kosovo, emphasising women's strong position in civil society and increasingly strong position in political institutions. While past academic studies have studied CRSV in Kosovo, this research has taken a step further to connect women's understanding of justice for CRSV to broader challenges of gender inequality and their diverse roles in society.

As scholars have pointed out, the mechanisms that countries should implement will differ greatly between them due to specific historical, economic, social and demographic factors and traditions, making contextuality central in transformative justice ideas. Justice mechanisms need to address the local context, as was visible in Kosovo. This means that what worked in Kosovo, may not work in other settings. However, the case of Kosovo demonstrates the importance of an inclusive gender perspective, involvement of marginalised groups and bottom-up movements. The Law on the Victims of War was tailored to address Kosovo's specific history and based, to some extent, on the survivors' needs, namely recognition of being a war victim equal to other categories of victims. Precisely because these findings are specific to Kosovo, it demonstrates how international frameworks need to adapt to local understandings and grant room for bottom-up movements that can critically assess harmful structural factors.

Recognising the potential transformation of harmful gender relations in transitional justice mechanisms by including local women's understandings can lead to a more inclusive justice process that recognises all war victims. My research paper has demonstrated that women's meaningful participation in post-conflict justice processes challenge harmful gender practices and enhance the protection of women's human rights. This shows that negotiations around

justice and peace should not be left to men. To conclude, there will be no justice for women unless underlying structural factors inhibiting gender equality are addressed.

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Appendices

Appendix I Interview guide

Guide for semi-structured interviews:

1. Can we start by you telling me about your background, and whether you have experience with post-conflict justice/transitional justice/peace processes in Kosovo?

Possible follow up questions (if experience with transitional justice)

- Have you been involved in specific projects/campaigns/efforts?
- What do you want to achieve?

2. How do you understand the concept of justice?
3. Do you know how women have been included in transitional justice processes in Kosovo? (Such as their roles, activities etc)

Possible follow up questions:

- Do you have an example of an activity/effort etc. where women were included?
- What was the main purpose and what was considered most important to these women?

4. In terms of participation, do you think all women have access, or is participation limited to certain women?
5. Do women have an opportunity to actively participate?

Possible follow-up question

- What are the main challenges to women's participation?

6. Thinking about past efforts on transitional justice in Kosovo, what has been achieved for women so far?
7. In your opinion and moving forward, what can women hope to achieve in justice processes?

8. Have you seen a change in gender roles after the armed conflict?

Possible follow up question

- Do you have an example?

9. How does your organisation/institution/group work with gender and justice in Kosovo?

Possible follow up questions:

- Does your organisation/institution interact with local organisations/the government/international actors on this topic?

10. The UN (Security Council Resolution 1325 on Women, Peace and Security) calls for women's inclusion in peace and justice processes: Why do you think women should be included?

Possible follow up questions:

- What are their contributions?
- What should their roles be?
- What would their participation mean for Kosovo?

11. Thinking about the future of Kosovo, what is needed to ensure a “just” society?

12. Is there something you would like to add or clarify?

13. Do you know anyone else that would be interested in participating in my project?

14. Is there anything you would like to ask me regarding my project?

- Thank you for your participation!

Appendix II *Heroinat* Memorial

Photo of *Heroina* [heroines] memorial in Prishtina, Kosovo. The memorial represents female Kosovo Albanian women who experienced conflict-related sexual violence during the war of 1998-1999. Photo taken on 23 February 2022 during my fieldwork.

