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The Circle of Silence: Wartime Sexual Violence against Men. A Case Study of Bosnia and Herzegovina

Master's Degree Programme in Democracy
and Human Rights in South-East Europe



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European Inter-University
Centre for Human Rights
and Democratisation

**EUROPEAN REGIONAL MASTER'S DEGREE IN DEMOCRACY
AND HUMAN RIGHTS IN SOUTH EAST EUROPE**

University of Sarajevo – University of Bologna

**THE CIRCLE OF SILENCE: WARTIME SEXUAL VIOLENCE
AGAINST MEN. A CASE STUDY OF BOSNIA AND
HERZEGOVINA**

MASTER THESIS SUBMITTED IN PARTIAL FULFILMENT OF
THE EUROPEAN REGIONAL MASTER'S DEGREE IN DEMOCRACY
AND HUMAN RIGHTS IN SOUTH-EAST EUROPE

BY

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14 OCTOBER 2015

71 PAGES

Acknowledgements

First and foremost, I would like to thank all the persons that dedicated some of their time to answer my questions and my interviews, and others who could not personally help me with my research, but gave me useful directions. All of them provided me with useful insight on the topic and on the current situation of war survivors in Bosnia and Herzegovina. Thank you to the people that supported me and helped me the most during my research process, namely Miroslav Živanović, Nina Karač and Snježana Ninković, who kindly played host me during the summer and shared so many laughs, coffees, and experience in the field of human rights in the country. Huge thanks to my academic supervisor, Prof. Manfred Nowak, and my tutor Adriano Remiddi, for the continuous encouragement and the constructive comments on my work. Last, but not least, thanks to my parents, Carla and Elia, and the friends that supported me throughout the whole year in many different ways: Anna, Efrem, Jovana, Kenan, Laura, Licia, Marina, Rastko, Roberta, and Valentina.

This work is dedicated to all the victims and survivors of sexual violence in conflict.

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INTRODUCTION

The conflict that raged in Bosnia and Herzegovina (BiH) in the first half of the Nineties saw, among other atrocities, the extensive use of sexual violence by all the three parties to the hostilities as a weapon of war and as a means of terrifying and humiliating the civilian population caught between the fighting parties. International attention gathered immediately around the high number of women and girls who had been sexually abused or otherwise tortured, and on the existence of all kinds of concentration camps and detention facilities where prevalently civilians were kept in inhumane conditions and ill-treated, not even 50 years after the experience of World War II and, most importantly, within the borders of Europe. From the beginning, and contrary to common belief, it was made clear by different international reports that women and girls were not the only one suffering sexual abuse: men and boys, above all in the above-mentioned camps and detention facilities, were also sexually assaulted and tortured. Despite that, male survivors of sexual violence have been overlooked and confined to a realm of silence.

What is, then, the origin of this silence? What is its impact on male survivors of sexual violence and on society? What are the dynamics that perpetuate it, and determine its very existence twenty years after the end of the conflict? The social construction of genders, that conceives masculinity as a monolithic category, rather than a spectrum of different kinds of maleness, assigns men a specific social role and characteristics, according to which men have to be strong, virile, in control, and heterosexual. When they are sexually assaulted, their position shifts towards the one generally associated with women, i.e. weak and subjected to victimization. In ethno-national conflicts, as sexual violence against women is perceived as the destruction of the national, racial, religious or ethnic culture, the same could be said for sexual violence against men: when the man is disempowered and emasculated, this symbolizes the disempowerment of the national, racial, religious or ethnic community. The gender positioning resulting from the rape is transferred on the ethnicity of the perpetrator and the abused, elevating the ethnicity of the first and diminishing the one of the latter.

The outcome of this research show that this point of origin determines a wide spectrum of practical consequences that are put in place by survivors themselves and other players and that ultimately confine male victims of sexual violence in a circle of silence which is extremely difficult to leave. Survivors do not speak up, being convinced that they did not measure up to their social role at that time, and on the top of that they often are not able to do it now, since they lack the possibility to provide for their family and are still

suffering from the physical, but most of all psychological, consequences of the violence they were subjected to. Haunted by the same stereotypes, society fosters this conviction in multiple ways, failing to create a supporting environment for survivors and thus preventing them from asking for help, should they want to. State institutions, on their part, contribute to this process by not implementing any single piece of legislation that could ameliorate the condition of this specific category of survivors, and entity legislations suffer from pitfalls that exclude a big part of them from social support. Judiciary institutions, as well, foster the silence by failing in multiple ways to create adequate conditions for survivors to speak up.

The structure of this work is divided into three parts. In the first chapter, I lay down the theoretical background of my research, outlining how the categories of gender, patriarchy and masculinity, in their interplay with the concepts of ethnicity and nation, can explain sexual violence against men as a product of power dynamics that act out not only between genders, but also among them. I use social constructionist frameworks and theories that look at gender as a social construction, mainly relying on Connell's theory of hegemonic masculinities, the construction of the male role as set out by Mosse and Jones, and the relationship existing between gender and nation as conceived by Yuval-Davis, Iveković and Mostov. The role of ethnicity is best explained by Žarkov and Hague. The second part is devoted to a major share of my empirical research, and explores in which way the constructions set forth in the first chapter determine very practical consequences and influence the survivors' and the societal response to this specific kind of violence. These reactions mutually reinforce each other, determining the initial expansion of the circle of silence. The third part is dedicated to institutional responses to the issue of wartime sexual violence: State and entity institutions in the country, instead of acting as a bridge between the survivors and society, do not implement any piece of relevant legislation or accurate provisions supporting the former, becoming a part of the mechanism that is labeling this offence as unspeakable and the people that suffered it as social outsiders.

The work is multidisciplinary in its character, insofar as it combines the symbolical, psychological, historical, institutional and legal aspects of the issue. The research for the case study of the silence surrounding male survivors of wartime sexual violence in BiH was conducted over the course of two and a half months and includes desk research and qualitative data gathered in the field through interviews conducted with professionals and NGOs' personnel working with war survivors and female and male survivors of sexual violence. The interviewees include a neuropsychiatrist, a doctor, five psychologists, four of whom work in the witness support sections of different tribunals in the country, as well as

four people pertaining to the NGO sector, and one person employed by the Government of the Republic of Srpska (RS). There are twelve interviews, eight of which were carried out in person and four by email.

The limitations of the study primarily relate to the sensitivity of the topic and to the fact that it is a taboo one, which constituted a problem during the field research. Since there was the potential risk of re-traumatizing survivors, I decided to refer to professionals working with them or dealing with the issue. However, it is difficult to find people working with male survivors of wartime sexual violence, as the overwhelming majority of survivors that decided to speak out are women and girls, and the services provided by NGOs are targeted mainly at them. My goal was to interview more people, but because of time limitations I could not reach them all. I have to say that I had difficulties in gathering information: I went to the premises of a couple of associations to conduct informative meetings to see whether it would be possible to receive relevant information from them. I received positive answers, but afterwards I never received the agreed material or I wasn't put in contact with the persons I should have met for interviews. Moreover, the topic of sexual violence against men and boys is under researched. The major studies conducted on male survivors of sexual violence in the post-Yugoslav space have been carried out in Croatia when the war was still going on or immediately after, notably by Dr. Mladen Lončar and the Medical Center for Human Rights. To my knowledge, there is no research on the long term consequences of wartime sexual violence on male survivors in BiH.

The aim of this work is to contribute to the existing debate on the situation of wartime sexual violence survivors in BiH, which is almost exclusively focused on women. Undoubtedly, there are more women survivors; they are highly stigmatized and suffer from physical and psychological consequences due to the abuse they suffered. Nonetheless, I would like to shed a light on the debate to include men as well, to encourage a more comprehensive appreciation of the diverse gender perspectives of the crime of sexual violence. Perhaps this work will encourage future research, and hopefully stimulate change and break the circle of silence, which would positively impact the conditions of survivors. The relevance lies in the fact that the actual scale of the issue is unknown, but these men are part of society and still carry with them the psychological wounds of their experience, often under the form of undiagnosed and untreated post-traumatic stress disorder, which is impeding them, on top of other obstacles, to get their normal lives back. Moreover, the family unit as a whole is also affected when one of its members suffers from this disorder, and there is a high probability of transferring it to children.

1. THEORETICAL BACKGROUND

This chapter introduces the main concepts and theories needed to explain the dynamics lying behind the rape of men in settings of conflict. In the first subchapter I briefly outline a first distinction between the concepts of sex and gender, introduce social constructionist and social learning paradigms, in addition to the structure of patriarchy and the theory of hegemonic masculinity. The second part is devoted to primordialist conceptualizations of ethnicity, and to primordialist and constructionist perspectives on nationalism. The third section deals with the mechanisms that trigger the usage of sexual violence in conflict and that partly determine its consequences.

1.1 Gender, patriarchy and hegemonic masculinity

In this first section I introduce the concept of gender as a construction and the value of individual agency in the construction of gender for the social constructionist and the social learning paradigms. Following clarification of the structure of the patriarchal system, I outline how masculinity is in reality composed of a range of different ways of ‘being a man’, foreseeing the existence of dominant, complicit, and subordinated masculinities. This background will be useful to understand how power dynamics develop not just between genders, as purported in a purely patriarchal scheme, but also within genders between different types of masculinities.

1.1.1 Gender as a social construction

Gender is and has been conceptualized in a wide range of ways within different fields of social sciences. There is no convention for the use of the terms “sex” and “gender” by all scholars dealing with these concepts, but there is a scheme which is common to at least many psychologists, foreseeing the use of the term “sex” to indicate the various biological aspects of being male or female (e.g. hormones, chromosomes, genitals), and “gender” as far as the social traits or cultural aspects associated with each sex are concerned.¹ On the other hand, other scholars, such as for example Eleanor Maccoby, conceive sex and gender as interchangeable terms, arguing that the distinction between the two is actually blurred, since biological and social traits of sex may interact with each other.² Despite the lack of unanimous agreement over these two categories, the concepts of gender identity, gender role

¹ Owen Blakemore, Judith E., Sheri A. Barenbaum & Lynn S. Liben. *Gender Development*. New York: Psychology Press, Taylor & Francis Group, 2009. 3.

² Golombok, Susan & Robyn Fivush. *Gender Development*. Cambridge: Cambridge University Press, 1998. First published 1994. 3.

and sexual orientation are generally understood as being different in character,³ albeit with variations among authors. Specifically, gender identity is one's private sense of being male or female, while gender role encompasses a set of attitudes and behaviors considered appropriate by society for males or females in a given culture. Sexual orientation relates to a person's sexual attraction toward a person of the other sex, the same sex or both.⁴

Among all the existing approaches, I draw on social constructionist frameworks, which are currently the most common theoretical perspectives in studying gender in a variety of social sciences, other than psychology.⁵ My choice is due to the fact that this conceptualization does not allow the reduction of sexual violence in conflict, both against men and women, as an inevitable result or an "unfortunate byproduct"⁶ of war. On the contrary, to adequately explain its causes and understand its consequences, wartime sexual violence has to be integrated in a broader theoretical framework encompassing strictly related concepts and their interplay, like patriarchy, masculinities, ethnicity and nation, as well as the codification of sexual violence as a form of communication, not as an act with a mere sexual value.⁷

The primary assumption common to social constructionist paradigms is that gender is not an inherent characteristic of men and women, but rather a socially formed and continually constituted variable that creates the social differences defining "women" and "men".⁸ Furthermore, gender is a process, in the sense that is actively constructed on multiple societal levels: as explained by Judith Lorber, "[i]n social interaction throughout their lives, individuals learn what is expected, see what is expected, act and react in expected ways, and thus simultaneously construct and maintain the gender order".⁹

Given the fact that this work explores also part of the psychological consequences of wartime sexual violence on men, I deem important to introduce as well the approach offered by social learning paradigms, which are the most common approaches in psychology when

³ Ibid.

⁴ Ibid.

⁵ Addis, Michael E. & Geoffrey H. Cohane. "Social Scientific Paradigms of Masculinity and Their Implications for Research and Practice in Men's Mental Health". *Journal of Clinical Psychology* 61, no. 6 (2005): 633-647. 639.

⁶ Niarchos, Catherine N. "Women, War, and Rape: Challenges Facing the International Tribunal for the Former Yugoslavia". *Human Rights Quarterly* 17 (1995): 649-690. 651.

⁷ Cfr. Alison, Miranda. "Wartime sexual violence: women's human rights and questions of masculinity". *Review of International Studies*, 33 (2007): 75-90. Vojdik, Valorie K. "Sexual Violence Against Men and Women in War: A Masculinities Approach". *Nevada Law Journal, Forthcoming. University of Tennessee Legal Studies Research Paper* 217 (2013): 923-952.

⁸ Marx Ferree, Myra, Judith Lorber & Beth B. Hess, eds. *Revisioning Gender*. Walnut Creek: Altamira Press, 2000. 5.

⁹ Lorber, Judith. "Night to His Day": The Social Construction of Gender". In *Paradoxes of Gender*. New Haven, Conn.: Yale University Press, 1994. 60.

studying gender.¹⁰ The common denominator of both social constructionist and social learning paradigms is the assumption that gender is a social construct. As a matter of fact, according to the social cognitive theory of gender development and differentiation offered by Kay Bussey and Albert Bandura, “society socializes male and female infants into masculine and feminine adults”:¹¹ they argue that, despite the fact that some gender differences are biologically determined, stereotypical conceptions, attributes and roles connected to both genders are predominantly set through a process that they call “cultural design”.¹²

There are three major mechanisms conveying gendered roles and conducts: modeling, enactive experience and direct tuition. People in one’s immediate environment, such as parents, relatives, peers and influential people in other social contexts are powerful models, as well as the ones presented by mass media; enactive experience lies in distinguishing the gender linkage of conduct from social reactions to one’s action, given the fact that in most societies gender-related behavior is allowed and approved; direct tuition is used to directly inform someone about different conducts related to gender.¹³ Throughout this process, individuals are not passive receivers of the aforementioned influences, but retain a share of personal agency: human behavior is neither exclusively defined and controlled by external factors nor solely driven by internal dispositions.¹⁴

In the framework of social cognitive theory, psychosocial functioning is the product of internal personal factors, behavioral patterns and environmental events that interact reciprocally in a way that cannot be predetermined¹⁵ and the relative weight of each component depends on the activities, situations, and sociostructural constraints and opportunities.¹⁶ for example, where strong normative social conditions tightly shape social roles and behavioral patterns, personal factors are less likely to have a strong influence on the other two elements.¹⁷ Moreover, gender role development and functioning are a life-long process, not limited to childhood, since rules of gender role conduct obviously vary according to different social contexts and periods of life.¹⁸ Although social learning paradigms and social constructionist approaches may appear very similar, the key difference is in the value

¹⁰ Addis, Michael E. & Geoffrey H. Cohane. “Social Scientific Paradigms”. 637.

¹¹ Bussey, Key & Albert Bandura. “Social Cognitive Theory of Gender Development and Differentiation.” *Psychological Review* 106, no.4 (1999): 676-713. 676.

¹² Ibid.

¹³ Ibid. 685.

¹⁴ Bandura, Albert. “Social cognitive theory: An agentic perspective”. *Asian Journal of Social Psychology* 2 (1999): 21-41. 23.

¹⁵ Ibid.

¹⁶ Bussey, Key & Bandura, Albert. “Social Cognitive Theory”. 685.

¹⁷ Ibid.

¹⁸ Ibid. 677.

accorded to individual agency:¹⁹ while social learning systems conceive the subjects as mere respondents to processes initiated by society, social constructionist ones view individuals as “active agents who construct particular meanings of masculinity [and femininity] in particular social contexts”.²⁰

1.1.2 Patriarchy

According to Peter Stearns, societies organize inequality, and it is necessary to pay attention to social structures to understand the past and the contemporary organization of a given culture.²¹ One of the possible forms of social structures commonly present today in many societies is patriarchy, a social arrangement in which society is ruled by men:²² in as much as they own the monopoly of high-status positions in a range of important social, economic, legal, military and religious institutions, men possess structural power and, thanks to this status, exert control over social interaction with people that are status-inferior.²³ Moreover, they are in the position to confirm their stereotypes of women “by ignoring disconfirming information and focusing on information that fits their stereotypes.”²⁴

The definition of patriarchal cultures proposed by the sociologist Allan G. Johnson can be very useful to understand how these principles generally apply to many modern societies. Johnson characterizes a patriarchal society as male dominated, male identified and male centered, organized around an obsession with control and featuring the oppression of women as a crucial aspect.²⁵ Male dominance refers to the fact that positions of authority, such as the ones previously mentioned, are generally reserved for men, creating power differences between men and women not exclusively limited to income, wealth and political influence, but also cultural and related to other fields, promoting the idea that men are superior to women.²⁶ The main traits of male identification are the association of core cultural ideas about what is considered normal, good or desirable in men and masculinity, as well as the cultural description of masculinity and the ideal man with characteristics deemed to be the core value of the whole society (control, strength, invulnerability, rationality, autonomy,

¹⁹ Addis, Michael E. & Geoffrey H. Cohane. “Social Scientific Paradigms”. 639.

²⁰ Ibid.

²¹ Stearns, Peter. “Part III: Reintroducing and refining social structure in social history”. *Journal of Social History* 39, no.3 (2006): 779-781. 781.

²² Kahn, Jack S. *An Introduction to Masculinities*. Oxford: Wiley-Blackwell, 2009. 23.

²³ Marx Ferree, Myra, Judith Lorber & Beth B. Hess, eds. *Revisioning Gender*. 373.

²⁴ Ibid.

²⁵ Johnson, Allan G. *The Gender Knot: Unravelling our patriarchal legacy*. Philadelphia, PA: Temple University Press, 1997. 5.

²⁶ Ibid., 5-6.

etc.).²⁷ Patriarchal societies are male centered insofar as their cultural focus are the activities of men, portrayed through cultural institutions that are male dominated and advocate for men's perspectives, as it could be argued for the media.²⁸

Control is strictly linked to and related to the oppression of women, as a means used by men to maintain the privileges they enjoy being in a higher-status position, which puts them in the condition of always having to be in control.²⁹ The same position is shared by Sylvia Walby, according to which patriarchy is the “system of social structures, and practices in which men dominate, oppress and exploit women”.³⁰ By privileges, when considering a specific patriarchal context, we should intend the advantages socially attached to the “male” category, taking also into consideration that not all men have access to them, for also other characteristics enter into play, such as race, sexual orientation and disability status, just to name a few.³¹ In opposition to what is suggested by this notion of patriarchy, Nira Yuval-Davis argues that women are not a passive component of this system, but participate actively in the determination of gender relations.³²

1.1.3 Hegemonic masculinity

The theory of hegemonic masculinity conceptualized by R. W. Connell in the mid-1980s describes the mechanisms that in practice allow men's dominance over women to be replicated in time and space, and at the same time constitutes a break with all the previous theories that considered masculinity as a monolithic category. Connell's conceptualization of masculinity is particularly relevant in the scope of my work, for it has been confirmed by a plurality of empirical studies and it has been put to work across different issues, among which violence and counseling: it has been shown that knowledge about masculinity is relevant respectively to the prevention of masculine violence in various contexts, from sexual assault to war, and for effective psychotherapy in men because it takes into account gender relations and gender specificity.³³

According to Connell, there are, in fact, multiple masculinities within a single given society, “configurations of practice that are accomplished in social action and can, therefore,

²⁷ Ibid., 6-7.

²⁸ Ibid. 10.

²⁹ Ibid. 14.

³⁰ Walby, Sylvia. *Theorizing patriarchy*. Oxford, UK: Blackwell, 1990. 20.

³¹ Cfr. McIntosh, Peggy. “White Privilege and Male Privilege”. In *Gender Basics: Feminist Perspectives on Women and Men*, 2nd ed., ed. Anne Minas. Belmont, CA: Wadsworth, 2000.

³² Yuval-Davis, Nira. *Gender & Nation*. London: SAGE Publications, 1997. 8.

³³ Connell, R. W. *Masculinities*, 2nd ed. Berkeley & Los Angeles, CA: University of California Press, 2005. xv, xvi.

differ according to the gender relations in a particular social setting”.³⁴ Hegemonic masculinity is the embodiment of the characteristics associated with being a man in a specific cultural and societal system or sub-system, like a particular institution for example, and in the same time the ideological legitimation of the subordination of women to men, as the men positioned in this category fully enjoy the privileges of patriarchy.³⁵ Nevertheless, despite its normative character, not all men fulfill the model, just a minority among them, while all the others are bound to position themselves in relation to it.³⁶ As a matter of fact, there is also a hierarchy among masculinities, where men that continue to receive the benefits of patriarchy without enacting a hegemonic masculinity type of dominance show compliance with the main group.³⁷ Finally, there is a subordinated group of men, the ones that get marginalized or excluded, that position themselves at the other pole with respect to the hegemonic group.³⁸

One of the most, but for sure not the only one, widespread patterns of subordination among different hierarchies of masculinity in Europe is the dominance of heterosexual men and the oppression of homosexual men through cultural stigmatization, but also concrete acts and practices that range from political and cultural exclusion to physical violence.³⁹ Due to the fact that heteronormativity is an essential feature of patriarchal ideology, homosexuality symbolically represents whatever is rejected by hegemonic masculinity.⁴⁰ In this view, since male identity is socially constructed in opposition to some model of female identity, homosexuality is strongly associated with femininity, hence categorically rejected and repelled.⁴¹

Hegemonic masculinity can assume numerous configurations, and is not necessarily linked to violence, although violent practices are used to impose gender dominance in particular settings.⁴² John Tosh goes further, claiming that “control (even oppression) is in some way integral to masculinity, providing a framework for placing men in relation to women and to those males whose manhood is for some reason denied.”⁴³ However, other possible and important configurations of hegemony could be “cultural consent, discursive

³⁴ Connell, R. W. & James W. Messerschmidt. “Hegemonic Masculinity: Rethinking the Concept”. *Gender & Society* 19, no.6 (2005): 829-859. 836.

³⁵ Ibid. 832.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Connell, R. W. *Masculinities*. 78.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Connell, R. W. & James W. Messerschmidt. “Hegemonic Masculinity”. 840.

⁴³ Tosh, John. “Hegemonic Masculinity and the History of Gender”. In *Masculinities in Politics and War: Gendering Modern History*, eds. Dudink, Stefan, Karen Hagemann & John Tosh. Manchester: Manchester University Press, 2004. 42.

centrality, institutionalization and the marginalization or delegitimation of alternatives”.⁴⁴ Most importantly, the dominance of any group of men can be changed, making hegemony an open process from the historical point of view, susceptible of changes in the social definitions of masculinity.⁴⁵

The outlined theories and concepts are functional and fundamental to the understanding of the meaning of sexual violence in war and to contextualize the current position of the people that experienced it during the conflict between 1991 and 1995. With the same purpose, in the next subchapter I introduce the concepts of ethnicity and nation, as well as the importance of gender connected to nation and to processes of nation-building.

1.2 Ethnicity and nation

Conceptions of ethnicity and nation also play an important role when it comes to power dynamics. I examine in particular the primordialists’ view of ethnicity and the analogous idea of nation as kinship ties. I as well present the notion of nation as a construction, to establish then a link with gender in the following section.

1.2.1 Ethnicity

Despite the term “ethnicity” being quite recent, the adjective “ethnic” as a derivative of the much more ancient Greek term “ethnos” has been used for centuries. The latter, in particular, whatever the specific usage, conveyed the meaning of a group of people or animals different from one’s own and sharing among them some cultural or biological characteristic, as well as living and acting together, thus creating from the beginning a mutual separation of a non-ethnic ‘us’ and ethnic ‘others’.⁴⁶ Anthony Smith lists six main features of an “ethnie”, an ethnic community: a proper name; a myth of common ancestry including the idea of a common origin, which gives to the group a sense of kinship; shared memories of common past, heroes and events; elements of common culture, like language, religion or customs; a link with a homeland; and, a sense of collective solidarity.⁴⁷ The stress is here on the subjective identification of individuals with the community, while Anna Krasteva associates the terms “ethnie” and “ethnicity” respectively with the ontological, i.e. objective, existence of a given group, and with the groups’ subjective sense of belonging.⁴⁸

⁴⁴ Ibid. 846.

⁴⁵ Ibid. 838.

⁴⁶ Hutchinson, John & Anthony D. Smith, eds. *Ethnicity*. Oxford: Oxford University Press, 1996. 4.

⁴⁷ Ibid. 5-6.

⁴⁸ Krasteva, Anna. “Theories and Politics of Ethnicity”. Lecture at the Centre for Interdisciplinary Postgraduate Studies, University of Sarajevo, Bosnia and Herzegovina, 9th of February 2015.

Ethnicity is and has been a much debated concept among scholars, with the consequential flourishing of different theories about what ethnicity actually is, how it is conceived and what its indicators are. Two of these theories, primordialism and instrumentalism, are particularly significant and are at the two poles of a continuum where all the other conceptualizations find their own position. As a matter of fact, primordialism conceives ethnicity as given, while the instrumentalist approach defines it as a social construction. For the purposes of this work, I want to introduce the main elements of primordialism, since this theoretical approach is functional to further explaining the link between ethnicity, nationalism and sexual violence in conflict in the specific context of Bosnia and Herzegovina.

The concept of “primordialism”, first coined by Edward Shils in 1957, was taken up some years later by Clifford Geertz to explain how certain kinds of tie are perceived to be natural and fundamental:

“These congruities of blood, speech, custom, and so on, are seen to have an ineffable, and at times overpowering, coerciveness in and of themselves. One is bound to one’s kinsman, one’s neighbor, one’s fellow believer, ipso facto; as the result not merely of personal affection, practical necessity, common interest, or incurred obligation, but at least in great part by virtue of some unaccountable absolute import attributed to the very tie itself. The general strength of such primordial bonds, and the types of them that are important, differ from person to person, from society to society, and from time to time. But for virtually every person, in every society, at almost all times, some attachments seem to flow more from a sense of natural – some would say spiritual – affinity than from social interaction.”⁴⁹

This “basic group identity”, as defined by Harold Isaacs, derives from belonging to one’s own ethnic group, hence assigned at birth and more constituent than any other social bond.⁵⁰ From the moment of the birth, each child receives the whole past of his or her own group through a given individual name, the transmission of history and origins, a nationality, a language, a religion, a value system, exactly like his or her family received it before them.⁵¹ Max Weber criticized the concept of group affinity, labeling it a “subjective belief” with an “artificial origin”.⁵² Erica Harris argues that historical memory does not necessarily correspond with the actual events, since it is at least partially constructed by omitting facts and neglecting contexts with the purpose of justifying national narratives, rather than

⁴⁹ Geertz, Clifford, “The integrative revolution”. In *Old Societies and New States*, ed. Clifford Geertz, New York: Free Press (1963). 109.

⁵⁰ Isaacs, Harold R. “Basic Group Identity: The Idols of the Tribe”. In *Ethnicity: Theory and Experience*, eds. Glazer, Nathan & Daniel Patrick Moynihan, Cambridge, Mass.: Harvard University Press, 1975. 29-30.

⁵¹ *Ibid.* 32.

⁵² Weber, Max. “The Origins of Ethnic Groups”. In *Ethnicity*, eds. Hutchinson, John & Anthony D. Smith, Oxford: Oxford University Press, 1996. 35.

supporting them with facts.⁵³ Disagreeing with the idea that ethnicity constitutes the time-persisting essence of a group of people that believes in a unique origin, Sian Jones offers a clear cut definition of ethnic identity as the “person’s self-conceptualization which results from identification with a broader group in opposition to others on the basis of perceived cultural differentiation and/or common descent.”⁵⁴

Pierre Van den Berghe posits that, on the contrary, ethnicity has a lot to do with kinship or “blood” ties, in the sense that descent is the essential element of definition not only of ethnic groups, but also of nations:⁵⁵ “ethnicity is common descent, either real or putative, but, even when putative, the myth has to be validated by several generations of common historical experience”,⁵⁶ meaning that the common origin could also be a subjective and invented belief, but cannot be constructed, and through its perpetuation over time it has become tremendously effective and perceived as extremely bonding. Van den Berghe’s view is that ethnic sentiments are indeed the extension of family sentiments, and that there exists a behavioral predisposition in human beings that compel them to favor the components of “their” group, perceived as kin, rather than the “others”, the nonkin, originating a form of nepotism that is as strong as the closeness of the involved bond.⁵⁷

Primordialism has been criticized for being too similar to nationalism, but it explains the force and the stability of ethnicity, and takes into account affectivity.⁵⁸ Indeed, the concept of ethnicity as an extended family provided to be very useful also in the case of nationalism. As explained by Smith, “[t]he nation is depicted as one great family, the members as brothers and sisters of the motherland or fatherland, speaking their mother tongue. In this way the family of the nation overrides and replaces the individual’s family but evokes similarly strong loyalties and vivid attachments.”⁵⁹

1.2.2 Nation

The concept of nation has received the attention of multiple scholars and theoreticians, giving rise to a vast body of literature that expresses the variety of viewpoints concerning primarily what a nation is, what its origin is, which dynamics govern it, and what

⁵³ Harris, Erika. “What is about “Eastern nationalism” and what are the implications for studies of ethnicity today?” *Nationalism and Ethnic Studies*, 18 (2012): 337 – 357. 350.

⁵⁴ Jones, Sian. *The Archaeology of Ethnicity: Constructing identities in the past and present*. London & New York: Routledge, 1997. Xiii.

⁵⁵ Van den Berghe, Pierre L. *The Ethnic Phenomenon*. Westport, CT: Greenwood Press, 1981. 15.

⁵⁶ *Ibid.*, 16.

⁵⁷ *Ibid.*, 18, 19.

⁵⁸ Krasteva, Anna. “Theories and Politics of Ethnicity”.

⁵⁹ Smith, Anthony D. *National Identity*. Reno, Nevada: University of Nevada Press, 1991. 79.

the relationship between the state and the nation is or should be. It is, of course, outside the scope of this work to review the wide panorama of interpretations; rather, I would like to introduce two specific theories that I deem important to contextualize the following subchapter and the conflict that raged in the former Yugoslavia in 1991-1995. The two approaches are the primordialist and the constructivist ones. Broadly speaking, primordialist theories maintain a naturalized image of the nation, where blood ties, kinship and belonging come before all other forms of identity; on the contrary, constructivist approaches conceive the nation as constructed through élite-driven processes.

Smith argues that the nation is a modern phenomenon with a natural character. Nations are characterized by socio-political features that were impossible to attain in pre-modern times – legal and economic uniformity throughout a compact territory, a unified 'political culture' and public, mass education and media systems, to socialize future generations to be 'citizens' of the new nation – but are as well deep-rooted in a cultural-psychological ground:⁶⁰ “the *raison d'être* of any nation (as opposed to state), ... it is ... the cultivation of its unique (or allegedly unique) culture values[.] Ethnic distinctiveness remains a *sine qua non* of the nation, and that means shared ancestry myths, common historical memories, unique cultural markers, and a sense of difference, if not election – all the elements that marked off ethnic communities in pre-modern eras. In the modern nation they must be preserved, indeed cultivated, if the nation is not to become invisible.”⁶¹

The natural character of the nation can be seen in the conceptualisations of Herder and Fichte, which consider the nation as being eternal and universal phenomena. According to Herder, a nation is defined by cultural belonging: the nation is made one by common traditions, an enduring way of life and a collective memory grounded in a particular language.⁶² The latter, in particular, is the natural power that integrates people within a particular community and provides them with a common national identity: the nation is the ground of the state, but without a common national identity, a shared community which involves more than just the equality of rights and procedures, the state alone can never create a common sense of loyalty and belonging.⁶³ By birth, an individual pertains to a specific community, with its language and culture: it follows that cultural identity is the supreme form of belonging, which is shared with the other people in the community.

⁶⁰ Ibid., 69.

⁶¹ Ibid., 70.

⁶² White, Richard. “Herder: On the Ethics of Nationalism”. *Humanitas*, XVIII, nos. 1 and 2 (2005): 166-181. 171.

⁶³ Ibid., 172.

Fichte sees national identity as depending on the purity of the language, and the national character of a people as determined by something original, i.e. natural. Of fundamental importance is also the continuous development of this character, meaning the man's belief in the eternal continuance of the people from which he has originated, without the corruption by any alien element, thus ensuring ethnic homogeneity: for this purpose, the man is willing to sacrifice himself for his people. People and the fatherland in this sense transcend the state: as a matter of fact, the love of the fatherland must itself govern the state and be the supreme, final and absolute authority. The love of the fatherland governs the state by placing before it a higher object than the usual one of maintaining internal peace, property, personal freedom and the life and well-being of all the citizens: this higher object is the freedom that an original people needs in order to have the security to continue existing exactly as an original people (with its soil, language, way of thinking, original and independent life).⁶⁴

Opposing these naturalized conceptualizations, Anderson, Gellner and Hobsbawm, albeit with differences, proposed the idea of the nation as a construction, resulting from modern developments in European history. Anderson argues that nations began to arise only when the convergence of capitalism and print technologies opened the possibility of reading to other classes of people other than the elites, thus spreading mass publications in vernacular languages and no longer in religious languages, creating national "imagined communities".⁶⁵ Gellner claims that nationalism is not the awakening of some old, latent force, but rather the offspring of a new form of social organization based on standardized, homogenous high cultures pervading entire pre-existent cultures.⁶⁶ Nationalism is in fact "the general imposition of a high culture on society".⁶⁷ Finally, according to Hobsbawm, the nation rests on "invented traditions", operations of "social engineering" that aim at turning a plural society into a singular one, thus creating a sense of unity: among others, the development of primary education, the invention of public ceremonies and the mass production of public monuments have been particularly relevant.⁶⁸

⁶⁴ Cfr. Fichte, Johann Gottlieb. "Eight Address". In *Addresses to the German Nation*, trans. Jones, R.F. & G.H. Turnbull. London: The Open Court Company Publishers, 1922. 130-151.

⁶⁵ Anderson, Benedict. "Imagined Communities". In *Ethnicity*, eds. Hutchinson, John & Anthony D. Smith, Oxford: Oxford University Press, 1996. 89-95.

⁶⁶ Gellner, Ernest. "Nationalism and Modernization". In *Ethnicity*, eds. Hutchinson, John & Anthony D. Smith, Oxford: Oxford University Press, 1996. 63.

⁶⁷ *Ibid.*, 65.

⁶⁸ Hobsbawm, Eric. "The Nation as Invented Tradition". In *Ethnicity*, eds. Hutchinson, John & Anthony D. Smith, Oxford: Oxford University Press, 1996. 76, 77.

1.3 Wartime sexual violence as a man-to-man communication and assertion of power

Sexual violence in conflict gained visibility at international level, and prominence on the international agenda, after the mass rape of women that took place in Rwanda in 1994 and in the former Yugoslavia in 1992-1995, giving birth to a vast body of scholarly literature which mostly deals with violence against women, disregarding the fact that men have also been the target of various forms of violence, included sexual torture and sexual assault. Inger Skjelsbæk recognizes three main conceptualizations of the relationship between sexual violence and war, namely the “essentialist”, the “structuralist” and the “social constructionist”, out of which actually only the last one offers a theoretical framework that explains the targeting of both men and women with sexual violence in the war zone,⁶⁹ and it is the one I am going to refer to. As a matter of fact, as previously outlined, this perspective regards gender relations not only as given through patriarchy, where the relations between men and women are predetermined; rather,

“[G]ender is not a trait of individuals at all, but simply a construct that identifies particular transactions that are understood to be appropriate to one sex. Gender so defined is not resident in the person but exists in those interactions that are socially construed as gendered. From this view, relationality or morality is a quality of interactions not of individuals, and it is not essentially connected with sex. What it means to term a transaction feminine or masculine is socially agreed upon and is reproduced by the very process of participating in that transaction.”⁷⁰

As noted by Yuval-Davis, the major theorizations about the nation and nationalism do not take into consideration gender as a variable, not even the “primordialists” school, which conceives nations as a direct extension of kinship ties.⁷¹ As explained by Rada Iveković and Julie Mostov, while gender and nation are constructed socially and historically, it is impossible to examine them separately, since they reciprocally contribute to their respective formation:⁷²

“[N]ations are gendered; and the topography of the nation is mapped in gendered terms (feminized soil, landscapes, and boundaries and masculine movement over these spaces). National mythologies draw on traditional gender roles and the nationalist narrative is filled with images of the nation as mother, wife and maiden. Practices of nation-building employ social constructions of masculinity and femininity that support a division of labor in

⁶⁹ Skjelsbæk, Inger. “Sexual Violence and War: Mapping Out a Complex Relationship”. *European Journal of International Relations*, 7, no.2 (2001): 211-237.

⁷⁰ Bohan, Janis S. “Regarding Gender: Essentialism, Constructionist, and Feminist Psychology”. In *Toward a New Psychology of Gender*, eds. Gergen, Mary M. & Sara N. Davis, New York: Routledge, 1997. 33.

⁷¹ Yuval-Davis, Nira. *Gender & Nation*. 1.

⁷² Iveković, Rada & Julie Mostov, “Introduction. From Gender to Nation”. In *From Gender to Nation*, eds. Iveković, Rada & Julie Mostov, Ravenna: Longo Editore, 2002. 9-10.

which women reproduce the nation physically and symbolically and men protect, defend, and avenge the nation.”⁷³

With the rise of modern nationalism in the 18th century, specific ideals of manliness and womanliness served to assign distinct and specific roles to men and women.⁷⁴ Masculinity represented what society had to consider normal and universal; it was a synonym of depth and seriousness, and was idealized as the foundation of the nation and the society.⁷⁵ By contrast, femininity was quite ambiguous: while being characterized by shallowness and frivolity, the woman was at the same time a national symbol and the guardian of the traditional order.⁷⁶ The masculine and the Fatherland, i.e. the power and the strength of the political and military force, are portrayed as active, while the feminine and the Motherland – mothers, lovers, homes and collective body – as passive and vulnerable.⁷⁷

The ideal of modern masculinity as a stereotype was born between the end of the 18th century and the beginning of the 19th, and has not changed considerably overtime.⁷⁸ The stereotype became normative, determining the patterns of morality and behavior that were considered acceptable within a social setting, and was a standardized mental picture of how a man ought to be, both in his look and inner characteristics, in a way that outward appearance was deemed to be an indicator of a man’s worth, and a reflection of society’s traditional values.⁷⁹ Qualities pertaining to masculinity were considered to be: honor, will power, courage, self-restraint (“real men do not cry”), loyalty, perseverance, righteousness, autonomy, steadfastness, disregard of danger, honesty, lack of passion, bravery, pride, dignity, heroism, sacrifice on behalf of a higher purpose and general physical toughness, necessary to defend one’s honor.⁸⁰ Finally, above all from the First World War onwards, militarism and masculinity have been closely tied together, reinforcing the image of the warrior as an ideal to aim at, whose core values were courage, sacrifice and camaraderie.⁸¹

⁷³ Ibid. 10.

⁷⁴ Mosse, George L. *Nationalism and Sexuality: Respectability and Abnormal Sexuality in Modern Europe*. New York: Howard Fertig, Inc., 1985. 16.

⁷⁵ Ibid. 16-17.

⁷⁶ Ibid. 17.

⁷⁷ Iveković, Rada & Julie Mostov, “Introduction. From Gender to Nation”. 10-11.

⁷⁸ Mosse, George L. *The Image of Man: the Creation of Modern Masculinity*. Oxford: Oxford University Press, 1996. 5.

⁷⁹ Ibid. 4-5.

⁸⁰ Ibid. 19-23.

⁸¹ Ibid. 107-108.

Connections between masculinity and being a warrior are anyhow widely present in different cultures and have proved to endure over time, even across centuries.⁸²

Within ethnic and national discourses, where the myth of a “common origin” is pivotal in the construction of the new ethnic and national identities, as was the case before, during and after the break-up of Yugoslavia, the role of women is central insofar as they are identified with the biological, cultural and symbolic reproducers of the respective national and ethnic collectives.⁸³ As a matter of fact, women are conceived as the mothers of the new members of the community, especially as mothers of “the country’s guardians, heroes and martyrs”,⁸⁴ and are traditionally tasked with the transmission of the cultural elements and the system of values typical of their collectivity, hence the preoccupation with potential sexual relationships between members of different collectives that want to maintain the ‘purity’ of their ‘common origin’.⁸⁵

More importantly, within the nationalistic discourse, the reproductive function of women constitutes them as borders between different ethnic or national groups, in a way that the violation of the individual woman symbolizes the violation of the other group and its borders, “an act against the collective men of the enemy nation”.⁸⁶ The “other’s” women are enemies, because they reproduce the “other’s” nation, while “our” women must be protected and controlled: “our” women must be defended as borders; the “other’s” women should be violated as the other’s territory.⁸⁷ Within a context where the nation symbolically represents the family, the power relations established with patriarchy are replayed in the control of motherhood and reproduction by the “fatherhood”, rendering sexual relations and procreation political acts supervised by the state through moral and cultural institutions, typically religious bodies and the family.⁸⁸ The act of violating the “other’s” women becomes a clear message of attack and invasion toward the other men: it is the immediate conquest of the women through penetration, but also the defeat of the men and of the entire nation.⁸⁹ Ultimately, as argued by Alison, it is a communication between hegemonic and subordinate masculinities, where the former wants to achieve ethnic and national power.⁹⁰

⁸² Goldstein, Joshua S. *War and Gender: How Gender Shapes the War System and Vice Versa*. Cambridge: Cambridge University Press, 2001. 47.

⁸³ Yuval-Davis, Nira. *Gender & Nation*. 2, 26.

⁸⁴ Iveković, Rada & Julie Mostov, “Introduction. From Gender to Nation.” 11.

⁸⁵ Yuval-Davis, Nira. *Gender & Nation*. 27.

⁸⁶ Iveković, Rada & Julie Mostov, “Introduction. From Gender to Nation”. 11.

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ Alison, Miranda. “Wartime sexual violence.” 81.

⁹⁰ Ibid. See also: Vojdik, Valorie K. “Sexual Violence Against Men and Women in War.” 926.

Within this perspective, the act of rape is about power and dominance, where power dynamics can be established both between men and women, and between men and men, since both forms of violence assume the same constructions of masculine domination.⁹¹ As a matter of fact, if we maintain that wartime sexual violence against women is intended to communicate to the men of their community that they have failed in their duty to protect their women and their borders, the feeling of impotence and lack of power is even more striking if they become the target of the assault.⁹² As has already been explained, masculinities are not powerful or violent by definition, and power relations are negotiated according to the context and the actual circumstances; however hegemonic masculinity can generally be equated with the power-holder, while the victims are in an inferior and subordinate position.

The maintenance of hegemonic masculinity and of its main features – physical strength, practical competence, sexual performance, and protection of women – in this context requires disrespect not only for women’s empowerment, but also for other forms of masculinity.⁹³ Most of all, heteronormativity is the rule. The stereotype of modern masculinity outlined by Mosse did not define itself exclusively against femininity, but also against a countertype, i.e. a negative stereotype of man that failed to measure up to the ideal and became the opposite of true masculinity, reinforcing the normative stereotype: the “reminder of a failed manhood that threatened the established order”⁹⁴ sanctioned heterosexuality as “a required part of manliness.”⁹⁵ Such outsiders could have no honor, one of the most essential traits of manhood.⁹⁶ Among all others, homosexuals and mentally ill people were on the list: homosexuals, in particular, have been attributed all the traits of the outsiders and were considered particularly despicable, insofar as they had broken the lines of demarcation between genders, considered essential above all in times of social and political insecurity.⁹⁷

Masculinity operates through the emasculation, feminization and homosexualization of the other men, thus symbolically transforming them into gendered “feminine” identities.⁹⁸ The perpetrator constructs the other men as feminine, weak and powerless, thus reasserting his identity as masculine through the exercising of power over the situation, even if on

⁹¹ Sivakumaran, Sandesh. “Sexual Violence Against Men in Armed Conflict”. *The European Journal of International Law*, 18, no.2 (2007): 253-276. 267.

⁹² *Ibid.* 268.

⁹³ Alison, Miranda. “Wartime sexual violence.” 76.

⁹⁴ Mosse, George L. *The Image of Man*. 5, 66.

⁹⁵ Connell, R. W. *Masculinities*. 196.

⁹⁶ Mosse, George L. *The Image of Man*. 63.

⁹⁷ *Ibid.* 66.

⁹⁸ Hague, Euan. “Rape, Power and Masculinity: The Construction of Gender and National Identities in the War in Bosnia-Herzegovina”. In *Gender and Catastrophe*, ed. Lentin, Ronit, London & New York: Zed Books, 1997: 50-63. 54, 55.

physical grounds the rape could be defined as “homosexual”.⁹⁹ As a matter of fact, regardless of the actual gender of the perpetrator or victim, masculinity is always attributed to the perpetrator and femininity to the victim.¹⁰⁰ As Loizos points out, “[a] man who acts as the active partner in homosexual intercourse can still retain his self-respect as conventionally male ... men fuck and this is a masculine and dominant thing to do, and whomever or whatever is so used is the subordinated and therefore inferior party ... penetration can be as much about power, then, as intimacy ... [and] to have penetrative sex with someone is ... thus to feminize him.”¹⁰¹ In the case of prisoner-to-prisoner rapes, the prisoners are both constructed as “feminine”, while the perpetrators reasserted their masculinity holding the power to force other men to commit these acts.¹⁰²

Moreover, gender stereotyping leads to the conviction that men cannot be victims, only perpetrators: where victims are considered weak and helpless. This is also incompatible with the understanding of masculinity that pervades most societies, and they are considered as having been deprived of their masculine attributes and characteristics.¹⁰³ Either you are a real man, or you are a victim – weak and helpless, like a woman. A further proof that wartime sexual violence is an expression of dynamics related with masculinities is gang rape: bonding feelings and loyalty – male qualities – are reinforced through this experience,¹⁰⁴ and at the same time often reveal the presence of multiple masculinities. As a matter of fact, within the same group of rapists there were often men that showed a sense of guilt for what they were committing, but were or felt forced by other men in the same group to act in concert,¹⁰⁵ thus showing that within this single small community there was a hegemonic masculinity that had the power and the authority (moral or physical) to coerce others to conform to the norm it set, and a complicit masculinity that followed the lead.

As put forward by Jones, the vulnerability of noncombatant men in situations of military conflict, ethnic struggles and genocide is also a byproduct of the heteronormativity which rules in militarized settings, where the inability, neglect, or refusal to bear arms symbolically deprives the noncombatant but battle-age male of his entire masculine

⁹⁹ Ibid. 55, 56.

¹⁰⁰ Sivakumaran, Sandesh. “Sexual Violence Against Men in Armed Conflict”. 272.

¹⁰¹ Loizos, Peter. “A broken mirror: masculine sexuality in Greek ethnography”. In Cornwall, Andrea & Nancy Lindisfarne, eds. *Dislocating Masculinity: Comparative Ethnographies*, London: Routledge, 1994. 72.

¹⁰² Hague, Euan. “Rape, Power and Masculinity”. 56.

¹⁰³ Sivakumaran, Sandesh. “Sexual Violence Against Men in Armed Conflict”. 270.

¹⁰⁴ Hague, Euan. “Rape, Power and Masculinity”. 56.

¹⁰⁵ Ibid.

attributes.¹⁰⁶ From the nationalist perspective, these men do not want or are not able to protect their women and the nation,¹⁰⁷ which devalues them as men, since these should be their primary functions as such. The victimization of noncombatant men and adolescent boys in war and genocide is the result of militarized expressions of violence that act to boost hegemonic masculinity, which is competitive and entails victory over the enemy, in a way that the latter is frequently feminized as a consequence of his defeat.¹⁰⁸ In turn, this may set the stage for atrocities and forms of violence ranging from castration to gendercidal mass murder of captured prisoners of war.¹⁰⁹

In ethno-national conflicts, as sexual violence against women is perceived as the destruction of the national, racial, religious or ethnic culture, the same could be said for sexual violence against men: when the man is disempowered and emasculated, this symbolizes the disempowerment of the national, racial, religious or ethnic community. The gender positioning resulting from the rape is transferred to the ethnicity of the perpetrator and the abused, elevating the ethnicity of the first and diminishing that of the latter.¹¹⁰

2. FACETS OF SILENCE

This chapter is dedicated to a major part of my empirical research. The first part clarifies the perception of the crime of sexual violence within international humanitarian law and international criminal law and contextualizes the previous theoretical chapter in the specific framework of Bosnia and Herzegovina. Through in-depth and written interviews that

¹⁰⁶ Jones, Adam. "Straight as a Rule. Heteronormativity, Gendercide, and the Noncombatant Male". *Men and Masculinities*, 8, no. 4, (2006): 451-469. 451.

¹⁰⁷ Mostov, Julie. "Role of Gender in Shaping the Nation and the Borders". Excerpt from the lecture held at the 21th CEI International Summer School: "Managing Diversities in Democracy: Minorities, Territories, Self-Determination", Santa Sofia, FC, Italy, 9th of September 2015.

¹⁰⁸ Jones, Adam. "Straight as a Rule." 457.

¹⁰⁹ Ibid. "Gendercide" is a term coined by the scholar Mary Anne Warren to refer to "the deliberate extermination of persons of a particular sex (or gender)". Warren, Mary Anne. *Gendercide: The implications of sex selection*. Totowa, NJ: Rowman & Allanheld, 1985. 22.

¹¹⁰ Žarkov, Dubravka. "The Body of the Other Man: Sexual Violence and the Construction of Masculinity, Sexuality and Ethnicity in Croatian Media". In Moser, Caroline O.N. & Fiona C. Clark, eds. *Victims, Perpetrators or Actors? Gender, Armed Conflict and Political Violence*, London & New York: Zed Books, 2001. 78, 79.

I held with one neuropsychiatrist, five psychologists and four people working in relevant non-governmental organizations, I explain the variables that may cause silence and underreporting on the part of survivors of sexual violence and how society is responding to the issue, at the same time determining part of it.

2.1 The development of the understanding of sexual violence in conflict

The main international humanitarian law instruments contain prohibitions, whether explicit or implicit, against sexual violence.¹¹¹ The 1863 Lieber Code explicitly prescribes the death penalty as a response to rape.¹¹² Prohibitions against sexual violence are also codified: in the Fourth Geneva Convention of 1949, governing the protection of civilians during wartime, and providing that “[w]omen shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution and any form of indecent assault”;¹¹³ in Additional Protocol I, which applies in situations of international armed conflict, providing that: “[w]omen shall be the object of special respect and shall be protected in particular against rape, forced prostitution and any other form of indecent assault”;¹¹⁴ and in Additional Protocol II, which applies in non-international armed conflicts, prohibiting: “outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault”.¹¹⁵

Sexual violence is prohibited, even though in a less clear fashion, in the 1907 Hague Convention, which applies during a military occupation, asserting that “[f]amily honour and rights, the lives of persons, and private property, as well as religious convictions and practice,

¹¹¹ Organization for Security and Co-operation in Europe (OSCE) – Mission to Bosnia and Herzegovina. “Combating Impunity for Conflict-Related Sexual Violence in Bosnia and Herzegovina: Progress and Challenges. An analysis of criminal proceedings before the Court of Bosnia and Herzegovina between 2005 and 2013” [hereinafter OSCE, “Criminal proceedings before the Court of BiH”], February 2014. 24. Available at: <http://www.osce.org/bih/117051?download=true>.

¹¹² Instructions for the Government of Armies of the United States in the Field (Lieber Code) (Washington, 24 April 1863). Arts. 44, 47. Available at: <http://www.icrc.org/ihl/INTRO/110>.

¹¹³ Convention (IV) relative to the Protection of Civilian Persons in Time of War (Geneva, 12 August 1949) [hereinafter Geneva Convention IV], *entered into force* 21 October 1950, Art.27 (2). Available at: <https://www.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=AE2D398352C5B028C12563CD002D6B5C&action=openDocument>.

¹¹⁴ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), (Geneva, 8 June 1977) [hereinafter Protocol I], *entered into force* 07 December 1978, Art. 76 (1). Available at: <https://www.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=D9E6B6264D7723C3C12563CD002D6CE4&action=openDocument>.

¹¹⁵ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), (Geneva, 8 June 1977) [hereinafter Protocol II], *entered into force* 07 December 1978, Art. 4 (2) (e). Available at: <https://www.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=AA0C5BCBAB5C4A85C12563CD002D6D09&action=openDocument>.

must be respected”;¹¹⁶ in Common Article 3 of the Geneva Conventions, applicable in non-international armed conflict, and prohibiting “violence to life and person”, including “mutilation, cruel treatment and torture”, as well as “outrages upon personal dignity, in particular humiliating and degrading treatment”;¹¹⁷ and the Third Geneva Convention, which states that “[p]risoners of war are entitled in all circumstances to respect for their persons and their honour” and “[w]omen shall be treated with all the regard due to their sex”.¹¹⁸

Catherine Niarchos argues that within international humanitarian law, rape is considered a challenge to the honour and dignity of men and the community, rather than a serious crime entailing a violent attack on women, and thus defines this body of law as “gender-biased”.¹¹⁹ Dustin Lewis comes to the same conclusion, but the other way around. As a matter of fact, he posits, international human rights law provides insufficient protection for male victims of sexual violence, partly because these instruments presume women and children to be the only potential and actual victims, excluding men.¹²⁰ Lara Stemple in 2008 noted that even the instruments providing the most thorough and significant definitions of this crime “exclude men on their face, reflecting and embedding the assumption that sexual violence is a phenomenon relevant only to women and girls”;¹²¹ moreover, in U.N. resolutions, treaties, general comments and consensus documents, the wording “violence against women” is defined to include sexual violence, factually excluding men and boys.¹²² Also, in the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which is gender neutral and gives the definition of torture still accepted today,¹²³ sexual violence is not explicitly mentioned as a form of torture.

¹¹⁶ Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land, (The Hague, 18 October 1907) [hereinafter Hague Convention IV], *entered into force* 26 January 1910, Art. 46. Available at: <https://www.icrc.org/ihl/INTRO/195> .

¹¹⁷ Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, (Geneva, 12 August 1949) [hereinafter Geneva Convention I], *entered into force* 21 October 1950; Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, (Geneva, 12 August 1949) [hereinafter Geneva Convention II],], *entered into force* 21 October 1950; Convention (III) relative to the Treatment of Prisoners of War, (Geneva, 12 August 1949) [hereinafter Geneva Convention III], *entered into force* 21 October 1950; Geneva Convention IV, Art. 3. Available at: <https://www.icrc.org/applic/ihl/ihl.nsf/vwTreaties1949.xsp> .

¹¹⁸ Geneva Convention III, Art. 14.

¹¹⁹ Niarchos, Catherine N. “Women, War, and Rape.” 672.

¹²⁰ Lewis, Dustin A. “Unrecognized Victims: Sexual Violence Against Men in Conflict Settings Under International Law.” *Wis. Int’l L.J.* 1 27 (2009): 1-49. 19.

¹²¹ Stemple, Lara. “Male Rape and Human Rights.” *Hastings Law Journal* 60 (2008): 605-647. 619.

¹²² *Ibid.*, 619.

¹²³ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), (New York, 10 December 1984), *entry into force* 26 June 1987, Art. 1. Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>.

The conflicts in Rwanda and the former Yugoslavia triggered the action of the international community in responding to the extreme sexual violence that took place.¹²⁴ Rape started to be univocally considered a crime against the individual, and the scope of acts that fall into the category of sexual violence offences has been broadened.¹²⁵ This process started in the early 1990s through the work of the international criminal tribunals, and in particular, the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR).¹²⁶ The statutes of both tribunals list rape as a crime against humanity,¹²⁷ and the ICTR recognizes “outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault” as a war crime.¹²⁸ Both the ICTR and ICTY have ruled that sexual violence can constitute torture, persecution, enslavement, and inhumane acts as crimes against humanity, as well as torture, cruel treatment, inhumane treatment, and outrages upon personal dignity as war crimes.¹²⁹ The Rome Statute of the International Criminal Court (Rome Statute), to which BiH became a State Party in March 2002, contains the broadest articulation of conflict-related sexual violence offences to date, codifying rape as both a crime against humanity and a war crime,¹³⁰ and including sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity as both a crime against humanity and a war crime.¹³¹

In 1998, the ICTR expanded the legal definition of sexual violence, ruling that “[it] is not limited to physical invasion of the human body and may include acts which do not involve penetration or even physical contact”,¹³² like, for example, forced nakedness. In this

¹²⁴ Ndulo, Muna. “The United Nations Responses to the Sexual Abuse and Exploitation of Women and Girls by Peacekeepers During Peacekeeping Missions.” *Berkeley J. Int'l Law Journal*, 27, no. 127 (2009): 127-161. 131.

¹²⁵ *Ibid.*, 133-134.

¹²⁶ *Ibid.*

¹²⁷ Updated Statute of the International Criminal Tribunal for the Former Yugoslavia (September 2009), [hereinafter Statute of the ICTY], Art. 5. Available at:

http://www.icty.org/x/file/Legal%20Library/Statute/statute_sept09_en.pdf; Statute of the International Tribunal for Rwanda, UN Doc. S/RES/955, (8 November 1994) [hereinafter Statute of the ICTR], Art. 3(g). Available at: <https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=08BC7CE5D944A8E1C12563FB0048726F>.

¹²⁸ OSCE, “Criminal proceedings before the Court of BiH”, February 2014. 25.

¹²⁹ *Ibid.*

¹³⁰ Rome Statute of the International Criminal Court (Text of the Rome Statute circulated as document A/CONF.183/9 of 17 July 1998 and corrected by process-verbaux of 10 November 1998, 12 July 1999, 30 November 1999, 8 May 2000, 17 January 2001 and 16 January 2002), *entered into force* 1 July 2002, Arts. 7, 8. Available at: http://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf.

¹³¹ *Ibid.*

¹³² Prosecutor v. Akayesu, ICTR-96-4-T, Trial Chamber 1, Para. 688, 2 September 1998. Available at: <http://www.unict.org/sites/unict.org/files/case-documents/ict-96-4/trial-judgements/en/980902.pdf>.

work I therefore use the following definition of sexual violence, drawing from Lewis:¹³³ any violence, whether physical and/or mental, carried out through sexual means or by targeting sexuality,¹³⁴ since it encompasses both physical and psychological attacks involving a person's sexual characteristics, while also considering "all serious abuses of a sexual nature inflicted upon the physical or moral integrity of a person by means of coercion, threat of force or intimidation in a way that is degrading and humiliating for the victim's dignity."¹³⁵

2.2 Bosnia and Herzegovina: concentration camps and the breadth of abuses

Before the end of 1991, reports began to flow from armed conflict areas in Croatia and border areas of Bosnia-Herzegovina denouncing "extrajudicial executions and other deliberate and arbitrary killings, and mutilations carried out on civilians or captured members of armed forces and of the torture or ill-treatment of people detained in connection with the fighting."¹³⁶ In the summer of 1991, incidents of ill-treatment in detention were reported in Zadar, Knin, Drežnik, Dalj and Titova Korenica, with the victims being civilians, other than members of the police and the Croatian National Guard.¹³⁷ At the beginning of 1992, Amnesty International again denounced civilian massacres, arbitrary arrests, killings, disappearances, and ill-treatment of captured combatants and civilians: the prisoners, the majority of them Croats, were held in camps in Vojvodina (Serbia) by the JNA, and were systematically beaten and ill-treated following their arrest and detention. In some cases this resulted in the victim's death.¹³⁸

Detention camps started to spread also all over the territory of BiH at the beginning of 1992. Arbitrary arrests and detentions started in Bosnia-Herzegovina in April on all three

¹³³ Lewis, Dustin A. "Unrecognized Victims". 3.

¹³⁴ U.N. Commission on Human Rights, Sub-Comm. on Prevention of Discrimination & Prot. of Minorities, Contemporary Forms of Slavery: Systematic Rape, Sexual Slavery and Slavery-like Practices during Armed Conflict: Final Report submitted by Gay J. McDougall, Special Rapporteur, U.N. Doc. E/CN.4/Sub.2/1998/13 (June 22, 1998). Para. 21. (citing M. Cherif Bassiouni et al., "Sexual Violence: An Invisible Weapon of War in the Former Yugoslavia". Occasional Paper No. 1 (Int'l Human Rights Law Institute, DePaul Univ. College of Law 1996)), 3. Available at: <http://www.unhcr.ch/Huridocda/Huridocda.nsf/50b01c101750f048c1256610002c88a4/3d25270b5fa3ea998025665f0032f220?OpenDocument#IIA>.

¹³⁵ Mitchell, David S. "The Prohibition of Rape in International Humanitarian Law as a Norm of Jus Cogens: Clarifying the Doctrine." *Duke Journal of Comparative & International Law* 15, no.219 (2005): 219-257. 224.

¹³⁶ Amnesty International, "Yugoslavia: torture and deliberate and arbitrary killings in war zones", EUR 45/26/91, November 1991. 4. Available at: <https://www.amnesty.org/download/Documents/196000/eur480261991en.pdf>. See also: Helsinki Watch. "YUGOSLAVIA: HUMAN RIGHTS ABUSES IN THE CROATIAN CONFLICT", 31 August 1991. Available at: <http://www.hrw.org/reports/pdfs/y/yugoslav/yugo918.pdf>.

¹³⁷ Amnesty International, "Yugoslavia: torture and deliberate and arbitrary killings in war zones", 11-13.

¹³⁸ Amnesty International, "Yugoslavia: further reports of torture and deliberate and arbitrary killings in war zones", EUR 48/13/92, March 1992. 13. Available at: <https://www.amnesty.org/download/Documents/192000/eur480131992en.pdf>.

sides of the conflict, with the majority of prisoners being non-combatants, but rather thousands of civilians - particularly Muslims - detained because of their nationality or political affiliations.¹³⁹ Serbian forces, in arresting Muslim or Croatian men of military age, were reported using lists of men eligible for mobilization, and lists of people specifically targeted for detention or interrogation for their prominent role in the society, such as political activists, educated people, owners of businesses and others.¹⁴⁰ Detention conditions constituted cruel, inhuman or degrading treatment, and torture and ill-treatment were used to intimidate, to extract information and to control the prisoners.¹⁴¹ People could be detained from hours to months in places ranging from their own homes to the cellars of buildings, hotels, post offices, cultural centres and police stations, as well as in police station lock-ups, prisons and military hangars or sheds, barracks and bunkers, schools, dormitories, farms, factories, sports stadiums, trains and fenced open areas.¹⁴²

Detention camps became the most frequently reported sites of mass executions, torture, rapes and other forms of sexual assault committed by guards, police, special forces, and other people who were allowed to come from the outside to perform such acts.¹⁴³ Sexual violence against men in the form of rape or sexual torture was perpetrated essentially in detention camps,¹⁴⁴ operated by all three sides involved in the conflict,¹⁴⁵ even though the largest number of reported victims was Bosnian Muslims, and the biggest number of alleged perpetrators Bosnian Serbs.¹⁴⁶ The large number of episodes of rape and sexual torture in detention “do not appear to be random, and they indicate at least a policy of encouraging rape.”¹⁴⁷

Different forms of male rape took place during the conflict, as well as enforced sterilisation and other forms of sexual violence, like genital violence and enforced nudity. Men were forced to perform fellatio on their perpetrators or on one another; perpetrators anally raped victims themselves, also using objects – broken glass bottles, guns and

¹³⁹ Amnesty International, “Bosnia-Herzegovina: gross abuses of basic human rights”, EUR 63/01/92, October 1992. 20,23. Available at: <https://www.amnesty.org/en/documents/eur63/001/1992/en/>.

¹⁴⁰ Ibid. 24.

¹⁴¹ Ibid. 21.

¹⁴² Ibid. 25.

¹⁴³ Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992), S/1994/674, 27 May 1994 [hereinafter Final Report of the Commission of Experts]. Para.223. Available at: http://www.icty.org/x/file/About/OTP/un_commission_of_experts_report1994_en.pdf.

¹⁴⁴ Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro)), Oral Proceedings of Bosnia and Herzegovina (CR 2006/06), 51. Available at: <http://www.icj-cij.org/docket/files/91/10596.pdf>.

¹⁴⁵ Final Report of the Commission of Experts, para.224.

¹⁴⁶ Ibid., para.251.

¹⁴⁷ Ibid., para.252.

truncheons, or forced prisoners to rape fellow inmates, both male and female.¹⁴⁸ Forced sexual intercourse, especially oral sex among siblings and between fathers and sons, as well as forced masturbation are documented.¹⁴⁹ Some of them were also forced to have sexual intercourse with animals.¹⁵⁰ The castration and mutilation of sexual organs were “performed through crude means such as forcing other internees to bite off a prisoner’s testicles”.¹⁵¹ Most of the abuse was conducted in the presence of witnesses, and psychosexual torture was common as well: prisoners were suffering threats aimed at losing their fertility, and threats of direct castration.¹⁵² Psychological torture was also administered, in particular “threats aimed at humiliating and demoralizing the victims, mostly on the basis of the victim’s nationality.”¹⁵³

A witness reported an incident involving prisoners lined up naked while Serb women from outside the camp undressed in front of them: if any prisoner had an erection, his penis was cut off. The witness saw a Serb woman thus castrate a prisoner.¹⁵⁴ Another ex-detainee told of suffering electric shocks to the scrotum and of seeing a father and son who shared his cell forced by guards to perform sex acts with each other.¹⁵⁵ The breadth of abuses is shocking and shows clearly how sexual violence was used by the perpetrators to target the very core of a human being with the clear aim of destroying his psyche, in addition to his body, and cause the utmost humiliation and pain:

“Half the group was naked from the waist-down and standing, and half the group was kneeling. According to Witness B: “They were positioned in such a way as if engaged in intercourse.”¹⁵⁶

“As a punishment administered in front of a group of prisoners, a guard cut off the testicles of a prisoner with a knife; one prisoner was forced, under threat of being executed, to bite off the testicles of another prisoner with his teeth.”¹⁵⁷

¹⁴⁸ Ibid., para.235

¹⁴⁹ Brečić, Petra & Mladen Lončar. “Characteristics of Sexual Violence against Men during the War in Croatia and Bosnia-Herzegovina.” Paper presented at the conference entitled “(En)Gendering Violence: Terror, Domination, Recovery.” Zagreb, Croatia, October 27-28, 1995. Cit. in: Olujić, Maria B. “Embodiment of Terror: Gendered Violence in Peacetime and Wartime in Croatia and Bosnia-Herzegovina.” *Medical Anthropology Quarterly* 12, no.1 (1998): 31-50. 41.

¹⁵⁰ Meliha Merdžić, interview with the author.

¹⁵¹ Final Report of the Commission of Experts, paras. 230(o), 230(d).

¹⁵² Lončar, Mladen, Neven Henigsberg & Pero Hrabac. “Mental Health Consequences in Men Exposed to Sexual Abuse During the War in Croatia and Bosnia.” *Journal of Interpersonal Violence* 25, no. 2 (2010): 191-203. 195, 196.

¹⁵³ Ibid., 200.

¹⁵⁴ Final Report of the Commission of Experts, para.247.

¹⁵⁵ Ibid.

¹⁵⁶ ICTY, Prosecutor v. Milomir Stakić, case No. IT-97-24-T, Judgement, Trial Chamber II, 31 July 2003, para. 241. Available at: <http://www.icty.org/x/cases/stakic/tjug/en/stak-tj030731e.pdf>.

¹⁵⁷ US Department of State Dispatch Bureau of Public Affairs, 16 November 1992, p. 829 Col. 3. Cit. in: Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and

“The cleric witnessed several public beatings and sexual torture in the camp. He said that several men had been forced to have intercourse with each other, and that guards cut off some prisoner's hands and penises as a punishment and to frighten the other men.”¹⁵⁸

"A key witness was detained with his family in Kula Butrnir, Sarajevo. He was forced to watch while groups of guards raped and sadistically tortured his wife and two daughters (aged 8 and 13 years old). This occurred daily until on the fourth day the younger daughter's throat was cut in front of him. The witness was chained at the legs and guards beat him to force him to watch, breaking both his legs. On the sixth day his elder daughter's throat was cut. His wife survived until the 13th day, when her throat was cut. The man committed suicide by hanging himself on 7 April 1994."¹⁵⁹

In May 2012 the Ministry of Human Rights and Refugees released an estimate of 3,000 men raped during the 1992-1995 war.¹⁶⁰ This is in contrast with other data, since in one assessment, of the 5,000 male inmates at a concentration camp in Sarajevo Canton, 80 per cent reported being raped,¹⁶¹ meaning 4,000 men in that camp only. The process of identification of sites where concentration camps and detention facilities were based is still ongoing, as well as the scrutiny of how the prisoners were treated in detention and which kind of tortures they went through, if any. According to the data gathered from the associations of former concentration camp inmates, in Bosnia and Herzegovina during the war there were around 1,350 camps and detention facilities, whereof 656 for Bosniaks, 523 for Serbs and 173 for Croatsians.¹⁶² Thanks to the verdicts delivered by the ICTY and the tribunals in the country, it has been possible to establish the circumstances in which around 1,000 prisoners were killed, and other independent sources estimate that around 200,000 people, most of them civilians, went through at least one camp.¹⁶³ It has also been established

Herzegovina v. Yugoslavia (Serbia and Montenegro)), Oral Proceedings of Bosnia and Herzegovina (CR 2006/06).

¹⁵⁸ Second US Submission, p. 10, para. 1 (SI24705). Cit. in: Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro)), Oral Proceedings of Bosnia and Herzegovina (CR 2006/06).

¹⁵⁹ Final Report of the Commission of Experts, Add.2 (Vol. V), 28 December 1994, Annex IX.A, "Sexual assault investigation", p. 20, para. 115; another such instance is recounted at 45, para. 210. Available at: <http://www.phdn.org/archives/www.ess.uwe.ac.uk/comexpert/ANX/IX-A.htm>.

¹⁶⁰ Interview with Ruzmira Gazo, Ministry of Human Rights and Refugees, 11 May 2012. In: Šoštarić, Maja. "War victims and gender-sensitive truth, justice, reparations and non-recurrence in Bosnia and Herzegovina." Impunity Watch, 2012. 22. Available at: http://www.impunitywatch.org/docs/Gender_Research_Report_BiH_English.pdf.

¹⁶¹ Željka Mudrovčić, Sexual and Gender-Based Violence in Post-Conflict Regions: The Bosnia- Herzegovina Case (2001), in UNITED NATIONS POPULATION FUND, THE IMPACT OF ARMED CONFLICT ON WOMEN AND GIRLS: A UNFPA STRATEGY FOR GENDER MAINSTREAMING IN AREAS OF CONFLICT AND RECONSTRUCTION 64 (2002). In: Šoštarić, Maja. "War victims and gender-sensitive truth."

¹⁶² Centar za Demokratiju i Tranzicionu Pravdu (CDTP). Dokumentovanje logora i drugih zatočeničkih objekata u BiH. February 2014. Available at: <http://cdtp.org/dokumentovanje-logora-drugih-zatocenic-kih-objekata-u-bih/>.

¹⁶³ Ibid.

that men detained in more than just one facility were sexually abused and tortured,¹⁶⁴ hence it also possible to conclude that the number of 3,000 is probably an underestimate. Underreporting is rampant, many of these men left the country and resettled elsewhere, where they build a new life and do not want to come back to this part of their past; many have been killed, or “disappeared”, or died before having the chance to report, and their remains, when found, might not show evidence of sexual torture or sexual violence: it is impossible to establish a definite number, as it is for women. There are no reliable estimates about the number of men that suffered such tortures and assaults. But beyond the figures, there are people, and the suffering they went through.

2.3 Survivors’ side

Sexual assault is one of the most severe traumas that people can experience, both in peace time and in a conflict setting, be they girls, boys, women or men. This form of violence breaks the integrity of the person that experiences it, and it is destructive under multiple aspects, such as physical, moral, psychical and emotional: hence, the repercussions are particularly deep and difficult to deal with, since a survivor may not know where to start picking him or herself up from the ashes.¹⁶⁵ However, it is important not to generalize, but rather understand that each person is different and has his or her own way of dealing with the issue. While many survivors would benefit from social, psychological and clinical mental health support, others do not want or need assistance at all or require just a limited help.¹⁶⁶ There are people who were personally abused and managed to autonomously rebuild their life, and prisoners in a detention facility that saw one of their inmates being abused and never managed to overcome the trauma.¹⁶⁷

The topic is very delicate and the sensitivity of each and every individual must always be taken into account. Therefore, what I present in this work shall not be generalized and applied to each and every single man that experienced sexual violence in the Bosnian war, but rather point out the situation of at least part of the survivors. While I specifically want to depict the “men’s side”, many conditions may be valid in the case of women, and vice versa, since they are not directly connected with the gender of the survivor, but rather they are

¹⁶⁴ See for instance: ICTY, Prosecutor v. Tadić (IT-94-1); ICTY, Prosecutor v. Mucić et al. (IT-96-21); ICTY, Prosecutor v. Sikirica et al. (IT-95-8); BiH Court, Prosecutor v. Kurtović (X-KRŽ-06/299); BiH Court, Prosecutor v. Lazarević et al. (X-KRŽ-06/243); BiH Court, Prosecutor v. Terzić (S11K00566511KrŽ); BiH Court, Prosecutor v. Veselinović (X-KR-05/48); Sarajevo Cantonal Court, Prosecutor v. Milanović (09 0 K 000748 08 K); Bijeljina District Court, Prosecutor v. Minić et al. (12 0 K 000929 10 K).

¹⁶⁵ Olga Lola Ninković, interview with the author.

¹⁶⁶ Tanja Tankosić, interview with the author.

¹⁶⁷ Olga Lola Ninković, interview with the author.

related with the specific cultural and institutional context of the country. Factors pile up, and create a “perfect” environment for what is, perhaps, the only clear fact about sexual violence in general, and male survivors in particular: underreporting is “normal and expected,”¹⁶⁸ survivors of sexual violence do not want to speak about what has been done to them. A very small number of men open up, some others consider it “finished, buried”, just something pertaining to the past that they want to erase and not speak about.¹⁶⁹ All respondents to my interviews agreed on the fact that the overwhelming majority of survivors are haunted by a strong feeling of shame. Albeit being aware, in most of the cases, of the fact that they are in no way responsible for the violence they went through – in contrast with women – they very rarely take the decision to come forward.¹⁷⁰

Bosnian society, as well as those pertaining to the geographic area of South-Eastern Europe, is a very patriarchal one. Karl Kaser defines “Balkan patriarchy” as “a complex of hierarchical values embedded in a social structural system defined by both gender and age. This structuring is further linked to a system of values orienting both family life and broader social units.”¹⁷¹ The imperative of male protection of female honour is fundamental in the traditional cultures of Slavic peoples in this region, with the consequential definition of an “honour/shame dichotomy” that also defines fixed and stereotypical gender roles,¹⁷² deeply embedded in both men and women. There exist, to this day, a huge cultural difference between men and women, patriarchal structures still shape Bosnian society, and the concept of shame and honour do have a paramount value,¹⁷³ even though the situation has improved at least slightly with regard to twenty years ago.¹⁷⁴

Aspects such as women's virginity, chastity, marital virtue, and especially fertility are particularly guarded, and women's honour reflects that of men's, so that when a woman is sexually assaulted, it is the honour of men that is offended: twenty years after the war, there is still a large number of women that does not report the sexual violence suffered during the conflict because male members of her family forbid her to do so, or she deliberately chooses not to do it to protect the honour of her closest male relatives.¹⁷⁵ These women still show a very high level of shame and find it difficult to understand that they are not to blame for what

¹⁶⁸ Minela Bakamović, written (e-mail) interview to the author.

¹⁶⁹ Dijana Đurić, interview with the author.

¹⁷⁰ Minela Bakamović, written (e-mail) interview to the author.

¹⁷¹ Kaser, Karl, ed. *Household and Family in the Balkans: Two Decades of Historical Family Research at University of Graz*. Wien: LIT Verlag, 2012. 49.

¹⁷² Olujić, Maria B. “Embodiment of Terror.” 34.

¹⁷³ Amra Delić, interview with the author.

¹⁷⁴ Olga Lola Ninković, interview with the author.

¹⁷⁵ Amra Delić, interview with the author.

has been done to them.¹⁷⁶ On the contrary, men that experienced sexual violence are perfectly aware that they are not guilty, because they physically did not have the possibility to react, and rather feel that their pride has been destroyed, they feel humiliated and they experience a total loss of self-esteem, also because they have usually been abused in public, exposing their loss of control to others.¹⁷⁷ They have been taught that they are strong, powerful, and in control, both physically and emotionally, and are socialized in this way: this entails not letting somebody else overpower them and not showing emotions, above all if related to pain or suffering, since they are expected to endure substantially everything.¹⁷⁸ These stereotypes play a major role in both the reaction of the person that experiences the violence, and the society: both of the players shape a great part of their responses accordingly.

Sexual violence may entail multiple physical, psychosomatic and psychological consequences. Men may suffer from genital infections, physical impotence, swollen testicles, and blood in their stools, abscesses and ruptures of the rectum.¹⁷⁹ However, not all forms of sexual violence and sexual torture produce physically observable consequences or permanent damages, even though all of them can be very traumatic: the lack of knowledge about which forms sexual violence against men can take, proved to be a major problem as far as underreporting is concerned, both on the survivor's side and on the medical and therapists' side.¹⁸⁰

Common stereotypes about rape as the only form that sexual violence against men can take, determined the pointlessness of reporting the incident as sexual assault for a number of survivors, since they simply did not experienced it as such.¹⁸¹ Beating administered during torture is common, and when sexual organs are also injured, this may not be understood as sexual violence neither by the victims nor by the care providers.¹⁸² At the Medical Center for Human Rights, a Croatian NGO that was providing medical and psychosocial care to refugees and internally displaced persons, the therapists collected in-depth data on 55 male torture survivors from Croatia and Bosnia and Herzegovina, and stated that most of these

¹⁷⁶ Ibid.

¹⁷⁷ Branka Antić-Štauber, interview with the author.

¹⁷⁸ Olga Lola Ninković, interview with the author.

¹⁷⁹ Van Tienhoven, H. "Sexual violence, a method of torture also used against male victims." *Nordisk Sexology* 10 (1992): 243-249. Cit. in: Oosterhoff, Pauline, Prisca Zwanikken, & Evert Ketting. "Sexual Torture of Men in Croatia and Other Conflict Situations: An Open Secret." *Reproductive Health Matters* 12, no. 23 (2004): 68-77. 71.

¹⁸⁰ Carlson, Eric Stener. "The Hidden Prevalence of Male Sexual Assault During War: Observations on Blunt Trauma to the Male Genitals." *Brit. J. Criminology* 46 (2006): 16-25.

¹⁸¹ Van Tienhoven, H. "Sexual Torture of Male Victims." *Torture* 3/4: 133-135. Cit. in: Carlson, Eric Stener. "The Hidden Prevalence of Male Sexual Assault." 23.

¹⁸² Ibid., 133.

men “did not grow up with the possibility of being sexually abused.”¹⁸³ “I could not explain it to myself”, says a survivor.¹⁸⁴ Sexual abuse is something that society automatically attaches to the women’s experience: women are fragile, they can be victims, but men do not. Some therapists or physicians had the same stereotypes: even when they thought about sexual violence as something that could have happened to men as well, they thought just about rape, and they missed the opportunity to detect eventual signs of other forms of sexual violence on their patients,¹⁸⁵ in turn discouraging them from reporting.

More than one respondent highlighted also a lack of sensitivity on the part of some psychotherapists and psychiatrists to tackle the issue of sexual violence with their patients. Although questions about a person’s sexual life are a normal part of the psychiatric anamnesis, this kind of inquiry is not always done: sexuality is still a taboo topic, also for people that did not experience any sexual trauma, but most of the times this reticence comes from insensitivity or the specific intention to avoid the matter because it is a very tough one to open up and deal with, also for care givers.¹⁸⁶ Dr. Amra Delić, who is completing her Master thesis on the long-term consequences, social support and quality of life of female victims of sexual violence in war, is very clear regarding this issue:

“When I started my research, my colleagues told me that I must be crazy. ‘It is very difficult, exhausting’, they said to me. I actually did not receive support from anyone. The director of the clinic where I was working at that time tried to convince me to shift my interest to drug addicts, instead. ‘Why are you researching war rape? War is over.’ They are just not sensitive to this. [...] When I started to look for survivors in the region of Bosanska Krajina, I asked the women that I contacted whether to date they had undergone any psychiatric treatment and they answered yes, and told me who their doctor was. Given the fact that I knew him, when I started with the practical part of my research, I called him to ask if he could help me find a suitable place, and in that circumstance he asked me which kind of research I was going to conduct. When he learnt that I was dealing with long term psychological consequences of wartime sexual violence on women, he asked me where I thought I could find the subjects. ‘Among your patients,’ I said. And he replied: ‘Oh, I didn’t know I had patients that have been sexually abused.’ When I spoke again with those women, they explained to me: ‘He is our doctor, but he doesn’t know that we have been raped. He’s just asking whether we managed to sleep and how is our mood today, and then we are given medicines.’”¹⁸⁷

The people that report sexual torture turn first of all to healthcare providers, presenting physical, psychosomatic and psychosocial symptoms and problems. Among psychosomatic complaints, these have been registered both in men and women: loss of

¹⁸³ Medical Center for Human Rights (MCHR). “Characteristics of Sexual Abuse of Men During the War in the Republic of Croatia and Bosnia and Herzegovina”, 1995. 5.

¹⁸⁴ Documentary film „Nečujni Krik“. BIRN Balkans, 2015.

¹⁸⁵ Carlson, Eric Stener. “The Hidden Prevalence of Male Sexual Assault.” 18.

¹⁸⁶ Amra Delić, interview with the author.

¹⁸⁷ Ibid.

appetite and weight, sleeplessness, palpitations, dizziness, exhaustion, headache, muscle ache, vomiting, stomach ache and sweating.¹⁸⁸ Most of all, many male survivors presented psychosexual symptoms showing that they were all very concerned about their masculinity: as a matter of fact, they suffered from sexual dysfunctions without a physical cause, such as impotence, difficulties in maintaining an erection and pain during sexual intercourse, or premature ejaculation.¹⁸⁹ Most of them exhibited castration anxiety as well as homophobia and symptoms of identity crisis.¹⁹⁰ Active outreach to find and provide care to male survivors of sexual violence proved to be fundamental in the case of the Medical Center for Human Rights, as well as the openness on the part of the therapists to discuss the topic: should the medical personnel not show interest in understanding the causes of the abovementioned symptoms, whether because unaware or because uncomfortable with the issue, the survivor is most probably not going to open up spontaneously, and this is particularly true about men.¹⁹¹

Psychological/mental health consequences for survivors range from distress, self-blame and feelings of isolation to a spectrum of mental disorders, including depression, post-traumatic stress disorder (PTSD) and other anxiety disorders, suicidal ideation and other forms of self-harm.¹⁹² Men in the first instance show physical symptoms because all of them have been detained in a camp or other facility, and went possibly through also other kinds of torture or ill-treatment. Even if asked whether they went through sexual abuse or sexual torture, they tend to deny it at first, and/or to say that it did not happen to them, but to other inmates.¹⁹³ Alternatively, they dismiss the question with an elusive answer: “Everything happened,” or “Captors did everything, but to someone else.”¹⁹⁴ For the majority of them, however, it is possible to posit that they have been through some form of sexual violence, even though they do not feel like opening up on the issue.¹⁹⁵

The research at the Medical Center for Human Rights in 1995 proved as well that an all-male environment favours reporting on the part of the survivors.¹⁹⁶ This may represent a

¹⁸⁸ Oosterhoff, Pauline, Prisca Zwanikken, & Evert Ketting. “Sexual Torture of Men in Croatia and Other Conflict Situations.” 74.

¹⁸⁹ Ibid.

¹⁹⁰ Lončar, Mladen, Neven Henigsberg & Pero Hrabac. “Mental Health Consequences.” 200.

¹⁹¹ Oosterhoff, Pauline, Prisca Zwanikken, & Evert Ketting. “Sexual Torture of Men in Croatia and Other Conflict Situations.” 74.

¹⁹² World Health Organization (WHO). “Mental health and psychosocial support for conflict-related sexual violence: 10 myths.” WHO/RHR/HRP/12.17, 2012. Available at: http://www.who.int/reproductivehealth/publications/violence/rhr12_17/en/.

¹⁹³ Amra Delić, interview with the author.

¹⁹⁴ Dijana Đurić, interview with the author.

¹⁹⁵ Amra Delić, interview with the author, Dijana Đurić, interview with the author, Olga Lola Ninković, interview with the author, and Tanja Tankosić, interview with the author.

¹⁹⁶ Ibid.

problem in Bosnia and Herzegovina, where there are no programs specifically targeted on male survivors: international programs and non-governmental organisations working in the field of wartime sexual violence are focused on women, and possibly involve men in the same activities.¹⁹⁷ As a consequence, men that would like to join a therapy group or an association and maybe open up slowly may feel uncomfortable because they are entering an all-female environment and eventually they prefer to stay silent and not join at all.¹⁹⁸ At the same time, the issue could be raised of men who joined women's associations and share activities, like group therapy for instance, with women: while they undoubtedly get some benefits from it, it is worth wondering if activities and therapy sessions specifically targeted for them and shared in an all-male group would perhaps be more beneficial for their recovery.

2.4 Societal response

Sexual violence also carries with it social consequences, which can include but are not limited to: stigma, discrimination, and abandonment.¹⁹⁹ According to Lončar et al., the shame felt by the survivor, and the stigma attached to him by society, have the same origin, i.e. the stereotypical gender role that men should embody in Bosnian society:

“The direct repercussion of this form of aggression is the spreading of fear and humiliation among the civil population. Another, indirect consequence is the humiliation of enemy soldiers who failed in protecting the victims. In this way, they failed their primary role of providing protection to their families. In the eyes of the community, an act of rape and sexual abuse of a man constitutes much worse humiliation than in the case when a woman is the victim. This is especially the case in the rural, traditional communities of eastern Croatia and most of the Bosnia and Herzegovina, where men are expected to be able to protect themselves against such acts. As a consequence, a male rape victim has to bear an additional burden of public and family condemnation.”²⁰⁰

Dr. Lončar further clarified and expanded this point in an interview released in 2014: not only men felt ashamed in the first place, but the feeling has been forced upon them that they are homosexuals, thus adding another layer of stigma.²⁰¹

Generally speaking, even though sexual violence and sexual torture are unfortunately a norm in a wide number of conflicts, little is known about mental health and psychosocial

¹⁹⁷ Edin Ramulić, writte (e-mail) interview to the author. Nela Porobić Isaković, written (e-mail) interview to the author.

¹⁹⁸ Amra Delić, interview with the author.

¹⁹⁹ Ibid.

²⁰⁰ Lončar, Mladen, Neven Henigsberg & Pero Hrabac. “Mental Health Consequences.” 199.

²⁰¹ “Dr. Mladen Lončar: Među žrtvama ratnog silovanja postoji zavjet šutnje.” Slobodna Dalmacija, 05 April 2014. Available at:

<http://m.slobodnadalmacija.hr/tabid/296/articleType/ArticleView/articleId/241092/Default.aspx>.

support for populations surviving it,²⁰² above all in the long term. In the specific case of Bosnia and Herzegovina, the majority of research projects on the consequences of the war were conducted in the first decade after the conflict, but a very small number of them deals with the particularities of war rape related to the country's context and no studies have been published yet on the consequences of the war on survivors of trauma twenty years after the end of it, let alone the consequences of war rape on survivors, and the coping strategies they have adopted, above all concerning male subjects.²⁰³

Social support is of paramount importance for survivors of sexual violence to overcome the trauma, and this has been confirmed by all respondents to my interviews. Social support means in the first place a supportive domestic environment.²⁰⁴ Most women lack this support, above all on the part of their husbands: they feel and are made to feel guilty for what has been done to them, and unfortunately they may be subjected to domestic violence.²⁰⁵ In a lot of cases, male survivors' family members are not aware of what they have been through, and when they do, or at least suspect that their relatives might have experienced an assault of this kind, they could decide not to inquire further. The family creates what is called a "culture of silence",²⁰⁶ a sort of shield developed in difficult traumatic experiences: everybody in the family knows what happened, but nobody talks about it, and this is not because the issue is something that should not be talked about, but because it is too painful to do it for all family members.²⁰⁷ "Sometimes families are afraid to hurt the victim by raising such questions, afraid of making them uncomfortable. Sometimes the victims find it all too painful to deal with such pain, and then it becomes something that everyone knows,

²⁰² World Health Organization (WHO), Stop Rape Now, United Nations Population Fund (UNFPA) & UNICEF. Final report: "Responding to the Psychosocial and Mental Health Needs of Sexual Violence Survivors in Conflict-Affected Settings", Ferney-Voltaire, France, 28-30 November 2011. Available at: <http://resourcecentre.savethechildren.se/sites/default/files/documents/5777.pdf>.

²⁰³ Medica Zenica & medica mondiale. "We are still alive": Research on the long-term consequences of war rape and coping strategies of survivors in Bosnia and Herzegovina". Zenica, BiH, June 2014. 15, 16. Available at: http://www.medicamondiale.org/fileadmin/redaktion/5_Service/Mediathek/Dokumente/English/Documentations_studies/141128_Research_We-Are-Still-Alive_CR-Medica-Zenica_medica-mondiale.pdf. However, the aim of this research and evaluation project was to explore the consequences of war rape on 51 women who have used Medica Zenica's services since 1993, hence results cannot be automatically extended to male survivors. On the same line, Dr. Amra Delić is completing her Master thesis on the long-term consequences, social support and quality of life of women victims of sexual violence in war, which she conducted from 2011-2013 throughout Bosnia and Herzegovina (100 respondents plus 80 controls) (interview with the author).

²⁰⁴ Branka Antić-Štauber, interview with the author.

²⁰⁵ Ibid.

²⁰⁶ Dijana Đurić, interview released for the documentary film „Nečujni Krik“. BIRN Balkans, 2015.

²⁰⁷ Ibid.

but keeps quiet about.”²⁰⁸ This defensive mechanism can, in turn, contribute to the sense of isolation felt by the survivor.²⁰⁹

Sexual trauma is most likely going to directly affect the sexual functioning of trauma survivors, causing problems in intimate relationships, and giving rise to chronic PTSD, in both men and women.²¹⁰ In some cases wives could not bear the fact that their husbands had been abused and just left them.²¹¹ However, there is evidence in most of the cases that wives tend to be supportive with their husbands in these circumstances.²¹² The association Snaga Žene in Tuzla counts among its patients a group of 18 men that were sexually abused during the war: all of them are supported by their wives and marital relations are overall good, as well as their relationship with children.²¹³ Women are sympathetic and supportive, and it is exactly because of this that these men decided, three years ago, to look for external help.²¹⁴ They all still suffer from PTSD, insomnia, and take medicines regularly. At the beginning of the therapy, they showed high levels of demotivation, most of all because they used to be the breadwinners within the family, and after the war they found themselves unemployed and thus in a precarious economic condition, unable to be the providers for their respective families.²¹⁵ Their psychological disposition changed in the moment when they have been provided with the possibility to do so through psychosocial and occupational help.²¹⁶ Also the majority of men registered at the association Žene Žrtve Rata in Sarajevo have the support of their wives.²¹⁷ This might indicate that the majority of men looking for external help enjoy their spouses’ support, but no data can depict the marital situation of men that for whatever reason decide not to do so. Many of them, as already said before, do not need any help, and learnt in the last twenty years to live with their condition: this is most probably because they have the support of their family or close members of society, they have good marital relations and the possibility to work.²¹⁸

²⁰⁸ Ibid.

²⁰⁹ Turner, S.W. “Surviving sexual assault and sexual torture.” In: Mezey, G.C. & M.B. King, eds. *Male Victims of Sexual Assault*, New York: Oxford University Press, 1992. 75-86.

²¹⁰ Gordon, Malcom. “Are the characteristics of domestic violence different in families that have experienced severe trauma?” In: Gerrity, Ellen, Terence M. Keane & Farris Tuma, eds., *The Mental Health Consequences of Torture*. New York: Kluwer Academic/Plenum Publishers, 2001. 238.

²¹¹ Meliha Merdžić, interview with the author.

²¹² Branka Antić-Štauber, interview with the author.

²¹³ Ibid.

²¹⁴ Ibid.

²¹⁵ Ibid.

²¹⁶ Ibid.

²¹⁷ Meliha Merdžić, interview with the author.

²¹⁸ Tanja Tankosić, interview with the author.

The survivor is not the only one suffering from sexual violence. Rather, what has happened to him and the way he deals with it might have social consequences on the family as well. As Dr. Amra Delić explains, families are very likely going to suffer as a whole when one or more of their members suffers from PTSD. There is a high risk of transmitting feelings related to trauma from generation to generation, a phenomenon called "intergenerational transmission of trauma" (ITT).²¹⁹ It is defined as "the shown impact of trauma experienced by one family member on another family member of a younger generation, regardless of whether the younger family member was directly exposed to the traumatic event."²²⁰ Trauma, even when unspoken, affects the bond of attachment between parents and children, causing the vulnerability and insecurity of the children as a possible outcome, even fifteen or more years since the end of the war.²²¹ Within Bosnian society, very little attention is paid to this issue and a limited number of experts deal with it. This is particularly worrying, since sexual trauma is very complex and requires continual support: the overwhelming majority of survivors still suffer from PTSD after twenty years.²²²

To engage in a positive process of healing, survivors of sexual violence need some conditions to be fulfilled: first of all, they need to be physically and emotionally safe and secure; they need to know that people believe them when they decide to report their story, and that nobody is judging or blaming them for what they experienced; they want to be perceived as a whole person, not just as victims.²²³ The society as a whole seems to be insensitive towards war survivors, in particular towards people that have been sexually abused during the conflict. Stereotypes and quite widespread collective trauma are haunting society, which is trying to avoid any reminder related to the war: few people are in fact following the development of court proceedings for war crimes, or listening to the victims' stories, and this disaffection is part of the post-traumatic reaction of a collective which is trying to forget about the past and start anew in the attempt of erasing what happened.²²⁴ In addition to that, a problem that has been registered by more than one respondent is the insensitivity of public officials dealing with war survivors:²²⁵ from nurses in public hospitals pretending not to know that the status of Civilian Victim of War guarantees priority to

²¹⁹ Amra Delić, interview with the author.

²²⁰ Kaitzl, Marsha, Mindy Levy, Richard Ebstein, Stephen V. Faraone & David Mankuta. "The intergenerational effects of trauma from terror: A real possibility." *Infant Mental Health Journal* 30, no. 2 (2009): 158-179.

²²¹ Amra Delić, interview with the author.

²²² Ibid.

²²³ Eda Furundžija, written (e-mail) interview to the author.

²²⁴ Amra Delić, interview with the author, and Olga Lola Ninković, interview with the author.

²²⁵ Amra Delić, interview with the author, and Nela Porobić Isaković, written interview (e-mail) to the author.

medical services, to members of a commission awarding financial support to former detainees of concentration camps in case of physical or mental disability saying to the survivor: “What is five days in a concentration camp?”,²²⁶ there seems to be a diffuse lack of understanding and support towards their condition.

Second stigmatization on the part of society is another major cause of underreporting. Survivors appreciate the formal recognition by State institutions that they have been exposed to a crime during the war, but do not want to be regarded in a different way with respect to other people, they do not want to be seen as ‘victims’, but rather be again part of their society on the same level as other members.²²⁷ At the same time, the general myth exists that survivors of a major offence such as sexual violence will not be able to function ‘normally’ any more, that they are ‘insane’, that nobody will choose them as partners, that they will not manage to have gratifying intimate relationships or to have and raise children: these prejudices are transferred to the survivors, a great number of whom feel like they are “damaged merchandise”, absorbing the role that society assigned to them.²²⁸ In the attempt to escape this mechanism, many people prefer to stay silent, above all men, since the ‘victim’ position is traditionally a women’s prerogative and endangers their role in society in so far as they would openly show that they were not strong enough to maintain control of the situation.²²⁹

Although, as previously clarified, not all survivors of sexual violence want or need psychological support of any kind, many of them would benefit from it. Actually, strong stereotypes are held against people that seek professional support of this kind. Respondents confirmed that in Bosnia and Herzegovina the prejudice still applies that only ‘insane’ people look for professional psychological help and support. Women are generally more inclined than men to seek help: “a man often speaks about his trauma only if he has to and if he is totally sure that the social environment in which he lives won’t come to know about the specific kind of trauma he went through.”²³⁰ Therefore, there are men that, for instance, twenty years after the end of the conflict, still live with undiagnosed PTSD, with all the related consequences on the personal, family and societal level, and the first persons that identify and document the disorder are the psychologists of one of the Witness Support Sections in the country’s tribunals, because these men have been asked to testify in a given

²²⁶ Amra Delić, interview with the author.

²²⁷ Olga Lola Ninković, interview with the author.

²²⁸ Ibid., in original language: “Oštećena roba”.

²²⁹ Sivakumaran, Sandesh. “Sexual Violence Against Men in Armed Conflict.” 255.

²³⁰ Minela Bakamović, written (e-mail) interview to the author.

case.²³¹ The majority of these men suffers from nightmares, panic attacks, sleeping problems, anxiety, restlessness, difficulties in interpersonal relations, flashbacks, intrusive thoughts and periodical deterioration of their conditions, particularly when the anniversary of the day in which they were captured is approaching: one or two months before this date, all these symptoms start to worsen, some of them tend to withdraw from social relations and try to be alone.²³² Social surroundings usually sees only the manifestation of the disorder, but does not wonder about its cause: “[i]n general, people describe this [the disease] like: ‘He went through some trauma’, or: ‘But he’s an alcoholic, you know.’ Everybody talks about consequences, but nobody researches the causes of alcoholism, problematic behaviour or aggressiveness.”²³³ Moreover, seeking help is inconsistent with the social and cultural role that men have in Bosnian society, where they are expected not to express feelings and fears.²³⁴

²³¹ Olga Lola Ninković, interview with the author.

²³² Amra Delić, interview with the author.

²³³ Ibid.

²³⁴ Šoštarić, Maja. “War victims and gender-sensitive truth.” 47.

3. CLOSING THE CIRCLE

This final chapter wants to outline the major institutional obstacles that discourage male survivors of sexual violence to come forward and/or to receive the help they would need to overcome their suffering and rebuild their lives. A comprehensive analysis of the issue based on the literature discussed in the first chapter and the main findings of the empirical research from the second chapter is also provided, with the aim of depicting the comprehensive situation of this specific category of war survivors.

3.1 Institutional response

The section examines the way in which State, entity and judiciary institutions tried to tackle the issue of wartime sexual violence. At State level, no major legislative initiative has been implemented in this sense, whereas entities and Brčko District adopted laws and decision to support civilian victims of war. Unfortunately, due to various pitfalls in the legislation, survivors of sexual violence have very limited possibilities to obtain any kind of material help. The functioning of the judiciary, as well, does not give any incentive to survivors to come forward.

3.1.1 State level

Since 2006 BiH has been trying, without any valuable result, to adopt a law on the Rights of Victims of Torture and Civilian Victims of War, which would regulate the status of former camp detainees and their right to compensation. The draft of the law has been prepared by the Ministry of Human Rights and Refugees (MHRR), with the aim of ensuring that all civilian victims of war in the country have equal access to social benefits and other measures of social support, such as for instance free health care and psychological aid.²³⁵ In 2012 the MHRR re-launched the initiative to draft a law on the rights of victims of torture and submitted a draft for comments to Entities, but the Joint Commission for Human Rights, the Rights of the Child, Young People, Immigration, Refugees, Asylum Seekers and Ethics of the BiH Parliamentary Assembly rejected it twice, giving a negative opinion on its principles.²³⁶ In February 2014, the House of Representatives did not accept the negative

²³⁵ Amnesty International, Submission to the UN Human Rights Committee for the 106th session of the Human Rights Committee (15 October – 2 November 2012), EUR 63/011/2012. November 2012. 10, 11. Available at: <http://www.refworld.org/docid/5062ba435.html>.

²³⁶ TRIAL et al., Follow-Up Report on the Implementation of the Recommendations Issued by the Special Rapporteur on Violence against Women, its Causes and Consequences after her Mission to Bosnia and Herzegovina. November 2014. Para. 8. Available at: http://www.trial-ch.org/fileadmin/user_upload/documents/CAJ/BH/SR_Violence_Women/Follow-up_BiH_Violence_against_Woman_-_FINAL.pdf.

opinion of the mentioned Commission and the law was not approved, nor was the proposal from a Member of Parliament to assign to the BiH Council of Ministers the task of preparing and sending a new version of the law to parliamentary procedure within 90 days.²³⁷ At this moment, no law on the rights of victims of torture has been adopted.²³⁸ Among others, the principal resistances come from a conflict of competences between the State and the Entities. The Law is supposed to be a framework law, i.e. set the minimum standard elements that should also be comprised in the respective Entity laws, so that once adopted, the Entities are bound to harmonize with it. However, the Entity representatives objected to the fact that the draft contains the provision for a State-level reparations fund, which makes the Law lose its framework character, other than generate disagreements about how such a fund would be financed and by whom.²³⁹

The only serious attempt on the part of State-level officials of BiH to improve the status of survivors of wartime sexual violence regardless of their gender has been the Programme for Improvement of the Status of Survivors of Conflict related Sexual Violence,²⁴⁰ whose draft and adoption was launched at the end of 2010 by the United Nations Population Fund (UNPFA) and the BiH MHRR.²⁴¹ The Programme was supposed to develop solutions proposed for improving the social and economic situation of the survivors and reducing the stigma they face in society, as well as to define the basis for realization of survivors' rights to social welfare and healthcare at the local level.²⁴² The program would finally allocate the necessary resources and implement effective measures to ensure the survivors of gender-based violence access to comprehensive medical treatment, mental health care, and psychosocial support. However, doubts have been cast on the actual political will and institutional commitment dedicated to the project.²⁴³ As a matter of fact, the finalization of the draft of the programme was expected by November 2011 but was then repeatedly postponed, to the point that, at July 2015, the draft programme has not yet been submitted to the Council of Ministers of BiH for approval and it remains at the entities' level, since the

²³⁷ Ibid.

²³⁸ TRIAL et al., Written Information for the Adoption of the List of Issues by the Human Rights Committee with regard to Bosnia and Herzegovina (CCPR/C/BIH/3), July 2015. Para. 68. Available at: http://www.trial-ch.org/fileadmin/user_upload/documents/CAJ/BH/FINALBIHAlternativeReportLOISHRC-2015.pdf.

²³⁹ Nela Porobić Isaković, written (e-mail) interview to the author.

²⁴⁰ Ibid.

²⁴¹ UNPFA, Ministry of Human Rights and Refugees of BiH, & Stop Rape Now. CONFERENCE REPORT - Ensuring Justice, Reparations and Rehabilitation for Victims of Conflict Related Sexual Violence. Sarajevo, 5-6 September 2012. Available at: <http://www.stoprapenow.org/uploads/advocacyresources/1355227733.pdf>.

²⁴² Amnesty International, Submission to the UN Human Rights Committee. 11.

²⁴³ TRIAL et al., Written Information for the Adoption. Para. 64.

government of Republika Srpska failed to formulate its opinion so far, thus placing the whole process on hold.²⁴⁴

The Draft Strategy on Transitional Justice, supported by the United Nations Development Programme (UNDP) and developed by the Ministry of Justice and the MHRR, aims at ensuring access to justice and reparation (thus also to medical and psychological care and social services) for all civilian victims of war, including survivors of sexual violence.²⁴⁵ In July 2015, the draft of the transitional justice strategy had not yet been presented for adoption to the Parliamentary Assembly and this does not seem imminent.²⁴⁶ Moreover, there is no unified database of female victims of rape or other forms of sexual violence during the war, never mind one including also male survivors: this is deemed to be an obstacle in the adoption and implementation of any kind of comprehensive strategy at the state level.²⁴⁷

Finally, the Gender Action Plan (GAP) of BiH, adopted in 2006, and the Action Plan on Implementation of UN Security Council Resolution 1325, adopted in 2010, which foresee specific steps to be taken to improve the social welfare system, including access to adequate healthcare and housing, are not fully implemented: as a matter of fact, they specifically state that survivors' rights must be guaranteed throughout the entire country at the same level as the rights of military victims of war, but this has not yet been put into practice.²⁴⁸ This is because the matter is regulated at the Entities' level and at the level of Brčko District, as well as at the cantons' level in FBiH: the differences between these regulations do not equally guarantee access to social welfare measures to all survivors of rape or other forms of sexual violence.²⁴⁹ BiH authorities have not gathered information on whether local institutions have the capacity to provide the services they should, nor have they given them guidance or proper training on how to implement the legislation.²⁵⁰ Although Cantons have legislative powers to adopt their own legislation in social security matters, not all of them drafted and implemented a Social Security Law, nor have the ones having these laws harmonized them with the Social Security Law of the FBiH.²⁵¹ In some cases, even when there is a Cantonal Law on Social

²⁴⁴ Ibid.

²⁴⁵ TRIAL et al., Written Information for the Adoption. Para. 61.

²⁴⁶ TRIAL et al., Follow-Up Report. Para. 15.

²⁴⁷ Ibid. Para. 4.

²⁴⁸ Amnesty International, Submission to the UN Human Rights Committee. 12.

²⁴⁹ This issue is explained in detail in the following section (3.1.2).

²⁵⁰ Amnesty International, "Old Crimes, Same Suffering – No justice for survivors of wartime rape in North-East Bosnia and Herzegovina," EUR 63/011/2012, September 2012. 8. Available at: <https://www.amnesty.org/en/documents/EUR63/002/2012/en/>.

²⁵¹ ACIPS, Social Protection and Social Inclusion in Bosnia and Herzegovina. European Commission Directorate-General for Employment, Social Affairs and Equal Opportunities Unit E2, July 2008. 9. Available at:

Security, they failed to adopt necessary by-laws, thus blocking the implementation of the legislation and resulting with the exclusion of certain vulnerable categories of population: civilian war victims, in particular, although having documentation confirming their invalidity, do not receive any assistance due to absence of the Social Security Law.²⁵²

3.1.2 Entities and Brčko District level

The major problem concerning the existing legislation is that there is no Law on the Rights and Protection of War Victims at State level, which would equally regulate the statutory rights of all civilian victims in BiH, regardless of the place of residence and nationality of the same. Entity authorities have undertaken some measures which provide survivors of sexual violence with social benefits related to their status of civilian victims of war: the two relevant legal references are the Law on the Protection of Civilian Victims of War in RS (Official Gazette of the RS No. 25/93, 1/94 – special edition, 32/94, 37/07 and 60/07)²⁵³ and the Law on the Basis of the Social Protection, Protection of Civilian Victims of War and Families with Children in FBiH (Official Gazette of FBiH No. 36/99 and later amendments).²⁵⁴ In Brčko District, this matter is regulated by the Decision on Protection of Civilian Victims of War of the Assembly of the Brčko District from 2008,²⁵⁵ recently amended. Former concentration camp inmates are not recognized as a war victims' category in any piece of legislation.

According to the Law in FBiH, to obtain the status of Civilian Victim of War (CVW) a person must prove at least 60 per cent disability.²⁵⁶ Persons who have suffered sexual assault and rape during the conflict are defined as a special category of CVW,²⁵⁷ meaning that they do not need to reach this threshold, but rather present proof of evidence for the recognition of the status. Such evidence should have originally comprised: a certificate issued by the Association “Žene Žrtve Rata”, based in Sarajevo, on the status and consequences of

<http://www.acips.ba/bos/uploads/dokumenti/Social%20Protection%20Study%20Bosnia%20and%20Herzegovina.pdf>.

²⁵² Ibid.

²⁵³ Gender Equality Agency of Bosnia and Herzegovina, MHRR of BiH. Action Plan for the Implementation of UNSCR 1325 in Bosnia and Herzegovina 2010-2013. January 2010. 19. Available at:

http://www.peacewomen.org/assets/file/bosniaherzegovina_nationalactionplan_2010.pdf.

²⁵⁴ Law on the Basis of the Social Protection, Protection of Civilian Victims of War and Families with Children in FBiH (Official Gazette of FBiH No. 36/99 and later amendments).

²⁵⁵ ODLUKU O ZAŠTITI CIVILNIH ŽRTAVA RATA , 19 March 2008. Available at: <http://skupstinabd.ba/2-registar/ba/Odluke/2008/65.%20sj.%20Odluka%20o%20civilnim%20zrtvama%20rata%2043-08%20B.pdf>.

²⁵⁶ Art.54, Law on the Basis of the Social Protection, Protection of Civilian Victims of War and Families with Children in FBiH (Official Gazette of FBiH No. 36/99 and later amendments).

²⁵⁷ International Commission for Missing Persons (ICMP), Guide for Civilian Victims of War – How to enjoy the right to protection as a civilian victim of war in the Federation of Bosnia and Herzegovina, Sarajevo, 2007. 1. Available at: <http://www.ic-mp.org/wp-content/uploads/2008/02/guidebook-wictim-of-war-fbih.pdf>.

sexual assault and/or rape, and appropriate medical records.²⁵⁸ This provision discouraged people from applying, to the point that it became one of the most relevant variables determining underreporting:²⁵⁹ for victims living outside Sarajevo reaching the premises of the association represented a serious obstacle, while privacy was not guaranteed and survivors lamented a lack of specialised personnel to conduct the interviews – leading to re-traumatization –, other than considering the procedure too slow.²⁶⁰ By word of mouth among survivors, many refused to go through what they considered a “hell.”²⁶¹ Over time, other NGOs started to release the same certificate, but there is no standardization in the procedures and the personnel dealing with survivors is not made up of professionals: there is no State office guaranteeing a uniform procedure conducted by professional staff which could guarantee the non re-traumatization of survivors.²⁶² Many victims are not even aware of their rights or do not want to speak out because of the stigma attached to the crime they suffered, and to date, the State did not design any strategy to combat the stigma related to sexual violence.²⁶³

Civilian victims of war should exercise the following entitlements: personal disability allowance or a personal monthly allowance; supplement for aid and assistance by another person; allowance for orthopaedic supports; family disability allowance; financial support for the costs of medical treatment and purchase of orthopaedic supports; right to professional training (skills and competencies training and professional development); right to employment and housing priority; right to psychological assistance and legal aid.²⁶⁴ In practice, for the reasons explained above and related also to the non-implementation of the Gender Action Plan, they do not. Many survivors are still unable to access the benefits they are entitled to, notably health services and prescribed medications: according to the Law in FBiH, for example, civilian victims of war should be entitled to support in accessing healthcare, but most of them do not have health insurance on the basis of their status, and health insurance is needed to access necessary services and medicines.²⁶⁵ Survivors continue to suffer serious physical and psychological symptoms because of their wartime experience,

²⁵⁸ Ibid., 21.

²⁵⁹ Amra Delić, interview with the author.

²⁶⁰ TRIAL et al, General Allegation. Para. 59.

²⁶¹ Amra Delić, interview with the author.

²⁶² Ibid. The only notable exception is Medica Zenica, which disposes of professional personnel and has been allowed to start the procedure last year. But again, this is an NGO, not a State institution.

²⁶³ TRIAL et al., Follow-Up Report. Para. 53.

²⁶⁴ ICMP, Guide for Civilian Victims of War – How to enjoy the right to protection as a civilian victim of war in the Federation of Bosnia and Herzegovina, Sarajevo, 2007. 9.

²⁶⁵ Amnesty International, Old Crimes, Same Suffering. 9.

which also makes it even more difficult for them to enter the job market. The monthly allowance that survivors receive in virtue of their status of civilian victims of war is often their only source of income and it is simply not enough to pay for their basic expenses.²⁶⁶ Mainly, survivors started to speak up in 2006, when the Law started to be implemented, but from that moment on the number of people requesting the status of CVW because of conflict-related sexual violence decreased steadily and the total number of persons that have it is much lower than the estimated number of people that suffered sexual abuse during the conflict.²⁶⁷

The Law on the Protection of Civilian Victims of War in RS guarantees special measures of social protection, mainly in the form of financial assistance, to people who suffered at least 60% damage to their bodies as a result of torture, assault, rape, or other crimes committed in the course of the conflict, or that can demonstrate that are incapable for work:²⁶⁸ the Law does not recognise victims of rape as a separate category of civilian victims of war and establishes a statute of limitations to apply for disability pensions that expired at the end of 2007,²⁶⁹ so that anyone who has not done so already is also not able to register his/her claims as civilian victims of war as the deadline for application has already expired. The assessment of bodily damage was conducted by health commissions on the basis of the “Rulebook on criteria for estimation of military disabilities”, which does not make any reference to psychological damage.²⁷⁰

In Brčko District, survivors of sexual violence and former detainees can obtain the status of CVW proving at least 60 per cent physical disability or permanent psychological harm as a consequence of what they suffered in the conflict.²⁷¹ This means that if a person does not reach the threshold of physical disability or the psychological trauma is not permanent, he or she does not deserve to be considered a civilian victim of war. Moreover, in 2012 the District institutions amended the law, requiring civilian victims of sexual violence to

²⁶⁶ Ibid.

²⁶⁷ Amra Delić, interview with the author.

²⁶⁸ Amnesty International, When Everyone is Silent – Reparation for survivors of wartime rape in Republika Srpska in Bosnia and Herzegovina, EUR/63/012/2012, October 2012. 8. Available at: <http://www.amnesty.org.uk/sites/default/files/bosnia-rape-weapon-of-war.pdf>.

²⁶⁹ ICMP, Guide for Civilian Victims of War – How to enjoy the right to protection as a civilian victim of war in the Republika Srpska, Sarajevo, 2007. Introduction. Available at: <http://www.icmp.int/wp-content/uploads/2014/08/guidebook-wictim-of-war-rs.pdf>.

²⁷⁰ Amnesty International, When Everyone is Silent. 8, 9.

²⁷¹ ODLUKU O ZAŠTITI CIVILNIH ŽRTAVA RATA. Arts. 2(a), 5(1).

produce evidence of a judicial conviction against perpetrators in order to obtain the status.²⁷² The recent amendments provided that where such decisions do not exist, victims will have to go through special procedures before committees of experts and court experts to have their status recognized.²⁷³ On the top of that, the survivor could eventually lose the status in the event that the potential perpetrator is acquitted.²⁷⁴

3.1.3 Judiciary

The first investigations on the crimes committed during the conflict in the former Yugoslavia were carried out by the ICTY, established in 1993: the tribunal was created as a temporary institution, since at that time the judicial systems of the countries involved in the war were not able to do so themselves.²⁷⁵ Pursuant to its ‘Completion Strategy’, the ICTY started to transfer cases against intermediate and lower-level defendants to the respective competent national jurisdictions in 2003:²⁷⁶ the judiciary system in BiH is itself an obstacle for survivors of sexual violence, who for several reasons are discouraged from coming forward.

The criminal code of the State and that of the Entities and Brčko District are not harmonized: cases at State level are processed mainly under the 2003 Criminal Code, whereas in the Entities and in Brčko District the Criminal Code of the Social Federal Republic of Yugoslavia (SFRY) is generally applied. In Chapter XVII of the 2003 Criminal Code, rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation or any other form of sexual violence of comparable gravity²⁷⁷ are considered crimes against humanity, as well as persecution on gender grounds.²⁷⁸ Rape and enforced prostitution are also prohibited as war crimes against civilians.²⁷⁹ On the contrary, in the SFRY Criminal Code, only rape and forcible prostitution are considered crimes of a sexual character and are

²⁷² Office of the High Representative (OHR), 47th Report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina to the Secretary-General of the United Nations, 11 May 2015. Para.21. Available at: http://www.ohr.int/other-doc/hr-reports/default.asp?content_id=49127.

²⁷³ TRIAL et al., Written Information for the Adoption. Para.93.

²⁷⁴ Ibid.

²⁷⁵ ICTY, Completion Strategy. Available at: <http://www.icty.org/sid/10016>.

²⁷⁶ Ibid.

²⁷⁷ CONSOLIDATED VERSION of the CRIMINAL CODE OF BOSNIA AND HERZEGOVINA (“Official Gazette of Bosnia and Herzegovina” No. 3/03, 32/03, 37/03, 54/04, 61/04, 30/05), Art. 172(g). Available at: http://www.coe.int/t/dlapil/codexter/Source/country_profiles/legislation/CT%20Legislation%20-%20BiH%20Criminal%20Code.pdf.

²⁷⁸ Ibid., art.172(h).

²⁷⁹ Ibid., art.173(e).

proscribed only as war crimes against the civilian population,²⁸⁰ thus failing to grasp the systematic character that sexual violence had in the conflict.²⁸¹

At the end of 2008, a National Strategy for War Crimes Processing (NSWCP) was launched by the State's justice sector to deal with the backlog of war crime cases that BiH had to process: 'less complex' cases started to be transferred to the entities, while the Court of BiH and BiH Prosecutor's Office continued to deal with the 'most complex' ones.²⁸² Between 2009 and 2013, 39 cases including sexual violence allegations (included one alleging the genital beating of prisoners of war) were transferred to the Entities and Brčko District, even though at the time of the adoption of the NSWCP the overwhelming majority of cantonal and district courts could not provide physical protective measures to victims and witnesses,²⁸³ or psychological support before, during, and after they testified in court.²⁸⁴ When it is established that a witness suffered sexual violence, one of the most difficult tasks is to get him or her to testify about it, and in the course of time the witness could very likely lose confidence in the legal institutions, thus considering the opportunity to give testimony about what he or she went through as nonsense.²⁸⁵ Despite a slight improvement in recent years, witness protection is critically insufficient in the entities.²⁸⁶ Moreover, assistance and psychological support of witnesses is not homogeneous throughout the country: despite the fact that more tribunals now have a witness support unit and a network of NGOs is also providing support of this kind, institutional support to witness protection and assistance is still insufficient.²⁸⁷ Unsurprisingly, prosecutors reported a number of cases in which the victim refused to testify, including several examples of male survivors of sexual violence, one of whom did not even want the criminal proceedings to be started.²⁸⁸ It has to be noted that processing cases of wartime sexual violence has until very recently been difficult

²⁸⁰ THE CRIMINAL CODE OF THE SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA (28 September 1976), *entered into force* 1 July 1977. Art.142. Available at:

http://wcjp.unicri.it/db_legislation/national/docs/SFRY_Criminal%20Code_OG%2044-76,36-77_eng.pdf.

²⁸¹ OSCE – Mission to Bosnia and Herzegovina. “Combating Impunity for Conflict-Related Sexual Violence in Bosnia and Herzegovina: Progress and Challenges. An analysis of criminal proceedings before the courts of the Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District BiH between 2004 and 2014” [hereinafter OSCE, “Criminal proceedings before the courts”], June 2015. 19. Available at:

<http://www.osce.org/bih/171906?download=true>.

²⁸² OSCE, Accountability for War Crimes. Available at: <http://www.oscebih.org/Default.aspx?id=70&lang=EN>.

²⁸³ OSCE, “Criminal proceedings before the Court of BiH.” 21, 22.

²⁸⁴ OSCE, Witness Protection and Support in BiH Domestic War Crimes Trials: Obstacles and recommendations a year after adoption of the National Strategy for War Crimes Processing, January 2010. 7. Available at: http://www.oscebih.org/documents/osce_bih_doc_2010122314375593eng.pdf.

²⁸⁵ Minela Bakamović, written (e-mail) interview to the author.

²⁸⁶ OSCE, “Criminal proceedings before the courts.” 42.

²⁸⁷ TRIAL et al., Written Information for the Adoption. Para. 77.

²⁸⁸ OSCE, “Criminal proceedings before the courts.” 39.

because investigators, prosecutors and judges did not possess the gender expertise and the necessary training to do so, resulting in the necessity for survivors to repeatedly give testimonies and statements, with the final result of going through re-traumatisation.²⁸⁹

Cases involving sexual violence against males have taken place at both State level and Entities level.²⁹⁰ BiH Court has finalized four cases in this respect,²⁹¹ in at least two of which the accused allegedly forced male detainees to perform oral sex on one another,²⁹² in a third case non-Serb male detainees were forced “to perform lewd acts among themselves”,²⁹³ without further clarifying if sexual penetration was included in these acts, and in a fourth case the accused was charged with forcing a male prisoner to have sexual intercourse with a female prisoner.²⁹⁴ Despite the fact that precedence from the international tribunals and of the BiH Court in practice recognizes these crimes as rape, they were not qualified as such by either the Prosecutor or the final verdicts, even though they did in other cases that involved the rape of females.²⁹⁵ During trials where sexual violence against men was involved, the following attitudes seemed to emerge: each case has been presented like it was totally isolated from others of the same kind, as if rape and sexual torture against male prisoners in detention had been an extraordinarily uncommon practice, and conveying the idea that whoever had been capable of committing such crimes must have been totally insane.²⁹⁶ Survivors were treated as men are supposed to react to every possible occurrence: regardless of what happened, they are supposed to be fine.²⁹⁷ Analogous indictments and verdicts have been registered at Entities level in other two cases.²⁹⁸ Here, the issue of consent to sexual intercourse and whether the victim could resist the perpetrator were not even raised by the courts, while they have been often taken into consideration when female victims were involved.²⁹⁹

²⁸⁹ Amra Delić, interview with the author.

²⁹⁰ The analysis of these cases has been carried out by the Trial Monitoring Programme of the OSCE Mission to BiH in the reports: OSCE, “Criminal proceedings before the Court of BiH”, and OSCE, “Criminal proceedings before the courts.”

²⁹¹ BiH Court, Prosecutor v. Kurtović (X-KRŽ-06/299); BiH Court, Prosecutor v. Lazarević et al. (X-KRŽ-06/243); BiH Court, Prosecutor v. Terzić (S11K00566511KrŽ); BiH Court, Prosecutor v. Veselinović (X-KR-05/48).

²⁹² BiH Court, Prosecutor v. Kurtović (X-KRŽ-06/299); BiH Court, Prosecutor v. Lazarević et al. (X-KRŽ-06/243).

²⁹³ BiH Court, Prosecutor v. Veselinović (X-KR-05/48).

²⁹⁴ BiH Court, Prosecutor v. Terzić (S11K00566511KrŽ).

²⁹⁵ OSCE, “Criminal proceedings before the Court of BiH.” 42-43.

²⁹⁶ Tanja Tankosić, interview with the author.

²⁹⁷ Ibid.

²⁹⁸ Sarajevo Cantonal Court, Prosecutor v. Milanović (09 0 K 000748 08 ,, K); Bijeljina District Court, Prosecutor v. Minić et al. (12 0 K 000929 10 K).

²⁹⁹ OSCE, “Criminal proceedings before the courts.” 32.

The implementation of the NSWCP is slow and suffers from insufficient coordination between the competent institutions at the different administrative levels, as well as from a lack of funds.³⁰⁰ Impunity, and consequent mistrust in judicial institutions, is another of the most relevant factors determining the unwillingness of survivors to come forward.³⁰¹ The number of indictments does not even slightly reflect the magnitude of the sexual violence that took place during the conflict, also because many suspects are still at large and often the only retrievable evidence is the testimony of the survivor himself.³⁰² Among the hurdles, there is also the “political opposition from certain quarters to an integrated and cohesive judicial system able to tackle serious crime”.³⁰³ Another factor of distress for survivors is the recent trend, registered by TRIAL, seeing several perpetrators of sexual violence obtaining the minimum sentence thanks to the application of attenuating circumstances;³⁰⁴ moreover, in both Criminal Codes, there is the possibility for the perpetrator to be granted amnesty or pardon.³⁰⁵

In June this year, the Court of BiH decided to provide a victim of wartime sexual violence with damage compensation, by obliging the accused to pay a fine.³⁰⁶ This is a landmark ruling, since in BiH this is the first time that a wartime victim has obtained compensation through criminal proceedings: as matter of fact, courts and prosecutors have always redirected victims to civil procedures to get compensation, and survivors often do not have any other choice than renounce to it, as civil procedures imply revealing their identity, which is often protected during criminal proceedings, and incurring costs that many are unable to pay.³⁰⁷ There is no State Law on free legal aid: there are eight free legal aid cantonal agencies and a number of CSOs that provide free legal aid, but the matter is not

³⁰⁰ Council of Europe, Commissioner for Human Rights, “Post-war Justice and Durable Peace in the former Yugoslavia.” Issue Paper, 2012. 15. Available at:

http://www.coe.int/t/commissioner/Source/prems/Premis14712_GBR_1700_PostwarJustice.pdf.

³⁰¹ Amra Delić, interview with the author. See also: TRIAL et al., General Allegation to the Special Rapporteur on Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment and the Working Group on Arbitrary Detention. April 2012. Section 4. Available at: http://www.trial-ch.org/fileadmin/user_upload/documents/CAJ/BH/General_allegation_to_SR_Torture_and_WGAD_-_April_2012.pdf.

³⁰² OSCE, “Criminal proceedings before the Court of BiH.” 17.

³⁰³ Ibid.

³⁰⁴ TRIAL et al., Written Information for the Adoption. Para. 21.

³⁰⁵ CRIMINAL CODE OF BOSNIA AND HERZEGOVINA, Arts.42(a), 118, 119; THE CRIMINAL CODE OF THE SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA, Arts.101, 102.

³⁰⁶ TRIAL, “BiH: Ground breaking Court decision paves the way for wartime victims to get compensation,” 24 June 2015. Available at: http://www.trial-ch.org/no_cache/en/about-trial/trial-acts/details/article/bih-groundbreaking-court-decision-paves-the-way-for-wartime-victims-to-get-compensation.html.

³⁰⁷ Ibid.

regulated at State level.³⁰⁸ It is evident that these factors are not at all encouraging for survivors of sexual violence to come forward.

3.2 Analysis

Mezey and King have argued that male sexual violence is an unspeakable subject because it is both silenced by survivors and hidden “by a society that is not prepared to listen.”³⁰⁹ As clarified up to now, the reasons why this offence is so considered can be traced back primarily to the way gender has been constructed in relation to the categories of nation and ethnicity. Analyzing the invisibility in the Croatian media of male-on-male sexual violence during the war in former Yugoslavia, Dubravka Žarkov explains how, in this particular context, ethnicity “was invoked as the primary difference” between Croats, Muslims and Serbs, where ethno-national discourses of “ethnic purity” tried to erase the countless commonalities that existed between the groups at multiple levels, from physical appearance to history and culture, but most of all common “dominant notions and practices of femininity and masculinity and of heteronormativity [that] have functioned as unifying factors across the lines of ethnic belonging”.³¹⁰ It is exactly because these meanings were shared by the three groups that sexual violence turned out to be such a powerful and widely used weapon.³¹¹ In this way, continues Žarkov, ethnicity became the primary difference, and the division along ethnic lines was sanctioned by means of masculinity and heteronormativity as a signifier of superiority of one ethnicity upon the other,³¹² and vice versa: holding on to the social constructionist framework, the subdued part is feminized, weak and homosexualised.

There is a perceived link between survivors of male-on-male sexual violence and homosexuality at societal level due to the construction of masculinity as powerful, virile, and heterosexual.³¹³ Because of this, survivors may question their sexual orientation, also because of their physiological response to the sexual abuse, since it is not uncommon for them to have

³⁰⁸ TRIAL et al., *Written Information for the Adoption*. Paras.69, 70.

³⁰⁹ Mezey & King, 2000. Cit. in: DelZotto, Augusta & Adam Jones, “Male-on-Male Sexual Violence in Wartime: Human Rights' Last Taboo?” Paper presented to the Annual Convention of the International Studies Association (ISA), New Orleans, LA, 23-27 March 2002. Available at: http://adamjones.freesevers.com/malerape.htm#N_14.

³¹⁰ Žarkov, Dubravka. “Exposures and Invisibilities: Media, Masculinities and the Narratives of Wars in an Intersectional Perspective.” In Lutz, Helma, Maria Teresa Herrera Vivar & Linda Supik, eds. *Framing Intersectionality: Debates on a Multi-Faceted Concept in Gender Studies*. Goethe University, Frankfurt, Germany: Ashgate, 2011. 105-120. 111-112.

³¹¹ Olujić, Maria B. “Embodiment of Terror.” 39.

³¹² Žarkov, Dubravka. “Exposures and Invisibilities.” 116.

³¹³ Sivakumaran, Sandesh. “Male/Male Rape and the ‘Taint’ of Homosexuality.” *Human Rights Quarterly* 27 (2005): 1274-1305. 1285-1289.

experienced sexual arousal during the act.³¹⁴ Many survivors, both male and female, would like to speak up, but keep silent because they fear society's reaction to their story.³¹⁵ Talking about their experience would be positive for them, in so far as it fosters feelings of self-confidence: they would feel that they can contribute to something useful, like finding the criminal.³¹⁶ In the case of male survivors, the silence can be traced back also to the fear of society's opinion about homosexuals.³¹⁷ This could be confirmed by the fact that actually the most common sexual offences in the camps was genital beatings, psychosexual torture and forced sexual acts between prisoners,³¹⁸ whereas episodes of rape of detainees by male prison guards were less frequent, and conducted in secret.³¹⁹ When heteronormativity is the rule, a heterosexual man does not rape another heterosexual man.³²⁰ In these cases, Žarkov posits, there is the risk that perpetrators are also considered homosexuals.³²¹

In so far as we consider Connell's model, we can actually analyze masculinity as a continuum that goes from a hegemonic masculinity to a subordinate masculinity, and try to understand at which point of the continuum male survivors of sexual violence place themselves. If we keep that perpetrators occupy a hegemonic position by force of violence, by means of which they confine the other men through victimization and feminization to the opposite pole, we can say that survivors occupy a subordinate position. But if gender is a variable that we can define every day, thus challenging or confirming existent social relations, the silence of survivors could be considered in a different way: if they really have agency, by keeping silent, they in fact move to the category of complicit masculinities, not to lose at least a part of the privileges accorded to men by patriarchy. While nobody knows that they have been abused, they can still be regarded as men by society. If we switch to the social learning paradigm, we shall take into consideration that agency is not free from other constraints, such as the environmental factor: Bosnia and Herzegovina, and the Balkan region in general, as we saw, imposes quite strong normative social conditions on the members of the collective, shaping social roles and behavioral patterns in a tighter fashion limiting the influence of personal factors, and thus the efficacy of individual agency. Silence, in this case, is itself a product of the same "cultural design" that constructs gender roles. Is then silence

³¹⁴ Ibid. 1290, 1291.

³¹⁵ Documentary film „Nečujni Krik“. BIRN Balkans, 2015.

³¹⁶ DelZotto, Augusta & Adam Jones, "Male-on-Male Sexual Violence in Wartime." 1291.

³¹⁷ Sivakumaran, Sandesh. "Male/Male Rape and the 'Taint' of Homosexuality." 1291.

³¹⁸ Loncar, Mladen, Neven Henigsberg & Pero Hrabac. "Mental Health Consequences." 196.

³¹⁹ Brečić, Petra & Mladen Lončar. "Characteristics of Sexual Violence against Men." Cit. in: Žarkov, Dubravka. "Exposures and Invisibilities." 111.

³²⁰ Žarkov, Dubravka. "Exposures and Invisibilities." 111.

³²¹ Ibid.

the outcome of a choice intended to preserve one's privileges in virtue of patriarchy or a structural imposition?

Reflecting on the actual agency of male survivors of sexual violence, we cannot disregard the context. Vojdik argues that sexual violence against men overturns social construction and expectations.³²² it falls in the stereotype of women to be weak and in need of protection, but the same cannot be applied to men.³²³ The way in which gender roles have been constructed in Bosnian society foresees males as not subjected to any possible victimization: they are seen as weak also when they found themselves in the position of being victims of other crimes, let alone sexual violence.³²⁴ As it has been proved in the case of Bosnia and Herzegovina, but also in other contexts,³²⁵ this conviction is so powerful and embedded in the way in which men perceive themselves and are perceived by others, that they may not even be able to identify exactly the form of violence they have endured. This is mirrored, in turn, by the attitude of healthcare professionals, who may dismiss them or simply not want to deal with issue. This seems to be consistent with the unwillingness of Bosnian society to acknowledge the issue openly and to adequately respond and eventually support the survivors of such offences. As previously explained, the reaction is also the product of the conflict itself: the trauma for society as a whole has been so extensive that people prefer to try to forget what happened in an attempt to start anew.

State institutions, which could have acted as a bridge between war survivors and society, could not do any better to tackle the issue or to decrease the stigma that haunts survivors. Over the past years, a number of legislative initiatives have been launched in order to bring BiH legal framework in line with international standards as far as social protection of survivors of wartime sexual violence is concerned. Currently none of these attempts has been finalized and implemented, despite the fact that some of them have now been ongoing for almost ten years: the State-level major legislation initiatives relevant for survivors of conflict-related sexual violence are still at a draft stage and the measures undertaken by the authorities of the entities are not sufficient to guarantee a proper level of social support to survivors.

First and foremost, male survivors of sexual violence are in the majority of cases former concentration camp inmates: since the end of the conflict, they joined one of the

³²² Vojdik, Valorie K. "Sexual Violence Against Men and Women in War." 946.

³²³ Ibid.

³²⁴ Šoštarić, Maja. "War victims and gender-sensitive truth." 47.

³²⁵ See, for instance: Peel, M, A. Mahtani, G. Hinshelwood, & D. Forrest. "The Sexual Abuse of Men in Detention in Sri Lanka." *The Lancet* 355, no. 9220 (2000): 2069-2070. 2069.

numerous camp inmates associations in the country.³²⁶ In BiH there are three major Associations of Camp Inmates that represent persons mainly according to the respective ethnic affiliation: the Association of Camp Inmates of BiH has predominantly Bosniak members, while the Association of Camp Inmates in Republika Srpska represents Serbs, and the Croat Association of Camp Inmates of the Homeland War brings together mainly Croats,³²⁷ and a few Bosniaks that fought on the side of the Croatian Defence Council (HVO).³²⁸ Furthermore, in the country there is a myriad of camp inmates associations on a cantonal and municipal basis.³²⁹ Many former detainees decided not to join any of these associations, since the latter are only entitled to issue certificates confirming the status of camp inmate, which is not connected on the entity or state level to any form of compensation or social support.³³⁰ As already noted, former camp inmates are not a separate category of civilian victims of war, and pursuant to the entity laws they are not entitled to any compensation unless they can prove at least 60 per cent physical disability in RS, or 60 per cent mental or physical disability in FBiH and Brčko District. Male survivors of sexual violence often do not fully report what they experienced in the camps not even to these organizations: for instance, in the Association of Camp Inmates of BiH out of around 57,000 members there is only a small number of men that declared that they were sexually assaulted while in detention,³³¹ whereas the Association of Camp Inmates in Republika Srpska does not have a single man amongst its members who reported this offence.³³²

In RS the issue of wartime sexual violence, after long years of silence on the part of institutional authorities,³³³ has slowly started to be addressed by the Government.³³⁴ The project “Snaga je u nama” (“The strength is within us”) has been implemented by the Republic Centre for Research on War, War Crimes and The Search of Missing Persons, an office within the Ministry of Justice of RS, and the Gender Centre of RS:³³⁵ the aim was to establish a dialogue between institutional representatives, NGOs dealing with women

³²⁶ Nela Porobić Isaković, written (e-mail) interview to the author.

³²⁷ Šoštarić, Maja. “War victims and gender-sensitive truth.” 52.

³²⁸ Anđelko Kvesić, interview with the author.

³²⁹ Čolo, Edita, Suzana Božić & Goran Bubalo eds. “Analiza potreba i baza kontakata udruženja logoraša, porodica nestalih, poginulih, oboljelih od PTSP-a i RVI-a u Bosni i Hercegovini.” Catholic Relief Services, April 2012.

³³⁰ Anđelko Kvesić, interview with the author.

³³¹ Savez Logoraša u Bosni i Hercegovini, informative meeting with the author. Sarajevo, 14 July 2015.

³³² Sanda Vukojević, interview with the author.

³³³ Šoštarić, Maja. “War victims and gender-sensitive truth.” 53.

³³⁴ Sanda Vukojević, interview with the author.

³³⁵ Ibid.

survivors of sexual violence, the judiciary, and the survivors.³³⁶ The Republic Centre for Research on War has a unit which is dealing with war crimes of sexual violence: at the moment, they are considering exclusively Serbian victims and survivors, all female.³³⁷ They are not researching on one single account of sexual violence against men.³³⁸

As to why the issue of male-on-male sexual violence has been poorly addressed also by NGOs and intergovernmental organizations (IGOs), Sivakumaran posits that it is so because this is “a cause without a voice”.³³⁹ women’s and homosexual movements would benefit if increased attention was devoted to the issue, because the concepts of power, dominance, and gender outlined in the first chapter of this work feature as key players in both feminist analysis of women raped by men,³⁴⁰ and in the discrimination of masculinities other than hegemonic and heterosexual, like homosexuals. Despite that, neither of these two movements addressed the issue, which has not been lobbied for at the decision-making level of international fora, characterized by a predominant heterosexual male perspective.³⁴¹ DelZotto and Jones make a similar point:

“The plight of male victims of war-related sexual violence (including male children) must be viewed in the context of a series of factors and forces that have resulted in the effective suppression of the phenomenon. Historical silence is one factor; the paternalistic and homophobic nature of the state, another. The NGO “explosion,” which might be expected to offset the framings offered by elite political actors and institutions, has in fact done very little to address the issue of male victims and survivors. An exceedingly narrow construction of male dominance informs the work of most humanitarian groups. In turn, such groups depend for their funding and infrastructure on elite actors who rely strongly on masculine stereotypes to uphold and advance their political agendas.”³⁴²

In the Outreach section of the website of the ICTY it is possible to find the documentary “Crimes before the ICTY: Prijedor”, presented with the sub-heading “The discovery that set international criminal justice into motion.”³⁴³ As a matter of fact, a couple of months after British journalists managed to visually document the existence of camps for non-Serb civilians in the surroundings of Prijedor, in north-western Bosnia and Herzegovina, in August 1992, a process was started that had as its outcome the establishment of the

³³⁶ Ibid.

³³⁷ Ibid.

³³⁸ Ibid.

³³⁹ Sivakumaran, Sandesh. “Male/Male Rape and the ‘Taint’ of Homosexuality.” 1275.

³⁴⁰ Ibid., 1281.

³⁴¹ Ibid., 1284.

³⁴² DelZotto, Augusta & Adam Jones, “Male-on-Male Sexual Violence in Wartime.”

³⁴³ ICTY, Outreach. Documentary film “Crimes before the ICTY: Prijedor.” Available at: <http://www.icty.org/sid/11341>.

international criminal tribunal, the first since World War II.³⁴⁴ The first trial held in the newly established ICTY is often deemed to be groundbreaking in character, since it was the first international war crimes trial involving charges of sexual violence.³⁴⁵ The final indictment makes it clear that “both female and male prisoners were beaten, tortured, raped, sexually assaulted, and humiliated.”³⁴⁶ Forcible sexual intercourse has been qualified as rape and thus recognized as a crime against humanity under the statute of the Tribunal,³⁴⁷ as well as a war crime.³⁴⁸ This was so, according to DelZotto and Jones because the detainee subjected to these offences was a female.³⁴⁹ The forced oral sexual acts and the sexual mutilation that two male prisoners were forced to commit on each other by the indicted³⁵⁰ were considered “torture or inhuman treatment”,³⁵¹ a crime “wilfully causing great suffering or serious injury to body and health”,³⁵² “cruel treatment”,³⁵³ and “inhumane acts.”³⁵⁴ In this case, the forced oral sexual acts and sexual mutilation were not specifically presented as sexual assault.³⁵⁵

Male survivors of sexual violence are caught up in a circle made up by different players and factors that all play their part in mutually silencing the issue, thus heavily limiting their agency. Twenty years after the end of the conflict, they still face a wall of stigma for both what they have gone through and their current life conditions: many endure difficult economic circumstances, as well as physical and psychological consequences. CSO organizations, most notably *Vive žene Tuzla*, *Medica Zenica*, and *Snaga žene Tuzla*, are active to help at least a part of survivors cope with their situation,³⁵⁶ but it is obvious that they cannot have enough financial resources and professional personnel to reach every person in need. Complicated and non-harmonized legal systems, insufficient funds for the implementation of the social and economic rights survivors are entitled to, and lack of psychological support³⁵⁷ continue to hamper their possibility to take their lives back. The first projects aiming at the treatment of male survivors of sexual violence that started during the

³⁴⁴ Ibid.

³⁴⁵ Lehr-Lehnardt, Rana. “One Small Step for Women: Female-Friendly Provisions in the Rome Statute of the International Criminal Court.” *B.Y.U. Journal of Public Law* 317, XVI (2002): 317-354. 325.

³⁴⁶ ICTY, Tadić and Borovnica (IT-94-1-I), Indictment (amended), 14 December 1995. Para. 2.6. Available at: <http://www.icty.org/x/cases/tadic/ind/en/tad-2ai951214e.pdf>.

³⁴⁷ Ibid., para. 5, Count 4.

³⁴⁸ Ibid., para. 5, Count 3.

³⁴⁹ DelZotto, Augusta & Adam Jones, “Male-on-Male Sexual Violence in Wartime.”

³⁵⁰ ICTY, Tadić and Borovnica (IT-94-1-I), Indictment (amended), 14 December 1995. Para. 6.

³⁵¹ Ibid., Count 8.

³⁵² Ibid., Count 9.

³⁵³ Ibid., Count 10.

³⁵⁴ Ibid., Count 11.

³⁵⁵ DelZotto, Augusta & Adam Jones, “Male-on-Male Sexual Violence in Wartime.”

³⁵⁶ Šoštarić, Maja. “War victims and gender-sensitive truth.” 55.

³⁵⁷ Nela Porobić Isaković, written (e-mail) interview to the author.

war were matching the satisfaction of survivors' basic social needs with the provision of professional help, but the introduction of psychiatric treatment proved to be fundamental:³⁵⁸ PTSD and sexual dysfunction were targeted in both individual and group therapy, and also partner, and marital therapy were used, and the results were overwhelmingly positive, with most of the patients "rehabilitated to a reasonable level" at the end of a five years' timeframe.³⁵⁹

This may suggest that active outreach towards and targeted help to male survivors could possibly represent a great help for them, and in the same time counteract the common stereotype that victims of sexual violence cannot "be normal anymore".³⁶⁰ This condition alone is not enough, of course, for it should be combined with adequate forms of reparation, social support and criminal justice, other than the fundamental reduction of stigma attached to sexual violence and to mental health care.

³⁵⁸ Loncar, Mladen, Neven Henigsberg & Pero Hrabac. "Mental Health Consequences." 200, 201.

³⁵⁹ Ibid.

³⁶⁰ Olga Lola Ninković, interview with the author.

CONCLUSION

Male survivors of wartime sexual violence in Bosnia and Herzegovina are caught up in a circle of silence, which is determined by different players and factors that mutually contribute to the confinement of the issue in the realm of the “unspeakable”. What is, then, the origin of the silence? What is its impact on male survivors of sexual violence and on society? What are the dynamics that perpetuate it, and determine its very existence twenty years after the end of the conflict? The major source of silence is the conception of masculinity as a monolithic category where the male role constructed within society has to respond to the requisites of strength, virility and heteronormativity. When men are sexually assaulted, their position shifts towards the one generally associated with women, weak and subjected to victimization. In ethno-national conflicts, as sexual violence against women is perceived as the destruction of the national, racial, religious or ethnic culture, the same could be said for sexual violence against men: when the man is disempowered and emasculated, this symbolizes the disempowerment of the national, racial, religious or ethnic community. The gender positioning resulting from rape is transferred onto the ethnicity of the perpetrator and the abused, elevating the ethnicity of the former and diminishing that of the latter.

The outcomes of this research show that this point of origin determines a wide spectrum of practical consequences that are put in place by survivors themselves and other players, and that ultimately confines male victims of sexual violence to a circle of silence from which is extremely difficult to come out. Survivors do not speak up, being convinced that they did not measure up to their social role at that time, and on the top of that they often are not able to do it now, since they lack the possibility to provide for their family and are still suffering from the physical, but most of all psychological, consequences of the violence they went through. Haunted by the same stereotypes, society fosters this conviction in multiple ways, failing to create a supporting environment for survivors and thus preventing them to ask for help, should they want to. State institutions, on their part, contribute to this process by not implementing a single piece of legislation that could ameliorate the condition of this specific category of survivors, and entity legislations suffer from pitfalls that exclude a big part of them from social support. Judiciary institutions, as well, foster the silence by failing on multiple sides to create adequate conditions for survivors to speak up.

Common stereotypes about rape as the only form that sexual violence against men can take, determined the pointlessness of reporting the incident as sexual assault for a number of survivors, since they simply did not experience it as such. Sexual abuse is an offence that

society automatically attaches to women's experience, and also some therapists or physicians had the same stereotypes: even when they thought about sexual violence as something that could have happened to men as well, they thought just about rape, and they missed the opportunity to detect signs of other forms of sexual violence, in turn discouraging survivors from reporting. There is a lack of sensitivity on the part of some psychotherapists and psychiatrists to tackle the issue of sexual violence with their patients, and in Bosnia and Herzegovina there are no programs specifically targeted at male survivors: international programs and non-governmental organisations working in the field of wartime sexual violence are focused on women, and possibly involve men in the same activities. As a consequence, men that would like to join group therapy or an association and maybe open up slowly may feel uncomfortable because they are entering an all-female environment and rather prefer to stay silent and not join at all.

Sexual violence also carries with it social consequences, which can include stigma, discrimination, and abandonment. Men felt ashamed in the first place because they felt they did not measure up with their social role, and on top of that society has been forcing upon them the feeling that they are homosexuals, thus adding another layer of stigma. Social support is of paramount importance for survivors of sexual violence to overcome the trauma. In a lot of cases, male survivors' family members are not even aware of what they have been through, and when they do, or at least suspect that their relatives might have experienced an assault of this kind, they could decide not to inquire further, thus contributing to the sense of isolation of the survivors. Sexual trauma is most likely going to affect sexual functioning in trauma survivors, causing problems in intimate relationships, and giving rise to chronic PTSD: in some cases wives could not bear the fact that their husbands had been abused and just left them, although there is evidence that most wives tend to be supportive of their husbands in these circumstances.

Most survivors still suffer from PTSD, insomnia, and take medicines regularly, when they can afford them. They can show high levels of demotivation, most of all because they used to be the breadwinners within the family, and after the war they found themselves unemployed and thus in a precarious economic condition, unable to be the providers for their respective families. The survivor is not the only one suffering from sexual violence: families are very likely to suffer as a whole when one or more of their members suffers from PTSD, and here is a high risk of transmitting feelings related to trauma from generation to generation.

Society as a whole seems to be insensitive towards war survivors, in particular towards people that were sexually abused during the conflict. The general myth exists that survivors of a major offence such as sexual violence will not be able to function 'normally' any more, that they are 'insane', that nobody will choose them as partners, that they will not manage to have gratifying intimate relationships or to have and raise children: these prejudices are in turn transferred onto the survivors. In the attempt to escape this mechanism, many people prefer to stay silent, above all men, since the 'victim' position is traditionally a women's prerogative and endangers their role in society in so far as they would openly show that they were not strong enough to maintain control over the situation. Moreover, seeking help is inconsistent with the social and cultural role that men have in Bosnian society, being expected not to express feelings and fears.

State institutions are part of the circle of silence, in so far as they did not develop any strategy to actively counteract the stigma attached to survivors of sexual violence, be they male or female. No relevant piece of legislation that could provide them with reparations or social support has so far been implemented at State level. Men were subjected to sexual violence and torture mainly in concentration camps, but former inmates of detention facilities of any kind are not recognized as a particular category of war victims, and pursuant to the entities legislation they can obtain social support only if they can prove at least 60 per cent physical disability in RS, or 60 per cent mental or physical disability in FBiH and Brčko District. Complicated, long and non-harmonized legal systems, lack of psychological support and physical protection of witnesses before, during and after legal proceedings, impunity and, until recently, lack of judges, investigators and prosecutors specifically trained to deal with cases of wartime sexual violence are the major factors that foster silence on the part of survivors, who do not have any incentive to expose themselves to the stigma, frustration, distress and physical danger of participating in legal proceedings at the end of which they risk not obtaining justice and that do not entitle them to compensation for the suffering they had to go through.

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