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FIGHTING IMPUNITY FOR CONFLICT RELATED SEXUAL VIOLENCE THROUGH POLITICAL ACTIVISM: THE CASE OF BOSNIA AND HERCEGOVINA AND KOSOVO

A FEGYVERES KONFLIKTUSOKBAN ELKÖVETETT SZEXUÁLIS ERŐSZAK BÜNTETLENSÉGE ELLENI KÜZDELEM POLITIKAI AKTIVIZMUSON KERESZTÜL: BOSZNIA-HERCEGOVINA ÉS KOSZOVÓ ESETE

ATIFETE JAHJAGA¹

ABSZTRAKT ■ A háború és a fegyveres konfliktusok során elkövetett szexuális erőszak ügye nem új keletű probléma. A fegyveres konfliktusokban elkövetett szexuális erőszak az emberiség történelmének nagy részében pusztító hatással volt az áldozatok életére, és ma is széles körben alkalmazzák a szexuális erőszakot háborús taktikaként. Bár a fegyveres konfliktusokban elkövetett szexuális erőszak problémájával kapcsolatban egyre több információval rendelkezünk, a hatékony és gyors hazai, illetve nemzetközi reakálás hiányzik a probléma kezelése és a büntetlenség elleni fellépés terén. A fegyveres konfliktusokban elkövetett szexuális erőszak gyakran kezeletlen marad számos összetett tényező miatt, mint például a politikai akarathiánya, gyenge jogi keretek, társadalmi megbélyegzés, erőforráshiány, valamint egyes esetekben a folyamatos konfliktus. Figyelembe véve a bűncselekmény jellegét és a túlélők szükségleteit, a fegyveres konfliktusokban elkövetett szexuális erőszak (conflict-related sexual violence: CRSV) kezelése a konfliktus utáni országokban átfogó megközelítést igényel, amely magában foglalja a jogi keretek megerősítését, a túlélők számára nyújtott támogató szolgáltatások biztosítását, valamint az elkövetők felelősségre vonását. Emellett tartós politikai akaratra és nemzetközi támogatásra van szükség ahhoz, hogy maradandó változás jöheszen létre. Jelen tanulmány elemzi a politikai aktivizmus szerepét a fegyveres konfliktusokban elkövetett szexuális erőszak büntetlensége elleni küzdelemben, valamint a jogvédelem és a politikai támogatás biztosításában, mint olyan eszközökben, amelyek segíthetnek megelőzni a jövőbeni bűncselekményeket és helyreállítani a társadalom jogállamiságba vetett bizalmát. Bosznia-Hercegovina és Koszovó eseteinek vizsgálata szemlélteti, hogy a politikai aktivizmus és a túlélők megismerése miként töltheti be a legjelentősebb szerepet a büntetlenség elleni küzdelemben.

¹ PhD student, Doctoral School of Law and Political Sciences, Károli Gáspár University of the Reformed Church in Hungary.

KULCSSZAVAK: fegyveres konfliktusokban elkövetett szexuális erőszak, igazságszolgáltatáshoz való hozzáférés, jogi elismerés, jóvátétel, nemek közötti egyenlőség, emberi jogok, Bosznia-Hercegovina, Koszovó

ABSTRACT ■ The issue of sexual violence in war and conflict is not a new one. Conflict-related sexual violence has devastated lives throughout much of human history, and we are still seeing widespread use of sexual violence as a tactic of war today. While awareness on the issue of conflict-related sexual violence is increasing, an effective and rapid response domestically and internationally to address the issue and confront impunity is lacking. Conflict-Related Sexual Violence often goes unaddressed due to several complex factors such as the lack of political will, weak legal frameworks, social stigma, resource constraints, and in some cases ongoing conflict. Considering the nature of the crime and the needs of the survivor's, addressing CRSV in post-conflict countries requires a comprehensive approach that includes strengthening legal frameworks, providing support services for survivors, and ensuring accountability for perpetrators. It also requires sustained political will and international support to create lasting change. This article analyses the relevance of political activism in fighting impunity of the conflict related sexual violence and offering the legal protections and political support as a tool for deterring future acts and restoring society's trust in the rule of law. The case of BiH and Kosovo will be discussed as a way to exemplify how the political activism and survivor recognition can play the most significant role in combatting impunity.

KEYWORDS: conflict related sexual violence (CRSV), access to justice, legal recognition, reparations, gender equality, human rights, Bosnia and Hercegovina (BiH), Kosovo

1. INTRODUCTION

The persistence of conflict-related sexual violence (CRSV) in conflicts worldwide highlights the limitations of legal frameworks when implemented in isolation. While advancements in international law have raised global awareness and established CRSV as a crime under international security norms, domestic and international responses to fighting impunity for it, and providing prompt support to CRSV survivors remain insufficient. International law has primarily focused on holding perpetrators accountable via prosecution, yet the inconsistent prosecution of CRSV fails to address its far-reaching impacts on survivors and communities. This paper argues that addressing impunity for CRSV requires a holistic approach that integrates survivor recognition, strengthened political

activism with legal mechanisms to achieve justice, deter future crimes, and restore trust in societal structures.²

The problem of impunity for CRSV is rooted in several systemic, legal, and cultural challenges. Scholars have identified the role of “unequal and discriminatory gendered contexts” as a fundamental barrier to justice, where patriarchal norms and societal stigmatization both ostracize survivors as victims rather than reintegrating them as agents of recovery and shield perpetrators from accountability.³ During conflicts, the collapse of protective systems such as legal institutions, kinship networks, and community structures exacerbates these inequities, leaving survivors without avenues for redress.⁴ Furthermore, the lack of effective command structures in many conflict environments diminishes the ability to hold perpetrators accountable, even with international policy interventions.⁵ These structural and cultural barriers reinforce cycles of impunity by isolating survivors, compounding their trauma, and perpetuating inequities that undermine post-conflict recovery. Ultimately, the failure to contend with these interconnected challenges highlights the limitations of relying solely on international legal frameworks to combat impunity for CRSV.

After the significant media coverage of CRSV during the dissolution of the former Yugoslavia and the Rwandan genocide, the 1998 Rome Statute of the International Criminal Court (ICC) defined CRSV as a crime against humanity, a war crime, and an act of genocide, even in the absence of death.⁶ Further resolutions soon followed, including UN Resolution 1820, which urged member states to end conflict-related sexual violence and emphasized their responsibility to address and prevent sexual violence in conflict situations. However, while they provide important principles of accountability, their inconsistent enforcement and

² In this paper the term CRSV refers to rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage, and any other form of sexual violence of comparable gravity perpetrated against women, men, girls, or boys directly or indirectly linked to conflict. This term was coined in the UNSC, ‘Report of the Secretary General: Conflict-Related Sexual Violence’ (3 June 2020) UN Doc S/2020/487.

³ SARA E DAVIES – JACQUELINE MARIE TRUE: Reframing conflict-related sexual and gender-based violence: Bringing gender analysis back in. *Security Dialogue*, 2015, 46 (6), 495–512. 501; PEARL KARUHANGA ATUHAIRE – NICOLE GERRING – LAURA HUBER – MIRGUL KUHN – GRACE NDIRANGU: *The Elusive Peace: Ending Sexual Violence during and after Conflict*. US Institute of Peace, 2018.

⁴ JAMILLE BIGIO – RACHEL VOGELSTEIN: Understanding Sexual Violence in Conflict. In: *Countering Sexual Violence in Conflict*. Council of Foreign Relations, 2017, 3–7.

⁵ ATUHAIRE et al. 2018.

⁶ The Statute of the International Tribunal for the Former Yugoslavia (1993, Art.2, 5) and the Statute of the International Criminal Court (1998, Art, 7, 8) refer to rape as war crimes and crimes against humanity.

weak domestic judicial systems often leave survivors marginalized and without meaningful recourse.⁷ These flaws perpetuate cycles of violence by signaling to perpetrators that CRSV will not be met with accountability. Thus, survivors are trapped in a liminal state where they are neither fully recognized nor adequately supported. Addressing these gaps requires a shift toward survivor-centered approaches prioritizing restorative justice and systemic change through legal reforms, activism that confronts cultural stigmas, amplifies survivors' voices, and demands tangible reparative measures.

This paper explores the impact of political activism in survivor recognition and its effects in combating impunity and deter future crimes. Ultimately, this paper argues that breaking the cycle of CRSV demands a holistic approach that integrates legal protections, political activism, and survivor recognition. While international and domestic legal frameworks provide a foundation for accountability, their effectiveness depends on sustained political engagement that prioritizes survivors' voices, presses for systemic reform, and fosters societal will to combat impunity. Survivor recognition is equally critical in rebuilding trust in institutions and communities.

The paper begins by analyzing the role of political activism and how it has shaped the lens through which CRSV is viewed. Then it provides a brief summary of international legal framework on CRSV that can be further utilized through political activism to provide support and survivor recognition. Then the political activism in Kosovo and Bosnia and Hercegovina will be discussed in order to exemplify how political activism and survivor recognition complement each other in combatting CRSV impunity. The paper follows a simple methodological framework: i) utilizing the authors professional expertise; ii) analyzing existing studies, reports, and documentation from reputable international organizations, as well as domestic organizations; iii) comparing the impact of political activism in BiH and Kosovo in the pursuit of justice and accountability for CRSV survivors as a case study. The paper concludes by recommending further enhancement of political activism in deterring CRSV.

2. THE ROLE OF POLITICAL ACTIVISM IN CHANGING THE RESPONSE TO CRSV

Political activism is a dynamic force that drives social change and shapes the course of history. At its core, it involves the active engagement of individuals

⁷ AISLIG SWAINE: Beyond Strategic Rape and Between the Public and Private: Violence Against Women in Armed Conflict. *Human Rights Quarterly*, 2015, 37 (3), 755–786.

or groups in activities aimed at influencing or changing political, economic, or social policies and institutions.⁸ It is considered that the political activism and the theory of change are deeply interconnected concepts. While the political activism involves efforts to promote, impede, or direct social, political, economic, or environmental change, the ‘theory of change’ is a methodology used to plan and evaluate social change initiatives.⁹ The ‘theory of change’ for addressing CRSV involves identifying the desired outcomes and working backward to determine the necessary steps to achieve those outcomes.¹⁰ Political activism is diverse and can take many forms, such as organized protests, grassroots movements, or lobbying efforts, and lately online activism, or any other form that serves as a catalyst for progress and reform. Historically, political activism has served as a vital mechanism for citizens to voice their concerns, hold elected officials accountable, and shape public policies.¹¹ By mobilizing communities and raising awareness about pressing issues, political activism helps address injustices, promote equality, and safeguard democratic principles. In the context of CRSV, the significance of political activism takes another dimension, considering the fact that CRSV remains a silent crime, with an estimated 80 percent of cases in conflict settings going unreported.¹² The nature of CRSV as a crime, its consequences, the targets of CRSV, historical inequalities and the perpetrators/warriors influence after the conflicts, are impacting the CRSVs impunity. Additionally, the fact that CRSV as a frequent part of warfare, affects not only survivors but also their families and wider communities, is impacting also how CRSV is perceived by the survivors, their families, the community, and policy makers. For the survivors CRSV is a traumatic experience with profound physical, psychological, and social

⁸ LISA DANG – ANN-KATHRIN SEEMANN – JORG LINDENMEIER – IRIS SALITERER: Explaining civic engagement: The role of neighborhood ties, place attachment, and civic responsibility. *Journal of community psychology*, 2022, 50 (3), 1736–1755. Cited in Foundations of Civic Engagement, available at: Foundations of Civic Engagement – KNILT.

⁹ United Nations Development Group, Theory of Change, UNDAF Companion Guide, available at: <https://unsdg.un.org/sites/default/files/UNDG-UNDAF-Companion-Pieces-7-Theory-of-Change.pdf>.

¹⁰ UK Government, Foreign Commonwealth and Development Office, Preventing Conflict Related Sexual Violence Initiative, A theory of change for addressing conflict-related sexual violence, Policy paper, 28 November 2022, available at: A theory of change for addressing conflict-related sexual violence - GOV.UK.

¹¹ Political Activism, What is Political Activism and Why is it Important? Available at: what is political activism and why is it important? - kirjon.

¹² Georgetown Institute for Women Peace and Security, Pathways to Justice and accountability for Conflict Relected Sexual Violence, Lessons Learned and Policy Recommendations from frontlines, by Jess Keller, December 2024, available at: GIWPS_CRSV-Brief_Final.pdf.

consequences.¹³ Due to historical inequalities and the nature of the crime, the survivors often face stigma, discrimination, and challenges in accessing justice and support. Also, communities affected by CRSV may experience collective trauma and social disruption which consequently shifts the attention from the sufferings and the needs of the CRSV survivors.¹⁴ Governments and policymakers may have varying levels of commitment to addressing CRSV, depending on how they perceive their position after the conflict, the winner or loser of war/conflict. Some countries have established initiatives and policies to prevent and respond to CRSV, while others may lack the necessary resources or political will. Consequently, there is need for political activism to address this differing perception and create the space for developing survivor-centered justice and support mechanisms to reduce CRSV impunity.

In post conflict societies addressing CRSV requires a multifaceted approach involving prevention, protection, and accountability. Political activism can have a crucial role in shaping the view on CRSV, by further enhancement of understanding that CRSV is a violation of international human rights standards, and that the survivors need to have an environment where they can access justice according to their needs and preferences.

What follows is the discussion on the current international legal framework that recognizes CRSV and that provides for preventing, prosecuting, and reparations for CRSV. This standards, can be further utilized as bases to empower activists to promote change and ask for responsibility to ending CRSV impunity within national political systems.¹⁵

3. INTERNATIONAL LEGAL FRAMEWORK ON CRSV AS BASES FOR POLITICAL ACTIVISM

The international legal framework on CRSV is built on various legal instruments and resolutions aimed at preventing, prosecuting, and providing reparations for CRSV. The International Humanitarian Law (IHL), prohibits sexual violence during armed conflict and considers it a war crime. The Geneva Conventions

¹³ ELENA RUBINI – MARTINA VALENTE – MONICA TRENTIN – GIULIA FACCI – LUCA RAGAZZONI – SARAH GINO: Negative consequences of conflict-related sexual violence on survivors: a systematic review of qualitative evidence. *International Journal for Equity in Health*, 22:227, 2023 (22).

¹⁴ CARLO KOOS: Decay or Resilience? The Long-Term Social Consequences of Conflict-Related Sexual Violence in Sierra Leone. *World Politics*, 2018, 70 (2), 1–45.

¹⁵ BETH A SIMMONS: *Mobilizing for Human Rights: International Law in Domestic Politics*. New York, Cambridge University Press, 2009.

and their Additional Protocols are the primary sources of IHL, and they require parties to a conflict to protect civilians from CRSV. Specifically, the Common Article 3, the Fourth Geneva Convention,¹⁶ as well as Additional Protocols I and II,¹⁷ simultaneously, provide that rape and other forms of CRSV are a serious violation of international humanitarian law when perpetrated in the context of and associated with an armed conflict. According to IHL, all parties to an armed conflict must abide by the prohibition of sexual violence and also all states have an obligation to prosecute the perpetrators. The International Human Rights Law (IHRL), provides a framework for the protection of individuals from CRSV outside the context of armed conflict. Key instruments include the Universal Declaration of Human Rights¹⁸ and the International Covenant on Civil and Political Rights,¹⁹ which prohibit torture and cruel, inhuman, or degrading treatment.²⁰

The International Criminal Law (ICL), addresses CRSV through the Rome Statute of the International Criminal Court (ICC).²¹ The ICC can prosecute individuals for CRSV as a war crime, a crime against humanity, or an act of genocide. The Statute explicitly includes rape, sexual slavery, enforced prostitution, forced pregnancy, and other forms of sexual violence. The ICTY has authority to prosecute and try individuals on four categories of offences: grave breaches of the 1949 Geneva Conventions, violations of the laws or customs of war, genocide and crimes against humanity. A prohibited act of sexual violence can be a crime against humanity, it can be genocide and it can be a war crime. The ICTY Statute, which mirrors the ICTR Statute, criminalized acts of sexual violence under

¹⁶ International Committee of the Red Cross (ICRC) (1949) Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), 12 August 1949, 75 UNTS 287, available at: <http://www.refworld.org/docid/3ae6b36d2.html>.

¹⁷ 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; and 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.

¹⁸ UN General Assembly. (1948). Universal declaration of human rights (217 [III] A). Paris.

¹⁹ UN General Assembly, International Covenant on Civil and Political Rights. United Nations, *Treaty Series*, vol. 999, 171, 16 December 1966.

²⁰ In addition relevant international legal instruments include but not limited to: the Declaration on the Protection of Women and Children in Emergency and Armed Conflict (1974); Additional Protocol I to the 1949 Geneva Conventions (1977); Convention on the Elimination of All Forms of Discrimination against Women (1979); Declaration on the Elimination of Violence against Women (1993).

²¹ UN General Assembly, Rome Statute of the ICC, 17 July 1998 (article 8.2).

crimes set in Article 5(g), which entails rape; however, it does not elaborate on other acts of sexual violence.²²

Additionally, the United Nations Security Council (UNSC) through its Resolutions, specifically address CRSV. Notable resolutions include UNSC Resolution 1820 (2008), which recognizes CRSV as a threat to international peace and security.²³ The USCR 1820 (2008), provides that sexual violence is conflict related “when [it is] used or commissioned as a tactic of war in order to deliberately target civilians”. The following UNSC Resolution 1888 (2009),²⁴ further strengthens the UN’s response to CRSV by establishing a Special Representative on Sexual Violence in Conflict, mandated to coordinate efforts to prevent CRSV and ensure accountability for perpetrators.²⁵

At the regional level the human rights instruments also address CRSV. The African Charter on Human and Peoples’ Rights,²⁶ and the European Convention on Human Rights²⁷ provide protections against sexual violence and require states to take measures to prevent and respond to CRSV. The Parliamentary Assembly of the Council of Europe in its Resolution 1670 (2009), reminds the Committee of Ministers that the Council of Europe has a duty to ensure that human rights are guaranteed on the territory of Council of Europe member states, as well as a moral obligation to help spread the values of human rights and the rule of law it is founded upon beyond its geographical borders.²⁸

From the above it is evident that already, political activism has played a significant role in framing and positioning CRSV as a critical human rights and security issue.²⁹ Through sustained advocacy, at the international level political

²² The crime of genocide can be found in Article 4 of the ICTY Statute and war crimes can be found in Article 2 (Grave breaches of the Geneva Conventions of 1949) and Article 3 (Violations of the laws or customs of war) of the IVTY Statute. See: Security Council, Statute of the International Criminal Tribunal for the Former Yugoslavia (as amended on 17 May 2002) 25 May 1993.

²³ Resolution 1820 (2008) / adopted by the Security Council at its 5916th meeting, on 19 June 2008.

²⁴ Resolution 1888 (2009) / adopted by the Security Council at its 6195th meeting, on 30 September 2009.

²⁵ On the mandate and activities of the Special Representative on Sexual Violence in Conflict see generally: United Nations Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict.

²⁶ Organization of African Unity (OAU), African Charter on Human and Peoples’ Rights (“Banjul Charter”), CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), 27 June 1981.

²⁷ European Convention on Human Rights, as amended by Protocols Nos. 11, 14 and 15.

²⁸ Resolution 1670 (2009) of the Parliamentary Assembly of the Council of Europe, available at: PACE website.

²⁹ ANETTE BRINGEDAL HOUGE – KJERSTI LOHNE: End Impunity! Reducing Conflict-Related Sexual Violence to a Problem of Law. *Law & Society Review*, 2017, 51 (4), 755–789.

activism has successfully elevated CRSV onto the agendas of international institutions, driven the adoption of legal reforms, and increased survivors' voices in public and policy spheres. Despite various international treaties and resolutions addressing CRSV, there is a need for a more comprehensive international legal framework that provides clear guidelines for states on their obligations. Above all, there is a need for survivor-centered approaches in international law which often focuses on prosecution and accountability, consequently more emphasis should be put in survivor-centered approaches that prioritize the needs and rights of survivors, including access to medical, psychological, and legal support. Considering the nature of the CRSV, the survivors are affected differently based on their gender, age, ethnicity, and other factors. Thus, the international law needs to adopt more intersectional approaches that recognize and address these diverse experiences and vulnerabilities. The existing accountability mechanisms, such as international tribunals and courts, often face challenges in terms of jurisdiction, resources, and political interference. Strengthening these mechanisms and ensuring they are accessible to survivors is crucial. International law should place more emphasis on prevention and the establishment of early warning systems to detect and respond to CRSV before it occurs. There is much of a historic evidence that wars and conflicts are escorted with CRSV as well. Addressing these gaps requires a concerted effort from the international community, including states, international organizations, and civil society, to ensure that CRSV is effectively prevented, addressed, and remedied. That is why there is a need for further political activism at the international level all the time considering the nature and effects of the CRSV in the survivors. As mentioned, the existing international standards helps activists coerce, punish, and deter offenders. Yet, despite these achievements, addressing the issues that relate to the needs of CRSV through the international norms, will address the challenges faced at the national level, respectively struggles to bridge the gap between implementing in practice the international standards and fighting CRSV impunity. At the national level, Barriers such as entrenched stigmas, prejudices, and the mere symbolic recognition of survivors' experiences in justice and recovery processes persist, undermining the efforts to address impunity.³⁰ Here political activism at the national level can have crucial role by drawing attention to the state responsibility that these international standards provide for, taking all the necessary and adequate measures to raise awareness on the CRSV, its consequences to the survivors and their families and community as a whole. The international legal standards encourage states to incorporate

³⁰ JANIE LEATHERMAN: Sexual Violence and Armed Conflict: Complex Dynamics of Re-Victimization. *International Journal of Peace Studies*, 2007, 12 (1), 53–71.

international legal standards on CRSV into their national legislation. This includes criminalizing CRSV, providing reparations to survivors, and ensuring access to justice for victims. However, the practice has demonstrated that international requirements for criminalizing CRSV, providing reparations to survivors, and ensuring access to justice for victims in post conflict settings requires further contextualized actions in order to break the cycle of CRSV impunity. The case of BiH and Kosovo exemplifies this.

4. CRSV IN BIH AND KOSOVO: MAIN CHALLENGES FIGHTING CRSV IMPUNITY

Sexual violence in BiH was a widespread crime used as a weapon in the war. Survivors of CRSV originate from all over BiH, and include women and men from all ethnic groups.³¹ The largest proportion of victims were Bosniak Muslim women of all ages. All warring parties were responsible for these crimes. The judgments of the International Criminal Tribunal for the former Yugoslavia, (ICTY) confirmed that CRSV was systematic and institutionalized, consequently an integral part of the war. In Kosovo, CRSV was used as a weapon of war, and as a weapon for ethnic cleansing by Serbian forces to terrorize and expel Kosovo Albanian civilians.³² Women but also men were subjected to sexual violence in detention, homes, and during forced displacement.³³ In the aftermath of the war, rape has been reported towards non Albanian communities and “collaborators” along with enforced disappearances, murders, and expulsion as a revenge.³⁴

After the war, CRSV survivors in BiH and Kosovo faced significant challenges, including stigma, trauma, and lack of access to justice. Many survivors were unable to leave their homes and lived in isolation due to the shame and stigma associated with CRSV,³⁵ consequently CRSV was under reported and was discussed only

³¹ CARLO KOOS – RICHARD TRAUNMÜLLER: The gendered costs of stigma: How experiences of conflict-related sexual violence affect civic engagement for women and men. *American Journal of Political Science*, 2023, available at: The gendered costs of stigma: How experiences of conflict-related sexual violence affect civic engagement for women and men, <https://onlinelibrary.wiley.com/doi/10.1111/ajps.12863>.

³² Human Rights Watch, Kosovo Rape as weapon of “ethnic cleansing”: 1 March 2000. Amnesty International, Kosovo: Incidents of multiple rape, AI INDEX: EUR 70/76/99 27 May 1999.

³³ SERBEZE HAXHIAJ: ‘Worse Than Death’: Male Wartime Rape Survivors in Kosovo Speak Out, Pristina, BIRN, 6 February, 2024.

³⁴ Amnesty International, “Wounds that burn our souls”: Compensation for wartime rape survivors, but still no justice, 13 December 2017.

³⁵ GABRIELLA CITRONI: UN Women and Trial (Swiss Association Against Impunity), Between Stigma and Oblivion: A Guide on Defending the Rights of the Women Victims of Rape and other Forms of Sexual Violence in Bosnia and Herzegovina, Sarajevo, 2012; JACK ROBINSON:

in limited circles. Although, in BiH, and also lately in Kosovo there are positive efforts and political commitments, still decades after the war survivors face stigma and trauma, and lack of access to justice. Consequently survivors address their needs to the CSOs.

One of the relevant challenges that impacts the CRSV impunity remains the determination of the precise numbers of the CRSV survivors. This is so due to the lack of monitoring and registration of the CRSV survivors during the war in BiH and Kosovo but also after the war. The official registrations of survivors of CRSV has not taken place, while different numbers are being mentioned depending on the entity that is reporting. The lack of official registration of the CRSV survivors, and the numbers reported by CSOs raises controversies and creates possibilities for politicizing of the magnitude of the CRSV crime.³⁶ Above all the lack of official records impacts the prosecutions in order to hold perpetrators accountable, meet survivor needs, and also affects knowledge and recognition of global scourge of CRSV.

Concerning the access to justice, at the international level, CRSV in BiH and Kosovo has been prosecuted at the International Criminal Tribunal for the Former Yugoslavia (ICTY), leading to several high-profile convictions. The ICTY has prosecuted several high-profile cases of CRSV, leading to convictions of individuals responsible for these crimes. Since the Tribunal started its work, 78 individuals, or 48% of the 161 accused, had charges of sexual violence included in their indictments. As of September 2016, 32 individuals have been convicted for their responsibility for crimes of sexual violence, as defined under Article 7(1) of the ICTY Statute. Four of them were additionally convicted for failing to prevent or punish the actual perpetrators of the crimes, under Article 7(3) of the Statute.³⁷

Related to Kosovo, in 2009 the ICTY convicted five of the most senior former Serb political, police and military commanders for war crimes and crimes against humanity committed in Kosovo.³⁸ The ICTY also indicted, a former KLA commander, and a former unit commander, for the alleged rape of a Romani woman at Jablanica in August 1998, in a broader indictment for crimes against

'Kosovo War Rape Survivor Condemns Stigmatisation of Victims'. Balkan Transitional Justice, Pristina, BIRN, 9 March 2020.

³⁶ The CSOs usually report the numbers of the survivors that they work with, which in turn in some cases are small numbers, sometimes duplicated and in some cases higher numbers are reported. MATTIAS AGERBERG – ANNE-KATHRIN KREFT: Gendered Conflict, Gendered Outcomes. *The Journal of Conflict Resolution*, 2020, 64 (2)–(3), 290–317.

³⁷ ICTY, Crimes of Sexual Violence, available at: In Numbers | International Criminal Tribunal for the former Yugoslavia.

³⁸ MILUTINOVIC et al. (Judgment) icty- it-05-87-T (26 February 2009).

humanity and war crimes. Both were acquitted in April 2008, and in 2012 after the partial retrial.³⁹ Although highly criticized, hundreds of victims at ICTY have told their painful and tragic stories about what they saw and experienced. People of all walks of life – farmers, doctors, housewives, local politicians, mechanics, students, school children and many others – that were victims of horrific crimes deposited their testimonies which document the legacy of the former Yugoslav wars.⁴⁰ Their testimonies will remain valuable in documenting and memorialization of what has happened, and should serve as a tool for education of generations and also policy makers to design education and other programs that will impact the non-reoccurrence.

At the national level, in BiH criminal proceedings can be initiated in the entity courts of the Federation of Bosnia and Herzegovina and Republika Srpska, Basic Court of Brčko District BiH and the Court of BiH as the competent courts for CRSV. Judicial reparations can be sought through civil and criminal proceedings. The Law on Social Protection, Protection of Civilian Victims of War and Protection of Families with Children of the Federation of BiH (FBIH) and in Republika Srpska (RS), and the Law on the Protection of Victims of Torture and Decision on Protection of Civilian Victims of War in Brčko District (BD), provide for the main legal bases for CRSV prosecution. According to available data, in BiH there have been 322 war crimes cases with identified suspects involving CRSV, and there are also over 3,000 reported war crimes cases without identified suspects (KTN) or where the commission of a crime has not yet been established (KTA).⁴¹

In Kosovo, the criminal proceedings can be initiated under the Criminal Code of the Socialist Federal Republic of Yugoslavia, and the Criminal Code of the Republic of Kosovo.⁴² Despite the fact that Kosovo Courts after the war have been led by international judges under United Nations Mission in Kosovo (UNMIK) and later under European Union Rule of Law Mission (EULEX), and after 2018 by Kosovo national judges, the progress related to CRSV trials remains very limited.⁴³ Up to now only one person has been indicted for CRSV and is

³⁹ HARADINAJ et al. (Trial Judgment), icty-it-04-84 (3 April 2008); HARADINAJ et al. (Appeals Judgment), icty-it-04-84-A (19 July 2010) [40].

⁴⁰ ICTY, Voices of the victims, available at: Voice of the Victims | International Criminal Tribunal for the former Yugoslavia.

⁴¹ Organization for Security and Cooperation in Europe, War Crimes Case Processing in Bosnia and Herzegovina (2004 – 2023), available at: 584775.pdf.

⁴² Criminal Code of the Republic of Kosovo (Code No. 06/L-074) (2019), all laws in Kosovo are available through Kosovo Official Gazette, at: Official Gazette of the Republic of Kosovo.

⁴³ For a detailed account of the CRSV prosecution in Kosovo see: REMZIJE ISTREFI – ARBEN HAJRULLAHU: Conflict-Related Sexual Violence in Kosovo and Lessons to be Learned from the

undergoing appeal procedures.⁴⁴ While in BiH judicial reparations can be accorded to CRSV survivors, in Kosovo according the current legal framework the CRSV survivors need to initiate civil proceedings for compensation of their sufferings after the defendant is found guilty for CRSV.

5. POLITICAL ACTIVISM IN BOSNIA AND HERCEGOVINA AND KOSOVO ON CRSV

As mentioned above due to the marginalization of the CRSV as a crime and cultural stigma, but also due to the masculine approach of the war victims the fate of CRSV survivors for years in particular in Kosovo remained “a public secret”. While in BiH, the crime CRSV was heavily publicized, discussed in international arena, and studied,⁴⁵ that resulted with actions have been taken at the national level, in Kosovo it took decades till the fate of CRSV survivors was brought to the attention of politicians and discussed in public. The discussion of CRSV in BiH was related to the international prosecution of CRSV, in Kosovo mainly the discussion was related at first with legal recognition of the CRSV survivors and then with the provision of reparations. BiH in 2006, under the strong lobby and activism was the first to include CRSV survivors as a sub-category of civilian victims of war, and to explicitly make them eligible for financial compensation (without having to prove disability).⁴⁶ In Republika Srpska, it was only in 2016 that a new law on the protection of victims of war torture, including sexual violence survivors was adopted (and it waiting parliamentary approval).⁴⁷ In Kosovo only in 2014 “the Law on the Status and the Rights of the Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Civilian Victims of War and their Families” was amended to also include a specific reference to “Sexual Violence Victims of the War.” This was possible only through a strong lobby an activism on CSOs and within the term of Office of the first women president,

International Criminal Tribunal for the former Yugoslavia. *Journal of International Humanitarian Legal Studies*, 2021 (12), 198–223.

⁴⁴ XHORXHINA BAMI: ‘Kosovo Court Convicts Serb Ex-Policeman of Wartime Rape’ (Balkan Transitional Justice, 5 July 2021).

⁴⁵ Unlike Bosnia, the CRSV survivors in Kosovo remain understudied and underplayed. On this aspect see: ANNA DI LELLIO – GARENTINA KRAJA: Sexual violence in the Kosovo conflict: a lesson for Myanmar and other ethnic cleansing campaigns, *International Politics*, 2021 (58), 148–167.

⁴⁶ SABINE FREIZER: Reparations after Conflict Related Sexual Violence: The Long Road in the Western Balkans. *Security and Human rights*, 2016 (27), 1–14.

⁴⁷ Ibid.

bringing the issue of CRSV discussion in to the political agenda, after a strong international and national lobby on the magnitude of the CRSV in Kosovo.⁴⁸ The Law on the Status and the Right of the Martyrs (2011) was originally drafted primarily for veterans, and military victims of the armed conflict excluding, demanded a percentage of physical disability to offer reparations, usually in the form of monthly pensions. Based on the amended law, the Kosovan government established the Government Commission for the recognition and verification of the status of persons violated during the Kosovo liberation war, to provide reparations to survivors, and over 1,000 survivors have received some form of reparation. In BiH, the approximate number of survivors having received some form of reparations for CRSV is 1,000 CRSV through administrative reparations mechanisms.

CSOs in BiH and Kosovo have been the main CRSV supporters but also they have been actively engaged for decades in raising awareness about CRSV and advocate for the rights of survivors. In fact it's the survivors themselves through the CSOs support that have been actively advocating for their rights and needs.⁴⁹ With the end of the war, in BiH and latter in Kosovo the first associations of victims of war, including CRSV survivors, were formed with the aim of strengthening the network of survivors, empowering them to discuss the traumas suffered and to advocate for their rights. Many such associations are very active in providing or facilitating support to survivors during the court proceedings, the process of obtaining the status of victim of sexual violence and are helping members to get needed psychological support.

In BiH Several Civil Society Organizations (CSOs) in Bosnia and Herzegovina (BiH) work tirelessly to support survivors of Conflict-Related Sexual Violence (CRSV). Some of the main CSOs in BiH include Association of Women Victims

⁴⁸ Telegrafi, Jahjaga speaks at the UN about the crimes that the Serbs have committed in Kosovo: 73% of women have been affected by the conflict, available at: Jahjaga speaks at the UN about the crimes that the Serbs have committed in Kosovo: 73% of women have been affected by the conflict – Telegrafi – Telegrafi.

⁴⁹ On the role of CRSV survivors in activism see generally: Dr Denis Mugwege Foundation, *Rising from Silence to Strength: The Crucial Role of Survivor Activism in Responding to and Combating Conflict-Related Sexual Violence (CRSV)* Wednesday 23 October 2024. In Kosovo in particular the voice of the first CRSV survivor to speak Vafije Krasniqi has made a history at the national and international level. See: H.Con.Res.36 – Calling for the end of impunity of unpunished Serbian sexual war crimes during the 1999 Kosovo war in the case of United States citizen and sexual war crime survivor Vafije Krasniqi Goodman and other survivors of sexual and gender-based violence. 118th Congress (2023–2024). See also: Prepared Testimony of Ms. Vafije Krasniqi – Goodman submitted before the U.S. House of Representatives Committee on Foreign Affairs on “Kosovo’s Wartime Victims: The Quest for Justice” April 30th, 2019.

of War (Žene Žrtve Rata), an organization that provides comprehensive support to women survivors of CRSV, including legal assistance, psychological support, and advocacy for their rights. Medica Zenica offers medical and psychosocial support to survivors of CRSV, focusing on their physical and mental well-being. Women's Space (Žene sa Spiska) is an organization that works to empower women survivors of CRSV through various programs, including economic empowerment, legal aid, and social support. The Victim and Witness Support (VWS), provides support to survivors of CRSV in accessing justice and navigating the legal system. Some particularly noteworthy initiatives of these associations are as follows: The film "Grbavica", which came out in 2006, represented a major breakthrough in sensitizing the public both within BiH and abroad about the sexual violence committed in BiH and the impact it had on survivors.⁵⁰ Further, the campaign advocating for the rights of CRSV survivors entitled "For the dignity of survivors" was organized by civil society organizations and victims' associations and activists in parallel to the release of the film. The campaign raised awareness and contributed significantly to the 2006 changes to the Law on Protection of Civilian Victims of War and Protection of Families with Children of FBiH, ensuring that victims of wartime sexual violence were recognized as a special category and granted rights accordingly. Victims' associations in Republika Srpska also participated in advocating for adoption of the Law on the Protection of Victims of Torture of RS, and the Association of Women Victims of War was consulted in preparing the new law. The association "Forgotten Children of War" is another association which has worked on improving the rights of children born out of rape. Due to stigmatization and the lack of comprehensive legal protection afforded to children born out of rape in the BiH legislative system, this association conducts initiatives aimed at improving their position, one of the first ones being "Name of one parent" initiative.⁵¹

In Kosovo, organizations like Medica Gjakova, Medica Kosova, Kosovo Center for Rehabilitation of Torture Victims, Jahjaga Foundation and others have been instrumental in supporting CRSV survivors. These organizations continue to

⁵⁰ The Washington Post, 'Grbavica': Healing the Scars of War, April 2007.

⁵¹ All the administrative forms necessary to issue personal documents require the father's name to be stated, in the cases when the children are born of rape this is a problem, so the initiative advocated for the right to include only the mother's name. The initiative led to a change in the process being implemented in several municipalities, so that only the name of one parent is sufficient. Following the success of this first initiative, this newly formed association continues to work on initiatives to change the legislative framework so that children born out of rape are recognized as a separate category and afforded specific rights accordingly. Read more on this issue at: About Us – ZDR.

provide holistic assistance, including psychosocial, gynecological, and legal support, to ensure sustainable rehabilitation for survivors.

In Kosovo, political activism has been a driving force in addressing CRSV considering that as mentioned above for years the issue of CRSV survivors was not discussed publically. Activists and NGOs have played a crucial role in raising awareness, advocating for legal reforms, and supporting survivors. Initially the issue of CRSV was addressed through initiatives such as “Your Story is My Story” campaign, which involved public readings of survivors’ stories to highlight the ongoing trauma and stigma faced by CRSV survivors.⁵² This campaign, supported by UN Women and local NGOs, aimed to break the silence and encourage societal recognition of CRSV. Then the “Thinking of you” public art installation, was performed by hanging some 5,000 skirts and dresses from washing lines in the main football stadium in Kosovo’s capital, Prishtina. The Kosovo-born artist Alketa Xhafa-Mripa and the producer of the installation, the United States-based academic Anna Di Lellio, travelled around Kosovo to collect skirts and dresses, which were donated by members of the public, as well as local elites. Skirts and dresses were chosen as small, everyday symbols of femininity that could easily be donated by both women and men. They also highlighted the universalist goals of the installation.⁵³ Additionally, the Jahjaga Foundation, has been instrumental in advocating for justice and reparations for CRSV survivors. The foundation has organized high-level panels and discussions to address the persistent challenges faced by survivors, including stigma and lack of access to justice.⁵⁴

Despite these efforts, many survivors continue to face challenges in accessing reparations and justice. The ongoing challenges remains the fact survivors till are not coming through, this is so due to their dissatisfaction with the implementation of reparations and the slow progress in achieving justice. The stigma and trauma associated with CRSV continue to impact survivors and their communities.

⁵² UN Women, Conflict-related sexual violence and ending stigma spotlighted at Dokufest in Kosovo, Monday, 20 August 2018.

⁵³ BBC, ‘BBC Radio 4 woman’s hour: Interview with Alketa Xhafa Mripa’, 2016, available at: <https://www.bbc.co.uk/programmes/p03ymvhs>. 17 June 2016. For a detailed account how a public art installation about wartime sexual violence in Kosovo aimed at tackling the stigma and silence about wartime rape and recognition of wartime sexual violence, and how this recognition responds to, or interacts with, existing gendered dynamics of nationhood see generally: VJOLLCA KRASNIQI – IVOR SOKOLIĆ – DENISA KOSTOVICOVA: Skirts as Flags: Transitional Justice, Gender and Everyday Nationalism in Kosovo, Nations and nationalism, 2020.

⁵⁴ The Jahjaga Foundation (JF) is a non-governmental organization, founded by the Former President of Kosovo, Mrs. Atifete Jahjaga, in March 2018. The general goal of the Jahjaga Foundation is the democratic development of Kosovo and the Balkans, through social inclusion and support for marginalized groups, as a precondition for peacebuilding in the region. For more on Jahjaga Foundation visit the foundation webpage at: Jahjaga Foundation.

Political activism and advocacy have been vital in addressing CRSV in BiH and Kosovo, pushing for legal reforms, supporting survivors, and raising awareness about the issue. The efforts of activists and NGOs have contributed to significant progress, although challenges remain in ensuring justice and reparations for all survivors.

In summary, political activism in both Kosovo and Bosnia and Herzegovina has been crucial in addressing CRSV, raising awareness, advocating for legal reforms, and survivors recognition. The efforts of activists and CSOs have led to significant progress in recognizing and addressing CRSV, although challenges remain in ensuring justice and reparations for all survivors.

6. CONCLUSION

From the above analyses, it is evident that activists and advocacy groups have been instrumental in raising awareness about CRSV, pushing for legal reforms, and holding governments and international organizations accountable.⁵⁵ One significant impact of political activism is the establishment of international legal instruments and resolutions aimed at preventing and addressing CRSV. For example, the United Nations Security Council (UNSC) has adopted several resolutions that specifically address CRSV, mandating peacekeeping missions to prevent and respond to such violence. These resolutions were largely influenced by the advocacy efforts of civil society organizations and survivor movements.⁵⁶ Moreover, political activism has helped to ensure that CRSV is recognized as a serious crime under international law. Activists have worked tirelessly to highlight the long-term trauma and social impact of CRSV, leading to its inclusion in international humanitarian law, human rights law, and international criminal law.⁵⁷ This same international legal framework can be and should be utilized further for political activism at the national level to require for accountability, survivors protection and ending CRSV impunity.

In addition, political activism has been crucial in promoting the participation of survivors in the legal and policy-making processes, the case of BiH and

⁵⁵ Dr. Denis Mukwege Foundation, Core State Obligations for Conflict-Related Sexual Violence: An Overview of International Law, available at: [Overview-EN.pdf](#).

⁵⁶ JOHN GLEDHILL – RICHARD CAPLAN – MALINE MEISKE: Developing peace: the evolution of development goals and activities in United Nations peacekeeping. *Oxford Development Studies*, 2021, 49 (3), 201–229.

⁵⁷ United Nations, The UN and Civil Society, available at: [The UN and Civil Society | United Nations](#).

Kosovo exemplifies this. By amplifying the voices of survivors, through different campaigns, activists have pushed for more inclusive and survivor-centered approaches to addressing CRSV.⁵⁸ Further, the case of political activism in Kosovo and BiH indicates that the genuine survivor recognition can play a transformative role in shifting the narrative away from victimization toward reparations.

However, beyond, legal survivor recognition, and reparations there is a need for catalyzing further cultural change around gender-based stigmas and fostering societal recognition of CRSV as an opportunity for reordering gender relations within post-conflict nation building. This process requires the recognition of both a victim- and a gender-specific harm, such as CRSV. Strengthened political activism and survivor recognition can bridge the gaps between international legal frameworks and national implementation, laying the foundation for justice, cultural transformation, and eradication of impunity.

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⁵⁸ Global Initiative for Justice, Truth and Reconciliation, Justice, Truth and Healing for CRSV Survivors, at: Justice, Truth and Healing CRSV Survivors | Global Initiative for Justice, Truth and Reconciliation.

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