

## 6 Gender violence, recognition and state responsibilities

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### Introduction

Transitional Justice Processes are complex and often intergenerational processes which are integral to healing and building resilience in post-war societies (Wiebelhaus-Brahm, 2017). They include bringing justice to victims, establishing truth, ensuring accountability, offering reparations to survivors and reaching reconciliation and peace (Clark & Ungar, 2021). However, most societies, like Kosova, struggle to implement these processes even decades after the war (Manjoo & McRaith, 2011). In Kosova, the first conviction on charges of war rape that resulted in imprisonment took place in 2021 (Humanitarian Law Center, 2021). It was only in 2014, 15 years after the war, that the Kosova government officially approved the amendment of the Law on *The status and the rights of the martyrs, invalids, veterans, members of Kosova liberation army, civilian victims of war and their families* (Law No. 04/L-054; Republic of Kosova) to include and recognise sexual violence survivors officially as civilian war victims. The amendment provided the opportunity for survivors to apply for their status recognition and upon successful verification, receive a pension. In practice, this was made possible in 2018. It is the main recognition offered to the survivors of war rape in Kosova but many have not applied despite the promise of anonymity, due to the widespread stigmatisation still present 20 years after the war (Shala, 2023). It is not known how survivors dealt with this long-term stigmatisation, or how the law amendment contributed to justice for survivors.

One key contributor to the experiences of survivors after war, are public discourses. Public discourses, including those in parliament, play a crucial role in shaping and maintaining stigma and silencing the experiences of survivors. Analysing refugees' discourses from the Democratic Republic of Congo, Gratton (2008) noticed that female war rape survivors were described as “worthless”, “prostitutes” etc. On the other hand, male war rape survivors<sup>1</sup> were described as “homosexual” within a culture where homosexuality is perceived as anti-normative. This research is in line with the gendered experiences that Sideris (2003) observed in women's testimonies from Mozambique, where rape led to the loss of women's “purity” and therefore dishonoured her family. Similar observations were made by Këllezi and Reicher (2014) in Kosova following the 1998–1999 war, where rape

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remained “unspeakable” for women and men due to its cultural meaning. Even when there is compassion and understanding of the trauma victims have endured, society still labels these victims as “damaged goods” (Bennett et al., 1995). These studies highlight the important roles played by culture and gender norms on how war rape is understood and responded to within patriarchal societies.

This chapter will analyse the identity-based experience and understanding of justice and state recognition focusing on three different aspects and experiences: survivors, professionals and political discourses. First, we will pay attention to the experiences and strategies used by survivors in Kosova to deal with and overcome the long-term impact of war rape and the stigmatisation in the aftermath of the war (study 1). The chapter argues that despite the widespread pressure and marginalisation, war rape survivors are not passive victims, and their views can successfully inform strategies that enable them to overcome stigmatisation and create social-political shifts on justice, collective memory and discursive violence. Second, we will turn to the experience and impact of the law amendment focusing on the accounts of professionals and activists working with war rape survivors and on the ways they supported the survivors and facilitated access to justice (study 2). While the accounts of the survivors allow us to understand their experiences of justice and state recognition first-hand, the accounts of professionals help to understand how support was provided and which strategies were used to bring about change, which included the Law amendment. Finally, this chapter will analyse the political discourses around the Law amendment that led to the recognition of war rape survivors as war victims (study 3). This final analysis aims at understanding discourses used to recognise and support survivors, or to deny the support and recognition. Together these three perspectives (survivors, professionals and political discourses) provide a more in-depth analysis of the understanding and impact of justice/state recognition processes. Before presenting each study, we outline how culture and gender influence the way individuals make sense and respond to events such as war rape.

Two main qualitative approaches were used. Studies 1 and 2 consisted of semi-structured interviews which were analysed using Theoretical Thematic Analysis (TTA) (Braun & Clarke, 2021; Clarke, Braun & Hayfield, 2015) informed by the Social Identity Approach. TTA was considered appropriate because it allows an in-depth analysis of the participants’ experiences and meaning-making while also accounting for the social context (Braun & Clarke, 2021; Shala, 2023). In Study 3, a Critical Discursive Approach, (Potter & Wetherell, 1987) informed by rhetorical and discursive approaches to discourse (Billig, 1996; Edwards & Potter, 1992; Edley, 2001) and social constructivism (Burr, 2015), was used to investigate political speeches relating to war rape survivors’ recognition by the State. A greater focus was put on the speaker’s action orientation and unpacking how meanings, subjects and objects are constructed in and through discourses, and how identities and beliefs are embedded in these meanings. Taking a feminist critical approach, the analysis then looked closer at how interactions and language are embedded within socio-historical context and considered wider social and political consequences of discursive patterns (Wetherell, 1998).

## **On rape and war**

Rape and other forms of sexual gender-based violence (SGBV) in war have been an integral part of warfare throughout history (Brownmiller, 1986), targeting mostly women. Examples from World War II include the rape of civilian women in Korea, China and the Philippines by the Japanese army (Brownmiller, 1986), and German women by the Soviet army (Messerschmidt, 2006). SGBV has been prevalent in many wars and conflicts after World War II. For example, in the Yugoslav Wars during the 1990s, rape was used towards an estimated 12,000–50,000 in Bosnia and Herzegovina, and 20,000 individuals in Kosova (Human Rights Watch, 2000; Swiss & Giller, 1993). Reports of rape being used as a weapon of war have most recently also come from the Ukrainian war (UN, 2022).

Historically, war rape and other forms of SGBV have been silenced and rarely documented (Waxman, 2017). Evidence of silencing can be observed from historical accounts of systematic rape (e.g., female Holocaust survivors; Sinnreich, 2008) and war narratives which have ignored or sidelined women's experiences (Waxman, 2017). War experiences of being subjected to sexual violence are often excluded from public, collective and formal commemoration, while war narratives that portray experiences of male heroism are frequently documented (Këllezi & Reicher, 2014; Muzaini & Yeoh, 2005). Women's experiences of war rape were even excluded from universal principles of Human Rights (Reilly, 2009). For example, neither Nuremberg nor Tokyo War Crime Trials included war rape as a specific crime (Levy, 1994).

Feminist activists worldwide have argued for war rapes to be considered acts of genocide. Among others, they refer to events in Bosnia, where the perpetrators (ethnic Serbians) were deliberately targeting and raping Bosnian Muslim women, in a genocidal war for political and territorial control over Bosnia (Buss, 2009; MacKinnon, 2006). It is the arguments on Bosnia and Rwanda that led to the 1998 Rome Statute of the International Criminal Court becoming the first international legal document to recognise war-related SGBV as an act of genocide (Article 6), a crime against humanity (Article 7) and war crime (Article 8) (ICC, 2011). In 2001, the International Criminal Tribunal for former Yugoslavia (ICTY) in the case "Prosecutor v. Kunarac, Kovac and Vukovic" found the accused guilty on charges based solely on crimes of sexual violence against women (ICTY, 2001). This was the first time in the history of international war crime prosecution that war-related sexual violence was exclusively prosecuted as a war crime and a crime against humanity. These legal changes following the wars in Rwanda and ex-Yugoslavia indicated a shift in international political and legal discourses in relation to war rape and sexual violence.

This is reflected in the UN resolutions on Women, Peace and Security (including Resolution 1325, UNSC, 2000), which advocate for the participation of women and girls in peacebuilding processes, to reduce existing gender power imbalances and gain a better understanding of how men and women experience war and peace differently due to socio-political factors that perpetuate gender-based inequalities. The subsequent resolutions within the international agenda mainly focus on wartime

sexual violence (e.g. Resolution 1820 aiming at prevention strategies of SGBV at war, UNSCR, 2008). Other developments at the global level mark a positive step towards addressing war rape and other forms of war-related SGBV as well. These new developments promote more democratic and inclusive approaches to justice in post-war and conflict, known as Transitional Justice Processes (Annan, 2004).

### **The impact of group processes on war rape consequences in post-war periods**

Culture and gender identities can shape the way we see the world, think, feel and interact with others (Tajfel & Turner, 1979). The role and value of these identities can intensify around war and conflict due to the increased divisions between parties in conflict, as was experienced in Kosova. As the Albanians adopted a parallel system in the 1990s to deal with the oppression by the Serb regime, they also started to rely on traditional customary law, the Kanun. Kanun is a patriarchal code which enhances the salience of cultural and gender identities. For example, Kanun links the value of women to the preservation of “honour” for self and family, and the value of men to protect the honour of their wife (daughter, sister, mother) and their nations (Elsie, 2014; Hasluck, 1954).

Given the centrality of gender identities and the patriarchal nature of Kanun, using rape as a weapon of war (Rittner & Roth, 2012) is effective in violating identity norms regarding women’s sexual purity (Sideris, 2003) and masculinity/strength (Carlson, 2006). This cultural meaning of war rape has added to the long-term consequences for survivors (Këllezi & Reicher, 2012; 2014): women, their relatives and whole communities appraised war rape as identity violating, which led to the silencing of survivors, because speaking out would threaten their honour and the family’s honour, and highlight failure of their male relatives and ethnic group to protect them (which would also be norm-violating). This phenomenon was defined as a “double insult”: the first being from the outgroup (perpetrating the violence) and the second from the ingroup such as family, community or the state (excluding, undermining and silencing their experiences) (Këllezi & Reicher, 2014). Many survivors were silenced from publicly sharing their stories, while recognition for their suffering and access to justice was also delayed. In what follows, we will explain the three studies and showcase the interlocutors’ interactions, discourse and worldmaking of survivors of sexual violence.

### **Study 1: Recognition of war rape as an instrument to validate victims’ truth and innocence**

Semi-structured interviews were conducted with 20 war rape victims/survivors (conducted face to face between 2019 and 2021), focusing on the long-term impact of war rape, transitional justice and on survivor’s views on the law amendment/recognition as a form of justice. The participants were ethnic Albanian from different regions of Kosova, were from both rural and urban areas and belonged to different age groups (ranged 36–71). Overall, 18 out of 20 were women and 2 out of 20

were men; 18 out of 20 were unemployed and 17 out of 20 had children. Four out of 20 participants were the age of 18 or under when they were raped during the war. Details of participants and methodology are outlined elsewhere (Shala, 2022; 2023). The data was analysed using Thematic Analysis (Braun & Clarke, 2021). Pseudonyms are used throughout.

Participants spoke of long-term stigma and discrimination, feeling blamed and/or the truth of their accounts being contested and not believed. They refer to how a legal recognition through the law amendment would challenge both of these negative responses. As a participant, Hana, explained:

Justice is to give all people equally what is right, their right [...] Justice should be given based on merit. [...] Even after twenty years, I know what happened to me. Truth cannot be forgotten. Lies will be forgotten. [...] I hope they don't forget these categories. This was not done for pleasure, this was violence, the violence from the Serbian.

(Hana)

Echoing other participants' thoughts and feelings, Hana understood justice as a form of establishing truth and challenging attributions of prejudice, guilt and blame. Justice was perceived as a form of breaking the meaning attributed to rape through patriarchal gender-based ideologies. Justice could be achieved by formal recognition and establishing a clear and shared narrative of the past, when rape was a violence from the shared enemy. Participants felt the law amendment would help to recognise their experience as the truth by incorporating their experience into the collective war narrative.

My family supported me [...] This has to do with morality, it touches; it violates your human integrity, you know. But then, I decided to talk, because war, everywhere else where there has been war, things like this happen, and one should talk the truth. [...] because we are those who have experienced this political war at the hands of the Serbian regime, [...] better to tell the truth, than to hide it. [...] so that your status will be valued. The world should know the price we paid.

(Bashkim)

As the above account illustrates, initial reluctance to seek out state recognition was overcome through family support and the psychological and political need to speak out the truth. For survivors, it is important to frame war rape as political violence that needs to be shared and documented to achieve justice and establish their position within the wider historical and political context. Inclusion through legal recognition meant that survivors' experiences became part of the shared narrative of the freedom's struggle, but also reinforced their membership and belonging in the ethnic group (Këllezi & Reicher, 2014). Many survivors were frustrated that they had to wait for 15 years after the war for the introduction of the law amendment and legal recognition of their suffering:

If the law would have been amended earlier, people would have relaxed a little bit more, even though you have experienced what you did, you would say to yourself with more positivity: the state is doing something for you, you are part of this nation.

(Hekuran)

As Hekuran (and many other participants) explained, the lack of public and state recognition of their war experiences impacted survivors' self-image and sense of belonging to the nation. Being denied formal recognition undermined the sense of self and legitimised stigmatisation at the family and community level (Këllezi & Reicher, 2014), both of which hinder healing and recovery. On the other hand, formal recognition of victims and support for justice-seeking could contribute to reductions in social stigma and improvements in war rape survivors' well-being (Sharlach, 2000).

I listen to the news a lot, and you can hear there is much more support now [...] I can see that women are much freer now. Those who this has happened to and others who this did not happen to, back then, they were all much more restricted in their liberties. [...] now I feel a little bit better, because they are mentioning you somewhere, they are raising their voices somewhere.

(Era)

For most participants the increase of public discourses on war rape in itself was experienced as a positive shift, benefiting their well-being and challenging the stigmatisation. In addition, Era, as many other female survivors, defined these changes as freedom ("women are much freer now"), suggesting that the law amendment was perceived as the result of the gender emancipation already occurring in Kosovo as evidenced by the freedom of movement and increased employment of women. A strong influence on the development of the law amendment was the work of civil society and human rights activists. Their experiences of and within these processes were explored in the next study.

## **Study 2: The law amendment: From rejection and threats to recognition**

Twenty professionals from civil society organisations and/or human rights activists (medical professionals, journalists, psychologists, NGO directors, human rights activists) were interviewed to examine the strategies used by NGOs and other professionals working with survivors of SGBV to challenge the impact of stigma and achieve public and formal recognition by society and the state. The data was analysed using Thematic Analysis (Braun & Clarke, 2021). Like survivors, the professionals faced resistance when trying to achieve their aims:

The whole narrative of the fighters, everything was about how "we protected/defended the civil population". So, [...] talking about the number of women raped at war, you were attacked from all sides. The narrative that they protected

the population then crumbled; as well as their manhood, their patriarchalism, that they were protectors/defenders, and despite that in these cases they couldn't have protected anyone, and that feeling, first the patriarchalism, second them being show-off as they were, and they created a situation where women not only were ashamed, but they also were afraid to speak up. We too were in danger if we talked about that issue.

(Buna, Human Rights Activist; Physician)

As this account illustrates, the acceptable public narratives are those associated with pride and resistance. As a result, accounts that undermine these narratives and violate traditional gender norms are perceived as a threat to the identity of the heroic fighter/resistance and their status and standing in society. Such was the perceived threat, that survivors as well as activists working on the issue were silenced. Many activists and professionals initially tried to bring upon change by talking directly to politicians.

I went to all the political leaders, who were respected as leaders, and I requested that they go public and say that women and girls, boys that were raped at war, it was not their fault; rape was used as a weapon of war, they are victims like all the others. Not one, no one wanted to; (name of a prominent political figure) said to me, "Buna, don't ask me to get mixed in those issues, for God's sake". Religious leaders almost kicked me out of the door.

(Buna, Human Rights Activist; Physician)

Participants' efforts to initiate political collaboration for a law change were met with rejection and hostility as politicians and religious leaders feared getting involved publicly. A key challenge thus for addressing stigma associated with war rape, is that for everyone (not only the victims) talking publicly about war rape was stigmatising in itself. As a result, many professionals working with war rape survivors were forced to keep a low profile on their work for decades to protect both war rape survivors' identities, themselves and the organisations they worked for from stigma and threats. Furthermore, professionals had to find ways to both support and protect survivors directly, and influence social change towards recognition of war rape survivors by society and state institutions (see for more Di Lellio & Kraja, 2021).

Our approach was about protecting, providing safety, but we never challenged them to talk about their stories. [...] So, politicians started to deal with the issue, when they saw that the international community based in Kosova was interested to support this category, and this is how that chain of events started; embassies showed interest, started raising the funds for us NGOs; this made it possible for us to intensify and increase our work-capacity [...]; further the participation of the women [survivors] themselves.

(Jeta, Psychologist)

The shared perception among professionals was that once the issue was brought into the public domain there was no turning back, and the reaction that followed triggered a chain of events (foreign embassies being involved and more funding being raised) that defined its success. Their approach to go public using “outside” organisations was useful as the organisations who worked directly with survivors had to focus on protecting the survivors and their own organisations. It is the collaboration with organisations focusing on human rights and advocacy that produced a movement towards change, which inevitably generated more support and new collaborations. In addition, the activism of war rape survivors themselves is being recognised by the organisations, which shows that contrary to the public construction of their victimhood as passive and sensitive, survivors were actively engaging with their cause and the creation and application of Transitional Justice Processes.

Despite this support among organisations and civil society, the process of initiating the law amendment met with further political resistance, including during parliamentary debates. The next study investigates the political discourses of negotiating the law amendment to recognise war rape survivors as victims of war.

### **Study 3: War rape recognition discourses in the parliament of Kosova**

Before the law amendment was approved, a political debate took place in Kosova’s national parliament between those who supported and those who rejected this proposition of the law amendment (Luci & Gusia, 2019). We look at how support and rejection of the law amendment were discursively negotiated in two Kosova parliamentary sessions (14/15/19.03.2013 and 20.03.2014). The data was analysed using Critical Discursive Psychology (thereafter CDP) informed by rhetorical and discursive approaches to discourse (Billig, 1996; Edwards & Potter, 1992) and social constructivism (Burr, 2015). We refer to participants as “speakers”.

The political debate was being performed between two main groups who positioned themselves in favour (“The propositional discourses”) and in opposition (“The oppositional discourses”) of the law amendment respectively. The shared repertoire are as follows: (1) benevolent sexism was used by both groups to make opposing claims. The other two were interpretative repertoires that we identified: (2) otherness (used by the “oppositional discourse” group) and (3) shared fate (used by the “propositional discourse” group), which were classified as distinctive interpretative repertoires.

#### ***The Law is a man: Rejection/support of the law through gender norms***

Within the “Benevolent sexism repertoire”, discourses are characterised by statements that oppose or support the law amendment based on gender stereotypes (e.g., protective paternalism or idealisation of women: see Glick & Fiske, 1997). In the following extract, from “The oppositional discourses” group, the speaker argues that the proposed law is useless, because their motherhood identity would stop survivors from coming forward:



Until today the statistics reveal that of only those who have come forward revealing they have been raped, they do not even reach 2000 in number, while we know that in Kosova there are many more raped women, who are now mothers, have created families, who do not even want that their issue be opened again.

(Rita Hajzeraj-Beqaj, LDK, March, 2013)

Talking to the shared cultural understanding of the mother's role in society, the above account is an excellent example of benevolent sexism which is rooted in patriarchal gender roles that define women strictly bound to motherhood. Motherhood has been widely theorised in feminist research (e.g., Gieve, 1987), often observing how motherhood and womanhood were treated as meaning one and the same, and how the caretaker role of women is culturally constructed as a "natural" role (McMahon, 1995). This naturalisation of motherhood leaves no space for women who do not want to become mothers, nor for mothers who do not enjoy their mothering role (Snitow, 1992) and excludes war rape victims who do not fall within any of these categories at all.

In addition, the expectations of a "mother" to make a certain choice are culturally shaped. The possibilities of making other choices are silenced by the speaker above, and what is being invoked here is an image of a "good mother" (Coats & Fraustino, 2015), a mother that sacrifices herself for the protection of the family by not wanting "their issues to be opened again". As such, the law amendment is constructed as a potential risk for women/mothers. This is done through the "coming forward to reveal that they were raped" argument presented as a condition that needs to be completed by survivors for them to be able to make use of the law.

We know that the majority of the female gender, that suffered during the war, has hesitated to document that they were part of this crime in Kosova. Therefore, having in mind these two factors, lack of exact registration of them and their hesitation to declare that they really were raped, makes us as MPs think a little further as to whom in fact are we wishing to help, to whose mill are we bringing water? as the proverb goes. Based on the fact that if we legitimise a law like this, thinking of helping them, and in fact we are not helping them, because they are not declaring, but hesitate to disclose and receive help.

(Gëzim Kelmendi, PD, March 2013)

Within the oppositional discourses the meaning of law amendment is constructed as a tool to document if war rape survivors are telling the truth. In a social context where "the majority hesitated to document" the exact number is unachievable, so the speaker above implies that the law will be ineffective. When stating "their hesitation to declare that they were really raped" the speaker is emphasizing that he is not talking about some others who were not "really raped". The implicit suggestion made here is that there are victims "who hesitate to declare that they really were raped", and that there will be fake testimonies. So, on one hand, the credibility of war rape survivors and their trustworthiness is being called into question, and on

the other hand, the lack of “exact registration” is construed as a problem that arises because war rape survivors do not want to “disclose” and “receive help”.

The language used here positions war rape survivors on one hand as victims of stigma associated with the hesitation to disclose their victim identities, and on the other hand as agents of their will, who have a choice in disclosing and receiving help, but they “hesitate”. As such, the responsibility is being attributed to the survivors and with that the blame for why the law cannot be approved.

Benevolent sexism repertoire was also used within “The propositional discourses”. In the next account, a member of the party in power, the Democratic Party of Kosova, distances himself from his party’s position and supports the law amendment.

We have to deal here with a very sensitive category, that of sexual violence, that has happened to our sisters, mothers and our wives, and so we can forgive many things, we can forgive Serbia many things, but we cannot forgive the sexual violence and the torture they have committed against us.[...] Therefore, these categories need to be protected by law and Serbia needs to be told that it has committed crimes, has perpetrated violence and this will not be forgotten.[...] We protect a value, we protect our own mother, we also protect our future, our families.

(Nait Hasani, PDK, March, 2013)

By invoking traditional gender roles, the above speaker is speaking to the shared cultural understanding of the meaning of “sisters, mothers and wives” within the concept of the family. The deployment of “our” *in* that sentence is achieving at least two different functions. One is that the listeners are invited to imagine their own “sisters, mothers and wives” and the other is that the word serves to remind others of the shared responsibility as a national group. This shared responsibility is invited into imagination by invoking twice the shared national identity, first through talking about the crimes that Serbia (the enemy) as the aggressor has perpetrated “against us”. By invoking the identity of the enemy (Serbia) the speaker is managing the differences in arguments about the law amendment between the different parties by inviting everyone to focus their attention on a common enemy. Second, the shared responsibility is invoked through the “mother” as a symbol of the “the familial future” (Yula-Davis, 1997 p. 45) that needs protection to be able to fulfil her role of reproducing and securing its future.

While women too, have sisters and mothers, they are not expected (traditionally, and legally for that matter) to have wives. So, by adding and concluding with the “wives” in that “three-part-list” (Jefferson, 1990), the imagined family is one that belongs to the men. In other words, this means that the law is conceptualised as a “man” and “sisters, mothers and wives” as his objects that need to be protected. This is a great example of what Yuval-Davis (1980) has framed as the objectification of women’s role in the collective. While mothers, and arguably also sisters and wives (most of whom are also expected to be mothers) symbolise unity and honour in the collective national identity, as women they are given only an object position within discourses that frame the politics of the national identity.

### ***Distinctive repertoires***

The objection to the law amendment does not necessarily involve at all times an objection to the recognition of war rape survivors' status, but rather is focused on the different ways proposed on how to achieve the recognition by the state.

Within the "otherness repertoire" the oppositional discourse group invokes discourses of "separation", "special status" and "otherness" to object to the proposed law amendment and thematise the recognition of war rape survivors. For example, in the next extract, the speaker argues for a separate law for war rape survivors' "treatment".

By all means, the pain of all of us as MPs and the feelings and obligation, first as institutionalists, is that this category be treated and be treated specially, with a separate law, where all these women raped during the war would be treated [...] It would be good that this [...] that a new legal initiative is started and that initiative be dedicated only to this category and based on it to seek compensation based on international legislation; and not do this in this form and abuse this in the name of the families of martyrs, in the name of war victims, in the name of invalids and veterans.

(Bekim Haxhiu, PDK, March, 2013)

In this speech arguments are made to position "all these women raped" within an imagined "separate law". The separation implies that war rape survivors should not be included in the existing law, which includes other categories such as "martyrs, invalids, veterans, members of Kosova liberation army, civilian victims of war and their families". However, in order to avoid being interpreted as rejecting support for war rape survivors, the concept of "special treatment" is invoked. The "special" categorisation of war rape survivors implicitly speaks to the different value that war rape survivors hold in society compared to all the other war survivor categories already included in the law. What distinguishes them from the others is that their experiences are seen to have violated valued social norms and thus invoke a sense of shame (individually as well as collectively), while the other categories are associated with decent self-sacrifice (civilian victims) and heroism and pride (veterans, martyrs) (Këllezi & Reicher, 2014).

The inclusion of war rape survivors in the same law as the war veterans is construed as an abuse "in the name of ...". While the speaker argues, explicitly, for "new legal initiative... dedicated only" to war rape survivors as a special status, implicitly he is also arguing for the protection of the "special status" of war veterans and other categories in the existing law by excluding war rape victims from the law.

Different from the "separation discourses" within the oppositional group, the propositional group discourses are dominated by a "Shared fate repertoire" by emphasising the shared collective meaning of the experience of war.

The reason we asked for the amendment of the existing law and did not draft a separate one, is that this was the request of this category themselves. They

are a product of war the same as the other categories and do not want different treatment, which would prolong their stigmatisation from the community.

(Albana Gashi, VV, March, 2013)

In response to the claims for separation, the above speaker argues in favour of inclusion of war rape survivors in the same law. First, she explains that this “was the request of this category” indicating that there has been a conversation with war rape survivors prior to drafting the law proposition, the recommendations of whom have been acknowledged. Herewith, she is recognising survivors’ agency on the matter of how the law amendment was conceptualised. She then constructs a meaning of the relationship between “othering” and the experience of stigmatisation by saying: “They are a product of war, the same as the other categories”. She then argues that, because they are “the same”, excluding them from this law “would prolong the stigmatisation”. This account serves as an example of discourses that focus on the consequences of the law amendment directly and discuss both positive consequences (inclusion) and negative consequences in case of objection (exclusion) thereby constructing the meaning of the law amendment as a form of social justice that addresses the stigma of war rape.

## **Conclusion**

The results from the three studies on which we have focused highlight the long-term consequences and exclusion of war rape from political narratives of war. While survivors perceived the increase in discourse as a positive change (compared to 15 years of political silence), being talked about is not equal to being recognised. The analysis highlights how injustices are politically legitimised through gendered discourses of victimhood and motherhood, reducing women’s position to traditional gender roles that undermine their agency, resilience and independence and empower stigma and exclusion.

The patterns of exclusion of war rape survivors observed in this work reflect previous research. War discourses have been historically dominated by patriarchal constructions of “national boundaries” (Yuval-Davis, 1980), reflecting gendered discourses where sexuality and women’s bodies serve as territorial markers of the cultural boundaries of the shared national identity and honour. This forced identity as the “bearer of the national collective” (Yuval-Davis, 1980, p. 15) bound to patriarchal gender roles, turns into what Mercer (1990, p. 61) called a “burden of representation” which is heavy to bear, and when not upheld it can lead to serious consequences (Këllezi & Reicher, 2014; Rozario, 1991). There is an important divergence, however. While women have been given this national burden, they have been excluded from participation in the politics of constructing the shared identity of the nation (Mayer, 2000). As such, women retain an object position in discourses of nationhood and shared national experiences in general where the construction of “womanhood” has a property of “otherness” (Yuval-Davis, 2003, p. 19). In other words: men construct “women” (e.g., “as sensitive victims”

ignoring their resilience and agency) and where women are naturalised as the “sisters, mothers, wives” who need protection, the male “protector” identity continues to remain unquestioned.

The implications are that victims will not come forward while stigmatisation persists and when discourses continue to objectify them, to question their credibility, to misidentify them (e.g., excluding men and people of non-binary genders) and to position them as sensitive and with no agency, yet at fault for not coming forward and concealing their victim identity. The intended inclusion in the name of the collective/national interest restricts belonging to all who do not fit within these categories (mother, good mother, sister, wife, male war rape survivors etc.). Discourses thus can be used to legitimise structural cultural violence (Galtung, 1990) defined as the legitimisation itself of dehumanising and prejudicial practices, injustices, marginalisation, stigma and so forth, against a group of people, perpetrated through cultural factors that shape and give meaning to social life. Gibson (2018) defined these discursive practices as “discursive violence”. Naturalising patriarchal gender norms in and through discourses can be a form of discursive violence that perpetuates and exacerbates injustices resulting from those norms.

As we saw from survivors’ accounts themselves, public and political discourses are integral for processes of meaning-making of the past. They are integral to Transitional Justice Processes, as part of challenging or legitimising cultural structures. They affect how survivors perceive themselves represented in and through political discourses, their sense of belonging to the national identity, but also how societies react to survivors and how they build resilience with their collective history across generations (Clark & Ungar, 2021). To break the cycle of “discursive violence” in relation to stigmatised war experiences it is essential to use Transitional Justice Processes, which alongside the immediate impact in providing meaningful support for victims, also consider long-term transgenerational needs for understanding the past and involve broader emancipation strategies of marginalised groups in society. The goal should be to combat stigma and discrimination by engaging in more equal collective memory practices through inclusive historical narratives. Foremost, future policies and strategies should aim to deconstruct traditional meanings of national identity and its connection to manhood, so that women and people of non-binary genders can have space to construct themselves as part of the national identity in processes of dealing with the past and building the future.

## **Note**

- 1 Although less frequently, men can also be targets of war sexual violence (e.g., Bosnian prison camps) (Carlson, 2006), and their experiences of war rape are less recognised and documented. While this chapter recognises and investigates both men and women as victims of war rape, it does also analyse the role of pre-existing structural gender inequalities (Butler, 1990) that disadvantage war victims before, during and after the war.

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