



Feminist (re)interpretation of the Dayton Peace Accords

*An intimate dialogue on how societies transit
from war to peace and how feminist approach to
peace building can help create strong and long-
lasting peace*

WORKING DOCUMENT

BACKGROUND TO THE DIALOGUE

In 2015 Bosnia and Herzegovina (henceforth BiH) marked the 20th anniversary of the signing of the Dayton Peace Agreement (henceforth DPA). Whilst it ended the war, the DPA also institutionalized the conflict - geographically, politically and economically. Over the past 20 years DPA has demonstrated that it lacks the ability and vision to provide for demilitarization of the society, create social cohesion, satisfy the need to justice (both in relation to war crimes and social justice), and ensure meaningful and influential participation of the BiH citizens in the different processes of transformation from war to peace. The peace agreement has failed to deconstruct the mechanisms that led to war, at the same time as it maintains and aggravates the tensions upon which a new conflict can arise.

The WILPF led initiative *Women organizing for Change in Syria and Bosnia and Herzegovina* (henceforth Initiative) since 2013 has been looking into different aspects of the consequences of the DPA. Bearing in mind the 20th anniversary of the signing of the DPA, and the continuous search for proper and sustainable mechanism for building gender-just peace (specifically in relation to the on-going Syrian conflict), the timing seemed excellent to broaden our understanding of how sustainable peace is built, based on the experiences of Bosnia and Herzegovina.

For that purpose we organized a dialogue between a small number of local and international feminists¹ from various disciplines, looking for possible ways to (re)interpretate the DPA. We did that by looking into different elements and consequences of the agreement, deconstructing how and why the transition from war to peace as foreseen by the DPA has not worked, and by identifying elements that must be in place for the transition from war to peace to work.

The report presents the discussions from the meeting, and recommendations for (immediate) action with respect to BiH. The document also puts forward a set of questions, ideas and potential models for how to work towards changing the narrative and manoeuvre space around peace agreements in general and the Dayton Peace Agreement in particular. In that sense this document should be seen as a *working document*. Our discussions were focused around five main areas:

- Militarization
- Economic and social rights
- Political economy and political economy of violence
- Justice and criminal justice
- Security sector reform

¹ Please see the participant list attached as annex 1.

In order to facilitate free and open discussions the group decided to hold the meeting under the Chatham House Rule, which allowed the participants to speak as individuals, and to express views that may not be those of their organizations. Subsequent to that the discussion has been anonymized.



INTRODUCTION TO DPA

AND PRESENTATION OF THE “CONCEPT AND FRAMEWORK FOR A GENDER SENSITIVE REPARATIONS PROGRAMME FOR BIH”

**Gorana Mlinarević
Nela Porobić Isaković**

- ❖ The war in Bosnia and Herzegovina (BiH) 1992-1995 was a war against civilians and was marked with genocide, concentration camps, rapes, sieges of the cities, persecutions, killings, and more. The Dayton Peace Agreement (DPA) played an important role in ending the military violence.
- ❖ From the position of the citizens of BiH, living 20 years under the transition period, apart from stopping the war, the agreement did not contribute to the creation of peace.
- ❖ The negotiations around the agreement were marked by the exclusion of the wider society, and “selective inclusion” of men with armed forces behind them.
- ❖ The document was not drafted with justice as the main focus, but rather to secure that the main war protagonists remained in power. The rest of the society was excluded, and the exclusion was most flagrant by the lack of consultation mechanisms with the people of BiH in relation to the Constitution of BiH, which became an integral part of DPA (Annex IV).
- ❖ Even though, at the moment of signing and negotiating the DPA, UNSCR 1325 was not adopted, there were calls for meaningful participations and inclusion of women in peace negotiations. The Vienna Declaration from 1993 requested “full and equal participation of women in political, civil, economic, social and cultural life, at the national, regional and international levels” and the Beijing Platform for Action called directly for women’s participation in conflict resolution at decision-making levels as well as in fostering the culture for peace. However, those were entirely ignored.
- ❖ The DPA focuses on addressing military aspects of the war, and building of a new political and economic order in the post-war context, while it avoids addressing the wartime violations or acknowledging wartime experiences of the people.
- ❖ The implementation of the agreement revealed its gendered nature; the military and security sectors, territorial division and management of public goods, as well as international monitoring were introduced as exclusively male business – the power of deciding over these matters was given exclusively to men who met the requirement of patriarchal standards of manhood.
- ❖ The military component was done through the prism of *reforms* rather than *demilitarization*. Instead of dealing with the demilitarization of the

entire society the military aspects of the DPA only changed one form of militarized society with another.

- ❖ The reform of the military, headed by NATO, meant the creation of a new, joint army through unification of different numerous units/groups, capable of intervening or being part of a bigger intervention force.
- ❖ The effects of this process have now led to a public discourse where the military is called “the healthiest sector of our society” (partially because of the participation of the Bosnian military in NATO coalition in Afghanistan and the work on the formal inclusion of women in the military).
- ❖ The component relating to the civilian aspects is not much different from the military aspect of the agreement in its lack of interest to transform the social structures of gender domination and social hierarchies imposed by war and patriarchy.
- ❖ The international monitoring mechanisms for implementation of the DPA, was understood by many as imposing a *protectorate*, and have also been understood as an entirely male business; all the representatives of the IC with powers to facilitate or decide have been men.
- ❖ The key stakeholders of the agreement were 1) the international community with assigned powers to monitor and implement, and 2) the group of warlords that participated in the peace negotiations and their supporters, whose further participation in the BiH society was secured through the institutionalization of ethno-national division of power.
- ❖ While the claim could be made that the acknowledgment and recognition of the Constitution happened through the elections that were held in September 1996, this would be just another manipulation of the citizens as the election took place within the parameters of the already set political, economic, ethnic, territorial and other divisions, which did not allow for change.
- ❖ There are several issues with the content and the effects of the DPA - 1) the entire depolitization of the society; the Dayton set conditions for a much broader political and economic agenda – the introduction of capitalist economic models that were embedded in a wider depoliticised discourse of reforms, and where the necessity for this reform was never up for discussion; 2) Exclusion of people from decisions on how the social and economic life of BiH is to be planned (as opposed to the instruments of inclusion in the former SFRY, e.g. even though one-party system the constitutions of the Republics was decided through referendum); 3) The “active policy of forgetting” how life was before, in a sense of how the society functioned. There was never a chance to analyse what was functioning and what not in the previous system and then to build upon that. Simply, new institutions were established, as there was nothing previously. BiH entered into various reform processes, judiciary, police, and military and so forth, with the argument that they were part of the “transition from war to peace”, as opposed to the real underlying reason, which was introducing a neoliberal society;
- ❖ There are several important segments that the DPA failed to address:

- An analyses of the causes of war; omitting proper discussion of the causes of war, institutionalized and froze the narrative of ethnic character of the conflict established during the war;
 - The war experiences that can potentially be a platform for social transformation;
 - The issue of massive violations of international human rights law and international humanitarian law, which was understood as something that would be dealt with through criminal justice and ICTY.
- ❖ Subsequently the DPA did not address the issue of wartime reparations, whereas there is a belief that the reparations can be a platform not just to address the violations but also to open up the space for inclusion and direct participation.
 - ❖ In light of the above mentioned the WILPF led initiative *Women organizing for change in Syria and BiH* has, over a period of time, discussed how a gender sensitive reparations programme could look like and the different types of modalities that can be used in order for this programme to become a platform for direct participation.
 - ❖ BiH does not have a comprehensive approach towards reparations; Rights and benefits of civilian victims of war are scattered over numerous different laws, dependent of the area one lives in.
 - ❖ Currently existing compensations for civilian victims of war are part of the social welfare system; the current approach conflates social and economic rights and right to reparations, which causes numerous problems, both for the civilian victims of war and for the Bosnian welfare state.
 - ❖ The work on reparations led to identification of 13 different harms, 6 different categories of beneficiaries and a discussion on different potential reparations that should be part of a reparations programme;²
 - ❖ One harm that is specifically relevant for the dialogue on DPA is the *forced militarization of the society* that constitutes a potential platform for discussing the causes of war.
 - ❖ The elements of this harm, as identified by the Initiative are: “all acts that resulted in the destruction of the entire BiH social fabric, including ethnicization of society, destruction and plundering of social, economic, and environmental systems and resources, as well as of political organisations, distortion of secular social principles, introduction and spread of misogyny, chauvinism, homophobia, nationalism, racism, militarism and fascism into everyday life, removal of mechanisms for peaceful resolution of social conflicts, and arming and mobilising individuals and groups with the aim of bringing the society to a state of war”.
 - ❖ With this harm the Initiative made an attempt to cover the pre-war period – what led to the war and what were the omissions of the state that

² The full document can be downloaded from

<http://womenorganizingforchange.org/Development/wp-content/uploads/2016/02/Reparations-BiH.pdf>

brought the country to complete destruction; also what was included in the harm was the inclusion of the BiH Constitution into the peace agreement, which is understood as completely undemocratic and disenfranchising to the complete society, ultimately contributing to further social divisions and depriving the citizens of their right to participate in democratic processes.

- ❖ The proposed definition was put in the context of the right to peace as a fundamental precondition for exercising the right to human rights, particularly right to life.

DISCUSSION

- ❖ From the Bosnian experience – formal monitoring mechanisms were given to the international community by forming Office of the High Representative, which made BiH a quasi protectorate. But also, BiH elected officials have powers to decide over the implementation. Even though at times there is a disagreement between the two with respect to interpretation of the implementation of the DPA, those disagreements have never been over the direction of the transition – towards a neoliberal capitalist society.
- ❖ The informal mechanisms in BiH have to a large extent translated into the work of NGOs, and to a certain extent to women NGOs. The NGO sector has during the war gone through a process of depolitization, by largely dealing with humanitarian aid provision, mainly care work. In the post-conflict period that translated into idle monitoring of the human rights (henceforth HR) compliance of the state but without mechanisms to influence decision makers, as well as into continuation of care work.
- ❖ The post-war period saw a proliferation of the NGOs that played into depolitization process of the society. The inability to act has led to feeling of helplessness among NGOs, putting the civil society on the side-line of proper political engagement.
- ❖ With respect to women organizations that could have played a crucial role in the post-conflict period and be the key agents of transformative change, the depolitization process has also contributed to poorly developed feminist critique of the BiH post-conflict society, many times due to conformism, opportunism but also alienation.
- ❖ There is a complete lack of reflection on the restructuring of the political economy in BiH in the 90-ies, which then became cemented by the DPA. This restructuring also affected the sphere of reproduction, and introduced privatization of reproductive life. There is no public discussion on what kind of extra burden it has brought to women's lives. Civil society is paralyzed and unable to mobilize around that.
- ❖ The exclusion of the Bosnian civil society that started with the peace negotiations has continued and is even visible within the “new” structures and political mechanisms, such as the pre-accession process. The idea

around inclusion of women in these processes is based on the fact that EU deals with elected political parties, and that women are present in these parties and within the BiH parliament, which ensures sufficient inclusion of women.

- ❖ In the reparations document the Initiative was only looking into the responsibility of the Bosnian state as it failed to protect its own citizens. None the less the crimes covered are also those committed by non-state actors, as well as crimes committed by members of the UN forces (UNPROFOR) that have remained untouchable for the justice system as they enjoy impunity.
- ❖ One way of advancing the discussion on reparation is not to limit it only to war crimes, which then reflects on a set period of time causing problems in relation to the discussion on preparation for the war. Instead we should look more at the crime against the international law, which is not temporal, so that a discussion on dates can be avoided and preparation phase would fit well.
- ❖ The fact that the DPA does not contain any reference to reparations, or any reference to any kind of issues related to civilian victims of war, is a problem. Apart from the Annex VII that deals with the return process, there is nothing in the DPA that can constitute a platform for the civilian victims of war to hold the state to its obligation to provide for reparations.
- ❖ It is very difficult, in the midst of negotiations, to have a full on reparations programme devised, because there is a need for broad participation and engagement of civilian victims of war and other groups. Also, looking at the Bosnian experience one of the most important elements to have in the peace agreement is the need to set up a proper system. Setting up health care, education, employment opportunities etc. are all closely linked to setting up a proper state system.
- ❖ If we look at the “forced militarization” as a harm, that means that everybody is affected, so in terms of reparations it would mean that everybody has a right to equality in the system. In terms of peace agreement, at the minimum there should be referencing to ECOSOC rights; a proper system put in place; and specific reparative measures in relation to the harms of the international HR law and international humanitarian law. Peace agreements should have those three things recognized as an obligation.

MILITARIZATION

WHAT IS MILITARIZATION, WHAT DOES IT MEAN, AND HOW SHOULD IT BE REFLECTED IN PEACE AGREEMENTS

"The narrative of danger is one of the most powerful fuels for perpetual militarization - the notion that any sorts of human relations are fragile, are about to fall apart, that chaos is just around the corner - it allows for that perpetual militarization."

Cynthia Enloe

INTRODUCTION TO THE SEGEMENT

- ❖ Previously discussed costs of war through the prism of reparations in BiH covered things such as mental health deterioration, the shredding of social safety nets, forcing people to shrink their notion of their identities, and so forth.
- ❖ Those are all the costs of militarization. But when those things are being done they often do not look like loss, instead they look like gains because one of the selling points of militarization is that it makes you feel as if you belong.
- ❖ To those people that become enamoured, they do not necessarily think they become militarized; instead they might have a sense of belonging they never had before. Militarization for many feels like a reward, like an enhancement of life. It feels like they now have a connectedness they've never had before.
- ❖ For the women it feels like the motherhood for the first time is patriotic. They are for the first time asked to be citizens in an active sense, because supporting their sons in going to war, or teaching their children of new ways of thinking about history, they are being active citizens while being in their domestic role.
- ❖ For a lot of women, in a lot of societies, militarization has been very rewarding, so when it happens to a person it does not automatically make that person feel oppressed or shrunken. It makes them feel expanded, and acknowledged, and part of something larger than themselves. "I want to be able to die for my country" means "I want to be able to do something with my life".
- ❖ There are all kinds of reasons for joining the military but what is often the public articulation by a young person is "I want to be part of something big, bigger than myself".
- ❖ The bigger point here is that the militarization is not always perceived as negative or oppressive. It is sometimes even perceived as generous,

because you as a person “will give something” and it is very gender alluring.

- ❖ ISIS for example plays this card, and they play this card of marriage as a globally patriotic act in the sense of belonging to something with global aspiration.
- ❖ The second part is that militarizers could not do without masculinity. Taking away military recruiters budget or their uniforms is not as efficient as the lure of manliness.
- ❖ But they also need femininities, they need that appeal, that marketing strategy that women can be useful to militarizing projects too, which is usually called “patriotism” “national salvation”, “defending land” etc.
- ❖ Militarization depends on multiple gender narratives. The narratives are not going to be the same for all women, or men. It is masculinities, and femininities.
- ❖ The third aspect is that militarization works best if it looks like it is not costly, if you avoid public conversation on the genuine costs of war. When you get a lot of people to be accountants in the best political sense, you will show that militarization is lot more costly than militarizers present. For example, critics of war in the USA have put together the costs of the US wars. There is an overlap here with what was being said in regards to BiH. The costs that the Americans came up with are highly gendered - the care of former soldiers, who may have, or may not have been combatants.
- ❖ The governments always want to lower the perceived costs of war so that they can remilitarize. And one thing that must be minimized is the care for the returned soldiers. That is done by feminized care-takers, by women and by wives, and sometimes by girlfriends. Because governments pass on the wounded to the family, the costs are removed from the budgets.
- ❖ A lot of women, as mothers and wives that have been taking care of the returned soldiers, have a very difficult time talking about this in public because they will be perceived as bad mothers or wives. “Why are you complaining that you are taking care of your kid? You should be glad he is back”. A lot of women who are overwhelmed with care, and a lot of times had to quit their own paid work to do the caring, are policed, often times, and most effectively for the militarizers, by other women.
- ❖ Veteran service in any kind of post-war society should be looked at, and analysed, because it is underserved, not paid attention to, not given much resources or status, and will fall overwhelmingly on to the mother.
- ❖ The fifth point about militarization is the difficulty to roll back genuinely. In order to genuinely demilitarize a society you actually have to transform the notion of manliness that was manufactured, wielded and marketed for the sake of militarization. You also have to find a new sense of public citizen belonging for women that does not take that militarized form. This means that genuine demilitarization actually means gender work and that can be extremely difficult.
- ❖ Demilitarization is not only about taking away the guns. Militarization is about narrative, about meaning, about desire, about belonging, about caring. It is not just about your defence budget. Most of the militarizing people in the world are civilians.

- ❖ People who have learnt feminist ways of making sense of this world are the only people who really have a chance to roll back militarization, because they are able to expose its full array of allures and workings.

DISCUSSION

During the discussion four different segments were particularly highlighted:

- ❖ How does militarization play out? What are the consequences of that militarization in BiH?
 - ❖ How do we change the narrative about the unchangeable status of DPA?
 - ❖ What provided the structure for change immediately after the war in BiH, and how did that deteriorate, or got pushed aside?
 - ❖ What are the key factors with respect to successful demilitarization of society, or strengthening of the CSO to become a stakeholder in a transitional process?
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- ❖ The DPA in itself is a form of militarization. The actual narrative surrounding it, the public debate, the actors, have all contributed to the increasing militarization of the society. The very talk about changing DPA fuels ethno-nationalist antagonism, which is then used as an instrument to stop certain changes to take place. The whole story becomes again a story about the nation being endangered, about potential national loss, potential war. The main actors do not see the DPA as something that can change, as other things have changed, for example national laws.
 - ❖ Even reframing the DPA from feminist perspective has to be done very carefully, finding our own entry points, which will not contribute to the heightening sense of militarization whenever you mention DPA.
 - ❖ In addition to the common narrative about the unchangeable status of DPA there is a growing narrative that “it was better during the war”, partially referencing to the notion of solidarity that existed across the society and that is gone today, and partially referencing to the fact that even with food rations some people had more food on the table than they have today.
 - ❖ Over the last few years in BiH we are experiencing militarization of everyday life. People are more and more thinking that a new war is a possibility, as opposed to five years ago when it was unimaginable. Now it is imaginable.
 - ❖ The international elite and administration is an active accomplice of this militarization of our everyday life. For example during the protests and plenums, EU and other international organizations were not supportive of grass root social movement, but rather provided the support to the police, later on training them on how to contain civil protests, giving them new

equipment. And we can see that they are still actively thinking that the nationalist parties are key partners, and that our future membership in EU will contribute to demilitarization

- ❖ The narrative of danger is one of the most powerful fuels for perpetual militarization - the notion that any sorts of human relations are fragile, are about to fall apart, that chaos is just around the corner - it allows for that perpetual militarization.
- ❖ The narrative of danger starts with policing - how people imagine whether the world is dangerous or not. The gendered politics of policing, and the gendered politics of militarization, need to be inspected, and thought about, and looked at together. There are a lot of very concrete reasons. For example, a lot of former soldiers go into policing, as opposed to going into nursing or something alike. So we need to watch not just militarization of policing but the narrative of danger, the narrative of the fragile social system that constantly needs to be protected from falling apart.
- ❖ The thought that DPA stands between the chaos, and us and therefor is untouchable is part of that narrative. "We are just on the edge of the abyss and you poor feminized, naïve fools cannot see that. You cannot see the danger so therefore we cannot take you seriously because you cannot see how the world really is". Opposed to this is the feminist notion - "actually we do know how strong cooperative impulses are, we do know how publicly salient caring is".
- ❖ The question is how one can intervene in the DPA when it is not in the ownership of the government or citizens. The citizens did not vote for either the agreement or the Constitution that is part of the DPA. The Annex 4 did not pass the parliament, which means it is not an expression of citizens' will. It is an expression of the will of the leaders at that time. On the other side, our neighbouring countries guarantee the peace agreement. That means, that we must have a political will of those leaders as well, in order to change the DPA. And they do not have a wish to change things.
- ❖ We must also look at the particular type of poverty management that is taking place in BiH. For example in Tuzla the unemployment runs 65%, or even higher. The unemployment of young people under 35 is around 70%. In these circumstances it is very difficult to capture any lessons on how to organize, mobilize and sustain any type of solidarity that needs to tackle this sort of poverty management. Why is this poverty needed? This is a very particular type of governance through poverty, and a very particular approach in this kind of transitional state. I think part of this transition has been the creation of these very obedient bodies, trained to the ways of the market.
- ❖ The Bosnian military does not have the mandate to tackle civil insurrection but yet four weeks ago there was a "rapid response military exercise" and the scenario was civil insurrection.
- ❖ The crucial mistake made when developing the DPA was the complete lack of participation from anyone from Bosnia, real people from Bosnia, in drawing up the agreement. Everything became about the identities, and

the identities were misinterpreted, and misinformed by the international community.

- ❖ The DPA is an important document in as much as it was is an internationalized agreement to stop the war. It gave responsibilities, very specific ones, to the international community, who were coming from patriarchal, neoliberal approach to peace agreements, missing out on everything from a gender perspective. The practical translation of their understanding of the identities in BiH was “you have an ethnic identity and we will treat you all as part of that”, everything being turned into ancient tribal hatred because it was easy to understand, to police, to militarize, and then to cage into a free market system which then could be taken advantage of. Access to economic and social rights could have changed the dynamics.
- ❖ An international agreement that was supposed to ameliorate the situation instead institutionalized problems, created chaotic and badly thought through implementation, destroyed the economy, bestowed violence in communities, created corruption and entrenched the nationalist elements in the police force and so on. A lesson that keeps coming up from the Bosnian experience is that a successful agreement cannot be made without it being driven by the people who did not fight the conflict, the nonviolent majority, who experienced the harms.
- ❖ In Bosnia associations of former camp inmates do not call themselves “former”, the official title is Association of camp inmates. People in BiH are uncertain in every aspect, so anyone who promises certainty, military, politicians, or any structure or actor, basically has a ready-made market. A lot of people are also making a living because of the war, apart from the war profiteers; we have the war veterans receiving monthly pensions.
- ❖ After the war conscription was removed. The question is what are the real attractions to militarization in our society - salaries, benefits? Many demobilized soldiers, as well as victims, do not want to go out of that framework because they are entitled to certain benefits, but it also gives them recognition. They are part of something bigger.
- ❖ With regards to potential structure allowing for change, one of the first hinders was created already in 1996 with the DPA itself. The DPA stipulated the first post-war elections to be held only 9 months after the war, without any resources for the democratization process. The election turned into a legitimizing process for the warlords to start to be democratically recognized and gain access to control every societal aspect of our daily lives.
- ❖ One thing coming out of this discussion is that there has to be some kind of mobilization around the attentiveness of the state, so it remains effective and operational throughout the transition period even if there is a flawed peace agreement, and mobilization around recognizing when that process becomes undermined.
- ❖ The second important thing is related to the elections that are the international communities notion of what participatory democratic societies look like. Feminists in different conflict areas, the Nicaraguans, the East Timorese, the Cambodians, all are trying to figure out what to do

with political parties – do you engage with them, become part of them, push against them from the outside? This is a huge dilemma, what to do about political parties, especially if the elections are called too soon? But also how soon is too soon – we have to take into consideration who else will harden their grip on power while putting of elections.

- ❖ It is interesting to put this in the perspective of the Middle East, in terms of its militarized future, but also the past. The Yemenis process of the national dialogue, which is seen as one of the most successful negotiations process with the inclusion of women, CSOs and other stakeholders, went per shaped and turned into a violent conflict. The peace process in Syria does not look very promising. In the context of providing advice what key factors can we identify that can be useful in the context of Syria, or other negotiations, in order to prevent, a development similar to the one we are witnessing in BiH. What are the key factors with respect to successful demilitarization of society, or strengthening of the CSO to become a stakeholder in a transitional process, even as early as the peace negotiations process itself, which is deeply militarized.
- ❖ In terms of the gains, there is no one perfect example. They are all partial, and it is more a matter of trying to pick and choose from different examples. For example the Chilean feminist think that they made some very good strategic decisions in regards to the political parties before the crucial elections, which Pinochet lost. Chilean feminists who all very much identify with different parties. Political party system in Chile is very strong and people very personally identify themselves with parties. But Chilean women made a decision to have a cross party coalition of women which would be centre-left and they were successful. The Colombian women even if not at the table have a formal pipe line into the peace negotiations and the women have organized around some very important differences, one of the most important being how to raise the question of sexual violence and by whom. A lot of women's organizations are very closely tied or affiliated with FARC, and they are very reluctant to have a peace agreement that even suggests that FARC fighters could have been among sexual abusers. They are much more willing to talk about the paramilitaries, but the first agreement to come out of Havana stated that sexual violence must be addressed in the final peace agreement. And these gains did not come out of at being at the table. They came out from a very effective cross sector women's organizations who then insisted, after the formal talks were done, to have a formal mechanism, a pipe line in.

ECONOMIC AND SOCIAL RIGHTS

HOW TO USE ECONOMIC AND SOCIAL RIGHTS IN PEACE AGREEMENTS

"When we conflate reparations with economic and social rights it means we end up with not having reparations, or having bits of reparations accessible only for those claimants who are able to claim."

Madeleine Rees

INTRODUCTION TO THE SEGEMENT

- ❖ Economic and social (ECOSOC) rights were not recognized as being fundamental to the DPA. Instead they were included as parts of the international agreements BiH was, or should become, party of, unlike the constitutions in for example South Africa or Philippines, where ECOSOC rights were fundamentally engrained in the system. On the other hand civil and political rights were given a priority. That is partly because of the international context at the time the agreement was brokered.
- ❖ The absence of ECOSOC rights in the DPA was hugely significant for the direction the post-war reconstruction took, because it created a framework for peace that was against what needed to be done as a matter of cause in a post-conflict society.
- ❖ What do we need to do in the aftermath of a conflict that will give effect to the concept of transitional justice, and then what do we need to do in terms of system which would recognize ECOSOC rights of the broad mass of the society?
- ❖ We need to, to the extent possible, rectify the costs of the militarism and militarization, do the analysis over hidden costs of that militarization, and identify how to address them. Next steps are then how to really separate those costs from the real construction of the state.
- ❖ Because these things were not done in Bosnia, the state ended up collapsing any sorts of compensations into the social welfare system making it look like they were ECOSOC rights, but they are not. They are seen as benefits, and benefits are not rights.
- ❖ As a result, people became compartmentalized into victims and this is a very disenfranchising narrative, a narrative that is significant especially when it comes to women survivors of SV.
- ❖ Collapsing of a right into a benefit has had huge detrimental effect and that is not just in relation to the social welfare and the pensions. The education, the only ECOSOC right that is mentioned in the DPA, has also been destroyed.
- ❖ When we conflate reparations and ECOSOC right it means we end up with not having reparations, or having bits of reparations accessible only

for those claimants who are able to claim. Some of those claimants must engage with the system of justice that is not equipped to deal with ECOSOC rights, because they are not in the Constitution.

- ❖ This “system” forces organizations and activists working with survivors to try to find emblematic cases that are going to be representative, which happened to sexual violence cases. This however does not work for multiplicity of reasons and it means that the claimants, in order to access their right, become dependent on national political parties to defend those interests. The end result is that “benefits” are considered as reparations, paid out as ECOSOC rights, tied to political nationalist parties, and a large number of the BiH population having these “benefits” as the only source of revenue.
- ❖ In regards to the veterans, a similar system has been established. Instead of bringing them into a system that is realistic and modern, and tied to the amount of military service they did and injury sustained, which is what most militaries have, they are granted pensions in perpetuity. This system plays well into the hands of the ruling nationalists because it means they have their standing army ready. This peculiar social welfare/reparations system has actually frozen the conflict.
- ❖ As presented earlier, during our work on the reparations process and looking at different harms and what they might mean to different groups, there is only one possible conclusion. A separation of the reparations from ECOSOC rights must be done so that conflict related reparations, lying under DPA, lying under the conflict part, are clearly discernable and possible to deal with. This can still be done and it could provide for the basis for future conflict resolution payments.
- ❖ When discussion and planning reparations we must be cautious of the fact that not every community wants reparations in the same way. In DRC and Great Lakes region women answered that they want community reparations. In BiH women are leaning more towards individual financial compensations.
- ❖ We have to look at how this can be done in practice, considering the state of the Bosnian economy. IMF provides the budgetary support to BiH government in large portions. The loans go only into budgetary support. There is no investment, no infrastructure. One thing that has been proposed and discussed as something that can be a future model, is that in order to kick-start the economy all the civilian victims of war get a one off payment. This would constitute about 30% of the next IMF tranche. The accountability of the state would be ensured, as the loan at the end is paid back by the state, but it is funded externally.
- ❖ The international financial institutions are enforcing structural readjustment to bring Bosnia in line with rampant capitalism and neoliberalism, but their approach is diametrically different from ours. The reform agenda will inevitably mean that those with already tiny pensions, tied to war related harms, will see them shrink and shrink.
- ❖ This needs and can be reversed by taking everybody out of the social welfare system, giving civilian victims of war compensations and other forms of reparations, and then everyone who is still in need goes back to

the social welfare system that has now been improved, modernized, and funded by the state. At the same time the possibility opens up for those who were redundant before and basically dependent on the pensions, to do something different with support of the received compensations. One of the forms for that could be to form cooperatives that would regenerate economy, and providing for cause and certainty for the survivors.

- ❖ That is the restorative, reparative system that can work. It also has the great advantage of being disassociated from political parties. And this can be replicated with the veterans. They get their pensions based on the number of years of service and then if they are permanently injured they have the right to have a social welfare pension.
- ❖ Ensuring access to ECOSOC rights is an important feature of future peace agreement. South Africa and Portugal have a constitutional obligation to ensure access to ECOSOC rights. In Portugal's case that obligation did stop some of the worst conditionalities that were going to be imposed. So it is important to have it, not least because it gives the possibility for this transformation that should happen post conflict.
- ❖ In aftermath of any conflict the big devastation that takes place is usually to the social structures, to the health care system, to education, to mental health, to the ability to coexist as communities. It is not so much about political and civil rights. Because you might want to vote, you might not, you might want to be part of government, you might not, you might want to access justice and have prosecutions for the crimes committed against you or you might not. Unless you can eat, sleep, have access towards health care, education, you are not going to access the court in any case, you are not going to be part of the government, so your civil and political rights are not the ones you are most concern about.
- ❖ It is those basic ECOSOC rights that need to be in the agreement, especially from a gender perspective. What we should be looking at is putting those rights upfront justiciable in a constitution, and then looking at what should happen in terms of donors and international financial system. Immediately after a conflict, no country has any money. Syria is going to be totally and utterly bankrupt. Bosnia is totally and utterly bankrupt. So in real life countries in post conflict can only come back in terms of economic prosperity and building a democratic society after programmes such as Marshall plan.
- ❖ There has to be a regrouping and re-strategizing of how things are done in post-conflict societies. What has to be avoided is the sort of "everything and nothing" that happened in Bosnia; holding of donor conferences to fund certain things without consultations with local communities, funding of one part of the country, reconstructing houses without guarantees for sustainable return etc.
- ❖ What should have happened is that there should have been a thought through health care program with a proper analysis of the immediate needs. After a conflict, what is going to be the most obvious thing that is going to be needed? People are going to be traumatized, with war related injuries; they will be amputations, survivors of SV, etc. Following that there needs to be an assessment of how many persons will need the

specialised immediate health service and what will be needed in order to provide it, and at the end how much is that going to cost?

- ❖ The next step would be for the state to frontload the budget on healthcare expenditures, and the first 10 years would probably be more costly, but after that the costs are going to reduce. This will provide the state with evidence based arguments for the donors and financial institutions of how much they need to borrow, and it will provide the state with a coherent non-discriminatory plan which is gendered in terms of understanding the nature and types of care that is going to be needed for women, for men, according to the gender roles, at the same time as understanding that after hospital care, it is going to be different again.
- ❖ All the different sectors need to be looked at to see what needs to be done in terms of demobilization, and demilitarization from a gender perspective, linking them all together. That combined with reparations package to facilitate and enable employment and self-employment and solid social and economic system that provides the right and appropriate welfare, education, creates a sound platform upon which transition takes place.
- ❖ This was not done in BiH, and a lot of services that should have been provided by the state were handed over to NGOs, turning them into mere service providers. It also meant we end up with pockets of good things or pockets of bad things but there is no real continuity of services. You end up with discrimination.
- ❖ Essentially a donor conference or an international financial conference, should take place, to deal with all of this. This can still happen in Bosnia as well. The conference needs to look into the restructuring, so that it deals with ECOSOC rights and reparations, separately but continuously, because they do feed into each other.
- ❖ A linkage between the provision of ECOSOC rights and accessing civil and political rights must exist.
- ❖ In BiH there has never been a really good system of justice, ECOSOC rights are not justiciable, and war crimes and crimes against humanity is dealt by ICTY and to some extent local courts. It is hugely important that the systems of transitional justice are reflective of the sort of justice being demanded by the population. It can be made possible by using ECOSOC framework for people to access the sorts of justice that is going to have the real impact on their lives.

DISCUSSION

During the discussion two different segments were particularly highlighted:

- ❖ The system of reparations (individual vs. collective reparations; administrative vs. judicial procedures; collapsing of reparations into the social welfare system);
- ❖ IMF conditionalities and modalities for transformation of the current situation).

- ❖ In terms of ensuring a proper reparations system for those affected in BiH some of the participants in the meeting raised concerns regarding the functionality of individual compensations fearing that they might go into paying off credits or contribute further to pulverization of social fabric. The communal ones were thought to be more favourable as they are more likely to produce economic opportunities, or new jobs.
- ❖ Also issues regarding the modalities of the implementation of the reparations, in terms of administrative or judicial procedures, raised concerns that the judicial proceedings might be as inaccessible as social welfare system is today.
- ❖ The *Concept and Framework for Gender Sensitive Reparations Programme for BiH*, proposes paying out reparations through an administrative procedure. The discussions during the development of the programme drew from the experiences around the world where judicial procedures were used, and the approach from a gender perspective was deemed problematic for several reasons: the politicization of the judiciary, the costliness of the process, the fact that it takes time etc. The idea presented in the Concept is to use administrative procedure and to set up a separate fund ensuring that everybody that is entitled to reparations gets it.
- ❖ In BiH there has been some development within the judiciary system with compensations being awarded in two different cases in criminal proceedings to victims of SV. However judicial or administrative procedure should not be a matter of either or, but rather complementary to each other.
- ❖ In terms of individual vs. collective reparations, we should also look at the different harms suffered. In the Concept developed for BiH 13 different harms were identified, along with 6 different categories of beneficiaries. Some of these harms would require to at least offer the option of individual compensations, while some of the harms such as Violation of economic, social and cultural rights, or Forced militarization of society, where practically the entire society is a victim, it is not financially viable to give one off payments to everybody, but instead look into various forms of collective reparations.
- ❖ When discussing individual compensations we must look at very tangible material and nonmaterial harms that are economically assessable, and should thus be subject for individual compensations. Individual or collective reparations measures should not be a choice between either or. There is a need to provide individual compensations to certain people but it is the collective measures that will make the greatest impact on BiH.
- ❖ BiH system has thus far been flawed. However, within this flawed system certain number of survivors has been granted rights through the social welfare system. At the same time as we need to separate social benefits from reparations the reality is that many survivors perceive the benefits as pensions, and any change to the system as taking from them the only source of income. This problem must be approached very carefully and transparently.

- ❖ The collapsing of the reparations into benefits further victimized the survivors. In this process “the mother” has been elevated to the status of victim, which has consequences on the entire society. Knowing how neoliberal paternalist approach is operating, how would a new reparations system bypass that, and how would that look in practice?
- ❖ In terms of finding allies for the ECOSOC approach discussed in the introduction to the segment there is an awakening of different groups that are trying to withstand the impact of the IMF conditionalities.
- ❖ The way the IMF functions now is opposite to what the Initiative is proposing with regards to ECOSOC rights and reparations. The only way to persuade them to change the way they operate is if there is sufficient energy among the other parties to want to ensure that the DPA works. The EU accession can be an important part of that.
- ❖ If IMF does change its way of thinking and operating in BiH the organization of the new approach is fundamental. How to stimulate the sorts of local economies that are appropriate for BiH? The guidance of social entrepreneurs would be helpful, as they are already thinking along these lines. What would be beneficial for Bosnia, and what modalities would be used? But the big question is how to make the governments see it as a benefit to have this system in place. If we want to bring about that transformation the political economy is fundamental from a gender perspective in either creating or averting conflict.

POLITICAL ECONOMY

CONSEQUENCES OF POLITICAL ECONOMY AND POLITICAL ECONOMY OF VIOLENCE

“The political economy approach through investments is looking not just at the extent of harms, and trying to be equitable to that, but actually also trying to recognize the future, and the possibility for future recovery and the benefits for the society.”

Jacqui True

INTRODUCTION TO THE SEGEMENT

- ❖ The political economy approach is not the same as the human rights approach, but it is complementary and could potentially help us think in some new ways and directions.
- ❖ *The Concept and Framework for Gender Sensitive Reparations Programme for BiH* clearly identifies the problem with the existing approach to transitional justice as one that has no distinction between a reparations approach and an approach to the provision of social welfare.
- ❖ The rights based approach to reparations could be complemented by a political economy approach. There maybe a political economy case for long-term investments that actually could be quite powerful in advocating for a gender sensitive reparations system that could address past wrongs and current needs of those who in some cases will not be able to fully recover or fully participate in the economy or public sphere in the formal sense.
- ❖ The rights system ensures that the survivors do not experience disproportionate discrimination. The political economy case can enable economic recovery, especially for women and girls precisely, because of harms and danger that are exacerbated by social and economic inequality and discrimination.
- ❖ What is currently in the Concept is that reparations should be equitable and should take into account the extent of the harms. So the reparations approach, in seeking to be equitable, wants to ensure that there is justice and fairness in terms of crimes and impact on the individuals, and that the levels of compensation should reflect that. Put forward like this it would mean that we put forward a very sizable reparations scheme, especially if it is gender sensitive.
- ❖ What exists now in BiH is not an equitable approach, but quite consistent with the reform package, which is being forced on by the IMF. IMF has a short-term approach and is more interested in saving money. Their approach is minimalistic, and one that wants really to keep the reparations as a low cost item.

- ❖ The third approach would be the one the politically economy approach, which is potentially compatible with a rights based approach and is potentially a way of critiquing the minimalist-IMF type of approach. This approach will be addressing the extent of victimization and past wrongs, but it will also be interested in the future recovery of the society, in particularly focusing on how compensations, as one form of reparations that are significant and sizeable, would eventually have long term pay off for the entire society.
- ❖ The political economy approach through investments is looking not just at the extent of harms, and trying to be equitable to that, but actually also trying to recognize the future, and the possibility for future recovery and the benefits for the society.
- ❖ An example: If we have a war widow who is 65 years old whose lost her son, husband, she has lost her income etc.. She might also be a grandmother taking care of the son's children. But we also have a 35-year-old woman who was in a rape camp. These are different types of cases. The 35 year old actually has a quite a long life, and we do not want to have her on a social welfare system for her whole life. There must be an investment to re-train her, to help her with her trauma, to give her an opportunity to restart her life. For the 65 year old we might look at how investment in her might have a substantial impact on her grand children as well. It maybe providing for education, care; and assisting her in this important role, as she was left as the head of the family.
- ❖ The point is that the investment must be somewhat discretionary. You have to look at the context. From looking at the context one would be able to make arguments that big investment up front would potentially have much more benefit for society. It could be more cost effective.
- ❖ This kind of approach to investment has been used in non-conflict societies, where countries are also under pressure to address social expenditures, but they also want to improve the quality of people's lives. So it is not totally rationalist, it is not totally instrumental, there is also a side to it that is developmental.
- ❖ The human rights based approach is fundamental, but there is a political economy rational here that could support it. The case for reparations as investments really does have an instrumental rational. Financial institutions might actually be able to make such investments.

DISCUSSION

The discussion focused on the form the political economy approach could take in BiH, and what arguments can be used in order to advocate for it.

- ❖ If we look at individual or household level, as a long-term investment, we would want to tag that investment to various different types of options. We would want to support the investment with proper training, and

proper support. If it is a livelihood or income generation project, we have to build in mentorship and support service, professional development, education, maybe even childcare, education for their children, and alike. It is important to think of different categories of women, and how that might be enhanced, and what kind of spill over effects it would have. The ideal way of approaching this is to design it in a way that it can be piloted first, so evidence can be generated from a small number of cases.

- ❖ Doing a pilot would be a very useful exercise, starting with consultations within a particular community in BiH, where we know there are a lot of people unemployed and who suffered a lot from war. What would they prefer? What are their needs, in terms of rights? Doing a political economy approach through investment would show us whether it would kick-start the local economy.
- ❖ In doing this we must ensure necessary infrastructure to move those kinds of programmes beyond the individual. One of the ways could be to have small enterprises with co-ownership, or cooperative.
- ❖ Different models have been tried in BiH and cooperatives have come out as the strongest options. BiH has very complex administrative and legal procedures, which means that doing something in Bosnia requires several different approaches, depending on geographical area of living. More importantly, we also have very diversified needs, in particular if we talk about women that survived some type of harms. Their needs are very diversified, and one of the problems with different approaches that have been tested here is that everybody is treated as having the same needs. Models have been copied from one area of the country to another, with a completely different setting. There is a lack of substantive knowledge that is gathered through a tested, reasonable and sensible methodology as to what are the needs that need to be addressed in different places.
- ❖ Important to take into account is that even though the cooperatives are good options some women just want to go to a regular job, and work 8 to 4. Running a business, even if it is a cooperative, is an additional burden on an individual, and not everybody is prepared to deal with that.
- ❖ A sensible approach for BiH would then be to design three or more options that people can opt into different kinds of compensation projects.
- ❖ In regards to pilot studies that would combine various measures in joining development and education or reskilling, we have to be very ambitious and creative, and we have to get out of the models we are used to. Because the situation is so dire at the moment the old models that we all have been doing on the grassroots and local level will not suffice.
- ❖ The pilot should be placed in a small community, or area that could potentially become economic engines of BiH, or have been that prior to war. If we are going to engage in this exercise and later on convince the state or international partners to do something about it the pilot must show some kind of promise. Even the general public will be very sceptic about it if we do the pilot studies around green houses. It has to be something substantial but also motivating.
- ❖ In the immediate wake of the floods, we were fortunate that the networks created through plenum existed and could be used to organizing people to

help. This amazing cooperation between the citizens was then punished by the political elites because it was considered to be completely unacceptable. If any sort of seed money were invested in this collaboration it would not only potentially contribute to solving the economic problem, but also ethnic tensions.

- ❖ We also have to take into account earlier feminist critiques of the welfare state and the kind of roles and assumptions that got built into that. We are discussing about a model of a kind of social business, entrepreneurship etc., and having certain categories of persons being the recipients (person x gets this, person y gets that). It opens up the question of how do you avoid those early feminist critiques of the welfare state as precisely building categories of person that does not allow movement of certain way, and can work against certain kinds of politics? How was it that the person X decided to become part of this enterprise and not another, and does that mean that they need to understand themselves in certain ways in order to do that? Do they have to be a certain kind of person in order to participate? And if they do not adapt or learn how to do it then they do not have access to the compensation. This goes beyond just “access”.
- ❖ Avoiding that is obviously complicated but it can be done with a complementary educational programme, coupling any investments and projects, for example income generating projects, with reskilling and with explicit affirmative actions, having professional training of women, perhaps in single sex groups etc.
- ❖ If we put this in the perspective of Syria, we can foresee that there will be a lack of working on conflict prevention once the peace is achieved. From other experiences we can see that once the peace agreement is signed everybody is so happy that it is in place that the prevention part gets lost. How do we look into, and plan, a political economy approach in terms of having an early investment approach based on the identification of the harms and look into how to stimulate the economy through that approach, immediately after a conflict? This approach requires quite sophisticated structures that are not going to be in place very early on. How would that be done in practice? What would be the entry points? How do we address the war economy at the same time as we are attempting to simulate the economy, and create an economic structure that is sound and has healthy elements to it?

JUSTICE AND CRIMINAL JUSTICE

HOW WAS JUSTICE AND CRIMINAL JUSTICE REFLECTED IN DPA AND WHAT ARE THE ALTERNATIVES

“What we have in DPA is a justice gap with highly limited accountability mechanisms and limited collective obligations”.

Kirsten Campbell

INTRODUCTION TO THE SEGEMENT

- ❖ The DPA does not really provide any kind of framework for criminal or civil accountability. What we have instead is a set of fragmented provisions that establish disconnected rights, duties and mechanisms.
- ❖ We can say that there are three categories of formal justice. The first one is criminal accountability and here we have two provisions: cooperation with the ICTY by all parties, and the establishment of state criminal jurisdiction. These are the provisions in the Constitution regarding international entity law enforcement.
- ❖ The second one is human rights, but it does not apply to wartime violations. In essence, what we have in relation to war crime violations is human rights as applied to human rights obligations related to war, such as failure to investigate and prosecute, and fair trial for the defendants, through an established mechanism of ombudsman and chamber etc.
- ❖ The third category is what we call transitional justice rights and obligations, even though they are not framed like that in the agreement. And there we include things like individual rights of refugees and IDPs, limited cooperation on missing persons, protection of common property, so called civil protection of refugees and IDPs, and then there are certain provisions concerning vetting and lustration, as well as collective obligation of peace building.
- ❖ What we have in DPA is a justice gap with highly limited accountability mechanisms and limited collective obligations.
- ❖ There are two forms of justice gap here. There is a gap around formal justice, i.e. criminal and civil accountability - whether individual or collective accountability of individuals or states.
- ❖ The other justice gap is in relation to what we call transformative gender justice. That is an idea that what you have to build in the formal justice is to ask how you can transform social relations.
- ❖ Arguably what we see in the current situation in relation to criminal prosecutions or compensations, although obviously multi-causal, is the justice gap which continues causing very late and limited prosecutions, many issue around ICTY etc..

- ❖ What we see today is that this early failure to address the most conservative levels of what we might think around criminal and civil accountability, having ongoing and continuous implications. And we really see that in relation to both criminal and civil forms of accountability.
- ❖ What can be done? There are three interconnected challenges framed in terms of questions around transformative gender justice. The first challenge is how do we articulate the relationship between formal and transformative justice in peace agreements? The other one is how to develop a framework of gendered harms, as the Initiative has been doing here in BiH around reparations, and not just harms but forms of redress that can capture the injustice of those harms and to offer justice even at its most basic levels (formal mechanisms of civil and criminal accountability for them). And finally and most difficult one is how do you develop a framework that allows us to start having the discussion if not the actuality of changing the unjust power relation within the conflict - the relation of domination and subordination.
- ❖ The key to starting discussing these issues is to identify the harms. What are we providing accountability for? And the other aspect is to say how do we provide adequate redress to these harms, and finally how do we ensure that that redress is socially transformative?
- ❖ There could be three potential elements to this strategy. One is to identify or describe the social injuries that the war produces, the other is to identify the justice mechanisms that can describe and provide redress for those patterns of social injury. Finally, the third element is to link those justice mechanisms to transformation of gender relations.
- ❖ The very first step is to identify and name the social injuries to women in war. Using the terms “social injury” rather than harm comes from the work of Adrian Howe. It is a way of capturing group as well as individual injury and recognizing that those injuries are the product of that conflict. This also means that we are recognizing that the very groups that we are describing did not preexist those harms, but are actually often created through them.
- ❖ The real challenge lies in responding to those harms in a way that does not simply repeat them. To do that we would need to start building on women’s experiences of war in order to identify those injuries. But that is not enough, because part of the challenge is to capture the structural condition that create these harms - to move past the individual narratives and to understand the way they aggregate, to understand the patterns of injuries that are socially constituted through war. So merely describing women’s experiences of war is not sufficient, there has to be a structural analysis. The idea of social injury is helpful because it helps us to think about the conditions that produce these harms and in doing so create certain groups.
- ❖ The other aspect is to identify and name the different categories of harms where the reparations approach is very helpful. The next step in terms of identifying gendered harms is to link this continuum of harms to the continuum of conflict, because one of the things we see in legal descriptions of crime (international criminal law) is that there are sets of

categories that describe conflicts in a certain way. However, if we would take certain structural analysis of what happened then we can see the insufficiency of those categories and we can change them. So it is very important to not just be saying “here is the category we will be applying to this conflict” we need to ask “do they capture what actually happened”.

- ❖ The second element is to identify forms of justice - what do we mean by criminal and civil accountability. This is particularly sharp question in the Bosnian context. This is a question of if we have a description of harms, the patterns of the harms, how do we then identify and describe the existing formal mechanisms for criminal and civil accountability? Do they actually reflect this? This is a very complex legal question, between national legal system, national legal cultures, and international norms.
- ❖ One suggestion might be to identify the existing applicable laws, whether they are national or international, to describe existing justice system, national or international, very importantly to describe and identify access to justice but not just the formal structures, but also who are the lawyers, how are they being trained, how do people come to court? Then we can ask whether these existing systems address the harms and do they provide appropriate remedies?
- ❖ Finally we need to assess the relation between criminal and civil accountability, which again we see the consequences of the failure to do so. For this we would need to develop new forms of justice. It is necessarily a question of what legal forms do we need to develop in order to address a particular setting?
- ❖ Here we can consider the questions that were raised earlier in the discussion - how do the formal justice systems do gender work as part of the demilitarization? Part of that challenge is often put as developing alternative models of criminal justice, or organizing women’s courts. It is important to discuss the outcome of both, as well as the procedural aspects of these approaches.
- ❖ One suggestion is to think about framework principles that set out investigative mechanisms, implementing mechanisms and very importantly review mechanism and that they should be thought about in terms of elements of both criminal and civil accountability.
- ❖ Arguably all those mechanisms and programmes, whatever they might look like, absolutely have to contain review mechanisms, and they have to report and answer to the public.
- ❖ In BiH, neither ICTY nor BiH court had that. There is not, and has not been, that sensibility in those institutions.
- ❖ The irony is that despite all the focus on CRSV it is the least visible aspect of the work of the courts, because it is not made public.
- ❖ The perception that the justice institutions are answering to the public is absolutely crucial and part of that is revealing, reporting, and alike. They call it “outreach” but actually it should be put in much stronger political terms.
- ❖ All of this leads to the questions who decides, how, what are the mechanisms of consultations, decision-making etc.? The design is important, but as important is the process by which its get built.

DISCUSSION

The discussion focused on what the *justice* gap looks like in BiH; the elements of accountability and responsibility; the role of NGOs in judicial oversight and review; formal and informal forms of justice; and what are the minimum elements a peace agreement must have in order to be able to build that transformative gender justice.

- ❖ The importance of the substance of the process has been demonstrated through several attempts to complement criminal justice through the development of transitional justice strategy, but also in the way the war crimes strategy was developed. Both of these, and several other activities, show how important process can be. If a proper process is in place then we can also ensure ownership.
- ❖ The development of the BiH War crime strategy was set up in such a way that meetings with broader public, primarily the victims, were held literally just to present the outcomes of that strategy, while the work on the strategy was closely connected to “expert input”. The ownership was lost. This is partially a reason why today nobody is talking about the fact that this strategy exists but has failed in its implementation. Nobody is calling for accountability.
- ❖ The justice gap has also contributed to the absence or lack of interest on behalf of women organizations for the justice mechanisms. Unless the organization is a victims’ association, or members of that organization have personal interest in criminal justice in relation to war crimes, there is an absolute absence of interest in monitoring and following the justice process.
- ❖ This is partially due to a lack of interest for what happened, but also due to a lack of complete solidarity in terms of supporting the associations gathering the victims in their requests and demands in respect to criminal justice. So on the one side we have NGOs, with personal investment in criminal justice system that have attempted to do some kind of monitoring, or tried to engage with the criminal justice system, and a complete absence of interest from the others.
- ❖ There is also a lack of interest from the general public for justice in relation to war criminals. The ongoing trials of Mladic and Karadzic have not caused any public debates, major media reporting and alike. Because of the justice gap the citizens have got tired of justice that is not justice, because it is disconnected from the society.
- ❖ Outreach in relation to the justice system in BiH has become a fully executed PR exercise, and totally without the element of community and public education component. We should not understand outreach as simply meaning that you publish things in the newspaper, or making a movie on sexual violence that at the end is not shown in any classrooms (in reference to ICTY movie on sexual violence).

- ❖ How the outreach on behalf of judicial institutions was done in Bosnia is scandalous, turning outreach in an empty word. Parts of academia have for a while now been working on a kind of critical pedagogical approach in combination with action research and participation in society. We should explore the possibilities of strengthening the political work of scholars and intellectuals, the actors and so on. What would be the platform for productive political work of these circles, of intellectuals?
- ❖ Outreach must be reflected in both criminal justice and civil accountability mechanisms, in a sense that there is developed relationship to the public, a sense of responsibility to the citizens on whose behalf its claiming to do that work.
- ❖ How do we bring the NGOs and civil society into judicial oversight and review? Mechanisms usually include states, national and international, what is the responsibility of NGOs for certain problems and failures and missed opportunities?
- ❖ The DPA does not have a starting point for the discussion regarding accountability and responsibility, which would be necessary elements to any peace agreement so that the society can go back to the process to work out the content of it, because so much of it depends on local context. For example, one might do an investigation into an existing legal system, which shows that it does not work, or is highly patriarchal, or has a fantastic alternative dispute resolution element to it. Investigative mechanisms mentioned in the introduction referred not only to finding out what happened but also what is the context in regards to the justice and resources, or the existing problems in that justice system. Here is where NGOs are crucial and also academics. The kind of role that should be assigned to NGOs or academics is a political decision for that particular context, and cannot be decided in advance.
- ❖ There is often an assumption that NGOs exist in a horizontal relationship, but that is not true. We cannot assume that NGOs will necessarily be a productive, positive, political force. So that question how do we reinvent feminist politics becomes crucial, and what roles can the peace agreement play in that.
- ❖ In regards to justice and justice gaps, is it possible that rigorous feminist informed investigation into patterns, and if possible the causal systems that creates the patterns of for example violence against women, produces an analysis that is then published? Could that complement the justice process, the court system? The more restricted criminal individual prosecutions do not seem to generate the same kind of broad societal conversation that need to happen. Is that a complementary justice process? Does it get to the question of pattern, the question of social accountability, and the question of causes?
- ❖ Even with rigorous feminist inquiry, we must be cautious of who does what. The culture of selective forgetting that has developed here in BiH has also caused that we, 20 years after the war, do not have much information about anything that was happening in the research and science field, prior to 90s. Anything referencing the period prior to the 90s is going to be based on personal memory that is selective. We do not have

reliable sources and we see an overproduction that references ideological documents or books.

- ❖ The Women's Court, organized for the former Yugoslavia, as a type of alternative feminist model of justice, was not without its problems, and has been a difficult and challenging experience for those that participated.
- ❖ The idea to organize a Women's Court is more than 10 years old, but was reactivated some 5 years ago, by certain individuals, and representatives of certain NGOs. Through stories communicated by some of the women that participated in the preliminary process the dynamics within the group was not always idyllic.
- ❖ The Women's Court involved all the former republics of Yugoslavia and the processes within different states went differently. Even though there was a plan and agreed upon dynamics of work some of the organizations were more involved on the ground, while others were not.
- ❖ With respect to former Yugoslavia there has always been an orientalist discourse, where Belgrade and Zagreb were academic centers, whereas for example Bosnia was always viewed as naïve, good-natured, stupid. Kosovo on the other hand was always seen as wild. This dynamics played into the process as well.
- ❖ The idea was to have it regional, so different stories were supposed to come out from different regions. The organizations in BiH that took over the responsibility for Women's Court in BiH did that without properly thinking through what they were engaging in so the narratives that came out from BiH were not different than the narratives that came out from the ICTY.
- ❖ The narratives were entirely focused on the war, even though the court established that it would start the review in the late 80s. Unfortunately Bosnia was just looked through the war prism and the violations that women survived were presented as violations over their husbands, sons, and male relatives. The only harm reviewed that was directly connected to women was sexual violence.
- ❖ But even here the narrative that came out was nothing more than the narrative already established at the ICTY. The problem here is that women were not generating any alternative knowledge, and that basically the involvement of BiH women organizations in this process was bound to projects dynamics and limited by projectized thinking.
- ❖ The Women's Court ended up being one event, and reflected the overall problem in Bosnia with segmentations, orientalism, and neoliberal dynamics of being an activist. The whole process really highlighted the lack of real feminist grass roots movement in the country.
- ❖ Women organizations are not immune to ethno-national and political relationships, which is continuously causing problems. When we talk about women's organizations, the problem is that the civil society has not defined what kind of country they want to live in. They have worked on violence, and domestic violence, and in many ways these are very difficult subjects, but also in a way benign in respect to politics.
- ❖ On the other hand, when it comes to sexual violence and other war related consequence for women the politization is very present - who has more

victims etc. This was reflected in the Women's Court and it of course affected the involved victims as this also confronted them. When our joint problem becomes a political one that is when we have to ask – who are WE women in BiH?

- ❖ Another problematic dimension of the court was the process itself. We have to ask ourselves how much knowledge we actually have to deal with such a complex process, because if we are not professional enough we can create bad situations, as opposed to creating benefits for victims and society.
- ❖ There must be recognition of how so called informal justice mechanisms can often repeat the very structures of domination they are supposed to be resisting. In order to do that we have to have proper expertise. This was one of the real challenges with the Women's Court, were the narrative was “we do not do law” type of statements. And what that meant was that there was no discussion about the kind of expertise and institutional conditions that were needed in order to facilitate this process. This is a very irresponsible position to take. When we talk about non-legal, or informal, or alternative forms of justice the political stakes you are describing in many ways become even sharper if we are not attentive to how we are managing those processes.
- ❖ There are also structural reasons behind the problems with Women's court. Among women organizations we can detect serious symptoms of alienation, especially in relation to the CSO and donors in the last 10 years. The situation has really deteriorated compared to the quite productive initiatives from the 90s and beginning of 2000. Today we have symptoms of alienation, conformism, hostility (open or hidden), coded words, total militarization and violence formalized inside the actual women's scene.
- ❖ It is important to look at justice as something that goes beyond something that affects just an individual. Who are we prosecuting today? The impression is that people we are prosecuting are not going to have a massive impact on the society today, and if we look at the role of justice as also holding people to account and preventing future transgressions of justice, who do we hold accountable in relation to social injury type of cases? If it is the state that is to be held accountable, what do we do with the fact that many people do not actually identify themselves with the state, and how effective is that in preventing future conflicts?
- ❖ If we consider that one of the root causes of sexual violence is gender inequality, how do we have a justice system that through recognition of social injuries instills responsibility or accountability at the level of institutions in regards to advancing gender equality, having in mind the risk of being held to account later on?
- ❖ No one person is held accountable. The state responsibility is meant in its legal sense not in its moral or political sense. If BiH is characterized as the so-called most affected state, who is the most responsible for that? But you cannot decide in advance who should be held accountable. That is always a selective decision, and part of the discussion has to be about why. Why those persons, and not the other categories, and also what do you do with

other categories? Who is prosecuted and why? That is a public contextual discussion. It is a political decision as to who becomes accountable.

- ❖ The outbreak of physical, collective violence seems to capture people's attentions, and often times intensifies misogyny in all its forms. But in the post war context when trying to make sense of that, that *wartime box* becomes analytically restrictive box. The ground for war is set before the actual outbreak, and a lot of those attitudes, structures, and cultures that led to war, continue after.
- ❖ The notion of talking about wartime or war crimes as analytical framework, is dangerous and puts limits to accountability for what existed before, the seed bed for what happens in war. If all the processes, including the international community think in terms of "the war", and along the way they harden that box, it will make it impossible to get at the root causes. Identifying root causes would allow for proper assignment of accountability but also to be able to construct the post-war period into something that is more than just the absence of war.
- ❖ Militarization as an analytical tool can be much more useful, because it does not have a start and an end date. Perhaps it also allows us to describe a more genuine justice as opposed to formal processes of justice.
- ❖ Looking at how the legal justice processes should look like through that military box we are looking at what is state responsibility towards preventing conflict. We do that by using variety of different international and national legal mechanisms, formulating policies about prevention, and mechanisms for seeking accountability if the state does not deliver.
- ❖ That is where we are now in BiH. Our entry point is finding accountability mechanisms for prevention (of future conflict). It goes back to militarization point, which goes into political economy and creation of violent masculinities. What are the accountability mechanisms for that?
- ❖ There are international tools and structures that can be used. For example, what is happening with the arms industry here in BiH? It has started to grow and they are exporting again. There are cases of weapons that were transferred through Bosnia, to UK in 2005, which are now with ISIS, and will come back to BiH again. We have to look at that, trace it, looking at those comparative expenditures on security as opposed to economy and economic progress. That can be the early upstream work in BiH.
- ❖ We also have the international framework about the responsibility to protect and it can guide us to where we need to be. That obligation lays particularly with the DPA, and it grounds the responsibility to protect in the responsible states, neighbours and sponsors of the DPA, as to what it is they have to do in order to ensure that the government upholds its human rights obligations. What is the responsibility of international community at this moment in time?
- ❖ Through this work we can start demanding responsibility to uphold the BiH government obligations in relation to things we have identified as something that must be addressed now – i.e. the militarization, the lack of economic reform, the reforms that were misguided etc.
- ❖ By creating a road map to where we need to be, and which will also identify what we have done, is actually to identify the benchmark against

which, if anything happens, we already have something to adjudicate against. The harm for that is the social harm that affected this part of community and therefore there is a reparations package tied to that. That will then give us a framework for what justice would look like. That means expanding the box to include militarism, human rights, political economy, and it is gendered.

- ❖ For a very long time we have all had a belief in the international law, and the framework it provided. Internationally we are now in a situation where we do not apply the law either. But that does not stop us from using the law because laws have developed over a long period of time and are subject to reinterpretation. We should see it as guidance for how we can act in order to find ways out of some of the situations in a way that is not the reactive, which we see is taking place everywhere, a reactive and military response. Recognizing that right now the power of international law has been diminished we can still use the international law as a tool and framework for advocacy.
- ❖ We have discussed justice retrospectively and continuously, and we have discussed justice now, as prevention. Those are the things we need to be looking at. Part of justice should absolutely be looking at the identified harms and provision of reparations, but part of justice is also the social harm, the social need, which is also a social right. This brings us back to social and economic rights and the need to reposition ourselves in accordance to that, by using the DPA.
- ❖ The other crucial discussion is the prevention part. What do we do in terms of analysis of justice? How do we take that forward? It ties into looking at the early warning indicators, contextualizing them to BiH, and then looking at who is accountable, and what is the accountability mechanism for that? That analysis needs to be used with the government but also more importantly with the other brokers of the DPA.

SECURITY SECTOR REFORM

WHAT ARE THE STANDARD CONCEPTS OF THE SECURITY SECTOR REFORM AND HOW CAN THEY BE USED TODAY

"We must always ask the question whether gender related SSR activities are leading to gender equality. Because if they are not, than we are reinforcing inequalities that caused, or contributed to the conflict."

Callum Watson

INTRODUCTION TO THE SEGEMENT

- ❖ Security sector reform (SSR) as a concept came after the DPA, some 5-6 years later, and is cited as the standard operating procedure for how we should form security institutions.
- ❖ SSR is explicitly related to the shift from looking at traditional security to human security, and this came about in 1992, in Boutros-Boutros Ghali's report, The Agenda for Peace.
- ❖ It is important to remember that the SSR looks explicitly at human security exactly because of the events that were happening in places like Bosnia in 1992.
- ❖ The three aspects Boutros-Boutros Ghali mentioned in the report are the freedom from want, freedom from fear, and freedom to live in dignity. These three represent development, security and human rights.
- ❖ That is based on human security report from 1994. Inherently SSR is supposed to look at all these different areas of security. It is not supposed to be limited simply to defense and police sector, so we also need to consider aspects such as food security.
- ❖ The standard understanding of SSR is that the security is meant to be understood through looking at community security, and political security (the ability to participate freely in the political process), economic stability and so forth.
- ❖ Standard understanding of the security sector has a tendency to limit us to the state security and justice providers, but the SSR concept looks also at those actors that are engaged in the government oversight and management. It also looks at non-state security providers. Those are the ones that are the so-called legal and illegal private security and arms groups. It looks also at those actors that provide the access to justice but are not part of the state apparatus, like defense lawyers.
- ❖ This is the current DCAF SSR definition – it represents the middle ground of understanding, in terms of international actors. It is important to reinforce that the SSR is rapidly recognized as both a political and technical process, so there is a recognition that through SSR we are changing who has the monopoly to exercise force, we are redistributing

power, and that is part of the parcel of the SSR. If that is not happening then the SSR is reinforcing the security apparatus that existed previously, it is reinforcing previous state structures.

- ❖ This is also a technical process that requires certain techniques and that would include knowledge on gender. Another aspect is the importance of democratic civilian control, rule of law and respect for human rights.
- ❖ Through SSR there is an attempt to enhance efficiency and enhance accountability but that can only be done if there is local ownership and a holistic approach to security.
- ❖ So inherently the SSR rejects the notion that you can delay the reforms considering some security concerns until later on in the process. You have to have a holistic approach and consider everybody from the outset.
- ❖ The first question we must ask in the post Dayton process is who is defining what security means?
- ❖ The DPA seems to focus on confidence building of the new political structures whereas the standard process advocated by SSR practitioners would be to base the reform of the security sector on a national vision.
- ❖ The problem in Bosnia is that it is difficult to see where does the national vision regarding security come from. The international actors are not really interested in doing the outreach and consultations to create that national vision, which probably means it has to be civil society that is putting forward what the national vision of security should be.
- ❖ Secondly UNSCR 1325 is supposed to be a floor when we talk about women, peace and security. Instead it is treated as the ceiling. It seems to be limiting the areas where a lot of people and organizations would choose to work in, but it also limits the areas for which they would get funding.
- ❖ The actual aspects listed in the BiH action plan for 1325 looks at the participation of women in political structures, within the political decision making process; the participation of women within the security sector itself; the participation of women in peacekeeping operations abroad; human trafficking; demining; assistance to women and girls who were victims in the conflict; increasing the knowledge and capacity of states to apply 1325, and improving cooperation with NGOs and IO.
- ❖ One important thing that is missing is the prevention. The prevention pillar is understood to mean prevention of sexual violence, but that is not what that pillar stands for. It is prevention of **conflict**. Protection of women's HR is where the sexual violence is meant to be addressed.
- ❖ The prevention provisions in the BiH Action plan for 1325 has been reflected upon through engaging women in political parties, engaging women in police and defense institutions, and engaging women in peace operations. But this is to apply the very narrow interpretation of security and is not transformative in terms of how real security can be reached.
- ❖ We have to expand the notion of the gender work in the SSR process, because it has been limited by 1325, being seen as the ceiling and not as the floor. We should be looking at military spending, or arms control, and that again is not designated role of gender work within the 1325 action plan. These are things we need to consider.

- ❖ The second area that is important to look at is the issue of local ownership. Often local ownership is confused with national ownership, which are not the same thing. National ownership refers to formal state institutions owning the reform process, as opposed to local ownership which is reflective of the actual participation of people in the community.
- ❖ A lot of work in this area has been focused and tasked to Gender Equality Agency and the gender centers, which essentially means part of the state apparatus and limits action to the application of the Gender equality law.
- ❖ So there are restrictions on the area within which people are allowed to work. The focus is on the parliamentary structures but the parliamentary structures reflect the division of security forces that was envisaged under DPA. So the security sector in BiH probably reinforces the political power.
- ❖ There has been an increase in the number of women in the armed forces. They are now 6 % - 3% in the army, and 3% in secretarial positions. The police are now at 6.7% in RS and 8.2% in FBiH. There are increases but not even close to those 30%, the percentage agreed to be the level when women actually have an effect. 60% of all judges are women, but only 40% of court presidents are women. The question still remains as to whether the presence of women in these structures is indeed an example of local ownership.
- ❖ There are lots of decent laws in this country but they are not being implemented. There is also a fair amount of gender training going on but there is no recognition that gender responsive SSR should and must have a transformative effect on the dominant norms within the standards in security sector institutions.
- ❖ This will not happen until there is a serious effort to address men and masculinities, sexual harassment, attitudes towards women more broadly and the acknowledgment that security sector reform from a gender perspective is not just adding more women.
- ❖ We must always ask the question whether gender related SSR activities are leading to gender equality. Because if they are not than we are reinforcing inequalities that caused, or contributed to the conflict.

DISCUSSION

- ❖ During the period of 2000 – 2005 many states in this region were exposed to pressure to establish gender legislation and gender mechanisms. During that period BiH established Gender Agency and the two gender centres. It has become a good excuse for government authorities to say that only those three mechanisms are responsible for implementation of gender equality.
- ❖ At the same time the position of these gender mechanisms is very low. The director for the agency cannot sign any documents on her own, they do not have independent budgets and so on. We must also look at the

positions of the head of these agencies. They are civil servants and they can stay on these positions forever. The mandate of the gender mechanisms is related to the Gender equality law.

- ❖ We need to have a proper, independent assessment of gender mechanisms. They have not established a systematic approach to gender violations.
- ❖ It does not really matter whether we have more women or men judges because there is no gender competency among any of the groups. It is really about power and understanding the potentials within the judiciary.
- ❖ The percentage of judges is an easy sell. The numbers have not translated into improved response to domestic violence or anything like that. When we have this cosmetic number of the women on the outside we have to continue to question whether that has changed the dominant norm standard and whether the law is still used as a tool to reinforce gender inequality.
- ❖ We should also look in to the military in BiH. Do they have any means of controlling the police? Do they politically, in terms of masculinity, see each other as competitors? Who is in the police today, senior levels and ranking line? Who joins the police, who gets promoted?
- ❖ In BiH there are several components of security under the state level but policing related to ordinary issues is on the entity level. There is no competition because the ministry of defence enjoy in some way a privileged position.
- ❖ When we are talking about police it is not possible for a woman to get to the top position. One cannot be a director of SIPA or state boarder service if the person does not have rank. And many women have not had the opportunity to get a rank. That is how they eliminate women from the police.

NB: Last 20 minutes of the discussion went unrecorded due to problems with the recorder

CONCLUSIONS

HOW TO CHANGE THE NARRATIVE AROUND THE UNCHANGEABLE STATUS OF THE DAYTON PEACE AGREEMENT – conclusions in regards to Bosnia and Herzegovina

❖ PREVENTION

The civil society in BiH is no longer in a position to merely work on the effects of the 1992 -1995 war. Due to poorly thought through transition from war to peace BiH is now potentially entering into a new conflict. What do we do in terms of prevention? How do we avoid next conflict? What are the elements of actions we need to engage in and what are the indicators that we need to examine in order to set a coherent diagnosis, and then, what do we do with that diagnosis?

Proposed elements of action:

- Develop contextualized conflict related early warning indicators that will enable creation of a system for coherent diagnosis;
 - As a result of this dialogue meeting a draft *Early warning indicators for conflict-prevention for Bosnia and Herzegovina* was developed. The document presents a framework for further development and work on collecting data and analyzing the indicators. In that sense the workshops to finalize the indicators, but also to identify potential actions and time frame for action, need to be organized. The indicators should be used for periodical review of the societal, political and economic processes in BiH,³
- Identify the primary target group/audience for the advocacy based on the diagnosis, to try to change the dynamics and put pressure on BiH to change the approach.

❖ REPARATIONS

The negative impact of war on the BiH economy is a fundamental inhibitor of transition towards real peace. The illegality and corruption of the war economy, including the trafficking of persons, distorted and

³ Draft Early Warning Indicators are presented in a separate document.

undermined the creation of the formal economy and the consequences are still profound. It is necessary to adjudicate and address social and economic harms by providing remedies for past conflict but also to change the circumstance in which potentially a new conflict is brewing.

A separation of reparations from current economic and social rights must be done so that the conflict related reparations, lying under the DPA, are clearly discernable and possible to deal with.

Proposed elements of action:

- Continue to develop *the Concept and Framework for Gender Sensitive Reparations Programme for BiH* by complementing it with a political economy investment argument. A rights based approach complemented by a political economy approach would create a political economy case for long-term investment. This can be a very powerful tool in advocating for a gender sensitive reparations system that would address past wrongs and current needs of those who in some cases are not be able to fully recover or fully participate in the economy or public sphere in the formal sense.

❖ **JUSTICE**

Reframing of DPA from a feminist perspective has to be done very carefully in order not to contribute to the heightening sense of militarization. The work in BiH must move away from the “war box”, where the starting point for all the analysis and the work is the war period. We must look at the militarization of the society prior to war, then analyse the effect of war, followed by the analysis of the post-war period.

What do we need to do post-conflict, which actually gives effect to the concept of transitional justice, and what do we need to do in terms of system, which recognizes economic and social rights of the broad mass of society? How do we start thinking in terms of transformative gender justice and how do we act?

Militarization as an analytical tool can be very useful, as it does not have a start and an end date. It allows us to describe a more genuine and social justice as opposed to formal processes of justice. It does so by looking at who was brought into that process and how, as well as the impact it had on communities.

In applying that approach scrutiny must be put on the responses of the state with respect to preventing a potential conflict. Are the mechanisms used addressing route causes of potential violence or is the strategy in itself militarised?

Proposed elements of action:

- Explore possibilities as to how to introduce militarization as a means of analysis - what it is, how it works, and the consequences of it;
- Apply the methodology to pre, during and post conflict to better understand the current security approaches. In particular address the militarisation of the police as a result of social unrest;
- In that context develop the alternative analysis as above; human rights and political economy as methodologies to develop security; What is contained within the political arrangements of the DPA which would enable such an approach to gain traction within municipalities, Cantons and Entities to use the formal justice system to adjudicate economic and social rights? In the analysis include the international bodies;
- Define harms, social injuries that affect society today. What is the potential redress mechanism? And how do we use this for transformative gender justice?

WHAT LESSONS CAN BE ELEVATED TO THE INTERNATIONAL LEVEL - general conclusions related to peace agreements and transitions from war to peace

❖ IMPORTANCE OF INCLUSION AND LOCAL INFLUENCE

The exclusion of nonviolent actors from the peace negotiations for BiH set a trend that institutionalized the conflict. Mechanisms for meaningful participation and inclusion of the non-violent actors must be ensured, and the monopoly of power and influence over peace negotiations and agreements must be taken away from armed groups that drive the conflict. The International community should aid and facilitate but never conceptualize the peace and be the driving force behind the transition from war to peace.

❖ IMPORTANCE OF HAVING A PROPER MONITORING MECHANISM ENVISIONED IN A PEACE AGREEMENT

Peace activists and civil society at large must be cautious of the formal and informal mechanisms for monitoring set up by the peace agreement. Are they envisioned in the peace agreement? How are they envisioned? Who do they include/exclude? What might be the unintended consequences of both formal and informal monitoring mechanisms? It should not be assumed that any of the monitoring mechanisms, be it formal or informal,

is more neutral or better. The success of it depends to a great extent on the process through which the mechanisms have been set up. How to make monitoring mechanisms effective, in sense of being able to act in preventive ways?

Monitoring mechanisms must remain attentive for a long period of time, so they remain effective and operational throughout the transition period and are able to recognize when the process becomes undermined.

❖ ELEMENTS FOR REPARATION OF THE HARMS SUFFERED DURING THE CONFLICT AND ACCESS TO ECONOMIC AND SOCIAL RIGHTS

What are the most important elements that need to be advocated for in the pre-negotiations? How should the international obligation to repair the conflict related harms be reflected in the peace agreement? What should be the minimum requirement by the civil society and peace activists? How should the complexities of multiple actors performing the war be reflected – who should be held accountable?

Any peace agreement should at a minimum be referencing to three things: economic and social rights, setting up a proper state system, and specific reparative measures in relation to the harms of the international human rights law and international humanitarian law:

- The discussion on reparations can be advanced by not limiting it to war crimes, which then limits the discussion to a defined period of time. By looking at the crimes against international law, which are not temporal, the discussion on reparations and mechanisms proposed can be advanced to cover the militarization period and create manoeuvre space for discussing the causes of war
- The full-fledged reparations programme should be developed through an inclusive process that most likely cannot take place in the midst of peace negotiations; however, any peace agreement must contain a reference to reparations in order for the citizens to be able to hold the state to its obligation.
- From the Bosnian experience one of the most important element to have in the peace agreement, that is closely related to reparations, is ensuring that a proper system is set up, a system that is able to provide for the various social and economic rights that will be needed in the aftermath of a war.

❖ ACCESS TO ECONOMIC AND SOCIAL RIGHTS

Ensuring access to economic and social rights is an important feature of any peace agreement. A proper analysis of the immediate needs must be done. This will provide the state with evidence based arguments for the donors and financial institutions of how much they need to borrow, and it

will provide the state with a coherent non-discriminatory plan which is gendered in terms of understanding the nature and types of care that is going to be needed for women and men, according to the gendered roles.

DECONSTRUCTING MILITARIZATION

The outbreak of physical and collective violence seems to capture people's attention, and often times intensifies misogyny in all its forms. But in the post-war context when trying to make a sense of that, that *wartime box* becomes analytically restrictive box. The ground for war is set before the actual outbreak, and a lot of those attitudes, structures, and cultures that led to war, continue after.

A healthy transition from war to peace starts with undoing the militarization of the society. What are the key factors with respect to successful demilitarization of society, or strengthening of the CSO to become a stakeholder in a transitional period?

An analysis of all the different sectors must be done to identify a contextualised process for demobilization and demilitarization from a gender perspective, linking them together. That combined with a reparations package to facilitate and enable employment and self-employment and solid social and economic system that provides the right and appropriate welfare (education, health etc.) creates a sound platform upon which transition takes place.

❖ ACCOUNTABILITY AND RESPONSIBILITY

DPA does not have a starting point for the discussion regarding accountability and responsibility, which would be necessary elements to any peace agreement so that the society can go back to the process to work out the content of it, because so much of it depends on the local context.

Outreach must be reflected in both criminal justice and civil accountability mechanisms, in a sense that there is developed relationship to the public, a sense of responsibility to the citizens on whose behalf its claiming to do that work.

Annex 1: List of participants

- **Aida Spahić**, feminist activist
- **Asim Mujkić** sociologist and philosopher, professor at Faculty of Political Science, University of Sarajevo
- **Barbro Svedberg**, director, Crisis Response programme, WILPF
- **Bojana Đokanović**, feminist activist
- **Callum Watson**, Project officer for the DCAF Gender and Security Programme in Eastern Europe
- **Cynthia Enloe**, research professor/adjunct professor of political science, Department of International Development, Community, and Environment, Women's Gender Studies, Department of Political Science Clark University
- **Dino Abazović**, Comparative Religion, Sociological Theory, Human Rights, associate professor at the Faculty of Political Science, University of Sarajevo
- **Damir Arsenijević**, professor of English literature and critical theory at Tuzla University
- **Dubravka Kovačević**, director of Foundation for women's empowerment
- **Gorana Mlinarević**, activists, researcher
- **Jacqui True**, professor of politics and international relations, specialist in gender and international relations, Monash University
- **Jasmina Husanović**, Associate Professor of Cultural Studies at the Faculty of Philosophy, University of Tuzla
- **Jasminka Džumhur**, Ombudsperson, the Institute of Human Rights Ombudsman for Bosnia and Herzegovina
- **Kirsten Campbell**, Department of sociology, focus on gender and law, empirical research through study of international criminal law and transitional justice, principal investigator on Gender of Justice project, Goldsmiths, University of London
- **Lidija Živanović**, activist, member of the Helsinki Citizen Assembly
- **Madeleine Rees**, General Secretary, WILPF
- **Nela Porobić Isaković**, project coordinator, WILPF
- **Ristin Thomasson**, regional manager for the Balkans, Kvinna till Kvinna.